

CONSTITUTION OF

"Drylands Foundation"

ACN 163 754 943

Dated the Seventeenth day of July, 2013

A Company Limited By Guarantee

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GENERAL

1. Definitions

In this Constitution, unless the context otherwise requires, a reference to:

Law means the *Corporations Act 2001* (Cth) and the *Corporations Regulations*.

Member Present means, in connection with a meeting, the member present in person at the venue or venues for the meeting or by proxy, by attorney and, where the member is a body corporate, by representative.

2. Interpretation

In this Constitution, unless the context otherwise requires the following rules apply:

- (a) A gender includes all genders.
- (b) The singular includes the plural and conversely.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a paragraph or sub-paragraph is to a paragraph or sub-paragraph, of the Clause or paragraph, respectively, in which the reference appears.
- (e) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (f) Except in so far as a contrary intention appears in this Constitution, an expression has, in a provision of this Constitution which relates to a particular provision of the Law, the same meaning as in that provision of the Law.
- (g) A mention of anything after include, includes or including does not limit what else might be included.
- (h) Headings are for convenience only and do not affect interpretation.

3. Replaceable Rules

The replaceable rules contained in the Law do not apply to the Company.

4. Company Limited by Guarantee

- (a) The Company is a company limited by guarantee.
- (b) Each member undertakes to contribute to the property of the Company if the Company is wound up while the person is a member or within one year after the person ceases to be a member, for payment of the Company's debts and liabilities contracted before the person ceases to be a member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, but not exceeding \$1.
- (c) The liability of members is limited to the amount of guarantee in Clause 4(b).

5. Company Name

The Company does not have 'Limited' in its name because, in accordance with section 150 of the *Corporations Act 2001*, this Constitution:

- (a) requires the Company to pursue charitable purposes only and to apply its income in promoting those purposes (Clauses 8 and 62); and
- (b) prohibits the Company making distributions to its members (Clause 62) and paying fees to its directors (Clause 41(a)); and
- (c) requires the directors to approve all other payments the Company makes to directors (Clause 41(d)).

6. Not for Profit Status

The Company is incorporated as a not for profit entity and Clause 62 limits the application of its income and property solely to promoting the Company's purposes.

7. Actions Authorised Under the Law

Where the Law authorises or permits a company to do any matter or thing if authorised by its constitution, the Company is and will be taken by this Clause to be authorised or permitted to do that matter or thing, despite any other provision of this Constitution.

OBJECTS

8. Company's Objects

The objects of the Company are to promote the following purposes:

- (a) **Mission:** to inspire and empower local communities with the practical knowledge to implement ecologically sustainable development principles in dryland environments.
- (b) **Vision:** to carry out and achieve the Mission by any of the following means:
 - (i) Protect local biodiversity by maintaining a local native seedbank and provide the stock and services to revegetate endemic plant communities.
 - (ii) Promote soil conservation and dryland restoration through ecosystem management and applied ecological principles.
 - (iii) Research and develop educational programs and supporting facilities which promote ecologically sustainable development principles in local dryland communities.
 - (iv) Demonstrate and promote organic production with minimised resource use and waste management.
 - (v) Partner with organisations sharing similar objectives to jointly promote ecologically sustainable development principles.
 - (vi) Support underlying objectives of the organisation with revenue sourced from sustainable production of related products and services.

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- (c) to maintain any public fund in accordance with Clause 10 and Clause 11; and
- (d) to carry out all related or incidental matters relating to the above,

to the extent that these objects are charitable under the laws of the Commonwealth of Australia and each State or Territory of Australia.

POWERS

9. Company's Powers

The Company, in carrying out its object and purposes, has all the powers of an individual and a body corporate, other than the power to issue shares.

PUBLIC FUND

10. Public Fund

- (a) The Company will, if so determined by the Company, establish and maintain one or multiple public fund/s to be listed on the Register of Environmental Organisations (or other equivalent and applicable register) (**Public Fund/s**), for the specific purpose of supporting all or any number of the environmental objects/purposes of the Company. Any such Public Fund must be established to receive all gifts of money or property for the relevant purpose and any money received because of such gifts must be credited to its bank account. The Public Fund/s must not receive any other money or property into its account and must comply with subdivision 30-E of the *Income Tax Assessment Act 1997*.
- (b) The Company must inform the Department responsible for the applicable register as soon as possible if:
 - (i) it changes its name or the name of its Public Fund; or
 - (ii) there is any change to the membership of the management committee of the Public Fund; or
 - (iii) there has been any departure from the model rules for public funds located in the Guidelines to the Register of Environmental Organisations or other applicable register.
- (c) The Company agrees to comply with any rules that the Treasurer and the Minister with responsibility for the environment may make to ensure that gifts made to the Public Fund are only used for its principal purpose.
- (d) Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the Company and not be influenced by the preference of the donor.
- (e) Statistical information requested by the Department on donations to the Public Fund will be provided within four months of the end of the financial year. An audited financial statement for the Company and its Public Fund will be supplied with the annual statistical return. The statement will provide information on the expenditure of public fund monies and the management of public fund assets

11. Public Fund Rules

The rules of a Public Fund established under this Constitution are as follows:

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- (a) The objective of the fund is to support all or any number of the Company's environmental (or other applicable) objects/purposes.
- (b) Members of the public are to be invited to make gifts of money or property to the fund for the environmental (or other applicable) objects or purposes of the Company.
- (c) Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the fund.
- (d) A separate bank account is to be opened to deposit money donated to the fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the Company.
- (e) Receipts are to be issued in the name of the fund and proper accounting records and procedures are to be kept and used for the fund.
- (f) The fund will be operated on a not-for-profit basis.
- (g) A committee of management of no fewer than three persons will administer the fund. The committee will be appointed by the Company. A majority of the members of the committee are required to be 'responsible persons' as defined by the Guidelines to the Register of Environmental Organisations or other applicable register.

MEMBERSHIP**12. Members**

The members are:

- (a) the persons who have signed this Constitution consenting to be the initial members as set out herein (the **Founding Members**); and
- (b) any other natural persons subsequently admitted to membership in accordance with this Constitution (the **Individual Members**); and
- (c) any bodies corporate subsequently admitted to membership in accordance with this Constitution (the **Corporate Members**).

13. Application for Membership

- (a) An application for membership will be made in writing and signed by the applicant. To be valid, an application for membership of the Company (other than Founding Members), which may be required in a form determined by the directors, must be endorsed, including membership class, by all Founding Members or if no Founding Members remain, a total of three current voting members.
- (b) At the next meeting of directors after the receipt of any valid application for membership, the application will be considered by the directors who will decide whether or not to admit the applicant. In no case will the directors be required to give any reason for the rejection of an applicant.

- (c) When an applicant has been accepted for membership, the secretary (or other person who the directors may appoint) will notify the applicant of the acceptance and request payment of the first annual subscription if required.
- (d) If the applicant does not pay the first annual subscription within 7 days (or such longer period the directors may determine) after the date on which the applicant is notified that the subscription is payable, the directors may, in their absolute discretion, cancel the acceptance of the applicant for membership in the Company.
- (e) On payment of the first annual subscription (if required) the applicant will be registered in the Company's register of members and will immediately become a member of the Company.

14. Classes of Members

- (a) The directors may decide to create eligibility criteria and categories for additional membership (other than Founding Members) with the same or differing rights or privileges, including:
 - (i) Individual Members (including Individual Members (Voting) and Individual Members (Non Voting)); and
 - (ii) Corporate Members (including Corporate Members (Voting) and Corporate Members (Non Voting)),

and may vary or cancel any member's rights in any class (other than Founding Members, which may not be varied by the directors or members other than all remaining Founding Members), by written notice to the members of that class.

- (b) All new voting members will have voting rights suspended for the first twelve months of membership.
- (c) Any reference in this Constitution to the rights of approval of Founding Members is, at anytime at which no Founding Members duly remain, to be interpreted as a reference to three voting members, whether Individual or Corporate or otherwise.

15. Annual Subscriptions

- (a) The directors may from time to time prescribe annual subscriptions for any class of members and the terms of payment of such subscriptions, provided that any Founding Members subscriptions will require all Founding Members' prior consent.
- (b) The directors may in their discretion increase or reduce the amount of any such subscriptions and determine that a different amount is payable by different classes of members, provided that any changes to Founding Members subscriptions will require all Founding Members' prior consent.

CESSATION OF MEMBERSHIP**16. Resignation of a Member**

A member may at any time, by giving notice in writing to the secretary, resign as a member of the Company. The resignation will be effective from the date of receipt of the notice by the secretary. That member's name will be removed from the register of members.

17. Non-payment of Subscriptions

If the subscription of a member remains unpaid for a period of 30 days after it becomes due, the directors will direct the secretary to give notice to the member of that fact. If the subscription remains unpaid on the expiration of 21 days after the date of the notice, the directors may expel the member from membership of the Company and remove the member's name from the register of members.

18. Misconduct of a Member

- (a) If any member:
- (i) is in breach of the provisions of this Constitution; or
 - (ii) is guilty of any act or omission which, in the opinion of the directors is unbecoming of a member, or prejudicial to the interest of the Company,
 - (iii) if the directors with the approval of the Founding Members decide it is not in the interests of the Company for the person to remain a member,
- the directors may expel the member from the Company and remove the member's name from the register of members.
- (b) The directors will not expel a member under Clause 18(a) unless at least seven (7) days notice has been given to the member stating the date, time and place at which the question of expulsion of that member is to be considered by the directors, and the nature of the alleged misconduct and informing the member that he or she may attend the meeting and may give verbal or written submissions to the directors before the matter is determined by the directors.
- (c) If the directors resolve to expel a member, the secretary will immediately give notice of this to the member. The member then has the right, exercisable by notifying the secretary within seven (7) days after receipt of the notice (the Notice Period), to have the issue dealt with by the Company in general meeting. In that event, at the next annual general meeting the resolution to expel the member shall be put. The members will have the same powers as the directors have under Clause 18(a). If a resolution to expel the member is passed at the meeting by a majority of those present and voting, the member will cease to be a member and their name will be removed from the register of members. Until this time, the member under notice of being expelled shall have their voting rights suspended.
- (d) If the member does not notify the secretary on or before the expiration of the Notice Period that it wishes to have the issue dealt with by the Company in general meeting, the member will cease to be a member on the expiration of the Notice Period and his name will be removed from the register of members.

19. Other Grounds for Cessation of Membership

A member's membership of the Company automatically ceases on the date the member:

- (a) dies;
- (b) is convicted of a felony, which in the directors' discretion is of sufficient seriousness to warrant automatic cessation.

A member's voting rights will be suspended should they become of unsound mind (as declared by two independent authorised medical practitioners) or when their estate is liable to be dealt with in any way under the laws relating to mental health.

20. Liability for Subscription Fees and other Amounts Following Cessation

Notwithstanding that the member ceases to be a member of the Company, he or she will continue to be liable for:

- (a) all annual subscription fees or other amounts owing to the Company which are due and unpaid as at the date that the member ceases to be a member; and
- (b) amounts which the member is or may become liable to pay under Clause 4b.

GENERAL MEETINGS

21. Power to Convene

A general meeting may be convened by a resolution of the directors or in accordance with the Law or whenever the directors think fit.

22. Notices of Meetings

- (a) A notice of a general meeting will:
 - (i) specify the place, the day and the hour of meeting;
 - (ii) state the general nature of the business to be transacted at the meeting;
 - (iii) specify details for the receipt of proxies; and
 - (iv) any other information required by law.
- (b) The non-receipt of a notice (or proxy form) convening a general meeting by, or the accidental failure or omission to give notice (or proxy form) to, any person entitled to receive notice will not invalidate proceedings at or any resolution passed at that meeting and in any event a person may waive notice of a general meeting by written notice to the Company.
- (c) The attendance by any person at a general meeting waives any right or objection that person may have in relation to a failure to give notice, a defective notice unless the person objects to the holding of the meeting at the beginning of the meeting.
- (d) The attendance by any person at a general meeting waives any right or objection that person may have in relation to consideration of a particular matter which is

not referred to in the notice of meeting, unless the person objects to that matter prior to it being considered.

23. Quorum

- (a) No business will be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this Constitution, two Members Present or at least 50% of the current eligible voting members being Members Present, whichever is higher, including all Founding Members also being Members Present, will constitute a quorum, unless the members have fixed a higher number to constitute a quorum.

24. Meetings by Technology

- (a) For the purposes of the Law, each member, on becoming a member (or on the adoption of this constitution), consents to the use of the following technology for calling or holding a members meeting:
 - (i) video;
 - (ii) telephone;
 - (iii) electronic mail;
 - (iv) any other technology which permits each member to communicate with every other member; or
 - (v) any combination of the technologies described in the above paragraphs.
- (b) Where members are not all in attendance at one place and are holding a meeting using technology and each member can communicate with the other members:
 - (i) the participating members will, for the purpose of every provision of this Constitution concerning meetings of the members, be taken to be assembled together at a meeting and to be present at that meeting; and
 - (ii) all proceedings of those members conducted in that manner will be as valid and effective as if conducted at a meeting at which all of them were present.

25. If Quorum not Present

If a quorum is not present within 30 minutes after the time appointed for the meeting:

- (a) where the meeting was convened on the requisition of members, the proposed meeting will be dissolved (subject to Clause 27(a)); and
- (b) in any other case, the meeting stands adjourned to a day and at a time and place as the directors decide or, if no decision is made by the directors, to the same day in the next week at the same time and place, provided that if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting will be dissolved.

26. Chair of Meetings

- (a) Subject to paragraph (b), the chair of directors or, in the chair's absence, the deputy chair will preside as chair at every general meeting.
- (b) Where a general meeting is held and:
 - (i) there is no chair or deputy chair; or
 - (ii) the chair or deputy chair is not present within 15 minutes after the time appointed for the meeting or does not wish to act as chair of the meeting,

the directors present will choose one of their number or, in the absence of all directors or if none of the directors present wish to act, the Members Present will elect one of their number to be chair of the meeting, where that person is present and willing to act, being a Founding Member unless the same consent otherwise.

27. Adjournments

- (a) The chair may and will if so directed by the meeting adjourn the meeting from time to time and from place to place.
- (b) No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting will be given as in the case of an original meeting.
- (d) Except as provided by paragraph (c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

28. Voting at General Meetings

- (a) Any resolution to be considered at a meeting will be decided on a show of hands unless a poll is demanded before or immediately after the declaration of the result.
- (b) A declaration by the chair that a resolution has on a show of hands been carried or lost and an entry to that effect in the minutes of the meeting will be taken as conclusive evidence of the fact without the need to show the number or proportion of the votes recorded in favour of or against the resolution.
- (c) Despite the Law, a poll for a resolution may be demanded by the chairperson or at least 4 Members Present and entitled to vote on the resolution or members with at least 10% of the votes that may be cast on the resolution on a poll.
- (d) A poll may not be demanded on the election of a chair or on a resolution for adjournment.
- (e) A special resolution to amend the Company's constitution requires 100% of all eligible voting members to approve or abstain (which to avoid doubt means that the resolution remains unopposed).

29. Procedure for Polls

- (a) A poll when demanded will be taken in the manner and at the time the chair directs.
- (b) The result of the poll will be a resolution of the meeting at which the poll was demanded.
- (c) The demand for a poll will not prevent a meeting from continuing for the transaction of any business other than that on which a poll has been demanded.

30. Chair's Casting Vote

In the case of an equality of votes on a show of hands or on a poll the chair of the meeting has a casting vote in addition to any vote to which the chair may be entitled as a member.

31. Representation and Voting of Members

Subject to this Constitution, and any rights or restrictions attached to member classes:

- (a) at meetings of members or classes of members, each member entitled to attend and vote may attend and vote in person or by proxy or attorney and (where the member is a body corporate, if permitted under this Constitution) by representative;
- (b) on a show of hands, every Member Present having the right to vote at the meeting has one vote; and
- (c) on a poll, every Member Present having the right to vote at the meeting has one vote.

32. Restriction on Voting Rights - Unpaid Amounts

A member is not entitled to vote at a general meeting unless all sums presently payable by the member in respect of membership in the Company have been paid.

33. Objections to Qualification to Vote

- (a) An objection to the qualification of a person to vote may be raised only at the meeting or adjourned meeting at which the vote objected to is tendered and any objection will be referred to the chair of the meeting, whose decision will be final.
- (b) A vote allowed after an objection will be valid for all purposes.

34. Proxies

- (a) A member of the Company who is entitled to attend and cast a vote at a meeting of the Company's members may appoint a person as the member's proxy to attend and vote for the member at the meeting.
- (b) The appointment may specify the proportion or number of votes that the proxy may exercise.
- (c) If the member is entitled to cast two or more votes at the meeting, they may appoint two proxies. If the member appoints two proxies and the appointment

does not specify the proportion or number of the member's votes each proxy may exercise, each proxy may exercise the proportion of voting rights specified by the Law.

- (d) An instrument appointing a proxy must:
 - (i) be in writing under the hand of the appointor or of the appointor's attorney duly authorised in writing; or
 - (ii) if the appointor is a corporation, be either under seal or under the hand of a duly authorised officer or attorney.
- (e) A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.
- (f) An instrument appointing a proxy will be in any form and contain information that the directors may accept or stipulate.

35. Lodgement of Proxies

- (a) The documents to be received under the Law for an appointment of a proxy to be effective may be received by the Company at any time before the meeting commences or resumes (as the case may be).
- (b) For an instrument appointing an attorney to act on behalf of a member at all meetings of the Company or at all meetings for a specified period to be effective the following documents must be received by the Company at any time before commencement of the meeting or adjourned meeting at which the attorney proposes to vote:
 - (i) the power of attorney or a certified copy of that power of attorney; and
 - (ii) any evidence that the directors may require of the validity and non-revocation of that power of attorney.
- (c) For the purposes of this paragraph, the Company receives these documents when they are received at any of the following:
 - (i) the Company's registered office;
 - (ii) a fax number at the Company's registered office; or
 - (iii) a place, fax number or electronic address specified for the purpose in the notice of meeting.

36. Validity of Proxies

A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:

- (a) the previous death or unsoundness of mind of the principal; or
- (b) the revocation of the instrument (or of the authority under which the instrument was executed) or the power, if no notice in writing of the death, unsoundness of mind, revocation or transfer has been received by the Company at its registered office at least 24 hours (or any shorter period as the directors may permit) before

the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

37. Where Proxy is Incomplete

- (a) No instrument appointing a proxy will be treated as invalid merely because it does not contain:
 - (i) the address of the appointor or of a proxy;
 - (ii) the proxy's name or the name of the office held by the proxy; or
 - (iii) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not specify the name of a proxy, the instrument will be taken to be given in favour of the chair of the meeting.

38. Right of Officers and Advisers to Attend General Meeting

- (a) A secretary who is not a member will be entitled to be present and, at the request of the chair, to speak at any general meeting.
- (b) Any other person (whether a member or not) requested by the directors to attend any general meeting will be entitled to be present and, at the request of the chair, to speak at that general meeting.

39. Single Member Resolutions

- (a) Nothing in this Constitution limits the Company's power, while the Company has only one member, by recording the resolution and signing the record.
- (b) Where the Company has one member only, a document signed by that member which records a decision of the member:
 - (i) constitutes a decision of the Company and is valid and effective as if it were a resolution duly passed at a meeting of members; and
 - (ii) has effect as a minute of that decision.

APPOINTMENT, REMOVAL AND REMUNERATION OF DIRECTORS

40. Appointment and Removal

- (a) Subject to the Law, the Company may at any time by resolution passed in general meeting:
 - (i) appoint any person as a director, with all Founding Members' approval; or
 - (ii) remove any director from office.

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- (b) Subject to the Law, the directors may at any time appoint any person as a director, with all Founding Members' approval.
- (c) Subject to Clause 56(c):
 - (i) no director will hold office for a period in excess of three years, or until the third annual general meeting following the director's appointment, whichever is the longer, without submitting for re-election; and
 - (ii) at every annual general meeting one-third of the directors or, if their number is not a multiple of three, then the number nearest to but not exceeding one-third (or such number as is necessary to ensure compliance with paragraph (c)(i)), will retire from office and be eligible for re-election.
 - (iii) The directors to retire in every year will be the directors longest in office since last being elected or re-elected. For directors elected on the same day the director to retire will be decided by lot unless they agree otherwise.
 - (iv) A retiring director will be eligible for re-election without needing to give any prior notice of an intention to submit for re-election and will hold office as a director until the end of the meeting at which the director retires.
 - (v) Notwithstanding the foregoing, the Members may determine a maximum consecutive period under this Clause that a director may serve by which time the director will not be eligible for re-election until the further passing of a minimum period of the time that the Members also determine.
- (d) The Company must have at least 3 directors, or if higher the number specified by the Law. The maximum number of directors is to be fixed by the directors.

41. Remuneration

- (a) Subject to paragraphs (b) and (c), no director is entitled to be paid a fee for service as director.
- (b) The directors will be entitled to be paid or reimbursed for all travelling and other expenses properly incurred by them in attending and returning from any meeting of the directors, committee of the directors, general meeting of the Company or otherwise in connection with the business or affairs of the Company.
- (c) Subject to paragraph (d), a director may be engaged by the Company in any other capacity (other than auditor), including managing director under clause 57, and may be appointed on such terms as to remuneration, tenure of office and otherwise as may be agreed by the directors.
- (d) Any amount paid under paragraph (b) or (c) must be approved by the directors.

42. Vacation of Office

- (a) In addition to the circumstances in which the office of a director becomes vacant:
 - (i) under the Law;
 - (ii) because of a resolution under Clause 40(a)(ii); or

- (iii) under Clause 40(c); or

the office of a director becomes vacant if the director:

- (iv) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (v) resigns by notice in writing to the Company;
 - (vi) dies.
- (b) The directors may remove any director from office if that director is absent without the consent of the directors from meetings of the directors held during a continuous period of three months.

POWERS AND DUTIES OF DIRECTORS

43. Powers of Directors

- (a) Subject to the Law and this Constitution, the business of the Company will be managed by the directors, who pay all expenses incurred in promoting and forming the Company and may exercise all powers of the Company which are not, by the Law or this Constitution, required to be exercised by the Company in general meeting.
- (b) Without limiting the generality of paragraph (a), and subject at all times to paragraph (c), the directors may exercise all the powers of the Company:
 - (i) to borrow money.
 - (ii) to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) The directors are not granted any powers, to grant charges over any property held by the company or any related fund.

44. Appointment of Attorneys

- (a) The directors may, by power of attorney, appoint any person to be the attorney of the Company for the purposes, with the powers, authorities and discretions vested in or exercisable by the directors for any period and subject to any conditions as they think fit.
- (b) Any appointment under paragraph (a) may be made on terms for the protection and convenience of persons dealing with the attorney as the directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

45. Negotiable Instruments

All negotiable instruments of the Company will be executed by the persons and in the manner that the directors decide from time to time.

PROCEEDINGS OF DIRECTORS

46. Proceedings

- (a) The directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) A director may at any time, and on the request of a director or a secretary will, convene a meeting of the directors.
- (c) Reasonable notice must be given to every director of the place, date and time of every meeting of the directors. Where any director is for the time being outside of Australia, notice need only be given to that director if contact details have been given, but notice will always be given to any alternate director in Australia whose appointment by that director is for the time being in force.

47. Meetings by Technology

- (a) For the purposes of the Law, each director, on becoming a director (or on the adoption of this constitution), consents to the use of the following technology for calling or holding a directors meeting:
 - (i) video;
 - (ii) telephone;
 - (iii) electronic mail;
 - (iv) any other technology which permits each director to communicate with every other director; or
 - (v) any combination of the technologies described in the above paragraphs.

A director may withdraw the consent given under this Clause in accordance with the Law.

- (b) Where the directors are not all in attendance at one place and are holding a meeting using technology and each director can communicate with the other directors:
 - (i) the participating directors will, for the purpose of every provision of this Constitution concerning meetings of the directors, be taken to be assembled together at a meeting and to be present at that meeting; and
 - (ii) all proceedings of those directors conducted in that manner will be as valid and effective as if conducted at a meeting at which all of them were present.

48. Quorum at Meetings

At a meeting of directors, the number of directors whose presence is necessary to constitute a quorum is at least half (to the nearest whole number) of all current directors, unless all directors agree otherwise.

49. Chair of Directors

- (a) The directors may elect one of their number as their chair and may decide the period for which the chair is to hold office as chair.
- (b) Where a meeting of directors is held and:
 - (i) a chair has not been elected as provided by paragraph (a); or
 - (ii) the chair is not present at the time appointed for the holding of the meeting or does not wish to chair the meeting, the directors present will elect one of their number to be a chair of the meeting.

50. Proceedings at Meetings

- (a) Subject to this Constitution, questions arising at a meeting of directors will be decided by a majority of votes of directors present and voting and any such decision will for all purposes be taken to be a decision of the directors.
- (b) In the case of an equality of votes, the chair of the meeting has a casting vote in addition to the chair's deliberative vote.
- (c) In the event of any irreconcilable deadlock in director's votes, the directors may if necessary to resolve the dispute in the best interests of the Company mediate or arbitrate in good faith in relation to the issue using any third party non-director as mediator or arbitrator, where that third party has been determined by the directors in relation to the deadlock, or as a person the directors have agreed to take advice from in relation to the Company in an area of the party's expertise.

51. Disclosure of Interests

- (a) A director is not disqualified by the director's office from contracting with the Company in any capacity.
- (b) A contract or arrangement made by the Company with a director or in which a director is in any way directly or indirectly interested will not be avoided merely because the director is a party to or interested in it.
- (c) A director is not liable to account to the Company for any profit derived in respect of a matter in which the director has a material interest, merely because of the director's office or the fiduciary relationship it entails, if the director has:
 - (i) declared the director's interest in the matter as soon as practicable after the relevant facts have come to the director's knowledge; and
 - (ii) not contravened this Constitution or the Law in relation to the matter.

A general notice that the director is an officer or member of a specified body corporate or firm stating the nature and extent of the director's interest in the body corporate or firm will, in relation to a matter involving the Company and that body corporate or firm, be a sufficient declaration of the director's interest, provided the extent of that interest is no greater at the time of first consideration of the relevant matter by the directors than was stated in the notice.

- (d) Subject to the Law, a director may vote in respect of a matter in which that director has a material interest.

- (e) If the provisions of this Clause and the Law have been observed by any director with regard to any contract or arrangement in which the director is in any way interested, the fact that the director signed the document evidencing the contract or arrangement will not in any way affect its validity.
- (f) A director may hold any office of employment in the Company (other than auditor) in addition to holding office as a director.

52. Alternate Directors

- (a) A director, with the approval of a majority of the other directors, may appoint an alternate director at their discretion to operate on their behalf during any period that the director thinks fit.
- (b) An alternate director is entitled to notice of meetings of the directors and, if the appointor is not present at such a meeting, is entitled to attend and vote in the director's stead.
- (c) An alternate director may exercise any powers that the appointor may exercise. The exercise of any power by the alternate director (including signing a document) will be taken to be the exercise of the power by the appointor. The exercise of any power by the alternate director will be as agent of the Company and not as agent of the appointor.

Where the alternate is another director, that director will be entitled to cast a deliberative vote on the director's own account and on account of each person by whom the director has been appointed as an alternate director.

- (d) The appointment of an alternate director:
 - (i) may be terminated at any time by the appointor even if the period of the appointment of the alternate director has not expired; and
 - (ii) terminates automatically if the appointor vacates office as a director.
- (e) An appointment or the termination of an appointment of an alternate director will be effected by service on the Company of a notice in writing signed by the director making the appointment.
- (f) The Company will not be responsible for remunerating the alternate director.
- (g) An alternate director will be entitled to be reimbursed under Clause 41(b) as if the alternate director was a director.

53. Committees

- (a) The directors may delegate any of their powers to a committee or committees consisting of such number of them and/or other persons as they think fit. A committee may consist of one or more persons.
- (b) A committee to which any powers have been so delegated will exercise the powers delegated in accordance with any directions of the directors. A power so exercised will be taken to have been exercised by the directors.

- (c) Clauses 46, 47, 49 and 50 will apply to any committee as if each reference in those Clauses to the directors was a reference to the members of the committee and each reference to a meeting of directors was to a meeting of the committee.
- (d) The number of members whose presence at a meeting of the committee is necessary to constitute a quorum is the number determined by the directors and, if not so determined, is two. Unless the directors determine otherwise, the quorum need only be present at the time when the meeting proceeds to business.
- (e) Minutes of all the proceedings and decisions of every committee will be made, entered and signed in the same manner in all respects as minutes of proceedings of the directors are required by the Law to be made, entered and signed.

54. Written Resolutions

- (a) If a document:
 - (i) is sent to all those entitled to receive notice of a meeting at which a resolution could be put;
 - (ii) contains a statement that the signatories to it are in favour of that resolution;
 - (iii) the terms of the resolution are set out or identified in the document; and
 - (iv) has been signed by a majority of the directors entitled to vote on that resolution,

a resolution in those terms is passed on the day on which and at the time at which the document was signed by a majority of directors and the document has effect as a minute of the resolution.

- (b) For the purposes of paragraph (a):
 - (i) Two or more separate documents containing statements in identical terms each of which is signed by one or more directors will together be taken to constitute one document containing a statement in those terms signed by those directors at the time at which the last of those documents to be signed was signed by a director;
 - (ii) a reference to a majority of the directors does not include a reference to an alternate director whose appointor has signed the document, but an alternate director may sign the document in the place of the alternate director's appointor; and
 - (iii) a signed fax or other electronic scan which is received by the Company or an agent of the Company and is sent for or on behalf of a director or alternate director will be taken to be signed by that director or alternate director not later than the time of receipt of the fax or other electronic scan by the Company or its agent in legible form.

55. Defects in Appointments

- (a) All acts done by any meeting of the directors, committee of directors, or person acting as a director are as valid as if each person was duly appointed and qualified to be a director or a member of the committee.

- (b) Paragraph (a) applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a director or a member of a committee or to act as a director or that a person so appointed was disqualified.

MANAGING DIRECTOR

56. Power to Appoint Managing Director

- (a) The directors may appoint one or more directors to the office of managing director for the period and on the terms as they think fit. Subject to the terms of any agreement entered into in a particular case, the directors may at any time revoke any appointment.
- (b) A managing director's appointment will automatically terminate if the managing director ceases for any reason to be a director.
- (c) The provisions of article 40(c) do not apply to a managing director.

57. Remuneration

A managing director will, subject to the Law and Clause 41, and the terms of any agreement between the managing director and the Company, receive remuneration by way of salary as the directors decide.

58. Delegation of Powers to Managing Director

- (a) The directors may, on the terms and conditions and with any restrictions as they think fit, confer on a managing director any of the powers exercisable by them.
- (b) Any powers so conferred may be concurrent with the powers of the directors.
- (c) The directors may at any time withdraw or vary any of powers conferred on a managing director.

SECRETARIES AND OTHER OFFICERS

59. Secretaries

- (a) Any secretary of the Company holds office on the terms and conditions, as to remuneration and otherwise, as the directors decide subject always to Clause 41.
- (b) The directors may at any time terminate the appointment of a secretary.

60. Other Officers

- (a) The directors may from time to time:
 - (i) create any other position or positions in the Company with the powers and responsibilities as the directors may from time to time confer; and
 - (ii) appoint any person, whether or not a director, to any position or positions created under paragraph (a)(i).

- (b) The directors may at any time terminate the appointment of a person holding a position created under paragraph (a)(i) and may abolish the position.

INSPECTION OF RECORDS

61. Inspection of Records

- (a) The directors may authorise a member to inspect books of the Company (to the extent, at the time and places and under the conditions the directors consider appropriate).
- (b) A member (other than a director) does not have the right to inspect any document of the Company except as provided by law or authorised by the directors.

APPLICATION OF INCOME AND PROPERTY

62. Application of Income and Property

- (a) Subject to paragraph (b), the profits (if any) or other income and property of the Company will be applied solely towards the promotion of the objects of the Company as set out in Clause 8 and no portion of it will be paid or transferred, directly or indirectly, to any member of the Company whether by way of dividend, bonus or otherwise.
- (b) Nothing in paragraph (a) will prevent any payment in good faith by the Company of:
 - (i) indemnification of, or payment of premiums on contracts of insurance for any director to the extent permitted by law and this Constitution
 - (ii) reasonable and proper remuneration to any member, officer or employee of the Company (whether or not such a person is a director) for any services actually rendered to the Company;
 - (iii) moneys to any member for bona fide expenses incurred by or on behalf of the;
 - (iv) reasonable and proper rent for premises let or demised by any member of the Company to the Company;
 - (v) moneys to any director for out-of-pocket expenses paid under Clause 41; or
 - (vi) moneys to any director, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer in connection with the promotion of the Company's objects,

subject at all times to the limits on payments to directors set out in Clause 41.

WINDING UP

63. Winding Up

- (a) If, on the winding up or dissolution of the Company by any means and for any reason, there remains any property after the satisfaction of all the Company's debts and liabilities, the property will not be paid to or distributed among the members of the Company, but will be given or transferred to one or more organisations selected by the members of the Company at or before the dissolution of the Company, having objects similar to the Company and whose rules prohibit the distribution of its or their income and property among its members or if there are no organisations meeting this requirement, to one or more organisations the objects of which are the promotion of charity and gifts to which are allowable deductions under the Income Tax Assessment Act 1997.
- (b) In the event of the public fund (if any) under Clause 10 being wound up or dissolved, any surplus property or funds remaining after the payment of the fund's debts and liabilities shall not be paid to or distributed among the members of the Company but shall be transferred to another fund, authority or institution which has similar objects to the public fund and whose rules prohibit the distribution of its or their income and property among its members and to which income tax deductible gifts can be made under Subdivision 30-B, section 30-100 of the *Income Tax Assessment Act 1997* and listed on the Register of Environmental Organisations (or other applicable register) maintained under the Act.

NOTICES

64. Notices Generally

- (a) Any member who has not left at or sent to the registered office a place of address or an electronic mail address (for registration in the register) at or to which all notices and documents of the Company may be served or sent will not be entitled to receive any notice.
- (b) A notice may be given by the Company to any member by:
 - (i) serving it on the member personally;
 - (ii) sending it by post to the member or leaving it at the member's address as shown in the register or the address supplied by the member to the Company for the giving of notices;
 - (iii) serving it in any manner contemplated in this paragraph (b) on a member's attorney as specified by the member in a notice given under paragraph (c);
 - (iv) fax to the fax number supplied by the member to the Company for the giving of notices; or
 - (v) transmitting it electronically to the electronic mail address given by the member to the Company for giving notices.

- (c) A member may by written notice to the secretary left at or sent to the registered office require that all notices to be given by the Company or the directors be served on the member's attorney at an address specified in the notice.
- (d) Notice to a member whose address for notices is outside Australia will be sent by airmail, fax or electronic mail.
- (e) Where a notice is sent by post, service of the notice will be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected:
 - (i) in the case of a notice of a meeting, on the day after the date of its posting; and
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (f) Where a notice is sent by fax or electronic transmission, service of the notice will be taken to be effected by properly addressing and sending or transmitting the notice and to have been effected on the day it is sent.

65. Notices of General Meeting

- (a) Notice of every general meeting will be given in the manner authorised by Clause 64:
 - (i) to every member and to each director; and
 - (ii) to the auditor to the Company (if any).
- (b) No other person is entitled to receive notice of general meetings.

INDEMNITY

66. Indemnity of Officers, Insurance and Access

- (a) The Company is to indemnify each officer of the Company out of the assets of the Company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer.
- (b) Where the Directors consider it appropriate, the Company may execute a documentary indemnity in any form in favour of any officer of the Company or a subsidiary.
- (c) Where the Directors consider it appropriate, the Company may:
 - (i) make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer; and
 - (ii) bind itself in any contract or deed with any officer of the Company to make the payments.

- (d) Where the Directors consider it appropriate, the Company may:
 - (i) give a former Director access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents; and
 - (ii) bind itself in any contract with a Director or former Director to give the access.

- (e) In this Clause:
 - (i) **officer** means:
 - (A) a Director or Secretary; or
 - (B) a person appointed as a trustee by, or acting as a trustee at the request of, the Company, and includes a former officer.
 - (ii) **duties of the officer** includes, in any particular case where the Directors consider it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Company or, where applicable, the subsidiary of the Company to any other corporation.
 - (iii) **to the relevant extent** means:
 - (A) to the extent the Company is not precluded by law from doing so;
 - (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and
 - (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.
 - (iv) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.