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# ***Constitution of The Australian School of Gardening Limited***

***Public Company Limited by Guarantee***

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## **1. Preliminary**

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### **1.1 Definitions**

In this Constitution, unless the subject or context indicates a contrary intention, the following words and expressions will have the following meanings:

**ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).

**Board** means the board of Directors.

**Chief Executive Officer** means the person duly appointed and holding the position of Chief Executive Officer from time to time (if any).

**Company** means The Australian School of Gardening.

**Constitution** means the constitution of the Company in force and as amended from time to time.

**Corporate Representative** means in relation to a Member that is a body corporate, a natural person appointed by that Member as its representative to attend any or specified Meetings of Members.

**Corporate Representative Certificate** means a certificate evidencing the appointment of a Corporate Representative, which complies with this Constitution.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Directors** means the directors of the Company who are in office, or a quorum of the directors present at a Board meeting.

**Meeting of Members** means a meeting of Members duly called and constituted in accordance with this Constitution and any adjourned holding of such meeting.

**Member** means any person entered in the Register as a member of the Company.

**Objects** means the objects of the Company as set out in clause 3.2.

**Ordinary Resolution** means a resolution of a Meeting of Members where more than one half of the total votes cast on the resolution are in favour of the resolution.

**Proxy** means a person duly appointed under a Proxy Form by a Member, who is entitled to attend and vote at a Meeting of Members on behalf of that Member.

**Proxy Form** means an instrument for appointing a Proxy, which complies with this Constitution.

**Register** means the register of Members kept under the Corporations Act.

**Registered Office** means the registered office of the Company.

**Related Body Corporate** has the meaning in the Corporations Act.

**Seal** means the common seal of the Company (if any).

**Secretary** means any person appointed to perform the duties of secretary of the Company and includes an assistant secretary or any person appointed to act as company secretary temporarily.

**Special Resolution** means a resolution of a Meeting of Members passed in accordance with section 9 of the Corporations Act.

**Subsidiary** has the meaning in the Corporations Act.

## 1.2 Interpretation

In this Constitution, unless the context indicates a contrary intention:

- (a) an expression importing a natural person includes any individual, company, partnership, joint venture, association, corporation, other body corporate or trust and any government agency;
- (b) words denoting any gender include all genders;
- (c) words importing the singular include the plural and vice versa;
- (d) all monetary amounts are in Australian currency;
- (e) references to any legislation or to any section or provision of any legislation include any statutory modification, replacement or re-enactment of it or any statutory provision substituted for it, any ordinances, by-laws, regulations and other statutory instruments issued under it and any determination, exemption or modification made pursuant to it;
- (f) a reference to time refers to time in the place of the Company's registration;
- (g) the word "month" means calendar month and the word "year" means 12 calendar months;
- (h) a reference to writing includes any communication sent by post, facsimile transmission or email;
- (i) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning; and
- (j) the headings used in this Constitution do not form part of, or affect the construction or interpretation of, this Constitution.

## 1.3 Application of Corporations Act to this Constitution

If the Company is registered as a charity under the ACNC Act, the Corporations Act will apply to the Company as modified by section 111L of the Corporations Act whilst the Company continues to be registered under the ACNC Act.

## 1.4 Guidance Notes

Any guidance notes used in this Constitution do not form part of or affect the construction or interpretation of this Constitution.

### 1.5 **Exclusion of Replaceable Rules**

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

## **2. *Company limited by guarantee***

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### 2.1 **Type of Company**

The company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.

### 2.2 **Exercise of Power**

Subject to this Constitution, the Company may exercise, by Ordinary Resolution or Special Resolution as the Corporations Act requires, any power which under the Corporations Act may be exercised by a company limited by guarantee if authorised by its constitution. Where this Constitution refers to a power exercisable by resolution of Members, such resolution shall be deemed to be by way of Ordinary Resolution.

### 2.3 **Limited liability of Members**

The liability of Members is limited to the amount of the guarantee in clause 2.4.

### 2.4 **The guarantee**

Each Member undertakes to contribute such amount as may be required, but not exceeding \$10 (the guarantee) to the property of the Company if the Company is wound up while it is a Member, or within 12 months after it stops being a Member, and this contribution is required to pay for:

- (a) the debts and liabilities of the Company incurred before it ceased to be a Member; or
- (b) costs, charges, and expenses of winding up and for the adjustment of the rights of the contributories among themselves.

## **3. *Formation***

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### 3.1 **Name**

The name of the Company is The Australian School of Gardening Limited.

### 3.2 **Objects**

The objects for which the Company is established and maintained is for the principal purpose of advancing education in relation to gardening, through:

- (a) encouraging both garden professionals and the broader public to seek out knowledge about, and to participate in, gardening;
- (b) facilitating educational events to promote the passion for gardening and gardens through sharing inspiration, knowledge, skills and expertise;

- (c) educating communities, particularly regional communities , on the social, environmental and health benefits of gardening through the dissemination of sound scientific information and knowledge;
- (d) enabling communities and passionate garden enthusiasts to network with one another through education-based events;
- (e) providing educational structure to research outcomes, continuation of traditional knowledge and skills, and innovation in gardening; and
- (f) doing all such things as are incidental or conducive to the attainment of all or any objects of the Company set out above.

### 3.3 Powers

Solely for the purposes of carrying out the Objects, the Company has all the powers of a natural person including without limitation:

- (a) purchasing, selling, leasing, hiring or otherwise acquiring assets, plant, equipment, furniture and furnishings and giving, selling, leasing, hiring or otherwise allowing such assets, plant, equipment, furniture and furnishings to be used by a third party;
- (b) purchasing, selling, leasing, hiring or otherwise acquiring assets, plant, equipment, furniture and furnishings to raise money to further the Objects and to secure sufficient funds for the purposes of the Company;
- (c) borrowing, raising capital and entering into any form of financial arrangement (whether or not secured) and incurring all types of obligations and liabilities for the purposes of the Company;
- (d) granting securities of any nature over the assets of the Company, including debentures, guarantees, bills of sale, charges and mortgages for the purposes of carrying out the Objects;
- (e) receiving funds and distributing these funds in a manner that best attains the Objects;
- (f) investing the monies of the Company not immediately required for any of the Objects in such a manner as may from time to time be determined by the Company;
- (g) drawing, making, accepting, endorsing, discounting, executing and issuing bills of exchange, promissory notes, debentures and negotiable securities; and
- (h) doing all such other acts, matters and things and to enter into and make such agreements as are incidental or conducive to the attainment of all or any Objects and the exercise of the powers of the Company.

### 3.4 Restriction on use of income

The assets and income of the Company must:

- (a) only be used to pursue its Objects; and
- (b) not be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to any Member or Director.

For clarity, this clause 3.4 does not prevent the Company from using its income to pay in good faith:

- (a) remuneration for genuine services to the Company on an arms-length basis;
- (b) reasonable and proper remuneration to employees of the Company where the terms of employment have been previously approved by a resolution of the Board;
- (c) a Director or Member as reimbursement for costs incurred relating to the establishment of the Company and its business where such reimbursement has the prior approval of the Board;
- (d) for goods supplied to the Company in the ordinary course of business which has the prior approval of the Board;
- (e) for services provided to the Company including services provided in a professional or technical capacity, where the provision of such services has the prior approval of the Board and is on reasonably commercial terms;
- (f) a commercial rate of interest on borrowed funds which has the prior approval of the Board;
- (g) a commercial rent for property used by the Company which has the prior approval of the Board;  
or
- (h) out of pocket expenses incurred by a Director, a Member, an employee or contractor of the Company, on official business of the Company, which has been previously approved by the Board,

even if the recipient of the remuneration or the reimbursement is a Member or Director (subject to clause 18).

### **3.5 Amendment of Constitution and name of Company**

- (a) Any addition, alteration or amendment to the Company's Constitution will be made in accordance with the provisions of the Corporations Act and the Company must notify the Australian Taxation Office thereof, where required by law.
- (b) Where the Company satisfies the requirements of section 150(1) of the Corporations Act to omit the word "Limited" from the end of its name, section 157(1) of the Corporations Act (requiring the Company to pass a special resolution to change the name of the Company) will not apply to effect that change.

### **3.6 Dissolution of the Company**

The Company may only be dissolved by a special resolution of the Members at a Meeting of Members.

### **3.7 Surplus Property on Winding Up**

- (a) If the Company is to be wound up and or dissolved and there is a surplus property available after all liabilities of the Company have been discharged, any surplus property must not be paid or distributed to the Members.
- (b) The surplus property must be given or transferred to a fund, authority or institution approved by the Members that has similar objects to the Objects of the Company and similar restrictions

on the use and distribution of its income among its members as the Company. If a fund, authority or institution with similar objects to the Objects cannot be located then a fund, authority or institution with objects in relation to the preservation and promotion of the natural environment must be chosen.

- (c) If the Members at a Meeting of Members do not approve a fund, authority or institution to be given the surplus property, the Supreme Court of New South Wales may make an order deciding which organisation will be given the surplus property.

## **4. Accounts**

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### **4.1 True Accounts**

True accounts must be:

- (a) kept of the sums of money received and expended by the Company, and the matter in respect of which such receipt and expenditure takes place, and of the property, credits and liabilities of the Company; and
- (b) open to the inspection of the Members, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the regulations of the Company from time to time.

### **4.2 Auditor**

If required by applicable laws, at least once in every year, the accounts of the Company must be examined by one or more properly qualified auditor or auditors who must report to the Members in accordance with the provisions of the Corporations Act.

## **5. Membership**

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### **5.1 Member**

A person who agrees to become a Member and whose name is entered in the Register becomes a Member if their application for membership is approved at the meeting of the Directors following the date of the application.

### **5.2 Discretion to admit**

The Directors may refuse to admit any person as a Member and are not bound to give any reason for so refusing.

### **5.3 Expulsion**

Subject to clause 9, the Directors may at any time, despite the payment of the subscription by a Member, expel a Member from the Company and remove such Member from the Register. If the removal is before the term has expired for which the Member's subscription has been paid, the Member is entitled to a proportionate refund of the subscription from the date of removal to the time when the membership would expire.



## **6. Membership Fees**

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### **6.1 Entrance fee**

There is no entrance fee payable by a Member.

### **6.2 Annual subscription**

There is no annual subscription payable by a Member.

## **7. Joint Members**

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Joint membership is not permitted.

## **8. Cessation Of Membership**

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### **8.1 Cessation**

A Member ceases to be a Member if the Member:

- (a) is dissolved, where the Member is a body corporate; or
- (b) resigns such membership.

### **8.2 Membership not transferable**

A right, privilege or obligation which a person has by reason of being a Member:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates upon cessation of that person's membership.

## **9. Recommendation of Members**

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### **9.1 Initial resolution of Directors**

Where the Directors are of the opinion that a Member of the Company:

- (a) has refused or neglected to comply with a provision of this Constitution;
- (b) has acted in a manner prejudicial to the interests of the Company; or
- (c) has been guilty of conduct unbecoming a member,

the Directors may, by resolution (**Initial Resolution**):

- (i) reprimand the Member;
- (ii) suspend the Member from membership of the Company for a specified period; or
- (iii) expel the Member from the Company.

## 9.2 **Suspended operation**

An Initial Resolution is of no effect unless the Directors, at a meeting of the Directors held not earlier than 14 days and not later than 28 days after service on the Member of a notice under clause 9.3, confirms the Initial Resolution in accordance with the following clauses of this section.

## 9.3 **Notice to Member**

The Secretary must, as soon as practicable following the passing of the Initial Resolution, cause a notice in writing to be served on the Member that notice:

- (a) setting out the Initial Resolution of the Directors and the grounds on which it is based;
- (b) stating that the Member may personally address the Directors at a meeting of the Directors to be held not earlier than 14 days and not later than 28 days after service of the notice;
- (c) stating the date, place and time of that meeting of the Directors; and
- (d) informing the Member that the Member may do either or both of the following:
  - (i) personally attend and speak at that meeting of the Directors; and
  - (ii) submit to the Directors at or prior to the date of that meeting written representations relating to that resolution.

## 9.4 **Confirming resolution of Directors**

At a meeting of the Directors held as referred to in clause 9.3, the Directors must:

- (a) give to the Member an opportunity to make personal oral representations;
- (b) give due consideration to any written representations submitted to the Directors by the Member at or prior to the meeting; and
- (c) by resolution (**Confirming Resolution**) confirm or revoke the Initial Resolution.

## 9.5 **Notice to Member**

The Secretary must, within 7 days of the passing of the Confirming Resolution, by notice in writing inform the Member of the fact and of the Member's right of appeal under this Constitution.

## 9.6 **Suspended operation**

A Confirming Resolution does not take effect:

- (a) until the expiration of the period within which the Member is entitled to appeal against the Confirming Resolution if the Member does not exercise the right of appeal within that period; or
- (b) if within that period the Member exercises the right of appeal, unless and until a Meeting of Members confirms the resolution pursuant to this Constitution.

### **9.7 Right of appeal**

A Member may appeal to the Company in a Meeting of Members against a Confirming Resolution, within seven days after notice of the Confirming Resolution is served on the Member, by lodging with the Secretary a notice to that effect.

### **9.8 Calling of Meeting of Members**

Upon receipt of a notice from a Member under clause 9.7, the Secretary must immediately notify the Directors of the receipt of the notice of appeal. The Directors must then call a Meeting of Members of the Company to be held within 21 days after the date on which the Secretary received the notice.

### **9.9 Business of Meeting**

At a Meeting of Members called under clause 9.8:

- (a) no business other than the question of the appeal may be transacted;
- (b) the Directors and the Member must be given the opportunity to state their respective cases orally or in writing, or both; and
- (c) the Members present may vote by secret ballot on the question of whether the Confirming Resolution should be confirmed or revoked.

### **9.10 Confirmation by Members**

If the Meeting of Members passes an Ordinary Resolution in favour of the confirmation of the Confirming Resolution, the resolution is confirmed.

## ***10. Meetings of Members***

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### **10.1 Annual general meeting**

An annual general meeting of the Company must be held in accordance with the provisions of the Corporations Act.

### **10.2 Calling of meetings**

Any Director may at any time call a Meeting of Members, whenever he or she thinks fit.

### **10.3 Requisition of meeting**

Except as provided in Chapter 2G of the Corporations Act, no Member or Members may call a Meeting of Members.

### **10.4 Notice of meeting**

- (a) Subject to the provisions of the Corporations Act relating to Special Resolutions or which permit shorter notice, 21 clear days' notice (excluding both the date of service of the notice and the date of the meeting) of a Meeting of Members must be given to Members entitled to receive notice.
- (b) Every notice of a Meeting of Members must:

- (i) set out the place, day and time of meeting;
- (ii) in the case of special business, state the general nature of the business;
- (iii) if a Special Resolution is to be proposed, set out an intention to propose the Special Resolution and state the resolution;
- (iv) in the case of an election of Directors, give the names of the candidates for election; and
- (v) contain a statement of the right to appoint a Proxy, being to the effect that:
  - (A) a Member entitled to attend and vote is entitled to appoint a Proxy to attend and vote instead of the Member; and
  - (B) a Proxy must be a Member.

#### **10.5 Entitlement to notice**

Notice of a Meeting of Members must be given to:

- (a) each Member, apart from any Member who under this Constitution or by the terms of issue of any membership is not entitled to the notice;
- (b) the auditor; and
- (c) each Director.

#### **10.6 Entitlement to Proxy Form**

A Proxy Form (in a form determined by the Directors) must be given to each Member entitled to receive a notice of a Meeting of Members.

#### **10.7 Omission to give notice**

The accidental omission to give notice of a Meeting of Members (or Proxy Form) to, or the non-receipt of any such notice (or Proxy Form) by a person entitled to receive it, or the accidental omission to advertise (if necessary) such meeting, does not invalidate the proceedings at, or any resolution passed at, any such meeting.

#### **10.8 Consent to short notice**

With the consent in writing of at least 95% of the Members for the time being entitled to vote at a Meeting of Members (or such greater amount as required by law), any Meeting of Members may be called on short notice and in any manner they think fit and all provisions of this Constitution are modified accordingly.

#### **10.9 Cancellation or postponement of meeting**

The Directors may cancel or postpone the holding of any Meeting of Members. If the meeting was called by requisitioning Members or in response to a requisition by Members, the Directors may only cancel or postpone the holding of it with the consent of a majority of the requisitioning Members. The Directors may notify the Members of such cancellation or postponement by such means as they see fit.

If any meeting is postponed for 30 days or more, then no less than five days' notice must be sent to the Members of the postponed meeting but it is not necessary to specify in such notice the nature of the business to be transacted at the postponed meeting.

## ***11. Representation at Meetings***

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### **11.1 Persons entitled to attend**

The right to attend a Meeting of Members is as follows:

- (a) each Member may attend, apart from any Member who under this Constitution or by the terms of issue of any membership is not entitled to attend;
- (b) each Director, Secretary and auditor may attend;
- (c) each person who is a Proxy, Corporate Representative or attorney of a Member may attend; and
- (d) other persons may attend only with leave of the meeting or its chairperson and then only while the leave is on foot and in accordance with the terms of the leave.

The right of a person to attend is subject to the powers of the chairperson of the meeting, both under the Corporations Act and this Constitution.

### **11.2 Proxy eligibility**

Only another Member (whether first named in the Register or not) is eligible to act as a Proxy.

### **11.3 Proxy recognition**

A Proxy is recognised as having been duly appointed by a Member and entitled to act as a Proxy for that Member if, and only if, the Proxy Form complies with the requirements of this Constitution concerning form, execution and lodgement.

### **11.4 Proxy Form**

The Proxy Form must be in the form determined by the Directors for the relevant Meeting of Members, or as similar to it as the circumstances permit. The Directors may at any time accept a Proxy Form which is not in the required form. Unless the Directors specifically determine otherwise at any time, the Proxy Form:

- (a) is operative only for a single Meeting of Members (and any adjournment of that meeting) and must specify the proposed date of that meeting;
- (b) may make provision for the chairperson of the Meeting of Members to act as the Proxy either in the absence of any other appointment or if the Proxy primarily appointed fails to attend the Meeting of Members; and
- (c) must enable the Member to at least instruct the Proxy to vote for or against each notified resolution.

**11.5 Chairperson as fall-back Proxy**

If a Proxy Form is otherwise effective except that it does not specify the Proxy, the Member is treated as validly appointing the chairperson of the Meeting of Members as Proxy.

**11.6 Proxy execution**

A Proxy Form must be executed:

- (a) in the case of a Member who is a natural person, by the:
  - (i) Member; or
  - (ii) attorney of the Member;
- (b) in the case of a Member which is a body corporate:
  - (i) under the common seal of the body;
  - (ii) by a duly authorised officer of the body; or
  - (iii) by the attorney of the body.

**11.7 Proxy lodgement**

A Proxy Form may be lodged by post, email or facsimile:

- (a) at the Registered Office (or at such other place as is specified for that purpose in the notice calling the Meeting of Members) by the start of the meeting; or
- (b) with the chairperson of the meeting at any time prior to the Proxy voting on behalf of the appointer at the meeting.

**11.8 Proxy executed by attorney**

If a Proxy Form is executed by the attorney of the Member the relevant power of attorney (or a copy of it) must also be lodged at the place, and by the deadline, required for the Proxy Form.

**11.9 Corporate representative recognition**

A Corporate Representative is recognised as having been appointed by a Member (which is a body corporate) and entitled to act as a Corporate Representative of that Member if, and only if:

- (a) the appointment is evidenced by a Corporate Representative Certificate which complies with this Constitution concerning form, execution and lodgement; or
- (b) the appointment is evidenced by some other form of documentation satisfactory to the Directors which is lodged at the place, and by the deadline, required for Corporate Representative Certificates.

**11.10 Form and execution of Corporate Representative Certificate**

The Corporate Representative Certificate:

- (a) must specify one natural person, by name or description, to act as the body's representative at specified meetings that the body would be entitled to attend as a Member;
- (b) may specify another natural person, by name or description to act as Corporate Representative if the person primarily nominated fails to attend; and
- (c) must be executed:
  - (i) under the seal of the body corporate;
  - (ii) by a duly authorised officer of the body; or
  - (iii) by the attorney of the body.

#### **11.11 Corporate Representative Certificate lodgement**

The Corporate Representative Certificate (or a copy of it) must be lodged:

- (a) at the Registered Office (or at such other place as is specified for that purpose in the notice calling the meeting) by the start of the meeting; or
- (b) with the chairperson of the meeting at any time prior to the Corporate Representative voting on behalf of the Member at the meeting.

#### **11.12 Power of attorney lodgement**

An attorney is recognised as entitled to act as attorney for a Member at a Meeting of Members if, and only if, the relevant power of attorney (or a copy of it) is lodged at the place, and by the deadline, required for Proxy Forms.

## ***12. Proceedings at Meetings of Members***

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### **12.1 Quorum**

No business may be transacted at any Meeting of Members unless a quorum of Members is present at the time when the meeting proceeds to business. Except as provided in clause 12.2, two Members present in person or by proxy and entitled to vote is a quorum, unless there is only one Member of the Company, in which case a quorum will be that Member present in person or by proxy.

### **12.2 Failure of quorum**

If a quorum is not present within 15 minutes from the time appointed for a Meeting of Members:

- (a) where the meeting was called by, or in response to, the requisition of Members made under the Corporations Act, the meeting is dissolved; or
- (b) in any other case the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the second week following at the same time and place. If at the adjourned meeting a quorum is not present within 15 minutes from the time appointed for the meeting, the Members present constitute a quorum or if no Members are present, the meeting is dissolved.

### 12.3 **Business of annual general meeting**

The business of an annual general meeting is to receive the Company's financial statements, the Directors' statement and report, the auditor's report on the financial statements, to elect Directors in the place of those who are retiring and to transact any other business which under this Constitution or the Corporations Act is to be transacted at an annual general meeting. All other business transacted at an annual general meeting, and all business transacted at other Meetings of Members, is deemed special.

### 12.4 **Special business**

No special business may be transacted at any Meeting of Members other than that stated in the notice calling the meeting unless it is a matter that is required by this Constitution or the Corporations Act to be transacted at such meeting.

### 12.5 **Chairperson of meeting**

The chairperson of the Company, or in that person's absence the vice chairperson of the Company, is entitled to take the chair at each Meeting of Members. If neither of those persons is present at any Meeting of Members within 15 minutes after the time appointed for holding such meeting, or neither of them is willing to take the chair, the Directors present may choose one of their number as a chairperson and if no Director present is willing to take the chair the Directors may choose a person, whether a Member or not, as chairperson of the meeting, failing which the Members present must elect a person, whether a Member or not, to be chairperson of the meeting.

### 12.6 **Passing the chair**

If the chairperson of a Meeting of Members is unwilling or unable to be the chairperson for any part of the business of the meeting:

- (a) that chairperson may withdraw as chairperson for that part of the business and may nominate any person who would be entitled under clause 12.5 to chair the meeting for that part of the business; and
- (b) after that part of the business is completed, the person so nominated must cease to chair the meeting upon the request of the prior chairperson and the prior chairperson is entitled to resume as the chairperson of the meeting.

### 12.7 **Responsibilities of chairperson**

The chairperson of a Meeting of Members is responsible for the general conduct of the meeting and to ascertain the sense of the meeting concerning the business transacted at it. For these purposes the chairperson of the meeting may, without limitation:

- (a) delay the commencement of the meeting if that person determines it is desirable for the better conduct of the meeting;
- (b) make, vary or rescind rulings;
- (c) prescribe, vary or revoke procedures;



- (d) in addition to other powers to adjourn, adjourn the meeting, or any item of business of the meeting, without the concurrence of the meeting if that person determines it is desirable for the orderly conduct of the meeting or the conduct of a poll; and
- (e) determine conclusively any dispute concerning the admission, validity or rejection of a vote.

#### **12.8 Adjournment of meeting**

The chairperson of a Meeting of Members at which a quorum is present may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place as the meeting determines.

#### **12.9 Business at adjourned meeting**

No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of an adjournment or of the business to be transacted at an adjourned meeting, unless it is adjourned for 30 business days or more, in which event notice of the adjourned meeting must be given.

### ***13. Voting at Meetings of Members***

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#### **13.1 Entitlement to vote**

Subject to this Constitution and the terms of issue of any membership, each natural person who is present at a Meeting of Members may vote if he or she is a Member or a recognised Proxy, attorney or Corporate Representative of a Member.

#### **13.2 Number of votes**

Each natural person who is, under clause 13.1, entitled to vote has:

- (a) on a show of hands (or on the voices) only one vote, regardless of how many Members the person may represent; and
- (b) on a poll one vote for the membership held by that person and one vote for each membership held by Members for whom the person is the recognised Proxy, attorney or Corporate Representative.

#### **13.3 Voting restrictions**

If, to ensure that a resolution on which the Corporations Act requires that particular persons do not cast a vote so that the resolution has a specified effect under the Corporations Act, the notice of a Meeting of Members specifies that in relation to particular business to be considered at that meeting, votes cast by particular persons (whether specified by name or by description of particular classes of persons) are to be disregarded by the Company, the Company must take no account in determining the votes cast on a resolution relating to that business (whether a Special Resolution or an Ordinary Resolution) or for any other purpose, of any vote cast or purported to be cast by or on behalf of any of those persons (whether on a show of hands or on a poll) in relation to that resolution.

#### 13.4 **Attendance of Member suspends the Proxy**

If a Member is present at any Meeting of Members in person (or in the case of a body corporate, by its Corporate Representative), the Proxy or attorney of that Member may not exercise the voting rights of the Member while the Member is present.

#### 13.5 **Revocation of proxies**

A vote given or act done in accordance with the terms of a Proxy Form or power of attorney is valid despite the previous death of the principal, or revocation of the Proxy or power of attorney, provided no intimation in writing of the death or revocation has been received at the Registered Office or by the chairperson of the meeting before the vote is given or act done. Any Proxy may be revoked at any time. The decision of the chairperson as to whether a Proxy has been revoked is final and conclusive.

#### 13.6 **Proxy must vote as directed**

A recognised Proxy must vote (or abstain if instructed) on behalf of a Member in the manner instructed by the Member on the Proxy Form. If no instruction is given the Proxy may vote, or abstain, as the Proxy sees fit.

#### 13.7 **Method of voting**

Every resolution put to a vote at a Meeting of Members (except where there is an election of Directors by ballot) must be determined by the voices or a show of hands (as determined by the chairperson of the meeting) unless a poll is properly demanded either before or on the declaration of the result of the voices or the show of hands.

#### 13.8 **Demand for poll**

A demand for a poll under clause 13.7 may be made by:

- (a) the chairperson of the meeting;
- (b) at least five persons present in person or by proxy having the right to vote at the meeting;
- (c) any person or persons present having the right to vote at the meeting who have at least 10% of the total voting rights of all the Members having the right to vote at the meeting.

#### 13.9 **Declaring result of vote on show of hands**

At any Meeting of Members (unless a poll is so demanded) a declaration by the chairperson of the meeting that a resolution has been carried, or carried by a particular majority, or lost, or has not been carried by a particular majority and an entry in the book containing the minutes of proceedings of the Company is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

#### 13.10 **Conduct of poll**

The demand for a poll may be withdrawn. If a poll is duly demanded (and the demand not withdrawn) it must be taken in such manner and at such time (either at once or after an interval or adjournment or otherwise) as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded. A poll demanded on any question of adjournment must be

taken at the meeting and without an adjournment. The demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded.

#### **13.11 Casting vote of chairperson**

If, on a show of hands or on a poll, the votes are equal, the chairperson of the meeting has a casting vote in addition to the deliberative vote, if any, of the chairperson.

#### **13.12 Joint members' vote**

Joint membership voting is not permitted.

#### **13.13 Objections**

No objection may be made as to the validity of any vote except at the meeting or adjourned meeting or poll at which such vote is tendered and every vote not disallowed at any such meeting or poll is treated as valid. In recording votes the latest copy of the Register held in the Registered Office must be adopted and acted on as the voting roll.

#### **13.14 Ruling on votes**

The chairperson of the meeting is the sole judge of the validity of every vote tendered at the meeting and the determination of the chairperson is final and conclusive.

### ***14. Money and Property Received by the Company***

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All money received by or on behalf or as a result of the activities of the Company must be applied for the promotion of the Objects.

### ***15. Appointment and Removal of Directors***

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#### **15.1 Number of Directors**

The number of Directors must be no less than three.

#### **15.2 Election of Directors**

- (a) With the exception of the Directors appointed at the date of formation of the Company and any Directors appointed by the other Directors as a casual appointee under clause 15.4, the Members may elect a Director by an Ordinary Resolution passed at a Meeting of Members.
- (b) Each of the directors must be appointed by a separate resolution, unless:
  - (i) the Members present have first passed a resolution that the appointments may be voted on together, and
  - (ii) no votes were cast against that resolution.
- (c) A person is eligible for election as a Director of the Company if they:

- (i) give the Company their signed consent to act as a Director of the Company; and
- (ii) are not ineligible to be a Director under the Corporations Act or the ACNC Act.

### 15.3 **Term of office**

- (a) Each Director must retire at least once every three years.
- (b) A Director who retires under clause 15.3(a) will be eligible for re-election and may nominate themselves for re-election as a Director.
- (c) At each annual general meeting:
  - (i) any Director appointed by the Directors to fill a casual vacancy or as an additional Director must retire; and
  - (ii) those Directors who have reached the end of their term of appointment must retire.
- (d) Other than the Directors upon incorporation or a Director appointed by the other Directors to fill a casual vacancy or as an additional Director, a Director's term of office starts at the end of the annual general meeting at which they are elected and ends at the end of the annual general meeting at which they retire.
- (e) A Director must not hold office without re-election past the third annual general meeting following the Director's appointment or three years, whichever is longer.
- (f) A Director who retires under this clause is eligible for re-election and may nominate himself for re-election.

### 15.4 **Casual appointment**

The Directors may at any time appoint any person as a Director, either to fill a casual vacancy or as an addition to the Directors. Until that person is re-elected at a Meeting of Members, that Director is a "casual appointee".

### 15.5 **Retirement of casual appointee**

A casual appointee holds office only until the conclusion of the next annual general meeting of Members following his or her appointment by the Directors and is then eligible for re-election. A casual appointee is not taken into account in determining the number of Directors, if any, who are to retire by rotation at such meeting.

### 15.6 **Voluntary Resignation of Directors**

Any Director may retire from office by giving notice in writing to the Company of the Director's intention to do so. Such resignation takes effect immediately unless the resignation is stated in the notice to take effect at some future time in which event the resignation takes effect upon the expiration of such time or the date three months from the giving of the notice, whichever is the earlier.

**15.7 Vacation of office**

In addition to the circumstances in which the office of Director becomes vacant by virtue of the Corporations Act or other provisions of this Constitution, the office of Director is vacated if the Director:

- (a) becomes mentally incapable or the Director's estate is liable to be dealt with in any way under the law relating to mental health;
- (b) is absent from meetings of Directors for a continuous period of six months without leave of absence from the Directors; and
- (c) is removed from office by an Ordinary Resolution.

**15.8 Less than minimum number of Directors**

The continuing Directors may act despite any vacancy in their body but if the number falls below the minimum number fixed in accordance with this Constitution, the Directors may act only:

- (a) to appoint Directors up to that minimum number;
- (b) to call a Meeting of Members; or
- (c) in emergencies.

**16. Alternate Directors**

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**16.1 Power to appoint alternate Director**

Each Director may at any time appoint any person approved for that purpose by a majority of his or her co-Directors to act as an alternate Director in the appointer's place.

**16.2 Suspension of appointment**

The appointer may vary, suspend, or terminate the appointment of any alternate.

**16.3 Notice of appointment**

Notice of each such appointment, suspension or termination must be made in writing to the alternate, signed by the appointer, and a copy served on the Company.

**16.4 Electronic notifications**

Any notice under clause 16.3 or 16.5 may be served by electronic transmission and any such transmission purporting to be signed by a Director is treated as being in writing signed by such Director.

**16.5 Role of alternate**

An alternate Director:

- (a) is not entitled to receive notice of meetings of the Directors unless the appointer has, by notice in writing to the Company, required it do so either generally or in particular circumstances;
- (b) may attend and vote at a meeting of the Directors if the appointer is not present at that meeting;
- (c) may sign a circular resolution under clause 19.9 unless the appointer has, by notice in writing to the Company, suspended that right either generally or in particular circumstances;
- (d) when acting as such at any time, is an officer of the Company and not an agent of the appointer and, in those circumstances, is subject to the duties and has all the powers and rights of a Director;
- (e) does not have a conflict of interest solely by reason of the fact that the appointer has a conflict of interest (or vice versa); and
- (f) is not taken into account in determining either the number of Directors or rotation of Directors.

#### **16.6 Remuneration of alternate**

An alternate's only rights (if any) as to remuneration for ordinary service as a Director are against the appointer and not the Company.

#### **16.7 Multiple votes**

A Director or any other Member may act as alternate Director to represent more than one Director, and have as many votes accordingly, but for the purpose of forming a quorum counts as only one Director.

#### **16.8 Termination of appointment**

The appointment of an alternate Director is terminated:

- (a) if, by notice in writing, left at the Registered Office, the alternate resigns such appointment;
- (b) if the appointment of the alternate is terminated by the appointer;
- (c) if a majority of the co-Directors of the appointer withdraw the approval of the person to act as an alternate;
- (d) if the appointment is to act as alternate for one or more Directors and all of those named Directors have vacated office as Directors; or
- (e) on the happening of any event which, if the alternate were a Director, would cause the alternate to vacate the office of Director.

### ***17. Chief Executive Officer***

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#### **17.1 Appointment of Chief Executive Officer**

The Directors may at any time:

- (a) appoint one or more of their body to be the Chief Executive Officer of the Company;

- (b) define, limit and restrict that person's powers;
- (c) fix that person's duties;
- (d) subject to the provisions of any contract between that person and the Company, vary any of the powers so conferred; and
- (e) remove that person from that office and appoint another (or others) in that person's place or places.

#### **17.2 Acting Chief Executive Officer**

If the Chief Executive Officer becomes at any time in any way incapable of acting as such, the Directors may appoint any other Director to act temporarily as the Chief Executive Officer.

#### **17.3 Remuneration of Chief Executive Officer**

- (a) Subject to the provisions of any agreement entered into between the Company and its Chief Executive Officer from time to time, the Company may pay its Chief Executive Officer a reasonable and proper remuneration on an arm's length basis as determined by the Directors.
- (b) In determining the remuneration of the Chief Executive Officer, the Directors must have regard to the following criteria:
  - (i) the services the Chief Executive Officer is to provide to the Company; and
  - (ii) the current market levels of remuneration paid to chief executive officers of not for profit entities.

#### **17.4 Expenses of Chief Executive Officer**

The Chief Executive Officer is entitled to be paid all travelling and other expenses incurred, or to be incurred, by him or her in connection with his or her attendance at meetings of the Board and Meetings of Members, or otherwise in connection with the business of the Company, provided the Directors have approved payment of such expenses before they are incurred.

### ***18. Remuneration of Directors***

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#### **18.1 Remuneration Conditions**

Clauses 18.2 and 18.3 are to be read subject to the conditions (if any) of any government office or authority imposed on the Company upon granting:

- (a) an income tax, federal taxation or duty exemption or reduction;
- (b) confirmation of status as being eligible to receive tax deductible donations;
- (c) a stamp duty or state taxation or duty exemption or reduction; and
- (d) an authority to fund raise or approach the public for the purposes of soliciting a donation to the Company.

If there is any conflict with the terms of clauses 18.2 or 18.3 and the conditions imposed by any government office or authority the terms of those conditions will prevail to the extent of any inconsistency.

### **18.2 Directors' Fees**

The payment of directors' fees in whatever form is prohibited to Directors for serving in that capacity, except:

- (a) for any service rendered to the Company in a professional or technical capacity, where the provision of that service (and the associated payment for that service) has the prior approval of the Board and is on reasonable commercial terms; and
- (b) for any reasonable payment in respect of an indemnity, exemption, insurance premium or legal costs in respect of liability incurred in the Director's capacity as an officer of the Company, where that payment has the prior approval of the Board.

### **18.3 Expenses of Directors**

Each Director is entitled to be paid all travelling and other expenses incurred, or to be incurred, by him or her in connection with his or her attendance at meetings of the Board and Meetings of Members or otherwise in connection with the business of the Company if the Directors have approved payment of all travelling and other expenses before they are incurred.

## ***19. Proceedings of Directors***

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### **19.1 Mode of meeting**

The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they see fit. The Directors may conduct their meetings by telephone or other form of electronic communication without a Director being in the physical presence of another Director or other Directors.

### **19.2 Quorum**

A quorum for a meeting of the Directors is any two Directors.

### **19.3 Chairperson calling a meeting**

The chairperson of the Company may at any time call a meeting of the Directors to be held at such time and place as the Chairperson chooses and such meeting is not invalidated by reason only of lack of convenience if a quorum of Directors forms.

### **19.4 Secretary calling a meeting**

The Secretary, upon the request of any other Director, must call a meeting of the Directors to be held at such time and place as is convenient to the Directors.

### **19.5 Notice of meeting**

Notice of each meeting of the Directors:



- (a) may be given by such means as is convenient, including by telephone or electronic transmission;
- (b) must be given to all eligible Directors and all eligible alternate Directors; and
- (c) must be issued to all eligible Directors and all eligible alternate Directors at least five days prior to the meeting.

#### **19.6 Recipients of notice**

For the purposes of clause 19.5:

- (a) the “eligible Directors” are all Directors for the time being but excluding, first, all alternate Directors, second, those who have given leave of absence, and third, those who in the belief of the person calling the meeting are absent from Australia;
- (b) the “eligible alternate Directors” are those alternate Directors in respect of whom an appointer has, under clause 16, required the Company to give such a notice to the alternate, but excluding those alternate Directors who, in the belief of the person calling the meeting, are absent from Australia; and
- (c) the accidental omission to give notice of any meeting of the Directors to, or the non-receipt of any such notice by, a person entitled to receive that notice does not invalidate the calling of the meeting or any resolution passed at any such meeting.

#### **19.7 Appointment of chairperson**

The directors may elect a chairperson to chair meetings of the Directors. The Directors may determine the period for which the Director is to be the chair. Such person is entitled to use the title “Chairman”, “Chair” or “Chairperson”. If the chairperson is not present within 15 minutes of the time appointed for holding the meeting, subject to the next clause, the Directors present must choose one of their number to be chairperson of such meeting.

#### **19.8 Votes of Directors**

Questions arising at any meeting of the Directors must be decided by a majority of votes cast and each Director has one vote. A person who is an alternate Director is entitled (in addition to his or her own vote if a Director) to one vote on behalf of each Director whom the alternate represents (as an alternate Director at the meeting) and who is not personally present. If there is an equality of votes, provided more than two Directors present are competent to vote on the question at issue but not otherwise, the chairperson has a second or casting vote.

#### **19.9 Circular resolution of Directors**

If all of the eligible Directors have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms is treated as having been passed at a meeting of the Directors held on the day on which the document was signed or, if the Directors sign the documents on different days, on the day on which the document was last signed by a Director unless the document, by its terms, is said to take effect from an earlier date.

#### **19.10 Signing of circular resolution**

For the purposes of clause 19.9:

- (a) the “eligible Directors” are all Directors for the time being but excluding, first, all alternate Directors, second, those who, at a meeting of Directors, would not be entitled to vote on the resolution and, third, those then outside Australia;
- (b) each Director, other than one not entitled to vote on the resolution, may sign the document;
- (c) if a person who is not entitled to vote on the resolution signs the document, it does not invalidate the resolution if it is otherwise valid;
- (d) unless the right has been suspended by the appointer under clause 16.2, each alternate Director may sign the document in the appointer’s place if the alternate Director reasonably believes that the appointer is unavailable to sign the document. An alternate may sign even if the available appointer could not have voted on the resolution. An alternate Director who represents more than one Director may sign as many times accordingly;
- (e) an electronic transmission purporting to be signed by a Director or alternate Director is treated as being signed in writing by such person; and
- (f) two or more separate documents containing statements in identical terms each of which is signed by one or more Directors are together treated as constituting one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

#### **19.11 Deemed minute**

The document or documents referred to in clauses 19.9 and 19.10 are treated as constituting a minute of that meeting and must be entered in books kept for that purpose.

#### **19.12 Validity of acts of Directors**

All acts done at any meeting of the Directors or of eligible Directors or other persons or by any person acting as a Director or any person purporting to act as an attorney under power of the Company are, despite the fact that later it is discovered that there was some defect in the appointment or continuance in office of such Director, person or attorney so acting or that they or any of them were disqualified or were not entitled to vote, as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Director or attorney and was entitled to vote.

## ***20. Director’s Contracts with Company***

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### **20.1 Director’s contracts and conflicts of interest**

In relation to Directors’ contracts and conflicts of interest:

- (a) despite any rule of the Corporations Act or equity to the contrary, no Director is disqualified by that office from contracting with or holding any other office under the Company;
- (b) any such contract, or any contract entered into by or on behalf of the Company in which any Director is in any way interested, is not avoided;

- (c) any Director so contracting or being so interested is not liable to account to the Company for any profit realised by any such contract by reason only of such Director holding that office or of the fiduciary relationship thereby established;
- (d) the nature of the Director's interests must be disclosed by that Director at the meeting of the Directors at which the contract is determined on if that interest then exists and has not been disclosed or in any other case at the first meeting of the Directors after the acquisition of those interests; and
- (e) a Director may not vote in that capacity in respect of any contract or arrangements in which the Director is interested but may be counted, for the purpose of any resolution regarding it, in the quorum present at the meeting and may, despite that interest, participate in the execution of any instrument by or on behalf of the Company and whether through signing or sealing it or otherwise.

## 20.2 Requirement to leave the meeting

Despite anything in clause 20.1, a Director's entitlement to vote, or be present, at a meeting of the Directors of any Director who has a material personal interest in a matter that is being considered at the meeting is restricted in accordance with section 195 of the Corporations Act as it may apply from time to time to the Company.

## 20.3 Notice of interest

A general notice given to the Directors by any Director to the effect that he or she is an officer or a Member of, or interested in, any specified firm or body corporate and is to be regarded as interested in all transactions with such firm or body is sufficient disclosure as required by the Corporations Act as regards such Director and those transactions. After such general notice, it is not necessary for such Director to give any special notice relating to any transaction with such firm or body.

## 20.4 Office in another company

A Director of the Company may be, or may become, an executive member or other officer of, or otherwise interested in, any body corporate promoted by the Company or in which the Company may be interested, or which holds any membership in the Company. No such Director is accountable to the Company for any remuneration or other benefits received by him or her as an executive member or officer of, or from his or her interest in, such body corporate. The Directors may exercise the voting power conferred by the shares or owned by the Company, or exercisable by them as executive members of such other body corporate in such manner as they think fit. This includes the exercise of that voting power in favour of any resolution appointing themselves, or any of them as executive members or other officers of such body corporate. Any Director may vote in favour of the exercise of such voting power in that manner despite the fact that he or she may be, or be about to be, appointed an executive member or other officer of such corporation and as such is, or may become, interested in the exercise of such voting power in that manner.

# ***21. Powers and Duties of Directors***

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## 21.1 Powers generally

Subject to the Corporations Act and to any other provisions of this Constitution, the management and control of the Company and of the business and affairs of the Company is vested in the Directors who

may exercise all such powers of the Company and do all such acts or things as are not by this Constitution or by the Corporations Act expressly required to be exercised or done by a Meeting of Members. No provision adopted by resolution passed by a Meeting of Members invalidates any prior act of the Directors which would have been valid if that provision or resolution had not been adopted or passed.

#### **21.2 Borrowing**

The Directors have the power to raise or borrow any sum of money not exceeding \$10,000 or such other sum of money determined by the Board and to secure the payment or repayment of such moneys and any other obligation or liability of the Company in such manner and on such terms in all respects as they think fit. This includes upon the security of any mortgage or by the issue of debentures or debenture stock of the Company charged upon all or any of the property of the Company (both present and future) including its goodwill and undertaking for the time being or upon bills of exchange, promissory notes or other obligations or otherwise.

#### **21.3 Security**

Without limiting the generality of clause 21.2, the Directors have the power to make such loans to, and to provide such guarantees and security for obligations undertaken by, Directors of the Company as may be permitted by the Corporations Act or by resolution of the Company in accordance with the Corporations Act.

#### **21.4 Execution of negotiable instruments**

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company may be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Directors at any time determine.

#### **21.5 Official seal**

The Directors may exercise all the powers of the Company in relation to any official seal for use outside the State where its common Seal is kept.

#### **21.6 Appointment of attorney**

The Directors may at any time, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as they may think fit. Any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney to delegate all or any of the powers authorities and discretions vested in the attorney.

#### **21.7 Delegation**

The Directors may at any time confer upon any Director, or such other person as they may select, such of the powers exercisable under this Constitution by the Directors as they may think fit for such time and to be exercised for such objects and purposes and upon such terms and with such restrictions as they think expedient. They may confer such powers whether collaterally with, or to the exclusion of

and in substitution for, all or any of the powers of the Directors in that respect. They may at any time revoke, withdraw, alter or vary all or any of such powers.

#### **21.8 Validity of acts**

Despite anything contained in this Constitution, if it is found that some formality required by this Constitution to be done has been inadvertently omitted or has not been carried out, such omission does not invalidate any resolution, act, matter or thing which but for such omission would have been valid unless it is proved to the satisfaction of the Directors or a majority of them that such omission has directly prejudiced any Member financially. The decision of the Directors is conclusive and final and binds all Members.

### ***22. Sub-Committees***

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#### **22.1 Delegation to sub-committee**

The Directors may:

- (a) delegate any of their powers to sub-committees consisting of such one or more persons, whether committee members or not, as they think fit; and
- (b) establish advisory committees (or other committees not having delegated power of committee members) consisting of such person or persons as they think fit;

#### **22.2 Sub-Committee powers**

Any sub-committee so formed or person or persons so appointed must, in the exercise of the powers so delegated, or functions entrusted, conform to any regulations that may at any time be imposed by the Directors including, without limitation, any restriction on the expenditure of a sub-committee.

#### **22.3 Sub-Committee meetings**

The meetings and proceedings of any sub-committee consisting of two or more persons are governed by the provisions in this Constitution for regulating the meetings and proceedings of the Directors so far as they are capable of application and not affected by any resolution or regulation made by the sub-committee members under clause 22.2.

#### **22.4 Sub-Committee members as officers**

Each person appointed to a sub-committee under clause 22.1(a), if not otherwise an officer of the Company, is when exercising the powers so delegated or functions entrusted, an officer of the Company.

### ***23. Secretary***

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The Directors may appoint a Secretary to the Company on such terms as they consider expedient.

### ***24. Minutes as Evidence***

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Any minutes of a Meeting of Members or of the Directors, if purporting to be signed by any person purporting to be either the chairperson of such meeting, or the chairperson of the next succeeding

meeting, must be received in evidence without any further proof as sufficient evidence that the matters and things recorded by or appearing in such minutes actually took place or happened as recorded or appearing and of the regularity of those things in all respects and that the same took place at a meeting duly called and held.

## **25. Seal**

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### **25.1 Use of common Seal**

The Seal (if any) must not be affixed to any document unless it is done by the authority of Directors.

### **25.2 Mode of execution by common Seal**

Every document to which the Seal is affixed must be signed, to attest the affixing of the Seal, by two persons. One must be a Director. The other must be the Secretary, a second Director, or such other person as the Directors may appoint for that purpose. No person may sign in more than one capacity.

### **25.3 Delegation of authority to use common Seal**

The Directors may delegate to any Director power and authority to affix the Seal to such documents as the Directors may at any time by resolution determine. When so affixed and signed by such Director, it is binding on the Company in all respects as if it were duly signed by two Directors.

### **25.4 Non-Seal Execution**

The Company may also execute documents in accordance with section 127 of the Corporations Act.

## **26. Notices**

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### **26.1 Service of notices**

Where this Constitution, the Corporations Act or other legislation requires or permits a document to be served on, given, sent or dispatched to, any person, whether any such expression or any other expression is used (in this paragraph referred to as **Served**), the document may be Served on the person:

- (a) by delivering it to the person personally;
- (b) by dispatching it, whether by post, contractor, agent, electronic means or otherwise, to the address of the place of residence or business of the person last known to the person serving the document or, in the case of a Member, to the address of the Member entered in the Register and the document, by such dispatch, is regarded as left at that address; or
- (c) subject to the Corporations Act, by publication in a newspaper circulating generally in the State in which the Registered Office is located.

### **26.2 Date of deemed service**

A document Served under clause 26.1 is treated as having been duly Served, irrespective of whether it is actually received:

- (a) where clause 26.1(b) applies - on the day following the day when dispatch occurred; and
- (b) where clause 26.1(c) applies - on the day the newspaper is first published.

### 26.3 Overseas Members

It is not necessary to give a notice to any Member where that Member's address in the Register is outside Australia. Such a Member may give notice to the Company specifying an address within Australia which is to be treated as the address of the Member for the giving of notices. Where the Company proposes to send a notice to a Member by pre-paid post and the notice is to be sent outside Australia, the Company must send the notice by airmail.

### 26.4 Counting of days

Subject to the Corporations Act, where a specified number of days' notice or notice extending over any period is required to be given, both the day of service and the day upon which such notice will expire are included in such number of days or other period.

### 26.5 Service on Company or its officers

Every document required to be Served upon the Company or upon any officer of the Company may be served by leaving it at the Registered Office.

### 26.6 Signature

The signature to any document to be given by the Company may be written, printed or stamped.

## ***27. Indemnity***

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### 27.1 Indemnity for officers

The Company will indemnify any current or former Director, Secretary or executive officer of the Company, or of a Related Body Corporate of the Company, out of the property of the Company against:

- (a) any liability incurred by the person in that capacity (except a liability for legal costs);
- (b) legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity; and
- (c) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company, or of a Subsidiary of the Company, if that expenditure has been approved in accordance with the Company's policy,  
  
except to the extent that:
  - (d) the Company is forbidden by law to indemnify the person against the liability or legal costs; or
  - (e) an indemnity by the Company of the person against the liability or legal costs, if given, would be made void by law.

## 27.2 Insurance

- (a) The Company may pay, or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is, or has been, a Director, Secretary or executive officer of the Company, or of a Related Body Corporate of the Company, against any liability incurred by the person in that capacity, including a liability for legal costs, unless:
  - (i) the Company is forbidden by law to pay, or agree to pay, the premium; or
  - (ii) the contract would, if the Company paid the premium, be made void by law.
- (b) Any such premium paid by the Company in relation to a Director will not be regarded as remuneration paid or payable to that Director.



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## ***Signing page***

I, the undersigned, agree:

- (a) to become a Member of the Company; and
- (b) to be bound by the terms of this Constitution.

<b>Name of Member</b>	<b>Signature of Member</b>
David Newby	