

CONSTITUTION

CAIRNS INDIGENOUS ART FAIR LIMITED

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A COMPANY LIMITED BY GUARANTEE

CONSTITUTION OF CAIRNS INDIGENOUS ART FAIR LIMITED

1. GENERAL

1.1. Name of Company

1.1.1. The name of the Company is Cairns Indigenous Art Fair Limited.

1.2. Replaceable Rules

1.2.1. The Replaceable Rules do not apply to the Company.

2. DEFINITIONS AND INTERPRETATION

2.1. Definitions

In these Rules unless it is inconsistent with the subject or context in which it is used:

'**Board**' means the board of directors of the Company;

'**Business Day**' means a day on which banks (as that term is defined in the *Banking Act 1959*) are generally open for business in Cairns;

'**Chairman**' includes an acting Chairman under Rule 10.5;

'**Committee**' means a committee to which powers have been delegated by the Board pursuant to Rule 15.8;

'**Company**' means Cairns Indigenous Art Fair Limited;

'**Constitution**' means the constitution of the Company, as amended from time to time;

'**Deputy Chairman**' means the member of the Board appointed to that role and whose duties are contained in Rule 10.4;

'**Directors**' means the members of the Board who are the directors of the Company for the time being;

'**Law**' means the *Corporations Act 2001*;

'**Members**' means the persons or entities admitted as members of the Company from time to time in accordance with Rule 6 of this Constitution;

'Members Present' means Members present at a general meeting of the Company in person or, if applicable, by duly appointed corporate representative, proxy or attorney;

'Ordinary Members' means the Members;

'Office' means the registered office from time to time of the Company;

'Person' and words importing persons include partnerships, associations and corporations unincorporated and incorporated by Ordinance, Act of Parliament or registration as well as individuals;

'Register' means the register of Members of the Company established pursuant to the Law;

'Registered Address' means the address of a Member specified in the Register or any other address of which the Member notifies the Company as a place at which the Member will accept service of notices;

'Replaceable Rules' means all or any of the replaceable Rules contained in the Law from time to time and includes any replaceable Rule that was or may become, a provision of the Law;

'Rules' means the Rules of this Constitution as altered or added to from time to time;

'Seal' means the common seal, if any, from time to time of the Company;

'Secretary' means a person appointed as secretary of the Company and includes any person appointed to perform the duties of secretary;

'Securities' includes shares, rights to shares, options to acquire shares and other securities with rights of conversion to equity;

'Voting Members' mean the Ordinary Members entitled to vote at any general meeting.

2.2. Interpretation

In this Constitution unless the context otherwise requires:

- (a) A reference to a person includes any other entity recognised by law and vice versa;
- (b) Words importing the singular number include the plural number and vice versa;
- (c) The masculine gender shall be read as also importing the feminine or neuter gender as the case may require;
- (d) Clause headings are for reference purposes only;
- (e) Where any word or phrase is given a defined meaning any other part of speech or other grammatical form in respect of such word or phrase shall have a corresponding meaning;

- (f) A reference to a Statute includes all Regulations under and amendments to that Statute and any Statute passed in substitution for that Statute or incorporating any of its provisions to the extent that they are incorporated;
- (g) References to writing include any mode of representing or reproducing words in tangible and permanently visible form, and includes email, telex and facsimile transmissions;
- (h) A reference to a monetary amount is a reference to an Australian currency amount.

3. OBJECTS AND POWERS

3.1. Objects of the Company

The objects for which the Company is established are to celebrate and promote Queensland Indigenous arts and culture, and specifically to:-

- 3.1.1. present an art fair that is a significant national arts event that celebrates and showcases Queensland's contemporary and traditional Aboriginal and Torres Strait Islander and other Indigenous arts and cultures;
- 3.1.2. provide an ethical market for the sale and purchase of Queensland and other Indigenous art;
- 3.1.3. support the professional and career development of Queensland and other Indigenous artists and cultural workers;
- 3.1.4. support and promote a sustainable Queensland and national Indigenous arts and cultural industry through national Indigenous arts and cultural industry development forums, gathering industry together for networking, industry development workshops, professional development and ethical practice;
- 3.1.5. provide opportunities for Aboriginal and Torres Strait Islander artists and arts and cultural workers in the delivery of the fair
- 3.1.6. educate and inspire the wider community and visitors about the value and significance of Indigenous arts and cultures and promote reconciliation; and
- 3.1.7. promote Aboriginal and Torres Strait Islander cultural tourism experiences.

3.2. New and Existing Organisations

To recognise and support new and existing organisations and groups attending to specific needs of their members where that would be consistent with and in furtherance of these objects.

3.3. Separate objects

Each of the above objects constitutes a separate object of the Company, and no such object should be limited by reference to any other such object.

3.4. Powers of the Company

The Company has all of the powers of a natural person and of a company incorporated under the Law except that the Company has no power to issue or allot fully or partly paid shares to any person.

3.5. Compliance with directions from the Treasurer and Arts Minister

The Company must comply with requirements from the Treasurer and Arts Ministers from time to time in relation to its registration on the Register of Cultural Organisations.

4. NON-PROFIT NATURE OF THE COMPANY

4.1. Public Company

4.1.1. As the Company is registered as a public company limited by guarantee:-

4.1.1.1. the Company must have one or more Members; and

4.1.1.2. the Company must have a minimum of five and a maximum of seven directors at any one time; and

4.1.1.3. the Company must have a Secretary.

4.2. Non-profit

4.2.1. The income, property, profits and financial surplus of the Company, whenever derived, must be applied solely towards the promotion of the objects of the Company as set out in this Constitution.

4.2.2. The Company is a non-profit organisation and shall not carry on business for the purpose of profit or gain to any Member and no portion of its income, property, profits and financial surplus may be paid, distributed to or transferred, directly, indirectly, by way of dividend, property, bonus or otherwise by way of profit, to any Member or the Board, or their relatives, except as provided by this Constitution.

4.2.3. Nothing in this Constitution prevents:

4.2.3.1. the payment, in good faith, of reasonable and proper remuneration to any officer or servant of the Company, or to any Member or member of the Board of the Company whether as a Member or Director or otherwise, in return for any services actually rendered to or for or on behalf of the Company or for goods supplied in the ordinary and usual way of business;

4.2.3.2. the payment of interest at a rate not exceeding interest at the rate for the time being charged by the Company's bankers for overdrawn accounts on money borrowed from a Member;

4.2.3.3. reasonable and proper rent being paid for premises demised or let by a Member to the Company.

4.3. No distribution of profits to Members on winding up

Where property remains after the winding-up or dissolution of the Company and satisfaction of all its debts and liabilities, it may not be paid to nor distributed to a Member of the Company but must be given to or transferred to another fund, authority or institution having objects similar to the objects of the Company. and whose Constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of this Constitution, which fund, authority or institution is to be determined by the Members of the Company at or before the time of the dissolution.

4.4. Liability of Members

The liability of the Ordinary Members is limited.

4.5. Limited liability on winding up

The Ordinary Members of the Company undertake to contribute to the assets of the Company in the event of it being wound up while they are Members or within one year after they cease to be a Member for the payment of the debts and liabilities of the Company contracted before they ceased to be a Member and of the costs charges and expenses of winding up and for adjustment of the rights of the Ordinary Members such amount as may be required, not exceeding fifty dollars (\$50.00).

4.6. Deductible gift recipient endorsement

If the Company is endorsed as a deductible gift recipient and this endorsement is revoked or the Company is wound up, the following assets remaining after the payment of the Company's liabilities are to be transferred to a fund, authority or institution which is charitable at law, to which income tax deductible gifts can be made:-

4.6.1. gifts of money or property for the principal purpose of the Company;

4.6.2. contributions made in relation to an eligible fund raising event held for the principal purpose of the Company; and

4.6.3. money received by the Company because of such gifts and contributions.

4.7. Public fund

The Company will establish and maintain a public fund.

Donations will be deposited into the public fund listed on the Register of Cultural Organisations. These monies will be kept separate from other funds of the Company and will only be used to further the principal purpose of the Company. Investment of monies in this fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.

The fund will be administered by the Directors the majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the cultural objectives of the Company.

No monies/assets in this fund will be distributed to members or office bearers of the Company, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.

The Department responsible for the administration of the Register of Cultural Organisations will be notified of any proposed amendments or alterations to provisions for the public fund, to assess the effect of any amendments on the public fund's continuing Deductible Gift Recipient status.

Receipts for gifts to the public fund must state:

the name of the public fund and that the receipt is for a gift made to the public fund;

the Australian Business Number of the Company;

the fact that the receipt is for a gift; and

any other matter required to be included on the receipt pursuant to the requirements of the *Income Tax Assessment Act 1997*.

5. INAUGURAL PATRONS

5.1. Patron

The Patron position in the first instance is to be offered to the Governor of Queensland. If declined by the Governor then the Patron will be appointed by the Board.

5.2. Patron – First Nations

The Patron – First Nations must be a representative of Australia's indigenous first peoples and must have appropriate arts, cultural and business qualifications. The Patron – First Nations will be appointed by the Board.

6. MEMBERSHIP

6.1. Types of membership

The only class of membership for the Company is Ordinary Members.

6.2. Ordinary Members

6.2.1. The number of Ordinary Members with which the Company proposes to be registered is five but the Board may from time to time register an increase of Members.

6.2.2. The persons specified in the application for the Company's registration and such other persons as the Board shall admit to membership in accordance with this Constitution, shall be Ordinary Members.

6.2.3. Members of the Company shall be entitled to attend, speak and vote at all general meetings of the Company.

6.2.4. A Register of Members of the Company for the time being shall be kept by the Secretary. Such Register shall set forth in full the names, addresses and

occupations of all Members of the Company and the date of their admission.

6.3. Admission of a Member

- 6.3.1. Every applicant for membership of the Company shall be proposed by one and seconded by another Member of the Company. The application for membership shall be made in writing, signed by the applicant and their proposer and seconder and shall be in such form as the Board from time to time prescribes.
- 6.3.2. At the next meeting of the Board after the receipt of any application for membership, such application shall be considered by the Board, which shall thereupon determine upon the admission or rejection of the applicant. In no case shall the Board be required to give any reason for the rejection of any applicant.
- 6.3.3. When an applicant has been accepted for membership the Secretary shall as soon as reasonably possible send to the applicant written notice of this acceptance.
- 6.3.4. The membership fee payable by Members of the Company shall be the sum of \$50.00 which will become due and payable should the circumstances in Rule 4.5 occur.

7. RIGHTS AND OBLIGATIONS

7.1. Variation of rights of Members

Should the membership be divided into different classes, the rights attached to any class (unless otherwise provided by the terms of application for membership of that class) may, whether or not the Company is being wound up be varied only by resolution of the Board.

8. CESSATION OF MEMBERSHIP OF COMPANY

- 8.1. A Member may resign their membership effective immediately upon the Secretary receiving written notice by the Member of the Member's resignation.
- 8.2. A Member's membership will also cease immediately if the Member:
 - 8.2.1. dies;
 - 8.2.2. is found to be of unsound mind whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - 8.2.3. becomes a bankrupt under the *Bankruptcy Act 1966*;
 - 8.2.4. fails to pay any membership prescribed under Rule 6.3.4;
 - 8.2.5. ceases to be a Director of the Company.

9. GENERAL MEETINGS

9.1. General Meetings

- 9.1.1. General meetings of the Company may be called and held at the times and places and in the manner determined by the Board. The Ordinary Members may also convene a meeting of the Company. By resolution of the Board any general meeting (other than a general meeting which has been requisitioned or called by the Members in accordance with the Law) may be cancelled or postponed prior to the date on which it is to be held.
- 9.1.2. Annual general meetings of the Company shall be held within five (5) months of the end of each financial year.
- 9.1.3. The Chairman of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:
 - 9.1.1.1. in possession of a pictorial-recording or sound-recording device;
 - 9.1.1.2. in possession of a placard or banner;
 - 9.1.1.3. in possession of an object considered by the Chairman to be dangerous, offensive or liable to cause disruption;
 - 9.1.1.4. who refuses to produce or to permit examination of any object, or the contents of any object or container, in the person's possession;
 - 9.1.1.5. who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
 - 9.1.1.6. who is not:
 - A a Member or a proxy, attorney or, if applicable, a corporate representative of a Member;
 - B a member of the Board; or
 - C the auditor of the Company.

9.2. Notice of General Meeting

- 9.2.1. Not less than twenty-one (21) days' notice of a general meeting must be given by the Board in the form and in the manner the Board thinks fit including notice of any general meeting at which the Board proposes or these Rules require that an election of the Board be held. Notice of meetings shall be given to the Members and to such other persons as are entitled under these Rules or the Law to receive notice. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice does not invalidate any resolution passed at that meeting.
- 9.2.2. If the meeting is to be held at two (2) or more places the notice is to set out details of the technology that will be used to facilitate such a meeting and any other matters required to be stated by the Law in relation to the use of such technology.
- 9.2.3. Only a Voting Member may seek to place an item of business or resolution ('Matter') before a general meeting. If the Voting Member wishes to place

a Matter before a general meeting, the Voting Member must at least thirty-five (35) days before the next general meeting give the Board written notice of the Matter.

10. PROCEEDINGS OF MEETINGS

10.1. Business of general meetings

10.1.1. The business of an annual general meeting is to receive and consider the financial and other reports required by the Law to be laid before each annual general meeting, to elect members of the Board in the place of those retiring under these Rules, when relevant to appoint an auditor, to appoint Patrons of the Company and to transact any other business which, under these Rules, is required to be transacted at any annual general meeting. All other business transacted at an annual general meeting and any business transacted at other general meetings is deemed to be special. Except with the approval of the Board, with the permission of the Chairman or pursuant to the Law, no person may move at any meeting either:

10.1.1.1. in regard to any special business of which notice has not been given under Rule 9.2, any resolution or any amendment of a resolution; or

10.1.1.2. any other resolution which does not constitute part of special business of which notice has been given under Rule 9.2.

10.1.2. The auditors and their representative are entitled to attend and be heard on any part of the business of a meeting which concerns the auditors. The auditors or their representative, if present at the meeting, may be questioned by the Members, as a whole, about the audit duly authorised.

10.2. Quorum

Until otherwise determined by the Board, a quorum for a meeting is constituted when not less than half or five whichever is the lesser of the Members are present. No business may be transacted at any meeting except the adjournment of the meeting unless the requisite quorum is present at the commencement of business.

10.3. Adjournment In absence of quorum

If within fifteen (15) minutes after the time specified for a general meeting a quorum is not present, the meeting, if convened upon a requisition, is to be dissolved, and in any other case it is to be adjourned to the same day in the next week (or, where that day is not a business day, the business day next following that day) at the same time and place and if, at the adjourned meeting, a quorum is not present within thirty (30) minutes after the time specified for holding the meeting, the meeting is to be dissolved.

10.4. Chairman

10.4.1. The Chairman of the Board is entitled to take the chair at every general meeting.

10.4.2. If at any general meeting:

10.4.2.1. the Chairman of the Board is not present at the specified time for holding the meeting; or

10.4.2.2. the Chairman of the Board is present but is unwilling to act as Chairman of the meeting,

the Deputy Chairman of the Board is entitled to take the chair at the meeting.

10.4.3. If at any general meeting:

10.4.3.1. there is no Chairman of the Board or Deputy Chairman of the Board;

10.4.3.2. the Chairman of the Board and Deputy Chairman of the Board are not present at the specified time for holding the meeting; or

10.4.3.3. the Chairman of the Board and the Deputy Chairman of the Board are present but each is unwilling to act as Chairman of the meeting,

the members of the Board present may choose another member of the Board as Chairman of the meeting.

10.5. Acting Chairman

If during any general meeting the Chairman acting pursuant to Rule 10.4 is unwilling to act as chairman for any part of the proceedings, the Chairman may withdraw as chairman during the relevant part of the proceedings and may nominate any person who immediately before the general meeting was a member of the Board or who has been nominated for election as a member of the Board at the meeting to be acting chairman of the meeting during the relevant part of the proceedings. Upon the conclusion of the relevant part of the proceedings the acting chairman is to withdraw and the Chairman is to resume acting as chairman of the meeting.

10.6. General conduct of meeting

Except as provided by the Law, the general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined by the Chairman. The Chairman may at any time the Chairman considers it necessary or desirable for the proper and orderly conduct of the meeting demand the cessation of debate or discussion on any business question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present. The Chairman may require the adoption of any procedure which is in the Chairman's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.

10.7. Adjournment

The Chairman may at any time during the course of the meeting adjourn from time to time and place to place the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question, resolution, debate or discussion either to a later time at the same meeting or to an adjourned

meeting. If the Chairman exercises a right of adjournment of a meeting pursuant to this Rule, the Chairman has the sole discretion to decide whether to seek the approval of the Member and, unless the Chairman exercises that discretion, no vote may be taken by the Member. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

10.8. Voting

Each question submitted to a general meeting is to be decided in the first instance by a statement issued by the Voting Members. In the case of an equality of votes the Chairman of the meeting shall have a second or casting vote.

10.9. Declaration of vote

At any meeting, a declaration by the Chairman that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the book to be kept of the proceedings of the Company signed by the Chairman of that or the next succeeding meeting, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

11. VOTES OF THE MEMBER

11.1. Voting rights

The entitlement of Voting Members to vote by issuing a statement is as follows:-

11.1.1. each Ordinary Member has the right to one vote.

11.2. Right to appoint proxy

11.1.1. A Voting Member may appoint one proxy to attend and vote for the Member in accordance with the Law.

11.1.2. A proxy need not be a Member.

11.3. Form of proxy

A form of appointment of a proxy is valid if it is in accordance with the Law or in any form (including electronic) which the Board may prescribe or accept from time to time.

11.4. Attorneys of members

The Member may, by duly executed power of attorney, appoint an attorney to act on the Member's behalf at all or certain specified meetings of the Company. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the Board must be produced for inspection at the Office or any other place the Board may determine from time to time together, in each case, with evidence of the due execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the Member granting the power of attorney.

11.5. Lodgement of proxies

An instrument appointing a proxy is not valid unless it and the power of attorney (if any) under which the instrument is signed is received at the registered office of the Company or, if notice of a meeting provides for electronic proxies, at the electronic mail address specified in the notice, not less than 48 hours before the time for commencement of the meeting or adjourned meeting at which the proxy proposes to vote.

11.6. Validity of proxies

11.6.1. A vote exercised in accordance with the terms of an instrument of proxy or a power of attorney is valid despite:

11.6.1.1. the previous death or unsoundness of mind of the principal; or

11.6.1.2. the revocation of the instrument (or of the authority under which the instrument was executed) of the power,

if no notice in writing of the death, unsoundness of mind or revocation (as the case may be) has been received by the Company at its registered office at least 48 hours (or any shorter period as the Board may permit or specified by the Law) before the commencement of the meeting, or adjourned meeting at which the instrument is used or the power is exercised.

11.6.2. A proxy is not revoked by the principal attending and taking part in the meeting unless the principal actually votes at the meeting on a resolution for which the proxy is proposed to be used.

11.7. Where proxy is incomplete

11.7.1. No instrument appointing a proxy is treated as invalid merely because it does not contain:

11.7.1.1. the address of the appointor or of a proxy;

11.7.1.2. the proxy's name or the name of the office held by the proxy; or

11.7.1.3. in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.

11.7.2. Where the instrument does not specify the name of a proxy, the instrument is taken to be given in favour of the Chairman.

11.7.3. A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.

12. THE BOARD

12.1. Members of the Board

12.1.1. The names of the first members of the Board are those persons named as directors in the application for registration of the Company.

12.1.2. The Board consists of the Chairman, the Deputy Chairman and a maximum of eight (8) other members of Board.

- 12.1.3. The number of members of the Board must be not less than five (5) and not more than ten (10) members (unless otherwise determined in general meeting) at any one time.

12.2. Director's Qualifications

A Director must have expertise and/or experience in one or more of the following areas:

- 12.2.1. Visual arts;
- 12.2.2. Indigenous arts and cultures;
- 12.2.3. Indigenous community engagement;
- 12.2.4. Event/art fair development and marketing;
- 12.2.5. Law;
- 12.2.6. Financial management and accounting;
- 12.2.7. Tourism;
- 12.2.8. Fundraising and partnerships;
- 12.2.9. Commercial business development;
- 12.2.10. Communications;
- 12.2.11. Risk management;
- 12.2.12. Human resource management;
- 12.2.13. Marketing; and/or
- 12.2.14. Such other areas as the Board determines from time to time.

The Board will assess a proposed director's expertise and qualification in the areas listed in this Rule in their sole discretion.

12.3. Election of members of the Board

- 12.3.1. The Board may advertise for nominations of individuals to be appointed as Directors.
- 12.3.2. Any nominations for appointment as Director must:
 - 12.3.2.1. be in writing and provided to the Board within any time period that the Board has specified;
 - 12.3.2.2. be accompanied by the individual's consent to be appointed as a Director; and
 - 12.3.2.3. state what expertise and experience in the areas listed in Rule 12.2 the individual has, together with any references evidencing such expertise and experience.

- 12.3.3. The Board must consider any nominations received and appoint persons having regard to the requirements of Rule 12.2.
- 12.3.4. A person is appointed as a Director upon receiving written notice from the Board of his or her appointment as a Director and the term of that appointment.

12.4. Term of appointment as Directors

- 12.4.1. A Director will hold office for the period agreed by the Board and notified to the Director at the time of appointment.
- 12.4.2. Four of the first Directors shall retire at the third annual general meeting but shall be eligible for re-election; the four being chosen by a lot held by the Board of Directors.
- 12.4.3. At the fourth annual general meeting of the Company those initial Directors who did not retire at the third annual general meeting shall retire but shall be eligible for re-election.
- 12.4.4. With the exception of the first directors of the Company all members of the Board shall hold office for two years following their election when they shall retire but they shall be eligible for re-election.

12.5. Maximum term

If a Director has been a Director for six (6) consecutive years, the Director must retire at the conclusion of the next annual general meeting of the Company and is not eligible for re-election except as provided in this Rule. A Director retiring under this Rule is eligible to nominate for election as a Director at the third (3rd) annual meeting after the conclusion of the annual general meeting at which he or she retired.

12.6. Remuneration

Except for the Chairman, the members of the Board will not receive a salary, allowance or remuneration.

13. CESSATION OF MEMBERSHIP OF THE BOARD

13.1. Resignation

Any member of the Board may resign at any time from membership of the Board by notice in writing delivered to the Secretary but such resignation only takes effect at the time when such notice is received by the Secretary unless some later date is specified in the notice when it shall take effect on the later date.

13.2. Removal

A member of the Board may be removed from office by ordinary resolution of the Members at a general meeting of the Company convened for that purpose. At any such general meeting the member of the Board must be given the opportunity to fully present their case either orally or in writing or partly by both of these means.

13.3. Disqualification

- 13.3.1. In addition to the circumstances in which the office of a member of the Board becomes vacant by virtue of the Law, the office becomes vacant if that member:
 - 13.3.1.1. 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;
 - 13.3.1.2. becomes a bankrupt under the *Bankruptcy Act 1966*;
 - 13.3.1.3. being a Member at the time of their appointment as a Director, ceases to be a Member.
- 13.3.2. A member of the Board who vacates office pursuant to Rule 13.1, or Sub-rule 13.3.1, is not to be taken into account in determining the number of members of the Board who are to retire by rotation at any annual general meeting.

14. CHAIRMAN AND DEPUTY CHAIRMAN

14.1. Appointment to office

- 14.1.1. Subject to Rule 14.1.2, the Chairman and Deputy Chairman are chosen by the Board from the members of the Board appointed in accordance with Rule 12 at the first meeting of the Board after any annual general meeting. Only members of the Board appointed in accordance with Rule 12 shall be entitled to be appointed Chairman or Deputy Chairman of the Company.
- 14.1.2. The Chairman and Deputy Chairman continue to hold office until the earlier of:
 - 14.1.2.1. their resignation from that office;
 - 14.1.2.2. their removal from that office in accordance with Rule 13.2;
 - 14.1.2.3. their office as member of the Board otherwise becoming vacant in accordance with this Constitution;
 - 14.1.2.4. the date of the first meeting of the Board after the third anniversary of their appointment to that office.

14.2. Remuneration

The Chairman will hold this position on such terms and conditions as to remuneration as the Board prescribes from time to time with such remuneration, salary or allowance to not exceed \$5,000.00 in any one financial year.

14.3. Directors' expenses

The Company may pay the Directors' travelling and other expenses they properly incur in attending meetings and otherwise in connection with the Company's business.

15. PROCEEDINGS OF THE BOARD

15.1. Procedures relating to Board meetings

- 15.1.1. The Board may meet together, upon each member of the Board being given reasonable notice, for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- 15.1.2. Until otherwise determined by the Board, not less than half of the members of the Board or five members whichever is the lesser must be present to form a quorum.
- 15.1.3. Notice is deemed to have been given to the member of the Board and the member is hereby deemed to have consented to the method of giving notice, if notice is sent by mail, personal delivery, facsimile transmission or by electronic mail to the usual place of residence, fax number or electronic address of the member (if any fax number or electronic address is notified to the Company) or at any other address given to the Secretary by the member from time to time subject to the right of the member to withdraw such consent within a reasonable period before a meeting.

15.2. Meetings by telephone or other means of communication

The Board may meet either in person or by telephone or by other means of communication consented to by all members of the Board subject to the right of a member of the Board to withdraw their consent within a reasonable period before a meeting. All persons participating in the meeting must be able to hear and be heard by all other participants. A meeting conducted by telephone or other means of communication is deemed to be held at the place agreed upon by the members of the Board attending the meeting, provided that at least one of the members present at the meeting is at that place for the duration of the meeting.

15.3. Votes at meetings

Questions arising at any meeting of the Board are decided by a majority of votes. The chairman of the meeting of the Board shall, in addition to his or her deliberative vote, have a second or casting vote in the event of an equality of votes.

15.4. Convening of meetings

The Board may at any time, and the Secretary, upon the request of any one (1) member of the Board, must convene a meeting of the Board.

15.5. Chairman

The Chairman shall if present able and willing, preside as chairman at all meetings of the Board and if:

- 15.5.1. there is no such Chairman;
- 15.5.2. the Chairman is not present within fifteen (15) minutes after the time appointed for the meeting; or
- 15.5.3. the Chairman is unable or unwilling to preside.

then the Deputy Chairman if present at the meeting, able and willing or in the absence or unwillingness of both of them a member of the Board, appointed by the meeting, shall act as chairman of the meeting.

15.6. Powers of meetings

A meeting of the Board or any adjournment of a meeting at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

15.7. Delegation of Powers to Committees

The Board may, subject to the constraints imposed by law, delegate any of its powers to Committees consisting of one or more member of the Board or any other person or persons as the Board thinks fit. Any Committee formed or person or persons appointed to the Committee must, in the exercise of the powers delegated, conform to any regulations that may from time to time be imposed by the Board. A delegate of the Board may be authorised to subdelegate any of the powers for the time being vested in the delegate.

15.8. Proceedings of Committees

15.8.1. The meetings and proceedings of any Committee are to be governed by the provisions of these Rules for regulating the meetings and proceedings of the Board so far as they are applicable and are not superseded by any regulations made by the Board under Rule 15.1.

15.8.2. A Committee in the exercise of the duties delegated or assigned to it shall conform to any regulations, directions or instructions that may be imposed or given by the Board.

15.8.3. A Committee appointed by the Board shall be under the control and direction of the Board and has no direct part or power in the management of the Company.

15.9. Validity of acts

15.9.1. All acts done at any meeting of the Board or by a Committee or by any person acting as a member of the Board are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any of the members or the Committee or the person acting as a member of the Board or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a member of the Board or a member of the Committee (as the case may be).

15.9.2. If the number of member of the Board is reduced below the minimum number fixed pursuant to these Rules, the continuing members of the Board may act for the purpose of increasing the number of members of the Board to that number or of calling a general meeting of the Company but for no other purpose.

15.10. Resolution In writing

A resolution in writing of which notice has been given to all members of the Board and which is signed by a majority of such members entitled to vote on the resolution

is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted and may consist of several documents in the same form each signed by one or more of the members of the Board. For the purposes of this Rule the references to 'member of the Board' include any alternate for the time being present in Australia who is appointed by a member of the Board not for the time being present in Australia but do not include any other alternate member of the Board. A facsimile transmission or other document produced by mechanical or electronic means under the name of a member of the Board with the member's authority is deemed to be a document in writing signed by that member.

16. POWERS OF THE BOARD

16.1. General powers of the Board

16.1.1. The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred upon them by these Rules) may exercise all powers and do all things as are within the power of the Company and are not by these Rules or by the Law directed or required to be exercised or done by the Company in general meeting.

16.1.2. The Board may make such regulations and by-laws not inconsistent with the Constitution, as in the opinion of the Board are necessary or desirable for the proper control, administration and management of the Company's finances, affairs and property or are necessary for the convenience, comfort and well-being of the Members and amend or rescind from time to time any such regulations and by-laws.

16.1.3. The Board may develop a charter for the good governance of the Company.

16.2. Member of the Board contracting with the Company

16.2.1. Neither the holding of office as a member of the Board nor the fiduciary relationship resulting from holding that office shall:

16.2.1.1. disqualify any member of the Board from holding any office or place of profit (other than that of auditor) in the Company;

16.2.1.2. disqualify any member of the Board from entering into any arrangement, contract or dealing with the Company in any capacity;

16.2.1.3. avoid or vitiate any arrangement, contract or dealing entered into by or on behalf of the Company in which a member of the Board is in any way interested; or

16.2.1.4. render any member of the Board or any corporation of which a member of the Board is an officer or member or in any way interested or any partnership of which a member of the Board is a member or in any way interested liable to account for any profit arising out of the holding of any such office or place of profit or any such arrangement, contract or dealing.

16.2.2. The nature of the interest of a member of Board must be disclosed by the member at the meeting of the Board at which the arrangement, contract or

dealing is determined by the Board, if the member's interest then exists, or, in any other case, at the meeting of Board next following the acquisition of the member's interest.

- 16.2.3. No Director may, as a Director, vote in respect of any contract or arrangement in which the Director has directly or indirectly any material personal interest if to do so would be contrary to the Act and if the Director does vote their vote cannot be counted nor shall the Director be counted in the quorum present at the Board meeting for that particular item.
- 16.2.4. A member of the Board may affix or attest the affixation of the Seal to any instrument or sign or execute any document notwithstanding any interest which such member of the Board has in the subject matter of that Instrument or document or any other office or place of profit held by such member of the Board.
- 16.2.5. All acts done by any meeting of the members of the Board or of any Committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such member or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member of the Board or Committee.

16.3. Register of Personal Interests

A record of interests disclosed by members of the Board in accordance with Rule 16.2.2 must be maintained by the Secretary and tabled at Board meetings at no more than annual intervals.

17. FINANCIAL RECORDS

17.1. Keeping of financial records

- 17.1.1. The financial year of the Company commences on the first day of January and ends on the thirty-first day of December in the same calendar year.
- 17.1.2. Proper books and financial records must be kept and maintained showing correctly the financial affairs of the Company. The Company must ensure the relevant accounting and auditing requirements of the Law are duly complied with.
- 17.1.3. The Board must distribute to all Members at the end of each financial year, copies of the financial report including a copy of the auditor's report and any other documentation required under the Law.
- 17.1.4. The Board must cause to be made out and laid before each annual general meeting a balance sheet, profit loss statement and cash flow statement made up to a date not more than 6 months before the date of the meeting.

17.2. Banking of monies

All the monies of the Company shall be banked in the name of the Company in a bank account at such bank as the Board may from time to time direct.

17.3. Appointment of auditor

The Company must appoint and retain a properly qualified auditor whose duties are determined in accordance with the Law.

18. OFFICERS OF THE COMPANY

18.1. Powers, duties and authorities of Secretary

The Secretary holds office on such terms and conditions as to remuneration and otherwise as the Board decides.

18.2. Termination of appointment of Secretary

The Board may at any time terminate the appointment of a Secretary.

18.3. Appointment of other officers

The Board may from time to time:

18.3.1. create any other position or positions in the Company with powers and responsibilities and on such terms and conditions as to remuneration and otherwise as the Board may determine from time to time decide; and

18.3.2. appoint any person, whether or not a Director, to any position or positions created under Rule 18.3.1.

18.4. Termination of appointment of other officers

The Board may at any time terminate the appointment of a person holding a position created under Rule 18.3.1 and may abolish the position.

19. THE SEAL

19.1. Company Seal is optional

The Company may have a Seal.

19.2. Affixing the Seal

If the Company has a Seal, the Board is to provide for its safe custody and it should only be used by the authority of the Board. Every instrument to which the Seal is affixed is to be signed by a member of the Board and countersigned by the Secretary or by a second member of the Board or by another person appointed by the Board for the purpose. The Board may determine either generally or in any particular case that a signature may be affixed by a mechanical means specified in the determination.

19.3. Execution of documents without a Seal

The Company may execute a document, including a deed, by having the document signed by:

19.3.1. two (2) members of the Board;

19.3.2. a member of the Board and the Secretary: and

19.3.3. if the Company executes a deed, the document is to be expressed to be executed as a deed and be executed in accordance with the appropriate procedures set out In Rule19.2 of this Rule.

19.4. Other ways of executing documents

Notwithstanding the provisions of Rules 19.2 and 19.3, any document including a deed, may also be executed by the Company in any other manner permitted by the Law.

20. MINUTES

The Board must ensure that minutes are duly recorded in any manner it thinks fit:

20.1. of the names of the members of the Board present at each meeting of the Company, the Board and of any Committees; and

20.2. of all resolutions and proceedings of general meetings of the Company and of meetings of the Board and any Committees,

and the minutes of any meeting of the Board or of any Committee or of the Company, if purporting to be signed by the Chairman of the meeting or by the Chairman of the next succeeding meeting are prima facie evidence of the matters stated in the minutes.

21. NOTICES

21.1. Service of notices

A notice may be given by the Company to a Member personally, by leaving it at the Member's Registered Address or by sending it by prepaid post or facsimile transmission addressed to the Member's Registered Address or by sending it to the electronic address (if any) nominated by a Member. All notices sent by prepaid post to persons whose registered address is not in Australia may be sent by airmail or some other way that ensures that it will be received quickly.

21.2. When notice deemed to be served

Any notice sent by post is deemed to have been served at the expiration of 48 hours after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a Member personally or left at the Member's Registered Address is deemed to have been served when delivered. Any notice served on the Member by facsimile transmission is deemed to have been served when the transmission is sent. A facsimile is deemed to be duly sent when the Company's facsimile system generates a message confirming successful transmission of the total number of pages of the notice to the addressee. Any notice served on the Member by electronic means is deemed to have been served when the electronic message is sent.

21.3. Member not known at Registered address

Where the Member does not have a Registered Address or where the Company has bona fide reason to believe that a Member is not known at the Member's Registered Address, all future notices are deemed to be given to the Member if the notice is exhibited in the Office for a period of 48 hours (and is deemed to be duly served at

the commencement of that period) unless and until the Member informs the Company of a Registered Address.

21.4. Signature to notice

The signature to any notice to be given by the Company may be written or printed.

21.5. Reckoning of period of notice

Where a given number of days' notice or notice extending over any other period is required to be given, the day of service is not to be reckoned in the number of days or other period.

21.6. Persons entitled to notice of general meeting

21.6.1. Notice of every general meeting is to be given to:

21.6.1.1. each Member;

21.6.1.2. each member of the Board;

21.6.1.3. the auditor for the time being of the Company.

21.6.2. No other person is entitled to receive notices of general meetings.

21.7. Notification of change of address

The Member must notify the Company of any change of his or her address and any such new address must be entered in the register of Members as required to be kept by the Law and upon being so entered becomes the Member's Registered Address.

22. INDEMNITY

22.1. Indemnity for/in favour of members of the Board, Secretaries and Board officers

Subject to the Law, the Company must indemnify every person who is or has been a member of the Board, Secretary or Board officer of the Company against a liability:

22.1.1. incurred by the person acting in their capacity as a member of the Board, Secretary or Board officer to a person other than the Company or a related body corporate where the liability does not arise out of a lack of good faith;

22.1.2. for the costs and expenses incurred by the person:

22.1.3. in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or

22.1.4. In connection with an application, in relation to such proceedings, in which the court grants relief to the person under the law.

22.2. Indemnity to employees

Every employee who is not a member of the Board, Secretary or Board officer of the Company may be indemnified out of the property of the Company against a liability:

22.2.1. incurred by the employee acting in that capacity;

22.2.2. for the costs and expenses incurred by an employee:

22.2.2.1. in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which the person is acquitted; or

22.2.2.2. in connection with an application, in relation to such proceedings, in which the court grants relief to the employee.

22.3. Personal liability of officer

If the Board or any member thereof or any officer of the Company becomes personally liable for the payment of any sum primarily due from the Company, the Board may execute or cause to be executed any charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the persons or person so becoming liable as aforesaid from any loss in respect of such liability.

22.4. Insurance

22.4.1. Subject to the law, the Company may pay insurance premiums in respect of insurance for the benefit of every person who is or has been a member of the Board, Secretary or Board officer acting in that capacity against:

22.4.1.1. costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome: or

22.4.1.2. a liability arising from negligence or other conduct not being a liability incurred by the person acting in that capacity and arising out of conduct involving a wilful breach of duty in relation to the Company or a breach of the provisions of the Law dealing with improper use of inside information or position.

22.4.2. The Company may pay insurance premiums in respect of insurance for the benefit of the auditor or an employee of the Company who is not a member of the Board. Secretary or Board officer concerned in the management of the Company.