
Find A Grandparent Pty Limited
ACN: 153 667 380
Constitution

Effective as and from 18 September 2021

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Find A Grandparent Pty Limited

ACN: 153 667 380

General

1 Definitions and interpretation

1.1 Definitions

In this Constitution the following definitions apply unless the context requires otherwise.

Act means the Corporations Act 2001 (Cth).

ASIC means the Australian Securities and Investments Commission.

Associate has the same meaning given to that term in section 318 of the *Income Tax Assessment Act 1936* (Cth).

Company means Find A Grandparent Pty Limited (ACN: 153 667 380).

Constitution means this document.

Director means a person appointed or elected as a director in accordance with this Constitution and includes any alternate director duly acting as a director and, where the context permits, a sole director.

Dividend means a final and any interim dividend.

Member means a person recorded as a Security holder in the Members Register.

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

Prescribed Rate means the Reserve Bank of Australia *Cash Rate* as published from time to time plus 5%.

Seal means any common seal or official seal of the Company.

Securities include shares and has the same meaning given in the Act.

Special Resolution means a resolution of the Company the carriage of which requires that it be passed by at least 75% of the votes cast by Members Present at the meeting and entitled to vote on that resolution.

Transmission Event means:

- (a) In respect of a Member who is an individual:
 - (i) the death of the Member;
 - (ii) the bankruptcy of the Member; or

- (iii) the Member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
- (b) in respect of a Member that is a corporation, the liquidation of the Member or the succession by another person to the assets and liabilities of the Member.

1.2 Interpretation

In this Constitution, headings, bolding and italics are for convenience only and do not affect the interpretation of the Constitution and, unless the context requires otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) a reference to a clause is a reference to a clause of this constitution;
- (d) a reference to any thing (including, but not limited to, any right) includes a part of that thing.
- (e) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document.
- (f) a reference to a general meeting includes meetings of the Company and Member and vice versa;
- (g) an expression importing a natural person includes any company, partnership, joint venture, association, trust, corporation or other body corporate or entity and any governmental agency;
- (h) a reference to any legislation or to any provision of any legislation includes any amendment, consolidation or re-enactment of it, any legislative provision substituted for it, and all statutory instruments and regulations issued under it;
- (i) a reference to a party to any document includes that party's successors and permitted assigns;
- (j) other parts of speech and grammatical forms of a word, expression or phrase defined in this Constitution have a corresponding meaning;
- (k) an expression in a provision of this Constitution which relates to or involves a particular provision of the Act, has the same meaning as in that provision of the Act to the extent that a contrary intention does not appear in this Constitution; and
- (l) Division 10 of Part 1.2 of the Act applies in relation to this Constitution as if they were an instrument made under the Act; and
- (m) a reference to any government or quasi-government organisation or office includes its successor organisations and officeholders.

2 Replaceable rules do not apply

- 2.1 The replaceable rules in the Act are displaced and do not apply to the Company.

3 Company's powers

- 3.1 The Company has all the powers given to a company in the Act.
- 3.2 Without limiting clause 3.1, where the Act permits or authorises a company to do something if it was authorised by its constitution to do so, the Company is authorised by this clause 3 to be able to do that thing except if expressly prohibited from doing so by another provision of this Constitution.

4 Proprietary company

- 4.1 The Company is a proprietary company and accordingly:
- (a) the right to transfer shares is restricted under this Constitution;
 - (b) the number of the Members of the Company (excluding any employee of the Company or one of its subsidiaries, or a former employee of the Company or one of its subsidiaries, who has continued to be a Member of the Company) is limited to 50 and joint holders of a share are counted as one person; and
 - (c) the Company must not make any issue, invitation or offer to the public or persons, in respect of securities or deposit taking, or engage in any other activity which would require the lodgement of a disclosure document under the Act, except as permitted under the Act.

Objects

5 Objects of the Company

- 5.1 The objects for which the Company is established are to:
- (a) operate as a not-for-profit organisation;
 - (b) promote in Australia connections between:
 - (i) on the one hand, families in circumstances where, through geographic location, death, illness, estrangement or other causes, biological grandparents are not able to participate in family activities; and
 - (ii) on the other hand, volunteers willing and able to act as surrogate grandparents in these circumstances; and
 - (c) undertake and pursue all such other similar, related or compatible objects as may from time to time be considered appropriate by the Company, including to co-operate with other businesses, organisations, agencies and service providers (Government and non-Government) in working towards achieving the foregoing objects of the Company.

Issue of Shares

6 Power to issue shares and other securities

- 6.1 The Directors may issue securities in the Company, including, but not limited to, shares or options over shares, as they think fit.
- 6.2 Subject to the Act, any share, option or other Security may be issued with such preferred, deferred or other special rights or such restrictions as the Directors think fit provided that no Security issued shall entitle the holder to a Dividend or other distribution or return of capital.
- 6.3 Clause 6.1 has effect without prejudice to any special rights conferred on the holders of any issued shares, options or other securities.
- 6.4 The consideration payable for the issue of a share, option or other Security will be the consideration determined by the Directors at the time of issue of the share, option or other Security and such other consideration as the holder of that share, option or other Security and the Company from time to time agree.

7 Recognition of interests in securities

- 7.1 Except as required by law or as otherwise provided in this Constitution, the Company will only recognise the absolute right of ownership of the registered holder of a share and:
- (a) will not recognise a person as holding a share on any trust; and
 - (b) is not bound to recognise any equitable or other right in respect of a share.
- 7.2 The Company is not bound to register more than two persons as the holder of a share.
- 7.3 If the Company registers two or more persons as holders of a share, those persons are taken to hold that share as joint tenants.

Shares

8 Variation of Class Rights

- 8.1 Clause 8 applies if at any time all or part of the issued share capital of the Company is divided into different classes of shares.
- 8.2 Except if otherwise provided by the terms of issue of shares of that class, or by this Constitution, the rights attaching to any class of share may be varied or abrogated:
- (a) with the written consent of the holders of at least 75% of the issued shares of that class; or
 - (b) by a Special Resolution passed at a separate general meeting of the holders of the shares of that class.
- 8.3 The provisions of this Constitution relating to general meetings apply to the holders of each separate class of shares to the extent that they can apply, except that a quorum will be two or more holders of shares of that class and any holder present may demand a poll.

- 8.4 In addition to ordinary shares, classes of shares may include any share with such preferred, deferred or other special rights or restrictions.

Share Certificates

9 Issue of share certificates

- 9.1 A person whose name is entered as a Member in the Members Register is entitled without payment to receive a certificate in respect of the Member's shares in accordance with the Act.
- 9.2 The Company is not bound to issue more than one certificate in respect of a share or shares held jointly by several persons and delivery of a certificate for a share to one of several joint holders is sufficient delivery to all of the joint holders.
- 9.3 The Company must issue a duplicate certificate to replace lost or destroyed certificates in accordance with the Act.
- 9.4 The provisions of the Act in respect of lost or destroyed certificates apply in respect of sufficiently worn out or damaged certificates but only if the worn out or damaged certificate is received by the Company and cancelled and an appropriate amount, if any, as determined by the Directors is paid by the applicant.

10 Form of certificate

- 10.1 A certificate for shares will be in a form that the Directors from time to time determine and must contain details required under the Act or this Constitution of:
- (a) the Company's name and the state in which the Company is registered;
 - (b) the class of the shares; and
 - (c) the amount paid and unpaid on the shares.

Money owing on Shares - Calls

11 Power to make calls on shares

- 11.1 The Directors may make calls on the Members in respect of any money unpaid on the shares held by the Members which is not made payable at fixed times by the terms of issue of those shares.

- 11.2 Each Member must, on receiving at least 14 days' notice specifying the amount of the call and the time and place of payment, pay to the Company at the time and place specified the amount called on the Member's shares.
- 11.3 A call may be required to be paid by instalments.
- 11.4 The Directors may revoke or postpone a call.
- 11.5 A call is deemed made at the time when the resolution of the Directors authorising the call was passed.
- 11.6 The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, any Member will not invalidate the call but will require an extension of time to comply with clause 11.2.

12 Certain sums taken as called

- 12.1 Any sum that, under the terms of issue of a share, becomes payable on allotment or at a fixed date will, for the purposes of this Constitution, be taken to be a call duly made and payable on the date on which under the terms of issue of the share the sum becomes payable.

13 Interest on unpaid amounts

- 13.1 If a sum that is called or payable to the Company in respect of a share is not fully paid on or before the required payment day, the person liable for the payment must pay interest on the amount unpaid from the required payment day to the time of actual payment. The interest rate is that determined by the Directors but it must not exceed the Prescribed Rate.
- 13.2 Any reasonable expenses incurred by the Company because of non-payment must also be paid by the person liable for the payment.
- 13.3 The Directors may waive payment of interest on a call, wholly or in part.

14 Liability of, and, differentiation between holders for calls

- 14.1 The joint holders of a share are jointly and severally liable to pay all calls in respect of the share.
- 14.2 On the issue of shares, the Directors may differentiate between the holders as to the amount of calls to be paid and the times of payment.

15 Payment and prepayment of calls

- 15.1 A call must be paid in the manner determined by the Directors and unless notified otherwise, a Member may pay a call by cheque payable to the Company.
- 15.2 The Directors may accept from a Member the whole or part of the amount unpaid on a share before that or any amount has been called.

- 15.3 The Directors may at any time repay the whole or any part of any amount accepted under clause 15.2.

Money owing on Shares - Lien

16 Lien on shares

- 16.1 The Company has a first and paramount lien on every share for:
- (a) all unpaid calls and instalments due in respect of the share;
 - (b) any amount which remains outstanding on any loan made by the Company to purchase shares under an employee share incentive scheme in respect of those shares so purchased; and
 - (c) all amounts (if any) that the Company may be required by law to pay in respect of the share.
- 16.2 Until the Member has paid all calls, instalments of calls and other moneys (including interest) for the time being payable in respect of each share held by the Member, the Member is not entitled to exercise any rights or privileges as a Member.
- 16.3 The Directors may at any time exempt a share wholly or in part from, or, waive or compromise all or any part of any payment due to the Company under this clause 16.

17 Indemnity for payments by company on shares

- 17.1 If the Company becomes liable under any law to make any payment:
- (a) in respect of shares held solely or jointly by a Member;
 - (b) in respect of a transfer or transmission of shares by a Member;
 - (c) otherwise for, or on account of, or in respect of a Member,
- because of any matter or thing set out under clause 17.2 , then clause 17.3 applies.
- 17.2 Clause 17.1 refers to anything, whether as a consequence of:
- (a) the death of that Member;
 - (b) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that Member or the legal personal representative or estate of that Member;
 - (c) the non-payment of any estate, probate, succession, death, stamp or other duty by that Member or the legal personal representative or estate of that Member; or
 - (d) any other act or thing.
- 17.3 If this clause 17.3 applies, then, in addition to any right or remedy that the Company may have under the law, the Member or, if the Member is dead, the Member's legal personal representative and estate must:
- (a) fully indemnify the Company against the liability referred to in clause 17;

- (b) reimburse the Company for any payment made under or as a consequence of that law immediately on demand by the Company; and
 - (c) pay interest on any amount paid by the Company from the date the Company makes the payment until the date the Company is reimbursed in full for that payment. The interest rate is that determined by the Directors but it must not exceed the Prescribed Rate.
- 17.4 In respect of any amount owing to the Company under this clause 17, the Company will have a lien on the shares registered in the name of that Member.
- 17.5 The Directors may at any time exempt a share wholly or in part from, or, waive or compromise all or any part of any payment due to the Company under this clause 17.

Money owing on Shares - Forfeiture

18 Notice of forfeiture

- 18.1 If a Member fails to pay the whole of a call by the time appointed for payment of the call or instalment, the Directors may serve a notice on that Member requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all expenses that may have been incurred by the Company as a result of the non-payment or late payment.
- 18.2 The notice must:
- (a) Specify a place at which, and a further day (at least 14 days after the date of service of the notice) by which, the amount payable is to be paid; and
 - (b) Stating that, in the event that the whole of the amount payable is not paid by the time and at the place named, the shares in respect of which the call was made will be liable to be forfeited.

19 Forfeiture

- 19.1 If the requirements of a notice served under clause 18 are not complied with, at any time after that but before the payment required is made, the Directors may by resolution forfeit any share in respect of which the notice was given.
- 19.2 Where a share has been forfeited:
- (a) a notice of the resolution of forfeiture is to be given to the Member who held the share immediately before the forfeiture; and
 - (b) an entry of the forfeiture, with the date, must be made in the Members Register.
- 19.3 Failure to give the notice or to make the entry required under clause 19.2 does not affect the validity of the forfeiture.

20 Consequences of forfeiture

- 20.1 A person whose shares have been forfeited:
- (a) ceases to be a Member in respect of the forfeited shares;

- (b) will have no interest in, or claims or demands against the Company in respect of, those shares;
- (c) will have no other rights incident to the shares except as otherwise provided by the Act or this Constitution; and
- (d) remains liable for, and must pay to the Company all money that, at the time of forfeiture, was payable in respect of the shares including, if the Directors think fit, interest from the date of forfeiture on the money for the time being unpaid. The interest rate is that determined by the Directors but it must not exceed the Prescribed Rate.

21 Sale of forfeited shares

- 21.1 A forfeited share becomes the property of the Company and may be sold, reissued or otherwise disposed of on the terms and in the manner that the Directors think fit.
- 21.2 At any time before a sale or disposition, the forfeiture may be cancelled on the terms that the Directors think fit.

22 Transfers after forfeiture and sale

- 22.1 The Company may:
 - (a) receive the consideration (if any) given for a forfeited share on any sale or disposition of the share; and
 - (b) effect a transfer of the share in favour of the person to whom the share is sold or disposed of.
- 22.2 On the completion of the transfer, the transferee is to be registered as the holder of the share and has no obligation regarding the application of any money paid as consideration.
- 22.3 Any irregularity or invalidity in connection with the forfeiture, sale or disposal of the share does not affect the title of the transferee to the share.

23 Proceeds of sale

- 23.1 The proceeds of sale or disposal of forfeited shares must be applied to pay:
 - (a) first, the expenses of the sale or disposal;
 - (b) second, all amounts presently payable to the Company by the former holder of those shares, including interest and expenses; and
 - (c) subject to any lien existing under this Constitution in respect of money not presently payable, the balance, if any, to the former holder of those shares, to the person's legal personal representative and estate, or assigns, or as that person directs.

24 Directors may waive or compromise requirements

- 24.1 The Directors may:

- (a) subject to law, accept the surrender of a share by way of compromise of any claim as to the valid issue of a share or registration of a holder or in satisfaction of any payment due to the Company and the share may be disposed of in the same manner as a forfeited share;
- (b) exempt a share from all or any part of the forfeiture of share provisions of this Constitution except for rights given to the person holding the shares to which the provisions apply;
- (c) waive or compromise all or any part of any payment due to the Company for the purposes of the forfeiture of share provisions of this Constitution; or
- (d) before a forfeited share has been sold, reissued or otherwise disposed of, cancel the forfeiture upon terms they think fit.

Forfeiture and Calls - Evidence

25 Evidence or statements regarding forfeiture or calls

25.1 A statement in writing signed by a Director or a secretary of the Company to the effect that:

- (a) a share in the Company has been duly forfeited, sold, reissued or otherwise disposed of on a date specified; or
- (b) a particular sum is payable by a Member or former Member to the Company as at a particular date in respect of a call or instalment of a call (including interest or expenses),

is prima facie evidence of the facts set out in the statement as against all persons claiming to be entitled to the share and against the Member or former Member who remains liable to the Company, and of the right of the Company to forfeit, sell, reissue or otherwise dispose of the share.

Transfer of Shares

26 Ability to transfer shares

26.1 Subject to this Constitution and to the rights and restrictions attached to any shares or class of shares, a Member may transfer all or any of the Member's shares by an instrument in writing in any usual form or in any other form that the Directors approve and signed by the transferor and the transferee. A Member may not transfer all or any of the Member's shares for any value other than the issue price.

26.2 A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the Members Register in respect of the shares.

27 Restriction on transfer of shares

27.1 The Directors may in their absolute discretion decline to register any transfer of shares and may decline to give their reasons for doing so.

27.2 If the Directors decline to register a transfer of shares the Company must notify the person who lodged the transfer, not later than two months after the date the transfer was lodged with the Company, of that refusal.

28 Registration on transfer

28.1 To register a transfer the following documents must be lodged for registration at the Company's registered office, another place appointed by the Directors or the location of the relevant Members Register:

- (a) the executed instrument of transfer referred to in clause 26.1; and
- (b) the certificates for the shares, and such other evidence as the Directors may require to prove the title of the transferor or the transferor's right to the shares and to prove the right of the transferee to be registered as the owner of the shares.

28.2 On compliance with clause 28.1(a) the Company must, subject to the powers of the Directors to refuse registration, register the transferee as a Member.

28.3 The Company must not charge a fee for the registration of a transfer of shares.

28.4 The Directors may waive compliance with clause 28.1(b) if the transferor provides satisfactory evidence of loss or destruction of the certificate.

28.5 If the instrument of transfer referred to in clause 28.1(a) is required by law to be stamped, it must be duly stamped to comply with that clause.

29 Suspension of transfers

29.1 The Directors may suspend the registration of transfers of shares at such times and for such periods, not exceeding in total 30 days in any year, as they think fit.

Transmission of Shares

30 Transmission of shares on death

30.1 In the case of the death of a Member, the only persons the Company will recognise as having title to the Member's interest in the Member's shares are:

- (a) the legal personal representative of the deceased, where the Member was a sole holder; and
- (b) the survivor or survivors, where the deceased was a joint holder.

30.2 Nothing in clause 30.1 releases the estate of a deceased Member from any liability in respect of a share, whether that share was held by the deceased solely or jointly with other persons.

31 Registration of person entitled

31.1 A person who becomes entitled to a share as a consequence of a Transmission Event may, upon producing such information as the Directors may require to prove that person's entitlement to the share, elect in writing:

- (a) to be registered personally as the holder of the shares; or
 - (b) to have some other person nominated by that person registered as the transferee of the share.
- 31.2 The provisions of this Constitution relating to the right of transfer, and the registration of transfers and the issue of certificates for shares apply, so far as they can and with such changes as are necessary, to any transfer under clause 31.1 as if the Transmission Event had not occurred and the transfer were signed by the registered holder of the share.
- 31.3 If two or more persons are jointly entitled to any share in consequence of a Transmission Event they will, upon being registered as the holders of the share, be taken to hold the share as joint tenants under this Constitution.

General Meetings

32 Convening of general meetings

- 32.1 Any Director may, whenever the Director thinks fit, convene a general meeting.
- 32.2 A general meeting may only be convened under this clause 32 or as provided by the Act.
- 32.3 A Director may cancel any meeting convened by the Director by notice in writing to all Members except that a meeting convened on the requisition of Members must not be cancelled without their consent.
- 32.4 Subject to the Act, the Directors may postpone or change the venue for a general meeting by giving notice of that to all Members, at least 72 hours before the meeting, specifying the new details for the meeting which will be deemed convened pursuant to the original notice of meeting.

33 Giving of notice of meeting

- 33.1 Subject to the Act and to clause 33.2, at least 21 days notice must be given of a meeting of the Company's Members.
- 33.2 A shorter period of notice may be given:
- (a) for an annual general meeting, if all the Members entitled to attend agree beforehand; and
 - (b) for any other general meeting, if Members with at least 95% of the votes that may be cast at the meeting agree beforehand.

34 Contents of notice of meeting

- 34.1 A notice of general meeting of the Company's Members must:
- (a) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (b) state the general nature of the meeting's business;

- (c) if a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the resolution; and
- (d) if a Member is entitled to appoint a proxy, contain a statement setting out the following information:
 - (i) that the Member has a right to appoint a proxy;
 - (ii) whether or not the proxy needs to be a Member of the Company; and
 - (iii) that a Member who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise.

34.2 Without limiting clause 34.1, each notice of general meeting will contain the information required by the Act.

34.3 The non-receipt of notice of a general meeting or proxy form by, or the accidental failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice will not invalidate the proceedings of or any resolution passed at the meeting.

34.4 A person's attendance at a general meeting waives any objection that the person may have as to a failure to give notice, or the giving of a defective notice, of the meeting except if the person at the beginning of the meeting objects to the holding of the meeting.

35 Business at general meetings

35.1 Except if all Members are present as Members Present (excluding proxies in favour of the chairperson) and agree otherwise, no business will be transacted at any general meeting except as set out in the notice of the meeting.

36 Quorum

36.1 No business may be transacted at any general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of Members is present when the meeting proceeds to business.

36.2 A quorum consists of:

- (a) any two or more Members Present; or
- (b) if only one Member is entitled to vote, that Member Present.

36.3 The provisions of this Constitution relating to general meetings apply to the holders of each separate class of shares to the extent that they can apply, except that a quorum will be two or more holders of shares of that class and any holder present may demand a poll.

37 If quorum not present

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

- (a) where the meeting was convened upon the requisition of Members, the proposed meeting must be dissolved; or
- (b) in any other case, the meeting stands adjourned to a day and at a time and place as the Directors decide or, if no decision is made by the Directors, to the same day in the next week at the same time and place.

37.2 If, at an adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

38 Chairperson of general meetings - appointment and responsibilities

38.1 The chairperson of Directors, or in the chairperson's absence, the deputy chairperson (if any) must preside as chairperson at each general meeting.

38.2 If at a general meeting:

- (a) there is no chair or deputy chairperson of Directors; or
- (b) the chair or deputy chairperson of Directors is not present within 15 minutes after the time appointed for the meeting or is not willing to chair the meeting,

the Directors present must elect one of their number or, in the absence of any Directors or if none of the Directors present are willing to act, the Members Present may elect one of their number who is willing to act to be chair of the meeting.

38.3 The chairperson of a general meeting is responsible for the general conduct of the meeting and may require the adoption of any procedures which are in his or her opinion necessary or desirable, including for the:

- (a) proper and orderly debate and discussion, including limiting the time that a person present may speak on a motion or other item of business before the meeting;
- (b) proper and orderly casting or recording of votes at the general meeting, whether on a show of hands or on a poll, including the appointment of scrutineers; and
- (c) determination of any dispute concerning the admission, validity or rejection of a vote at the meeting.

38.4 The chairperson of a general meeting may refuse any person admission to, or require a person to leave and remain out of, the meeting if that person:

- (a) in the opinion of that chairperson, is not complying with the reasonable directions of the chairperson;
- (b) has any audio or visual recording or broadcasting device;
- (c) has a placard or banner;
- (d) has an article the chairperson considers to be dangerous, offensive or liable to cause disruption; or
- (e) is not entitled under the Act or this Constitution to attend the meeting.

- 38.5 If the chairperson of a general meeting is of the opinion that there are too many persons present at the meeting to fit into the venue where the meeting is to be held, the chairperson may nominate a separate meeting place using technology that gives those Members attending the meeting a reasonable opportunity to participate.
- 38.6 The chairperson may delegate any power conferred by this clause to any person.
- 38.7 Nothing in this clause limits the powers conferred by law on the chairperson of a general meeting.

39 Adjournment of general meetings

- 39.1 The chairperson of a general meeting may, in his or her discretion, and must if directed by the majority of the Members Present, at any time during the course of the meeting adjourn the meeting or any business, motion or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting.
- 39.2 No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 39.3 Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for the original meeting, otherwise no notice of meeting needs to be given.
- 39.4 The Directors may confirm or change the venue or time for the adjourned meeting, simply by giving written notice of those details to Members entitled to receive notice.

40 Decisions at general meetings

- 40.1 Except if the law requires a resolution to be decided by special majority, questions arising at a general meeting are to be decided by a majority of votes cast by the Members Present and any such decision is for all purposes a decision of the Members.
- 40.2 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded before or immediately after the declaration of the result of the show of hands:
- (a) by the chairperson on the meeting;
 - (b) by at least 5 Members Present and entitled to vote at the meeting; or
 - (c) by Members with at least 5% of the votes that may be cast on the resolution on a poll.
- 40.3 A poll cannot be demanded at a general meeting on the election of a chairperson or on the adjournment of the meeting.
- 40.4 The demand for a poll may be withdrawn.
- 40.5 Except if a poll is duly demanded, a declaration by the chairperson of a meeting that a resolution has on a show of hands been carried or lost, and an entry to that effect in the minutes of the meeting, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour or against the resolution.

- 40.6 A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- 40.7 If a poll is duly demanded at a general meeting, it will be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairperson of the meeting directs.
- 40.8 The result of the poll will be the resolution of the meeting at which the poll was demanded.

41 Voting rights

- 41.1 Subject to this Constitution and to any rights or restrictions attached to any shares or class of shares, at a general meeting:
- (a) on a show of hands, every Member Present has one vote; and
 - (b) on a poll, every Member Present has one vote for each fully paid share held by the Member and in respect of which the Member is entitled to vote.

42 Chairperson's casting vote

- 42.1 In the case of an equality of votes on any proposed resolution the chairperson of the meeting has a casting vote in addition to any vote which the chairperson may be entitled to as a Member, except where there are only two Members Present.

43 Representatives of Members

- 43.1 At meetings of Members or classes of Members, each Member entitled to attend and vote may attend and vote in person, by proxy or attorney, and where the Member is a body corporate, by representative under the Act.
- 43.2 A proxy, attorney or representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- 43.3 A proxy, attorney or representative does not need to be a Member.

44 Joint holders of shares

- 44.1 If more than one joint holder tenders a vote, whether in person, by proxy, attorney or representative, the vote of the holder named first in the register must be accepted to the exclusion of the other or others.

45 Restrictions on voting - unpaid amounts

- 45.1 A Member is not entitled to attend or vote at a general meeting unless all calls and other sums due and payable by the Member in respect of his or its shares in the Company have been paid, except if the Member also holds fully paid shares in which case the Member may attend and vote in respect of those other shares upon which no money is then due and payable.

46 Member dies, is bankrupt, of unsound mind or a minor

- 46.1 If a Member is:

- (a) subject to a Transmission Event; or
- (b) a minor,

the person entitled to the Member's share or the Member's guardian may, subject to clause 46.2, exercise any rights of the Member in relation to a general meeting as if the person or guardian were the Member.

- 46.2 Any person or guardian will not exercise any rights under clause 47.1 unless and until the person has provided to the Directors satisfaction evidence of the person's appointment and status.

47 Objections to voting

- 47.1 An objection to the qualification of a person to vote at a general meeting:

- (a) must be raised before or at the meeting at which the vote objected to is given or tendered; and
- (b) must be referred to the chairperson of the meeting, whose decision is final.

- 47.2 A vote allowed by the chairperson after an objection is valid for all purposes.

48 Appointment of proxies

- 48.1 A Member may appoint not more than two proxies or attorneys.

- 48.2 Subject to clauses 48.3 and 48.4, unless otherwise provide in the document or resolution appointing a person as proxy of a Member, the person has the same rights to speak, demand a poll, join in demanding a poll or act generally at a meeting of Members to which the appointment relates as the appointing Member would have done if that Member was present at the meeting.

- 48.3 An appointment of two proxies or attorneys to vote at the same general meeting will be of no effect where the authority of one is not conditional on the other failing to attend or vote, except if each proxy or attorney is appointed to represent a specified proportion of the Member's voting rights.

- 48.4 If a Member appoints two proxies or attorneys and has not appointed each of them to represent a specified proportion of the Member's voting rights then each proxy may exercise half of the votes.

- 48.5 A single proxy or attorney is entitled to vote on a show of hands.

- 48.6 Unless otherwise provided in the document or resolution appointing a person as proxy of a Member, the appointment is taken to confer authority to attend and vote at a meeting which is rescheduled, postponed or adjourned to another time or changed to another place, even though the appointment may refer to a specific meeting to be held at a specified time or place.

49 Form and effect of proxies

- 49.1 An instrument appointing a proxy or attorney need not be in any particular form provided its intention is clear, it is in writing, legally valid and:

- (a) in the case of a natural person, signed by the appointer;
 - (b) in the case of a company, executed under seal of the appointer, or, as the Act otherwise permits a company to execute; or
 - (c) in either case, signed by the appointer's attorney.
- 49.2 The Directors may stipulate the form of an instrument appointing a proxy and the form contained in clause 52 must be accepted as a proxy.
- 49.3 An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, the proxy or attorney is not entitled to vote except as directed in the instrument.
- 49.4 A proxy or attorney may vote as the proxy or attorney thinks fit on any motion or resolution in respect of which no direction of voting is indicated in the appointing instrument.
- 49.5 Subject to clause 49.3 and except as otherwise provided in the instrument, an instrument appointing a proxy, attorney or representative will be taken to confer authority to act and speak generally at the meeting, vote on any procedural motion, any amendment to a resolution or a similar motion.
- 49.6 A proxy may be given in favour of the chairperson of the meeting, and where the instrument does not specify the name of the proxy, the proxy will be taken to be given in favour of the chairperson.

50 Lodgement of proxies

- 50.1 To be effective, an instrument appointing the proxy or attorney, and the original or an attested copy of the power of attorney or other authority (if any) under which the instrument is signed, must be received by the Company at least 48 hours before the meeting commences or resumes (as the case may be), or such shorter period that the Directors accept.
- 50.2 For the purposes of this clause 50, the Company receives these documents when they are received at any of the following:
- (a) the Company's registered office;
 - (b) a fax number at the Company's registered office; or
 - (c) a place, fax number or electronic address specified for that purpose in the notice of meeting.

51 Validity of proxies

- 51.1 A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite:
- (a) a Transmission Event occurring in relation to the appointer;
 - (b) the revocation of the instrument or of the authority under which the instrument was signed; or

- (c) the transfer of the share in respect of which the instrument or power is given, if notice in writing of the Transmission Event, revocation or share transfer has not been received by the Company by the time the instrument appointing the proxy or attorney is required to be given to the Company.

51.2 The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting except to the extent the appointer actually votes on any resolution.

52 Example form of proxy

52.1 An instrument appointing a proxy may be in the following form.

PROXY FORM

*I/We _____

of _____

being a member/members of [*name of company*] hereby appoint -

1. _____ or, failing such person
2. _____ or, failing such person or if no person is named, the Chairman of the meeting, as *my/our proxy to attend, speak and vote for *me/us on *my/our behalf at the *annual general/general meeting of the Company to be held on the [*insert date*] and at any adjournment of that meeting.

If *I/we have appointed two persons as proxies, each is entitled to vote in respect of the following proportions of *my/our voting rights.

1. _____ Proportion of voting rights (%) _____
2. _____ Proportion of voting rights (%) _____

Voting instructions

Should the member wish to direct the proxy how to vote, place a mark in the appropriate box below, otherwise the proxy may vote or abstain from voting as the proxy thinks fit.

Resolution	For	Against
1. [<i>insert resolution</i>]		

Signed this _____ day of _____

Signature _____

*Strike out whichever is not applicable

53 Voting by Representatives

53.1 A person may vote in respect of a share at a general meeting if:

- (a) the person is entitled to be registered as the holder of that share because of a Transmission Event; and

- (b) the person satisfied the Directors of that entitlement more than 48 hours before that meeting.

53.2 The parent or guardian of an infant Member may vote at a general meeting upon production of any evidence of the relationship or of the appointment of the guardian as the Directors may require and any vote so made by the parent or guardian of an infant Member must be accepted to the exclusion of the vote of the infant Member.

53.3 The validity of any resolution passed at a general meeting is not affected by the failure of any proxy or attorney to vote in accordance with directions (if any) of the appointing Member.

53.4 If a proxy of a Member purports to vote in a way or circumstances that contravene the Act, on a show of hands the vote of that proxy is invalid and the Company must not count it. If a poll is demanded, votes which the Act require a proxy of a Member to cast in a given way must be treated as cast in that way.

53.5 Subject to this Constitution and the Act, a vote cast at a general meeting by a person appointed by a Member as a proxy, attorney or representative is valid despite:

- (a) a Transmission Event occurring in respect of that Member; or
- (b) the revocation of the appointment (or authority under which the appointment was executed),

if no notice in writing of that matter has been received by the Company at least 48 hours before the commencement of that meeting.

54 Rights to attend of non-Members

54.1 At any general meeting:

- (a) a Director who is not a Member will be entitled to be present and to speak;
- (b) a secretary who is not a Member will be entitled to be present and, at the request of the chairperson, to speak;
- (c) an auditor of the company will be entitled to be present and, at the request of the chairperson, to speak; and
- (d) any other person requested by the Directors to attend will be entitled to be present and, at the request of the chairperson, to speak.

55 Single Member resolutions

55.1 If the Company has only one Member, that Member may pass a resolution by recording the resolution and signing it.

55.2 A signed record of resolution of that Member constitutes a decision of the Company and is valid and effective as if it was a resolution duly passed at a meeting of Members and also constitutes a minute of that decision.

56 Circular resolutions of Members

- 56.1 Subject to the Act, the Company may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 56.2 Each Member of a joint membership must sign.
- 56.3 Separate copies of a document may be used for signing by Members if the wording of the resolution and statement is identical in each copy.
- 56.4 The resolution is passed when the last Member signs.

Directors – Appointment, Removal and Payment

57 Appointment

- 57.1 The first Directors will be appointed by the Initial Subscribers to the capital of the Company, set out in the application for registration of the Company that is lodged with ASIC.
- 57.2 Subject to the Act and this Constitution, the Company may at any time by resolution appoint any natural person to be a Director, either as an addition to the existing Directors or to fill a casual vacancy.
- 57.3 Subject to the Act and this Constitution, the Directors may at any time appoint any natural person to be a Director, either as an addition to the existing Directors or to fill a casual vacancy.

58 Removal

- 58.1 Subject to the Act, the Company may, in general meeting, at any time remove any Director from office.

59 Numbers of Directors

- 59.1 The minimum number of Directors is one.
- 59.2 The maximum number of Directors is to be fixed by the Directors, but must not be more than 10 unless the Company in general meeting resolves otherwise.

60 No share qualification

- 60.1 Directors are not required to hold shares in the capital of the Company.

61 Vacation of office

- 61.1 In addition to the circumstances in which an office of a Director becomes vacant under the Act or by a resolution under clause 58, the office of a Director becomes vacant if a Director:
 - (a) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;

- (b) fails to attend meetings of the Directors for more than six consecutive months without leave of absence from the Directors;
- (c) dies; or
- (d) resigns by notice in writing to the Company.

62 Payment

- 62.1 The Directors will be paid for their services as Directors the remuneration that the Company sets by resolution and until the Company so resolves, the remuneration will be set by the Directors.
- 62.2 The remuneration set under clause 62.1:
- (a) will be divided among the Directors in the proportions as they agree or, if they cannot agree, equally; and
 - (b) is exclusive of any benefits the Company is required by law to provide including, but not limited to, benefits provided under superannuation guarantee or similar schemes or any other benefit permitted by the Act or this Constitution.
- 62.3 The Directors will also be entitled to be paid or reimbursed for all travelling, accommodation and other expenses properly incurred by them in attending and returning from any meeting of Directors, committee or general meeting of the Company or otherwise in connection with the business of the Company.
- 62.4 A Director may be engaged by the Company in any other capacity (except auditor) and may be appointed on such terms as to remuneration, term and otherwise as may be agreed by the Directors.

Directors – Duties and Powers

63 Duties of Directors

- 63.1 Without limiting any other duty or obligation arising under this Constitution, the Act or at law, Directors are responsible for managing the business of the Company.

64 Powers of Directors

- 64.1 The Directors may exercise all powers of the Company which are not, by the Act or this Constitution, required to be exercised by the Company in general meeting.
- 64.2 Without limiting the generality of clause 64.1, the Directors may:
- (a) exercise all the powers of the Company to borrow or otherwise raise money, to charge any property or business of the Company or all or any of its uncalled capital, and to issue debentures or give any other Security for a debt, liability or obligation of the Company or of any other person; and
 - (b) may determine how any negotiable instrument is to be executed on behalf of the Company.

64.3 The Directors may pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of any assets acquired by it.

64.4 If the Company is a wholly-owned subsidiary of a body corporate as defined in the Act, the Directors are authorised to act in the best interests of the holding company of the Company.

65 Appointment of officers, agents and attorneys

65.1 The Directors may:

- (a) appoint or employ any person to be an officer, agent or attorney of the Company for the purposes and with the powers, discretions and authorities vested in or exercisable by the Directors, for any period and upon any conditions as they think fit; and
- (b) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and authorities vested in the officer, agent or attorney.

65.2 A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the Directors think fit.

Directors - Meetings

66 Convening meetings and proceedings of Directors

66.1 The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they see fit.

66.2 A Director may at any time, convene a meeting of the Directors.

66.3 A secretary must, on the request of a Director, convene a meeting of the Directors.

66.4 Reasonable notice must be given to every Director of the place, date and time and general nature of business (if available) of every meeting of the Directors. In respect of a Director at the time outside Australia and who has not appointed an alternate Director, notice need only be given where the Director has provided contact details.

67 Meetings - use of technology

67.1 For the purposes of the Act, each Director is taken to consent to the use of any technology for calling or holding a Director's meeting which reliably permits each Director to contemporaneously communicate with every other Director, including, but not limited to:

- (a) video;
- (b) telephone or other audio communication; or
- (c) internet based audio or visual communication.

A Director may withdraw the consent given under this clause 68.1 in accordance with the Act.

- 67.2 The linking together by a means of communication consented to by Directors, of sufficient Directors to constitute a quorum:
- (a) constitutes a meeting of the Directors and the provisions of this Constitution regarding meetings of Directors apply as if all the Directors were present together and are all to be taken as being present; and
 - (b) the meeting is to be taken to be held at the place determined by the chairperson provided that at least one of the Directors present was at that place during the meeting.

68 Quorum

- 68.1 No business may be transacted at a meeting of Directors unless a quorum of Directors is present at the time the business is dealt with.
- 68.2 A quorum consists of two Directors or another number fixed by the Directors, except where the Company has only a single Director, in which case it is that Director.

69 Chairperson of Directors

- 69.1 The Directors may elect a Director to be chairperson of Directors, and may also elect a Director to be deputy chairperson, and may determine the period for which that Director is to be chairperson or deputy chairperson of Directors.
- 69.2 The chairperson, or in his or her absence or not being willing to act, the deputy chairperson must preside as chairperson at each meeting of Directors.
- 69.3 If at a meeting of Directors:
- (a) there is no chair or deputy chairperson of Directors; or
 - (b) the chair or deputy chairperson of Directors is not present within 15 minutes after the time appointed for the meeting or is not willing to chair the meeting,
- the Directors present must elect one of their number to be chair of the meeting.
- 69.4 The remuneration of the chairperson and deputy chairperson (if any) from the remuneration fixed under clause 62.1 will be decided by the Directors in accordance with clause 62.2.

70 Decisions at meetings

- 70.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes cast by the Directors present and any such decision is for all purposes to be taken to be a decision of the Directors.
- 70.2 In the case of an equality of votes, the chairperson of the meeting does not have a casting vote in addition to the chair's deliberative vote.

71 Interested Directors

- 71.1 This clause 71 does not apply where the Company has only a single Director.

- 71.2 A Director is not disqualified by reason only of being a Director (or the fiduciary obligations arising from that office) from:
- (a) from contracting with the Company or any related body corporate of it, in any capacity;
 - (b) from holding any other office or place of profit or employment in the Company or any other company, body corporate, trust, entity or related body corporate promoted by the Company or in which it has an interest;
 - (c) being a Member, creditor or otherwise interested in any body corporate (including the Company) partnership or entity, except auditor of the Company;
 - (d) entering into any agreement or arrangement with the Company; or
 - (e) acting in a professional capacity (or being a Member of a firm which acts in a professional capacity) for the Company, except as auditor of the Company.
- 71.3 In relation to a contract or arrangement in which a Director has a material personal interest:
- (a) the fact that the Director signed the contract or document evidencing the arrangement on behalf of the Company will not affect its validity in any way;
 - (b) a contract or arrangement made by the Company or any related body corporate with a Director cannot be avoided or rendered voidable merely because the Director is a party to the contract or arrangement or in any other way interested in it; and
 - (c) the Director will not be liable to account to the Company for any profit realised by or from the contract or arrangement as a whole merely because of the Director's office or the fiduciary relationship that arises in that office.
- 71.4 Each Director must comply with the Act in relation to the disclosure of the Director's interests.
- 71.5 If a Director has a material personal interest in a matter that relates to the affairs of the Company and that interest has been disclosed in accordance with the Act or is of a type that does not require disclosure:
- (a) the Director may be counted for a quorum and vote on matters that relate to the interest and any transactions that relate to the interest may proceed; and
 - (b) if disclosure is required and is made before the transaction is entered into, the Director can retain personal benefits from the transaction despite having the interest and the Company cannot avoid the transaction to the extent of the Director's personal interest merely because of the existence of the interest.

72 Alternate Directors

- 72.1 Any Director may by notice in writing to the Company appoint any person (whether a Member of the Company or not, and including another Director) to be an alternate Director in the Director's place during any period that the Director thinks fit.

- 72.2 An alternate Director is entitled to notice of meetings of the Directors and, if the appointer is not present at such a meeting, is entitled to attend and vote on behalf of the appointer (in addition, where the alternate is a Director, to his or her own vote).
- 72.3 An alternate Director may exercise any powers that the appointer may exercise. An alternate Director, while acting as a Director, is responsible to the Company for his or her own acts and defaults and is not to be taken to be the agent of the Director by whom he or she was appointed.
- 72.4 The appointment of an alternate Director may be terminated at any time by notice in writing to the Company and terminates automatically if the appointer vacates office as a Director.
- 72.5 The Company is not responsible for remunerating the alternate Director but the alternate Director will be entitled to be reimbursed as a Director under clause 62.3.

73 Delegation and committees

- 73.1 The Directors may delegate any of their powers in accordance with the Act.
- 73.2 The Directors may delegate any of their powers to a committee or committees consisting of such number of Directors as they think fit.
- 73.3 A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.
- 73.4 The provisions of this Constitution applying to meetings and resolutions of Directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee of Directors.

74 Circular resolutions

- 74.1 If a document containing the terms of a resolution is sent to all Directors entitled to receive notice of a meeting and a majority of Directors entitled to vote on the resolution sign the document with a statement that they are in favour of the resolution set out in it, the result is a resolution as valid and effectual as if it had been passed at a meeting of Directors properly convened and held.
- 74.2 Separate copies of the document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 74.3 The resolution is passed when the last Director required for a majority signs and the document takes effect as a minute of a resolution passed.

75 Single Director decisions

- 75.1 Where the Company has only a single Director or a committee consists of only one person, the Director or committee may pass a resolution by recording the resolution and signing it.
- 75.2 A signed resolution under clause 75.1 constitutes a decision of the Directors or committee as the case may be, and is valid and effective as if it were a decision made at a meeting of Directors or the committee and takes effect as a minute of that decision.

76 Irregularities and validity of acts

- 76.1 All acts done by any meeting of the Directors, committee of Directors, or persons acting as Directors are as valid as if each person was duly appointed and qualified to be a Director or a Member of the committee even if it is afterwards discovered that there was some defect in the appointment of a person or that a person appointed was disqualified and not entitled to vote.
- 76.2 If there are insufficient Directors to constitute a quorum because of a vacancy in the Directors, the continuing Directors may act only to appoint further Directors so that a quorum can be formed, or to convene a general meeting of the Company.

Executive Officers

77 Managing Director

- 77.1 The Directors may appoint one or more of the Directors to the office of managing director (a **Managing Director**).
- 77.2 A Managing Director's appointment as managing director automatically terminates if the Managing Director ceases to be a Director.

78 Executive directors

- 78.1 A Director may also be an officer or employee of the Company or of a related body corporate in a capacity other than Director or Managing Director (an **Executive Director**).
- 78.2 The Directors may confer on an Executive Director such title as they think fit.

79 Secretaries

- 79.1 The Directors may appoint at least one secretary and may appoint additional secretaries and one or more assistant secretaries.

80 Payment, term and powers

- 80.1 This clause 80 applies to a Managing Director, Executive Director, secretary or assistant secretary (an **Executive Officer**).
- 80.2 The appointment of an Executive Officer may be for such period, at such remuneration and upon such conditions as the Directors think fit.
- 80.3 Subject to the Act and the terms of any agreement between the Executive Officer and the Company, the Executive Officer may receive remuneration (whether by way of salary or commission, or partly in one way and partly in another) as the Directors decide.
- 80.4 Subject to the terms of any agreement between the Company and the relevant Executive Officer, any Executive Officer may be removed or dismissed by the Directors at any time, with or without cause.
- 80.5 The Directors may:

- (a) confer on an Executive Officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the Directors) as they think fit;
- (b) withdraw, suspend or vary any of the powers, discretions and duties conferred on an Executive Officer; and
- (c) authorise the Executive Officer to delegate all or any of the powers, discretions and duties conferred on the Executive Officer.

Seals and Execution Documents

81 Seals and use

- 81.1 The Company may have a common seal. If the Company has a common seal, it may also have an official seal that is a duplicate common seal. The Directors must provide for the safe custody of any Seal.
- 81.2 A Seal must be used only by the authority of the Directors or of a committee of Directors with that express authority.

82 Execution of documents

- 82.1 Every document to which the Seal is affixed must be signed by:
 - (a) two Directors or a Director and a secretary (or another person appointed by the Directors to countersign that document or a class of documents in which that document is included; or
 - (b) where the Company has only a single Director who is also the only secretary of the Company, by that Director in his or her capacity as sole Director and sole secretary of the Company.

This clause 83 does not limit the manner in which the Company may execute a document under the Act.

Minutes and Records – Maintenance and Access

83 Minutes

- 83.1 The Company must cause minutes of all proceedings and resolutions of general meetings and of meetings of the Directors and of committees of the Directors, and all resolutions of Members, Directors and of committees of the Directors passed without a meeting, to be duly recorded after the relevant meeting is held, in books kept for that purpose.
- 83.2 Minutes must be signed by the chairperson of the relevant meeting or by the chairperson of the next meeting, except where minutes are deemed to be taken in the case of circular resolutions.

84 Minutes as evidence

- 84.1 Except where the contrary is proved, minutes of a meeting properly recorded and signed are sufficient evidence of the proceedings, resolutions and other matters stated in the minutes.

85 Inspection of records

- 85.1 The Directors may determine if and to what extent, time and place and under what conditions, the minute books, accounting records and other documents of the Company will be open for inspection by Members other than Directors.
- 85.2 A Member other than a Director does not have the right to inspect any books, records or documents of the Company except as provided by the Act, by law or as authorised by the Directors.

Distribution of Profits

86 Dividends

- 86.1 The income of the Company must be applied solely towards the promotion of the objects of the Company. No proportion of it may be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to Members.
- 86.2 Clause 86.1 shall override any other clause in this constitution and shall prevail to the extent of any inconsistency.

Distribution of Property

87 No Distribution of Property

- 87.1 If, upon the winding up or dissolution of the Company, there remains, after satisfaction of all debts and liabilities, any property whatsoever, the same must not be paid to or distributed among the Members of the Company, but must be given or transferred to a public benevolent institution or institutions to which gifts may be deducted under Division 30 of the *Income Tax Assessment Act 1997* (Cth).
- 87.2 Such institution or institutions may be determined by the Directors of the Company at or before the time of the winding up or dissolution and in default thereof by application to such court as may have or acquire jurisdiction in the matter.

Indemnity and Insurance

88 Indemnity

- 88.1 To the extent permitted by law, the Company must indemnify each person who is, or has been, a Director or secretary of the Company or any of its subsidiaries against any liability arising directly or indirectly from the person serving or having served in that capacity:
- (a) to any other person except for:

- (i) a liability owed to the Company or a related body corporate;

- (ii) a liability for a pecuniary penalty or compensation order made under the Act; or
 - (iii) a liability that is owed to someone (other than the Company or a related body corporate) and did not arise out of conduct in good faith; and
- (b) for legal costs incurred in defending an action for liability incurred as a Director or a secretary of the Company or any of its subsidiaries if the costs are not incurred:
- (i) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under clause 88.1(a);
 - (ii) in defending or resisting criminal proceedings in which the person is found guilty;
 - (iii) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to be established; or
 - (iv) in connection with proceedings for relief to the person under the Act in which the court denies relief.

Clause 88.1(b)(iii) does not apply to costs incurred in responding to actions brought by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order.

89 Insurance

- 89.1 The Company may to the extent permitted by law, purchase and maintain insurance or pay or agree to pay a premium for insurance, for a person who is, or has been, a Director or secretary of the Company or any of its subsidiaries against any liability:
- (a) arising directly or indirectly from the person serving or having served in that capacity including, but not limited to, a liability for negligence except where the liability arises out of:
 - (i) conduct involving a wilful breach of duty in relation to the Company or any of its subsidiaries; or
 - (ii) a contravention of sections 182 or 183 of the Act dealing with improper use of position or information; or
 - (b) for legal costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

90 Other officers

- 90.1 Nothing in clauses 88 and 89 limit the powers of the Company to indemnify or insure other officers of the Company or any of its subsidiaries, as permitted under the Act.

91 Document containing indemnity and insurance

- 91.1 The Directors may authorise the Company to, and the Company may enter into any document containing an indemnity in favour of, or insurance policy for the benefit of, a person who may be indemnified or insured by the Company, on such terms as the

Directors approve and, in particular, that applies to acts or omissions prior to or after the time of entering into the indemnity or policy.

- 91.2 The benefit of a deed of indemnity or similar document containing an indemnity, continues according to the terms of the deed or document, even after the terms of this clause are amended or deleted, in respect of a liability arising out of acts or omissions occurring prior to the amendment or deletion.

Notices and Payments

92 Notices generally

- 92.1 A notice may be given by the Company to any Member by:
- (a) serving it on the Member personally;
 - (b) sending it by post to, or leaving it at, the Member's address as shown in the Members Register or another address supplied by the Member to the Company for the giving of notices;
 - (c) faxing it to the fax number supplied by the Member to the Company for the giving of notices; or
 - (d) transmitting it electronically to the electronic mail address given by the Member to the Company for giving notices.
- 92.2 Where a notice is given by post, service of the notice will be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected in the case of a notice of a meeting, on the day after the date of its posting, and in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- 92.3 Where a notice is given by fax or electronic transmission, service of the notice will be taken to be effected on the day it is transmitted or sent to the correct address.
- 92.4 The Company may give a notice in any manner provided under clause 93.1 despite a Member having provided, a facsimile or electronic mail address for service, to the Company.

93 Joint holders

- 93.1 Except where joint holders of a share give notice to the Company of a single address for all notices and payments, the Company may give notices to the address of the joint holder whose name first appears on the Members Register.

94 Guardians and other persons

- 94.1 The Company may give notices to the parent or guardian of a Member who is a minor.
- 94.2 The Company may give notices by addressing it to the person by name or by the title of representative of the deceased, or assignee of the bankrupt or by any like description at the address supplied for the purpose by the person, and if no address has been provided, to the Member's address as if the Transmission Event had not occurred.

95 Notice of general meetings

95.1 Notice of every general meeting will be given in the manner provided by clause 92, 93 and 95:

- (a) to every Member and to each Director;
- (b) to every person entitled to a share in consequence of a Transmission Event of a Member who, but for that event, would be entitled to receive notice of the meeting; and
- (c) to the auditor to the Company (if any).

95.2 No other person is entitled to receive notice of general meetings.