



Novita Services
A Company Limited by Guarantee

Constitution

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1. Definitions and Interpretation

1.1 Definitions

In this Constitution:

Act means the Corporations Act 2001.

Board means the Board of Directors.

Chief Executive means a person appointed by the Board as Chief Executive of the Company.

Company means Novita Children's Services.

Director means a Director of the Company.

Directors mean all or some of the Directors acting as a Board.

Electronic Voting System means a system approved by the Board which enables members to submit their vote by electronic means whether before or at a general meeting of Members.

Member means a Member of the Company.

Patron means a person appointed by the Directors as a Patron of the Company.

President means a Director appointed by the Directors as President of the Company.

Secretary means a person appointed by the Directors as Secretary of the Company.

Vice Patron means a person appointed by the Directors as a Vice Patron of the Company.

1.2 Interpretation

The following rules of interpretation apply unless any contrary intention appears in this Constitution or the context requires otherwise:

- (a) a gender includes all genders;
- (b) the singular includes the plural and conversely;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it; and
- (e) except in so far as a contrary intention appears in this Constitution, a word or phrase has the same meaning in this Constitution as in a provision of the Act that deals with the same matter.

1.3 Headings

Headings are used for convenience only and do not affect construction.

1.4 Replaceable Rules

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

1.5 The Corporations Act

Despite any other provision in this Constitution:

- (a) if the Act prohibits something being done, it shall not be done;
- (b) if the Act requires something to be done, authority is given for it to be done; and

- (c) if a provision of this Constitution is or becomes inconsistent with the Act (other than a replaceable rule), that provision must be read down or failing that severed from this Constitution to the extent of the inconsistency.

1.6 Circumstances Not Provided For

In any circumstances in which this Constitution is silent, incapable of taking effect or being implemented according to its strict provisions, the Directors may determine what action may be taken to ensure the effective administration and attainment of the Company's objects.

2. The Company

2.1 Status

The Company is a company limited by guarantee.

2.2 Objects

The objects of Novita are to serve and promote the best interests of children, young people and adults with disabilities so they are able to experience fully life's events and maximise their potential, independence and inclusion in the community, including for that purpose to:

- (a) provide advice and information to people with disabilities, their families and carers;
- (b) provide therapy, equipment and ancillary support services to people with disabilities, their families and carers;
- (c) support people with disabilities to obtain education, life-skills and pre-vocational opportunities;
- (d) support people with disabilities to participate in leisure activities in the community;
- (e) provide respite and accommodation to people with disabilities, their families and carers;
- (f) assist people with disabilities to advocate for themselves where necessary, that supports them to participate in the community to the extent they desire;
- (g) provide services to people with disabilities, their families and carers that promote their physical and mental health;
- (h) conduct research and apply and promote the use of the best available evidence to practice;
- (i) offer advice to Government, other organisations and individuals about the provision of appropriate services to, and the needs of, people with disabilities, their families and carers;
- (j) provide services to people with disabilities as the Company may consider necessary or desirable from time to time; and
- (k) do all other lawful things as are incidental or conducive to the attainment of the above objects or any of them.

2.3 Income and Property

- (a) Subject to clause 2.3 (b), the income and property of the Company must be applied solely towards its objects and no part of them may be paid or transferred, directly or indirectly, to any Member, whether by way of dividend, bonus or otherwise.
- (b) Nothing in clause 2.3 (a) prevents any payment in good faith:
 - (1) of reasonable and proper remuneration to any Member for any services actually rendered or goods supplied in the ordinary and usual course of business to the Company;

- (2) of reasonable and proper rent for premises let by a Member to the Company;
- (3) of interest at a commercial rate on money borrowed from a Member; and
- (4) to a Member in that person's capacity as a Director so far as clause 6.8 allows.

2.4 Tax Status

The Company may do all things necessary and consistent with its objects:

- (a) to be endorsed as a deductible gift recipient under the Income Tax Assessment Act 1997;
- (b) for its income to be exempt from income tax under the Income Tax Assessment Act 1997; and
- (c) to qualify for any concession under any other tax law of Australia or any State or Territory of Australia.

2.5 Liability of Members

The liability of the Members is limited.

2.6 Guarantee by Members

Every Member undertakes to contribute an amount not more than \$5 to the property of the Company if it is wound up while he or she is a Member or within twelve months after he or she ceases to be a Member, for:

- (a) payment of the Company's debts and liabilities contracted before the time he or she ceased to be a Member;
- (b) the costs, charges and expenses of winding up; and
- (c) the adjustment of the rights of the contributories among themselves.

3. Membership

3.1 Eligibility

The Members are:

- (a) any Member at the date of adoption of this Constitution; and
- (b) any other person the Board admits to membership in accordance with this Constitution.

3.2 Categories of Members

The Company has these categories of Members:

- (a) Ordinary Member - any person of at least 18 years of age who has applied in the correct form and whose application has been approved by the Board under clause 3.3;
- (b) Body Corporate – a body corporate which has applied in the correct form and whose application has been approved by the Board under clause 3.3; and
- (c) such other categories of membership as may be determined by the Board upon terms and conditions stipulated by the Board.

3.3 Application for Membership

- (a) Every application for membership of the Company after the date of adoption of this Constitution must be:
 - (1) in the form prescribed by the Board;
 - (2) accompanied by all relevant applicant details required by that form; and

- (3) accompanied by the subscription fee (if any) for the relevant category of membership.
- (b) At the next meeting of the Board after the receipt of an application for membership in proper form, the Board must consider the application and decide whether to admit or reject the admission of the applicant. The Board need not give any reason for rejecting an application.

3.4 Subscription Fee

- (a) The Board may from time to time prescribe an annual subscription for any category of Members and the terms of payment of such annual subscriptions. If an annual subscription has been set for particular categories of Members, each Member of that category must pay the annual subscription.
- (b) The Board may in its absolute discretion vary the amount of any annual subscription and may determine that a different amount is payable by different categories of Members.
- (c) Unless notified otherwise, an annual subscription fee is as last prescribed by the Directors and notified to the Members concerned.

3.5 Register of Members

The Register of Members must show the category of membership of each Member and is conclusive of the category of membership.

3.6 Address of Members

Every Member must promptly communicate any change in his or her address to the Company in writing and any such change of address must be entered in the Register of Members. The latest address in the Register of Members is deemed to be the Member's registered address.

3.7 No Transfer of Membership

Membership is personal to the Member and is not transferable.

4. Cessation of Membership

4.1 Death, Resignation and Other Events

A person immediately ceases to be a Member if the person:

- (a) dies or, being a body corporate, is dissolved;
- (b) resigns as a Member by giving written notice to the Company;
- (c) becomes an insolvent under administration or an externally administered body corporate or makes any composition or arrangement with their creditors, or any class of them;
- (d) is expelled under clause 4.3; or
- (e) becomes, in the opinion of the Board (acting reasonably), an untraceable Member because the person has not responded to at least 2 letters sent at least 6 months apart to their registered address.

4.2 Failure to Pay Annual Subscription

A Member who fails to pay an annual subscription set by the Board within six months of the due date is deemed to have resigned from the Company unless the Board resolves otherwise.

4.3 Expulsion

- (a) The Board may by resolution expel a Member from the Company if, in its absolute discretion, it decides it is not in the Company's interests for the person to remain a Member.
- (b) If the Board intends to propose a resolution under clause 4.3 (a), at least two weeks before the meeting at which the resolution is to be proposed, it must give the Member written notice:
 - (1) stating the date, place and time of the meeting;
 - (2) setting out the intended resolution and the grounds on which it is based; and
 - (3) informing the Member that they may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.
- (c) If a Member is expelled the Member's name will be removed from the Register of Members.

5. General Meetings

5.1 Calling General Meetings

- (a) An Annual General Meeting of the Company must be held in accordance with the Act.
- (b) A general meeting may only be called:
 - (1) by resolution of the Board; or
 - (2) as otherwise permitted under the Act.
- (c) The Board may postpone, cancel or change the place for a general meeting if they consider that the meeting has become unnecessary, or the meeting place would be unreasonable or impractical or a change is necessary in the interests of conducting the meeting efficiently, but:
 - (1) a meeting which is not called by the Board's resolution; or
 - (2) a meeting which is called in accordance with a Members' requisition under the Actmay not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.
- (d) The Board must give notice of the postponement or cancellation to all persons entitled to receive notices of that meeting.
- (e) Any Members postponing or cancelling a meeting must pay the expenses of the postponement or cancellation unless the Board determines otherwise.

5.2 Notice of General Meetings

- (a) Notice of every general meeting must be given in any manner authorised by clause 13 to:
 - (1) every Member entitled to vote at the general meeting;
 - (2) each Director;
 - (3) the Auditor; and
 - (4) the Patrons and Vice Patrons.No other person is entitled to receive notice of general meetings.
- (b) A notice of a general meeting must
 - (1) specify the date, time and place of the meeting;
 - (2) if the meeting is to be held in two or more places, specify the technology that will be used to facilitate this;

- (3) if voting on a specified resolution can be made using an Electronic Voting System, specify the system and if voting can occur prior to the general meeting and when voting opens and closes on that resolution; and
 - (2) except as the Act allows or requires, state the general nature of the business to be transacted at the meeting.
- (c) Unless the Act provides otherwise:
 - (1) no business may be transacted at a general meeting unless the general nature of the business is stated in the notice of general meeting and, if a resolution is set out in that notice, no business may be transacted that is not in substance the same as that resolution; and
 - (2) no person may move any amendment to a proposed resolution the terms of which are set out in the notice of general meeting or to a document which relates to such a resolution and a copy of which has been made available to Members to inspect or obtain, except with the approval of the majority of the Members voting at the meeting.

5.3 Admission to General Meetings

Any person (whether a Member or not) requested by the Board or the Chief Executive to attend any general meeting is entitled to be present at and, at the request of the Chairperson, to speak at that general meeting.

5.4 Quorum at General Meetings

- (a) The quorum for a general meeting of the Members consists of 20 Members entitled to vote at the meeting and the quorum must be present at all times during the meeting.
- (b) A proxy given to the Chairperson in writing and received by the Company at least 48 hours prior to the meeting will be counted as one member for the purposes of determining whether a quorum is present.
- (c) A Member will be considered to be present at a meeting if the notice of general meeting stipulates that a member may attend by electronic means, the details of which are specified in the notice of general meeting.
- (d) Where a Member attends a meeting by electronic means they are taken to be present in person at the meeting provided they can be identified by the Chairperson during the general meeting.
- (e) A general meeting by electronic means is taken as held at the place nominated in the notice of general meeting, provided the Chairperson and at least one other Member is at that place for the duration of that general meeting.
- (f) In determining whether a quorum is present, individuals attending as proxies, attorneys or body corporate representatives are counted. If an individual is attending both as a Member and as a proxy, attorney or body corporate representative, the individual is counted only once.
- (g) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (1) where the meeting was convened on the requisition of Members, the meeting must be dissolved; or
 - (2) in any other case the meeting stands adjourned to the day, and at the time and place, that the Directors decide or, if the Directors do not make a decision, to the same day in the next week at the same time and place. If, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the Members present (being not less than 2) will constitute the quorum.

5.5 Chairperson of General Meetings

The Chairperson of a general meeting must be in this order:

- (a) the President;
- (b) if the President is not available or declines to act, a Director elected by the Directors present; or
- (c) if no Director is available or willing to act, a Member elected by the Members present (or their proxies or body corporate representatives).

If during a general meeting the Chairperson is unwilling to chair any part of the proceedings, the Chairperson may withdraw during that part of the proceedings and may nominate any person present to act as Chairperson during that part of the proceedings. At the conclusion of the relevant part of the proceedings, the acting Chairperson must withdraw and the initial Chairperson resumes as Chairperson of the meeting.

5.6 Conducting and Adjourning General Meetings

- (a) The Chairperson of a general meeting has conduct of the meeting and may determine the procedures to be followed, subject to the general law and the requirements of the Act.
- (b) A question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the Chairperson of the meeting, whose decision is final.
- (c) The Chairperson must adjourn a general meeting if the Members present with a majority of votes at the meeting so agree or direct that the Chairperson must do so. The Chairperson may adjourn a meeting with the meeting's consent on a show of hands.
- (d) Subject to clause 5.7(d), a poll cannot be demanded on a resolution concerning the adjournment of a meeting except by the Chairperson.
- (e) Only unfinished business is to be transacted at a meeting of the Members resumed after an adjournment.
- (f) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.
- (g) Except as provided by clause 5.6 (i), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

5.7 Voting at General Meetings

- (a) Except where by law a resolution requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by or for the Members at the meeting. Such a decision is for all purposes a decision of the Members.
- (b) Where the votes on a proposed resolution are equal, the Chairperson of the meeting has a casting vote in addition to his or her deliberative vote.
- (c) Subject to clause 5.7(d), a resolution put to the vote of a general meeting must be decided on a show of hands unless, before the vote is taken or before or immediately after the declaration of the result of the show of hands, a poll is demanded by:
 - (1) the Chairperson of the meeting; or
 - (2) Members in accordance with the Act.
- (d) If Members are present at the meeting by electronic means the Chairperson must demand a poll on resolutions put to the general meeting.

- (e) If a Member has voted on a resolution by using an Electronic Voting System prior to a meeting the Member may not cast another vote on the resolution at the meeting, whether personally, by proxy or by attorney.
- (f) Before a meeting votes on a resolution, the Chairperson must inform the meeting if any votes have been received by electronic means prior to the meeting by using an Electronic Voting System and if so:
 - (1) how many of such votes the Company has received; and
 - (2) how such votes have been cast.
- (g) A demand for a poll does not prevent a general meeting continuing transact any other business except the question on which the poll has been demanded.
- (h) Unless a poll is duly demanded, a declaration by the Chairperson of a general meeting that a resolution has been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (i) If a poll is duly demanded at a general meeting, it must be taken in such manner and either at once or after an interval or adjournment of not more than 14 days, as the Chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded.
- (j) A poll demanded at a general meeting on the election of a Chairperson of the meeting or on a question of adjournment must be taken immediately.
- (k) Subject to clause 5.7(d), the demand for a poll may be withdrawn.

5.8 Voting Rights

- (a) Subject to this Constitution and to any rights or restrictions attached to any category of membership, at a general meeting every Member present in person or by electronic means, or by proxy, or by attorney or body corporate representative has one vote.
- (b) Subject to clause 5.7(e), on a poll, a proxy is entitled to a separate vote for each Member the person represents, in addition to any vote the person may have as a Member in his or her own right.
- (c) An objection to the qualification of a person to vote may be raised only at the meeting or adjourned meeting at which the vote objected to is tendered. Any objection must be referred to the Chairperson of the meeting, whose decision is final. A vote allowed after an objection is valid for all purposes.

5.9 Representation at General Meetings

- (a) A Member may appoint one proxy. A proxy need not be a Member.
- (b) An instrument appointing a proxy must be in writing and signed by the appointor or by the appointor's attorney duly authorised in writing, but may otherwise be in any form (including electronic) that the Board may accept or stipulate.
- (c) Subject to clause 5.7(e), a proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.
- (d) An instrument appointing a proxy or an attorney to act on behalf of a Member must be received by the Company at least 48 hours (or any shorter period as the Board may permit) before the commencement of the meeting or adjourned meeting at which the proxy or attorney proposes to vote. The Board may require evidence of the validity and non-revocation of a power of attorney.
- (e) For the purposes of clause 5.9 (d), the Company receives these documents when they are received at any of the following:
 - (1) the Company's registered office;

- (2) a fax number at the Company's registered office; or
 - (3) a place, fax number or electronic address specified for the purpose in the notice of meeting.
- (f) A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:
 - (1) the previous death or unsoundness of mind of the principal or, in case of a body corporate, the dissolution of the principal; or
 - (2) the revocation of the instrument (or of the authority under which the instrument was executed) or the power;provided that no notice in writing of the death, unsoundness of mind, dissolution or revocation has been received by the Company at its registered office not less than 48 hours (or any shorter period as the Board may permit) before the commencement of the meeting, or adjourned meeting, at which the instrument is used or the power is exercised.
- (g) A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes at the meeting on the resolution for which the proxy is proposed to be used.
- (h) Where the instrument does not specify the name of a proxy, the instrument is taken to be given in favour of the Chairperson of the meeting.

6. Directors

6.1 Directors' Powers

Subject to the Act and this Constitution, the business of the Company is managed by the Board, which 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.

6.2 Composition of the Board

- (a) At any time there must be at least 6 Directors and there must not be more than 10 Directors in office.
- (b) Except for the Chief Executive, at all times a Director must be a Member, and must not be an employee of the Company.

6.3 Appointing and Removing Directors

- (a) Six Directors must be elected by the Members in a general meeting, to hold office subject to clauses 6.5 and 6.6 for a period of three years.
- (b) In addition to the Directors elected under clause 6.3 (a):
 - (1) three Directors may be appointed by the Board, to hold office subject to clauses 6.5 and 6.6 for a period of up to 3 years; and
 - (2) subject to clause 9.1 ('Chief Executive'), the Board may at any time appoint the Chief Executive as a Director.
- (c) Subject to an allowance for reasonable time required to solicit appropriate appointee Directors, the Directors must take reasonable action to ensure the Board consists of the maximum number of Directors at all times.
- (d) A Director may only hold office for a maximum number of nine consecutive years from a date of first election or appointment to the Board provided that in the case of the President, and subject to Clause 8e(4), the other Directors may with the prior consent of the Members in general meeting, unanimously agree to extend the term of office of the President as a Director to a maximum of 12 consecutive

- years from the date of their first election or appointment provided that their term of office as President will not exceed 72 continuous months as a consequence.
- (e) A Director must retire from office at the end of the third annual general meeting following the Director's last appointment or 36 months, whichever is longer.
 - (f) The Board may appoint a Member as a Director to fill a casual vacancy on the Board.
 - (g) A Director appointed under clause 6.3 (f) to fill a casual vacancy holds office for the balance of the term of the vacating Director.
 - (h) At each Annual General Meeting of the Company, at least one third of the Board must retire.
 - (i) The Directors who must retire are those who have been on the Board for the longest period of time since they were last elected.
 - (j) If some of the Directors have been on the Board for the same length of time, they may decide amongst themselves who is to retire. If they cannot agree on who must retire, it must be decided by lot.
 - (k) The Chief Executive, while he or she is a Director:
 - (1) is not subject to retirement by rotation;
 - (2) is not taken into account in determining the retirement by rotation of Directors;
 - (3) is subject to any contract between him or her and the Company and to this Constitution (including the same provisions as to resignation, and removal as apply to the other Directors);
 - (4) immediately ceases to be a Director if he or she ceases to be the Chief Executive; and
 - (5) shall be subject to the control of the Board.

6.4 Election of Directors

- (a) Any person wishing to be elected as a Director by the Members in general meeting must lodge a nomination form signed by themselves and by two other Members.
- (b) Nomination forms must be lodged with the Secretary at least 35 days before the date of the Annual General Meeting.
- (c) If there are more nominations received than vacancies, a ballot must be held in the manner the Chairperson determines.

6.5 Resignation of Directors

- (a) Any Director may resign from office by giving one month's notice to the Board.
- (b) Resignation takes effect at the expiration of the notice period, or when the resignation is accepted, whichever is earlier.

6.6 When Office of Director Becomes Vacant

In addition to the circumstances prescribed by the Act, the office of a Director becomes vacant if the Director:

- (a) (excepting the Chief Executive) ceases to be a Member;
- (b) absents himself or herself from three consecutive meetings of the Board without special leave of absence from the Board and the Board resolves that the person's office be vacated;

- (c) 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;
- (d) becomes an insolvent under administration or makes any composition or arrangement with his or her creditors, or any class of them; or
- (e) resigns by written notice to the Company pursuant to clause 6.5.

6.7 Director's Interests

- (a) A Director is not disqualified from the Director's office by contracting with the Company in any capacity by reason of holding the office of Director.
- (b) In relation to a contract or arrangement in which a Director has a material personal interest:
 - (1) the fact that the Director signed the document evidencing the contract or arrangement will not in any way affect its validity;
 - (2) a contract or arrangement made by the Company with a Director may not be avoided merely because the Director is a party to the contract or arrangement or otherwise interested in it; and
 - (3) the Director will not be liable to account to the Company for any profit derived in respect of the contract or arrangement merely because of the Director's office or the fiduciary relationship it entails.
- (c) Subject to clause 6.7 (d), a Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of his or her interest.
- (d) A Director with a material personal interest in a matter that relates to the affairs of the Company is not required to give notice in the following circumstances:
 - (1) if all of the following conditions are met:
 - (i) the Director has already given notice of the nature and extent of the interest and its relation to the affairs of the Company;
 - (ii) if a person who was not a Director at the time the notice was given is appointed as a Director, the notice is given to that person; and
 - (iii) the nature or extent of the interest has not materially increased above that disclosed in the notice;
 - (2) if the Director has given a standing notice of the nature and extent of the interest in accordance with the Act and that standing notice is still effective in relation to the interest; or
 - (3) as otherwise permitted under the Act.
- (e) Notices of material personal interest given by Directors must:
 - (1) give details of the nature and extent of the Director's interest and the relation of the interest to the affairs of the Company;
 - (2) be given at a Board meeting as soon as practicable after the Director becomes aware of their interest in the matter; and
 - (3) be recorded in the minutes of the Board meeting at which the notice is given.
- (f) A Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present while the matter is being considered at the meeting or vote on the matter, except in the following circumstances:
 - (1) if the material personal interest is not required to be disclosed under this clause or under the Act; or
 - (2) if the Directors who do not have a material personal interest in the matter have passed a resolution that:

- (i) identified the Director, the nature and the extent of the Director's interest in the matter and its relation to the affairs of the Company; and
 - (ii) stated that those Directors are satisfied that the interest should not disqualify the Director from voting or being present; or
- (3) as otherwise permitted under the Act.
- (g) Nothing in this clause affects the duty of a Director:
 - (1) who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with the Directors' duties or interests as a Director, to declare at a meeting of the Board, the fact and the nature, character and extent of the conflict; or
 - (2) to comply with the Act or any policy prescribed by the Board.

6.8 Payments to Directors

- (a) No payments may be made by the Company to a Director apart from:
 - (1) the payment or reimbursement of out-of-pocket expenses incurred by a Director in the performance of any duty as Director where the amount payable does not exceed an amount previously approved by the Board;
 - (2) payment for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity of Director, where the provision of the service has the prior approval of the Board, the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
 - (3) where the Chief Executive has been appointed as a Director under clause 9.1(d) ('Chief Executive'), payment of any salary, wage or other benefit due to the Chief Executive as an employee of the Company on the terms of the Chief Executive's appointment and employment which were approved by the Board; and
 - (4) payment to a Director who renders or is called upon to perform extra services or to make any special exertions in connection with the affairs of the Company, in which case the Board may arrange for a special remuneration to be paid to that Director, where:
 - (i) the provision of the service has the approval of the Board; and
 - (ii) the amount payable is not more than an amount which commercially would be reasonable payment for the services.
- (b) For the avoidance of doubt, the payment of a special remuneration or any other amount under this clause 6.8 does not render a Director an employee of the Company.

6.9 Insurance of Directors

Subject to the Act, the Company may pay a premium for a contract insuring a person who is or has been an officer against a liability incurred as an officer.

7. Meetings of Directors

7.1 Proceedings of Directors

- (a) Subject to the Act and this Constitution, the Board may meet, adjourn and regulate their meetings as it determines.
- (b) The contemporaneous linking together by telephone or other electronic means of a sufficient number of the Directors to constitute a quorum constitutes a meeting of the Directors. All the provisions in this Constitution relating to meetings of the

Directors apply, so far as they can and with any necessary changes, to meetings of the Directors by telephone or other electronic means.

- (c) A Director who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is taken as held at the place decided by the Chairperson of the meeting, as long as at least one of the Directors involved was at that place for the duration of the meeting.

7.2 Convening Meetings of Directors

- (a) A Director may call for a meeting of the Board whenever he or she thinks fit.
- (b) The Secretary must, on the requisition of a Director, convene a meeting of the Board.

7.3 Notice of Meetings of Directors

- (a) Subject to this Constitution, notice of a meeting of the Board must be given to each person who is at the time of giving the notice a Director, except a Director on leave of absence approved by the Directors.
- (b) A notice of a meeting of the Board:
 - (1) must specify the time and place of the meeting;
 - (2) need not state the nature of the business to be transacted at the meeting;
 - (3) may be given at least 24 hours before the meeting; and
 - (4) may be given in person or by post, telephone, fax or other electronic means.
- (c) A Director may waive notice of a meeting of the Board by notifying the Company to that effect in person or by post, telephone, fax or other electronic means.
- (d) Attendance by a person at a meeting of the Board waives any objection which that person may have to a failure to give notice of the meeting.

7.4 Quorum at Meetings of Directors

- (a) No business may be transacted at a meeting of the Board unless a quorum of Directors is present at the time the business is dealt with.
- (b) The quorum for a meeting of the Board is half the total number (rounded up) of Directors in office. The quorum must be present at all times during the meeting.
- (c) If there is a vacancy in the office of a Director then, subject to this clause, the remaining Directors may act.
- (d) If the number of Directors in office at any time is less than the minimum number of Directors fixed under this Constitution, the remaining Directors must act as soon as possible to increase the number of Directors to a number required under this Constitution by:
 - (1) convening a general meeting of the Company for that purpose; or
 - (2) appointing additional Directors.

Until this has happened, the Directors may only act if and to the extent that there is an emergency requiring them to act.

7.5 Chairperson of Directors

- (a) The President must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as Chairperson of Directors at each meeting of Directors.
- (b) If at a meeting of Directors:
 - (1) there is no President;

- (2) the President is not present within 15 minutes after the time appointed for the meeting; or
 - (2) the President is present within that time but is not willing or able to act as Chairperson of the meeting,
- the Directors present must elect one of themselves to be Chairperson of the meeting.

7.6 Decisions of Directors

- (a) A meeting of Directors at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Directors under this Constitution.
- (b) Questions arising at a meeting of Directors must be decided by a majority of votes cast by the Directors present. Such a decision is for all purposes a decision of the Directors.
- (c) Where the votes on a proposed resolution are equal, the Chairperson of the meeting has a casting vote in addition to his or her deliberative vote.

7.7 Resolutions of Directors

- (a) The Directors may pass a resolution without a Directors' meeting being held if a majority of the Directors entitled to vote on the resolution (and being not less than the number required for a quorum at a Directors' meeting) sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) The resolution is passed when the last Director required to make up a majority signs.
- (c) Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (d) A document referred to in this clause must be sent to every Director entitled to vote on the resolution (whether or not the Director signs the document).

7.8 Committees of Directors

- (a) A committee to which any powers have been delegated must exercise the powers delegated in accordance with any directions given by the Directors.
- (b) Subject to clause 7.8 (c), the provisions of this Constitution that apply to meetings and resolutions of Directors apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee of Directors.
- (c) At each meeting of the committee, the committee may elect any Director who is a member of the committee to act as Chairperson of the meeting.

7.9 Delegation of Powers by Directors

A delegation of powers by the Directors:

- (a) may authorise the delegate to sub-delegate all or any of the powers vested in the delegate; and
- (b) may be concurrent with or to the exclusion of the exercise by the Directors of those powers.

7.10 Delegation to Individual Directors

- (a) The Directors may delegate any of their powers to one Director.
- (b) A Director to whom any powers have been delegated must exercise the powers delegated in accordance with any directions given by the Directors.

8. President

- (a) At all times the Company must have one President.

- (b) At their first meeting after an Annual General Meeting, the Directors must elect the President who will hold office for one year or until the first meeting of the Directors after the next Annual General Meeting.
- (c) A President must be a Director.
- (d) The Board appoints a President.
- (e) Subject to paragraph (f), a person ceases to be President if and when either:
 - (1) they cease to be a Director;
 - (2) they resign the office by written notice to the Company; or
 - (3) they are removed from that office by the Board.
 - (4) they have held the office for a continuous 72 months.
- (f) On or before the end of period in clause 8(e)(4), or any extension granted under this paragraph, the other Directors may by unanimous vote extend the term of office of the President for up to 12 months, provided that any extension must not exceed the maximum period of tenure under clause 6.3(d).
- (g) A President is entitled to:
 - (1) chair all meetings of the Directors at which the President is present;
 - (2) chair all meetings of the Members at which the President is present; and
 - (3) represent the Company in dealings with all media.

9. Corporate Positions

9.1 Chief Executive

- (a) The Board may appoint any person to be the Chief Executive of the Company for the period and on the terms, including as to remuneration, as the Board sees fit.
- (b) The Board may revoke or vary an appointment of a Chief Executive subject to any agreement made between the Chief Executive and the Company.
- (c) Without limiting clause 7.9 ('Delegation of Powers by Directors'), the Board may delegate to the Chief Executive any of its powers.
- (d) Provided that the Board has first determined that it is in the best interests of the Company, the Board may appoint the Chief Executive as a Director pursuant to clause 6.3 ('Appointing and Removing Directors').
- (e) If the Chief Executive is not a Director, he or she may attend Board meetings at the Board's invitation.

9.2 Secretary

The Board must appoint a person to act as Secretary of the Company and may determine the terms and conditions of the appointment as it sees fit.

9.3 Auditor

Subject to the Act, the Board must appoint a person to act as Auditor of the Company and may determine the terms and conditions as it sees fit.

9.4 Patrons and Vice Patrons

The Board may appoint Patrons and Vice Patrons on the terms and conditions as it sees fit. A Patron and a Vice Patron may but need not be a Member.

10. Inspection of and Access to Records

- (a) A person who is not a Director does not have the right to inspect any of the Board papers, books, records or documents of the Company, except as provided by

law, this Constitution or as authorised by the Board or by a resolution of the Members.

- (b) The Company may enter into contracts with its Directors agreeing to provide continuing access for a specified period after the Director ceases to be a Director to Board papers, books, records and documents of the Company which relate to the period during which the Director was a Director on such terms and conditions as the Board thinks fit and which are not inconsistent with this clause 10.

11. Indemnity and Insurance

11.1 Persons to Whom Clauses 11.2 and 11.4 Apply

Clauses 11.2 and 11.4 apply to an officer of the Company, namely:

- (a) each person who is or has been a Director, Chief Executive, or Secretary of the Company; and
- (b) any employee or former employee of the Company or of its related bodies corporate that the Board decides in each case.

11.2 Indemnity

The Company must:

- (a) indemnify; and
- (b) if requested by a person to whom this clause 11.2 applies, enter into a deed indemnifying,

on a full indemnity basis and to the full extent permitted by law, each person to whom this clause 11.2 applies for all losses or liabilities incurred by the person as an officer of the Company or of a related body corporate (including costs and expenses).

11.3 Extent of Indemnity

The indemnity in clause 11.2:

- (a) is a continuing obligation and is enforceable by a person to whom clause 11.2 applies even though that person has ceased to be an officer of the Company or of a related body corporate; and
- (b) operates only to the extent that the loss or liability is not covered by insurance.

11.4 Insurance

The Company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this clause 11.4 applies against any liability incurred by the person as an officer of the Company or of a related body corporate.

11.5 Savings

Nothing in rules 11.2 or 11.4:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any loss or liability referred to in those rules; or
- (c) limits the capacity of the Company to indemnify or provide insurance for any person to whom those rules do not apply.

12. Negotiable Instruments

Any two persons at the time appointed by the Directors may sign, draw, accept, endorse or otherwise execute a negotiable instrument. The Directors may determine

that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

13. Notices

- (a) The Company may give to a Member or former Member a notice required under this document or the Act:
 - (1) personally;
 - (2) by sending it by post to the address for the person in the Register of Members or an alternative address (if any) nominated by the person;
 - (3) by sending it to the fax number or electronic mail address (if any) nominated by the person; or
 - (4) by any other means the Act permits.
- (b) A notice sent by post is taken to be given on the fifth business day after it is posted. A notice sent by fax, or other electronic means, is taken to be given on the business day after it is sent.

14. Transfer of Assets on Winding Up

If on the winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatever, that property may not be paid to or distributed among any Members, but must be given or transferred to another institution or institutions:

- (a) having objects similar to the objects of the Company and which is both a public benevolent institution for the purpose of any Commonwealth Act and a deductible gift recipient under the *Income Tax Assessment Act 1997* (as may be amended from time to time); and
- (b) 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 this Constitution,

such institution or institutions to be determined by Members at or before the time of dissolution or, failing such a determination, by application to the Supreme Court of South Australia.