
***Constitution of Australian
Organic Limited***

Public Company Limited by Guarantee

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1. Preliminary

1.1 Definitions

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

Appeal Period has the meaning set out in article 8.21.1(a)(i).

Approval Date means the date that this Constitution was adopted at the annual general meeting of the Company.

Associate Member means a Member in any Category of Member in the “Associate Member” Class of Member as provided in article 4.

Auditor means a person appointed as auditor of the Company.

Australian Organic Industry means the Australian organic industry, including but not limited to, the industry of food, fibre and cosmetics production in accordance with organic production principles.

Board means the board of Directors of the Company.

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

Class of Members has the meaning set out in article 4.2.

Category of Members has the meaning set out in article 4.3(a).

Chairperson means the chairperson of the Company elected under article 17.7.

Company means Australian Organic Limited (ACN 075 676 327).

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

Corporate Member means a Member which is a body corporate.

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

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

Corporations Act means the Corporations Act 2001 (Cth).

Determination Date means 27 November 2017.

Director means an individual occupying the position of director of the Company.

Disciplinary Committee means a committee established for the purposes of article 8 and in accordance with article 20 .

Document includes, without limitation, any document, agreement, deed, instrument, notice, form, consent, notice of meeting, written resolution or determination, minutes of meeting or communication.

Electronic Signature means:

- (a) an encrypted signature applied using a proprietary program which is applied following verification of an individual's identity;
- (b) the digital image of an individual's manuscript signature (regardless of whether it is a digitally generated image, or a scanned copy of a physically signed Document);
- (c) use of a click button on a website or electronic program to indicate a user has accepted or agreed to the terms of a Document; or
- (d) any other electronic or digital process by which an individual accepts the terms of a Document for themselves or on behalf of another person.

Financial Member, at any date, means a Member who has fully paid all application fees, membership fees and license fees (if any) due and payable to the Company by the Member as at that date.

Initial Resolution has the meaning set out in article 8.1.

Joint Members has the meaning set out in article 6.2 and **Joint Membership** shall have the corresponding meaning, as the context requires.

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

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

Objects means the objects of the Company as set out in article 2.3.

Ordinary Member means a Member in any Category of Member in the "Ordinary Member" Class of Members as provided in article 4.

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

Organic Certificate means a certificate that certifies that the holder is an organic operator and is licensed to use the trademark no. 1265566, being the bud logo, in any one or more of classes 1, 3, 4, 5, 18, 23, 24, 25, 29, 30, 31, 32, 33, 35, 41 and 42 and any other trademark including that bud logo.

Organic Qualification means a certificate, registration or other qualification, accepted by the Board in its absolute discretion, that authorises the holder to represent that their products, services, business or processes, as applicable, are “organic” by reference to an Australian national standard applying from time to time.

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

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

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

Registered Office means the registered office of the Company.

Related Body Corporate has the meaning in the Corporations Act.

Seal means the common seal of the Company.

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

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

Subsequent Resolution has the meaning given in article 8.5(a).8.4(b)

Subsidiary has the meaning in the Corporations Act.

Tax Law means the *Income Tax Assessment Act 1997* (Cth).

Voting Member means, subject to the Constitution, a Member in a Category of Members the rights attached to which include an entitlement to vote at a Meeting of Members.

1.2 Interpretation

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

- (a) an expression importing a natural person includes any individual, company, partnership, joint venture, association, corporation, other body corporate or trust and any government agency;
- (b) words denoting any gender include all genders;
- (c) words importing the singular include the plural and vice versa;
- (d) all monetary amounts are in Australian currency;
- (e) references to any legislation or to any section or provision of any legislation include any statutory modification, replacement or re-enactment of it or any statutory provision substituted

for it, any ordinances, by-laws, regulations and other statutory instruments issued under it and any determination, exemption or modification made pursuant to it;

- (f) a reference to time refers to time in the place of the Company's registration;
- (g) the word "month" means calendar month and the word "year" means 12 calendar months;
- (h) a reference to writing includes any communication sent by post or facsimile, email or other electronic transmission;
- (i) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (j) the headings used in this Constitution do not form part of, or affect the construction or interpretation of, this Constitution; and
- (k) virtual meeting technology includes all electronic, digital and other means by which persons are able to attend and participate in a meeting without being physically present in the same place.

1.3 Exercise of Power

Subject to this Constitution, the Company may exercise, by Ordinary Resolution or Special Resolution as the Corporations Act requires, any power which under the Corporations Act may be exercised by a company limited by guarantee if authorised by its constitution.

1.4 Guidance Notes

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

1.5 Exclusion of Replaceable Rules

This Constitution displaces the replaceable rules in the Corporations Act so that they do not apply to the Company.

1.6 Execution by Electronic Signature

- (a) The Company and any Director, Secretary, officer or Member (or any signatory or attorney on behalf of any of them) may sign or execute any Document under this Constitution or in relation to the Company by Electronic Signature.
- (b) The Company and any Director, secretary, officer or Member:
 - (i) consents to receiving any Document in electronic or digital form or by receipt of information sufficient to allow access to the Document electronically, subject to a current election by a Member of a right under the Corporations Act or this Constitution to receive a hard copy;

- (ii) consents to the use of Electronic Signature;
- (iii) acknowledges that the use of Electronic Signature is an appropriately reliable method for the purposes of this Constitution to identify each signatory for any Document and to indicate that signatory's intention in respect of the contents of the Document;
- (iv) acknowledges that a requirement for writing or written form or physical or vellum form may be satisfied in electronic or digital form;
- (v) acknowledges that a requirement for any Document to be signed or executed may be satisfied by Electronic Signature;
- (vi) warrants that, if a Document has been signed or executed using their Electronic Signature, they have applied (or their duly authorised signatories have applied) the Electronic Signature to the Document, or approved the application of the Electronic Signature to the Document on their behalf; and
- (vii) agrees that Electronic Signature is legally effective execution and conclusive as to their intention to be bound by this Constitution, or a Document as if signed by that person (or any of its duly authorised signatory's) manuscript signature.

1.7 **Preservation**

Nothing in this Constitution prejudices or adversely affects any right, power, authority, discretion, appointment, resolution or action taken under the prior Constitution before the Approval Date.

2. Formation

2.1 **Name**

The name of the Company is Australian Organic Limited.

2.2 **Not-for-profit**

The Company must operate on a not-for-profit basis.

2.3 **Objects**

The principal object for which the Company is established and maintained is to promote the development of the agricultural and environmental resources of Australia particularly in the area of organic and biological farming, including, without limitation, by:

- (a) researching and building data and other agricultural and environmental information resources to be accessible and available for the education and support of producers, consumers and marketers of Australian organic products;

- (b) coordinating, supporting and promoting reputable, recognised and consistent quality standards for Australian certified organic products;
- (c) promoting and increasing awareness of, and trust in, the quality, benefits and standard of Australian organically certified products and actively promoting and increasing the good reputation and value to Australian agriculture of the Australian Organic Industry;
- (d) representing and furthering the interests of the Australian Organic Industry with respect to both national and international issues, including by coordinating and consolidating the voice and the resources of the Australian Organic Industry through the Company as its peak body;
- (e) fostering understanding and unity within the Australian Organic Industry so as to create and maintain an Australian Organic Industry that is regarded by its participants and recognized domestically and internationally by consumers as unified, effective and respected;
- (f) informing and influencing government and regulators, including working with government at all levels to ensure that the interests of the Australian Organic Industry are fully represented with respect to the design and implementation of public policy;
- (g) preparing for and responding to current and emerging issues that have a national and sector significance for the Australian Organic Industry;
- (h) promoting research into and advocating and encouraging sustainable practices and enabling technology transfers within Australian agriculture to protect the environment in the context of quality food production;
- (i) providing pathways for engaging with the Company in its capacity as the peak body for the Australian Organic Industry;
- (j) promoting connection, consultation, communication and education within Australian agriculture and particularly within the Australian Organic Industry including through state associations, sector bodies and other appropriate avenues; and
- (k) doing all such other things as may be incidental or conducive to the attainment of the principal object of the Company.

2.4 Powers

Solely for the purposes of carrying out the Objects, the Company has all the powers of a natural person including:

- (a) purchasing, selling, leasing, hiring or otherwise acquiring assets, plant, equipment, furniture and furnishings and giving, selling, leasing, hiring or otherwise allowing such assets, plant, equipment, furniture and furnishings to be used by a third party;

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

2.5 **Restriction on use of income**

The assets and income of the Company must:

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

For clarity, this article 2.5 does not prevent the Company from using its income to pay in good faith:

- (a) remuneration for services to the Company;
- (b) reasonable and proper remuneration to employees of the Company where the terms of employment have been previously approved by a resolution of the Board;
- (c) for goods supplied to the Company in the ordinary course of business which has the prior approval of the Board;
- (d) for services provided to the Company including services provided in a professional or technical capacity, where the provision of such services has the prior approval of the Board and is on reasonably commercial terms;
- (e) a commercial rate of interest on borrowed funds which has the prior approval of the Board;

- (f) a commercial rent for property used by the Company which has the prior approval of the Board;
or
- (g) out of pocket expenses incurred by a Director, a Member, an employee or contractor of the Company, on official business of the Company, which has been previously approved by the Board;

even if the recipient of the remuneration or the reimbursement is a Member or Director.

2.6 Amendment of Constitution

Any addition, alteration or amendment to the Company's Constitution will be made in accordance with the provisions of the Corporations Act and the Company must notify the Australian Taxation Office thereof, where required by law.

2.7 Liability of Members

The liability of the Members is limited.

2.8 Contribution on Winding Up and Dissolution of the Company

- (a) The Company may only be dissolved by a Special Resolution at a Meeting of Members.
- (b) If the Company is wound up, each Member undertakes to contribute to the:
 - (i) property of the Company while he or she is a Member, or within one year after he or she ceases to be a Member for payment of the debts and liabilities of the Company (contracted before he or she ceases to be a Member); and
 - (ii) costs, charges, and expenses of winding up and for the adjustment of the rights of the contributories among themselves;

such amount as may be required, but not exceeding ten dollars.

2.9 Surplus Property on Winding Up

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

- (iii) is a fund, authority or institution which is exempt from income tax under Division 50 of the Tax Law.
- (c) If the Members at a Meeting of Members do not approve a fund, authority or institution to be given the surplus property, the Supreme Court of Queensland may make an order deciding which organisation will be given the surplus property.

3. Accounts

3.1 Proper records

The Company must keep proper accounting and other records, including records of sums of money received and expended by the Company, and the manner in which such receipt and expenditure takes place, and of the property, credits and liabilities of the Company.

3.2 Auditor

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

3.3 Inspection of records

The Directors will determine whether and to what extent and at what times and places and under what conditions the financial records and other Documents or records of the Company or any of them will be open to inspection by Members other than Directors. A Member, other than a Director, does not have the right to inspect any Document of the Company except as authorised by the Directors, the Members' Meeting or in accordance with the Corporations Act.

4. Membership

4.1 Member

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

4.2 Classes of Members

Membership in the Company may be divided into classes as determined by the Board from time to time and subject to the Corporations Act. As at the Approval Date, the Company has two classes of Members (**Class of Members**) as follows:

- (a) Ordinary Members; and
- (b) Associate Members.

4.3 **Category of Member**

- (a) The Board may determine from time to time, subject to the Corporations Act, that there are one or more categories of membership within each Class of Members, including based on eligibility criteria (**Categories of Members**).
- (b) As at the Approval Date:
 - (i) there are two Categories of Members which are Ordinary Members as follows:
 - (A) Ordinary Certified Members; and
 - (B) Ordinary Grandfathered Members, andboth Categories of Ordinary Members are entitled to vote at Meetings of Members, subject to this Constitution; and
 - (ii) there are two Categories of Members which are Associate Members as follows:
 - (A) Associate Voting Members who are entitled to vote at Meetings of Members subject to this Constitution; and
 - (B) Associate Non-Voting Members, who are entitled to attend, but not entitled to vote, at Meetings of Members, subject to this Constitution.

4.4 **Eligibility to apply to become a Member**

- (a) Any person who is engaged or interested in the Australian Organic Industry is eligible to apply for membership in the Company.
- (b) Notwithstanding article 4.4(a), a person applying for membership after the Determination Date (regardless of whether they had at any earlier time been a Member) will only be entitled to be accepted, registered and to continue:
 - (i) as an Ordinary Certified Member: if they hold an Organic Certificate; and
 - (ii) as an Associate Voting Member: if they hold an Organic Qualification other than an Organic Certificate.
- (c) Persons who were Members at the Determination Date and who have not since ceased to be Members are Ordinary Grandfathered Members regardless of whether they hold an Organic Certificate or an Organic Qualification.
- (d) The Ordinary Grandfathered Members Category of Members is closed and no person applying to become a Member after the Determination Date may be admitted to this Category of Members.

- (e) Subject to the Corporations Act, the Board may determine the eligibility requirements applicable for each Class of Members or each Category of Members from time to time.

4.5 **Discretion to admit**

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

4.6 **Expulsion**

Subject to article 8, the Directors may at any time, despite the payment of the annual membership fee by a Member, expel a Member from the Company and remove such Member from the Register. If the removal is before the term has expired for which the Member's annual membership fee has been paid, the Member is not entitled to any refund of the membership fee.

4.7 **Member rights**

- (a) All Members are entitled to receive notices and to attend and speak at Meetings of Members.
- (b) Only a Voting Member who is a Financial Member is entitled to vote at a Meeting of Members.
- (c) A Member whose membership is suspended under article 8 is not entitled to exercise any rights as a Member for the period of the suspension.
- (d) Each Voting Member has the right to cast one vote on any matter on which they are entitled to vote, subject to this Constitution.

5. *Membership Fees*

5.1 **Determination of fees**

The Directors may, from time to time, determine:

- (a) the amount (if any) payable by an applicant as an entrance fee for membership;
- (b) the amount of an annual membership fee payable by each Class of Members or each Category of Members; and
- (c) the due date and payment terms for such amount(s) as determined under this article 5.1.

6. *Joint Members*

- 6.1 The Board may, in its absolute discretion, determine that a person(s) operating a business in partnership, joint venture or association with another person(s) may apply for a single shared membership in a Class of Members or a Category of Members in the Company.

- 6.2 A person holding a membership pursuant to article 6.1 will be known as a Joint Member and must be entered in the Register of Members as such.
- 6.3 For the avoidance of doubt, each Joint Member will jointly exist as one Member holding all of the rights afforded under the relevant Class of Members or Category of Members jointly, and will have all of the obligations under that relevant Class of Members or Category of Members jointly and severally.

7. Cessation of Membership

7.1 Cessation

A Member (including a Joint Member) ceases to be a Member if the Member (or a Joint Member):

- (a) is dissolved, where the Member is a body corporate;
- (b) dies, where the Member is a natural person;
- (c) being a Member required to pay an entrance fee or an annual fee for membership, has failed to pay any such fee within three months of its due date or such longer period as the Board determines for the purpose;
- (d) is expelled in accordance with article 4.6 and article 8;
- (e) resigns such membership; or
- (f) being an Ordinary Certified Member, ceases to hold (including after expiry, termination or withdrawal), or is suspended from holding, an Organic Certificate, for three months or such longer period as the Board determines for the purpose; or
- (g) being an Associate Voting Member, ceases to hold (including after expiry, termination or withdrawal), or is suspended from holding, an Organic Qualification, for three months or such longer period as the Board determines for the purpose.

7.2 Membership not transferable

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

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

8. Suspension and Expulsion of Members

8.1 Initial resolution of Directors

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

- (a) has refused or neglected to comply with a provision of this Constitution;
- (b) has acted in a manner that is injurious or prejudicial or contrary to the interests of the Company; or
- (c) has been guilty of conduct unbecoming a member including conduct consistently inconsistent with the Objects,

the Directors may, by resolution (**Initial Resolution**) and subject to the procedures set out in this article 8 determine to:

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

8.2 Notice to Member

The Secretary must, as soon as practicable following, and no later than 28 days after, the passing of the Initial Resolution, cause a notice in writing to be served on the Member in relation to the Initial Resolution and:

- (a) setting out the Initial Resolution of the Directors and the grounds on which it is based;
- (b) advising the Member that:
 - (i) they may appeal their suspension or expulsion (as the case requires) to the Disciplinary Committee, provided that their appeal is in writing and lodged with the Company within 21 days after service of the notice (**Appeal Period**);
 - (ii) they may elect in their notice of appeal to appear before and speak at the meeting of the Disciplinary Committee and/or to make written representations to the Disciplinary Committee;
 - (iii) in the event an appeal is lodged, a meeting of the Disciplinary Committee will be convened within two months of the receipt by the Company of the written appeal, unless the Member and the Company reach another agreement; and
 - (iv) the Member will receive not less than 21 days' notice of the date, time and place or electronic address for the meeting of the Disciplinary Committee.

8.3 **Consequences: no appeal**

If no appeal is lodged by the Member within the Appeal Period provided in article 8.2:

- (a) if the Initial Resolution provided for suspension of the Member, that suspension commences; or
- (b) if the Initial Resolution provided for expulsion of the Member, that expulsion is effective, immediately following expiry of the Appeal Period.

8.4 **Consequences: appeal**

At the meeting of the Disciplinary Committee, the committee members must:

- (a) give to the Member an opportunity to make personal oral representations, if they have so elected;
- (b) give due consideration to any written representations submitted by the Member at or prior to the meeting; and
- (c) by resolution reach a decision and within 7 days of the meeting make a recommendation to the Board to either confirm or revoke the Initial Resolution.

8.5 **Subsequent resolution of the Board**

- (a) Within 14 days of the decision of the Disciplinary Committee, the Board must determine by resolution to confirm or revoke the Initial Resolution (**Subsequent Resolution**).
- (b) The Secretary must, within 7 days of the passing of the Subsequent Resolution, by notice in writing inform the Member of the Subsequent Resolution.

8.6 **Effect of Subsequent Resolution**

The Subsequent Resolution takes effect on the last to occur of the date of the notice to the Member of the Subsequent Resolution given under article 8.5 and the date specified in that notice as the date for the Subsequent Resolution to take effect.

8.7 **Fees**

If a Member's membership is suspended or terminated, the Member continues to be liable for any annual membership fees due and unpaid at the date of termination or accruing during the period of suspension.

8.8 **Disciplinary Committee**

Notwithstanding any other provision of this Constitution, any Disciplinary Committee convened after the Approval Date will be comprised of not less than three (3) Members who are not Directors and who are natural persons, not employed by the Company and who, in the opinion of the Board, in its

absolute discretion, are not engaged in a business or other relationship that could materially interfere with or could reasonably be perceived to materially interfere with, the independent exercise by the Member of their judgment.

9. Meetings of Members

9.1 Time and place

As permitted by the Corporations Act or by regulations or guidelines of the Australian Securities and Investments Commission applying notwithstanding the Corporations Act, the Company may hold a Meeting of Members:

- (a) at any one or more physical venues;
- (b) at one or more physical venues and using virtual meeting technology; or
- (c) using virtual meeting technology only.

9.2 Annual general meeting

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

9.3 Calling of meetings

Any three (3) Directors may convene a general meeting of the Company.

9.4 Requisition of meeting

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

9.5 Notice of meeting

- (a) Subject to the provisions of the Corporations Act relating to Special Resolutions or which permit shorter notice, 21 clear days' notice (excluding both the date of service of the notice and the date of the meeting) of a Meeting of Members must be given to Members entitled to receive notice.
- (b) Notices of meeting and related Documents may be given to a Member or Director in any way that the law allows and to which the Member or Director has consented, including by article 1.6.
- (c) Without limiting the requirements of the Corporations Act, every notice of a Meeting of Members must:
 - (i) set out:

- (A) if there is only one location at which the Members who are entitled to physically attend the meeting may do so - the date, time and place of the meeting;
 - (B) if there are two or more locations at which Members who are entitled to physically attend the meeting may do so – the date and the time for the meeting at each location and the main location for the meeting;
 - (C) if held at one or more locations and using virtual meeting technology or if held using only virtual meeting technology, the technology that will be used to facilitate this and any details required to enable a Member to participate in that meeting by means of the technology;
- (ii) in the case of special business, state the general nature of the business;
 - (iii) if a Special Resolution is to be proposed, set out an intention to propose the Special Resolution and state the resolution;
 - (iv) in the case of an appointment of Directors, give the names and background information of the candidates for appointment; and
 - (v) contain a statement of the right to appoint a Proxy, being to the effect that:
 - (A) a Member entitled to attend is entitled to appoint a Proxy to attend and participate instead of the Member; and
 - (B) a Proxy must be a Member or the chairperson of the Meeting of Members.

9.6 **Entitlement to notice**

Notice of a Meeting of Members must be given to:

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

9.7 **Entitlement to Proxy Form**

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

9.8 **Omission to give notice**

The accidental omission to give notice of a Meeting of Members (or Proxy Form) to, or the non-receipt of any such notice (or Proxy Form) by a person entitled to receive it, or the accidental omission to

advertise (if necessary) such meeting, does not invalidate the proceedings at, or any resolution passed at, any such meeting.

9.9 **Consent to short notice**

Any Meeting of Members may be called on short notice and all provisions of this Constitution are modified accordingly, where the short notice has been consented to by Members in accordance with the Corporations Act.

9.10 **Cancellation and postponement**

- (a) The Directors may cancel or postpone the holding of any Meeting of Members as they see fit subject to the provisions of the Corporations Act and this Constitution.
- (b) If the Meeting of Members was called by requisitioning Members or in response to a requisition by Members, the Directors may only cancel or postpone the holding of that Meeting of Members with the consent of a majority of the requisitioning members or after withdrawal of the requisition.
- (c) The Directors may notify the Members of such cancellation or postponement by such means as they see fit.
- (d) If any meeting is postponed for 30 days or more, then no less than five days' notice must be sent to the Members of the postponed meeting but it is not necessary to specify in such notice the nature of the business to be transacted at the postponed meeting.

10. Representation at Meetings

10.1 **Parties entitled to attend**

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

- (a) each Member may attend, apart from any Member who under this Constitution or by the terms of their membership is not entitled to attend;
- (b) each Director, Secretary and Auditor may attend;
- (c) each person who is a Proxy, Corporate Representative or attorney of a Member may attend; and
- (d) other persons may attend if invited in accordance with a resolution of the Board approving their attendance.

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

10.2 Proxy Eligibility

Only another Member (including either person constituting a Joint Member) or the chairperson of the meeting is eligible to act as a Proxy.

10.3 Proxy Recognition

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

10.4 Proxy Form

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

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

10.5 Chairperson as fall-back proxy

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

10.6 Proxy execution

A Proxy Form must be executed:

- (a) in the case of a Member who is a natural person, by the:
 - (i) Member; or
 - (ii) attorney of the Member;
- (b) in the case of a Member which is a body corporate:
 - (i) under section 127(1) or section 127(2) of the Corporations Act;
 - (ii) by a duly authorised officer of the body; or

- (iii) by the attorney of the body.

10.7 Proxy lodgement

A Proxy Form appointing a proxy or attorney for a Meeting of Members accompanied by any authority or power under which the Proxy Form was signed or a certified copy of that power or authority, must be delivered at least 48 hours before the start of the Meeting of Members:

- (a) to the Company, whether by deposit at the Registered Office or such other place as is specified for that purpose in the notice of meeting; or
- (b) to the Company by facsimile transmission or email to a fax number, or by email address or other electronic means specified for that purpose in the notice of meeting.

10.8 Corporate representative recognition

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

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

10.9 Form and execution of Corporate Representative Certificate

The Corporate Representative Certificate:

- (a) must specify one natural person, by name or description, to act as the body corporate's representative either on a standing basis, or at specified meetings that the body corporate would be entitled to attend as a Member;
- (b) may specify another natural person, by name or description to act as Corporate Representative as an alternative to the person primarily nominated; and
- (c) must be executed
 - (i) under section 127(1) or section 127(2) of the Corporations Act; or
 - (ii) by a duly authorised officer or attorney of the body corporate.

10.10 Corporate Representative Certificate lodgement

The Corporate Representative Certificate (or a photocopy of it) must be delivered to the Company before it is relied upon, including:

- (a) to the chairperson of the meeting at any time prior to the Corporate Representative voting at the meeting; or
- (b) to the Company, whether by deposit at the Registered Office or such other place as is specified for that purpose in the notice of meeting by the start of the meeting; or
- (c) to the Company by facsimile, email or other electronic means specified for that purpose in the notice of meeting by the start of the meeting.

10.11 Power of attorney lodgement

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

11. Proceedings at Meetings of Members

11.1 Quorum

- (a) No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) Subject to the location or means by which meetings may be held under the law or applicable regulation, Members are present at a Meeting of Members for all purposes if and while they attend:
 - (i) in person, or by proxy; and
 - (ii) physically or by any virtual meeting technology that allows Members as a whole a reasonable opportunity to participate.
- (c) Unless otherwise determined by the Members in a general meeting, there will be quorum where the number of Financial Members present and entitled to vote is not less than twice the total number of Directors present plus one.
- (d) A quorum of Members must be present throughout each Meeting of Members. If a quorum is not present at any time, the meeting is not validly convened but this will not affect the validity of any business conducted before the absence of a quorum occurs.

11.2 Failure of quorum

If a quorum is not present within 30 minutes from the time appointed for a Meeting of Members:

- (a) where the meeting was called by, or in response to, the requisition of Members made under the Corporations Act, the meeting is dissolved; or

- (b) in any other case the meeting stands adjourned to such day, within 30 days after the adjourned meeting, and at such time and at such place or by such means (including virtual meeting technology) as the Directors specify;
- (c) if not specified by the Directors then:
 - (i) the date of the adjourned meeting is the same day in the next week;
 - (ii) the time of the adjourned meeting is the same time;
 - (iii) if any Members were entitled to attend physically, the location of the adjourned meeting is the same as the location or locations specified for the original meeting; and
 - (iv) if virtual meeting technology is necessary for participation in the adjourned meeting then participation in the adjourned meeting must be provided in the same manner as set out in the notice of the original meeting; and
- (d) if at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Members present constitute a quorum or if no Members are present, the meeting is dissolved.

11.3 **Business of annual general meeting**

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

11.4 **Special business**

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

11.5 **Chairperson of meeting**

The Chairperson is entitled to take the chair at each Meeting of Members. If the Chairperson is not present at any Meeting of Members within 15 minutes after the time appointed for holding such meeting, or is not willing to take the chair, the Directors present will appoint a Member as a chairperson. If no Director is present the Members present must elect a person, whether a Member or not, to be chairperson of the meeting.

11.6 **Passing the chair**

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

- (a) that chairperson may withdraw as chairperson for that part of the business and may nominate any person who would be entitled under article 11.5 to chair the meeting for that part of the business; and
- (b) after that part of the business is completed, the person so nominated must cease to chair the meeting upon the request of the prior chairperson and the prior chairperson is entitled to resume as the chairperson of the meeting.

11.7 **Responsibilities of chairperson**

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

- (a) delay the commencement of the meeting if that person determines it is desirable for the better conduct of the meeting;
- (b) make, vary or rescind rulings;
- (c) prescribe, vary or revoke procedures;
- (d) in addition to other powers to adjourn, adjourn the meeting, or any item of business of the meeting, without the concurrence of the meeting if that person determines it is desirable for the orderly conduct of the meeting or the conduct of a vote; and
- (e) determine conclusively any dispute concerning the admission, validity or rejection of a vote.

11.8 **Adjournment of meeting**

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

11.9 **Business at adjourned meeting**

No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of an adjournment or of the business to be transacted at an adjourned meeting, unless:

- (a) it is adjourned for 30 business days or more; or

- (b) the location is different or the means by which the meeting is to be conducted involves a different electronic address,

in which event no less than five days' notice must be sent to the Members of the adjourned meeting but it is not necessary to specify in such notice the nature of the business to be transacted.

12. Voting at Meetings of Members

12.1 Entitlement to vote

Subject to this Constitution and the terms of issue of any membership, each Member is entitled to vote at a Meeting of Members through a recognised Proxy, attorney or Corporate Representative of that Member.

12.2 Number of votes

Subject to the terms of issue of any membership, and to the terms of this Constitution and the Corporations Act, each Member entitled to vote has:

- (a) the number of votes ascribed to the membership held by that person; and
- (b) to the extent that person is the recognised Proxy, attorney or Corporate Representative of a Member, one vote for each other Member for which that person is appointed Proxy, attorney or Corporate Representative.

12.3 Attendance of Member suspends the Proxy

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

12.4 Revocation of proxies

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

12.5 Proxy must vote as directed

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

12.6 Method of voting

Every resolution put to a vote at a Meeting of Members shall be decided on a show of hands unless a poll is demanded or legislation or applicable rules or regulations provide that a poll is required. A poll may be demanded on any resolution except a resolution concerning the election of a chairperson for the Meeting of Members.

12.7 Demand for poll

A demand for a poll may be made by:

- (a) the chairperson of the meeting;
- (b) at least five persons present in person or by proxy having the right to vote at the meeting; or
- (c) any person or persons present having the right to vote at the meeting who have at least 5% of the total voting rights of all the Members having the right to vote at the meeting,

and otherwise in accordance with the Corporations Act.

12.8 Declaring result of vote on show of hands

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

12.9 Conduct of poll

The demand for a poll may be withdrawn. If a poll is duly demanded (and the demand not withdrawn) it must be taken in such manner and at such time (either at once or after an interval or adjournment or otherwise) as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded. A poll demanded on any question of adjournment must be taken at the meeting and without an adjournment. The demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded.

12.10 Casting vote of chairperson

If the votes at a Meeting of Members are equal, the chairperson of the meeting has a casting vote in addition to the deliberative vote, if any, of the chairperson.

12.11 Voting by Joint Members

- (a) Subject to the terms of issue of any Joint Membership, all persons holding a single Joint Membership are, collectively, entitled to the votes ascribed to that Membership.

- (b) If more than one Joint Member votes in respect of a single Joint Membership, the vote of the Joint Member whose name appears first in the Register will be counted and all other votes in respect of that Joint Membership will be deemed invalid.

12.12 Objections

Subject to article 12.11, no objection may be made as to the validity of any vote except at the meeting or adjourned meeting at which such vote is tendered and every vote not disallowed at any such meeting is treated as valid. In recording votes the latest copy of the Register held in the Registered Office must be adopted and acted on as the voting roll.

12.13 Ruling on votes

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

13. Money and Property Received by the Company

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

14. Appointment and Removal of Directors

14.1 Number of Directors

The number of Directors must be not less than three and no more than seven.

14.2 Term

Subject to this Constitution, a Director will hold office for a term of 3 years, holding office until the close of the annual general meeting that is held in the third year following the year of the annual general meeting at which their appointment was made or confirmed (as applicable).

14.3 Rotation of Directors

The Directors retire by rotation so that approximately one third of the Directors retire each year. Where necessary in order to establish retirement by rotation in a three year pattern, two Directors will retire each year for three years or otherwise as required to establish rotation. For this purpose:

- (a) the Directors that have held office for the longest period since last being appointed must retire first; and
- (b) where one or more Directors were appointed on the same day, the retiring Director may be selected by lot, unless otherwise agreed amongst those Directors,

PROVIDED THAT, for the avoidance of doubt, a Director must retire not later than the third annual general meeting of Members after the annual general meeting confirming or making his or her appointment (as applicable).

14.4 **Re-appointment of retired Directors**

Any Director that has retired (or is due to retire at that annual general meeting of Members), is eligible for re-appointment, subject to article 14.5(a), and may be included in persons selected to be appointed a Director by the Directors or to be nominated by the Board for appointment as a Director by resolution of Members at an annual general meeting.

14.5 **Eligibility & nomination**

- (a) Subject to the Corporations Act a person is eligible for appointment as a Director if that person:
 - (i) satisfies the applicable eligibility criteria determined by the Board, or the Nominations and Remuneration Committee, from time to time; and
 - (ii) at the time of the proposed appointment, would not meet any of the criteria for vacation of office under article 14.10; and
 - (iii) is selected by the Board (considering recommendations of the Nomination and Remuneration Committee, if applicable) to be appointed by the Board as a Director or nominated by the Board for appointment by resolution of the Company at an annual general meeting.
- (b) The Board shall be responsible for the nomination of candidates for appointment as Directors at an annual general meeting.

14.6 **Nomination and Remuneration Committee**

The Board may establish a Nomination and Remuneration Committee. If established by the Board, the Nomination and Remuneration Committee will:

- (a) identify and recommend to the Board in accordance with eligibility criteria candidates for appointment as a Director including to fill any vacancies in the Board to arise from retirement at the close of an annual general meeting;
- (b) make recommendations to the Board with respect to the number of Directors, subject to article 14.1(a), and the recruitment, eligibility criteria and selection of Directors; and
- (c) undertake such other functions as are conferred by this Constitution or as are determined by the Board from time to time.

14.7 **Appointment by Directors**

Subject to articles 14.1 and 14.5, the Directors may at any time appoint any person as a Director.

14.8 **Confirmation of appointment**

If a person is appointed by the other Directors as a Director, the Company must confirm the appointment by resolution at the Company's next annual general meeting. If the appointment is not confirmed, the person ceases to be a Director at the end of the said annual general meeting. The person whose appointment must be so confirmed is not taken into account in determining the number of Directors, if any, who are to retire by rotation at such meeting.

14.9 **Resignation of Director**

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

14.10 **Vacation of office**

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

- (a) becomes mentally incapable or the Director's estate is liable to be dealt with in any way under the law relating to mental health;
- (b) is absent from three consecutive meetings of Directors without a leave of absence from the Directors;
- (c) being a Member, ceases to be a Financial Member; or
- (d) being a person nominated by a body corporate Member, that Member ceases to be a Financial Member; or
- (e) is a Director whose eligibility to be a Director, as determined by the Board at the time of appointment, requires that they be, or be nominated by, a Member and that Member ceases to be a Member under article 7.1(f) or article 7.1(g).

14.11 **Absent Directors**

A Director who is to be temporarily unavailable may nominate a person to replace him or her as a Director during the temporary absence on the following basis:

- (a) the Board approves:
 - (i) the period of the absence of the Director and any extension thereof; and
 - (ii) the person nominated as a replacement as sufficiently satisfying the eligibility requirements for a Director;

- (b) the person nominated must sign a consent to act as a Director; and
- (c) the replacement Director acts only as a Director during the period of the approved absence and is deemed to vacate the office at the end of such approved absence.

14.12 Less than minimum number of Directors

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

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

15. Chief Executive Officer

15.1 Appointment of Chief Executive Officer

The Directors may at any time:

- (a) appoint one or more persons, who is not a Director, to be the Chief Executive Officer of the Company;
- (b) define, limit and restrict that person's powers;
- (c) fix that person's duties;
- (d) subject to the provisions of any contract between that person and the Company, vary any of the powers so conferred; and
- (e) remove that person from that office and appoint another (or others) in that person's place or places.

15.2 Acting Chief Executive Officer

If the Chief Executive Officer becomes at any time in any way incapable of acting as such, the Directors may appoint any other person who is not a Director to act temporarily as the Chief Executive Officer.

15.3 Remuneration of Chief Executive Officer

- (a) Subject to the provisions of any agreement entered into between the Company and its Chief Executive Officer from time to time, the Company may pay its Chief Executive Officer a reasonable and proper remuneration on an arm's length basis as determined by the Board.

- (b) In determining the remuneration of the Chief Executive Officer, the Directors must have regard to the following criteria:
 - (i) the services the Chief Executive Officer is to provide to the Company; and
 - (ii) the current market levels of remuneration paid to chief executive officers of not for profit entities.

16. Remuneration of Directors

16.1 Directors Fees

The Directors may be paid remuneration for their services as Directors as determined by Members in general meeting and may also be paid a fee:

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

16.2 Expenses of Directors

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

17. Proceedings of Directors

17.1 Mode of Meeting

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

17.2 Quorum

- (a) A quorum for a meeting of the Directors is the majority of the total number of Directors in office at that time.
- (b) The quorum necessary for the transaction of the business of the Board must be a majority of the total number of Directors.

- (c) A quorum must be present throughout each meeting of the Board. If a quorum is not present at any time, the meeting is not validly convened but this does not affect the validity of any business conducted before the absence of a quorum occurs.

17.3 **Convening a meeting of the Board**

Any two or more Directors or the Chairperson may, at any time, call a meeting, and the Secretary shall, on their or his or her requisition, summon a meeting of the Board.

17.4 **Notice of meeting**

Notice of each meeting of the Directors:

- (a) may be given by such means as is convenient, including by telephone or electronic transmission;
- (b) must be given to all eligible Directors; and
- (c) must be issued to all eligible Directors at least five (5) days prior to the meeting unless urgent circumstances require shorter notice as agreed with or determined by the Chairperson.

17.5 **Recipients of Notice**

For the purposes of article 17.4:

- (a) the “eligible Directors” are all Directors for the time being but excluding those who have given leave of absence; and
- (b) the accidental omission to give notice of any meeting of the Directors to, or the non-receipt of any such notice by, a person entitled to receive that notice does not invalidate the calling of the meeting or any resolution passed at any such meeting.

17.6 **Holding meetings**

Directors are present at a Board meeting if they attend in person or by any technology that allows the Directors as a whole a reasonable opportunity to participate, in particular, but without limitation, to hear or see and hear each other Director.

17.7 **Chairperson**

- (a) The Directors may elect a Director as the Chairperson to chair meetings of the Directors.
- (b) The Chairperson shall continue in office until:
 - (i) he/she is removed from that office by resolution of the Board;
 - (ii) he/she no longer holds a position as a Director;
 - (iii) he/she resigns from the position

provided that a Director can only serve as Chairperson over a maximum period of six (6) consecutive years.

- (c) If the Chairperson is not present within 30 minutes of the time appointed for holding of a Directors meeting the Directors present must choose one of their number to be chairperson of such meeting.

17.8 Votes of Directors

Questions arising at any meeting of the Directors must be decided by a majority of votes cast and each Director has one vote. A determination by a majority of the Directors present shall, for all purposes, be deemed to be a determination of the Board. If there is an equality of votes, provided more than two Directors present are competent to vote on the question at issue but not otherwise, the chairperson has a second or casting vote.

17.9 Circular resolution of Directors

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

17.10 Signing of circular resolution

For the purposes of article 17.9:

- (a) the “eligible Directors” are all Directors for the time being but excluding those who, at a meeting of Directors would not be entitled to vote on the resolution;
- (b) each Director, other than one not entitled to vote on the resolution, may sign the Document;
- (c) if a person who is not entitled to vote on the resolution signs the Document, it does not invalidate the resolution if it is otherwise valid;
- (d) an Electronic Signature purporting to be signed by a Director is treated as being signed in writing by such person; and
- (e) two or more separate Documents containing statements in identical terms each of which is signed by one or more Directors are together treated as constituting one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

17.11 **Deemed minute**

The document or documents referred to in articles 17.9 and 17.10 are treated as constituting a minute of that meeting and must be entered in books kept for that purpose.

17.12 **Validity of acts of Directors**

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

17.13 **Board to continue to act**

- (a) If a vacancy on the Board occurs, the remaining Directors on the Board may continue to act.
- (b) If the number of remaining Directors is insufficient to constitute a quorum, the Board may act only for the purpose of increasing the number of Directors to that required to constitute a quorum or to convene a general meeting.

18. Directors Contracts with Company

18.1 **Directors contracts and conflicts of interest**

In relation to Directors' contracts and conflicts of interest:

- (a) despite any rule of the Corporations Act or equity to the contrary, no Director is disqualified by that office from contracting with or holding any other office under the Company;
- (b) any such contract, or any contract entered into by or on behalf of the Company in which any Director is in any way interested, is not avoided;
- (c) any Director so contracting or being so interested is not liable to account to the Company for any profit realised by any such contract by reason only of such Director holding that office or of the fiduciary relationship thereby established;
- (d) the nature of the Director's interests must be disclosed by that Director at the meeting of the Directors at which the contract is determined on if that interest then exists and has not been disclosed or in any other case at the first meeting of the Directors after the acquisition of those interests; and
- (e) a Director may not vote in that capacity in respect of any contract or arrangements in which the Director is interested but may be counted, for the purpose of any resolution regarding it, in the

quorum present at the meeting and may, despite that interest, participate in the execution of any instrument by or on behalf of the Company and whether through signing it or otherwise.

18.2 Requirement to leave the meeting

Despite anything in article 18.1, a Director's entitlement to vote, or be present, at a meeting of the Directors of any Director who has a material personal interest in a matter that is being considered at the meeting is restricted in accordance with section 195 of the Corporations Act as it may apply from time to time to the Company.

18.3 Notice of interest

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

19. Powers and Duties of Directors

19.1 Powers generally

Subject to the Corporations Act and to any other provisions of this Constitution, the Directors have full management and control of the Company and of the business and affairs of the Company, and may exercise all the powers of the Company that are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in a Meeting of Members.

19.2 Borrowing and Security

Without limiting the generality of article 19.1, the Directors may exercise all the powers of the Company to borrow or raise money, charge any property or business of the Company and give any security for a debt, liability or obligation of the Company or of any other person, subject to the Corporations Act and this Constitution.

19.3 Execution of negotiable instruments

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

19.4 Official seal

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

19.5 **Signing by company**

The Company may execute a document without using a common seal if the document is signed by:

- (a) where the Company has a single Director who is also the only Secretary of the Company, by that person;
- (b) where the Company has a single Director and there is no Secretary, by that person; or
- (c) in any other case:
 - (i) two (2) Directors of the Company; or
 - (ii) a Director and a Secretary of the Company; or
 - (iii) some other delegate validly appointed by the Directors for that purpose.

19.6 **Common seal**

The Company may use a common seal. If the seal is fixed to a document the Seal is to be witnessed by:

- (a) where the Company has a single Director who is also the only Secretary of the Company, by that person;
- (b) where the Company has a single Director and there is no Secretary, by that person; or
- (c) in any other case:
 - (i) two (2) Directors of the Company; or
 - (ii) a Director and a Secretary of the Company; or
 - (iii) some other delegate validly appointed by the Directors for that purpose.

19.7 **Execution of Documents by the Company**

For the avoidance of doubt and without limiting articles 19.5 and 19.6, but subject always to the law:

- (a) the Company (and any signatory for or on behalf of the Company) may execute any Document using Electronic Signatures and rule 1.6 applies to any Document executed by the Company;
- (b) the Company (and any signatory for or on behalf of the Company) may execute any Document in any number of counterparts, including using split execution where different signatories for or on behalf of the Company execute on different counterparts; and
- (c) the signatories for or on behalf of the Company may use any audio-visual link to have their execution of any Document witnessed and to confirm their execution of the Document.

19.8 **Appointment of attorney**

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

19.9 **Delegation**

Without limiting article 20, the Directors may at any time confer upon any Director, or such other person as they may select, such of the powers exercisable under this Constitution by the Directors as they may think fit for such time and to be exercised for such objects and purposes and upon such terms and with such restrictions as they think expedient. They may confer such powers whether collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the Directors in that respect. They may at any time revoke, withdraw, alter or vary all or any of such powers.

19.10 **By-laws**

- (a) The Directors may, by resolution, make by-laws to give effect to this Constitution, including, without limitation, by-laws for the holding of meetings using virtual meeting technology.
- (b) Members and Directors must comply with by-laws as if they were part of this Constitution.

19.11 **Validity of acts**

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

20. Committees

20.1 **Establishment of committees**

The Directors may from time to time:

- (a) without limiting article 19.9, establish and delegate any of their powers to, committees consisting of such one or more persons as they think fit and vary, terminate and or reconstitute any such committee, and/or revoke or amend such delegation; and

- (b) establish advisory committees or other committees not having delegated power and consisting of such person or persons as they think fit and vary, terminate and/or reconstitute any such committee and/or revoke or amend its functions..

20.2 Committee powers

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

21. Secretary

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

22. Minutes as evidence

Any minutes of a Meeting of Members or of the Directors, if purporting to be signed by any person purporting to be either the chairperson of such meeting, or the chairperson of the next succeeding meeting, must be received in evidence without any further proof as sufficient evidence that the matters and things recorded by or appearing in such minutes actually took place or happened as recorded or appearing and of the regularity of those things in all respects and that the same took place at a meeting duly called and held.

23. Notices

23.1 Service of notices

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

- (a) by delivering it to the person personally;
- (b) by dispatching it by prepaid post;
- (c) by dispatching it by electronic means to the electronic address or address of the place of residence or business of the person last known to the person serving the Document or, in the case of a Member, to the electronic or other address of the Member entered in the Register, and the Document, by such dispatch, is regarded as left at that address; or
- (d) subject to the Corporations Act, by giving to the recipient (by means of electronic communication or otherwise) sufficient information to allow the recipient to access the Document electronically including from the website of the Company or by procuring publication

of the Document in a newspaper circulating generally in the State in which the Registered Office is located.

23.2 Date of deemed service

A Document Served under article 23.1 is treated as having been duly Served, irrespective of whether it is actually received:

- (a) where article 23.1(a) applies – on the day it is delivered;
- (b) where article 23.1(b) applies - on the third day after the date of posting;
- (c) where article 23.1(c) applies – on the business day following the day when dispatch occurred; and
- (d) where article 23.1(d) applies - on the business day following the day the access information is provided to the recipient or the newspaper is first published, as applicable.

23.3 Notice to Joint Members

A notice may be given by the Company to those Members holding a Joint Membership by giving notice to the person that is first named in the Register in respect of that Joint Membership and any notice given to that person is considered to be notice given to each other relevant Joint Member.

23.4 Counting of Days

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

23.5 Service on Company or its officers

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

24. Indemnity

24.1 Indemnity for officers

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

- (a) any liability incurred by the person in that capacity (except a liability for legal costs);
- (b) legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity; and

- (c) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company, or of a Subsidiary of the Company, if that expenditure has been approved in accordance with the Company's policy,
- (d) except to the extent that:
 - (i) the Company is forbidden by law to indemnify the person against the liability or legal costs;
 - (ii) an indemnity by the Company of the person against the liability or legal costs, if given, would be made void by law; or
 - (iii) the person is entitled to and is actually indemnified by another person (including an insurer under any insurance policy).

24.2 **Insurance**

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

24.3 **Contract**

The Company may enter into an agreement with a person referred to in articles 24.1 and 24.2 with respect to the matters covered by those articles. An agreement entered into pursuant to this article may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.