Acis.

# Constitution
# Mingary Care Ltd
# ACN 111950924

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## TABLE OF CONTENTS


**1. DEFINITIONS AND INTERPRETATION ..... 1**

1.1 DEFINITIONS ..... 1
1.2 INTERPRETATION ..... 1
1.3 ACTIONS AUTHORISED UNDER THE LAW ..... 2
1.4 CORPORATIONS ACT PREVAILS ..... 2
1.5 NO LIMIT ON EXERCISE OF POWERS ..... 2

**2. EFFECT OF THE CONSTITUTION ..... 2**

**3. OBJECTS ..... 2**

3.1 STATEMENT OF OBJECTS ..... 2
3.2 PURSUIT OF OBJECTS ..... 3

**4. PUBLIC COMPANY ..... 3**

**5. POWERS ..... 3**

**6. CONTRIBUTION ON WINDING UP ..... 3**

**7. PROMOTION OF OBJECTS ..... 4**

7.1 BENEFIT THE COMPANY ..... 4
7.2 EXCEPTION ..... 4
7.3 DIRECTORS PRIOR APPROVAL ..... 4

**8. DEDUCTIBLE GIFT RECIPIENT ..... 4**

**9. GIFT FUND ..... 4**

9.1 MAINTAIN GIFT FUND ..... 4
9.2 USE OF GIFT FUND ..... 5
9.3 RECORDS AND FINANCIAL STATEMENTS ..... 5
9.4 WINDING UP ..... 5

**10. WINDING UP OR DISSOLUTION ..... 5**

**11. MEMBERSHIP ..... 5**

11.1 MEMBERS ..... 5
11.2 CLASSES OF MEMBERSHIP ..... 5
11.3 APPLICATION FOR MEMBERSHIP ..... 5
11.4 FURTHER INFORMATION ..... 6
11.5 DETERMINATION OF DIRECTORS ..... 6
11.6 ENTRANCE FEE ..... 6
11.7 NOTIFICATION OF DETERMINATION ..... 6
11.8 CERTIFICATES ..... 6
11.9 MEMBERSHIP NOT TRANSFERABLE ..... 6

**12. FEES AND LEVIES ..... 6**

12.1 FEES ..... 6
12.2 LEVIES ..... 6
12.3 DIFFERENT FEES OR LEVIES PAYABLE ..... 7

**13. VARYING MEMBERS' RIGHTS ..... 7**

**14. BY-LAWS, CODE OF CONDUCT ETC ..... 7**

**15. CESSATION OF MEMBERSHIP ..... 7**

15.1 NON PAYMENT OF FEES OR LEVIES ..... 7
15.2 CESSATION OF MEMBERSHIP ..... 8
15.3 CONTINUING RIGHTS, LIABILITIES ETC. ..... 8
15.4 NON-COMPLIANCE WITH CONSTITUTION, MISCONDUCT ..... 8

**16. GENERAL MEETINGS ..... 8**

16.1 DIRECTOR MAY CONVENE ..... 8
16.2 DIRECTOR'S CONVENING A GENERAL MEETING AT THE REQUEST OF MEMBERS ..... 8

16.3 FORM OF THE MEMBERS REQUEST ..... 9
16.4 DIRECTORS REFUSAL TO CONVENE ..... 9
16.5 MEMBERS MAY CONVENE ..... 9
16.6 NOTICE OF GENERAL MEETING ..... 9
16.7 QUORUM ..... 9
16.8 DETERMINE A QUORUM ..... 10
16.9 PROCEDURE WHERE NO QUORUM ..... 10
16.10 ELECTION OF CHAIRMAN ..... 10
16.11 NO CASTING VOTE ..... 10
16.12 ADJOURNMENT OF MEETING ..... 10
16.13 ADJOURNMENT OF THIRTY (30) DAYS ..... 10
16.14 ADJOURNMENT OF LESS THAN THIRTY (30) DAYS ..... 11
16.15 SHOW OF HANDS OR POLL ..... 11
16.16 DECLARATION ON SHOW OF HANDS ..... 11
16.17 WITHDRAW POLL ..... 11
16.18 DEMAND FOR POLL ..... 11
16.19 POLL FOR CHAIRMAN ..... 11
16.20 VOTING ..... 11
16.21 MEMBERS NOT TO VOTE UNLESS FULLY PAID ..... 11
16.22 OBJECTION TO QUALIFICATION OF MEMBER ..... 11
16.23 ONLY MEMBERS ENTITLED TO VOTE MAY VOTE ..... 11
16.24 RIGHTS OF THIRD PARTIES TO ATTEND GENERAL MEETINGS ..... 12
16.25 MINUTES ..... 12

**17. RULES FOR VOTING BY PROXY ..... 12**

17.1 PROXIES ..... 12
17.2 ATTORNEYS ..... 12
17.3 REPRESENTATIVES OF CORPORATIONS ..... 12
17.4 REPRESENTATIVE NEED NOT BE A MEMBER ..... 12
17.5 PROXY IN WRITING ..... 12
17.6 HOW THE PROXY IS TO VOTE ..... 13
17.7 AUTHORITY FOR A POLL ..... 13
17.8 FORM OF PROXY ..... 13
17.9 DELIVERY OF PROXY BEFORE MEETING ..... 13
17.10 VALIDITY OF PROXY VOTE ..... 13
17.11 INSTRUMENT NOT VALID ..... 13

**18. APPOINTMENT, REMOVAL AND REMUNERATION OF DIRECTORS ..... 13**

18.1 NUMBER OF DIRECTORS ..... 13
18.2 APPOINTMENT OF DIRECTORS ..... 13
18.3 ROTATION OF DIRECTORS ..... 13
18.4 RE-ELECTION OF RETIRING DIRECTORS ..... 14
18.5 REMOVAL OF DIRECTOR ..... 14
18.6 DIRECTOR'S EXPENSES ..... 14
18.7 VACATION OF DIRECTOR'S OFFICE ..... 14

**19. POWERS AND DUTIES OF DIRECTORS ..... 14**

19.1 DIRECTORS MANAGE THE BUSINESS ..... 14
19.2 ALL POWERS OF COMPANY ..... 14
19.3 CORPORATE GROUPS ..... 15
19.4 APPOINTMENT OF ATTORNEY ..... 15
19.5 PROVISIONS OF POWER OF ATTORNEY ..... 15
19.6 CHEQUES AND PROMISSORY NOTES ..... 15

**20. PROCEEDINGS OF DIRECTORS ..... 15**

20.1 USE OF TECHNOLOGY ..... 15
20.2 DIRECTORS' MEETINGS ..... 15
20.3 QUORUM ..... 16
20.4 DIRECTORS TO CONTINUE TO ACT ..... 16
20.5 ELECTION OF CHAIRMAN ..... 16
20.6 CHAIRMAN NOT PRESENT ..... 16
20.7 NO CASTING VOTES ..... 16
20.8 CIRCULAR RESOLUTION ..... 16

20.9 VALIDITY OF DIRECTORS ACTS ..... 16
20.10 DECISIONS OF THE DIRECTORS ..... 16
20.11 MINUTES ..... 16

**21. ALTERNATE DIRECTORS ..... 17**

21.1 APPOINTMENT OF AN ALTERNATE ..... 17
21.2 NOTICE OF MEETINGS ..... 17
21.3 POWER OF ALTERNATE ..... 17
21.4 TERMINATION OF APPOINTMENT ..... 17
21.5 RESPONSIBILITY ..... 17
21.6 NO REMUNERATION ..... 17

**22. INTERESTED DIRECTORS ..... 17**

22.1 NOTICE REQUIREMENTS ..... 17
22.2 DIRECTOR MUST NOT VOTE ..... 18
22.3 EXCEPTION TO RULE ..... 18
22.4 NO QUORUM AVAILABLE ..... 18
22.5 DIRECTOR NOT DISQUALIFIED ..... 18
22.6 STANDING NOTICE ..... 18
22.7 OTHER OFFICE MAY BE HELD ..... 19
22.8 PROFESSIONAL DIRECTOR MAY ACT ..... 19

**23. COMMON SEAL ..... 19**

23.1 ELECTION TO ADOPT COMPANY SEAL ..... 19
23.2 DUPLICATE COMMON SEAL ..... 19
23.3 PROHIBITED USE ..... 19

**24. EXECUTION OF DOCUMENTS ..... 19**

24.1 EXECUTION WITH OR WITHOUT THE COMMON SEAL ..... 19
24.2 EXECUTION OF DEEDS ..... 19
24.3 NO LIMITATION ..... 19

**25. COMMITTEE ..... 19**

25.1 DELEGATION TO COMMITTEE ..... 19
25.2 POWERS OF COMMITTEE ..... 20
25.3 COMMITTEE CHAIRMAN ..... 20
25.4 ELECTION OF CHAIRMAN ..... 20
25.5 DECISION BY MAJORITY ..... 20
25.6 CASTING VOTE ..... 20

**26. MANAGING DIRECTOR ..... 20**

26.1 APPOINTMENT ..... 20
26.2 TERMINATION ..... 20
26.3 REMUNERATION ..... 20
26.4 POWERS OF MANAGING DIRECTOR ..... 20

**27. SECRETARY ..... 20**

27.1 APPOINTMENT ..... 20

**28. ACCOUNTS AND AUDIT ..... 21**

28.1 PROPER RECORDS KEPT ..... 21
28.2 AUDITOR ..... 21

**29. RESERVES ..... 21**

29.1 MAKE RESERVE ..... 21
29.2 DEAL WITH RESERVE ..... 21

**30. INSPECTION OF RECORDS ..... 21**

30.1 CONDITIONS ..... 21
30.2 NO RIGHT UNLESS AUTHORISED ..... 21
30.3 DIRECTORS RIGHT ..... 21

**31. NOTICES ..... 21**

31.1 FORM OF NOTICE ..... 21
31.2 TIME OF DELIVERY ..... 22

**32. INDEMNITY AND INSURANCE ..... 22**

32.1 INDEMNITY AGAINST LIABILITY ..... 22
32.2 INSURANCE ..... 22
32.3 RESOLUTION TO GRANT INDEMNITY ..... 22

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

Unless the context or subject matter otherwise requires:

**Company** means the Company whose members have adopted this Constitution;

**Constitution** means those rules for the operation of the Company set out in this Constitution;

**Law** means the *Corporations Act 2001 (Cth)*;

**Member** means any person whose name appears in the Register as a Member of the Company;

**Notice Address** means the last address for a person as recorded in the records of the Company and may include facsimile numbers or electronic mail addresses;

**Ordinary Resolution** means a resolution passed by a simple majority of Members;

**Prescribed Rate** means the rate specified by the Company from time to time expressed as a rate per cent per annum or if no rate is specified, the Prescribed Rate is 8% per annum;

**Register** means the Register of Members of the Company required to be kept by section 169 of the Law;

**Related Body Corporate** of a body corporate is a body corporate which is related to that body corporate within the meaning of the Law;

**Rules** means the provisions of this Constitution and **Rule** means any one of them;

**Secretary** means the Secretary and any assistant or acting Secretary and any other person appointed to perform, whether alone or in addition to any other person or persons, the duties of Secretary of the Company;

**Special Resolution** has the meaning assigned to that expression by section 9 of the Law;

**Subordinate Regulations** means any code of conduct, rules, by-laws, regulations or standards issued from time to time by the Company under Rule 14 and **Subordinate Regulation** means any of them;

### 1.2 Interpretation

Unless the context or subject matter otherwise requires, references to:

(a) **singular** words include the **plural** and vice versa;

(b) any **gender** include every gender;

(c) **persons** include a natural person, corporations, trusts, associations, partnerships, government authorities, and other legal entities, and where necessary, includes successors and assigns;

(d) **writing** includes printing, typing, facsimile and other means of representing or reproducing words, figures, drawings or symbols in a visible and tangible or electronic form, in English;

(e) **signature** and **signing** means due execution of a document by a person, corporation or other relevant entity and include signing by an agent or attorney or representative (if a body corporate);

(f) **months** mean calendar months;

(g) **statutes** include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws and ordinances made under those statutes;

(h) **sections** of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes;

(i) an **agreement** or **document** means that agreement or document as amended, novated or supplemented;

(j) **a party** includes that party's executors, administrators, substitutes, successors and assigns;

(k) **sell** or **sold** include transfer, lease, assign, grant options and/or any other form of disposing of or creating an interest in the thing being considered and **buy** or **purchase** will be interpreted correspondingly;

(l) where a person is entitled to **vote** or holds the **right to vote** on any matter by virtue of this Constitution, the person may vote by proxy or attorney or representative (if a body corporate);

(m) **headings** and the **table of contents** are for convenience only and will be disregarded in the interpretation of this Constitution;

(n) if a word or phrase is given a **defined meaning**, another grammatical form of that word or phrase has a corresponding meaning; and

(o) **each paragraph** or sub-paragraph in a list is to be **read independently** from the others in the list.

### 1.3 Actions authorised under the Law

Subject to Rule 3, where the Law authorises or permits a company to do any thing if authorised by its constitution, the Company is authorised or permitted to do that thing despite any other provision of this Constitution.

### 1.4 Corporations Act prevails

Where any provision in this Constitution is invalid or unenforceable or conflicts with any provision of the Law, it will be read and interpreted as being subject to the provisions of the Law and will be ineffective, but only to the extent of any invalidity, unenforceability or conflict.

### 1.5 No limit on exercise of powers

Subject to Rule 3, where the Company or the directors or any other person is given a power, right or discretion under this Constitution:

(a) the power, right or discretion may be exercised absolutely without restriction unless the power, right or discretion is expressly limited; and

(b) any exercise of that power, right or discretion on any occasion will not restrict the further exercise of the power, right or discretion on any other occasion or at any time.

## 2. EFFECT OF THE CONSTITUTION

This Constitution will have effect as a contract:

(a) between the Company and each Member;

(b) between the Company and each director and Secretary; and

(c) between a Member and each other Member,

under which each Member agrees to observe and perform the Rules so far as they apply to that Member.

## 3. OBJECTS

### 3.1 Statement of Objects

The objects of the company are:

(a) to support, through the provision of funding, specialised holistic outreach palliative care in partnership with palliative care providers and the community of Queensland for people of all ages; and

(b) to provide through strategic partnerships the highest standard of palliative care for individuals in necessitous circumstances who are dying including flexible, timely and responsive compassionate support for their carers, partners, families and friends; and

(c) to co-design and create with our partners excellent palliative care supports that provide for the physical, psychological, social and spiritual needs at the end of life and create unique educational resources that advocate and inform the community about death and dying;

(d) and any such other activities, as from time to time, may be agreed upon by the Company and which are in keeping with the broad purpose of those objects.

### 3.2 Pursuit of Objects

The Company can only exercise the powers in section 124(1) of the Law to:

(a) carry out the objects of the Company set out in Rule 3.1;

(b) do all acts and things as may be deemed reasonably necessary or incidental to the achievement of similar objects; and

(c) solely for the purpose of carrying out the company's objects, the company may:

  (i) raise funds or encourage contributions by way of gifts (by will or otherwise), grants, sponsorships or otherwise, by personal or public appeals or in any other manner;

  (ii) provide funds or other benefits by grant or otherwise;

  (iii) accept and hold assets upon any charitable objects or purposes specified or to be specified by any person or to be selected by the directors form a class of trusts, objects or purposes specified by any person;

  (iv) accept and undertake trusteeship, administration and management of trusts and funds, whether as trustee or as agent for the trustee or otherwise deal with any real or personal property or any estate or interest in that property.

## 4. PUBLIC COMPANY

The Company is registered as a public company limited by guarantee and accordingly:

(a) the number of members of the Company must not be less than one (1); and

(b) the minimum number of directors that the Company must have at any time is three (3).

## 5. POWERS

The Company may by Ordinary Resolution or Special Resolution as the Law requires, exercise any power which by the Law a company limited by guarantee may exercise if authorised by its Constitution.

## 6. CONTRIBUTION ON WINDING UP

(a) In the event of the winding up of the Company, every Member of the Company undertakes to contribute to the property of the Company the amount which is agreed to be paid by each Member to be applied:

  (i) to payment of the debts and liabilities of the Company contracted before ceasing to be a Member; and

  (ii) to the costs, charges and expenses of winding up; and

  (iii) for the adjustment of the rights of the contributors among themselves.

(b) The liability of each Member under Rule 6(a), will terminate on the day which is one (1) year after the date on which the Member's membership of the Company ceases.

(c) Until otherwise determined, the amount to be contributed by each Member under this Rule 6 will be $10.

## 7. PROMOTION OF OBJECTS

### 7.1 Benefit the Company

The income and property of the Company must be applied solely for the benefit and promotion of the Company's objects and no part of the income or property will be:

(a) paid or transferred directly or indirectly by way of dividends, bonus or otherwise to the Members; or

(b) paid to directors as fees or other remuneration or other benefit in money or money's worth.

### 7.2 Exception

Nothing in this Rule 7 precludes:

(a) payment in good faith of reasonable and proper remuneration to any director, officer or servant of the Company or to any Member in return for any services rendered to the Company, except for services solely relating to being a director;

(b) the payment of interest at a rate not exceeding the rate charged by the Company's bankers on overdrawn accounts on any money lent to the Company by any Member, director or officer;

(c) benefits and/or payments to officers, suppliers and associates of the Company that do not exceed what is reasonable and appropriate;

(d) in the case of any director who is engaged by the Company as an executive director, consultant or servant, any reasonable and proper remuneration for services provided to the Company, , except for services solely relating to being an executive director;

(e) the repayment of reasonable out-of-pocket expenses, properly incurred by any director; or

(f) payment of a reasonable rental for premises demised or let by any Member to the Company.

### 7.3 Directors prior approval

Any payment authorised under Rule 7.2 may be made only with the prior written approval of the directors.

## 8. DEDUCTIBLE GIFT RECIPIENT

If the endorsement of the Company as a deductible gift recipient is revoked or the Company's gift fund is dissolved, the following shall be transferred to another registered charity to which tax-deductible gifts can be made - any surplus:

(a) gifts of money or property for the principal purpose of the Company;

(b) contributions made in relation to an eligible fundraising event held for the principal purpose of the Company; and

(c) money received by the Company because of such gifts and contributions.

## 9. GIFT FUND

### 9.1 Maintain gift fund

If the Company is required by law to establish and maintain a public fund, the Company must maintain a gift fund (the "Gift Fund") for the purposes of receiving gifts from the public to the Company and to be used for the promotion of the Company's objects. The Gift Fund will be named or styled in a way determined by the directors.

### 9.2 Use of Gift Fund

The Company must ensure that:

(a) the Gift Fund does not contain any property other than as described in Rule 9.1;

(b) all gifts of money or property received by the Company into the Gift Fund will be used only for the promotion of the Company's objects;

(c) no part of the income and property of the Gift Fund is paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, fee or otherwise to any of the Members or Directors other than for the repayment of reasonable out-of-pocket expenses, properly incurred on behalf of the Gift Fund or proper administrative services performed in relation to the Gift Fund;

(d) receipts for donations of property to the Gift Fund are issued in the name of the Gift Fund and showing the name and Australian Business Number of the Company.

### 9.3 Records and financial statements

(a) All gifts of money or property received by the Company must be accounted for separately.

(b) The Company must keep and maintain proper books of accounts and records relating to all receipts and outgoings of the Gift Fund.

### 9.4 Winding Up

If the Gift Fund is wound up or if the endorsement, if any, of the Company as a deductible gift recipient is revoked, any surplus assets of the Gift Fund remaining after the payment of liabilities attributable to it must be transferred to a fund, authority or institution to which income tax deductible gifts can be made.

## 10. WINDING UP OR DISSOLUTION

In the event of the Company being dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes, that is charitable at law, and which is not carried on for the profit or gain of its individual members.

## 11. MEMBERSHIP

### 11.1 Members

The Members will be made up of:

(a) the subscribers to these Rules; and

(b) any other persons that the directors admit to membership in accordance with the Rules.

### 11.2 Classes of Membership

The membership of the Company may be divided into classes of membership at the determination of the directors. Where the membership of the Company has been divided into classes, the directors will determine the initial rights and duties of each class of members and of the members of each class.

### 11.3 Application for membership

(a) Any person, except a person holding an office of profit with the Company, except that of Managing Director, will be eligible for membership of the Company.

(b) In order to be admitted as a Member, every applicant for membership (other than the subscribers) must:

(i) execute and deliver to the Company an application for membership in the form which the directors determine; and

(ii) pay to the Company the membership entrance fee (if any) determined by the directors.

(c) Subject to Rule 5, the directors may create classes of Members and determine the rights and privileges attaching to those classes including, but not limited to, the voting rights of the Members in each class.

### 11.4 Further information

An applicant for membership must provide in writing, any other information in addition to that contained in the application, as the directors require.

### 11.5 Determination of Directors

(a) The directors will determine the outcome of each membership application within a reasonable time after receipt.

(b) The directors may approve or reject any applicant for membership in the directors' absolute discretion.

(c) The directors are not required to give or assign any reason or explanation for the approval or rejection of any application for membership.

### 11.6 Entrance fee

The directors may determine the entrance fee payable by any person applying for membership of the Company. The directors may at any time and as many times as they decide, change the entrance fee payable. Until the directors otherwise determine, an entrance fee of $10 is payable.

### 11.7 Notification of determination

(a) When an application for membership has been accepted, the Secretary will send to the applicant written notice of the acceptance and will enter the applicant's name in the Register.

(b) When an application for membership is rejected, the Secretary will send to the applicant written notice of the rejection and the entrance fee paid, if any, by that applicant will be refunded in full.

### 11.8 Certificates

A certificate of membership may be issued by the Company to any Member. Any certificate issued will remain the property of the Company and must be returned to the Company on written demand by the Secretary.

### 11.9 Membership not transferable

Membership of the Company is not transferable by operation of law or otherwise. All rights and privileges of membership of the Company will cease immediately upon a person ceasing to be a Member for any reason.

## 12. FEES AND LEVIES

### 12.1 Fees

Members must pay an application fee and annual membership fees and other fees in the amounts and at the times determined by the directors from time to time. Until determined by the directors, the application fee will be $10.00 and the annual membership fee will be $10.00.

### 12.2 Levies

In order to provide additional funds required for the operation of the Company, the directors may determine that levies are to be paid by Members and may fix the amount and the dates for payment of them. Until determined by the directors, no levies will be payable by Members.

### 12.3 Different fees or levies payable

In determining fees or levies under this Rule, the directors may differentiate between classes of Members as to the amounts and timing of fees or levies payable.

## 13. VARYING MEMBERS' RIGHTS

(a) If the membership of the Company is divided into different classes of Members, the rights attached to any class of membership may be varied with the written consent of 75% of the Members in that class or with the sanction of a Special Resolution passed at a meeting of the Members of that class.

(b) The right to vary membership rights in Rule 13(a) may be exercised unless otherwise provided by the terms of acceptance of the members of that class and whether or not the Company is being wound up.

## 14. BY-LAWS, CODE OF CONDUCT ETC.

(a) The directors may at any time and from time to time issue and/or impose a code of conduct, rules and/or any other by-laws, regulations or standards for the Company which may deal with any matter within the power of the directors including (without limitation):

(i) the admission and/or disqualification or termination of Members;

(ii) any fees and levies payable by Members;

(iii) conditions of Membership;

(iv) availability of services or facilities of the Company and/or access to them by Members;

(v) the rights attaching to Membership;

(vi) the conditions for the use or licence of any trade or other mark or property of the Company; and/or

(vii) qualifications required for Membership.

(b) The directors may at any time and from time to time without notice:

(i) vary, amend, suspend, revoke or otherwise change any Subordinate Regulation;

(ii) make new Subordinate Regulations,

and the Subordinate Regulations for the time being in force will be binding on all Members. The directors may distinguish between Members in the application or enforcement of any Subordinate Regulation without giving reasons and without being liable for any loss occasioned by doing so.

(c) In the event of any inconsistency or conflict between these Rules and any Subordinate Regulation, these Rules will prevail to the extent of any inconsistency or conflict.

## 15. CESSATION OF MEMBERSHIP

### 15.1 Non payment of fees or levies

(a) If any fees or levies payable by a Member remain unpaid for a period, determined by the directors, after the due date for payment, the directors may by resolution suspend the Member's rights and privileges (including the right to vote) or terminate the Member's membership of the Company. The directors may reinstate the Member on payment of all arrears if the Directors think fit to do so.

(b) Until otherwise determined by the directors, the period during which the Member's fees or levies must remain unpaid under Rule 15.1(a) will be two (2) calendar months.

### 15.2 Cessation of membership

A Member's membership of the Company will cease immediately:

(a) if the Member resigns or surrenders that membership by written notice to the Secretary;

(b) if the Member's membership is terminated under these Rules;

(c) in the case of a Member who is an individual, if the Member:

(i) dies;

(ii) is found to be of unsound mind;

(iii) has his or her personal estate administered or it becomes liable to be dealt with in any way under the law relating to mental health;

(iv) commits an act of bankruptcy;

(v) is declared bankrupt; or

(vi) makes any arrangement or enters into a composition with creditors generally;

(d) in the case of a Member who is not an individual, if the Member:

(i) has a receiver or receiver and manager appointed, or enters into official management, administration or liquidation; or

(ii) being a corporation, has a petition for its winding up presented to a Court having appropriate jurisdiction, or passes a resolution of its members for its winding up, or enters into a scheme or arrangement (not being merely for the purpose of amalgamation or reconstruction).

### 15.3 Continuing rights, liabilities etc.

The termination of a Member's membership will not prejudice, lessen or affect the rights, duties, liabilities and obligations of the Member whether they:

(a) arise under these Rules or otherwise; or

(b) exist at the date of the termination or arise or crystallise after that date,

and in particular, (but without limitation) that termination will not relieve a Member from any obligation to record or account for or pay any levies or fees referred to in these Rules.

### 15.4 Non-compliance with Constitution, misconduct

(a) If any Member wilfully refuses or neglects to comply with this Constitution or is, does or fails to do any act or thing which, in the opinion of the directors, is unacceptable or prejudicial to the interests of the Company, the directors may by resolution suspend or expel the Member from the Company. The decision of the directors is final. Rule 16.2 does not apply to any resolution under this Rule.

(b) Prior to exercising the right in Rule 15.4(a), the directors must give the Member at least one (1) week's notice of the meeting of the directors at which that resolution is to be put and of what is alleged against him and of the intended resolution. The Member must be given the opportunity of giving orally or in writing the Member's explanation or defence before the passing of such resolution.

## 16. GENERAL MEETINGS

### 16.1 Director may convene

Any director may convene a general meeting of members whenever that director decides. A director may cancel any meeting convened by that director.

### 16.2 Director's convening a general meeting at the request of members

The directors must call and arrange to hold a general meeting on the request of:

(a) any Member or members holding at least 5% of the votes that may be cast at a general meeting; or

(b) at least 20 members who are entitled to vote at a general meeting.

**16.3 Form of the members request**

The request from the members must:

(a) state any resolution to be proposed at the meeting;

(b) be signed by the members making the request; and

(c) be given to the Company.

**16.4 Directors refusal to convene**

The directors may refuse to convene the general meeting if the voting on the proposed resolution is not within the power of the Members.

**16.5 Members may convene**

Two or more members holding, between them, at least 5% of the votes that may be cast at a general meeting, may call and arrange to hold a general meeting. The members calling the meeting must pay the expenses of calling and holding the meeting.

**16.6 Notice of general meeting**

(a) A general meeting may only be convened by giving the members notice of the meeting.

(b) A notice of general meeting does not need to be given to members who are not entitled to notice of meetings.

(c) A notice of a general meeting must:

(i) be given at least twenty-one (21) days before the date of the meeting unless otherwise agreed by all the members entitled to notice; and

(ii) specify the place, the day and the time of the meeting; and

(iii) describe the nature of the business to be transacted at the meeting; and

(iv) contain any other information required by the Law.

(d) The directors may postpone a general meeting or change the venue for the meeting by giving written notice to all members who received the original notice of meeting at least forty-eight (48) hours before the appointed time. That notice must specify the time and place for the postponed meeting.

(e) If a Member does not receive a meeting notice or the directors accidentally omit to give the Member a meeting notice, that omission will not invalidate the proceedings or any resolution passed at the meeting.

(f) No business is to be transacted at any general meeting except that contained in the meeting notice unless all the members agree otherwise.

**16.7 Quorum**

(a) Business must not be transacted at a general meeting if a quorum of members is not present when the meeting proceeds to business.

(b) A quorum will be:

(i) if the Company has only one Member entitled to receive notice of and vote at the meeting, that member; or

(ii) in every other case, two (2) members who are entitled to receive notice of and vote at the meeting.

(c) A quorum of members must be present throughout each general meeting. If a quorum is not present at any time the meeting is not validly convened but without affecting the validity of any business conducted before the absence of a quorum occurs.

**16.8 Determine a quorum**

In determining whether a quorum is present, a person attending as a proxy, or representing a body corporate that is a member, is deemed to be a Member.

**16.9 Procedure where no quorum**

(a) If a quorum is not present within thirty (30) minutes after the time appointed for the meeting:

(i) where the meeting was convened upon the requisition of members, the meeting will be dissolved; or

(ii) in any other case, the meeting will be adjourned.

(b) Any adjourned meeting will be rescheduled to take place on a day and time and at the place that the directors decide.

(c) If no directors are present at the meeting or if no decision is made by the directors, the meeting will take place on the same day and at the same time and place as originally notified, but in the next succeeding week.

(d) If at the rescheduled meeting a quorum is not present within thirty (30) minutes after the appointed time, then the meeting will be dissolved unless it is adjourned under Rule 16.12.

**16.10 Election of chairman**

(a) The directors will elect one director to preside as chairman at every general meeting. If the directors have elected a chairman of directors, that person will be deemed to be elected as the chairman at each general meeting.

(b) Where a general meeting is held and:

(i) a chairman of directors has not been elected;

(ii) the chairman of directors is not present within 15 minutes after the appointed time; or

(iii) the chairman of directors is unwilling to act,

the members present will elect one Member to be chairman of the meeting.

**16.11 No casting vote**

The chairman does not have a casting vote in addition to any vote the chairman has as a Member.

**16.12 Adjournment of meeting**

(a) The chairman may adjourn any meeting of Members.

(b) An adjournment of a meeting of members must only be made:

(i) with the consent of the meeting provided a quorum is present; or

(ii) in the case of an adjournment under Rule 16.9(d), with the consent of members present and entitled to vote; or

(iii) if directed by the meeting to do so.

(c) Any adjournment may change the time or the venue for the meeting.

(d) Only business left unfinished from the meeting adjourned must be transacted at any rescheduled meeting.

**16.13 Adjournment of thirty (30) days**

If a meeting is to be adjourned for thirty (30) days or more, notice of the adjourned meeting must be given as if it was an original meeting.

**16.14 Adjournment of less than thirty (30) days**

A notice of meeting is not required to be given for an adjourned meeting where the adjournment is for less than thirty (30) days.

**16.15 Show of hands or poll**

Any vote taken at a general meeting is decided on a show of hands unless a poll is demanded:

(a) by the chairman; or

(b) by at least two (2) members present in person or by proxy; or

(c) Members with at least 5% of the votes that may be cast on the resolution on a poll, present in person or by proxy.

**16.16 Declaration on show of hands**

If a poll is not demanded, the chairman's declaration that a resolution has been carried or lost with an entry to that effect in the minute book is conclusive evidence of that fact. It is not necessary to record the number or proportion of votes recorded for or against the resolution.

**16.17 Withdraw poll**

The demand for a poll may be withdrawn at any time.

**16.18 Demand for poll**

A poll will be taken immediately if one is demanded or at any other time after an interval or adjournment or otherwise as the chairman decides. The result of the poll will be recorded as the resolution of the meeting at which the poll was demanded.

**16.19 Poll for chairman**

Any poll demanded on the election of a chairman or on a question of adjournment must be taken immediately.

**16.20 Voting**

Subject to any rights or restrictions attached to any class of membership:

(a) at meetings of members or classes of members, each Member entitled to vote may vote in person or by proxy or attorney or by representative (if a body corporate); and

(b) on a show of hands every person present who is a Member or a representative of a Member has one (1) vote, and on a poll every Member present in person or by proxy or attorney has one (1) vote.

**16.21 Members not to vote unless fully paid**

A Member is only entitled to vote at a general meeting if all fees and levies and other amounts presently payable by the Member have been paid.

**16.22 Objection to qualification of member**

Any objection to the qualification of a person to vote must be made at the same meeting at which that person's vote is tendered. Any objection must be referred to the chairman of the meeting whose decision is final and:

(a) any vote approved will be valid for all purposes; or

(b) any vote disallowed will be invalid and must be disregarded.

**16.23 Only members entitled to vote may vote**

Only those members who belong to a class of members who are entitled to vote at a general meeting whether in person or by proxy will be entitled to vote.

### 16.24 Rights of third parties to attend general meetings

Even if they are not members of the Company, the following persons have the right to attend any general meeting and, if requested by the directors, to speak at the general meeting:

(a) any director; and

(b) any Secretary of the Company; and

(c) any other person invited by the directors.

### 16.25 Minutes

The directors must ensure that proper minutes are made of:

(a) all general meetings of the Company;

(b) all appointments of officers;

(c) the proceedings of all general meetings;

(d) the attendance at and business transacted at general meetings,

and the minutes of any meeting, if purporting to be signed by the chairman of the meeting or by the chairman of the next succeeding meeting, will be conclusive evidence of the matters recorded in them without any further proof.

## 17. RULES FOR VOTING BY PROXY

### 17.1 Proxies

(a) A Member who is entitled to attend and cast a vote at a general meeting may appoint a person as the member's proxy to attend and vote for the Member at the meeting and in that case:

(b) the appointment may specify the proportional number of votes that the proxy may exercise;

(c) if the Member is entitled to cast two (2) or more votes at the meeting, they may appoint two (2) proxies. If the Member appoints two (2) proxies and the appointment does not specify the proportion or number of the member's votes each proxy may exercise, each proxy may exercise half of the votes;

(d) an appointment of a proxy may be revoked at any time before the vote to which the proxy relates is exercised by written notice delivered to the Secretary;

(e) any fractions of votes resulting from the application of Rules 17.1(b) or 17.1(c) must be disregarded.

### 17.2 Attorneys

Any Member may, by power of attorney, appoint an attorney to act on the member's behalf at all or any meetings of the Company. The power of attorney or a copy of it, verified in a manner satisfactory to the directors, must be produced for inspection at the registered office or any other place specified for that purpose in the notice convening the meeting with evidence of proper execution as the directors require, not less than forty-eight (48) hours before the meeting.

### 17.3 Representatives of corporations

Any corporation which is a Member may appoint a representative to attend and vote for that corporation at a general meeting of the Company.

### 17.4 Representative need not be a member

A proxy, attorney or a representative need not be a Member of the Company and the appointment may be revoked at any time.

### 17.5 Proxy in writing

An instrument appointing a proxy must be in writing and signed by:

(a) the appointor; or

(b) the appointor's attorney; or

(c) the persons authorised under the Law or by an authorised officer or attorney of the appointor, where the appointor is a body corporate.

**17.6 How the proxy is to vote**

If the document appointing a proxy specifies how the proxy is to vote in relation to a resolution, the proxy must vote as specified in the document. Any vote tendered otherwise is invalid and must be disregarded.

**17.7 Authority for a poll**

A document appointing a proxy confers the authority to demand a poll.

**17.8 Form of proxy**

The appointment of a proxy must be substantially in the form in Schedule 1.

**17.9 Delivery of proxy before meeting**

(a) The appointment of a proxy is not valid unless the appointment document and a certified copy of any power of attorney or other authority under which that document is signed is delivered to the Company.

(b) The relevant documents must be delivered, not less than 48 hours before the appointed meeting time.

(c) The relevant documents must be delivered to the Company's registered office or to any other place in Australia specified in the notice convening the meeting.

**17.10 Validity of proxy vote**

A vote tendered in accordance with a proxy or a power of attorney is valid even if:

(a) the appointor or principal dies or becomes mentally incapacitated;

(b) the proxy or power of attorney is revoked in any way,

but only if the Company had no written notice of any defect before any authority is exercised.

**17.11 Instrument not valid**

An instrument appointing a proxy will not be valid after the expiration of twelve (12) months from the date of its execution.

## 18. APPOINTMENT, REMOVAL AND REMUNERATION OF DIRECTORS

**18.1 Number of directors**

The number of directors must not be less than three (3) not more than seven (7). The Company may by Ordinary Resolution passed at a general meeting of the members increase or reduce the number of directors but must not reduce the minimum number of directors below three (3).

**18.2 Appointment of directors**

The directors have the power to appoint any Member as a director to fill a casual vacancy or as an addition to the board provided that the number of directors does not exceed any maximum number of directors fixed by this Constitution.

**18.3 Rotation of directors**

At the first annual general meeting of the Company following the adoption of these Rules, all the directors must retire from office. The term of each director's appointment is 2 years after that date and at every second annual general meeting, one half of the directors, or if the number of directors is not a multiple of two (2) then the number nearest to one half, must retire from office. A retiring director is eligible for re-election. The directors to retire at an annual general meeting will be

determined by the board of directors. Failing agreement on retirement, the directors to retire at an annual general meeting will be those who have been longest in office since their election and as between persons who became directors on the same date, the directors to retire will be determined by lot.

**18.4 Re-election of retiring directors**

The Company, may by Ordinary Resolution, fill a vacated director's office by electing a person to that office. If the vacated office is not filled, the retiring director must, if offering himself for re-election, be deemed to have been re-elected unless at that meeting:

(a) it is resolved not to fill the vacated office; or

(b) a resolution for the re-election of the director is put and lost.

**18.5 Removal of director**

(a) The Company may remove any director and appoint another director as a replacement.

(b) The removal or replacement of a director must be effected by Ordinary Resolution of the Company.

**18.6 Director's expenses**

The directors will be entitled to be reimbursed all travelling and other expenses properly incurred by them:

(a) in attending meetings of the directors or any committee of the directors;

(b) in attending general meetings of the Company; or

(c) in connection with the Company's business.

**18.7 Vacation of director's office**

The office of a director becomes vacant if:

(a) required by the Law;

(b) the director is removed under these Rules;

(c) the director dies or becomes mentally incapacitated or the director's estate is liable to be dealt with under a law relating to mental health;

(d) the director becomes bankrupt or makes any arrangement or composition with creditors;

(e) the director resigns or ceases to be a Member;

(f) the director is absent from directors' meetings for at least six (6) months without the consent of the other directors; or

(g) the director holds any other office of profit under the Company, except that of managing director.

## 19. POWERS AND DUTIES OF DIRECTORS

**19.1 Directors manage the business**

(a) Subject to the Law and to these Rules, the Company's business will be managed by the directors.

(b) The directors are entitled to pay or reimburse all expenses incurred in promoting and forming the Company.

(c) The directors may exercise all powers of the Company except where those powers must be exercised by the Company in general meeting under the Law or these Rules.

**19.2 All powers of Company**

Without limiting Rule 19.1, the directors may exercise all the powers of the Company to:

(a) borrow money;

(b) charge any property or business of the Company or all or any of its uncalled capital;

(c) issue debentures; or

(d) give any other security for a debt, liability or obligation of the Company or of any other person.

**19.3 Corporate groups**

(a) If the Company is a wholly owned subsidiary of another Company (the "Holding Company"), the directors may act in the best interests of the Holding Company.

(b) The directors must not act in the way referred to in Rule 19.3(a) if the Company is insolvent at the time or would by virtue of the director' actions become insolvent.

**19.4 Appointment of attorney**

(a) The directors may appoint any person or persons under a power of attorney to be the attorney or attorneys of the Company.

(b) The appointment may be:

(i) for any purpose; or

(ii) in relation to any of the directors' powers, authorities and discretions; or

(iii) for any period; and/or

(iv) subject to any conditions as the directors decide.

**19.5 Provisions of power of attorney**

Any power of attorney may contain provisions for the protection and convenience of persons dealing with the attorney as the directors decide and may authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.

**19.6 Cheques and promissory notes**

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, must be signed, drawn, accepted, endorsed or otherwise executed:

(a) by any two (2) directors; or

(b) in any other manner as the directors decide.

**20. PROCEEDINGS OF DIRECTORS**

**20.1 Use of technology**

Any directors' meeting may be conducted at more than one (1) venue by using any technology that gives each director a reasonable opportunity to participate in the meeting and permits each director present to hear and be heard by each other director present.

**20.2 Directors' meetings**

(a) Any director may convene a directors' meeting. The Secretary must convene a meeting at the request of a director.

(b) A written notice of a directors' meeting must be sent to each director within seven (7) days after a request to convene a meeting.

(c) The notice may be given by telephone or other electronic means of communication. The notice must specify:

(i) the date and time for the proposed meeting;

(ii) the venue for the meeting unless the meeting is conducted under Rule 20.1;

(iii) if the meeting is to be conducted under Rule 20.1, the method for conducting the meeting; and

(iv) the nature of the business to be transacted at the meeting.

**20.3 Quorum**

(a) A quorum at a directors' meeting will be at least two (2) directors entitled to vote on any motion that may be moved by the meeting.

(b) A quorum of directors must be present throughout each director's meeting. If a quorum is not present at any time the meeting is not validly convened but without affecting the validity of any business conducted before the absence of a quorum occurs.

**20.4 Directors to continue to act**

Where a vacancy in the office of a director occurs, the remaining directors may continue to act. If the number of remaining directors is insufficient to constitute a quorum, the directors 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.

**20.5 Election of chairman**

The directors may elect one (1) director as chairman of their meetings and may determine the period for which the chairman is to hold office.

**20.6 Chairman not present**

Where a directors' meeting is held and the chairman:

(a) has not been elected; or

(b) is not present within fifteen (15) minutes after the appointed time; or

(c) is unwilling to act,

then the directors present will elect one (1) other director to be chairman of the meeting.

**20.7 No casting votes**

The chairman does not have a casting vote in addition to any vote the chairman has as a director.

**20.8 Circular resolution**

The directors may pass a resolution without a directors' meeting if all of the directors entitled to vote on the resolution sign a document stating that they are in favour of the resolution. Duplicate copies of the document may be used for signing. The resolution is deemed to be passed when the last director signs.

**20.9 Validity of directors acts**

All things done by any directors' meeting or by a committee of directors or by any person acting as a director will be valid even though it subsequently becomes known:

(a) that there was some defect in the appointment of a person to be a director or a Member of the committee, or to act as a director; or

(b) that a person appointed was disqualified.

**20.10 Decisions of the directors**

Any question arising at a directors' meeting or any committee of directors is determined by a simple majority of votes of the directors.

**20.11 Minutes**

The directors will cause proper minutes to be made of:

(a) all director's meetings;

(b) all appointments of officers;

(c) the proceedings of all director's meetings and committees of directors;

(d) the attendance at all meetings of the directors and the business transacted at those meetings,

and any minutes purporting to be signed by the chairman of the meeting or by the chairman of the next succeeding meeting, will be conclusive evidence of the matters recorded in them without any further proof.

## 21. ALTERNATE DIRECTORS

### 21.1 Appointment of an alternate

A director may appoint any person to be an alternate director during any period as the director requires, but only:

(a) with the approval of the other directors; and

(b) while the appointor is not available to act.

### 21.2 Notice of meetings

An alternate director is entitled to notice of and to vote at directors' meetings unless the appointor is present at the meeting.

### 21.3 Power of alternate

An alternate director may exercise any of the appointor's powers during any period that the appointor is unavailable to do so. The exercise of any power by the alternate director is deemed to be the exercise of that power by the appointor.

### 21.4 Termination of appointment

The appointment of an alternate director will terminate:

(a) on notice by the appointor even though the appointment period has not expired;

(b) automatically if the appointor ceases to be a director.

### 21.5 Responsibility

An alternate director will, whilst acting as director, be responsible to the Company for his or her own acts and defaults and will not be deemed to be the agent of the director by whom he was appointed.

### 21.6 No remuneration

An alternate director will not be entitled as in that capacity to receive any remuneration from the Company.

## 22. INTERESTED DIRECTORS

### 22.1 Notice requirements

(a) If a director has a material personal interest in any matter that relates to the affairs of the Company, the director must disclose that interest to the other directors unless the director is not required to disclose the interest in the circumstances listed in Section 191(2) of the Law.

(b) The notice disclosing the director's material personal interest must:

(i) give details of the nature and extent of the interest and how it relates to the affairs of the Company;

(ii) be given at a directors' meeting as soon as practicable after the director becomes aware of the interest; and

(iii) be recorded in the minutes of the directors' meeting at which the notice is given.

### 22.2 Director must not vote

A director who has a material personal interest in any matter being considered at a director's meeting must not be present while the matter is being considered and must not vote on the matter.

### 22.3 Exception to Rule

Regardless of Rule 22.2, if:

(a) the director is not required to disclose the interest under Section 191 of the Law;

(b) the director has disclosed the interest under Section 191 of the Law and the other directors not having a material personal interest in the matter pass a resolution that:

(i) identifies the director, the nature and extent of the director's interest in the matter and its relation to the affairs of the Company; and

(ii) states that those directors are satisfied that the interest should not disqualify the director from voting on the matter or being present; or

(c) ASIC has determined that the director may be present and vote under Section 196 of the Law,

then the director may be present at the meeting considering the matter and may vote in relation to it.

### 22.4 No quorum available

If a quorum of directors is not present at any meeting because of the operation of Rule 22.2, any director may call a general meeting and the general meeting may pass a resolution to deal with the matter.

### 22.5 Director not disqualified

If a director is permitted to be present and to vote by virtue of Rule 22.3:

(a) that director will not be disqualified by the office from contracting with the Company either as vendor, purchaser or otherwise;

(b) no contract made by that director with the Company and no contract or arrangement entered into by or on behalf of the Company in which that director is in any way interested may be avoided by reason only of that director holding that office or of the fiduciary relationship established by it;

(c) that director will not be liable to account to the Company for any profit realised under any contract or arrangement by reason only of that director holding the office or of the fiduciary relationship established by it;

(d) that director may:

(i) execute any deed or document on behalf of the Company; and

(ii) count in a quorum.

### 22.6 Standing notice

(a) A director may give the other directors a standing notice that:

(i) the director is a director or Member of any specified company or firm and is to be regarded as interested in all subsequent transactions with that company or firm; or

(ii) the director has any other interest in any matter,

at any time and whether or not the matter relates to the Company's affairs at the time.

(b) The notice under Rule 22.6(a) must comply with Section 192 of the Law and will only be effective if it has not expired at any relevant time.

(c) If a notice is given in accordance with Rule 22.6(a) and the notice is effective at the relevant time, the notice will be sufficient disclosure under these Rules in relation to any contract, proposed contract or arrangement to be made by the Company.

### 22.7 Other office may be held

A director may hold any other office or place of profit, except that of auditor, in the Company in conjunction with the directorship and may be appointed upon terms of remuneration, tenure of office and otherwise as the directors decide.

### 22.8 Professional director may act

Any director may act in a professional capacity for the Company, and will be entitled to remuneration for professional services regardless of the directorship.

## 23. COMMON SEAL

### 23.1 Election to adopt company seal

The directors may resolve that the Company adopt a common seal. If the Company adopts a common seal, it will include:

(a) only the Company's name where the Company has its ACN as its name; or

(b) the Company's name, the expression "ACN" and its Australian Company Number in all other cases.

### 23.2 Duplicate common seal

The directors may adopt a duplicate common seal. Any duplicate common seal must be a copy of the common seal with the words "Duplicate Seal", or "Certificate Seal" added to it.

### 23.3 Prohibited use

A director must not use, or authorise the use of, a seal which purports to be the common seal of the Company (or a duplicate of the common seal) if the common seal does not comply with the requirements of this Rule.

## 24. EXECUTION OF DOCUMENTS

### 24.1 Execution with or without the common seal

The Company may execute a document with or without affixing a common seal. The Company executes a document if the document is signed by:

(a) two (2) directors; or

(b) one (1) director where authorised by a resolution of a directors' meeting; or

(c) a director and the Secretary.

### 24.2 Execution of deeds

The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with this Rule 24.

### 24.3 No limitation

This Rule will not be interpreted as limiting the manner in which the Company may execute a document (including a deed).

## 25. COMMITTEE

### 25.1 Delegation to committee

The directors may delegate any of their powers to any committee or committees of directors as they decide.

### 25.2 Powers of committee

A committee to which any powers have been delegated must exercise the powers delegated in accordance with any directions of the directors. A power exercised in accordance with those directions is deemed to have been exercised by the directors.

### 25.3 Committee chairman

The members of a committee may elect one (1) of their number as chairman of their meetings.

### 25.4 Election of chairman

Where a committee meeting is held and:

(a) a chairman has not been elected; or

(b) the chairman is not present within fifteen (15) minutes after the appointed time; or

(c) the chairman is unwilling to act,

the committee members present may elect one (1) of their number to be chairman of the meeting.

### 25.5 Decision by majority

Questions arising at a committee meeting will be determined by a majority of votes of the committee members who are present and voting.

### 25.6 Casting vote

The chairman has a casting vote, if necessary, in addition to any vote the chairman has as a committee Member.

## 26. MANAGING DIRECTOR

### 26.1 Appointment

The directors may from time to time appoint one (1) or more directors to be the managing director of the Company. The managing director's appointment will be for a period and on terms as the directors decide. The directors may revoke the managing director's appointment.

### 26.2 Termination

A managing director's appointment automatically terminates if he ceases for any reason to be a director.

### 26.3 Remuneration

A managing director will be entitled to receive any remuneration by the directors.

### 26.4 Powers of managing director

(a) The directors may confer upon a managing director any of the powers exercisable by them with any conditions or restrictions as the directors decide.

(b) Any of those powers may be made concurrent with or exclusive of the powers of the directors.

(c) The directors may at any time withdraw or vary any of those powers.

## 27. SECRETARY

### 27.1 Appointment

The Secretary will be appointed by the directors on terms and conditions determined by the directors. The directors may appoint a person as an additional Secretary or as acting Secretary or as a temporary substitute for the Secretary who will, for the purposes of these Rules, be deemed to be the Secretary. The directors may at any time remove or replace the Secretary.

## 28. ACCOUNTS AND AUDIT

### 28.1 Proper records kept

The directors must ensure that proper accounting and other records are kept. A balance sheet and profit and loss account must be prepared and distributed to all Members at least once in each calendar year.

### 28.2 Auditor

Where required by the Law, the Company must appoint an auditor or auditors, whose duties will be regulated in accordance with the Law.

## 29. RESERVES

### 29.1 Make reserve

The Directors may:

(a) write off from the Company's earnings any amount for loss or depreciation of any property;

(b) set aside any amount out of the Company's profits,

as a reserve fund to meet contingencies or for repairing, improving and/or maintaining any of the Company's property and/or for any other purposes which are conducive to the interests of the Company.

### 29.2 Deal with reserve

The Directors may:

(a) invest, lend or dispose of any reserved amounts in any way;

(b) deal with, vary and dispose of any investments or parts of them for the benefit of the Company;

(c) divide the reserve fund into special funds; and/or

(d) employ the assets constituting the reserve fund in the business of the Company and without being bound to keep the same separate from other assets.

## 30. INSPECTION OF RECORDS

### 30.1 Conditions

The directors may determine whether and under what conditions the accounting records or other documents of the Company will be open to the inspection of Members.

### 30.2 No right unless authorised

A Member does not have the right to inspect any document of the Company except as provided by the Law or authorised by the directors or by the Company in general meeting.

### 30.3 Directors right

The directors have the right at any time to inspect the accounting records or other documents of the Company, whether or not they are a Member.

## 31. NOTICES

### 31.1 Form of notice

Any notice or other communication in connection with this Constitution must be in writing and signed by the person giving the notice and be addressed to the Notice Address of the person to whom it is to be given.

### 31.2 Time of delivery

The notice or other communication will be deemed to be received:

(a) in the case of a posted letter, on the third day after posting;

(b) in the case of delivery by generally recognised overnight courier, on the second day after dispatch with that courier;

(c) in the case of personal delivery, on the date of delivery;

(d) in the case of facsimile transmission, at the time recorded on the transmission report from the machine from which the facsimile was sent; or

(e) in the case of transmission by electronic mail, on the day of transmission if the electronic medium sending the notice states that the transmission was completed before 5:00pm on a business day, otherwise on the next business day. This method of service is effective only if the medium's report states that it was sent in full and without error and the message is not rejected or undeliverable as evidenced by a message to that effect received by the sender.

## 32. INDEMNITY AND INSURANCE

### 32.1 Indemnity against liability

To the extent permitted by the Law, the Company may indemnify every person who is, or who has been, a director or officer of the Company or any Related Body Corporate against:

(a) any liability incurred by them in their capacity as a director or officer, to a person other than the Company or Related Body Corporate, except where the liability relates to a wilful breach of duty or a contravention of section 181-184 of the Law;

(b) any liability for legal costs or expenses incurred by them in defending any proceedings in which judgement is given in their favour; or

(c) any liability for legal costs or expenses incurred by them in defending any proceedings in which they are acquitted or the Court grants relief in their favour.

### 32.2 Insurance

To the extent permitted by the Law, the Company may insure or pay any premiums on a policy of insurance for a director or officer of the Company or of a Related Body Corporate against any liability for which the Company indemnifies the director or officer under Rule 32.1.

### 32.3 Resolution to Grant Indemnity

A director may vote in favour of a resolution that the Company grant an indemnity pursuant to Rule 32.1, take insurance or pay the premiums on an insurance policy pursuant to Rule 32.2 even though the director has a direct and material interest in the outcome of the resolution.

## SCHEDULE 1

## FORM OF PROXY

I / We,

_____ of _____

being a Member of [insert company name] and entitled to vote appoint

☐ the chairman of the meeting **OR** ☐ _____

(Insert name and address of proxy)

or failing that appointment or the absence of that person, the chairman of the meeting**, as my/our proxy to act generally at the meeting and to vote for me on my/our behalf in accordance with the following instructions (or if no directions have been given, as the proxy sees fit and with discretion as to any business not referred to below) at the [Annual] General Meeting of the Company to be held on [insert date] and at any adjournment of that meeting.

(Voting instructions, if any, are to be indicated by placing a tick in the appropriate box. If no instruction is given the proxy may vote as that person thinks fit, or abstain.)

| **Business** | **For** | **Against** | **Abstain*** |
|---|---|---|---|
| 1. [insert] | ☐ | ☐ | ☐ |
| 2. [insert] | ☐ | ☐ | ☐ |

AND for _____% for this proxy form.

* if you mark the abstain box for any item, you are directing the proxy not to vote on your behalf on a show of hands or on a poll and your votes will not be counted in calculating the required majority on a poll.

** if the chairman of the meeting is appointed as your proxy or is appointed by default and your voting direction is not indicated, the chairman may exercise your proxy even if he has an interest in the outcome of those items.

**Signature of Member**

| Member 1 (Individual) | Joint Member 2 (Individual) | Joint Member 3 (Individual) |
|---|---|---|
| Sole Director / Attorney / Authorised Person | Director / Company Secretary | Director |

### *Notes*

This form should be signed by the Member. If a joint holding, either Member may sign. If signed by an attorney or other authorised person, the power of attorney or written authority must have been previously noted by the Company or a certified copy attached to this form. If executed by a company, the form must be executed in accordance with the Members constitution and the *Corporations Act 2001 (Cth)*.

### *Proxies*

(a) A Member who is entitled to attend and vote at this meeting is entitled to appoint not more than 2 proxies to attend and vote instead of the Member.

(b) Where 2 proxies are appointed:
   (i) A separate proxy form should be used to appoint each proxy;
   (ii) The proxy form may specify the proportion, or number, of votes that the proxy may exercise, and if it does not do so the proxy may exercise half of the votes.

(c) A proxy need not be a Member of the Company.

(d) To be effective, proxy forms (duly completed and signed) must be received by the Company at its registered office no later than 48 hours before the time for the holding of the meeting.