

## Constitution



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## 1. NAME OF THE COMPANY

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The name of the Company is Osteopathy Australia.

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## 2. TYPE OF COMPANY

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- (a) The Company is a not-for-profit public company limited by guarantee.
  - (b) Subject to this Constitution, each person who is a Member and each person who was a Member during the year ending on the day of the commencement of the winding up of the Company, undertakes to contribute to the property of the Company for:
    - (i) payment of debts and liabilities of the Company;
    - (ii) payment of the costs, charges and expenses of winding up; and
    - (iii) any adjustment of the rights of the contributories among Members.
  - (c) The amount that each Member or past Member is liable to contribute is limited to \$50.00.
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## 3. REPLACEABLE RULES

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This Constitution displaces the Replaceable Rules to the extent that it is inconsistent with any Replaceable Rules.

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## 4. DEFINITIONS AND INTERPRETATION

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### 4.1 Definitions

In this Constitution, unless there is something in the subject or context which is inconsistent:

**Act** means the *Corporations Act 2001*.

**Board** means the Board of Directors.

**Board Elected Director** means a Director elected to the Board in accordance with **clause 30.4**.

**Business Day** means a day on which banks are open for business in Sydney.

**Chairman** means the person holding that office under this Constitution and includes any assistant or acting chairman.

**Chief Executive Officer** means the person appointed as the chief executive officer of the Company and includes any assistant or acting chief executive officer.

**Committee** means a committee established in accordance with **clause 43(a)**.

**Company** means Osteopathy Australia.

**Constitution** means this Constitution as amended or supplemented from time to time.

**Director** means any person holding the position of a director of the Company (including both Board Elected Directors and Member Elected Directors) and **Directors** means the directors for the time being of the Company or as the context permits such number of them as have authority to act for the Company.

**Entrance Fee** means the entrance fee payable by the Members pursuant to **clause 8(a)**.

**Financial Voting Member** means a Voting Member who is not in arrears to the Company and has paid his or her Entrance Fee and Membership Fee within one (1) month of the due date for payment.

**Member** means a member of the Company pursuant to **clause 6** and **Membership** has a corresponding meaning.

**Member Elected Director** means a Director elected to the Board in accordance with **clause 30.3**.

**Member's Guarantee Amount** means the amount referred to in **clause 2(c)**.

**Member Present** means, in connection with a meeting of Members, a Financial Voting Member being present in person or by proxy or attorney.

**Membership Fee** means the membership fees payable by Members pursuant to **clause 8(b)**.

**Non-voting Member** means and includes:

- (a) International Members; and
- (b) Student Members.

**Office** means the registered office for the time being of the Company.

**Officer** has the same meaning as given to that term in section 9 of the Act.

**Operations Committee** means the Committee referred to in **clause 44**.

**President** means the President of the Company appointed pursuant to **clause 30.8**.

**Register** means the register of Members to be kept pursuant to the Act.

**Replaceable Rules** means the replaceable rules applicable to a public company limited by guarantee set out in the Act.

**Secretary** means the person appointed as the secretary of the Company and includes any assistant or acting secretary.

**Special Resolution** has the meaning given to it by the Act.

**Voting Member** means and includes:

- 
- (a) Full Members;
  - (b) Graduate Members;
  - (c) Part-Time Members;
  - (d) Non-Practising Members;
  - (e) Retired Members;
  - (f) Academic Members; and
  - (g) Honorary Life Members;

but does not include:

- (h) International Members; and
- (i) Student Members.

#### **4.2 Interpretation**

- (a) In this Constitution, unless there is something in the subject or context which is inconsistent:
  - (i) the singular includes the plural and vice versa;
  - (ii) each gender includes the other two genders;
  - (iii) the word "person" means a natural person and any partnership, association, body or entity whether incorporated or not;
  - (iv) the words "writing" and "written" include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
  - (v) 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;
  - (vi) a reference to any clause or schedule is to a clause or schedule of this Constitution;
  - (vii) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it.
- (b) An expression used in a particular Part or Division of the Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any clause that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division.
- (c) Headings do not form part of or affect the construction or interpretation of this Constitution.

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## **5. OBJECTS AND PURPOSES**

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### **5.1 Osteopathy**

- (a) Osteopathy is a total system of health care. It integrates an understanding of clinical diagnosis and assessment with the knowledge of the interrelationship of the musculoskeletal system with other body systems.
- (b) The Company:
  - (i) recognises the basic tenets of Osteopathic philosophy, being:
    - (A) the body is one unit of function;
    - (B) the body has self regulating mechanisms;
    - (C) structure and function are reciprocally related; and
    - (D) rational treatment is applied with an understanding of this philosophy and a thorough knowledge of clinical sciences;
  - (ii) recognises the importance of medical investigation and diagnostic imaging where clinically indicated;
  - (iii) supports the use of pharmaceutical interventions where clinically indicated by best practice models;
  - (iv) recognises the importance of providing lifestyle and general health advice including dietary and exercise prescription as relevant to a primary healthcare practitioner;
  - (v) recognises the importance of psychosocial and emotional factors and supports referrals to appropriate health practitioners where clinically indicated; and
  - (vi) recognises the importance of surgical intervention and supports appropriate referral when clinically indicated.

### **5.2 Objects**

The objects of the Company are to:

- (a) advance the professional interests of the Osteopathic profession and the Members;
- (b) protect and safeguard the scope of practice of the Osteopathic profession;
- (c) increase awareness of Osteopathy and educate the general public of its benefits;
- (d) lobby to promote, safeguard, protect and further the best interests and welfare of Members and Osteopathy generally, and to obtain parliamentary and other legal recognition and acknowledgement of the qualifications, rights, interests and status of Members and to oppose legislation and other action



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likely to destroy or imperil the best interests and/or status of Members and Osteopathy generally;

- (e) work closely with and support educational institutions offering or preparing to offer osteopathy courses;
- (f) establish professional codes and guidelines to promote ethical and professional conduct by Members;
- (g) work with statutory bodies to assist in protecting the public and seeking the exclusion of unqualified and incompetent persons from practising Osteopathy;
- (h) produce and distribute educational content, magazines, and online content concerning the value and advantages of Osteopathy;
- (i) establish, maintain and conduct a clinic or other institution as determined by the Company, for the treatment of patients by Osteopathic methods;
- (j) work closely with key stakeholders to encourage the establishment of Osteopathic institutes for research;
- (k) support other Osteopathic associations, institutes or companies (wherever incorporated or resident) in their efforts to promote the status of such associations, institutes, or companies and acquire parliamentary recognition and other legal acknowledgment of the rights, interests and status of Osteopaths and of Osteopathy generally;
- (l) work with statutory bodies to provide mandatory continuing professional development, offering a mechanism of measurement and recognition of professional development as a requirement for Membership to the Company; and
- (m) do all such other lawful things as are incidental or conducive to the attainment of the above objects.

### **5.3 Income and Property**

- (a) The income and property of the Company will only be applied towards the promotion of the objects of the Company set out in **clause 5.2**.
- (b) No income or property of the Company will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Company. However nothing in this Constitution will prevent payment in good faith to a Member:
  - (i) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company;
  - (ii) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Company; or
  - (iii) of reasonable and proper rent for premises leased by any Member to the Company.

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#### **5.4 Remuneration of Directors**

No payment shall be made to any Director (except any executive Directors in their capacity as an employee of the Company) other than the payment:

- (a) of out of pocket expenses incurred by the Director in the performance of any duty as a Director where the amount payable does not exceed an amount previously approved by the Board; and
- (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable for the service.

### **MEMBERSHIP**

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#### **6. ADMISSION TO MEMBERSHIP**

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##### **6.1 Pre-condition to Membership**

A person is entitled to become a Member if that person agrees to assume the liability to pay the Member's Guarantee Amount and satisfies the criteria attached to the relevant class of Membership.

##### **6.2 Becoming a Member**

Subject to the Act, a person becomes a Member on the registration of that person's name in the Register.

##### **6.3 Classes of Membership**

There are nine (9) classes of Membership, which are as follows:

- (a) Full Members;
- (b) Graduate Members;
- (c) Part-Time Members;
- (d) Non-Practising Members;
- (e) Retired Members;
- (f) Academic Members;
- (g) Honorary Life Members;
- (h) International Members; and
- (i) Student Members.

#### **6.4 Full Members**

Full Members are Members approved by the Chief Executive Officer, meeting all of the eligibility requirements set out by the Board from time to time, who do not fit into any other class of Membership.

#### **6.5 Graduate Members**

- (a) Graduate Members are persons who graduated from a recognised Osteopathy course within the twenty four (24) months immediately prior to making an application for Membership as a Graduate Member in accordance with **clause 6.5(b)**.
- (b) Persons and existing Members must make an application to the Chief Executive Officer if they wish to be admitted to or transferred to this class of Membership from another class.

#### **6.6 Part-Time Members**

- (a) Part-Time Members are those persons working in any capacity as an Osteopath for up to sixteen (16) hours per week with evidence provided to the Chief Executive Officer of equivalent capped professional indemnity insurance.
- (b) Persons and existing Members must make an application to the Chief Executive Officer if they wish to be admitted to or transferred to this class of Membership from another class.
- (c) The approval of an application for Membership as a Part-Time Member will be in the Chief Executive Officer's absolute discretion.
- (d) Where a Part-Time Member no longer meets the eligibility requirements for this class of Membership, the Member must, within one (1) month of ceasing to meet those requirements, make an application to the Chief Executive Officer to be transferred to the alternate, appropriate class of Membership.

#### **6.7 Non-Practising Members**

- (a) Persons and existing Members must make an application to the Chief Executive Officer if they wish to be admitted to or transferred to this class of Membership from another class.
- (b) The Chief Executive Officer will consider an application for Membership into this class, where:
  - (i) the Member is taking leave and ceasing from practice for a purpose other than retirement; and
  - (ii) the Member has made an application to the Chief Executive Officer outlining the Member's circumstances.
- (c) Should a Non-Practising Member wish to remain within this class of Membership after having been a Non-Practising Member for one (1) year, the Member must reapply to the Chief Executive Officer by submitting another application with appropriate reasons outlining the Member's circumstances.

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- (d) The approval of an application for Membership as a Non-Practising Member will be in the Chief Executive Officer's absolute discretion.

### **6.8 Retired Members**

- (a) A Member may apply to the Chief Executive Officer for Membership as a Retired Member upon ceasing practice for permanent retirement.
- (b) Once approved by the Chief Executive Officer as a Retired Member, Retired Members need not reapply to the Board each subsequent renewal year.
- (c) The approval of an application for Membership as a Retired Member will be in the Chief Executive Officer's absolute discretion.

### **6.9 Academic Members**

- (a) Academic Members are those Members:
  - (i) working at least 0.6 full-time equivalent as an academic at a tertiary institution in Australia; and
  - (ii) meeting all of the eligibility requirements (if any) set out by the Board from time to time.
- (b) Persons and existing Members must make an application to the Chief Executive Officer if they wish to be admitted to or transferred to this class of Membership from another class.
- (c) The approval of an application for Membership as a Academic Member will be in the Chief Executive Officer's absolute discretion.

### **6.10 Honorary Life Members**

- (a) Where a Member has, in the opinion of the Board, made an outstanding contribution to the Company or the Osteopathic profession, or for any other commendable reason, the Board may, by at least a 75 percent majority resolution passed at a Board Meeting, appoint a Member as an Honorary Life Member.
- (b) An Honorary Life Member will remain an Honorary Life Member for the duration of that Member's life unless the Member:
  - (i) resigns his Membership pursuant to **clause 9(a)(i)**; or
  - (ii) is expelled pursuant to **clause 10**.
- (c) Honorary Life Members are not required to pay the annual Membership Fee.

### **6.11 International Members**

- (a) The Chief Executive Officer, in consultation with the Board, may admit individuals as International Members.
- (b) International Members are persons working in any capacity as an Osteopath, where that person is working outside of Australia or in any supportive role (supporting a person working as an Osteopath).

- (c) The Board may make regulations concerning:
  - (i) the necessary qualifications required to be approved as an International Member; and
  - (ii) the admission procedure to be followed.
- (d) International Members shall not be entitled to vote at any meeting of the Members.

#### **6.12 Student Members**

- (a) The Chief Executive Officer may admit any pre-professional undergraduate or postgraduate student of a university or centre of tertiary education, who is undertaking full time training or studies in Osteopathy, as a Student Member.
- (b) The Board may make regulations concerning:
  - (i) the necessary qualifications required to be approved as a Student Member; and
  - (ii) the admission procedure to be followed.
- (c) Student Members shall not be entitled to vote at any meeting of the Members.

#### **6.13 Eligibility for Membership**

- (a) Any person is eligible to become a Member if the person:
  - (i) is a natural person;
  - (ii) is, in the Chief Executive Officer's opinion, of good character;
  - (iii) lodges an application form in accordance with **clause 6.14**;
  - (iv) pays the Entrance Fee and the first annual Membership Fee in accordance with **clause 8**;
  - (v) has the requisite educational qualifications and provides evidence of those educational qualifications; and
  - (vi) where a practising osteopath, provides evidence of current registration in Australia and proof of professional indemnity insurance.
- (b) The Board will, in its discretion, determine the educational qualifications and other criteria required for each class of Membership, from time to time.

#### **6.14 Application for Membership**

- (a) Only a person satisfying the eligibility requirements for Membership referred to in **clause 6.13(a)** may apply for Membership.
- (b) Applicants for Membership must complete an application form prescribed by the Board from time to time.

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- (c) Application forms must be lodged at, or sent to the electronic address of, the Office.

### **6.15 Non-voting Members**

Non-voting Members:

- (a) may not exercise any voting rights;
- (b) are not eligible for election to the position of any Officer of the Company;
- (c) may not access reduced indemnity insurance through the Company's endorsed policies; and
- (d) may not, at the discretion of the Board, be entitled to all of the privileges afforded to Voting Members.

### **6.16 Benefits**

In addition to each Voting Member being entitled to vote at all general meetings, the Board will determine from time to time what additional benefits shall attach to Membership.

### **6.17 Consideration for application for Membership**

Upon receiving an application for Membership, the Chief Executive Officer must, within a reasonable time thereafter, consider the application and either accept or reject the application.

### **6.18 Registration as Member**

- (a) If the Chief Executive Officer accepts an application for Membership, the Secretary must notify the applicant of the acceptance and register the name of the person in the Register.
- (b) If the Chief Executive Officer rejects an application for Membership, the Secretary must notify the unsuccessful applicant and all moneys lodged by that applicant shall be returned to the applicant.

### **6.19 Transitional Arrangements**

- (a) Each First Year Member and each Second Year Member as at the date that this amended Constitution is adopted (and as defined in the immediately preceding constitution) shall become a Graduate Member.
- (b) Each Maternity Leave Member as at the date that this amended Constitution is adopted (and as defined in the immediately preceding constitution) shall become a Non-Practising Member.
- (c) Each Associate Member as at the date that this amended Constitution is adopted (and as defined in the immediately preceding constitution) shall become an International Member.

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## **7. MEMBERSHIP ENTITLEMENTS NOT TRANSFERABLE**

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

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- (a) is not capable of being transferred or transmitted to another person; and
  - (b) terminates on cessation of the person's Membership.

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## 8. ENTRANCE FEE AND MEMBERSHIP FEES

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- (a) There shall be an Entrance Fee payable by each Member upon the date a Member is admitted to Membership within the Company.
- (b) Subject to **clause 6.10(c)**, there shall be an annual Membership Fee payable by each Member to the Company, which will be due on 1 July each year.
- (c) The Board is at liberty to charge different classes of Membership different rates of Membership Fee.
- (d) Subject to **clause 8(e)**, the amount of any Entrance Fee and annual Membership Fee shall be fixed by the Board and shall be payable by Members at such times and in such manner as determined by the Board from time to time.
- (e) The Board may in its discretion:
  - (i) determine that no Entrance Fee or annual Membership Fee is payable by a Member, a class of Members or Members in a given year; or
  - (ii) a discounted Entrance Fee or annual Membership Fee is payable by a Member, a class of Members or Members in a given year; or
  - (iii) extend the time for payment of an Entrance Fee and/or annual Membership Fee by any Member.
- (f) No part of any Entrance Fee or annual Membership Fee shall be refunded to a Member who ceases to be a Member in accordance with **clause 9**.

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## 9. CESSATION OF MEMBERSHIP

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- (a) A Member's Membership will cease:
  - (i) on the date that the Secretary receives written notice of resignation from that Member;
  - (ii) upon that Member dying;
  - (iii) subject to **clause 8(e)**, if that Member fails to pay an annual Membership Fee:
    - (A) within thirty (30) days after it falls due; and
    - (B) then fails to rectify this default within seven (7) days of being notified of the default by the Company;
  - (iv) if the Member is expelled pursuant to **clause 10**;

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- (v) upon the Member becoming bankrupt or making any arrangement or composition with creditors generally;
  - (vi) upon that Member no longer satisfying the criteria for its respective class of Membership (unless transferred to another class of Membership by the Board);
  - (vii) if the Company in general meeting resolves by a Special Resolution to terminate the Membership of a Member whose conduct or circumstances in the opinion of the Company renders it undesirable that that Member continue to be a Member of the Company. The Member must be given at least twenty one (21) days' notice of the proposed resolution and must be given the opportunity to be heard at the meeting at which the resolution is proposed.
- (b) A Member may at any time, pursuant to **clause 9(a)(i)**, resign as a Member but shall continue to be liable for:
- (i) any Membership Fee and all arrears due and unpaid at the date of resignation;
  - (ii) all other monies due by the Member to the Company at the date of resignation;
  - (iii) any sum for which the Member is liable as a Member of the Company under **clause 2(b)**; and
  - (iv) if applicable, the Member's Guarantee Amount.

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## 10. DISCIPLINING OF MEMBERS

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### 10.1 Disciplining of Members

- (a) Where the Board is of the opinion that a Member has:
- (i) persistently refused or neglected to comply with a provision or provisions of this Constitution; or
  - (ii) persistently refused or neglected to comply with a provision or provisions of the Company's code(s) of conduct or a policy adopted by the Company from time to time; or
  - (iii) persistently and wilfully acted in a manner prejudicial to the interests of the Company;
- the Board may:
- (iv) expel the Member from the Company; or
  - (v) suspend the Member from Membership of the Company for a specified period.
- (b) A resolution of the Board pursuant to **clause 10.1(a)** will be of no effect unless the Board confirms the resolution in accordance with this clause at a



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meeting held not earlier than fourteen (14) days and not later than twenty eight (28) days after the service on the Member of notice under **clause 10.1(c)**.

- (c) If the Board resolves under **clause 10.1(a)** to expel or suspend any Member, the Secretary must serve the Member with a notice in writing:
  - (i) setting out the resolution of the Board and the grounds upon which it is based;
  - (ii) stating that the Member may address the Board at a meeting to be held not earlier than fourteen (14) days and not later than twenty eight (28) days after service of the notice;
  - (iii) stating the date, place and time of that meeting; and
  - (iv) informing the Member that the Member may do either or both of the following:
    - (A) attend and speak at that meeting (using any technology that gives the Member a reasonable opportunity to participate in the meeting);
    - (B) submit to the Board at or prior to the date of that meeting written representations relating to the resolution.
- (d) At a meeting of the Board held in accordance with **clause 10.1(c)**, the Board must:
  - (i) give the Member an opportunity to make oral representations;
  - (ii) give due consideration to any written representations submitted to the Board by the Member at or prior to the meeting; and
  - (iii) resolve whether to confirm or to revoke the decision to expel or suspend the Member.
- (e) The Member must be notified in writing of the decision of the Board within seven (7) days. If the Board resolves to confirm the expulsion or suspension, the Member must also be notified of the right of appeal available under **clause 10.2**.
- (f) A resolution confirmed by the Board under **clause 10.1(d)** does not take effect:
  - (i) until the expiration of the period within which the Member is entitled to appeal against the resolution; or
  - (ii) if the Member exercises the right of appeal, until the Company confirms the resolution pursuant to **clause 10.2(d)**.

## **10.2 Right of Appeal of Disciplined Member**

- (a) A Member may appeal to the Company in general meeting against a resolution of the Board, which is confirmed under **clause 10.2(d)**. Written

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notice of such an appeal must be lodged with the Secretary within seven (7) days of service of the notice required under **clause 10.1(e)**.

- (b) Upon receipt of a notice of appeal the Secretary must convene a general meeting of the Company to be held within twenty one (21) days after the date of receipt of the notice.
- (c) At a general meeting of the Company convened under **clause 10.2(b)**:
  - (i) no business other than the question of the appeal may be transacted;
  - (ii) the Board and the Member must be given the opportunity to state their respective cases orally or in the writing, or both; and
  - (iii) the Members Present must vote by secret ballot on the question of whether the resolution will be confirmed.
- (d) Confirmation of the resolution may be by a simple majority of those Members Present.

## **GENERAL MEETINGS**

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### **11. CONVENING OF GENERAL MEETINGS**

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- (a) Any three (3) Directors may, whenever those Directors think fit, convene a general meeting of the Company.
- (b) Financial Voting Members holding at least five per cent (5%) of the votes entitled to be cast at a meeting shall be entitled to require a general meeting to be convened in accordance with the provisions of the Act.
- (c) A general meeting of the Company may be convened at two or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting.

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### **12. NOTICE OF GENERAL MEETING**

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- (a) Subject to consent to shorter notice being given in accordance with the Act, at least twenty one (21) days' notice of any general meeting must be given specifying:
  - (i) the place, day and hour of the meeting;
  - (ii) the general nature of any business to be transacted at the meeting;
  - (iii) if a Special Resolution is to be proposed, the details of and intention to propose it;
  - (iv) if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
  - (v) any other information required by the Act.

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- (b) The accidental omission to give notice of any general meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice will not invalidate the proceedings at or any resolution passed at the meeting.

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### **13. CANCELLATION OR POSTPONEMENT OF GENERAL MEETING**

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- (a) Subject to the provisions of the Act and this Constitution, the Board may cancel a general meeting of the Company:
- (i) convened by the Board; or
  - (ii) which has been convened by a Member or Members pursuant to the Act upon receipt by the Company of a written notice withdrawing the requisition signed by that same Member or those same Members.
- (b) The Board may postpone a general meeting or change the venue at which it is to be held. No business shall be transacted at any postponed meeting other than the business stated in the notice to the Members relating to the original meeting.
- (c) Where any general meeting is cancelled or postponed or the venue for the same is changed:
- (i) the Board must endeavour to notify in writing each person entitled to receive notice of the meeting of the cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution and in the case of the postponement of a meeting, the new place, date and time for the meeting; and
  - (ii) any failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

### **PROCEEDINGS AT GENERAL MEETINGS**

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### **14. QUORUM**

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- (a) No business may be transacted at any general meeting unless a quorum of Members is present at all times during the meeting.
- (b) Fifteen (15) Members Present and entitled to vote constitute a quorum for all general meetings.
- (c) If within thirty (30) minutes after the time appointed for holding a general meeting a quorum is not present:
- (i) the meeting, if convened upon the requisition of Members, shall be dissolved;
  - (ii) in any other case:

- 
- (A) it will stand adjourned to the same day in the next week at the same time and place or to such other day time and place as the Board may by notice to the Members appoint; and
  - (B) if at such adjourned meeting a quorum is not present within thirty (30) minutes after the time appointed for the holding of the meeting, the meeting shall be dissolved.

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## 15. CHAIRMAN

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- (a) The President shall be the Chairman of each meeting of Members.
- (b) Where a general meeting is held and:
  - (i) there is no Chairman; or
  - (ii) the Chairman is not present within thirty (30) minutes after the time appointed for the holding of the meeting or, if present, is unwilling to act as Chairman of the meeting,

the other Directors present may choose another Director as Chairman of the meeting by two-thirds majority, or if their number is not three or a multiple of three, then the nearest number to one-third. If no Director is so chosen, or if all the Directors present decline to take the chair, the Members Present may choose one of their number to be Chairman of the meeting.
- (c) The rulings of the Chairman of a general meeting on all matters relating to the order of business, procedure and conduct of the meeting shall be final and no motion of dissent from such rulings shall be accepted.

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## 16. ADJOURNMENTS

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- (a) The Chairman of a general meeting at which a quorum is present:
  - (i) may adjourn a meeting with the consent of the meeting; and
  - (ii) must adjourn the meeting if the meeting so directs,

to a time and place as determined.
- (b) No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.
- (d) It is not necessary to give any notice of an adjournment of a general meeting or of the business to be transacted at the adjourned meeting except if the meeting is adjourned for thirty (30) days or more, in which case notice of the adjourned meeting must be given as in the case of an original meeting.

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## 17. DETERMINATION OF QUESTIONS

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- (a) At any general meeting a resolution to be considered at the meeting shall be decided on a show of hands unless a poll is demanded by:
  - (i) the Chairman of the meeting; or
  - (ii) at least five (5) Members Present and entitled to vote on the resolution.
- (b) Before or after a vote on a resolution is taken, the Chairman must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) A declaration by the Chairman of the result of a vote on a resolution by a show of hands and an entry to that effect contained in the minutes of the proceedings of the Company, which has been signed by the Chairman of the meeting or the next succeeding meeting, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

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## 18. POLLS

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- (a) A poll may be demanded:
  - (i) before a vote on a resolution is taken;
  - (ii) before the voting results on a show of hands are declared; or
  - (iii) immediately after the voting results on a show of hands are declared.
- (b) If a poll is demanded it must be taken in such manner and at such time and place as the Chairman of the meeting directs subject to **clause 18(e)**.
- (c) The result of the poll shall be taken to be the resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.
- (e) A poll demanded on the election of a Chairman or any question of adjournment of the meeting must be taken immediately.
- (f) The demand for a poll may be withdrawn.

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## 19. VOTING RIGHTS

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A Financial Voting Member has one (1) vote, both on a show of hands and a poll.

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## 20. VOTING DISQUALIFICATION

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No person other than a Financial Voting Member shall be entitled to a vote at a general meeting.

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## 21. OBJECTION TO QUALIFICATION TO VOTE

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Any challenge as to the qualification of a person to vote at a general meeting or the validity of any vote tendered may only be raised at the meeting and must be determined by the Chairman, whose decision shall be final and conclusive and a vote allowed by the Chairman shall be valid for all purposes.

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## 22. PERSONS OF UNSOUND MIND AND MINORS

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- (a) A Financial Voting Member:
- (i) of unsound mind; or
  - (ii) whose person or estate is liable to be dealt with in any way under the law relating to mental health; or
  - (iii) who is a minor;

may vote whether on a show of hands or on a poll by that Financial Voting Member's committee or by such other person as properly has the management or guardianship of that Financial Voting Member's estate or by the public trustee (as the case may be) and the committee or other person or trustee may vote by proxy or representative.

- (b) Any person having the right of management or guardianship of the person or estate in respect of a Financial Voting Member as referred to in **clause 22(a)** must not exercise any of the rights conferred under that clause unless and until the person has provided to the Board satisfactory evidence of the appointment of the person accordingly.

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## 23. CHAIRMAN'S CASTING VOTE

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In the case of an equality of votes whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands is taken or at which the poll is demanded is entitled to a casting vote.

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## 24. RIGHT OF NON-MEMBERS TO ATTEND GENERAL MEETING

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- (a) The Chairman of a general meeting may invite any person who is not a Member to attend and address a meeting.
- (b) Any auditor of the Company shall be entitled to attend and address a general meeting.

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## PROXIES

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### 25. RIGHT TO APPOINT PROXIES

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- (a) A Financial Voting Member who is entitled to attend and vote at a general meeting of the Company may appoint a person as the Member's proxy to attend and vote for the Member at the meeting and such person need not be a Member.
  - (b) If a Financial Voting Member appoints a proxy, the proxy is entitled to vote on a show of hands and on a poll.
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### 26. APPOINTING A PROXY

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#### 26.1 Appointing a Proxy

The instrument appointing a proxy must be in writing signed by the appointor or the appointor's attorney duly authorised in writing.

#### 26.2 Instrument of Proxy

- (a) The instrument of proxy is valid if it contains the information required by the Act which at the date of this Constitution is the following information:
    - (i) the name and address of the Financial Voting Member;
    - (ii) the name of the Company;
    - (iii) the proxy's name or the name of the office of the proxy; and
    - (iv) the meetings at which the instrument of proxy may be used.
  - (b) An instrument of proxy may be expressed to be a standing appointment. An instrument of proxy for a specified meeting is only valid for that meeting and any postponement or adjournment of that meeting.
  - (c) An instrument of proxy shall not be treated as invalid merely because it does not specify all of the information required by **clause 26.2(a)**.
  - (d) An instrument of proxy may be revoked at any time by notice in writing to the Company.
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### 27. LODGMENT OF PROXIES

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- (a) An instrument appointing:
  - (i) a proxy and the power of attorney or other authority (if any) under which it is signed or executed or a certified copy of that power or authority; or
  - (ii) an attorney to exercise a Financial Voting Member's voting rights at a general meeting or a certified copy of that power of attorney,

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must be deposited at the Office or at such other place as is specified for that purpose in the notice convening the general meeting not less than seventy two (72) hours (or such shorter period as the Board may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote, and in default the instrument of proxy or the power of attorney will not be treated as valid.

- (b) For the purposes of this **clause 27**, it will be sufficient that any document required to be lodged by a Member be received in legible form by facsimile at the place at which the document is required to be delivered by the Member and the document shall be regarded as received at the time the facsimile was received at that place.
- (c) For the purposes of this **clause 27**, it will be sufficient that any document required to be lodged by a Member be received in legible form by email if the notice of meeting so permits at the address and in the form specified in the notice and the proxy shall be regarded as received at the time of the receipt of the email transmission by the Company.

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## **28. VALIDITY OF PROXIES**

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- (a) A vote exercised pursuant to an instrument of proxy, a power of attorney or other instrument of appointment is valid notwithstanding:
  - (i) the death or unsoundness of mind of the Financial Voting Member;
  - (ii) the bankruptcy of the Financial Voting Member;
  - (iii) the revocation of the instrument of proxy or the power of attorney or any instrument under which the instrument or the power was granted,if the Company has not received at its Office written notice of the death, unsoundness of mind, bankruptcy or revocation at least forty eight (48) hours (or such shorter period as the Board may allow) prior to the time appointed for the holding of the general meeting or adjourned meeting, as the case may be, at which the instrument of proxy or the power of attorney is exercised.
- (b) A proxy who is not entitled to vote on a resolution as a Financial Voting Member may vote as a proxy for another Voting Member who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.

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## **29. RIGHTS OF PROXIES AND ATTORNEYS**

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- (a) The instrument appointing a proxy will be taken to confer authority to demand or join in demanding a poll.
- (b) Unless a Financial Voting Member by the instrument of proxy directs the proxy to vote in a certain manner, the proxy may vote as the proxy thinks fit on any motion or resolution. Otherwise the proxy shall follow the voting instructions contained in the instrument of proxy.



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- (c) A proxy will not be revoked by the appointor attending and taking part in any general meeting, but if the appointor votes on a resolution either on a show of hands or on a poll, the person acting as proxy for the appointor shall not be entitled to vote in that capacity in respect of the resolution.
  - (d) The Chairman of a general meeting may require any person acting as a proxy to establish to the satisfaction of the Chairman that he is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person is unable to establish his identity, he may be excluded from voting either upon a show of hands or upon a poll.

## **APPOINTMENT AND REMOVAL OF DIRECTORS**

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### **30. NUMBER AND APPOINTMENT OF DIRECTORS**

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#### **30.1 Number of Directors**

- (a) The Board shall consist of a minimum of seven (7) and a maximum of nine (9) persons.
- (b) The Board shall have the right, in its discretion, to vary the number of persons who shall make up the Board.

#### **30.2 Composition of Board**

- (a) The Board will always consist of:
  - (i) five (5) Member Elected Directors; and
  - (ii) no less than two (2) and no more than four (4) Board Elected Directors.
- (b) Notwithstanding anything else, at all times at least one (1) Member Elected Director on the Board shall have his or her primary practice and/or reside in any one of the following jurisdictions:
  - (i) Western Australia;
  - (ii) South Australia;
  - (iii) Tasmania;
  - (iv) Australian Capital Territory; and
  - (v) Northern Territory.

#### **30.3 Member Elected Director**

- (a) To be eligible for election as a Member Elected Director, a person must:
  - (i) be a Financial Voting Member at all times from the moment of nomination as a Member Elected Director until the expiry of that person's term as a Member Elected Director;

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- (ii) satisfy all of the criteria imposed by the Board on Member Elected Directors from time to time (such as, for example, having a certain level of business acumen);
  - (iii) be nominated and seconded by existing Financial Voting Members; and
  - (iv) in the event that a position needs to be filled to comply with **clause 30.2(b)**, have his or her primary practice and/or reside in one of the jurisdictions referred to in that clause.
- (b) Upon receiving nominations of candidates for election as Member Elected Directors, the Chief Executive Officer (or any other person(s) appointed by the Board to review nominations, such as a Director or a Committee) shall have full discretion in determining whether or not the candidate satisfies the criteria referred to in **clause 30.3(a)(ii)**.

#### **30.4 Board Elected Director**

- (a) The Board must appoint no less than two (2) and no more than four (4) Board Elected Directors to the Board.
- (b) A Board Elected Director shall be a person who will bring skills and experience to the Board to enable the Board to advance the Objects.
- (c) The Board Elected Director need not be a Member.

#### **30.5 Term**

- (a) Subject to **clauses 30.6** and **30.8**, each:
  - (i) Member Elected Director shall hold the office of Director for a term of three (3) years and is eligible for re-election for one (1) further term of three (3) years; and
  - (ii) Board Elected Director shall hold the office of Director for a term of up to three (3) years (as decided by the Board on the appointment of that Board Elected Director) and is eligible for reappointment by the Board for one (1) further term of up to three (3) years.
- (b) Subject to **clauses 30.6** and **30.8** each Director shall not hold office for more than six (6) consecutive years, however shall be eligible for re-election or reappointment to the office of Director after a period of two (2) years has elapsed since the Director last held that office.
- (c) Each Member Elected Director shall hold office from midnight on 31 December in the calendar year following the annual general meeting at which his or her election was announced until midnight on 31 December when his or her term has concluded.
- (d) Each Board Elected Director shall hold office from the date of his or her appointment by the Board until the expiry of his or her term as decided by the Board pursuant to **clause 30.5(a)(ii)**.

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### 30.6 First Board after 31 December 2017

Each Director who holds office as at the date that this amended Constitution is adopted in 2017, shall have their then current term extended by one (1) year.

### 30.7 Election of Member Elected Directors

- (a) Member Elected Directors shall be elected by the Financial Voting Members.
- (b) At least two (2) months prior to an annual general meeting, the Chief Executive Officer will call for nominations for candidates for the positions of any Member Elected Directors which will become vacant as from the commencement of the following calendar year.
- (c) Nominations of candidates for election as Member Elected Directors:
  - (i) shall be in writing in a form prescribed by the Board; and
  - (ii) the form referred to in **clause 30.7(c)(i)** must:
    - (A) include a signature, or equivalent acknowledgement (which could be in the form of a confirming email from the relevant Financial Voting Member), from two (2) Financial Voting Members; and
    - (B) be accompanied by the written consent of the nominee (which may be endorsed on the nomination);
  - (iii) shall include information as to how the nominee satisfies the criteria referred to in **clause 30.3(a)(ii)**; and
  - (iv) shall be delivered to the Chief Executive Officer (or any other person authorised by the Board for that purpose) not later than five (5) weeks prior to the annual general meeting.
- (d) Nominations will be reviewed pursuant to **clause 30.3(b)** and for compliance with **clause 30.7(c)** before they are accepted as valid nominations.
- (e) If the number of nominations received is equal to the number of positions to be filled, the persons nominated shall be taken to be elected.
- (f) If insufficient nominations are received to fill all vacant positions on the Board for Member Elected Directors, the candidate(s) nominated shall be deemed to be elected and further nominations shall be received either prior to or at the ensuing annual general meeting.
- (g) If the number of nominations received exceeds the number of positions to be filled, an electronic ballot shall be held as follows:
  - (i) the notice for the annual general meeting shall include a list of the nominees; and
  - (ii) the Financial Voting Members will be invited to vote upon the nominees electronically prior to the annual general meeting. This

election will be held in whatever manner and upon whichever date the Board shall decide.

- (h) In order to satisfy **clause 30.2(b)**, in the event that it is necessary to elect a person as a Member Elected Director from one of the jurisdictions referred to in that clause and:
  - (i) there are two (2) or more nominees for election to the vacant position and one (1) of the nominees is from one of the mandatory jurisdictions (**Jurisdictionally Qualifying Nominee**) and one (1) or more of the other nominees is not (**Jurisdictionally Non-qualifying Nominee**); and
  - (ii) the Jurisdictionally Non-qualifying Nominee has received more votes than the Jurisdictionally Qualifying Nominee;

the Jurisdictionally Qualifying Nominee will be elected over the Jurisdictionally Non-qualifying Nominee, in order to be able to comply with **clause 30.2(b)**.

### 30.8 President

- (a) The President shall be elected from amongst the Directors by the Board at the first meeting held in every second calendar year. For a Director to be eligible to be elected as the President, the Director must at all times, whilst holding the office of President, be a Financial Voting Member.
- (b) The President shall hold the office of President for a term of two (2) years.
- (c) The President shall be eligible for re-election as the President, up to a maximum of four (4) consecutive years.
- (d) Notwithstanding **clause 30.5**, for so long as the President holds the office of President, the President shall also continue to hold office as a Director.

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## 31. GENERAL RIGHT TO APPOINT AND REMOVE DIRECTORS

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- (a) Subject to the Act, the Board may at any time appoint:
  - (i) any Financial Voting Member as a Member Elected Director to fill any casual vacancy. Any Director so appointed shall only hold office for the balance of that calendar year; and
  - (ii) any person who satisfies the criteria set out in **clause 30.4(b)** as a Board Elected Director to fill any casual vacancy. Any Director so appointed shall hold office for a full new term.
- (b) The Board may act despite any vacancy in their body, but if the number falls below the minimum required by the Act, the Board may act:
  - (i) for the purpose of:
    - (A) increasing the number of Directors to the minimum; or
    - (B) convening a general meeting; or

- 
- (ii) in emergencies;
- but for no other purpose.

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## 32. VACATION OF OFFICE

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- (a) Any Director may retire from office on giving written notice to the Company at the Office of his intention to retire and the resignation shall take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Company).
- (b) The office of a Director shall become vacant if the Director:
  - (i) dies;
  - (ii) becomes bankrupt or makes any arrangement or composition with creditors generally;
  - (iii) becomes prohibited from being a director of a company by reason of any order made under the Act;
  - (iv) becomes of unsound mind or a person whose personal estate is liable to be dealt with in any way under the law relating to mental health;
  - (v) resigns by notice in writing to the Company;
  - (vi) is absent without permission of the Board from meetings of the Board held for more than six (6) months;
  - (vii) is removed from the office of Director by a Special Resolution of the Members in general meeting, in accordance with the Act; or
  - (viii) if a Member Elected Director, ceases to be a Financial Voting Member.
- (c) For the purposes of clarity, in the event that a Member Elected Director is the Member Elected Director referred to in **clause 30.2(b)**, but at some point during their term that Member Elected Director no longer satisfies the criteria referred to in **clause 30.2(b)**, that Member Elected Director will be permitted to continue holding office until the end of his or her term. However, the Member Elected Director may not necessarily be eligible for re-election.

## POWERS AND DUTIES OF DIRECTORS

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## 33. POWERS OF DIRECTORS

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The control, ultimate management and conduct of the Company shall be vested in the Board who shall exercise all such powers of the Company as are not by the Act or by this Constitution required to be exercised in any other manner.

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## 34. NEGOTIABLE INSTRUMENTS

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All cheques, promissory notes, 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 as the case may be by:

- (a) a Director so authorised in writing by the Board; or
- (b) one other staff member or the Secretary, so authorised in writing by the Board.

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## 35. CONFERMENT OF POWERS

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- (a) The Board may from time to time confer upon any Director for the time being, or any other person as they may select, such of the powers exercisable under this Constitution by the Board as it may think fit for such time and to be exercised for such purposes and on such terms and conditions and with such restrictions as it may think expedient.
- (b) Powers conferred under this **clause 35** may be exercised concurrently with the powers of the Board in that regard and the Board may from time to time withdraw, revoke or vary all or any of such powers.

### DIRECTORS' DISCLOSURE OF INTEREST

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## 36. CONTRACTS

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- (a) The Company may enter into contracts or arrangements with other companies or bodies in which a Director has an interest, provided it does so according to the usual commercial terms and conditions that apply to such contracts or arrangements.
- (b) A Director must disclose an interest in accordance with the Act and the Secretary must record all declarations in the minutes of the relevant meeting.
- (c) A Director who has an interest in a contract or arrangement made by the Company and has disclosed this interest to the Board subject to compliance with section 195 and related provisions of the Act:
  - (i) cannot vote on the matter;
  - (ii) may still be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
  - (iii) cannot sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
  - (iv) cannot vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

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- (d) A Director's failure to make disclosure under this **clause 36** does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.
  - (e) A general notice given to the Board by a Director that the Director is an officer, a member of or otherwise interested in any specified corporation or firm stating the nature and the extent of the Director's interest in the corporation or firm shall, in relation to any matter involving the Company and that corporation or firm after the giving of the notice, be a sufficient disclosure of the Director's interest, provided that the extent of the interest is no greater at the time of first consideration of the relevant matter by the Board than was stated in the notice.

## PROCEEDINGS OF DIRECTORS

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### 37. MEETINGS OF DIRECTORS

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- (a) The Board may meet together for the despatch of business, adjourn and otherwise regulate their meetings and proceedings as it thinks fit, provided that they shall meet together not less than four (4) times each calendar year.
- (b) The President shall upon the request of three (3) Directors convene a meeting of the Board by giving at least five (5) Business Days notice of the meeting to all Directors, except:
  - (i) a Director who the person convening the meeting reasonably believes to be outside Australia; and
  - (ii) in the case of an emergency, where a shorter notice period may be provided.
- (c) Notice of a meeting of the Board need not be in writing.
- (d) Subject to **clause 37(e)**, a Board meeting may be convened or held using any technology consented to by a majority of Directors. The consent may be a standing one. A Director may withdraw consent to the use of a particular technology within a reasonable time period before a Board meeting.
- (e) The particular technology used to convene or hold a Board meeting, pursuant to **clause 37(d)**, must be available and accessible to all Directors who wish to attend the Board meeting.
- (f) Notwithstanding **clause 37(d)**, the Board must meet in person at least twice each calendar year.
- (g) All resolutions of the Directors passed at a meeting of the Board where a quorum is present but where notice of the meeting has not been given as required to each Director, or any act carried out pursuant to such resolution, shall, provided each Director to whom notice was not given subsequently agrees to waive the same, be as valid as if notice of the meeting had been duly given to all Directors.

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## 38. QUORUM

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- (a) A majority of Directors entitled to attend a meeting of the Board who are personally present (or in conference in accordance with **clause 37**) form a quorum and a quorum must be present at all times during the meeting.
- (b) A Director who is disqualified from voting on a matter pursuant to **clause 36** shall be counted in the quorum despite that disqualification.

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## 39. CHAIRMAN

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- (a) The President shall, if present, preside as Chairman of every meeting of the Board.
- (b) If a meeting of the Board is held and the President is not present within ten (10) minutes after the time appointed for the holding of the meeting or, if present, does not wish to chair the meeting, then the other Directors present must elect one of their number to be Chairman of the meeting.

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## 40. VOTING

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- (a) A resolution of the Board must be passed by a majority of votes of the Directors present at the meeting who vote on the resolution. A resolution passed by a majority of the votes cast by the Directors will for all purposes be taken to be a determination of the Board.
- (b) Each Director shall have one (1) vote.
- (c) In case of an equality of votes at a meeting of the Board, the Chairman has a casting vote in addition to a deliberative vote.

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## 41. RESOLUTIONS BY DIRECTORS

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- (a) The Board may pass a resolution without a Board meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures can be contained in more than one document
- (b) A facsimile transmission which is received by the Company and which purports to have been signed by a Director shall, for the purposes of this **clause 41**, be taken to be in writing and signed by that Director at the time of the receipt of the facsimile transmission by the Company in legible form.
- (c) An email transmission which is received by the Company and which purports to have been sent by a Director shall, for the purposes of this **clause 41**, be taken to be in writing and signed by that Director at the time of the receipt of the email transmission by the Company.



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## 42. CODE OF CONDUCT AND POLICIES

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- (a) The Board may, from time to time, make policies and code(s) of conduct as are in its opinion necessary and desirable, and may amend and repeal those policies and code(s) of conduct from time to time.
- (b) When in force, policies and code(s) of conduct of the Company are binding on all Members and have the same effect as if the policies and code(s) of conduct formed part of this Constitution.
- (c) The Board will adopt such measures as it deems appropriate to bring to the notice of all Members, all policies and code(s) of conduct, as well as any amendments to and repeals of those policies and code(s) of conduct.

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## 43. COMMITTEE OF DIRECTORS

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- (a) The Board may form and delegate any of its powers to a Committee consisting of such Directors and other persons as it thinks fit and may from time to time revoke such delegation.
- (b) A Committee must in exercise of the powers delegated to it conform to any directions and restrictions that may be imposed on it by the Board. A power so exercised shall be taken to be exercised by the Board.
- (c) The meetings and proceedings of any Committee consisting of more than one person will be governed by the provisions for regulating the meetings and proceedings of the Board contained in this Constitution.
- (d) A minute of all the proceedings and decisions of every Committee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Act and this Constitution to be made entered and signed. A copy of these minutes shall be tabled at the next Board Meeting.

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## 44. OPERATIONS COMMITTEE

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- (a) Pursuant to **clause 43**, the Board will establish an Operations Committee.
- (b) The Operations Committee shall consist of:
  - (i) the President;
  - (ii) at least one (1) other Director (if one of the Directors on the Board at the time of appointing persons to the Operations Committee was, immediately prior to his or her current term as Director, the President of the Company, then he or she will be the Director sitting on the Operations Committee);
  - (iii) the Chief Executive Officer; and
  - (iv) other senior staff, as determined by the Board.

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- (c) The purpose of the Operations Committee is to implement the decisions of the Board.
  - (d) The Operations Committee will meet as often as is necessary to fulfil its purpose.

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#### 45. VALIDATION OF ACTS OF DIRECTORS

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All acts done:

- (a) at any meeting of the Board; or
- (b) by any person acting as a Director,

shall, even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Director or person or that they or any of them were disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Director and had been entitled to vote.

### MINUTES

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#### 46. MINUTES

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- (a) The Board must cause minutes to be kept in accordance with the Act for the purposes of recording:
  - (i) the names of the Directors present at each meeting of the Directors and of Directors present at each meeting of any Committee;
  - (ii) all orders, resolutions and proceedings of general meetings and of meetings of Directors and of Committees;
  - (iii) such matters as are required by the Act to be recorded in the record books of the Company including, without limitation, all declarations made or notices given by any Director of his interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.
- (b) Such minutes shall be signed by the Chairman of the meeting, or the Chairman of the next succeeding meeting and minutes which purport to be signed accordingly shall be received in evidence without any further proof as sufficient evidence that the matters and things recorded by such minutes actually took place or happened as recorded and of the regularity of such matters and things and that the same took place at a meeting duly convened and held.

### SECRETARY

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#### 47. APPOINTMENT AND TENURE

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- (a) Subject to **clause 47(b)**, the Chief Executive Officer shall be the Secretary.

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- (b) The Board may, however, remove the Chief Executive Officer as Secretary and appoint another person in his or her stead to be the Secretary.

## **EXECUTION OF DOCUMENTS**

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### **48. EXECUTION OF DOCUMENTS**

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- (a) Without limiting the manner in which the Company may execute any contract, including as permitted under section 126 of the Act, the Company may execute any agreement, deed or other document by:
  - (i) two Directors signing the same; or
  - (ii) one Director and one Secretary signing the same.
- (b) Nothing in this Constitution requires the Company to execute any agreement, deed or other document under common seal for the same to be effectively executed by the Company.

## **ACCOUNTS AND INSPECTION OF RECORDS**

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### **49. ACCOUNTS AND INSPECTION**

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The Board shall:

- (a) cause proper financial records to be kept and must distribute copies of the financial reports of the Company and a Director's report in accordance with the requirements of the Act; and
- (b) from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Company or any of them will be open to the inspection of Members.

## **NOTICES**

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### **50. SERVICE OF NOTICES**

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- (a) A notice may be given by the Company to any Member by:
  - (i) serving it on the Member personally;
  - (ii) sending it by post to the Member or leaving it at the Member's address shown in the Register or otherwise the address supplied by the Member to the Company for the giving of notices;
  - (iii) facsimile to the facsimile number supplied by the Member to the Company for the giving of notices; or

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- (iv) sending it to the electronic address supplied by the Member to the Company for the giving of notices.
  - (b) Any Member who has not left at or sent to the Office his place of address for inclusion in the Register as the place at which notices may be given to the Member shall not be entitled to receive any notice.
  - (c) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and shall be deemed to have been effected on the day after the date of posting. Service of a notice to a Member outside Australia shall be deemed to have been made in the ordinary course of the post.
  - (d) Where a notice is sent by facsimile or other electronic means, service of the notice shall be taken to be effected by properly addressing and sending the notice and in such case shall be taken to have been effected on the Business Day after it is sent.
  - (e) A notice may be given by the Company to the persons entitled to a share in consequence of the death, lunacy or bankruptcy of a Member by:
    - (i) service on the Member personally;
    - (ii) sending it by post addressed to the person by name or by the title of the representative of the deceased or lunatic or the assignee of the bankrupt or by any like description at the address, if any, within Australia supplied for the purpose by the person claiming to be entitled;
    - (iii) by giving the notice in any manner in which the same might have been given if the death, lunacy or bankruptcy had not occurred.
  - (f) Evidence of service of a notice may be established by proving that the envelope containing the notice and stamped appropriately was properly posted and a certificate given by any Officer of the Company to that effect shall be conclusive evidence of service.

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## 51. NOTICES OF GENERAL MEETING

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Subject to **clause 50(b)**, notice of every general meeting must be given in any manner authorised by this Constitution to:

- (a) every Member; and
- (b) the auditor (if any) for the time being of the Company.

## WINDING UP

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## 52. WINDING UP

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- (a) If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another institution or corporation which has:

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- (i) objects which are similar to the objects of the Company as set out in **clause 5.2**;
  - (ii) a constitution which requires its income and property to be applied in promoting its objects; and
  - (iii) a constitution which prohibits it from paying or distributing its income and property amongst its Members to an extent at least as great as imposed on the Company by **clause 5.3(b)**.
- (b) The identity of the corporation or institution is to be determined by the Members in writing at or before the time of dissolution and failing such determination being made, by application to the Supreme Court for determination.

## INDEMNITY

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### 53. INDEMNITY

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To the extent permitted by law every Officer (and former Officer) of the Company shall be indemnified out of the funds of the Company against all costs, expenses and liabilities incurred as such an Officer or employee (or former Officer or employee). However, no such Officer (or former Officer) shall be indemnified out of the funds of the Company under this clause unless:

- (a) it is in respect of a liability to another person (other than the Company or a related body corporate to the Company) where the liability to the other person does not arise out of conduct involving a lack of good faith; or
- (b) it is in respect of a liability for costs and expenses incurred:
  - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the Officer (or former Officer) or in which the Officer (or former Officer) is acquitted; or
  - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the Officer (or former Officer) under the Act.

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### 54. PAYMENT OF INDEMNITY POLICY PREMIUM

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- (a) To the extent permitted by law the Company may at the discretion of the Board enter into and/or pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Company against any liability incurred by such person in that capacity (whether in respect of acts or omissions prior to or after the date of the issue of the policy or both) except for:
  - (i) a liability arising out of conduct involving a wilful breach of duty in relation to the Company; or
  - (ii) a contravention of sections 182 or 183 of the Act.

- (b) The Board shall have the discretion to approve the terms and conditions of any such policy of insurance.
- (c) Where an Officer (or former Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of his actions or omissions then the Company shall not be required to indemnify the Officer under **clause 53** except to the extent that the indemnity affected by the insurance policy does not fully cover the persons liability.

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## **55. INDEMNITY TO CONTINUE**

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The indemnity granted by the Company contained in **clauses 53** and **54** shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring prior to the date of the deletion or modification.