

**DATED THIS FIRST DAY OF DECEMBER 2000**

**Amended October 2005**

**THE CORPORATIONS LAW**

**A COMPANY LIMITED BY GUARANTEE**

**JOB FUTURES LIMITED**

**(ACN 080 037 538)**

**CONSTITUTION**

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# ***JOB FUTURES LIMITED***

## ***CONSTITUTION***

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**THE CORPORATIONS LAW**  
  
**A Company Limited by Guarantee**  
  
**CONSTITUTION**  
  
**of**  
  
**JOB FUTURES LIMITED**  
  
**(ACN 080 037 538)**

**1. INTERPRETATION**

1.1. In this Constitution unless a contrary intention is indicated:

- 1.1.1. **“Auditor”** means the person who for the time being holds the position of auditor of the Company in accordance with the Law;
- 1.1.2. **“Board”** means the board of directors of the Company;
- 1.1.3. **“business day”** means a day on which banks (as defined in the Banking Act 1959) are open for general banking business in Sydney excluding Saturdays and Sundays.
- 1.1.4. **“Association”** means an association or other body or a trust whose assets and liabilities the Company is authorised to take over by the Constitution;
- 1.1.5. **“Chairperson”** means the chairman of the Board;
- 1.1.6. **“Company”** means Job Futures Limited;
- 1.1.7. **“Commission”** means Australian Securities & Investments Commission;
- 1.1.8. **“Constitution”** means the constitution of the Company as amended from time to time.
- 1.1.9. **“director”** means a member of the Board;

**NOTE:** The wording which is in bold print italics at the end of certain paragraphs is explanatory only and does not form part of the Constitution. References to Sections relate to relevant provisions of the Corporations Law. A reference to a replaceable rule means that the paragraph is based upon, but may not be identical to, a provision of the Law which provides guidance but which is not compulsory.

- 1.1.10. **"Law"** means the *Corporations Act 2001*;
- 1.1.11. **"member"** means member of the Company;
- 1.1.12. **"month"** means calendar month;
- 1.1.13. **"non-member director"** means a director who is appointed to the Board by the Board and who is not, while such a director, a member of an organisation which is a member of the Company;
- 1.1.14. **"organisation"** means a body corporate;
- 1.1.15. **"person"** includes individual, body corporate, unincorporated association and body politic;
- 1.1.16. **"Secretary"** means any person who is appointed in accordance with the Law to the statutory office of company secretary.  
*The office of company secretary is an office with specific duties set out in the Law and the Constitution.*
- 1.2. Expressions referring to writing shall, unless the contrary intention appears, include references to printing, photography, facsimile and electronic mail;
- 1.3. Division 10 of Part 1.2 of the Law applies in relation to this Constitution as if it was an instrument made under the Law as in force on the day when this Constitution becomes binding on the Company.
- 1.4. Except to the extent that a contrary intention appears in this Constitution, words have, in a part of this Constitution that deals with a matter dealt with by a particular provision of the Law, the same meaning as in that provision of the Law.  
*This means the words used in this Constitution shall, unless the contrary intention appears, have the same meaning as they have in the Law.*

## **2. OBJECTS, POWERS, DUTIES AND GIFT FUND**

### **2.1. Objects:**

The only objects for which the Company is established are to conduct such benevolent and charitable services as are considered desirable to relieve poverty, unemployment, economic hardship, misfortune, destitution, suffering, sickness, distress or helplessness of any person or group in Australia.

### **2.2. Powers:**

In order to carry out the above objects and no others the Company may:

- 2.2.1. develop and deliver effective, high quality employment services to the community;
- 2.2.2. tender for contracts to provide employment services;
- 2.2.3. facilitate the continuation and expansion of community-based and social justice oriented organisations providing services which promote the objects of the Company;
- 2.2.4. establishing a loan fund;

- 2.2.5. supporting the members to achieve the above objects; and
- 2.2.6. carry out activities which are incidental or conducive to the above objects, and no others.

**2.3. Duties:**

In order to carry out the above objects the Company must:

- 2.3.1. deposit all income of the Company into the Company's bank account;
- 2.3.2. make payments from the Company's bank account only:
  - 2.3.2.1. for the reimbursement of expenses incurred on behalf of the Company;
  - 2.3.2.2. to comply with statutory requirements incurred to enable the Company to comply with the above objects; and

for investment in accordance with the other provisions of this Constitution.

- 2.3.3. operate on a non-profit basis and no moneys are to be distributed to directors other than as set out in this Constitution.

**2.4. Gift Fund**

- 2.4.1. The Company shall, no later than 1 July 2000, establish, administer, operate, use and maintain a gift fund (the Fund) in accordance with the requirements of the Income Tax Assessment Act 1997 (the Act) solely for the purpose of the Company's objects. All gifts received by the Company for those objects shall be separately identified and recorded in the Fund.
- 2.4.2. The records, assets and bank account of the Fund shall be kept separate from the records, assets and bank account of the Company and accounted for accordingly.
- 2.4.3. All money received by the Company because of the gifts to the Fund shall be credited to the Fund.
- 2.4.4. Government grants to and other receipts of the Company which are not gifts and not the proceeds of disposal of gifts shall not go to the Fund.
- 2.4.5. On the winding up, or earlier revoking of the endorsement of the Fund under the Act, the surplus assets of the Fund must be dealt with in accordance with the requirements of the Act and transferred to a fund, authority or institution which is itself gift deductible under the Act.

**3. ALTERATION OF CONSTITUTION**

- 3.1. No alteration which may affect the tax exempt status of the income of the Company shall be made to or in the Constitution unless not less than twenty-eight (28) days' prior written notice specifying the alterations proposed to be made shall have been given to the Commissioner of Taxation.  
*This is to ensure that income of the Company which attracts a tax concession is used for the purpose for which the Company was granted tax exempt status.*

#### **4. LIMITED LIABILITY**

- 4.1. The liability of the members is limited.
- 4.2. Each member agrees that, if the Company is wound up while it is a member, or within one year after it ceases to be a member, it will contribute to the property of the Company, for payment of the debts and liabilities of the Company (contracted before it ceases to be a member) and of the costs, charges, and expenses of winding up and for the adjustment of the rights of the members among themselves, such amount as may be required, not exceeding fifty dollars (\$50.00) in addition to any other money which may be owing by the member to the Company.

*This wording (other than the particular amount specified above) is required by s117(2)(m).*

#### **5. EXCESS ASSETS ON WINDING UP**

- 5.1. If on the winding-up or dissolution of the Company there remain any assets after satisfaction of all the Company's debts and liabilities, those assets shall be given or transferred to some other Australian institution or institutions having objects similar or in part similar to the objects of the Company which institution or institutions is approved by the Commissioner of Taxation as a public benevolent institution for the purposes of any Commonwealth Taxation Act.
- 5.2. Such institutions or institutions shall be determined by the members at or before the time of the winding up or dissolution.
- 5.3. If the gift or transfer of any or all assets is not determined by the members in accordance with the preceding paragraph then same shall be determined by the Board at or before the time of the winding up or dissolution and in default thereof by determination by a majority of the persons who immediately before the winding up or dissolution were directors of the Company such latter determination to be made no later than three months after the time of winding up or dissolution and in default thereof by order of such Court as may have or acquire jurisdiction in the matter.

#### **6. ACCOUNTS AND AUDIT**

- 6.1. The Board shall cause proper and accurate written records to be kept of all money received and spent by the Company and the matter in respect of which such receipt and expenditure takes place, and of the assets and liabilities of the Company and of all relevant activities involving the Company. The records shall be kept in such a manner as will enable true and fair financial statements to be prepared and audited.
- 6.2. These records must be retained for at least seven (7) years after the transactions covered by the records are completed.  
*Section 286.*
- 6.3. Each director of the Company has the right of access personally or by a nominee, being a practising lawyer or a registered company auditor, to the financial records and all other documents of the Company at all reasonable times, and the director and any such nominee may make copies of those records and other documents.
- 6.4. Subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Board, the financial records of the Company shall be open to

inspection by the members or their nominees.

- 6.5. A qualified auditor whose duties shall be regulated in accordance with the Law shall be appointed by the Company.

*Section 327 requires that unless the Company in general meeting was already appointed an auditor, the Board shall within one (1) month after the date of registration of the Company appoint an auditor. The Section also provides details of appointments of the auditor at the AGM, the duration of the appointment, requirements for consent, retirement, reappointment and related matters. Removal of auditors is covered under Section 329.*

- 6.6. Once at least in every year, the accounts of the Company shall be examined by the auditor who shall report to the members in accordance with the Law.

## **7. APPLICABLE LEGISLATION**

- 7.1. Notwithstanding any other provision in this Constitution, the Company and its officers and employees shall comply with all relevant Commonwealth, State and Territory legislation and all relevant regulations and ordinances.

## **8. USE OF ASSETS**

- 8.1. All of the income and property of the Company shall be used solely in accordance with the objects of the Company.

- 8.2. None of the Company's assets shall be paid or transferred, directly or indirectly, by way of dividend or on the winding up of the Company to the members of the Company in their capacity as members. If a member is a body which qualifies as an institution which would be eligible to receive some or all of the assets of the Company were it not for its membership of the Company, then the fact that the body is a member shall not disqualify it from being such a recipient.

- 8.3. No payment shall be made by the Company to or for any director of the Company other than:

- 8.3.1. for the payment of out-of-pocket expenses incurred by the director in performing any duty as director of the Company where the amount payable does not exceed an amount previously approved by the Board;
- 8.3.2. for the provision of a financial benefit to a director by way of the provision of an indemnity or payment of an insurance premium or payment of legal costs where such benefits are not prohibited by the Law; and  
*Sections 199A-199C and 212.*
- 8.3.3. remuneration for the services to the Company of any non-member director in accordance with a resolution of the Board.

- 8.4. No money the property of the Company (including income derived from investments and proceeds of the realization of investments) paid or accrued to the Company as a direct or indirect result of a gift and not then applied in accordance with the objects of the Company may be invested by the Company other than in a manner in which trustees are permitted by relevant legislation to invest trust money without special authorization.

## **9. MEMBERSHIP**

**9.1. Membership Applications**

- 9.1.1. An application for membership shall be in writing, signed by the applicant, lodged with the Secretary, and shall be in such form and contain such information as the Board from time to time determines.
- 9.1.2. As soon as practicable after the receipt of an application for membership it shall be considered by the Board which shall determine whether to approve or reject the application.
- 9.1.3. If the Board approves an application for membership the Secretary shall as soon as practicable notify the applicant of the approval and request the applicant to pay within 28 days after the receipt of the notification the sum (if any) payable under this Constitution by a member as entrance fee and annual subscription.
- 9.1.4. The Secretary shall, on receipt of the relevant sum (if any) within the said 28 days, enter the applicant's relevant details in the Register of Members and, upon the details being so entered, the applicant shall be a member. The Secretary shall inform the member of the date membership commenced.
- 9.1.5. If the Board refuses an application for membership it must give written reasons for so doing. The Secretary shall as soon as practicable notify the applicant of:
  - 9.1.5.1. the refusal;
  - 9.1.5.2. the reasons given by the Board; and
  - 9.1.5.3. the right of the applicant to use the dispute resolution procedure in this Constitution.
- 9.1.6. If an applicant is not notified as to the result of its application within twenty-eight (28) days after the date of the Board meeting which next occurs at least twenty-one (21) days after the submission of an application which is in accordance with this Constitution or is refused membership then the applicant may utilise the dispute resolution procedure set out in this Constitution as if the applicant was a member providing that the applicant lodges with the Company as security an amount of money which is sufficient to cover all reasonably anticipated costs and expenses, including legal expenses of the Company in relation to mediation including preparation for same. If the applicant and the Company cannot agree as to the amount of the security within seven (7) days of the applicant notifying the Company that it wishes to utilise the dispute resolution procedure then the security shall be such amount as may be certified by the solicitors for the Company as being in their opinion, a reasonable estimate of the anticipated costs and expenses of the Company in relation to the mediation.

**9.2. Entrance fee and subscription**

- 9.2.1. The entrance fee (which may be in the form of an interest-free loan) and the annual subscription payable by members shall be such as the Board shall from time to time determine. The Board may distinguish between categories of members in relation to the entrance fee and annual subscription.

- 9.2.2. All annual subscriptions (if any) shall become due and payable in advance on the first day of July in every year.

### **9.3. Categories of Members**

#### **9.3.1. Full Membership**

- 9.3.1.1. This shall comprise organisations which have evidenced in their applications to join the Company a demonstrated capacity to support the objects of the Company and status as a non-profit organisation.
- 9.3.1.2. Subject to the Law and this Constitution each full member of the Company has, in addition to any other rights, the following rights:
- 9.3.1.2.1. to receive notice of, attend, participate in, and vote at general meetings of the Company;
- 9.3.1.2.2. to nominate individuals who are their members for election to the Board; and
- 9.3.1.2.3. to receive information about the Company's activities.

#### **9.3.2. Associate Members**

- 9.3.2.1. These are organisations which have undertaken in their applications to join the Company to support the objects of the Company by making such annual or other donations to the Company or participate in some other way as the Board may from time to time determine and which continue to comply with their undertaking.
- 9.3.2.2. Each associate member of the Company has the right to receive such information about the Company's activities as the Board may determine from time to time. An associate member is not entitled to vote at Company meetings, or nominate candidates for election to the Board, however such a member is entitled to receive notice of and attend Company meetings.

## **10. REGISTERS OF MEMBERS**

- 10.1. The Secretary must establish and maintain a register of full members and a register of associate members of the Company. These registers must contain such information as the Board may require including the name and address of each member together with the date on which each membership commenced.
- 10.2. The registers of members must be kept at the principal place of business of the Company and must be open for inspection, free of charge, by any member of the Company at any reasonable time.

## **11. CESSATION OF MEMBERSHIP**

### **11.1. Cessation**

Membership of the Company ceases if the member:

- 11.1.1. resigns;
- 11.1.2. is expelled by resolution of the Board or the Board and a general meeting in accordance with this Constitution; or
- 11.1.3. fails for six (6) months to pay any money in excess of one thousand dollars (\$1,000) then due and owing by the member to the Company unless the Board resolves to the contrary during that six (6) month period; or
- 11.1.4. ceases to exist.

### **11.2. Resignation**

- 11.2.1. A member may at any time by giving notice in writing to the Secretary resign its membership of the Company but shall continue to be liable for any annual subscription and all arrears due and unpaid at the date of its resignation and for all other moneys due by the member to the Company and in addition for any sum not exceeding fifty dollars (\$50.00) for which it is liable as a member of the Company under this Constitution.

### **11.3. Expulsion**

- 11.3.1. If any member shall willfully refuse or neglect to comply with the provisions of the Constitution or shall be guilty of any conduct which in the opinion of the Board is unbecoming of a member or prejudicial to the interests of the Company then the Board shall have power by resolution to expel the member from the Company PROVIDED that at least fourteen (14) days before the meeting of the Board at which such a resolution is passed, the member shall have had notice of such meeting and of what is alleged against the member and of the intended resolution, AND that the member shall at such meeting and before the passing of such resolution, have had an opportunity exercisable at the option of the member, either personally or by the agent of the member, of giving orally or in writing any explanation or defence the member may think fit, and PROVIDED FURTHER that if a resolution to expel the member is passed at a meeting of the Board the member shall be notified in writing without delay of the resolution and the reasons of the Board and of the rights of the member in accordance with this Constitution. Any resolution or other decision of the Board in relation to a matter referred to in this paragraph shall require a two-thirds majority of those directors who vote on the matter.
- 11.3.2. If and only if the member has availed itself of the opportunity of providing an explanation or defence to the Board in accordance with the preceding paragraph, the member may by written notice received by the Company no later than seven (7) days after the member received the notification of the decision of the Board, the Board's reasons and the member's rights, elect to have the matter of expulsion dealt with by the Company in general meeting. In that event and if the member has provided adequate security to the Company, a general meeting of the Company shall be called for the purpose and if at the meeting such a

resolution is passed by a majority of those members present and voting (such vote to be taken by secret ballot) the member concerned shall be expelled.

- 11.3.3. If the member is not expelled at the meeting then the security shall be returned to the member. If the member is expelled then the Company shall retain from the security such amount as is required to reimburse the Company the costs of the Company in convening and holding the meeting and the balance, if any, shall be returned to the member. If the security is not adequate to cover such costs then the excess of costs over the security shall be a debt due and immediately owing by the member to the Company.
- 11.3.4. The security referred to in this clause is such amount as the Board may reasonably determine is likely to be incurred by the Company in calling and holding a general meeting for the purposes of considering an expulsion resolution.
- 11.3.5. The provisions of this Constitution relating to the expulsion of members apply to all categories of members.

#### **11.4. Suspension of Privileges**

- 11.4.1. If any money in excess of \$1,000 owing to the Company by a member is not received by the Company by the due date then the member may, after notice of the default shall have been sent to it by the Secretary and a period of twenty-one (21) days shall have elapsed after the date of the notice without the money having been received by the Company, by resolution of the Board, be suspended from all privileges of relevant membership PROVIDED that the Board, may reinstate the member on such conditions as the Board may determine if the Board thinks fit to do so.
- 11.4.2. No member may vote for any reason at any general meeting, including voting at any election of directors at or during such a meeting, unless at 5 pm at the registered office of the Company on the date which is ten (10) business days before the date of the general meeting or any adjournment no money is then due and owing by the member to the Company. Such member may attend the general meeting and attendance shall be relevant in determining if there is a quorum however the member may not address the meeting.

### **12. MEETINGS OF MEMBERS**

#### **12.1. Calling of Meetings and Notices**

##### **12.1.1. Meetings called by directors**

The Chairperson may whenever he or she thinks fit and any two directors may whenever they think fit require the Secretary to convene a general meeting of the Company, and general meetings shall be convened on such requisition or in default may be convened by such requisition as is provided by the Law.

*Sections 249D to 249F and 249H to 249M have details of how members can call a general meeting of the Company.*

##### **12.1.2. Meetings called when requested by members**

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

- 12.1.2.1.1. members with at least five percent (5%) of the votes that may be cast at the general meeting; or
- 12.1.2.1.2. at least one hundred (100) members who are entitled to vote at the general meeting.
- 12.1.2.2. The request must:
  - 12.1.2.2.1. be in writing; and
  - 12.1.2.2.2. state any resolution to be proposed at the meeting; and
  - 12.1.2.2.3. be signed by the members making the request; and
  - 12.1.2.2.4. be given to the Company.
- 12.1.2.3. Separate copies of a document setting out the request may be used for signing by members if the wording of the request is identical in each copy.
- 12.1.2.4. The percentage of votes that members have is to be worked out as at the midnight before the meeting is called.  
*Section 249F.*
- 12.1.2.5. The directors must call the meeting within twenty-one (21) days after the request is given to the Company. The meeting is to be held not later than two (2) months after the request is given to the Company.  
*Section 249D.*

#### **12.1.3. Failure of directors to call general meeting when requested**

- 12.1.3.1. Members with more than fifty percent (50%) of the votes of all of the members who make a request under section 249D may call and arrange to hold a general meeting if the directors do not do so within twenty-one (21) days after the request is given to the Company.
- 12.1.3.2. The meeting must be called in the same way – so far as is possible – in which general meetings of the Company may be called. The meeting must be held not later than three (3) months after the request is given to the Company.
- 12.1.3.3. To call the meeting the members requesting the meeting may in accordance with the Law ask the Company for a copy of the register of members. The Company must give the members the copy of the register without charge.
- 12.1.3.4. The Company must pay the reasonable expenses the members incurred because the directors failed to call and arrange to hold the meeting.
- 12.1.3.5. The Company may recover the amount of the expenses from the directors. However, a director is not liable for the amount if they prove that they took all reasonable steps to cause the directors to comply with section 249D. The directors who are liable are jointly and individually liable for the amount. If a director who is liable for the amount does not reimburse the

Company, the Company must deduct the amount from any sum payable as fees to, or remuneration of, the director.

*Section 249E.*

#### **12.1.4. Time of Notice**

Subject to the provisions of the Law relating to special resolutions and agreements for shorter notice, twenty-one (21) days notice at the least (exclusive of the day on which the notice is served or deemed to be served, and exclusive of the day for which notice is given) specifying the place the day and the time of meeting and the general nature of the meeting's business shall be given to such persons as are entitled to receive such notices from the Company.

*Section 249H of the law provides details of the amount of notice to be given at meetings. This period of time may vary depending upon the nature of any proposed resolutions.*

#### **12.1.5. Notice of meetings of members to members and directors**

Written notice of a meeting of the members must be given to each member entitled to vote at the meeting and to each director.

#### **12.1.6. How notice is given**

The Company may give the notice of meeting to a member:

12.1.6.1. personally; or

12.1.6.2. by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member; or

12.1.6.3. by sending it to the fax number or electronic address (if any) nominated by the member.

#### **12.1.7. When notice by post or fax is given**

A notice of meeting sent by post is taken to be given two (2) business days after it is posted postage prepaid. A notice of meeting sent by fax, or other electronic means, is taken to be given on the business day after it is sent.

*Section 249J(4) replaceable rule.*

#### **12.1.8. Auditor entitled to notice and other communications**

The Company must give its auditor:

12.1.8.1. notice of a general meeting in the same way that a member is entitled to receive notice; and

12.1.8.2. any other communications relating to the general meeting that a member is entitled to receive.

#### **12.1.9. Contents of notice of meetings of members**

A notice of a meeting of the members must:

- 12.1.9.1. set out the place, date and time for the meeting (and, if the meeting is to be held in two (2) or more places, the technology that will be used to facilitate this); and
- 12.1.9.2. state the general nature of the meeting's business; and
- 12.1.9.3. if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution; and
- 12.1.9.4. if a member is entitled to appoint a proxy, contain a statement setting out the following information:
  - 12.1.9.4.1. that the member has a right to appoint a proxy; and
  - 12.1.9.4.2. that the proxy does not need to be a member.

#### **12.1.10. Notice of adjourned meetings**

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for one (1) month or more.

### **12.2. Members' rights to put resolutions and distribute statements**

#### **12.2.1. Members' resolutions**

- 12.2.1.1. The following members may give the Company notice of a resolution that they propose to move at a general meeting or request that the Company give to all its members a statement provided by the members making the request about a resolution that is proposed to be moved at a general meeting or any other matter that may be properly considered at a general meeting:
  - 12.2.1.1.1. members with at least 5% of the votes that may be cast on the resolution; or
  - 12.2.1.1.2. at least 100 members who are entitled to vote at a general meeting.
- 12.2.1.2. The notice or request must:
  - 12.2.1.2.1. be in writing; and
  - 12.2.1.2.2. set out the wording of the proposed resolution or the request; and
  - 12.2.1.2.3. be signed by the members proposing to move the resolution or make the request.
- 12.2.1.3. Separate copies of a document setting out the notice or request may be used for signing by members if the wording of the notice or request is identical in each copy.
- 12.2.1.4. The percentage of votes that members have is to be worked out as at the

midnight before the members give the notice or the request to the Company.

- 12.2.1.5. If the Company has been given notice of a resolution as set out above, the resolution is to be considered at the next general meeting that occurs more than two (2) months after the notice is given.
- 12.2.1.6. The Company must give all its members notice of the resolution, or a copy of the statement at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a meeting.
- 12.2.1.7. The Company is responsible for the cost of giving members notice of the resolution or distributing the statement if the Company receives the notice or request in time to send it out to members with the notice of meeting.
- 12.2.1.8. The members giving notice or making the relevant request are jointly and individually liable for the expenses reasonably incurred by the Company in giving members notice of the resolution or distributing the statement if the Company does not receive the members' notice or request in time to send it out with the notice of meeting. At a general meeting, the Company may resolve to meet the expenses itself.
- 12.2.1.9. The Company need not give notice of the resolution or comply with the request:
  - 12.2.1.9.1. if the relevant document is more than 1,000 words long or defamatory; or
  - 12.2.1.9.2. if the members making the request are to bear the expenses of sending the notice out or distributing the statement - unless the members give the Company a sum reasonably sufficient to meet the expenses that it will reasonably incur in giving the notice or making the distribution.

### **13. HOLDING MEETINGS OF MEMBERS**

#### **13.1. Time and place for meetings of members**

A meeting of the members must be held at a reasonable time and place.  
*Section 249R.*

#### **13.2. Technology**

The Company may hold a meeting of its members at two (2) or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.  
*Section 249S.*

#### **13.3. Quorum**

- 13.3.1. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to the business. Save as herein otherwise provided five (5) full members present shall be a quorum.

13.3.2. If within fifteen minutes from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it will be adjourned for a further ten (10) minutes at the same place, or to such other day and at such other time and place as the Board may determine, and at the adjourned meeting at the time appointed for the meeting, the members represented (being not less than three) shall be a quorum.

13.3.3. In determining whether a quorum is present individuals attending as delegate, proxy or attorney for a member shall be counted. However, if a member has appointed more than one (1) delegate, proxy or attorney, only one (1) of them shall be counted.

#### **13.4. Chairperson**

13.4.1. The Chairperson shall preside as chairperson at any general meeting of the Company, or if there is no Chairperson, or if the Chairperson is not present within five minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, the members present shall elect one of their number to be chairperson of the meeting.

#### **13.5. Auditor's right to be heard at General Meetings**

13.5.1. The auditor of the Company is entitled to attend any general meeting of the members and to be heard at the meeting on any part of the business of the meeting that concerns the auditor in his or her capacity as auditor.

13.5.2. The auditor is entitled to be heard even if the auditor retires at the meeting or if the meeting passes a resolution to remove the auditor from office.

13.5.3. The auditor may authorise a person in writing as the representative of the auditor for the purpose of attending and speaking at any general meeting.  
*The auditor's rights are set out in Section 249V.*

#### **13.6. Adjournments**

13.6.1. The chairperson may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

13.6.2. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

13.6.3. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

#### **13.7. Proxy**

##### **13.7.1. Who can appoint a proxy**

Any member who is entitled to attend and cast a vote at a meeting of the members may appoint a person as the member's proxy to attend and vote for the member at the meeting.

*This is a mandatory rule in accordance with Section 249X.*

13.7.2. Any instrument appointing a proxy shall be in writing under the hand of the appointer or of the attorney of the appointer duly authorised in writing or, if the appointer is a corporation, either under seal or under the hand of an officer or attorney duly authorised.

13.7.3. The instrument appointing a proxy shall be deemed to confer authority to speak at the meeting, demand or join in demanding a poll and (to the extent allowed by the instrument) to vote on a poll. The authority of a proxy to speak and vote for a member at a meeting is suspended while the member is present at the meeting.

13.7.4. A person attending a meeting as a proxy need not be a member.

13.7.5. The instrument appointing a proxy may subject to this Constitution be in such form as the chairperson of the meeting may determine is acceptable.

13.7.6. If the Company sends a member a proxy appointment form for a meeting or a list of persons willing to act as proxies at a meeting;

13.7.6.1. if the member requested the form or list, the Company must send the form or list to all members who requested it and who are entitled to appoint a proxy to attend and vote at the meeting; or

13.7.6.2. otherwise - the Company must send the form or list to all its members entitled to appoint a proxy to attend and vote at the meeting.  
*This is a requirement of Section 249Z.*

#### **13.7.7. Appointing a proxy**

13.7.7.1. An appointment of a proxy is valid if it is signed by the member making the appointment and contains the following information

13.7.7.1.1. the member's name and address;

13.7.7.1.2. the name of the Company.

13.7.7.2. The instrument of appointment may specify the meetings at which the appointment may be used.

13.7.7.3. An undated appointment is taken to have been dated on the day it is given to the Company.

13.7.7.4. An appointment may specify the way the proxy is to vote on a particular resolution. Unless so instructed in writing, the proxy may vote as he or she thinks fit.

*Details of alternative methods of voting are set out in subsection 250A(4).*

13.7.7.5. An instrument of appointment of a proxy does not have to be witnessed.  
*Subsection 250A(6).*

#### **13.7.8. Notification to the Company**

For an appointment of a proxy to be effective the instrument of appointment and the authority, if any, under which it is signed or a certified copy of that authority must be received by the Company at least twenty-four (24) hours before the start of the

relevant meeting or adjourned meeting.

*Section 250B states the Constitution cannot require proxies to be deposited more than 48 hours before a meeting but may reduce the period.*

13.7.9. The Company shall have received an appointment instrument when it is received at any of the following:

13.7.9.1. the Company's registered office;

13.7.9.2. a fax number at the Company's registered office;

13.7.9.3. a place, fax number or electronic address specified for the purpose in the notice of meeting.

*Subsection 250B(3).*

#### 13.7.10. Validity of proxy vote

A vote given on behalf of a member in accordance with the terms of an appoint of proxy or attorney shall be valid notwithstanding the previous dissolution of the member or revocation of the appointment or of the authority under which the appointment was executed if no written notice of such matter was received by the Company before the start or resumption of the meeting at which the proxy or attorney votes.

#### 13.8. Body corporate representative (delegate)

13.8.1. A member may appoint an individual as its representative (herein called "delegate") to exercise amongst other matters, all or any of the powers the member may exercise at meetings of the Company's members. The appointment may be a standing one.

13.8.2. The appointment may set out restrictions on the delegate's powers. If the appointment is to be by reference to a position held, the appointment must identify the position.

13.8.3. A member may appoint more than one delegate but only one delegate may exercise the member's powers at any one time.

13.8.4. Unless otherwise specified in the appointment, the delegate may exercise, on the member's behalf, all of the powers that the member could exercise at a meeting or in voting on a resolution.

*Section 250D.*

13.8.5. The Company may disregard the appointment of a delegate unless:

13.8.5.1. if the appointment relates to representation of the member at a general meeting of the Company, the appointment is consistent with the requirements of the Law and the Constitution in relation to the appointment of a proxy to attend and vote for the member at such a meeting; or

13.8.5.2. if the appointment is for any other purpose the member must provide the Board with the name and address of its delegate. This appointment must

be in writing, by facsimile or electronic transmission (as the Company may reasonably require) and be signed or evidenced to the Company as having been approved by an authorised officer of the member and should set out the limits on or the extent of the powers of the delegate. If the limits or extent of the powers are not specified in the appointment, the Company shall assume that the delegate may exercise all the powers and rights of the member.

13.8.6. A member may, at any time, change its delegate by notification to the Company in the same manner by which the Company received notification of the appointment of the outgoing delegate.

13.8.7. A delegate may be appointed as proxy by the member for the purpose of attending and voting at general meetings of the Company in accordance with this Constitution and the Law or a member may appoint a proxy for the latter purpose and one or more delegates for other purposes indicated in the relevant instrument of appointment.

13.8.8. A member is responsible for any statement, action taken, or decision made on its behalf by its delegate.

### 13.9. Voting and Polls

13.9.1. A member may vote by delegate, proxy or by attorney. If any individual is present representing one or more members that individual shall on a show of hands have one vote. On a poll that individual shall have one vote for each member he or she is representing.

13.9.2. In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote whether or not the chairperson was entitled to a primary vote.

*Special resolutions are needed for important matters such as resolutions by members to wind up the company or change its name or provisions of its constitution. Unless at least 95% of the members agree the notice for a meeting to pass a special resolution must be given at least 21 days before the meeting and the resolution itself must be passed by at least 75% of the members who vote at that meeting. More details of the contents of a relevant notice and the amount of timing will be found in sections 249H and 249L.*

#### 13.9.3. Objections to right to vote

A challenge to a right to vote at a meeting of the members

13.9.3.1. may only be made at the meeting; and

13.9.3.2. must be determined by the chairperson of the meeting, whose decision is final.

13.9.4. At any meeting of members a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded:

13.9.4.1. before the vote is taken; or

13.8.4.2. before the voting results on a show of hands are declared; or

13.8.4.3 immediately after the voting results on a show of hands are declared.

13.9.5. The persons entitled to demand a poll are:

13.9.5.1. the chairperson;

13.9.5.2. three (3) members entitled to vote; or

13.9.5.3. members with at least 5% of the votes that may be cast on the resolution on a poll.

13.9.6. Before a vote is taken the chairperson must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.

13.9.7. On a show of hands, a declaration by the chairperson is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chairman nor the minutes need to state the number or proportion of the votes recorded in favour or against.

13.9.8. If a poll is duly demanded it shall be taken when and in such manner as the chairperson directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a chairperson or on a question of adjournment shall be taken immediately and without discussion. A demand for a poll may be withdrawn.

## **14. ANNUAL GENERAL MEETINGS**

14.1. The Company must hold an annual general meeting (AGM) at least once in each calendar year and within five (5) months after the end of its financial year.

14.2. An AGM is to be held in addition to any other meetings of members held by the Company in the year.

*Other requirements in relation to the holding of AGMs and extensions of time are set out in Sections 250N and 250P.*

### **14.3. Reports at AGM**

14.3.1. The directors must lay before the AGM the financial report, the directors' report and the auditor's report for the last financial year that ended before the AGM. The directors' report will include a statement of the amount of remuneration paid to each non-member director during the financial year.

*If the Company's first AGM is held before the end of its first financial year there will be no reports to lay before the meeting - Section 317.*

14.3.2. The directors shall cause to be included with the notice to members of the AGM a copy of all reports which are required to be laid before the AGM.

### **14.4. Business of AGM**

The business of an AGM may include any of the following, even if not referred to in the notice of meeting:

14.4.1. consideration of the annual financial report, directors' report and auditor's report;

- 14.4.2. the election of directors;
- 14.4.3. the appointment of the auditor; and
- 14.4.4. the fixing of the auditor's remuneration.

*Section 250R*

**14.5. Questions and comments by members on management**

The chairperson of the AGM must allow a reasonable opportunity for the members as a whole at the meeting to ask questions about, or make comments on, the management of the Company.

*Section 250S.*

- 14.6. If persons entitled to demand a poll so require, the directors must cause the auditor's report to be read aloud to the AGM.

**14.7. Questions by members of auditors**

If the Company's auditor or his or her representative is at the meeting, the chairperson of the AGM must allow a reasonable opportunity for the members as a whole at the meeting to ask the auditor or representative questions relevant to the conduct of the audit and the preparation and content of the auditor's report.

**15. MINUTES AND MEMBERS' ACCESS TO MINUTES**

**15.1. Minutes**

- 15.1.1. The Company must keep minute books in which it records within one (1) month:

- 15.1.1.1. proceedings and resolutions of meetings of the Company's members; and
- 15.1.1.2. proceedings and resolutions of directors' meetings (including meetings of a committee of directors); and
- 15.1.1.3. resolutions passed by members without a meeting; and
- 15.1.1.4. resolutions passed by directors without a meeting; and
- 15.1.1.5. all appointments of officers of the Company; and
- 15.1.1.6. names of directors present at all meetings of the Company and Board.

- 15.1.2. Such minutes shall be signed by the chairperson of the meeting at which the proceedings were held or by the chairperson of the next succeeding meeting of the relevant body.

- 15.1.3. The Company must ensure that minutes of the passing of a resolution without a meeting are signed by a director within a reasonable time after the resolution is passed.

- 15.1.4. Minutes shall be retained in a register (or registers) maintained by the Company for that purpose and kept at:

- 15.1.4.1. its registered office; or

15.1.4.2. its principal place of business in Australia; or

15.1.4.3. another place approved by the Commission.

15.1.5. A minute that is so recorded and signed is evidence of the proceeding or resolution to which it relates unless the contrary is proved.

*Section 251A*

## **15.2. Members' access to minutes**

15.2.1. The Company must ensure that the minute books for the meetings of its members and for resolutions of members passed without meetings are open for inspection by members free of charge.

15.2.2. A member of the Company may ask the Company in writing for a copy of:

15.2.2.1. any minutes of a meeting of the Company's members or an extract of the minutes; or

15.2.2.2. any minutes of a resolution passed by members without a meeting.

*Timing for provision of copies and maximum fees that can be charged by the Company are set out in Section 251B.*

## **16. THE BOARD**

### **16.1. Chairperson**

16.1.1. The Board shall elect one of the directors as Chairperson of the Company. The Chairperson shall chair all meetings of the Board and of general meetings attended by the Chairperson.

16.1.2. If the Chairperson does not attend a meeting or attends but declines to chair the meeting then the individuals present at the meeting shall appoint one of their number to chair the meeting.

### **16.2. Board of directors**

16.2.1. The persons who consented in writing to become directors of the Company and whose details as such consenting persons are included in the Application for Registration of the Company, and such other persons as may be appointed from time to time in accordance with this Constitution, shall be the directors of the Company until the first annual general meeting, thereafter the directors shall be those persons who are appointed in accordance with this Constitution.

16.2.2. Notwithstanding any other provision in this Constitution:

16.2.2.1. any person who has been a director for a period of more than five (5) contiguous years shall cease to be a director at the conclusion of the sixth AGM held after the start of that period; and

16.2.2.2. no person referred to in the preceding paragraph may be elected or appointed a director after the end of the period referred to in that

paragraph until a further period of not less than nine months has elapsed during which they did not hold office as a director.

### 16.3. Maximum number of directors

The members may from time to time by ordinary resolution increase or reduce the number of directors, however until the members pass such a resolution there shall be no more than eight (8) directors at any one time of whom six (6) may be elected at the AGM in accordance with the following provisions of this clause.

*Sub-section 201A(2) requires a public company to have at least three (3) directors, of whom at least two (2) must ordinarily reside in Australia.*

### 16.4. Election of Directors

16.4.1. The election of directors shall take place in the following manner:

16.4.1.1. The Board must appoint a person as Returning Officer for the purpose of conducting the election of Board members. The Returning Officer must not be a member of a member of the Company or a non-member director.

16.4.1.2. The Returning Officer must establish a system to ensure that only full members are able to vote and that each full member lodges no more than one ballot paper for each ballot.

16.4.1.3. Any full member of the Company may nominate any person who is a member or employee of its organisation to serve as a director.

16.4.1.4. The nomination, which shall be in writing and signed by the nominating member and the nominee shall be lodged at such place as the Returning Officer may require at least fourteen (14) days before the AGM at which the election is to take place. Either the original nomination or a facsimile copy may be so lodged. The nomination may be accompanied by a statement, either written or facsimile, containing not more than one hundred words, signed by the nominee setting out the relevant experience and expertise which in the opinion of the nominee constitutes his or her qualifications for the position of director of the Company. This statement is referred to as a "qualification resume".

16.4.1.4.1. A list of the nominees' names in alphabetical order, with the nominating members' names, and a copy of each qualification resume shall be posted in a conspicuous place in the registered office of the Company for at least ten (10) days immediately before the AGM.

16.4.1.4.2. A copy of each qualification resume shall be sent to each member of the Company who requests same.

16.4.1.4.3. If the Board is advised in writing by a currently practising lawyer that it is for some reason improper for the whole or any part of a qualification resume to be either posted in the registered office or distributed to members then the Board shall have regard to such advice and may act in accordance with

same notwithstanding the other paragraphs of this clause.

- 16.4.1.5. A copy of each valid nomination and qualification resume of each individual seeking election to the Board in accordance with the above nomination provisions (candidates) shall be given to all members at least one week prior to the meeting at which the election is to take place. If the number of candidates is equal to or less than the number of available positions then at the AGM the chairperson shall declare that the candidates have been elected directors.
- 16.4.1.6. Ballot papers shall be prepared (if necessary) by the Returning Officer containing the names of the candidates in random order, which shall be determined by lot. The ballot paper may identify those candidates who are presently on the Board but shall contain no other information concerning any candidate.
- 16.4.1.7. Members who are entitled to vote may do so through their delegate, proxy or attorney at the AGM by lodging a completed ballot paper with the Returning Officer.
- 16.4.1.8. To exercise a valid vote a member must mark the ballot paper by placing a tick, cross or number opposite the names of not more than the number of preferred candidates required to be elected to fill the vacancies.
- 16.4.1.9. After the ballot is closed the Returning Officer must count the votes. In doing so the Returning Officer must decide which votes (if any) are informal or invalid.
- 16.4.1.10. The candidates with the highest number of votes will be declared elected.
- 16.4.1.11. In case of an equality of votes for the final position(s) on the Board, the Returning Officer must hold a further ballot for that position (or those positions) with the only candidates being those with the tied vote.
- 16.4.1.12. The Returning Officer must report the results of the election in writing to the chairperson of the AGM who must then declare the results to the meeting.
- 16.4.1.13. If there shall not be sufficient number of candidates nominated the Board may at the conclusion of the AGM fill any vacancies from members of members of the Company providing that no person who is a member of a member of the Company shall be appointed to the Board if at that time another member of that member of the Company is a director.

#### **Postal ballot**

- 16.4.1.14. Notwithstanding the above paragraphs of this clause, if the Board so determines, the election of directors in any year may be held by postal ballot rather than by voting at the AGM. In this case the Board shall, a sufficient time prior to the AGM appoint a Returning Officer who shall conduct a postal ballot to elect directors who will take up office at the

close of the AGM. So far as is practical the Returning Officer shall utilise the procedure in this Constitution for the election of directors at the AGM. The relevant list of names and qualification resumes shall be posted in the registered office of the Company as soon as is practical and until the ballot is held. Members shall have seven (7) days after receiving notice of the ballot in which to nominate candidates and a further seven (7) days, after receiving the ballot paper and copies of nominations and statements, to return their completed ballot paper to the Returning Officer at such address and whether by way of hard copy, facsimile or email as that officer may require.

- 16.4.2. The directors shall without delay after each AGM elect one of their members as the Chairperson. The directors may at any time and from time to time replace the Chairperson with another director. Should any such office fall vacant then the directors shall as soon as possible elect one of their members to such office.

## **16.5. Directors**

- 16.5.1. The Board shall have power at any time, and from time to time, to appoint any individual to the Board, either to fill a casual vacancy or as an addition to the existing directors but so that the total number of directors shall not at any time exceed the number fixed in accordance with the Constitution.

- 16.5.2. The power of the Board to appoint directors in accordance with the preceding paragraph shall be restricted so that the number of directors who are not themselves members of members of the Company shall not exceed one-third of the number of directors who are members of members of the Company.

- 16.5.3. If a casual vacancy occurs more than two (2) months before the anticipated date of the next AGM of a director who is not a non-member director and the Board does not fill the vacancy within twenty-eight (28) days then within a further seven (7) days the Board shall appoint a Returning Officer who shall without delay conduct a postal ballot to fill the vacancy. So far as is practical the Returning Officer shall utilise the procedure in this Constitution for the election of directors as set out in the paragraph headed "Postal Ballot".

- 16.5.4. The Company may remove any director, whether or not an office holder, before the expiration of his or her period of office. Any such removal must be in accordance with the Law.

*This part of the Law applies to all public companies.*

- 16.5.5. The office of a director shall become vacant on the first to occur of the conclusion of the next AGM after the time and date of the appointment or election of the director or any of following events. If the director:

16.5.5.1. becomes bankrupt or makes any arrangement or composition with his or her creditors generally;

16.5.5.2. becomes prohibited from being a director of a company by reason of the Law or any order made under the Law;

16.5.5.3. ceases to be a director by operation of any relevant provision of the Law

relating to the age of the director;

*Over the age of 72 a person can become or continue to be a director of a public company only if certain procedures are followed – Section 201C.*

- 16.5.5.4. cannot manage his or her affairs because of his or her mental incapacity and is a person whose estate or property has had a personal representative or trustee appointed to administer it;
  - 16.5.5.5. resigns his or her office by notice in writing received by the Company;
  - 16.5.5.6. is absent without permission of the Board from either three consecutive meetings of the Board or three meetings of the Board held in any financial year;
  - 16.5.5.7. holds any office of profit under the Company unless that of a non-member director;
  - 16.5.5.8. ceases to be a member or employee of a member of the Company unless the director is a non-member director;
  - 16.5.5.9. is directly or indirectly interested in any contract or proposed contract with the Company and:
    - 16.5.5.9.1. does not disclose that interest to each relevant meeting; or
    - 16.5.5.9.2. votes at any relevant meeting in relation to that contract or proposed contract.
- 16.5.9 A director may not be elected or appointed to the Board for a term which, if not for sub-clause 6.2.2, would extend beyond six (6) contiguous years the period of office of that director.

## **17. GENERAL POWERS AND DUTIES OF THE BOARD**

- 17.1. The business of the Company shall be managed by the Board which may exercise all the powers of the Company except any powers that the Law or the Constitution requires to be exercised by the Company in general meeting. The Board's powers shall also be subject to such regulations, being not inconsistent with the Law or the Constitution, as may be prescribed by the Company in general meeting.

17.2. The directors may delegate any of their powers (not being powers which the Law or the Constitution precludes the directors from delegating) to:

17.2.1. a committee of directors; or

17.2.2. a director; or

17.2.3. an employee of the Company; or

17.2.4. any other person.

*Section 198D.*

17.3. The Board may from time to time make rules, regulations and by-laws, not inconsistent with and subject to, the Law and the Constitution for the operations, and the internal management of the Company and the relationship between the Company and its members. These rules, regulations and by-laws shall be binding on the Company and if made by unanimous resolution of the Board, binding on the members.

17.4. The Board may from time to time vary or repeal such rules, regulations or by-laws.

17.5. The Company in general meeting may disallow any rule, regulation or by-law made by the Board.

17.6. No resolution or regulation made by the Company in general meeting shall invalidate any prior act of the Board which would have been valid if that resolution or regulation had not been passed or made.

## **18. MEETINGS OF THE BOARD**

18.1. The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit providing that the Board shall meet at least once every three (3) months. The Chairperson or any two directors may at any time and the Secretary shall on the requisition of such persons call a meeting of the Board. Any person who calls a meeting must at the time of giving notice of the meeting inform the directors of the general nature of the business proposed to be considered at the meeting and provide a copy of any draft resolutions.

*Section 248C – replaceable rule.*

18.2. Except in special circumstances determined by the Chairperson, at least seventy-two (72) hours' notice shall be given of each Board meeting.

18.3. Without limiting the general power conferred on the Board by the preceding paragraph, the directors may:

18.3.1. conduct their meetings by telephone or other electronic device. A director shall be deemed to be present at such a meeting if the speech of the director via the telephone or device is audible to each other director who is present at the relevant meeting and if the first director can hear the speech of each other director;

18.3.2. call or hold a meeting using any technology consented to by all the directors. The consent may be a standing one. A director may only withdraw his or her consent within a reasonable period before the holding of any relevant meeting.

*Section 248D - Use of Technology*

- 18.4. A resolution of the directors must be passed by a majority of the votes cast by the directors present or deemed to be present and entitled to vote on the resolution. Each such director shall have one vote. In case of an equality of votes the chairperson of the meeting shall have a second or casting vote.
- 18.5. The quorum necessary for a Board meeting shall be at least two directors and be a majority of the then directors.
- 18.6. The continuing directors may act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the minimum number required by the Law or below the necessary quorum of the Board, the continuing directors may act for the purpose of increasing the number of directors to that number or of summoning a general meeting of the Company, but for no other purpose.
- 18.7. The Chairperson shall preside as chairperson at every meeting of the Board, or if there is no Chairperson, or if at any meeting he or she has advised that he or she will not be present or if he or she has not so advised but is not present within ten (10) minutes after the time appointed for holding the meeting the directors present shall choose one of their number to chair the meeting.
- 18.8. Any committee of the Board formed by a resolution of the Board shall conform to any regulation that may be imposed by the Board and subject thereto shall have power to request assistance from any member of the Company. Each member of any committee shall have one vote at meetings of that committee.
- 18.9. Committees may meet and adjourn as they respectively think appropriate. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairperson thereof shall have a second or casting vote.
- 18.10. All acts done by any meeting of the Board or committee or by any person acting as a director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that the directors or other persons were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director or member of the relevant body.
- 18.11. The directors may pass a resolution without a Board meeting being held if all directors in Australia for the time being 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. Any such resolution may consist of several documents in like form, each signed by one or more directors. The resolution is passed when the last director signs.

**19. DIRECTORS' CONFLICT OF INTEREST**

- 19.1. A director who has a material personal interest in a matter that relates to the affairs of the Company must give the other directors notice in accordance with the Law. The notice may be standing notice of the nature and extent of the interest.  
*Sections 191 and 192.*
- 19.2. No director shall vote at a meeting of the Board nor of any committee of the Board in respect of any matter in which that director has a material personal interest. If any director votes in

contravention of this paragraph the vote shall not be counted.

- 19.3. No director, who is precluded by the preceding paragraph or the Law from voting in respect of any matter, shall be present at any relevant meeting while that matter is being considered. *Section 195 sets out the requirements, including the procedure, for dealing with possible conflicts of interest.*

## **20. SECRETARIES**

- 20.1. The Company Secretary shall, in accordance with the Law, be appointed by the Board for such term, and upon such conditions as the Board determines, and any person so appointed may be removed by the Board at any time.

## **21. USE OF BANK ACCOUNTS**

- 21.1. The Company shall receive, process, spend or transfer money which is the property of the Company in accordance with the Law, any other relevant law and this Constitution.
- 21.2. The Company is to operate its own bank (or credit union, building society or other accredited financial institution) account.
- 21.3. All money received by the Company which is the property of the Company, shall be deposited as soon as practicable and without deduction to the credit of the Company in the relevant bank account of the Company.
- 21.4. All money received by the Company which is not the property of the Company shall be deposited as soon as practicable and without deduction to the credit of the relevant bank account.
- 21.5. The Company shall as soon as practicable after receiving any money, issue an appropriate receipt which shall be signed by a person who is, or a member of a class of persons which is, authorised by the Board to issue and sign such receipts.
- 21.6. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two persons authorised for that purpose by the Board.

## **22. FINANCIAL YEAR**

- 22.1. The first financial year of the Company shall end on the first 30th June after the registration of the Company and thereafter each succeeding financial year shall end on the next 30th June.

## **23. INDEMNITY**

- 23.1. Every director, auditor, secretary and other officer for the time being of the Company (herein called "officer") shall be indemnified out of the assets of the Company against any liability, including a liability for costs and expenses, arising out of the execution of the duties of their office, which is incurred by the officer in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted or in connection with any application under the Law in which relief is granted to the officer by the Court in respect of any alleged negligence, default, breach of duty or

breach of trust.

**24. DISPUTE RESOLUTION**

24.1. If a dispute arises between the Company and one or more members, the parties to the dispute expressly agree to endeavour in good faith to settle the dispute by mediation administered by the Australian Commercial Disputes Centre (ACDC) before having recourse to arbitration.

24.1.1. A party claiming that a dispute has arisen must give written notice to the other parties to the dispute specifying the nature of the dispute.

24.1.2. On receipt of the notice specified in the preceding paragraph, the parties to the dispute must seek to resolve the dispute within fourteen (14) days of receipt of the said notice.

24.1.3. If the dispute is not resolved within the said fourteen (14) days or within such further period as the parties agree then the dispute is to be referred by the Company to ACDC.

24.1.4. The mediation shall be conducted in accordance with ACDC Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and which terms are hereby deemed incorporated.

24.1.5. In the event that the dispute has not been settled within twenty-eight (28) days or such other period agreed to in writing between the parties hereto after the appointment of the mediator the dispute shall be submitted to arbitration (administered by ACDC) and conducted in accordance with ACDC's Arbitration Guidelines which are hereby deemed incorporated.

24.1.6. The arbitrator shall not be the same person as the mediator.

24.2. Nothing in this clause prevents any party to a dispute seeking urgent interlocutory relief from any relevant Court.