

K&L GATES

Constitution

LPO Group Limited

K&L Gates

Sydney office
Ref: Imca.MLAN. 10061498

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LPO Group Limited

A company limited by guarantee

Constitution

1. Nature of the Company

- (a) This Company is a public company limited by guarantee.
- (b) The name of the Company is LPO Group Limited.
- (c) The Company does not have the power to issue shares.

2. Definitions and interpretation

2.1 Definitions

In this Constitution unless the context requires otherwise:

Alternate Director means a person appointed as an alternate Director under clause 16.6;

Annual Fee means the annual fee determined pursuant to clause 8.7;

Appointing Director is defined in clause 16.6(a);

Associate Member means a person admitted as a Member pursuant to clauses 8.3 and 8.5;

Board means the Directors of the Company from time to time;

Business Day means a day which is not a Saturday, Sunday, bank holiday or public holiday in Sydney, New South Wales;

Chairperson means the Director elected to chair the Board in accordance with clause 16.4;

Company means LPO Group Limited;

Constitution means this constitution of the Company as amended, supplemented or replaced from time to time;

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

Director means any person occupying the position of director of the Company and, where appropriate, includes an Alternate Director;

Entrance Fee means the fee for entry pursuant to clause 8.7;

Financial Year means the 12 month period commencing on 1 July and ending on 30 June;

Government Agency means any government or any public, statutory, governmental (including a local government), semi-governmental or judicial body, entity, department or authority and includes any self-regulatory organisation established under statute;

Insolvency Event means, in respect of a person, any one or more of the following events or circumstances:

- (a) winding up, dissolution, liquidation, provisional liquidation, administration or bankruptcy;

- (b) having a Controller (as defined in the Corporations Act) or analogous person appointed to it or any of its property;
- (c) being unable to pay any of its debts as and when due and payable or being deemed to be insolvent under any provision of the Corporations Act or any other Law;
- (d) seeking protection from its creditors under any Law, entering into a compromise, moratorium, assignment, composition or arrangement with, or for the benefit of, any of its members or creditors;
- (e) any analogous event or circumstance to those described in paragraphs (a) to (d) under any Law; or
- (f) taking any step or being the subject of any action that is preparatory to, or reasonably likely to result in, any of the above;

Law means:

- (a) principles of law or equity established by decisions of courts;
- (b) statutes, regulations or by-laws of the Commonwealth of Australia, or any State or Territory of the Commonwealth of Australia or a Government Agency; and
- (c) requirements and approvals (including conditions) of the Commonwealth of Australia or any State or Territory of the Commonwealth of Australia or a Government Agency that have the force of law;

Licensed Post Office means a post office which is operated under a license agreement between the operator of a post office and Australia Post under which Australia Post licences to the operator, the use of its systems, manuals, trademarks and images in the operation of that post office;

Managing Director means a managing director appointed under clause 15.1;

Member means a member of the Company entered in the Register as an Ordinary Member, an Organisation Member or an Associate Member. Wherever the term "Member" is used in this Constitution it will be taken to include each of these classes of Member, unless the context requires otherwise;

Member Present means, in connection with a meeting, the Member being present in person or by proxy, representative or attorney, and includes being present at a different venue from the venue at which other Members are participating in the same meeting, providing the pre-requisites for a valid meeting at different venues are observed;

Office means the Company's registered office;

Officeholder means a person appointed to any executive position with the Company;

Ordinary Member means a natural person admitted as a member of the Company pursuant to clauses 8.1 and 8.5;

Organisation means a corporation or partnership (as defined in the relevant partnership act within the state or territory where the partnership is established);

Organisation Member means an Organisation admitted as a member pursuant to clauses 8.2 and 8.5;

Register means the register of Members of the Company;

Representative means a natural person nominated by an Organisation in accordance with clause 8.4;

Secretary means any person appointed by the Directors to perform any of the duties of a Secretary of the Company and if there are joint secretaries, any one or more of the joint secretaries;

Small Company Limited by Guarantee has the meaning given to that term in the Corporations Act; and

Special Resolution has the same meaning given to that term in section 9 of the Corporations Act.

2.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;
- (c) the headings are used for convenience only and do not affect the interpretation of this Agreement;
- (d) other grammatical forms of defined words or expressions have corresponding meanings;
- (e) a reference to a document includes the document as modified from time to time and any document replacing it;
- (f) if something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day;
- (g) the word "person" includes a natural person and any body or entity whether incorporated or not;
- (h) the word "month" means calendar month and the word "year" means 12 months;
- (i) the words "in writing" include any communication sent by letter, facsimile transmission or email or any other form of communication capable of being read by the recipient;
- (j) a reference to a thing includes a part of that thing;
- (k) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) includes that statute as amended, consolidated, re-enacted or replaced from time to time;
- (l) wherever "include" or any form of that word is used, it must be construed as if it were followed by "(without being limited to)";
- (m) money amounts are stated in Australian currency unless otherwise specified; and
- (n) a reference to any agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed (**defunct body**), means the agency or body that performs most closely the functions of the defunct body.

2.3 Replaceable rules

Each of the provisions of the sections or sub-sections of the Corporations Act which, but for this clause 2.3, would apply to the Company as a replaceable rule within the meaning of the Corporations Act are displaced and do not apply to the Company except insofar as they are repeated in this Constitution.

2.4 Compliance with the Corporations Act

This Constitution is subject to the Corporations Act and where there is any inconsistency between a clause of this Constitution and the Corporations Act which is not permissible under the Corporations Act, the Corporations Act prevails to the extent of the inconsistency.

2.5 Transitional

Everything done under this Constitution of the Company continues to have the same operation and effect after the adoption of any successor Constitution as if properly done under that Constitution.

3. Company's objects

The Company is established solely for the objects. The objects for which the Company is established are to:

- (a) at all times act on behalf of, and in the interest of, the Members;
- (b) take steps to achieve government, commercial and public recognition of the Company as the peak representative body for licensees of Licensed Post Offices in Australia;
- (c) advance the operations and activities of the Company;
- (d) engage legal services on behalf of the Members where necessary, to defend the rights of Members or pursue the aspirations of Members provided such rights and aspirations are consistent with these objects;
- (e) take all reasonable steps to ensure these objects are achieved and Members receive the benefits derived from the achievement of these objects;
- (f) use the property, income and capacity of the Company for the fulfilment and achievements of these objects; and
- (g) undertake and or do all such things reasonably necessary, incidental or conducive to the advancement of these objects.

4. Company's powers

In order to further and achieve the objects of the Company under clause 3, the Company may do all or any of the following:

- (a) exercise any powers that the Company has by having the rights, powers, privileges and legal capacity of a natural person, including performing any act or function which it is authorised or required to do by any Law;
- (b) anything which it considers will advance and achieve its objects; and
- (c) all other things that are incidental or conducive to attaining the Company's objects.

5. Assets and income of the Company

- (a) Subject to clause 5(b), all assets and income of the Company will be applied solely towards the promotion of the objects of the Company and no portion thereof will be paid or transferred directly or indirectly by way of dividend, bonus, fees or otherwise to the Members or Directors of the Company.
- (b) Clause 5(a) does not prohibit the Company from making a payment approved by the Board:
 - (i) for out-of-pocket expenses incurred by a Director including the Managing Director in performing a duty as a Director or Managing Director of the Company; or
 - (ii) as bona fide compensation for a service rendered to the Company by a Director or Member in a professional or technical capacity, other than in the capacity as a Director of the Company, where:
 - (A) the provision of the service has the prior approval of the Board; and
 - (B) the amount payable is not more than an amount which commercially would be reasonable payment for the service;
 - (iii) in good faith to any Member for goods supplied in the ordinary and usual course of business;
 - (iv) of interest on money borrowed from a Member at a rate not exceeding the rate charged by the Company's bank from time to time on overdraft accounts of under \$100,000;
 - (v) of reasonable and proper rent for premises let by any Member to the Company; or
 - (vi) in respect of the indemnification of, or payment of premiums on contracts of insurance for, any Director or Managing Director to the extent permitted by the Corporations Act.
- (c) All other payments by the Company to the Directors must be approved by the Board.

6. Obligations of Members

Every Member undertakes to:

- (a) promote and further the objects, interest, influence and standing of the Company; and
- (b) observe this Constitution and the rules and regulations of the Company in force from time to time,

to the best of their ability.

7. Membership

7.1 Number of Members

The number of Members of the Company is unlimited.

7.2 Liability of Members

The liability of Members of the Company is limited in accordance with clause 7.3 and otherwise pursuant to this Constitution and the Corporations Act.

7.3 Contribution of Members

Every Member undertakes to contribute an amount of \$100.00 to the property of the Company if it is wound up while they are a Member or within one year after they cease to be a Member, for:

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

7.4 Initial Members

- (a) On the date of adoption of this Constitution, the persons listed in Part A of Schedule 1 will be the initial Members of the Company.
- (b) The initial Members of the Company are either Ordinary Members or Organisation Members as specified in Schedule 1.
- (c) The Board may admit further persons as Members of the Company in accordance with this Constitution.

7.5 Membership classes

The Members of the Company will consist of:

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

7.6 Membership requirements and undertaking

- (a) Every Member must:
 - (i) except as provided in clause 7.6(c), be the licensee of a Licensed Post Office or a member of an Organisation that is the licensee of a Licensed Post Office or have a Representative that is the licensee of a Licensed Post Office;
 - (ii) be approved for membership in accordance with this Constitution;
 - (iii) fulfil their obligations under this Constitution; and
 - (iv) be in agreement with and demonstrate support for the mission and objects of the Company.
- (b) Every Member undertakes to:
 - (i) comply with this Constitution and any regulations, by-laws, policies or standards of the Company issued by the Board from time to time; and

- (ii) promote the Objects and standing of the Company,
to the best of their ability.
- (c) A person who does not meet the requirements of clause 7.6(a)(i) may be granted Associate Membership if approved by the Board.
- (d) No Director or Member can become or remain a Member during such period as they are an employee of the Company.

8. Rights and eligibility of Members

8.1 Ordinary Members

- (a) To be eligible as an Ordinary Member, a natural person must comply with the requirements in clause 7.6.
- (b) An Ordinary Member has the right to:
 - (i) receive notices from the Company;
 - (ii) attend, request the convening of, vote at, and be heard at all meetings of the Company;
 - (iii) be nominated and elected as an Officeholder; and
 - (iv) exercise the rights of an Ordinary Member.

8.2 Organisation Members

- (a) To be eligible as an Organisation, a Member must be an Organisation and must comply with the requirements in clause 7.6.
- (b) An Organisation Member has the right to:
 - (i) receive notices from the Company;
 - (ii) attend, request the convening of, vote at, and be heard at all meetings of the Company;
 - (iii) nominate and elect a person as an Officeholder; and
 - (iv) exercise the rights of an Organisation Member.

8.3 Associate Members

- (a) To be eligible as an Associate Member a person must comply with the requirements in clause 7.6.
- (b) An Associate Member:
 - (i) has the right to receive notices from the Company;
 - (ii) has the right to attend and be heard at all meetings of the Company;
 - (iii) does not have the right to request the convening of or vote at meetings of the Company; and

- (iv) does not have the right to be nominated and elected as an Officeholder.

8.4 Representatives

- (a) An Organisation Member and an Associate Member (that is an Organisation) must by written notice to the Secretary:
 - (i) appoint a natural person to act as its Representative in all matters as permitted by the Corporations Act; and
 - (ii) remove a Representative.
- (b) Subject to this Constitution, a Representative is entitled to exercise at a general meeting all the powers which the Member who appointed them could exercise pursuant to this Constitution and the Corporations Act, if it were a natural person.
- (c) A certificate executed in accordance with the Corporations Act is rebuttable evidence of the appointment or removal of the appointment (as appropriate) of the Representative.
- (d) If written notice of the appointment of a Representative has not been received in accordance with clause 8.4(a) the Chairperson of a general meeting may allow a Representative to vote on the condition that they subsequently establish their status as a Representative within a period prescribed by and to the satisfaction of the Chairperson of the general meeting.
- (e) The appointment of a Representative may set out restrictions on the Representative's powers.

8.5 Application for membership

- (a) Other than in respect of the Initial Members of the Company, every application for membership of the Company must:
 - (i) be in writing;
 - (ii) be in a form approved by the Board for that purpose;
 - (iii) state the applicant's name, address, occupation and proposed class of membership;
 - (iv) be signed by the applicant;
 - (v) be submitted either:
 - (A) to the Secretary at the Office in paper form;
 - (B) online at the Company's website (where a scanned copy of the signature of the applicant to the relevant email address referred to therein will suffice); and
 - (vi) be accompanied by the applicant's Entrance Fee and all or part of the Annual Fee (as determined by the Board).
- (b) At the next meeting of Directors after receipt of an application for membership, the Board will consider the application and will, in its absolute discretion without having to provide reasons:

- (i) determine the admission or rejection of the applicant; or
 - (ii) decide to call on the applicant to supply any evidence of eligibility that they consider reasonably necessary.
- (c) An applicant will be admitted to membership of the Company if 75% of the Directors entitled to vote at the meeting of Directors vote in favour of admitting the applicant.
 - (d) If the Directors reject an application for membership, the Secretary must, as soon as practicable, notify the applicant in writing that the application has been rejected and return any fees received by the Secretary in respect of that applicant to that applicant.
 - (e) If the Directors approve an application for membership, the Secretary must, as soon as practicable,
 - (i) notify the applicant in writing of the approval of the application for membership; and
 - (ii) if not paid, request payment of the applicant's Entrance Fee and all or part of the Annual Fee (as determined by the Board) within 14 days after the date the applicant is notified of acceptance.
 - (f) If an amount due under clause 8.5(e)(ii) is not paid by the due date, the Board may cancel the approval of the membership application.
 - (g) Subject to clause 8.5(f), the Secretary must, within 30 days after an application is approved by the Directors, enter the applicant's name in the Register in accordance with clause 9.

8.6 Transfer of membership

A right, privilege or obligation of a person by reason of membership:

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

8.7 Membership fees

- (a) The Entrance Fee and Annual Fee payable by each class of Members will be determined by the Board from time to time.
- (b) Except for the first Annual Fee payable by a new Member in accordance with clause 8.5(e)(ii), all Annual Fees are due and payable in advance on 1 July for each Financial Year or as otherwise determined by the Board from time to time.
- (c) The Board may from time to time set a special fee payable by all Members or certain Members on a date determined by the Board.
- (d) The Board may vary the Annual Fee in circumstances where a person wishes to become a Member part way through the year, but the Annual Fee to be paid by a Member must not be less than **two thirds** of the full Annual Fee for that Financial Year.

8.8 Cessation of membership

- (a) A Member will cease to be a Member:
- (i) if it cannot comply with clause 7.6(a)(i) unless the Board otherwise considers it to be in the best interests of the Company to permit the Member to remain as a Member of the Company which decision will be revoked if it subsequently considers it not to be in the best interests of the Company for that Member to remain a Member of the Company;
 - (ii) if a Member or its Representative (as the case may be) becomes a Managing Director;
 - (iii) if the Member resigns from the Company by giving written notice of their resignation, from the date of receipt of that notice by the Secretary;
 - (iv) if the Member's membership lapses in accordance with clause 8.9;
 - (v) if that Member's status or conduct, in the Board's opinion, renders it undesirable that that Member continue to be a Member;
 - (vi) 75% of the Directors entitled to vote at a meeting of the Board vote in favour of terminating the membership of the Member;
 - (vii) the Member has been given at least 21 days' notice of the resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed; or
 - (viii) if the Member:
 - (A) dies;
 - (B) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health;
 - (C) is the subject of an Insolvency Event;
 - (D) brings the reputation of the Company into disrepute;
 - (E) is convicted of an indictable offence; or
 - (F) or its Representative, is or becomes an employee of the Company.
- (b) Any Member ceasing to be a Member:
- (i) will have their name removed from the Register;
 - (ii) will not be entitled to any refund (or part refund) of any Annual Fee or Entrance Fee; and
 - (iii) will remain liable for and will pay to the Company all Annual Fees or other money including the Entrance Fee which is due at the date of ceasing to be a Member.

8.9 Lapse of membership

- (a) If a Member's Entrance Fee or Annual Fee remains unpaid for more than 14 days after becoming due, the Secretary may send the Member a default notice requiring

payment of the outstanding Entrance Fee or Annual Fee within 14 days of the issue of the default notice.

- (b) If the Entrance Fee or Annual Fee remains unpaid 14 days after the issue of the default notice, then the Member will at that time automatically and without further notice cease to be a Member and clause 8.8(b) will apply.
- (c) The Board may, in its absolute discretion, reinstate the Member on payment of all arrears of the outstanding Entrance Fee or Annual Fee (as the case may be).

9. Register

- (a) The Secretary must keep and maintain a Register containing:
 - (i) the name and address of each Member;
 - (ii) the class of membership of each Member;
 - (iii) the date on which each Member's name was entered into the Register; and
 - (iv) the name and date of appointment of each Representative.
- (b) The Register is available for inspection free of charge by any Member upon request.
- (c) A Member may make a copy of entries in the Register.

10. General meetings

10.1 Meaning of general meeting of Members

In relation to general meetings of Members, a **meeting** includes:

- (a) all adjournments of a meeting; and
- (b) any meeting convened to be held by those entitled to be present, meeting simultaneously in different locations as determined by the Directors.

10.2 Annual general meeting

- (a) The Company must hold an annual general meeting within 18 months after its registration as a Company.
- (b) The Company must hold an annual general meeting once in each calendar year and no later than 5 months after the end of each Financial Year.
- (c) The annual general meeting must be held at such place as the Board sets for the meeting.

10.3 Business at annual general meeting

In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:

- (a) to confirm the minutes of the last preceding annual general meeting and of any other general meeting held since the last annual general meeting;

- (b) unless for the preceding Financial Year the Company was a Small Company Limited By Guarantee, to receive from the Board and consider:
 - (i) the annual financial report;
 - (ii) the annual Directors' report; and
 - (iii) the auditor's report (if any),for the last Financial Year that ended before the annual general meeting;
- (c) the election of the Chairperson, the other Directors and other Officeholders in accordance with this Constitution;
- (d) the appointment and fixing of the remuneration of the auditor (if any); and
- (e) any other business which under this Constitution or the Corporations Act is required to be transacted at an annual general meeting.

10.4 Power of Directors to convene

- (a) The Directors may convene a general meeting of Members whenever they think fit.
- (b) The Directors must convene a general meeting of Members, on the request of Members with at least 5% of the votes that may be cast at a general meeting.
- (c) Subject to the Corporations Act, the Directors may cancel or postpone any general meeting or change its venue by giving appropriate notice to all persons to whom the notice of the original meeting was given, but may not cancel a general meeting which was called or requisitioned by persons other than the Directors without the prior written consent of those persons.

10.5 Power of Members to convene a general meeting

- (a) Members with at least 5% of the votes that may be cast at a general meeting may call, and arrange to hold, a general meeting.
- (b) As far as reasonably practicable, a general meeting under this clause 10.5 must be called in the same way in which general meetings of the Company are called.
- (c) The Members calling the general meeting must pay the expenses of calling and holding it under this clause 10.5.

10.6 Members' resolutions at a general meeting

- (a) Members with at least 5% of the votes that may be cast on a resolution may give the Company notice of a resolution they propose to move at a general meeting.
- (b) The notice under clause 10.6(a) must:
 - (i) be in writing;
 - (ii) set out the wording of the proposed resolution; and
 - (iii) be signed by the Members proposing to move the resolution.

- (c) If the Company has been given notice of a Members' resolution under clause 10.6(a), the resolution must be considered at the next general meeting of the Company that occurs more than 2 months after the notice is given.

10.7 Notice of general meetings

- (a) Written notice of a general meeting must be given as provided in this Constitution to:
 - (i) every Member;
 - (ii) every Director; and
 - (iii) the auditor (if any).
- (b) Subject to the Corporations Act and clause 10.7(c), the Company must give 21 days' notice of general meetings (including annual general meetings).
- (c) Subject to the Corporations Act and clause 10.7(d), the Company may call, on shorter notice than that specified in clause 10.7(b):
 - (i) an annual general meeting, if all the Members entitled to attend and vote at the annual general meeting agree prior to the annual general meeting; and
 - (ii) any other general meeting, if Members holding at least 95% of the votes that may be cast at the general meeting agree prior to the general meeting.
- (d) The Company cannot call a general meeting or annual general meeting on shorter notice than that specified in clause 10.7(b) if a resolution will be moved at the meeting to:
 - (i) appoint or remove a Director; or
 - (ii) remove an auditor.
- (e) Subject to the Corporations Act, the Company may give notices to Members electronically by notifying the Member:
 - (i) that the notice is available; and
 - (ii) how the Member may use electronic means to access the notice,

by any electronic means permitted by the Corporations Act and to an electronic address nominated by the relevant Member for the purpose of receiving notices.

10.8 Content of notice of general meeting

Each notice convening a general meeting must specify:

- (a) the place, date and time of the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
- (b) the general nature of the business to be transacted at the meeting;
- (c) 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
- (d) contain a statement of:

- (i) each Member's right to appoint a proxy; and
- (ii) the fact that a proxy need not be a Member of the Company.

10.9 Failure to give notice

Any resolution passed at a meeting is not invalidated by:

- (a) the accidental omission to give notice of a meeting to any Member or non-receipt of that notice by a Member; or
- (b) the accidental omission to send out the instrument of proxy to a person entitled to receive notice or non-receipt of that instrument.

10.10 Quorum

- (a) No business may be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this Constitution, a quorum constitutes:
 - (i) 5 Members Present; or
 - (ii) where the total number of Members is less than 5, all those Members being the Members Present provided there is a minimum of 3 Members.

10.11 Effect of no quorum

If a quorum is not present within 15 minutes after the time appointed for the general meeting in the notice:

- (a) if the meeting was called on the requisition of Members, it is automatically dissolved; and
- (b) in any other case:
 - (i) the meeting stands adjourned to a day and at a time and place as the Directors decide or, if no decision is made by the Directors, to the same day in the next week at the same time and place; and
 - (ii) if at the adjourned meeting a quorum is not present within 15 minutes after the time appointed for the meeting, the meeting must be dissolved.

10.12 Right of officers and advisers to attend general meeting

- (a) The Managing Director who is not a Member is entitled to be present and to speak at any general meeting.
- (b) A Secretary who is not a Member is entitled to be present and, at the request of the chairperson of the meeting, to speak at any general meeting.
- (c) Any other person (whether a Member or not) required by the Directors to attend any general meeting is entitled to be present and, at the request of the chairperson of the meeting, to speak at that general meeting.

10.13 Use of technology

The Company may hold a meeting at 2 or more venues using any technology that gives Members a reasonable opportunity to participate.

10.14 Validity of meetings held in different locations

The business of a general meeting held under clause 10.1(b) cannot be validly considered, and any resolutions at that meeting have no effect, unless:

- (a) the Members present at each such location as a whole have a reasonable opportunity to hear and participate in the business of the general meeting as it is being conducted, both at the venue at which the Chairperson of the general meeting is present and at each other venue; and
- (b) satisfactory provision is made at each venue for the recording of all votes cast,

and on satisfying these conditions, the general meeting is taken to be held where the Chairperson of the general meeting conducts the meeting and all proceedings conducted in that manner are as valid and effective as if conducted at a single gathering of a quorum of those entitled to be present.

10.15 Chairperson of general meeting

- (a) The Chairperson must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as Chairperson at each general meeting.
- (b) If at a general meeting:
 - (i) there is no Chairperson;
 - (ii) the Chairperson is not present within 15 minutes after the time appointed for the meeting; or
 - (iii) the Chairperson is present within that time but is not willing to act as Chairperson of the meeting,

the Directors present must choose one of their number or, in the absence of all Directors or if none of the Directors present wish to act, the Members present and entitled to vote must elect one of their number to chair the meeting.

10.16 Adjournments

- (a) The Chairperson of the general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place.
- (b) No business may be transacted at any continuation of an adjourned meeting other than the business left unfinished at the meeting which has been adjourned.
- (c) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (d) Except as provided by clause 10.16(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

10.17 Decisions by majority unless otherwise required

Except where by law a resolution is required to be a Special Resolution, questions arising at a general meeting must be decided by a majority of votes cast by the Members Present at the meeting. Such a decision is for all purposes a decision of the Members.

10.18 Minutes

- (a) The Company must keep minute books in which it records, within 30 days:
 - (i) proceedings and resolutions of meetings of the Members;
 - (ii) proceedings and resolutions of Directors' meetings and resolutions passed by Directors without a meeting; and
 - (iii) resolutions passed by Members without a meeting.
- (b) The Company must ensure that minutes are signed within a reasonable time after the date of the meeting or of the resolution being passed by:
 - (i) the Chairperson of the meeting; or
 - (ii) the Chairperson of the next meeting; or
 - (iii) in the case of a resolution without a meeting, a Director.

10.19 Circular Resolutions

- (a) A resolution may be passed without a general meeting being held if all the Members 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.
- (b) Identical copies of the document may be distributed for signing by different Members and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Member signs the document, and satisfies any requirement in this Constitution or the Corporations Act that the resolution be passed at a general meeting.

11. Voting at general meetings

11.1 Voting

- (a) A resolution put to the vote at a general meeting must be decided on a show of hands unless a poll is demanded.
- (b) Before a vote is taken, the Chairperson must inform the general meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) 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 Chairperson nor the minutes of the meeting need to state the number or proportion of the votes recorded in favour or against the resolution.

11.2 Voting rights

- (a) Each Member entitled to vote under this Constitution and present has one vote, whether on a show of hands or on a poll.
- (b) A Member ordinarily entitled to vote is not entitled to vote if his or her Entrance Fee or Annual Fee is more than 14 days in arrears on the date of the relevant general meeting.

11.3 Voting by poll

- (a) A poll may be demanded by:
 - (i) the Chairperson;
 - (ii) at least 5 Members present in person or by proxy or attorney and entitled to vote on the resolution; or
 - (iii) a Member or Members present in person or by proxy or attorney representing at least 5% of the total votes that may be cast on the resolution on a poll.
- (b) A poll may be demanded:
 - (i) before a vote is taken; or
 - (ii) before or immediately after the voting results on a show of hands are declared.
- (c) The demand for a poll may be withdrawn.
- (d) If a poll is duly demanded, it must be taken in such manner and, subject to clause 11.3(e), either immediately or after an interval or adjournment or otherwise as the Chairperson directs. The result of the poll is the resolution of the meeting at which the poll was demanded.
- (e) A poll may not be demanded on the election of a Chairperson of the general meeting or on a question of adjournment.

11.4 Procedure for polls

- (a) A poll, when demanded, is to be taken in the manner and at the time the Chairperson of the general meeting directs.
- (b) The result of the poll is a resolution of the general meeting at which the poll was demanded.
- (c) The demand for a poll does not prevent a general meeting from proceeding with any other business.

11.5 Chairperson's casting vote

Subject to the Corporations Act, 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 has a casting vote (in addition to any vote that the Chairperson may have had as a Member).

11.6 Members of unsound mind and minors

- (a) If a Member is:
- (i) of unsound mind;
 - (ii) a person whose person or estate is liable to be dealt with in any way under the Law relating to mental health; or
 - (iii) a minor,
- the Member's committee or trustee or any other person who has proper management or guardianship of the Member's estate or affairs may, subject to clause 11.6(b), exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.
- (b) Any person with powers of management or guardianship cannot exercise any rights under clause 11.6(a) unless the person has provided the Directors with satisfactory evidence of the person's appointment and status.

11.7 Objections to qualification to vote

- (a) An objection to the qualification of a person to vote may be raised only at the meeting or adjourned meeting at which the vote objected to, is tendered.
- (b) Any objection must be referred to the Chairperson of the meeting, whose decision is final.
- (c) A vote allowed after an objection is valid for all purposes.

11.8 Votes counted in error

If any vote is counted which ought not to have been counted or might have been rejected, the error will not invalidate the resolution unless the error is:

- (a) detected at the same meeting; and
- (b) of sufficient magnitude, in the opinion of the Chairperson of the meeting, as to invalidate the resolution.

12. Proxies

12.1 Who can appoint a proxy

A Member who is entitled to attend and vote at a general meeting may appoint a person as that Member's proxy to attend and vote for that Member at a meeting of the Company. A proxy need not be a Member of the Company.

12.2 Form of proxy

- (a) An instrument appointing a proxy is valid if it is in the form specified by the Directors from time to time and is:
 - (i) signed by or on behalf of the Member of the Company making the appointment; and
 - (ii) contains the following information:

- (A) the Member's name and address;
 - (B) the Company's name;
 - (C) the proxy's name or the name of the office held by the proxy; and
 - (D) the meetings at which the appointment may be used.
- (b) The proxy form must provide for the Member to vote for or against each resolution and may provide for abstention to be indicated.
 - (c) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution. Where it does so, the proxy is not entitled to vote on the resolution except as specified in the instrument. A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.
 - (d) An instrument appointing a proxy confers authority to demand or join in demanding a poll.

12.3 Where proxy is incomplete

- (a) No instrument appointing a proxy is treated as invalid merely because:
 - (i) it does not contain the address of the appointor or proxy;
 - (ii) it is not dated; or
 - (iii) in relation to any or all resolutions, it does not contain an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not specify the name of a proxy, the instrument is treated as given in favour of the Chairperson of the meeting.

12.4 Lodgement of proxies

- (a) An instrument appointing a proxy is not treated as valid unless:
 - (i) the instrument; and
 - (ii) the power of attorney or other authority (if any) under which the instrument is signed; or
 - (iii) a copy of that power or authority certified in a manner acceptable to the Directors,

are lodged not less than 48 hours (or any shorter period as the Directors may permit, subject to the Corporations Act) before the time for holding the meeting at the place specified for that purpose in the notice of the meeting or, if none, at the Office.
- (b) An instrument appointing a representative to act for a Member at all meetings of the Company or at all meetings for a specified period is not treated as valid unless:
 - (i) the instrument of appointment or a certified copy of it, duly signed by hand or electronically authenticated in accordance with clause 12.4(c)(ii); and
 - (ii) any evidence as to the validity and non-revocation of that authority as may be required by the Directors,

are lodged not less than 48 hours (or any shorter period as the Directors may permit) before the time for holding the meeting at the place or electronic address specified for that purpose in the notice of the meeting or, if none, at the Office.

- (c) For the purposes of this clause 12.4:
- (i) a legible facsimile of any document which is received at a place specified in the notice is duly lodged at that place at the time when the facsimile is received; and
 - (ii) subject to the Corporations Act, instead of signing or executing an instrument of appointment, a Member may electronically authenticate the appointment of a proxy, provided that:
 - (A) the Member is identified by personal details as required by the Company;
 - (B) the Member's approval of the information communicated to the Company is accompanied by a personal identification number or any other number provided by the Company; and
 - (C) the Member complies with any other requirements of the Company.

12.5 Validity of proxy vote

- (a) A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:
- (i) the previous death or mental incapacity of the principal; or
 - (ii) the revocation of the relevant instrument (or of the authority under which the instrument was executed) or the power of attorney,
- if no notice in writing of the death, mental incapacity, revocation or transfer has been received by the Company at its Office before the commencement of the meeting at which the instrument or power of attorney is used.
- (b) A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes on the resolution for which the proxy is proposed to be used.

13. Board of Directors

13.1 Number of Directors

- (a) Subject to clause 13.1(c), there must be:
- (i) at least 3 Directors; and
 - (ii) not more than 6 Directors.
- (b) At least 2 of the Directors must ordinarily reside in Australia.
- (c) The Company may by resolution increase or reduce the minimum or maximum number of Directors provided in doing so, the minimum number is not reduced below 3.

13.2 Initial Directors

- (a) There will be 4 initial Directors.
- (b) On the date of adoption of this Constitution, the persons listed in Part B of Schedule 2 will be the initial Directors.

13.3 Appointment and removal of Directors

- (a) The Company may by resolution appoint or remove a Director.
- (b) The Directors may appoint any individual as a Director, either to fill a casual vacancy or as an addition to the existing Directors, but the total number of Directors must not at any time exceed the maximum number allowed under clause 13.1. That person holds office until the end of the next annual general meeting following their appointment and is eligible for election at that meeting.
- (c) Subject to clause 13.6 and to the terms of any agreement entered into between the Company and the relevant Director, a Director holds office until he or she dies or is removed from office under clause 13.2(a).

13.4 Retirement at each annual general meeting

- (a) Subject to clause 15.1, no Director may hold office for a period in excess of 3 years, or beyond the third annual general meeting following the Director's election, whichever is the longer, without submitting himself or herself for re-election.
- (b) An election of Directors must be held at an annual general meeting if any one or more of the following, as applicable:
 - (i) any Director is required to retire under clause 13.4(a) and elects to stand for re-election;
 - (ii) any Director is required to submit for election under clause 13.3(b); or
 - (iii) a person is standing for election as a new Director.
- (c) Clauses 13.4(a) and 13.4(b) do not apply to the Managing Director.
- (d) A retiring Director is eligible for re-election without needing to give any prior notice of an intention to submit for re-election and holds office as a Director until the end of the meeting at which the Director retires.
- (e) No person other than a retiring Director or a Director vacating office under clause 13.3(b) is eligible to be elected a Director at any general meeting unless a written notice of the person's nomination for election is given to the Company at least 14 Business Days before the meeting at which the election is to take place.

13.5 No membership qualification

- (a) Subject to clause 13.5(b), a Director must be an Ordinary Member or a Representative of an Organisation Member.
- (b) A Managing Director must not be a Member or a Representative of a Member.
- (c) A person must give the Company written consent to act as a Director before being appointed as a Director. The consent must be signed.

13.6 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) other than a Managing Director, is required to be a Member and ceases to be a Member;
- (b) ceases to be a Director by virtue of the Corporations Act or this Constitution;
- (c) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (d) is prohibited from being a Director by reason of any order made under the Corporations Act;
- (e) becomes physically or mentally incapable of performing the Director's duties;
- (f) resigns by written notice to the Company;
- (g) is absent from Directors' meetings (without appointing an Alternate Director) without the consent of the other Directors for a period of more than 6 months; or
- (h) without the prior or subsequent consent of the other Directors, is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the Director's interest as required by the Corporations Act.

13.7 Remuneration

- (a) No payment will be made to any Director of the Company other than a payment allowed under clause 5(b).
- (b) Clause 13.7(a) does not apply to the remuneration of the Managing Director and any other executive Directors. Remuneration payable by the Company and any entity under its control to the Managing Director and any other executive Directors will be calculated on a commercial basis and fixed by the Board from time to time but must not be a commission on, or percentage of, profits or operating revenue.

13.8 Interested Directors

- (a) A Director is not disqualified, merely because he or she is a Director, from contracting with the Company in any respect including, but not limited to:
 - (i) selling property to, or purchasing property from, the Company;
 - (ii) lending money to the Company with or without interest or security;
 - (iii) guaranteeing the repayment of money borrowed by the Company for a commission or profit;
 - (iv) underwriting or guaranteeing the subscription for securities in which the Company is interested as a shareholder or otherwise, for a commission or profit; or
 - (v) being employed by the Company or acting in any professional or technical capacity (except as auditor) on behalf of the Company.

- (b) A contract made by a Director with the Company and a contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is not avoided or rendered voidable merely because the Director holds office as a Director or because of the fiduciary obligations arising out of that office.
- (c) Unless section 195 of the Corporations Act permits, a Director who has a material personal interest in a matter that is being considered at a Directors' meeting (other than an interest which he or she holds in common with all other Members) must not:
 - (i) be present while the matter is being considered at the meeting; or
 - (ii) vote on the matter.
- (d) The Directors may make regulations requiring the disclosure of interests that a Director, and any person considered by the Directors as related to or associated with the Director, may have in any matter concerning the Company. Any regulations made under this Constitution bind all Directors.

14. Powers and duties of Directors

14.1 General management power

Subject to the Corporations Act, this Constitution and any resolution of the Company, the Board:

- (a) will manage the business of the Company;
- (b) may exercise all such powers of the Company that are not, by the Corporations Act or this Constitution, required to be exercised by the Company in general meeting; and
- (c) may pay all expenses incurred in promoting and forming the Company.

14.2 Specific powers of Directors

Without limiting the generality of clause 14.1, the Directors may exercise all the powers of the Company to create by-laws, to borrow or raise money, to charge any property or business of the Company or give any other security for a debt, liability or obligation of the Company or of any other person.

14.3 Attorneys

- (a) The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- (b) Any such power of attorney may contain provisions for the protection and convenience of persons dealing with the attorney and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

14.4 Negotiable instruments and electronic transfers

- (a) All negotiable instruments of the Company are to be executed by the persons and in the manner determined by the Directors from time to time.

- (b) All electronic payments by the Company are to be made or authorised in the manner determined by the Directors from time to time.

14.5 Committees

The Directors may delegate (and revoke the delegation of) any of their powers, other than powers required by law to be dealt with by the Directors as a board, to a committee or committees consisting of one or more of their number as they think fit.

14.6 Powers delegated to committees

- (a) A committee to which any powers have been delegated under clause 14.5 must exercise those powers in accordance with any directions of the Directors.
- (b) The effect of the committee exercising a power in this way is the same as if it had been exercised by the Directors.

15. Managing Director

15.1 Power to appoint Managing Director

- (a) The Directors may appoint a Director to the office of Managing Director for the period and on the terms they think fit, including the grant of power for the Managing Director to delegate all or part of his or her authorities to another Director during any temporary absence. Subject to the terms of any agreement entered into in a particular case, the Directors may at any time revoke any appointment of a Managing Director.
- (b) The Managing Director's appointment automatically terminates if the Managing Director ceases for any reason to be a Director.
- (c) Subject to clause 15.1(a), the provisions of clause 13.4 do not apply to a Managing Director.

15.2 Delegation of powers to Managing Director

- (a) The Directors may, on the terms and conditions and with any restrictions as they think fit, confer on the Managing Director any of the powers exercisable by them.
- (b) Any powers so conferred may be concurrent with the powers of the Directors.
- (c) The Directors may at any time withdraw or vary any of powers conferred on the Managing Director under clause 15.2(a).

16. Proceedings of Directors

16.1 Calling and holding Directors' meetings

- (a) A Director may at any time call a Directors' meeting by giving reasonable notice to each other Director.
- (b) The Directors may adjourn and otherwise regulate their meetings as they think fit.

16.2 Right of advisers to attend general meeting

Any person required by the Directors to attend any board meeting is entitled to be present and, at the request of the Chairperson, to speak at that board meeting.

16.3 Questions decided by majority

- (a) Subject to this Constitution, a question arising at a meeting of Directors must be passed by a majority of the votes of Directors present and entitled to vote, and that decision is for all purposes a decision of the Directors.
- (b) In case of an equality of votes, the Chairperson, in addition to his or her deliberative vote (if any), has a casting vote.

16.4 Chairperson

- (a) The Directors must elect a Director to chair Directors' meetings (**Chairperson**).
- (b) Where a meeting of the Directors is held and the Chairperson declines to act as chair of the meeting or is not present within 15 minutes after the time appointed for the holding of the meeting, the Directors present must elect one of their number to chair the meeting.

16.5 Quorum

- (a) At a meeting of Directors properly convened, the number of Directors whose presence is necessary to constitute a quorum is 3.
- (b) If the office of a Director becomes vacant, the remaining Directors may act but, if the total number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, the Directors may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum or for the purpose of convening a general meeting of the Company.

16.6 Alternate Directors

- (a) With the other Directors' prior written approval, a Director (**Appointing Director**) may appoint an Alternate Director to exercise some or all of the Appointing Director's powers either indefinitely or for a specified period. An Alternate Director need not be a Director or Member.
- (b) The appointment of an Alternate Director must be in writing and a copy given to the Company.
- (c) An Alternate Director:
 - (i) is entitled to notice of each Directors' meeting and if the Appointing Director is not present at any such meeting, the Alternate Director may attend and vote at that meeting in the Appointing Director's place; and
 - (ii) is otherwise entitled to exercise all the powers of the Appointing Director in the Appointing Director's place (unless the appointment was limited to some only of the Appointing Director's powers, in which case the Alternate Director may only exercise those powers).
- (d) When an Alternate Director exercises the Appointing Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Appointing Director.
- (e) An Alternate Director is responsible to the Company for his or her own acts and defaults as if the Alternate Director were an ordinary Director and is not deemed to be an agent of the Appointing Director.

- (f) The Appointing Director may terminate the Alternate Director's appointment at any time by notice in writing to the Alternating Director and the Company.
- (g) In any case, the appointment of an Alternate Director automatically terminates when the Appointing Director ceases to hold office as Director.

16.7 Minutes

- (a) The Directors must cause minutes to be made of:
 - (i) all appointments of Directors, Alternate Directors and Officeholders;
 - (ii) the names of the Directors present at each meeting of the Directors;
 - (iii) all orders made by the Directors;
 - (iv) all declarations made or notices given by any Director (either generally or specifically) of his or her interest in any contract or proposed contract or of his or her holding of any office or property whereby any conflict of duty or interest may arise; and
 - (v) all resolutions and proceedings of meetings of Directors,

and retain the minutes in a minute book for a period of at least 10 years or such other period as may be required under the Corporations Act.
- (b) The minutes of a meeting must be signed by the Chairperson of the meeting or the Chairperson of the next meeting.
- (c) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this clause 16.7 is evidence of the matters shown in the minute.

16.8 Meetings of committees

- (a) Where the Directors delegate their powers to one or more committees pursuant to clause 14.5, those committees must hold their meetings in accordance with this clause 16.8.
- (b) The members of a committee may elect one of their number as chairperson of their meetings.
- (c) Where a meeting of a committee is held and:
 - (i) a chairperson has not already been elected to chair that meeting under clause 16.8(b); or
 - (ii) the previously elected chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the members present may elect one of their number to be chairperson of the meeting.
- (d) A committee may meet and adjourn as it thinks fit unless otherwise directed by the Directors.
- (e) Questions arising at a meeting of a committee must be determined by a majority of votes of the members of the committee present and voting.

- (f) In the case of an equality of votes, the chairperson has a casting vote, in addition to any vote the chairperson has in the chairperson's capacity as a member of the committee (if any).

16.9 Circulating resolutions

- (a) The Directors (including a committee of Directors) may pass a resolution without a 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.
- (b) Identical copies of the document may be distributed for signing by different Directors and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Director signs the document.

16.10 Telephone and other meetings

Without limiting the power of the Directors to regulate their meetings as they think fit, a meeting of Directors or a committee of Directors may be held by telephone or other form of communication where one or more of the Directors are not physically present at the meeting, provided that:

- (a) all Director's consent to the calling and the holding of the meeting by means of telephone or other form of communication;
- (b) all Directors participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously by means of the agreed form of communication;
- (c) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed on or laid down from time to time by the Directors and such notice does not specify that Directors are required to be present in person;
- (d) in the event that a failure in communications prevents clause 16.10(b) from being satisfied by that number of Directors which constitutes a quorum, then the meeting will be suspended until clause 16.10(b) is satisfied again. If clause 16.10(b) is not satisfied within 15 minutes from the time the meeting was interrupted, the meeting will be deemed to have terminated; and
- (e) any meeting held where one or more of the Directors are not physically present will be deemed to be held at the location specified in the notice of meeting provided a Director is present at that location. If no Director is present at the location specified, the meeting will be deemed to be held at the location where the Chairperson of the meeting is located.

16.11 Defects in appointment

- (a) All acts done by any meeting of the Directors, committee of Directors, or person acting as a Director are as valid as if each person was duly appointed and qualified to be a Director or a member of the committee.
- (b) Clause 16.11(a) applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of a committee or to act as a Director or that a person so appointed was disqualified.

17. Secretary

- (a) The Company must have at least 1 Secretary ordinarily resident in Australia.
- (b) A person must give the Company written consent to act as a Secretary before being appointed as a Secretary. The consent must be signed.
- (c) The Secretary's responsibilities include:
 - (i) keeping the minutes of the meetings of the Board or the Members in one or more books provided for that purpose;
 - (ii) ensuring that all notices are duly given in accordance with the provisions of this Constitution or as required by law;
 - (iii) maintaining the Register; and
 - (iv) generally performing all duties incidental to the office of secretary of a corporation and such other duties as may be assigned to him or her by the Board from time to time.
- (d) A Secretary of the Company holds office on such terms and conditions, as to remuneration and otherwise, as the Directors determine.

18. Execution of documents

- (a) The Company will not have a common seal.
- (b) The Company may validly execute a document (including a deed) if the document is signed by a Director and countersigned by another Director, Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.
- (c) Clause 18(b) does not limit the ability of the Directors to authorise a person who is not an officer of the Company to execute a document for and on behalf of the Company.

19. Audit and accounts

19.1 Company must keep accounts

- (a) The Company must keep accounts in accordance with the requirements of the Corporations Act.
- (b) The Company must allow the Directors and the auditor (if any) to inspect those accounts at all reasonable times.

19.2 Audit

If required by the Corporations Act, the Board must cause the Company's financial report for each financial year to be audited and obtain an auditor's report.

19.3 Financial reporting

The Board must cause the Company to comply with all financial reporting obligations imposed on it under the Corporations Act.

20. Inspection of records

- (a) Subject to the Corporations Act, the Directors must determine whether and on what terms the accounting records and other documents of the Company or any of them will be open to the inspection of Members other than Directors.
- (b) A Member other than a Director does not have the right to inspect any document of the Company except as provided by the Corporations Act, or otherwise as authorised by the Directors or by the Company in general meeting.

21. Funds

- (a) The funds of the Company include Entrance Fees, Annual Fees, donations and such other sources as the Board determines for the objects of the Company.
- (b) All funds received by the Company must be deposited as soon as practicable and without deduction to the credit of the Company's bank or other authorised deposit-taking institution account.
- (c) The Company must, as soon as practicable after receipt of the funds referred to in clause 21(a), issue an appropriate receipt.

22. Winding up

If upon the winding up or dissolution of the Company, there remains after satisfaction of all its debts and liabilities any property whatsoever, the same will not be paid to or distributed among the Members of the Company but will be given or transferred to some other institution or institutions, organisation or organisations having objects similar to the objects of the Company, and which prohibits the distribution of its income and property amongst its Members to an extent at least as great as imposed on the Company under or by virtue of Clause 5 and determined by a Special Resolution of Members passed at a General Meeting or in default thereof by such Supreme Court of New South Wales as may have or acquires jurisdiction in the matter.

23. Indemnity

23.1 Interpretation

In this clause 23:

- (a) **proceedings** means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act in their capacity as an officer of the Company (including proceedings alleging that they were guilty of negligence, default, breach of trust or breach of duty in relation to the Company); and
- (b) **officer** has the meaning given to that term in section 9 of the Corporations Act.

23.2 Scope of indemnity

In addition to any other indemnity provided to an officer of the Company in accordance with the Corporations Act, and to the extent permitted by the Corporations Act:

- (a) every officer of the Company will be indemnified out of the assets of the Company against any liability incurred by them in relation to the execution of their office;

- (b) no officer of the Company is liable for any loss or damage incurred by the Company in relation to the execution of his or her office;
- (c) every officer of the Company will be indemnified out of the assets of the Company against any liability which he or she incurs:
 - (i) 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;
 - (ii) in connection with any application, in relation to any such proceedings, in which relief is granted under the Corporations Act to the officer by the Court; and
- (d) every officer of the Company will be indemnified out of the assets of the Company against any liability to another person (other than the Company or a related body corporate of the Company) where the liability is incurred by the officer in their capacity as an officer of the Company, provided that this indemnity will not apply where the liability arises out of conduct involving a lack of good faith.

23.3 Insurance

In addition to the payment of any other insurance premium by the Company in accordance with the Corporations Act, and to the extent permitted by the Corporations Act, the Company may pay the premium in respect of a contract insuring an officer of the Company against a liability:

- (a) incurred by the officer of the Company in his or her capacity as officer, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Corporations Act; or
- (b) for costs and expenses incurred by that officer of the Company in defending proceedings, whatever their outcome.

24. By-laws

The Company may adopt any by-laws, standing orders or constitutional rules as may be passed from time to time at any general meeting of the Company or by the Board with respect to any matter that is necessary or convenient for the carrying out of this Constitution and these by-laws, standing orders or constitutional rules in force from time to time will be binding on the Members.

25. Notices

25.1 How notice to be given

- (a) A Member may, by written notice to the Secretary left at or sent to the Office, require that all notices to be given by the Company or the Directors be served on the Member's representative at an address specified in the notice.
- (b) A notice may be given by the Company to any Member by:
 - (i) serving it on the Member personally;
 - (ii) properly addressing, prepaying and posting the notice to the Member or leaving it at the Member's address as shown in the Register or the address supplied by the Member to the Company for the giving of notices;

- (iii) serving it in any manner contemplated in this clause 25.1 on a Member's representative as specified by the Member in a notice given under clause 25.1(a);
- (iv) facsimile transmission to the facsimile number supplied by the Member to the Company for the giving of notices;
- (v) sending it by email to an email address nominated by the Member;
- (vi) sending it via any other electronic means permitted by the Corporations Act and nominated by the Member for the giving of notices, including providing an electronic link to the notice; or
- (vii) giving it by any other means permitted or contemplated by this clause 25 or the Corporations Act.

25.2 When notice is given

A notice is deemed to be given by the Company and received by the Member:

- (a) if delivered in person, when delivered to the Member;
- (b) if posted, on the day after the date of posting to the Member, whether delivered or not;
- (c) if sent by facsimile transmission, on the day after the date of its transmission; or
- (d) if sent by email or other electronic means, on the day after the date of its transmission,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am (addressee's time) on the next Business Day.

25.3 No notice if no valid address

If:

- (a) any Member has not provided to the Office an address for registration in the Register; or
- (b) the Company believes that a Member is not known at the address registered in the Register,

unless and until the Member provides a valid address to the Office, all notices to be sent to that Member are taken to be given to the Member if the notice is displayed at the Office for 48 hours, and are taken to be served at the commencement of that period.

26. Disputes and mediation

26.1 Grievance Procedure

The grievance procedure set out in this clause 26 applies to disputes under this Constitution between:

- (a) a Member and another Member; or

- (b) a Member and the Company.

26.2 Attempt to resolve

The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties to the dispute.

26.3 Mediator to be appointed

If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 Business Days, refer the dispute to a mediator.

26.4 Mediator

The mediator must be:

- (a) a person chosen by agreement between the parties to the dispute; or
- (b) in the absence of such agreement:
 - (i) in the case of a dispute between a Member and another Member, a person appointed by the Board; or
 - (ii) in the case of a dispute between a Member and the Company, a person who:
 - (A) is a mediator appointed or employed by the Australian Commercial Disputes Centre (ACDC);
 - (B) has appropriate qualifications and experience relevant to determining the dispute; and
 - (C) does not act, or whose firm does not act, generally for a Member in the dispute or the Company.

26.5 Attempt to settle

The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

26.6 Conduct of mediation

A mediator appointed by the ACDC must conduct the mediation shall be conducted in accordance with the ACDC Guidelines for Commercial Mediation (Guidelines) which are operating at the time the matter is referred to the ACDC. The Guidelines set out the procedures to be adopted, the process of selection of the mediator and the costs involved. The terms of the Guidelines are hereby deemed incorporated into this Constitution.

26.7 Failure to resolve

A party may not commence court proceedings in respect of a dispute unless it has complied with this clause 26 and until the procedures in this clause 26 have been followed in full, except where:

- (a) the party seeks injunctive relief in relation to a dispute from an appropriate court; or
- (b) following those procedures would mean that a limitation period for a cause of action relevant to the issues in dispute will expire.

27. Variation or amendment of Constitution

This Constitution may be varied or amended from time to time in accordance with the Corporations Act.

Schedule 1: Initial Members and Directors

Part A: Initial Members

1. Jonlor Investments Pty Limited ACN 073 402 123 (**Organisation Member**);
2. ABJ Trading Pty Ltd ACN 063 235 129 (**Organisation Member**);
3. Angela Cramp (**Ordinary Member**);
4. Glenley Holdings Pty Ltd ACN ACN 121 947 359 (**Organisation Member**);
5. ADS-IN-MOTION (AUSTRALIA) PTY LTD ACN 106 654 308 (**Organisation Member**);
and
6. John James Fregon (**Ordinary Member**).

Part B: Initial Directors

1. John Bevege;
2. Andrew Hirst;
3. Angela Cramp; and
4. John James Fregon.