

A COMPANY LIMITED BY GUARANTEE

Constitution of Whitehorse
Community Health Service

ABN 95 673 440 273



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1. PRELIMINARY

1.1 Exclusion of replaceable rules

The replaceable rules contained in the Act do not apply to the Company.

1.2 Definitions and interpretation

In this Constitution:

- (a) “Act” means the *Corporations Act 2001* or any statutory modification or re-enactment thereof for the time being in force.
- (b) “the Company” means Whitehorse Community Health Service.
- (c) “Directors” means the directors for the time being of the Company.
- (d) “Board” means the board of Directors for the time being of the Company.
- (e) “Chair” means the person appointed to the office of chairperson under clause 4.8(a).
- (f) “Guaranteed Amount” means the amount set out in clause 1.5.
- (g) “Member” means a person or body corporate whose name is entered in the Register as a member of the Company in accordance with clause 2.2.
- (h) “Principal Purpose” means the purpose set out in clause 1.3.
- (i) “Register” means the register of Members of the Company under the Corporations Act.
- (j) “Seal” means the common seal of the Company (if any).
- (k) “Secretary” means the secretary for the time being of the Company and if there are joint secretaries, any one or more of such joint secretaries.
- (l) Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.
- (m) Words importing any one gender shall be deemed and taken to include all genders and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided.

1.3 Principal Purpose and powers

- (a) The Principal Purpose for which the Company is established is the direct relief of such poverty, sickness, suffering, distress, misfortune, disability, destitution, or helplessness as arouses compassion in the community.

- (b) Solely for the purpose of furthering the Principal Purpose, and without limiting the powers of the Company under the *Corporations Act (2001)*¹, the Company may:
 - (i) provide services which are designed to enhance the health and well-being of clients or to prevent any potential deterioration in health;
 - (ii) apply an holistic approach to service delivery by focusing on the whole person in their family, social and work context;
 - (iii) empower clients through service delivery which focuses on development of self-help/management skills; and
 - (iv) contribute to continuity of care by linking services and clients with the primary, secondary and tertiary health care systems.

1.4 Application of income and property

- (a) The income and property of the Company must be applied solely towards the Principal Purpose.
- (b) No portion of the profits, income or property of the Company may be paid or transferred directly or indirectly to Members by way of dividend, bonus or otherwise in their capacity as members.
- (c) This clause 1.3 does not prohibit indemnification of, or payment of premiums on contracts of insurance for, any director to the extent permitted by law and this constitution.
- (d) Payment may be made in good faith to any member of the Company:
 - (i) in return for any services actually rendered to the Company;

1 Section 124 Corporations Act (2001) - Legal capacity and powers of a company

- (1) A company has the legal capacity and powers of an individual both in and outside this jurisdiction. A company also has all the powers of a body corporate, including the power to:
 - (a) issue and cancel shares in the company;
 - (b) issue debentures (despite any rule of law or equity to the contrary, this power includes a power to issue debentures that are irredeemable, redeemable only if a contingency, however remote, occurs, or redeemable only at the end of a period, however long);
 - (c) grant options over unissued shares in the company;
 - (d) distribute any of the company's property among the members, in kind or otherwise;
 - (e) give security by charging uncalled capital;
 - (f) grant a floating charge over the company's property;
 - (g) arrange for the company to be registered or recognised as a body corporate in any place outside this jurisdiction;
 - (h) do anything that it is authorised to do by any other law (including a law of a foreign country).
- A company limited by guarantee does not have the power to issue shares.

- (ii) for goods supplied in the ordinary and usual way of business;
 - (iii) by way of interest on money borrowed from any member of the Company at a rate not exceeding the rate for the time being fixed by the Board; and
 - (iv) of reasonable and proper rent for premises demised or let by any member of the Company.
- (e) A Director may not be paid directors fees for serving as a Director but payments may be made to Directors in the following circumstances:
 - (i) for the payment of out-of-pocket expenses incurred in carrying out the duties of a director where the payments do not exceed an amount previously approved by the Board; or
 - (ii) for any service rendered to the Company in a professional or technical capacity where the provision of that service has the prior approval of the Board and the amount payable is approved by a resolution of the Board and is on reasonable commercial terms; or
 - (iii) as an employee of the Company where the terms of employment have been approved by a resolution of the Board.

1.5 Liability of Members

The liability of the Members is limited to the Guaranteed Amount, being twenty dollars (\$20.00).

1.6 Contribution of Members on winding up

Every Member undertakes to contribute to the assets of the Company in the event of the Company being wound up while he or she is a Member, or within one year of ceasing to be a Member such amount as may be required not exceeding the Guaranteed Amount, for

- (a) the payment of the debts and liabilities of the Company contracted whilst the Member or past Member as the case may be was a Member, and
- (b) the costs charges and expenses of winding up, and
- (c) the adjustment of the rights of the contributors or Members amongst themselves.

1.7 Distribution of property on winding up

Where on the winding up of the Company or dissolution of the Company, there is a surplus of assets after satisfying all the Company's liabilities and expenses, the surplus

- (a) must not be paid or distributed to the Members, and
- (b) will be given or transferred to such other fund, authority, institution or company which
 - (i) has similar objects to those of the Company as described in this Constitution, and
 - (ii) prohibits the distribution of income, profit or assets to its Members.
- (c) The identity of the fund authority institution or company will be decided by the Members by ordinary resolution on or before the time of such winding up or dissolution. If the members fail to decide, the fund, authority, institution or company shall be determined by application to the Supreme Court in the State of incorporation.

2. MEMBERSHIP

2.1 Eligibility, application and admission

- (a) Any person or corporation (incorporated or otherwise) committed to the Principal Purpose of the Company may be a Member provided:
 - (i) Application for Membership is made on the prescribed Application Form and the determined fee has been paid;
 - (ii) The person or corporation agrees in writing to provide a guarantee of not less than the Guaranteed Amount to defray such liabilities and expenses of the Company upon its winding up or dissolution;
 - (iii) The Application for Membership has been accepted by the Board and such acceptance may be determined by the Board using any criteria as the Board alone may determine; and
 - (iv) The name of the Member has been entered in the Register of Members.
- (b) The Board may decide to create eligibility criteria and categories of membership with the same or differing rights or privileges.
- (c) The Board may decline any application for membership and is not bound to give reasons why the application was not accepted.
- (d) The first Members shall be the Directors of Whitehorse Community Health Service Inc. as at the date of incorporation of the Company who provide written consent to become members and agree to provide a Guarantee as set out in the constitution.
- (e) The minimum number of Members is one (1).

2.2 Register of members

- (a) The Secretary will maintain a Register of Members at the Company's registered office.
- (b) When an applicant has been accepted for membership the Secretary will cause the Member's name to be entered in the Register of Members and will send to the Member written notice of the acceptance.
- (c) The address of a Member in that Register will be the address of the Member for the purpose of service of any notices to Members.
- (d) The rights of any Member will not be transferable.

2.3 Discipline of Members

- (a) The Directors may by resolution expel a member from the company if, in their absolute discretion, they decide it is not in the interests of the Company for the person to remain a member.
- (b) If the Directors intend to consider a resolution under clause 2.3(a), at least one week before the meeting at which the resolution is to be considered, they must give the member written notice:
 - (i) stating the date, place and time of the meeting;
 - (ii) setting out the intended resolution and the grounds on which it is based; and
 - (iii) informing the member that he or she may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.
- (c) Any Member excluded from the Company may at any time apply to the Board to be readmitted as a Member.
- (d) No person may be a Director following expulsion or during suspension as a Member unless such a person is subsequently readmitted as a Member.

2.4 Cessation of membership

- (a) A person ceases to be a Member on:
 - (i) resignation; or
 - (ii) in the case of a natural person:
 - (A) death;
 - (B) becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally;

- (C) becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health; or
 - (D) the termination of the person's membership by the Directors or by the Company in general meeting in accordance with this Constitution; and
- (iii) in the case of a body corporate:
 - (A) being dissolved or otherwise ceasing to exist;
 - (B) having a liquidator or provisional liquidator appointed to it; or
 - (C) being insolvent.
- (b) A Member whose membership is terminated will be liable for all moneys due by that Member to the Company in addition to any sum not exceeding the Guaranteed Amount for which the Member is liable under clause 1.5 of this Constitution.
- (c) A Member whose membership is terminated will not make any claim, monetary or otherwise, on the Company, its funds or property except as a creditor thereof.
- (d) Any person or corporation who for any reason ceases to be a Member shall no longer represent themselves in any manner as being a Member.

3. MEETINGS OF MEMBERS

3.1 Annual general meeting

- (a) Subject to the Act, a general meeting shall be held at least once in every calendar year and within the period of five (5) months after the end of the financial year at such time and place as may be determined by the Directors. The abovementioned general meeting shall be called the "Annual General Meeting" and all other meetings of the Company shall be called "general meetings".
- (b) The business of the Annual General Meeting may include any of the following, even if not referred to on the notice of meeting:
 - (i) the consideration of the Annual Financial Statements, Directors' Declaration and Directors' Report and Auditor's Report;
 - (ii) the election of Directors;
 - (iii) the appointment of the auditor;
 - (iv) the fixing of the auditor's remuneration.

3.2 Convening general meetings

- (a) A general meeting may only be called:

- (i) by a Directors' resolution; or
 - (ii) in accordance with a Members' requisition under the Act, or
 - (iii) as otherwise provided in the Act.
- (b) The Directors may change the venue for, postpone or cancel a general meeting, provided that if the general meeting was not called by a Directors' resolution or was called in accordance with a members' requisition under the Act, then it may not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.

3.3 Notice of general meetings

- (a) A notice of meeting of Members shall specify:
- (i) the place, the day and the time of the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (ii) the general nature of the business to be transacted at the meeting; and
 - (iii) such other information as is required by section 249L of the Act.
- (b) The Company may hold a meeting of its Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.
- (c) Subject to the provisions of the Act relating to agreements for shorter notice, at least 21 days notice must be given of a meeting of Members.
- (d) (i) Notice of every meeting of Members shall be given in the manner authorised by clause 5.9 to:
- (A) every Member and to every Director; and
 - (B) the auditor for the time being of the Company.
- (ii) No other person is entitled to receive notices of meetings of Members.

3.4 Chair of general meetings

- (a) (i) The Chair shall preside as chair at every General Meeting.
- (ii) If there is no Chair or the Chair is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting, the Deputy Chair will chair the meeting.
- (b) If the Deputy Chair is not present or is present but is unwilling to act for all or part of the meeting, the Members present shall elect one of their number to chair the meeting (or part of it).

3.5 Quorum for general meetings

- (a) No business shall be transacted at any meeting of Members unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) A quorum of Members for a meeting is a number equal to half of the registered Members plus one and if that number is not a whole number then the nearest whole number above shall be the quorum.
- (c) For the purpose of determining whether a quorum is present, a person attending as a proxy, or as representing a body corporate that is a Member, shall be deemed to be a Member.

3.6 Adjournment of general meetings

- (a) If a quorum is not present within fifteen (15) minutes from the time appointed for the meeting:
 - (i) where the meeting was convened upon the request of Members - the meeting shall be dissolved; or
 - (ii) in any other case:
 - (A) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and
 - (B) if at the adjourned meeting a quorum is not present within fifteen (15) minutes from the time appointed for the meeting, then the meeting shall be dissolved.
- (b)
 - (i) The chair shall adjourn a meeting of Members from time to time and from place to place if the Members present with a majority of votes that may be cast at that meeting agree or direct the chair to do so. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
 - (ii) When a meeting of Members is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
 - (iii) Except as provided by the preceding paragraph, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

3.7 Voting at general meetings

- (a)
 - (i) 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 (before a vote is taken or immediately after the declaration of the result of the show of hands) by at least two thirds of the Members present in person or by proxy.

- (ii) Unless a poll is so demanded, a declaration by the chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
 - (iii) The demand for a poll may be withdrawn.
- (b)
 - (i) If a poll is duly demanded, it shall be taken in such a manner as the chair directs and unless the meeting is adjourned, the result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded.
 - (ii) A poll demanded on the election of the chair or on a question of adjournment shall be taken immediately.
- (c) In the case of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting of Members at which the show of hands takes place or at which the poll is demanded will have a casting vote in addition to any vote the chair may have in the capacity as a Member.
- (d) Subject to any rights or restrictions for the time being attached to any Member:
 - (i) at meetings of Members or classes of Members each Member entitled to vote may vote in person or by proxy or attorney or representative; and
 - (ii) on a show of hands every person present who is a Member or a proxy or representative of a Member has one vote, and on a poll every person present in person or by proxy or attorney or representative has one vote.
- (e) If the membership is held jointly and more than one such joint Member votes, only the vote of the Member whose name appears first in the Register of Members counts.
- (f) If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, his or her committee or trustee or such other person as properly has the management of his or her estate may exercise any rights of the Member in relation to a meeting of Members as if the committee, trustee or other person were the Member.
- (g) A Member is not entitled to vote at a meeting of Members unless all sums presently payable by him or her in respect of the Company have been paid.
- (h)
 - (i) An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
 - (ii) Any such objection shall be referred to the chair of the meeting of Members, whose decision is final.

- (iii) A vote not disallowed pursuant to such an objection is valid for all purposes.

3.8 Proxies

A Member who is entitled to attend and cast a vote at a meeting of Members may appoint a person (whether or not a Member) as the Member's proxy to attend and vote for the Member at the meeting.

- (a) (i) An instrument appointing a proxy shall be in writing under the hand of the appointor or of his or her attorney duly authorised in writing or, if the appointor is a corporation, either under seal or executed in accordance with the Act or under the hand of an officer or attorney duly authorised.
- (ii) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote in the resolution except as specified in the instrument.
- (iii) An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (b) An instrument appointing a proxy shall be in the following form or in a form that is as similar to the following form as the circumstances allow:

(Name of Company)

I/We being a member/members of the abovenamed Company hereby appoint of or, in his or her absence, of as my/our proxy to vote for me/us on my/our behalf at the meeting of Members of the Company to be held on the day of, 20.. and at any adjournment of that meeting.

This form is to be used * in favour of / * against the resolution

SIGNED this day of, 20..

* Strike out whichever is not desired # To be inserted if desired

- (c) An instrument appointing a proxy shall not be treated as valid unless the instrument and the power of attorney or other authority (if any) under which the instrument is signed or a copy of that power or authority certified by a solicitor or a notary public, is or are deposited not less than forty-eight (48) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty-four (24) hours before the time appointed for the taking of the poll, at the registered office of the Company or at

such other place in Australia as is specified for that purpose in the notice convening the meeting.

- (d) A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal, the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, providing no intimation in writing of the death, unsoundness of mind or revocation was made before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

4. DIRECTORS

4.1 Appointment and removal of Directors

- (a) The first Board shall comprise the first Members in accordance with clause 2.1(d).
- (b) The number of the Directors shall be not less than three (3).
- (c) The maximum number of Directors shall be nine (9).
- (d) The Company may from time to time by resolution passed at a general meeting fix the number of Directors or increase or reduce the number of Directors (but so that the number shall be not less than three).
- (e) The first Directors shall be appointed in writing by the person(s) specified in the application for the Company's registration under the Act as a person who consents to become a Member.
- (f) The Company may from time to time by resolution passed at a general meeting appoint a person to be a Director of the Company. The resolution may specify the period during which the Director is to hold office and if it does so specify the Director will cease to hold office at the expiration of that period but will be eligible for reappointment. If the Members' resolution does not specify the term of the Director's appointment, the Director will hold office in accordance with clause 4.3.
- (g) A Director must have the suitable qualifications, skills and experience to discharge the functions of a Director as determined by the Board from time to time.
- (h) In the event of a vacancy or vacancies in the office of a Director or offices of Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum or of convening a meeting of Members for that purpose.
 - (i) The Directors shall have power at any time and from time to time to:
 - (A) appoint a new Director to fill any casual vacancy; and

- (B) appoint additional Directors.
- (ii) Any Director so appointed shall hold office only until the next following Annual General Meeting of the Company and shall then be eligible for election but shall not then be taken into account in determining the number of Directors who are to retire by rotation at such meeting.
- (i) It shall not be necessary for a Director to be a Member by way of qualification and a Director who is not a Member shall be entitled to receive notices of and attend and speak at meetings of Members.
- (j) In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Act, the office of a Director becomes vacant if the Director:
 - (i) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (ii) resigns his or her office by notice in writing to the Company;
 - (iii) is absent without the consent of the Directors from three (3) consecutive meetings of the Board or at least 4 meetings over 12 months without leave of absence;
 - (iv) without the consent of the Company in general meeting holds any other office of profit under the Company; or
 - (v) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of his or her interest as required by clause 4.13;
 - (vi) is expelled or suspended as a Member in accordance with clause 2.4.

4.2 Defects in appointment of Directors

All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a Member of the committee, or to act as a Director, or that person so appointed was disqualified, as valid as if the person had been duly appointed and was qualified to be a Director or to be a Member of the committee.

4.3 Rotation of Directors

- (a) At every annual general meeting if the number of directors, (after excluding any executive directors and any directors appointed by the directors to fill a casual vacancy who are standing for election),
 - (i) is 5 or less, then 2 of the remaining directors must retire from office; or
 - (ii) if the number is more than 5, one third of those directors (to the nearest whole number) must retire from office.

- (b) No director (excluding any ex officio director) may hold office without re-election beyond the third annual general meeting following the meeting at which the director was last elected or re-elected.
- (c) The directors to retire under clause 4.3 (a) are
 - (i) those directors who wish to retire and not offer themselves for re-election;
 - (ii) those directors required to retire under clause 4.3 (b); and
 - (iii) so far as is necessary to obtain the number required, those who have been longest in office since their last election or appointment.

As between directors who were last elected or appointed on the same day, those to retire must, unless they can agree among themselves, be decided by lot.

- (d) The directors to retire under clause 4.3(a) (both as to number and identity) is decided having regard to the composition of the board of directors at the date of the notice calling the annual general meeting. A director is not required to retire and is not relieved from retiring because of a change in the number or identity of the directors after the date of the notice but before the meeting closes.
- (e) A director retiring from office is eligible for re-election subject to a maximum term of 9 years, unless the maximum term is varied for a particular director by the directors.
- (f) The retirement of a director from office and the re-election of the director or the election of another person to that office (as the case may be) takes effect at the conclusion of the meeting at which the retirement and re-election or election occur.
- (g) The Company at any general meeting at which any Directors retire in manner aforesaid may fill up the vacated office by electing a like number of persons to be Directors and may fill up any other vacancies.
- (h) If, at any Annual General Meeting at which an election of Directors ought to take place, the places of the retiring Directors are not filled up, the retiring Directors, or such of them as have not had their places filled up, shall (if willing to act) continue in office until the Annual General Meeting in the next year and so on from year to year until their places are filled up, unless it shall be determined at such meeting to reduce the number of Directors.

This provision shall apply notwithstanding clause 4.3(e).

- (i) Subject to the provisions of the Act the Company in general meeting may at any time by ordinary resolution remove any appointed or elected Director before the expiration of such Director's period of office and, if so desired, elect another person in such Director's stead. The person so elected shall hold office during such time only as the Director in whose place such Director

is elected would have held office if such Director had not been removed.

4.4 Powers and duties of directors

- (a) Subject to the Act and to any other provision of this Constitution, the business of the Company shall be managed by the Directors, who may pay all expenses incurred.
- (b) Without limiting the generality of the preceding paragraph, the Directors may exercise all the powers of the Company to borrow 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.
- (c)
 - (i) The Directors may, by power of attorney, appoint any person or persons (either by name or by reference to position or office held) to be the attorney or attorneys of the Company for such purposes, 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.
 - (ii) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her.
- (d) All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed, executed, as the case may be in such manner as the Directors determine.

4.5 Meetings of Directors

The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as it thinks fit.

4.6 Convening meetings of Directors

The Board may at any time, and a Secretary shall on the requisition of a Director, convene a meeting of the Directors.

4.7 Quorum for Directors' meetings

At a meeting of the Directors, the number of Directors whose presence is necessary to constitute a quorum is such number as is equal to half of the total number of Directors plus one and if that number is not a whole number then the nearest whole number above, provided that each such person is a Director and is entitled under the law to vote on a motion that may be moved at that meeting.

4.8 Chair and office bearers

- (a) At the first Directors' meeting following each Annual General Meeting the directors shall appoint one of their number as Chair [and one of their number as Deputy Chair] to hold office until the end of the next Annual General Meeting.
- (b) a retiring Chair or Deputy Chair shall be eligible for re-election to that office.
- (c) Where a meeting of the Directors is held and:
 - (i) a Chair or Deputy Chair has not been elected as provided by the preceding two paragraphs; or
 - (ii) the person so elected is not present within ten (10) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,the Directors present shall elect one of their number to chair such meeting or part of it.
- (d) Office Bearers of the Company other than the Chair may be elected by the Board by a simple majority for an annual term of office.
- (e) The description, number and duties of the Office Bearers shall be determined by the Board from time to time.
- (f) An Office Bearer, including the Chair, may be elected for more than one successive term.
- (g) The Board may upon resolution passed by not less than two-thirds of the members of the Board present remove or suspend the person holding any of the above offices provided that not less than twenty one days' notice in writing of an intention to move for such removal or suspension is given to the Secretary by the persons intending to move and second that motion.

4.9 Voting at Directors' meetings

- (a) Subject to this Constitution, questions arising at a meeting of Directors shall be decided by a majority of votes of Directors present and voting and any such decision shall for all purposes be deemed a decision of the Directors.
- (b) In a case of an equality of votes, the Chair of the meeting shall not have a casting vote in addition to any vote the Chair may have in the capacity as a Director.

4.10 Delegation of powers

- (a) The Directors may delegate any of their powers to a committee or committees consisting of such of their number as they think fit.
- (b) A committee to which any powers have been so delegated shall exercise the powers delegated in accordance with any directions of

the Directors and a power so exercised shall be deemed to have been exercised by the Directors.

- (c) The Members of such a committee may elect one of their number as chair of their meetings.
- (d) Where such a meeting is held and:
 - (i) a chair has not been elected as provided by the preceding paragraph; or
 - (ii) the person so elected is not present within ten (10) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,

the Members present shall elect one of their number to chair the meeting or part of it.

- (e) A committee may meet and adjourn as it thinks proper.
- (f) Questions arising at a meeting of a committee shall be determined by a majority of votes of the Members present and voting.
- (g) In the case of an equality of votes, the Chair shall not have a casting vote in addition to any vote the Chair may have in the capacity as a committee Member.

4.11 Electronic meetings of Directors

- (a) A meeting of Directors may be called or held using any technology consented to by all the Directors. Consent of a Director for the purposes of this clause may be standing one. A Director may only withdraw his or her consent within a reasonable time before the meeting of Directors.
- (b) For the purposes of this Constitution, the contemporaneous linking together by an instantaneous communication device of a number of Directors not less than the quorum, whether or not any one or more of the Directors is out of Australia, shall be deemed to constitute a meeting of the Directors and all the provisions of this Constitution as to meetings of the Directors shall apply to any such meeting held by an instantaneous communication device so long as the following conditions are met:
 - (c) All the Directors for the time being entitled to receive notice of the meeting of Directors shall be entitled to notice of a meeting held by an instantaneous communication device and to be linked by an instantaneous communication device for the purpose of such meeting. Notice of any such meeting shall be given on the instantaneous communication device or in any other manner permitted by this Constitution; and
 - (d) Each of the Directors taking part in the meeting by an instantaneous communication device must be able to hear each other of the Directors taking part at the commencement of the meeting.

- (e) A Director may not leave a meeting held by an instantaneous communication device by disconnecting his or her instantaneous communication device unless he or she has previously expressly notified the chair of the meeting of his or her intention to leave the meeting and a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during such a meeting until such notified time of his or her leaving the meeting.
- (f) A minute of the proceedings at meetings held by an instantaneous communication device shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chair of the meeting.
- (g) For the purpose of this clause "instantaneous communication device" shall include telephone, television or any other audio and/or visual device which permits instantaneous communication.

4.12 Circulating resolutions

- (a) If all the Directors entitled to vote on a resolution have signed a document containing a statement that they favour of a resolution of the Directors in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Directors held on the day on which the document was signed and at the time at which the document was last signed by a Director or, if the Directors signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Director.
- (b) For the purposes of the preceding clause, two or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall together be deemed to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate document.

4.13 Directors' conflicts of interest

- (a) Subject to the Act no Director shall be disqualified by his or her office from contracting or entering into any arrangement with the Company either as vendor, purchaser, or otherwise, nor shall any such contract or arrangement or any contract or arrangement entered into by or on behalf of the Company in which any Director shall be in any way interested be avoided, nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or agreement, by reason of such Director holding that office or of the fiduciary relation thereby established, but every Director shall observe the provisions of Section 191 of the Act relating to the disclosure of the interest of Directors which might create duties or interests in conflict with their duties or interests as Directors as if the Company were a proprietary company.
- (b) Subject to the Act, a Director shall not as a Director be present at a meeting of Directors or vote in respect of any contract or

arrangement in which such Director is interested in the manner described in the preceding clause being considered at that meeting.

- (c) A Director who is interested in any contract or arrangement as aforesaid may notwithstanding such interest attest the affixing of the Seal of the Company to any document evidencing or otherwise connected with such contract or arrangement.

4.14 Chief executive officer

The provisions of clause 4.3 shall not apply to the Chief Executive Officer.

- (a) The Directors may, upon such terms and conditions and with such restrictions and as they think fit, confer upon the Chief Executive Officer any of the powers exercisable by them.
- (b) Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Directors.
- (c) The Directors may at any time withdraw or vary any of the powers so conferred on the Chief Executive Officer.

5. ADMINISTRATION

5.1 Minutes

- (a) The Directors will cause minutes of:
 - (i) all proceedings and resolutions of meetings of Members;
 - (ii) all proceedings and resolutions of meetings of the Directors, including meetings of a committee of Directors;
 - (iii) resolutions passed by Members without a meeting;
 - (iv) resolutions passed by Directors without a meeting,to be duly entered into the books kept for that purpose in accordance with the Law.
- (b) A minute recorded and signed in accordance with the Act is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.
- (c) Books containing the minutes of meetings of Members and resolutions passed by Members without a meeting will be open for inspection by any Member free of charge.

5.2 Accounts

- (a) The Directors will cause to be kept proper books of accounts in which will be kept true and complete accounts of the affairs and transactions of the Company. Proper books will not be deemed to be kept unless the books give a true and fair view of the state of the Company's affairs and explain its transactions.

- (b) The Financial Year will begin on the first day of July and end on the thirtieth day of June.
- (c) The accounts will be held at the registered office or any other place as the Directors think fit.
- (d) The accounts will always be open to inspection by the Directors.
- (e) The Directors will arrange for the financial report, the Directors' report and the Auditors' report as required by the Act to be made out and laid before the Annual General Meeting.

5.3 Audit

- (a) A registered company auditor must be appointed.
- (b) The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.

5.4 Inspection of records

- (a) Subject to the Act, the Directors shall determine whether and to what extent, and at what time and places and under what conditions, 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 law or authorised by the Directors or by the Company in a meeting of Members.

5.5 Dividends and reserves

No payment of dividends or other distributions to Members shall be made.

5.6 Execution of documents

- (a) The Company may have a Seal, known as the common seal, on which its name, its Australian Company Number and the words "Common Seal" are engraved.
- (b) If the Company has a seal the Directors shall provide for the safe custody of the Seal.
- (c) The Seal shall be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal.
- (d) The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by:
 - (i) two Directors; or
 - (ii) one Director and one Secretary; or

- (iii) one Director and another person appointed by the Directors for that purpose.

The signature of such persons may be affixed to the document by manual, autographic or mechanical means.

- (e) The Company may execute a document without using a seal if the document is signed by:
 - (i) two Directors; or
 - (ii) one Director and one Secretary; or
 - (iii) one Director and another person appointed by the Directors for that purpose.
- (f) A facsimile signature may not be affixed to a document unless the auditors, internal auditors or bankers of the Company have reported to the Board in writing that the document may be sealed in that manner.

5.7 By laws

The Board has power to make By Laws concerning membership application and qualification for membership of the Company and any other matter which the Board believes suitable for including in such By Laws.

5.8 Alteration of constitution

The Company may only alter this Constitution by special resolution passed at a general meeting of the Members.

5.9 Notices

- (a) A notice may be given by the Company to any Member either:
 - (i) by serving it on him or her personally;
 - (ii) by sending it by post to him or her at his or her address, including any email address, as shown in the Register of Members or the address supplied by him or her to the Company for the giving of notices to him or her;
 - (iii) by sending it by facsimile transmission to a facsimile number supplied by the Member to the Company for the giving of notices to the Member.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effective by properly addressing prepaying and posting a letter containing the notice, and to have been effected, in the case of a notice to a Member, on the day after the date of its posting and, in any other case, at the time at which the letter would be delivered in the ordinary course of post.

- (c) Where a notice is sent by facsimile, service of the notice shall be deemed to be effected on receipt by the Company of a transmission report confirming successful transmission.
- (d) Where a notice is sent by email, service of the notice shall be deemed to be effected twenty-four (24) hours after the transmission of the email unless the person transmitting the email is notified at any time that the email was undelivered or undeliverable.
- (e) A notice may be given by the Company to joint members by giving notice to the joint member first named in the Register of Members.

5.10 Officers: indemnities and insurance

- (a) To the extent permitted by the Act:
 - (i) the Company indemnifies every person who is or has been an Officer of the Company or of a wholly-owned subsidiary of the Company against any liability for costs and expenses incurred by that person in defending any proceedings in which judgement is given in that person's favour, or in which the person is acquitted, or in connection with an application in relation to any proceedings in which the Court grants relief to the person under the Law; and
 - (ii) the Company indemnifies every person who is or has been an Officer of the Company or of a wholly-owned subsidiary of the Company against any liability incurred by that person, as an Officer of the Company or of a wholly-owned subsidiary of the Company, to another person (other than the Company or a related body corporate of the Company) unless the liability arises out of conduct involving a lack of good faith.
- (b) The Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been an Officer of the Company or of a subsidiary of the Company against a liability:
 - (i) incurred by the person in his or her capacity as an Officer of the Company or a subsidiary of the Company or in the course of acting in connection with the affairs of the Company or a subsidiary of the Company or otherwise arising out of the Officer's holding such office PROVIDED THAT the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a subsidiary of the Company or a contravention of Sections 182 and 183 of the Act; or
 - (ii) for costs and expenses incurred by that person in defending proceedings, whatever their outcome.
- (c) In the two preceding clauses:
 - (i) the term "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, matter or thing in his or her capacity as such an Officer or in the course of

acting in connection with the affairs of the Company or a wholly-owned subsidiary or subsidiary of the Company or otherwise arising out of the Officer's holding such officer (including proceedings alleging that he or she was guilty of negligence, default, breach of trust or breach of duty in relation to the Company or a wholly-owned subsidiary or subsidiary of the Company); and

- (ii) the term "Officer" has the meaning given to that term in Section 9 of the Act.

5.11 Winding up

- (a) Subject to clause 1.7, the Company may be dissolved by a special resolution of Members at a meeting of Members.

