

Constitution of Australian Regional Tourism Ltd

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CHAPTER 1 – UNDERSTANDING THIS CONSTITUTION

1.1 Preliminary

1.1.1 Name

The name of the Company is Australian Regional Tourism Ltd.

1.1.2 Definitions

The following words have these meanings in this Constitution unless the contrary intention appears.

Ad Hoc Committee means a committee of the Board established for a definite time or limited purpose.

AGM means an Annual General Meeting of the Members held under clause 3.3.1(b)(i).

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

Business Day means a day on which the banks in the state of New South Wales are open for normal retail business.

Committee means either a Standing Committee or an Ad Hoc Committee of the Board established under clause 4.5.

Committee Chair means a person appointed by the Board to be the Chair of a Standing Committee or an Ad Hoc Committee of the Board

Company means Australian Regional Tourism Ltd.

Constitution means this constitution as amended from time to time, and a reference to a particular clause has a corresponding meaning.

Corporations Act means the Corporations Act 2001 (Cth).

Chairperson (or Chair) and Deputy Chairperson means respectively the chairperson and deputy chairperson of the Company.

Director means a person elected to the Board.

Interest Rate means 5% above the Cash Target Rate published by the Reserve Bank of Australia from time to time.

Member means a member of the Company.

Organisation includes a company, body corporate or an unincorporated body or association.

Policy Decision means a decision:

- (a) to adopt policies to advance the interests of the Company and members;
- (b) to develop policies to advance the interests of the Company and members;
- (c) to advocate and support a proposal or course of study or enquiry that may advantage, or prevent disadvantage, to the Company or its members;

- (d) to oppose a proposal or course of study or enquiry that may disadvantage the Company or its members;
- (e) to develop, adopt and implement the Strategic Plan for the Company; and
- (f) to establish such committees and working groups that will assist the Board to develop policy, proposals and ideas for the benefit of the members.

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

Representative means a person appointed to represent a corporate member at a members' meeting according to the Corporations Act.

Standing Committee means a committee of the Board established for an indefinite time or general purpose.

State means each state of the Commonwealth of Australia.

Special Resolution means a resolution passed by the members where no less than seventy-five percent of the members vote in favour of the resolution.

Strategic Plan means the medium to long term plan for the Company.

Territory means each territory of the Commonwealth of Australia.

Treasurer means the treasurer of the Company.

1.1.3 Interpretation

In this Constitution unless the contrary intention appears:

- (a) (gender) a reference to any gender includes every gender;
- (b) (person) the word person includes a firm, a partnership, a joint venture, an Organisation or an authority;
- (c) (may) the word may is permissive and not mandatory;
- (d) (singular includes plural) the singular includes the plural and vice versa;
- (e) (grammatical form) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (f) (regulations) a reference to a law includes regulations and instruments made under the law;
- (g) (amendments to statutes) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision;
- (h) (from time to time) a power, an authority or a discretion reposed in the members', a member, the Board or a Director may be exercised at any time and from time to time;

1.1.4 Corporations Act

In this Constitution unless the contrary intention appears:

- (a) an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act; and
- (b) section means a section of the Corporations Act.

1.1.5 Headings

Headings are inserted for convenience and do not affect the interpretation of this Constitution.

1.1.6 Replaceable rules not to apply

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and, accordingly, do not apply to the Company.

1.1.7 Including etc

Include, includes and including are not to be construed as words of limitation in this Constitution.

CHAPTER 2 – OBJECTS, INCOME AND PROPERTY

2.1 Objects

2.1.1 Objects

The objects for which the Company is established are to:

- (a) to progress the development of regional tourism in Australia;
- (b) to provide a forum which encourages the collaboration, cooperation and sharing of knowledge between organisations, professionals and individuals with a mutual interest in the development and continuous improvement of regional tourism in Australia;
- (c) to identify issues, impediments and opportunities for the development of regional tourism in Australia;
- (d) to provide advice to Government, non-Government and industry organisations on policy and program initiatives to address impediments and opportunities for sustainable regional tourism development;
- (e) to encourage regional tourism research, which is industry relevant; and
- (f) to engage in and facilitate revenue opportunities to support the activities described above.

2.1.2 Political neutrality

- (a) The Company is non-party political.

2.1.3 Political affiliations

- (a) No current member of the Commonwealth Parliament or the Parliament of any State or Territory, may be a Member, the proxy, attorney or Representative of a Member or a Director of the Company.
- (b) If any Member or Director seeks election to the Commonwealth Parliament or to the Parliament of any State or Territory they may not attend meetings of the Members or Board meetings from the date of nomination until the date of election. If the person withdraws their nomination, or is unsuccessful at the election, they may resume their role. If they are elected, they automatically cease to be a Member, a proxy, attorney or Representative of a Member, or a Director of the Company, as the case may be.
- (c) A person is elected for the purposes of this clause 2.1.3 when the results of the election for the relevant seat are declared.

2.2 Income and property

2.2.1 Application of income and property

The income and property of the Company must be applied solely towards the promotion of the objects of the Company as set out in this Constitution. The company must not distribute (whether by dividends, bonuses or otherwise) any income or assets directly or indirectly to its Members, except as provided in this Constitution. This clause does not stop the Company from doing the following things, provided they are done in good faith:

- (a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Company, or
- (b) making a payment to Member in carrying out the Company's objects.

2.2.2 Payments in good faith

Nothing, in this Constitution prevents the payment in good faith to an officer or Representative of a Member, or to a firm of which an officer or Representative of a Member is a partner, of:

- (a) remuneration for services rendered to the Company; or
- (b) the price of goods supplied to the Company in the ordinary course of business;
- (c) interest at a rate not exceeding, the rate for the time being fixed for the purposes of this clause by the Board on money borrowed by the Company from an officer or Representative of a member; or
- (d) reasonable rent for premises let to the Company by an officer or Representative of a member.

CHAPTER 3 – MEMBERSHIP

3.1 Membership

3.1.1 Policy guidelines for membership

The Board may from time to time consider, approve and amend guidelines for the admission of new Members. Those guidelines are to have regard to the importance of maintaining the Company as the peak national representative for regional tourism, and to the need to ensure that voices of those entities that support regional tourism are heard at the national level.

3.1.2 Admission to membership

Applications for admission as a Member must be lodged in writing with the Company on the form approved by the Board and provided by the Company.

3.1.3 Resignation

- (a) A Member may at any time resign their membership of the Company in writing.
- (b) A resigning Member must pay to the Company at the time of the resignation all amounts owed by that Member to the Company.

3.1.4 Termination of membership

- (a) The membership of any Member may be terminated for any of the reasons set out in clause 3.1.5 by a resolution of the Board having given regard to the policy guidelines for membership referred to in clause 3.1.1.
- (b) Any decision of the Board to terminate the membership of a Member shall be at its absolute and unfettered discretion.

3.1.5 Cessation of membership

- (a) A member's membership of the Company ceases:
 - (i) Immediately upon the Member giving notice of resignation under clause 3.1.3(a);
 - (ii) if the member is a natural person, on:
 - (A) death;
 - (B) becoming bankrupt or insolvent or making an arrangement or composition with creditors of a 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;
 - (iii) if the member is a body corporate, it is or becomes insolvent;
 - (iv) in the circumstances provided in clause 2.1.3, or on its termination according to clause 3.1.4; or
 - (v) fails to pay the annual Membership fee payable under clause 3.2.1 within one (1) month of it falling due.
- (b) A person who ceases to be a Member must pay the Company on the date the membership ends, all amounts owing or payable by that person to the Company, and this obligation survives the end of the membership.

3.1.6 Membership - Numbers and Liability

- (a) There shall be no limitation on the number of Members of the Company.
- (b) In the event of the Company being wound up, each Member undertakes to contribute such amount as may be required but not exceeding ten dollars (\$10). This is in addition to an amount, if any, unpaid by the Member in respect of their Membership of the Company;
- (c) For the purpose of this clause 3.1.6, "Member" includes a former Member who was a Member at any time during the year preceding the date of the commencement of the winding up.
- (d) Former Members need not contribute in respect of a debt or liability of the Company incurred after they ceased being a Member.

3.2 Membership subscriptions

3.2.1 Subscriptions and fees

- (a) Each Member is to pay to the Company an annual subscription for each financial year at an amount fixed or calculated as determined by the Board.
- (b) Each Member must pay its annual subscription within thirty (30) days of the date of the invoice rendered to it by the Company.
- (c) A Member must pay interest at the Interest Rate on any annual subscription which the Member has not paid by the date payment of it is due. Interest is to be calculated daily from the due date, continues until the overdue annual subscription is paid and is capitalised monthly.
- (d) The Board may also impose a membership entrance fee on new Members.

3.2.2 Board may defer membership subscriptions

- (a) The Board may defer the membership subscriptions payable by a Member for a period determined by the Board but to be reviewed annually where it is satisfied on reasonable grounds that the payment of the membership subscription would cause severe financial hardship to the Member.
- (b) The Board may resolve that a Member who is subject to a deferred membership subscription as per clause 3.2.2(a) may not vote at Members' meetings.

3.3 Members' meetings

3.3.1 Members' meetings — membership and meetings

- (a) A Members' meeting will be constituted by the Chairperson, Deputy Chairperson, Treasurer and the Members (and a Representative of a Member if applicable).
- (b) In any calendar year there must be:
 - (i) the AGM Meeting which must be held according to the Corporations Act and this Constitution; and
 - (ii) any other Members' meetings convened pursuant to clause 3.3.2;

3.3.2 Power to convene a members' meeting

- (a) The Board may convene and arrange to hold a Members' meeting whenever it thinks fit. The Board must also do so if required by the Members under the Corporations Act.
- (b) If the Chairperson considers a matter of sufficient importance or urgency, he or she may require the Members to convene and arrange to hold a Members' meeting at the cost of the Company, and the Board must call the Members' meeting.

3.3.3 Period of notice of members' meeting

Subject to the provisions of the Corporations Act as to short notice and to clause 3.1.5, not less than 21 days' notice of a Members' meeting must be given to:

- (a) each Member; and
- (b) each Director.

3.3.4 Auditor entitled to notice of meeting and other communications

The Company must give its auditor:

- (a) notice of a Members' meeting in the same way that a Member is entitled to receive notice; and
- (b) any other communications relating to the Members' meeting that a Member is entitled to receive.

3.3.5 Calculation of period of notice

In calculating the period of notice under clause 3.3.3 and subject to the Corporations Act, both the day on which the notice is given or taken to be given, and the day of the Members' meeting convened by it, are to be disregarded.

3.3.6 Notice of Members' meeting

A notice of a Members' meeting must:

- (a) set out the place, date and time of meeting, and state the general nature of the business to be dealt with at the Members' meeting and, if the Members' meeting is to be held in two (2) or more places, the technology that will be used to facilitate the holding of the Members' meeting in that manner; and
- (b) state that:
 - (i) a Member who is entitled to attend, participate at and cast a vote at the Members' meeting has a right to appoint a proxy; and
 - (ii) a proxy need not be a Member.

3.3.7 Notice of Special Resolution

If a Special Resolution is to be proposed, the notice of a Members' meeting must set out the intention to propose the Special Resolution and the resolution itself.

3.3.8 Cancellation or postponement of a Members' meeting

- (a) Where a Members' meeting (including an AGM) is convened by the Board it may, whenever it thinks fit, cancel the Members' meeting or postpone the holding of the Members' meeting to a date and time determined by it.
- (b) This clause does not apply to a Members' meeting convened according to the Corporations Act by Members or by the Board on the request of the Members.

3.3.9 Notice of the cancellation or postponement of a members' meeting

Notice of the cancellation or postponement of a Members' meeting must state the reason for the cancellation or postponement, and be given;

- (a) to each Member individually; and
- (b) to each other person entitled to be given notice of a Members' meeting under the Corporations Act or this Constitution.

3.3.10 Contents of notice postponing a members' meeting

A notice postponing a Members' meeting must specify:

- (a) the postponed date and time for the holding of the Members' meeting;
- (b) a place for the holding of the Members' meeting which may be either the same as or different from the place specified in the notice convening the Members' meeting; and
- (c) if the Members' meeting is to be held in 2 or more places, the technology that will be used to facilitate the holding of the Members' meeting in that manner.

3.3.11 Number of clear days for postponement of a Members' meeting

The number of clear days from the giving of a notice postponing a Members' meeting to the date specified in that notice for the holding of the postponed Members' meeting, must not be less than the number of clear days notice of the Members' meeting required to be given by this Constitution or the Corporations Act (whichever is the greater).

3.3.12 Business of postponed Members' meeting

The only business that may be transacted at a Members' meeting, the holding of which is postponed, is the business specified in the notice convening the Members' meeting.

3.3.13 Proxy, attorney or Representative at postponed Members' meeting

Where:

- (a) by the terms of an instrument appointing a proxy, attorney or Representative, a proxy, attorney or Representative is authorised to attend and vote at a Members' meeting to be held on, or on or before, a specified date; and
- (b) the date for holding the Members' meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney or appointment of Representative, then, by force of this clause, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney or appointment of Representative unless the Member appointing the proxy, attorney or Representative gives to the Company at its registered office notice in writing to the contrary not less than 48 hours before the time to which the holding of the Members' meeting has been postponed.

3.3.14 Non-receipt of notice

The non-receipt of notice of a Members' meeting or cancellation or postponement of a Members' meeting by, or the accidental omission to give notice of a Members' meeting or cancellation or postponement of a Members' meeting to, a person entitled to receive that notice, does not invalidate any resolution passed at the Members' meeting or at a postponed Members' meeting or the cancellation or postponement of a Members' meeting.

3.4 Proceedings at Members' meetings

3.4.1 Business of Members' meetings

- (a) The business of the Members' meeting held in accordance with clause 3.3.1(b)(i) is to address issues for Members' consideration generally and any other business required or permitted by this Constitution to be dealt with at a meeting of Members.
- (b) The business of the AGM is to receive and consider the annual financial reports, the reports of the Board and the auditor, to determine the remuneration of the Directors, to appoint an auditor if required, to fix the auditor's remuneration and any other business required or permitted by this Constitution to be dealt with at a meeting of Members or by the Corporations Act to be dealt with at an AGM.

3.4.2 Quorum

Five (5) Members present in person (being persons entitled under this Constitution to request a Members meeting) constitute a quorum for the transaction of the business of a Members meeting.

3.4.3 Requirement for a quorum

An item of business may not be transacted at a Members' meeting unless a quorum is present when the Members' meeting proceeds to consider it. If a quorum is present at the beginning of a Members' meeting it is taken to be present throughout the Members' meeting unless the Chair of the Members' (on the chair's own motion or at the instance of a Member, proxy, attorney or Representative who is present) declares otherwise.

3.4.4 Quorum and time

If within 30 minutes after the time appointed for a Members' meeting a quorum is not present, the Members' meeting:

- (a) if convened by, or at the request of, Members is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Chairperson appoints by notice to the Members and others entitled to notice of the Members' meeting.

3.4.5 Adjourned Members' meeting

If a quorum is not present at an adjourned Members' meeting within 30 minutes after the time appointed for the adjourned Members' meeting, the Members' meeting is dissolved.

3.4.6 Chair

The Chairperson is entitled to preside at Members' meetings, but if the Chairperson is not present within 15 minutes after the time appointed for the holding of a Members' meeting or is unable or unwilling to act, the following may preside (in order of entitlement):

- (a) the Deputy Chairperson;
- (b) the Treasurer;
- (c) a Director chosen by a majority of the Directors present;
- (d) the only Director present;
- (e) a Member chosen by a majority of the Members present in person or by proxy, attorney or Representative.

3.4.7 Conduct of Members' meeting

The Chair of a Members' meeting:

- (a) has charge of the general conduct of and procedures to be adopted at the Members' meeting;
- (b) may require the adoption of any procedure which is in the chair's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the Members' meeting;
- (c) may admit observers to, and may exclude or remove observers from, any Members' meeting;
- (d) must admit to a Members' meeting those persons (if any) nominated by the Board under clause 3.4.20 and may remove them; and
- (e) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the Chair considers it necessary or desirable for the proper conduct of the Members' meeting,

and a decision by the Chair under this clause is final.

3.4.8 Resolutions at a Members' meeting

Any person properly present at a Members' meeting and entitled to vote may move or second any resolution at that Members' meeting.

3.4.9 Equality of votes - casting vote for chair

If there is an equality of votes both on a show of hands and a poll, the Chair of the Members' meeting is entitled to a casting vote in addition to any votes to which he or she is entitled as a Member or as a proxy attorney or Representative of a Member. The Chair has a discretion both as to whether or not to use the casting vote and as to the way in which it is used.

3.4.10 Voting on a resolution at a Members' meeting

- (a) Subject to this Constitution every resolution submitted to a Members' meeting must be decided on a show of hands unless a poll is properly demanded and not withdrawn either before or immediately after the voting results on a show of hands are declared by either:
 - (i) the Chair of the meeting; or
 - (ii) any Member present in person or by proxy, attorney or Representative and entitled to vote on the resolution.

For the avoidance of doubt, each Member has one (1) vote on a show of hands, a poll or secret ballot.

Further, at a Members' meeting, each Member is only entitled to have one (1) Representative.

- (b) A resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

3.4.11 Declaration of results

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. Neither the Chair nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of or against the resolution.

3.4.12 Poll and Secret Ballots

- (a) If a poll is properly demanded, it must be taken in the manner and at the time directed by the Chair of the meeting, and the result of the poll is the resolution of the Members' meeting at which the poll was demanded.
- (b) A poll demanded on the election of a Chair of the meeting or on a question of adjournment must be taken immediately.
- (c) A demand for a poll may be withdrawn.
- (d) A demand for a poll does not prevent the continuation of the meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) If a secret ballot is properly demanded, it must be taken in the manner and at the time directed by the Chair of the meeting, and the result of the secret ballot is the resolution of the Members' meeting at which the secret ballot was demanded.

3.4.13 Objection to voting qualification

- (a) An objection to the right of a person to attend or vote at a Members' meeting or adjourned Members' meeting:
 - (i) may not be raised except at that Members' meeting or adjourned Members' meeting; and
 - (ii) must be referred to the Chair of the Members' meeting, whose decision is final.
- (b) A vote not disallowed under the objection is valid for all purposes.

3.4.14 Chair to determine dispute

If there is a dispute as to the admission or rejection of a vote, the Chair of the meeting must decide it and the chair's decision made in good faith is final and conclusive.

3.4.15 Effect of non-compliance

Subject to clause 3.2.2, a Member that, at the date of the meeting, has not paid subscriptions or fees to the Company that are due and payable may not personally or by proxy, attorney or Representative nominate or vote at any Members' meeting.

3.4.16 Adjournment

- (a) The Chair of a Members' meeting may, with the consent of the Members' if a quorum is present, and must if so directed by the Members, adjourn the Members' meeting to a new day, time or place.
- (b) Only unfinished business is to be transacted at a Members' meeting resumed after an adjournment.

3.4.17 Notice of adjourned Members' meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any Members' meeting adjourned under clause 3.4.16, unless the Members' meeting is adjourned for one month or more. In that case, notice of the adjourned Members' meeting must be given as in the case of an original Members' meeting.

3.4.18 When resolution passed

A resolution passed at a Members' meeting resumed after an adjournment is passed on the day it was passed.

3.4.19 Minutes

The Members must cause minutes of a Members' meeting to be made and kept according to the requirements of the Corporations Act.

3.4.20 Invitations for special purposes

The Board may invite people who are neither Members nor the proxies, attorneys or Representatives of Members to attend and speak at any Members' meeting if, in the opinion of the Board, it would be in the interests of the Company that they do so.

CHAPTER 4 – THE BOARD AND THE DIRECTORS

4.1 The Board

4.1.1 Composition of the Board

Subject to clause 4.1.9, the Board shall comprise up to nine (9) Directors.

- (a) Five (5) Directors shall be elected by the membership in accordance with clause 4.6, with the five candidates receiving the highest number of votes automatically appointed to the Board.
- (b) Four (4) Directors shall be directly appointed from the stakeholder group of Local Government Authority (LGA) and Regional Tourism Organisation (RTO) members.
- (c) Candidates for these direct appointments must nominate for election alongside all other candidates.
- (d) Following the election, preference for appointment to these four positions will be given to nominees from the LGA and RTO categories.
- (e) Final selection will be made by the elected Board to ensure balance of skills, expertise, geographic representation, and sector mix.
- (f) If insufficient eligible LGA or RTO nominees are available, the Board may appoint other eligible members, considering skills, expertise, geographic representation, and sector mix.

4.1.2 Powers of the Board

- (a) The business of the Company is governed and managed by the Board which may exercise all the powers of the Company that this Constitution and the Corporations Act do not require to be exercised in a general meeting by the Members.
- (b) The Board:
 - (i) may exercise all the powers of the Company 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;
 - (ii) may employ, dismiss and direct staff, and determine their conditions;
 - (iii) may incur expense or liability for the ongoing operations of the Company;
 - (iv) may acquire premises or equipment necessary to conduct the activities of the Company;
 - (v) may seek expertise and advice from external sources;
 - (vi) must ensure compliance with legal requirements;
 - (vii) Must decide upon the budget of income and expenditure for each financial year of the Company;
 - (viii) must (to the extent of available resources) implement Policy Decisions of the Members;
 - (ix) must resolve any issues affecting the Company or its Members occurring between Members' meetings; and
 - (x) must attend to all matters specifically delegated to it by the Members.

4.1.3 Term of office of Directors

- (a) The term of office for each person elected as a Director is two (2) years.
- (b) A retiring Director will, subject to this Constitution, be eligible for re-election.
- (c) A Director will be ineligible for re-election after serving three consecutive two (2) year terms in office and will not be eligible for re-election again until one (1) year has elapsed since he or she leaves office.
- (d) If the Chairperson is ineligible for re-election by reason of clause 4.1.3(c), then, notwithstanding clause 4.1.3(c), the Chairperson shall be eligible for re-election for further terms of 1 year each, up to a maximum of 4 years. Should that person be re-elected they will retain the position of Chairperson for each further term of 1 year and clause 4.1.4 shall not apply for the purpose of electing a Chairperson.

4.1.4 Election of Chair, Deputy Chair and Treasurer.

Subject to clause 4.1.3 (d), at the first meeting of the Board after the AGM of the Company in each year, the Directors shall elect from amongst their number the Chairperson, Deputy Chairperson and Treasurer for the ensuing year. For the avoidance of doubt the first meeting of the Board after the Annual General Meeting shall be chaired by the outgoing Chairperson until the new Chairperson is elected at which time the elected Chairperson shall assume the chair for the remainder of the meeting.

4.1.5 Determining policy issues

The Board may make Policy Decisions which support and endorse policy matters affecting regional Tourism generally.

4.1.6 Appointment of attorney

The Board may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions vested in or exercisable by the Board for such period and subject to such conditions as they think fit.

4.1.7 Provisions in power of attorney

A power of attorney granted under clause 4.1.6 may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board thinks fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney).

4.1.8 Minutes

The Board must cause minutes of meetings to be made and kept according to the requirements of the Corporations Act.

4.1.9 Transitional Provisions

Subject to the Act –

- (a) Those Directors existing at the Members' Meeting ("Initial Directors") at which this Constitution is adopted shall be eligible to continue in office until the 2018 AGM of the Company at which time they must retire from office. The Initial Directors will be eligible for re-election, however will become ineligible for re-election after serving a further two consecutive two (2) year terms in office after the 2018 AGM of the Company and will not be eligible for re-election again until one (1) year has elapsed since he or she leaves office.
- (b) This clause 4.1.9 shall lapse and be removed from this Constitution at the completion of the 2022 AGM, or when all of the Initial Directors no longer are Directors, whichever is the sooner.

4.2 Proceedings of the Board

4.2.1 Meetings

- (a) The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings and proceedings as it thinks fit.
- (b) The Board must hold a minimum of four (4) meetings in any calendar year.

4.2.2 Convening meetings

A Director may, and the Chairperson on the request of a Director must, convene a meeting of the Board.

4.2.3 Notice of meeting

Notices of each Board meeting must be given to each Director.

4.2.4 Quorum

The quorum necessary for the transaction of the business of the Board is a majority of the Directors then in office.

4.2.5 Remaining Directors may act

The continuing Directors may act notwithstanding a vacancy in their number.

4.2.6 Chair

The Chairperson will preside at meetings of the Board. If the Chairperson is not present within 15 minutes after the time appointed for the holding of a Board meeting or is unable or unwilling to act, the following may preside (in order of entitlement):

- (a) the Deputy Chairperson;
- (b) Treasurer; or
- (c) a Director chosen by a majority of the Directors present.

4.2.7 Equality of votes - casting vote for Chair

In the event of an equality of votes the Chair of the meeting is entitled to a casting vote.

4.2.8 Circulating resolution by the Board

- (a) The Board may pass a resolution without a meeting being held if all of 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) Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last Director signs.

4.2.9 Use of technology

- (a) A Board meeting may be called or held using any technology agreed to by each Director.
- (b) The agreement may be a standing one.
- (c) A Director may only withdraw his or her agreement within a reasonable period before the relevant meeting.

4.2.10 Validity of acts of Directors

Even if it is discovered after a Board meeting that:

- (a) there was a defect in the appointment or continuation in office of a person as a Director or of a person so acting; or
 - (b) a person acting as a Director was disqualified or was not entitled to vote,
- all acts done at a Board meeting, or by a person acting as a Director are, as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

4.2.11 Invitations for special purposes

The Board may invite people who are neither Members nor the proxies, attorneys or Representatives of Members to attend and speak at any Board meeting if, in the opinion of the Board, it would be in the interests of the Company that they do so.

4.3 Payments to Directors

4.3.1 Directors' fees

The Directors' fees are to be recommended by the Board and are to be determined at each AGM. They may nevertheless be determined at an AGM despite the absence of a recommendation from the Board. The Board may engage a remuneration consultant to advise the Board of appropriate remuneration.

4.3.2 Permitted payments to Directors

The Directors may be reimbursed expenses or paid remuneration for services rendered to the Company out of the funds of the Company in the following circumstances:

- (a) as reimbursement of reasonable travelling, accommodation and other expenses which the Director incurs when travelling to or from Members' meetings or meetings of the Board, or when otherwise engaged in carrying out their duties as Director;
- (b) as remuneration for any service rendered to the Company in a professional or technical capacity, other than in the capacity of Director, where the provision of that service has the prior approval of the Board and the amount payable is approved by a resolution of the Members and is not more than an amount which commercially would be a reasonable payment for the service; or
- (c) as salary or wage due to the Director as an employee of the Company.

4.4 Vacation of office

4.4.1 Vacation of office

The office of a Director (including that of Chairperson, Vice-Chairperson or Treasurer) is automatically vacated if the Director:

- (a) dies;
- (b) is or ceases to be a Director by virtue of, or becomes prohibited from being a Director because of an order made under, the Corporations Act;
- (c) is or becomes bankrupt or insolvent or makes an arrangement or composition with creditors of the Director's joint or separate estate generally;
- (d) becomes of unsound mind or someone whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (e) has a material personal interest in a matter relating to the affairs of the Company and fails to give the Board notice of the interest;
- (f) resigns from office by notice in writing to the Company or refuses to act; or
- (g) is removed from office by a resolution of the Members.

4.4.2 Filling a casual vacancy

- (a) If a vacancy arises in the office of a Director the Board may determine that it remain unfilled until the next AGM or may, subject to this Constitution, appoint a person to fill it.
- (b) A person appointed to fill a casual vacancy ceases to be a director at the end of the next AGM after his or her appointment but, subject to this Constitution, shall be eligible for re-election

4.4.3 Director's interests

- (a) Subject to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:
 - (i) hold any office or place of profit in the Company, except that of auditor;
 - (ii) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
 - (iii) enter into any contract or arrangement with the Company;
 - (iv) participate in any association, institution, fund, trust or scheme for past or present employees or directors of the Company or persons dependent on or connected with them;
 - (v) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;
 - (vi) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Board and may be present at any meeting where any matter is being considered by the Board; and
 - (vii) sign or participate in the execution of a document by or on behalf of the Company.

- (b) A Director may do any of those things despite any fiduciary relationship of the position:
 - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
 - (ii) without affecting the validity of any contract or arrangement.

4.5 Standing and Ad Hoc Committees

- (a) The Board may establish and confirm such Committees of the Board as the Board sees fit from time to time and may invite industry representation to such Committees. For the avoidance of doubt, an industry representative does not need to come from a Member.
- (b) The Board must establish the term, role, terms of reference and reporting requirements of each Committee and provide those to each Committee in writing. The Board may modify any terms of reference and reporting requirements as the Board sees fit.
- (c) Each Committee may conduct its procedures as it sees fit, subject to any direction from the Board.
- (d) The Committee Chair must be a person who is appointed by resolution of the Board.
- (e) A Committee must not do anything which may bind the Company without resolution of the Board.

4.6 Election of Directors

4.6.1 Nomination

- (a) The Directors are to be elected by the Members.
- (b) A nomination for the election of a person as a Director may be made by any Member or the nominee and must be:
 - (i) in writing;
 - (ii) accompanied by the consent of the nominee to act as a Director;
 - (iii) accompanied by a resume of the nominee suitable for circulation to Members; and
 - (iv) submitted to the Company at least twenty eight (28) days before the date on which the election is to be held.

4.6.2 Election of Directors

- (a) If the number of Eligible Nominees is equal to or fewer than the available positions as Director to be filled then, subject to clause 4.6.1, the Chairperson of the AGM must declare the Eligible Nominees elected as Directors.
- (b) If the number of Eligible Nominees is greater than the available positions as director to be filled, then an election shall be held by secret ballot to fill the available positions.
- (c) The Company Secretary is appointed to count the votes and declare the result of any election conducted under this clause 4.6.2. In the absence of the Company

Secretary the Company's appointed auditor shall be appointed to count the votes and declare the result of the election.

- (d) After the election of Directors under clause 4.1.1(a), the Board will appoint the remaining Directors under clause 4.1.1(b) in accordance with the process set out in that clause.

4.6.3 System of Voting

At each election of Directors conducted under this Constitution the following system of voting shall be used—

- (a) Each Member entitled to vote may complete a ballot paper for each vote that the Member holds according to the number of vacancies to be filled. For the avoidance of doubt, for a vote to be valid, the number of candidates voted for must be equivalent to the number of vacancies to be filled.
- (b) The number of votes received by each candidate, shall be tallied and the candidate with the highest number of votes cast in his or her favour shall be declared elected. Thereafter, the candidates with the next highest number of votes cast in their favour shall be declared elected in descending order until all vacancies have been filled.
- (c) If there remains a deadlock after the completion of the procedure in paragraph (b) has been completed then the deadlock shall be broken by ballot conducted by the person or persons appointed under clause 4.6.2(c) to count the votes and declare the result of the election and the candidate drawn in the ballot shall be declared elected.

CHAPTER 5 – GENERAL

5.1 Secretary

5.1.1 Appointment

The Directors must appoint one or more secretaries for the purposes of the Act.

5.1.2 Terms and Conditions of Office

A secretary appointed by the Directors holds office on the terms and conditions (including as to remuneration) that the Directors determine.

5.2 Regulations

5.2.1 Power to make

The Board has power from time to time to make such Regulations, not inconsistent with this Constitution as are in their opinion necessary or desirable for the reimbursement of expenses incurred by, and the payment of remuneration (but not the quantum thereof) and reimbursement of expenses for the Directors, proper control, administration and management of the Company's affairs, operations, finances, interests, effects and property, and to amend and repeal those Regulations from time to time.

5.2.2 Members' power

The Members may also from time to time amend or repeal a Regulation by Special Resolution.

5.2.3 Effect of repeal

The repeal of a Regulation does not affect the validity of anything done under it before its repeal.

5.2.4 Status

A Regulation:

- (a) is subject to this Constitution and the Corporations Act;
- (b) must not be inconsistent with this Constitution or the Corporations Act; and
- (c) when in force, is binding on all members and has the same effect as a provision of this Constitution.

5.3 Seal

5.3.1 Safe custody of common seals

The Board must provide for the safe custody of any seal of the Company.

5.3.2 Use of common seal

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Board; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director or another person appointed by the Board to countersign that document or a class of documents in which that document is included.

5.4 Inspection of records

5.4.1 Inspection by Members

Subject to the Corporations Act, the Board may 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).

5.4.2 Right of a Member or any other party to inspect

A Member (other than a Director) or any other party does not have the right to inspect any document of the Company except as provided by law or authorised by the Company.

5.5 Service of documents

5.5.1 Document includes notice

In this clause a reference to a document includes a notice.

5.5.2 Methods of service

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the member in the Register or an alternative address nominated by the Member; or
- (c) by sending it to a facsimile number or electronic address nominated by the Member.

5.5.3 Post

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post, and
 - (b) if sent to an address outside Australia, must be sent by airmail,
- and in either case is taken to have been received three (3) Business Days after it is posted.

5.5.4 Facsimile or email

If a document is sent by facsimile or email, delivery of the document is to be taken:

- (a) to be effected by properly addressing and transmitting the facsimile or email, and
- (b) to have been delivered on the Business Day on which it was sent provided that, in the case of a facsimile, the sender's facsimile confirms receipt by the facsimile to which it was sent and, in the case of an email the sender has not received an error or "out of office" report and further provided that if the facsimile or email was sent after 4 pm on any day it shall be deemed to have been received on the next Business Day after it was sent.

5.6 Audit and accounts

5.6.1 Company to keep accounts

The Board must cause the Company to keep accounts of the business of the Company according to the requirements of the Corporations Act.

5.6.2 Company to audit accounts

The Board must cause the accounts of the Company to be audited according to the requirements of the Corporations Act.

5.7 Winding up

5.7.1 Application of Corporations Act

The provisions of the Corporations Act in relation to a voluntary winding up will apply to the Company, except that at least three (3) months' notice must be given of the Members' meeting at which a resolution for the winding up is to be put.

5.7.2 Distribution of property

If on the winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatever, that property may not be paid to or distributed among Members, but must be given or transferred to another Organisation:

- (a) having objects similar to the objects of the Company; and
- (b) whose constitution prohibits the distribution of its income and property among its members to an extent at least as great as is imposed on the Company under this Constitution,

that Organisation to be determined by the Members at or before the time of dissolution or, failing such a determination, by a judge who has or acquires jurisdiction in the matter.

5.8 Indemnity

5.8.1 Indemnity of Directors and Officers

Every person who is or has been:

- (a) the Chairperson or Deputy Chairperson;
- (b) a Treasurer;
- (c) a Director;
- (d) any person who has occupied a position equivalent to a Director under any previous constitution of the Company; or
- (e) a secretary of the Company

is entitled to be indemnified out of the property of the Company against:

- (f) every liability incurred by the person in that capacity (except a liability for legal costs); and
- (g) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:

- (h) the Company is forbidden by statute to indemnify the person against the liability or those legal costs; or
- (i) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

5.8.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a person referred to in clause 5.8.1 against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.