

National Constitution

Local Government Managers Australia
ACN 004 221 818

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Corporations Act 2001 (Cth) Company Limited by Guarantee Constitution

1. Introduction

1.1. Name of the Company

The name of the company is Local Government Managers Australia.

1.2. Legal Capacity and Powers of the Company

Subject to the Act, the Company has the legal capacity, and the rights, powers and privileges of a natural person.

1.3. Limited Liability

The liability of the Members is limited.

2. Definitions and Interpretation

2.1. Definitions

In this Constitution, unless the context requires otherwise:

Act means the *Corporations Act 2001 (Cth)* as modified from time to time;

Auditor means an auditor appointed in accordance with clause 25;

Board means the Board of Directors of the Company;

By-Laws means any by-laws made in accordance with clause 19;

Company means Local Government Managers Australia ACN 004 221 818;

Constitution means this Constitution as altered or added to from time to time and any reference to a clause by number is a reference to the clause of that number in this Constitution;

Corporate Member means a corporation approved as a Corporate Member of the Company in accordance with clause 6.5, but is not a Member listed at clause 6.1 or which is eligible to apply to become a Member pursuant to clause 6.2;

Director means a director of the Company;

Financial Year means each year ending 31st December;

Industry means the local government industry and services provided by local government;

International Member means an overseas resident approved as an international member of the Company in accordance with clause 6.4;

Member means an entity that has become a member of the Company pursuant to clause 6, but does not include a Corporate Member or International Member;

Membership Year means the year commencing on 1 January and ending on 31 December;

Office means the registered office of the Company;

officer has the meaning given to that term in section 9 of the Act;

Profession means the profession of local government management;

Register of Members means the Register of Members maintained in accordance with clause 10;

Representative means a natural person nominated by a Member that is a body corporate in accordance with clause 7(a);

Secretary means the secretary of the company appointed in accordance with clause 20; and

Special resolution means a resolution:

- (i) of which notice that sets out an intention to propose the special resolution and states the resolution has been given; and
- (ii) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

year means calendar year.

2.2. Interpretation

In this Constitution, unless the contrary intention appears:

- (a) a reference to:
 - (i) any statute, ordinance, code or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments or a replacement of any of them by any government body;
 - (ii) any officer of the Company includes any person acting for the time being as such an officer;
 - (iii) writing includes any mode of representing or reproducing words in a tangible or visible form, and includes facsimile transmission or email;
- (b) words importing:
 - (i) the singular include the plural and vice versa;
 - (ii) a gender includes all other genders;
 - (iii) natural persons include partnerships, associations and corporations;
- (c) headings do not affect the construction of this Constitution;
- (d) if a word or phrase is defined cognate words and phrases have corresponding meanings;
- (e) references to notices in this Constitution include not only formal notices of meetings but also all documents and other communications from the Company to its Members but do not include cheques;

- (f) Division 10 of Part 1.2 of the Act applies in relation to this Constitution as if it was an instrument made under that Act as in force on the day when this Constitution becomes binding on the Company; and
- (g) an expression used in a particular Part or Division of the Act that is given by that Part or Division a special meaning for the purposes of that or any other Part or Division has, in any of this Constitution that deals with a matter dealt with by the relevant Part or Division, the same meaning as applies in or in respect of that Part or Division.

2.3. Replaceable Rules

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

3. Objects

- (a) The objects for which the Company is established are:
 - (i) to promote excellence in local government
 - (ii) to promote the development, advancement and improvement of local government management particularly by
 - (A) acquiring and distributing information about the profession to members of the Profession;
 - (B) formulating policies
 - (C) making public statements
 - (D) initiating or promoting legislation and
 - (E) generally to make such representations and tender such advice that will promote the objects of the Company;
 - (iii) to negotiate and arrange with other similar bodies for the reciprocal recognition of the status of members and to communicate with similar bodies and members of the Profession or the industry for the purpose of obtaining information on all matters beneficial or interesting to Members;
 - (iv) to promote ethical practice by prescribing standards of professional behaviour to be observed by all members of the Profession;
 - (v) to communicate to members of the Profession information on all matters affecting the Profession and to print, publish, issue and circulate such papers, periodicals, books, circulars, leaflets and other literature as may seem conducive to any of the objects of the Institute;
 - (vi) to be aware of anything affecting the Company or the professional conduct of members of the Profession;
 - (vii) to promote recognition of the Company both nationally and internationally as an authoritative representative of local government management in Australia;

- (viii) to do all things necessary in order to promote, encourage and assist the education and training of members of the Profession and other persons engaged in local government;
 - (ix) to enter into any arrangements with any Government or Authority that are incidental to, or conducive to, attainment of the objects and exercise of the powers of the Company, to obtain from any such Government or Authority any rights, privileges and concessions which the Institute may think it desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
 - (x) to participate in national and international joint ventures, including international aid and development projects, which would result in the transfer of Australian local government skills and technology to selected markets;
 - (xi) to develop the skills and experience of Members through, inter alia, international exchange programs;
 - (xii) to participate with affiliated international bodies in the development of regional forums to advance the cause of local government in the Asia/Pacific region.
- (b) The Company may do all such things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the Company.

4. Application of Income and Property

- (a) The income and property of the Company whencesoever derived shall be applied solely towards the promotion of the objects of the Company as set forth in this Constitution and no portion thereof shall be paid or transferred directly or indirectly by way of dividend bonus or otherwise howsoever by way of profit to a Member **PROVIDED THAT** nothing herein contained shall prevent the payment in good faith of:
- (i) remuneration to any officers or servants of the Company or to any Member in return for any services actually rendered to the Company nor for goods supplied in the ordinary and usual course of business;
 - (ii) the payment of interest at a rate not exceeding interest at the rate for the time being charged by Bankers in Melbourne for overdrawn accounts on money lent; or
 - (iii) reasonable and proper rent for premises demised, let or licensed by any Member to the Company.
- (b) All other payments by the Company to the Directors shall be approved by the Directors.

5. Winding-up

- (a) Each Member undertakes to contribute to the assets of the Company in the event of it being wound up while the Member is a member or within one year after the Member ceases to be a member for:
- (i) payment of the debts and liabilities of the Company (contracted before the Member ceased to be a member); and
 - (ii) the costs and charges of such winding up,

such amount as may be required but not exceeding \$100.

- (b) If upon the winding up or dissolution of the Company there remains after satisfaction of all its debts and liabilities any property or assets, the property or assets must be given or transferred to some other institution or institutions having objects similar to the objects of the Company. Such institution or institutions will be determined by the Members at or before the time of dissolution or in default of such determination by such Judge of the Supreme Court of Victoria as may have or acquire jurisdiction in the matter.

6. Membership

6.1. Members

Upon the adoption of this Constitution, the Members of the Company will be:

- (a) **Local Government Managers Australia New South Wales Division** [ABN 61 000 007 205], which is a body established to serve similar objects to the Company in relation to the State of New South Wales;
- (b) **Local Government Professionals Inc.** [ABN 74 723 619 392], which is a body established to serve similar objects to the Company in relation to the State of Victoria;
- (c) **Local Government Managers Australia (QLD). Inc.** [ABN 97 968 931 841], which is a body established to serve similar objects to the Company in relation to the State of Queensland;
- (d) **Local Government Managers Australia, South Australian Division Incorporated** [ABN 90 176 532 768], which is a body established to serve similar objects to the Company in relation to the State of South Australia);
- (e) **Local Government Managers Australia WA Division Incorporated** [ABN 91 208 607 072], which is a body established to serve similar objects to the Company in relation to the State of Western Australia;
- (f) **Local Government Managers Australia (Tasmanian Division) Incorporated** [ABN 12 130 745 726], which is a body established to serve similar objects to the Company in relation to the State of Tasmania; and
- (g) as from 22 May 2011, **Local Government Managers Australia NT Incorporated** [Incorporation Number: NT IA02941] which is a body established to serve similar objects to the Company in relation to the Northern Territory.

6.2. Eligibility for membership

- (a) Subject to other provisions in this Constitution, any body will be eligible to apply to become a Member provided that the applicant is formed for the similar objects to the objects of the Company as set out in clause 3(a).
- (b) Any applicant for membership must be approved by the Members in general meeting, except applications made pursuant to clauses 6.4 and 6.5.

6.3. No transfer of membership

A right, privilege or obligation of a Member by reason of membership of the Company:

- (a) cannot be transferred or transmitted to another person; and
- (b) terminates upon the cessation of the membership.

6.4. International Members

Without limiting the generality of clause 6.2, overseas residents who are natural persons may apply to become an International Member. Any application for membership under this clause 6.4 must be considered by the Board according to guidelines adopted by the Board and varied from time to time. The Board may exercise its discretion to accept or reject the application for membership and its decision is final.

6.5. Corporate Members

Corporations, other than the Members listed at clause 6.1, may apply for corporate membership of the Company. Any application for membership under this clause 6.5 must be considered by the Board according to guidelines adopted by the Board and varied from time to time. The Board may exercise its discretion to accept or reject the application for membership and its decision is final.

6.6. Rights and Responsibilities

International Members and Corporate Members are not entitled to appoint a person to act as its respective Representative pursuant to clause 7, to attend, or vote directly or indirectly, at a General Meeting pursuant to clause 11 or to appoint a Director pursuant to clause 14.1.

6.7. Termination of Membership

The membership of International Members and Corporate Members may be terminated by the Directors in their sole discretion at any time.

7. Representatives

- (a) Subject to clause 7(c), a Member may, by notice in writing to the Company, appoint a person or persons to act as its Representatives, and such person or persons may represent and vote on behalf of that Member at general meetings of the Company .
- (b) A person must not be appointed as Representative of a Member unless that person is an existing member of the Member having paid the relevant membership or subscription fee of the appointing Member.
- (c) A Representative must not be a Director of the Company.
- (d) A Member is entitled to appoint a maximum of 2 Representatives to attend all general meetings of the Company and the Member may appoint an alternate Representative or Representatives in accordance with clause 7(a) to attend if one or both Representatives are unable to attend a general meeting. A notice appointing an alternative Representative must be given to the Company at least 24 hours before the general meeting at which the alternative Representative is to attend.
- (e) A duly appointed Representative will (except to the extent to which the Representative is specifically directed to vote for or against any proposal) have the power to act generally at general meetings of the Company for the relevant Member.
- (f) A vote given in accordance with the terms of an instrument appointing a Representative will be valid notwithstanding the previous revocation of the appointment provided no intimation in writing of the revocation has been received at the Office before the meeting.

8. Termination of Membership

8.1. Resignation of a Member

A Member who has paid all moneys due and payable by that Member to the Company may resign from the Company by giving at least 6 months notice in writing to the Secretary. Upon the expiration of that period of notice, the Member ceases to be a member of the Company. Any Member intending to resign from the Company may withdraw its notice of resignation prior to the expiration of that period of notice.

8.2. Removal of a Member

- (a) Subject to this Constitution, the Directors may by resolution and in their sole discretion terminate the membership of a Member if they are of the reasonable opinion that the Member:
- (i) has refused or neglected to comply with this Constitution, any By-Laws or a reasonable direction of the Directors;
 - (ii) has engaged in conduct that is or could reasonably be considered as likely to be prejudicial to the interests of the Company;
 - (iii) has failed to pay fees payable to the Company within one month after the fees fell due, and the fees remain unpaid after the Directors have provided the Member with 14 days written notice of their intention to terminate the Member's membership;
 - (iv) no longer complies with membership criteria prescribed by the Directors from time to time; or
 - (v) is insolvent, goes into liquidation or has an external administrator, receiver or manager appointed pursuant to the Act.
- (b) A resolution of the Board under clause 8.2(a) does not take effect unless the Directors, at a meeting held not earlier than 14 and not later than 28 days after the service on the Member of a notice under clause 8.2(c) confirms the resolution in accordance with this clause.
- (c) Where the Directors pass a resolution under clause 8.2(a), the Secretary shall, as soon as practicable, cause to be served on the Member a notice in writing:
- (i) setting out the resolution of the Directors and the grounds on which it is based;
 - (ii) stating that the Member may address the Directors at a meeting to be held not earlier than 14 days and not later than 28 days after the service of the notice;
 - (iii) stating the date, place and time of that meeting;
 - (iv) informing the Member that the Member may do one or more of the following:
 - (A) attend that meeting; and/or
 - (B) give to the Directors before the date of that meeting a written statement seeking the revocation of the resolution; and
- (d) At a meeting of the Directors held in accordance with clause 8.2(b), the Board:

- (i) shall give to the Member an opportunity to be heard;
- (ii) shall give due consideration to any written statement submitted by the Member; and
- (iii) shall by resolution determine whether to confirm or to revoke the resolution.

9. Fees and Subscriptions

- (a) The annual fee for membership will be determined by the Directors from time to time and will be payable in advance by each Member on or before the first day of each Membership Year or at such other time as the Directors from time to time determine. The Directors will notify existing Members of the annual fee at least one month prior to the start of the next Membership Year.
- (b) The Directors may from time to time require each Member to pay an annual fee based on the number of members of each Member or on such other basis as the Directors may determine, and each Member will be liable to pay such amount on demand; and
- (c) The Directors may from time to time set a special fee or fees payable by Members as the Directors determine.

10. Register of Members

The Secretary must keep and maintain a Register of Members in which will be entered the full name, address, telephone and facsimile numbers and the date of entry of the name of each Member, together with the full name and date of appointment of each Representative. The Register of Members will be available for inspection and copying for use only by Members upon request.

11. General Meetings

11.1. Annual general meeting

The Company must hold an annual general meeting in accordance with the Act.

11.2. Attending general meetings

The following persons may attend and be given the opportunity to be heard at general meetings of the Company including annual general meetings:

- (a) Representatives
- (b) members of the Members
- (c) such other persons as the Chairperson directs.

11.3. Power to convene general meeting

Any 3 Directors may at any time convene a general meeting of the Members.

11.4. Calling of general meeting when requested by Members

- (a) The Directors must call and arrange to hold a general meeting on the request of any 4 Members.

- (b) The request must:
 - (i) be in writing; and
 - (ii) state any resolution to be proposed at the meeting; and
 - (iii) be signed by the Members making the request; and
 - (iv) be given to the Company.

11.5. Notice period

- (a) Subject to the Act and clause 11.5(d), the Company must give at least 21 days notice of general meetings (including annual general meetings).
- (b) The Company may call a general meeting on shorter notice than that specified in clause 11.5(a) if all the Members entitled to vote at the general meeting agree prior to the general meeting.
- (c) At least 120 days prior to the annual general meeting Members shall be requested to submit any items of business for inclusion in the notice for that meeting.
- (d) Notwithstanding clause 11.5(a), the Company must give at least 60 days notice of Special Resolutions to be submitted to annual general meetings.

11.6. Notice of general meetings

Written notice of a general meeting:

- (a) must be given as provided in this Constitution to:
 - (i) every Member;
 - (ii) every Member's Representative;
 - (iii) every Director;
 - (iv) the Auditor; and
 - (v) any other person required by law to receive such notice.
- (b) may be given at the Directors' discretion, to all members of Members.

11.7. Content of notice of general meetings

A notice of a general meeting must:

- (a) specify the place, date and time for the meeting;
- (b) state the general nature of the meeting's business; and
- (c) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution.

11.8. Notice of adjourned meeting

When a general meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 30 days or more.

11.9. Failure to give notice

Any resolution passed at a general meeting is not invalidated by the accidental omission to give notice of the meeting to any Member or non-receipt of that notice by a Member.

12. Proceedings at General Meetings

12.1. Circulating resolutions

- (a) A resolution may be passed without a general meeting being held if all Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. A Representative may sign such a circulating resolution on behalf of the Member.
- (b) Separate identical copies of the document may be distributed for signing by Members and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Member signs the document.
- (d) A resolution passed in accordance with clauses 12.1(a) to 12.1(c) satisfies any requirement in this Constitution or the Act that the resolution be passed at a general meeting.

12.2. Use of technology

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

12.3. Quorum

Except as otherwise provided in this Constitution, the quorum for a general meeting of the Company is one more than half of the number of Representatives and the quorum must be present at all times during the meeting.

12.4. Effect of no quorum

If a quorum is not present within half an hour after the time appointed for the meeting in the notice:

- (a) if the meeting was convened on the requisition of Members, the meeting must be dissolved; or
- (b) in any other case:
 - (i) the meeting will be adjourned to the date, time and place that the Directors specify (or if the Directors do not specify such details, the meeting is adjourned to the same day in the next week at the same time and place) except that if the meeting is adjourned for 30 days or more, notice of the resumed meeting must be given; and
 - (ii) if at a meeting resumed pursuant to clause 12.4(b)(i) a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

12.5. Chairperson of general meeting

The chairperson of general meetings of the Company will be:

- (a) a Representative appointed by the Board, or in their absence;
- (b) a Representative appointed pursuant to clause 12.6.

12.6. Vacancy in chair

Where a general meeting is held and the person described in clause 12.5(a) declines to act or is not present within 15 minutes after the time appointed for the holding of the meeting, the Representatives present must elect one of their number to be chairperson of the meeting or part of the meeting (as the case may be).

12.7. Adjournment

The chairperson must adjourn a general meeting if the Representatives present with a majority of votes agree or direct that the chairperson must do so.

12.8. Adjourned meetings

- (a) Only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (b) A resolution passed at a meeting resumed after an adjournment is passed on the day it was in fact passed.

13. Voting at General Meetings

13.1. Voting

- (a) A resolution put to the vote at a general meeting must be decided on a show of hands.
- (b) On a show of hands, a declaration by the chairperson is conclusive evidence of the result provided that the declaration reflects the show of hands. Neither the chairperson nor the minutes need to state the number or proportion of the votes recorded in favour or against the resolution.

13.2. Voting Rights

At a general meeting of the Members each Member entitled to vote may only vote by Representative duly appointed in accordance with clause 7(a), and each Representative has on a show of hands, one vote.

13.3. Casting vote of chair

In the case of an equality of votes the chairperson of the meeting at which the show of hands takes place has a casting vote (in addition to any vote that the chairperson may have had as a Representative).

13.4. Objection to qualification of a voter

- (a) An objection to a person's right to vote at a general meeting:
 - (i) may only be raised at a general meeting or adjourned meeting at which the vote objected to is given or tendered; and
 - (ii) must be determined by the chairperson of the meeting, whose decision is final.

- (b) A vote not disallowed pursuant to an objection referred to in clause 13.4(a) is valid for all purposes.

13.5. Votes counted in error

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

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

14. Appointment and Removal of Directors

14.1. Number and Qualification of Directors

- (a) Each Member must appoint 2 Directors.
- (b) A Director appointed pursuant to clause 14.1(a) must at all times during their term of office either be a director or member of the board of the Member making the appointment or the National President appointed pursuant to clause 16.8(a).
- (c) All Directors must be persons ordinarily residing in Australia.

14.2. Term of Office

- (a) Subject to clause 14.5, each Director may remain as a director of the Company for a period not exceeding 6 successive years unless at the expiration of such term the Director holds the position of National President in which case the Director may remain a Director until expiration of their term as National President.
- (b) A Director is not eligible for re-appointment for a minimum period of 12 months from the expiration of the period referred to in clause 14.2(a) after which they are eligible for re-appointment and the provisions of this clause with respect to the maximum time a Director may serve will apply to the period for which a Director is re-appointed.

14.3. Remuneration

- (a) The Directors do not receive remuneration except that the Company may pay the Directors' travelling and other expenses that they properly incur:
 - (i) in attending meetings of the Directors or any committee of the Directors;
 - (ii) in attending any general meetings of the Company; or
 - (iii) in connection with the business of the Company.
- (b) Any Director who performs special services or goes or resides abroad for any purpose of the Company may be paid such extra remuneration as determined by ordinary resolution of the Company.

14.4. Casual vacancies

In the event of a casual vacancy on the Board, a Member may appoint a person (subject to clause 14.2) to fill the vacancy created by the vacating Director previously nominated by that Member.

14.5. Cessation of Directorship

A Director will cease to be a director of the Company if the director:

- (a) is prohibited from being a Director by reason of any provision of the Act;
- (b) ceases to be a Director by virtue of this Constitution;
- (c) ceases to be either a director or member of the board of the Member making their appointment or the National President as required by clause 14.1(b)
- (d) is removed from office by the appointing Member;
- (e) becomes bankrupt or makes any arrangement or composition with their creditors generally;
- (f) becomes physically or mentally incapable of performing the Director's duties;
- (g) resigns by written notice to the Company;
- (h) is absent from Directors' meetings (without the Member appointing an Alternate Director) without the consent of the Directors for two consecutive meetings ; or
- (i) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the Director's interest as required by the Act.

15. Powers and Duties of Directors

15.1. General Management Power

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

- (a) will manage the business of the Company;
- (b) may exercise all such powers of the Company that are not, by the Act or this Constitution, required to be exercised by the Company in general meeting, provided that:
 - (i) no resolution of the Company in general meeting will invalidate any prior act of the Directors which would have been valid if such a resolution had not been made; and
 - (ii) any sale or disposal by the Directors of the Company's core business undertaking will be subject to prior approval by the Company in general meeting ;
- (c) may pay all expenses incurred in promoting the Company.

15.2. Attorneys

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

15.3. Power to borrow and give security

- (a) Without limiting the generality of clause 15.1, the Directors may for the purposes of the Company:
 - (i) borrow money, with or without giving security for it; and
 - (ii) guarantee the performance of any obligation of the Company or of any other person.
- (b) The Directors may borrow or provide security as they think fit on the undertaking of the whole or part of the property of the Company (both present and future).

15.4. Register of Mortgages and Charges

The Directors must:

- (a) cause a proper register to be kept in accordance with the Act of all mortgages and charges affecting the property of the Company; and
- (b) comply with the Act in regard to the registration of mortgages and charges.

15.5. Other Offices of Directors

Subject to the Act, a Director may hold any other office or offices under the Company (except that of auditor) in conjunction with the office of Director and on such terms as to remuneration and otherwise as the Directors may approve.

15.6. Director may act in professional capacity

- (a) Subject to the Act and clause 15.6(b), any Director (or the Director's organisation) may act in a professional capacity for the Company and the Director (or the Director's organisation) is entitled to remuneration for professional services as if the Director were not a Director.
- (b) A Director (or the Director's organisation) must not act as the Company's auditor.

16. Proceedings of Directors

16.1. Calling and holding Directors' meetings

At any time a Directors' meeting may be called by no less than 3 Directors giving reasonable notice to each Director.

16.2. Circulating Resolutions

- (a) The Directors may pass a resolution without holding a Directors' meeting if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate identical copies of the document may be distributed for signing by Directors and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Director signs the document.

16.3. Telephone and other meetings

Without limiting the power of the Directors to regulate their meetings as they think fit, a meeting of Directors or committee of Directors may be held where one or more of the Directors is not physically present at the meeting but attend via telephone or other technology, provided that:

- (a) all Directors consent to the calling and the holding of the meeting by means of telephone or other form of communication. The consent may be a standing one and a Director may only withdraw their consent prior to the subject meeting or meetings;
- (b) all Directors participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously by means of the agreed form of communication;
- (c) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed on or laid down from time to time by the Directors and such notice does not specify that Directors are required to be present in person;
- (d) in the event that a failure in communications prevents clause 16.3(b) from being satisfied by a quorum of Directors, then the meeting will be suspended until clause 16.3(b) is satisfied again. If clause 16.3(b) is not satisfied within 15 minutes from the time the meeting was interrupted, the meeting will be deemed to have terminated; and
- (e) any meeting held where one or more of the Directors is not physically present will be deemed to be held at the location specified in the notice of meeting provided a Director is present at that location. If no Director is present at the location specified, the meeting will be deemed to be held at the location where the chairperson of the meeting is located.

16.4. Resolutions of the Directors

- (a) Subject to this Constitution, a resolution of the Directors at a Directors' meeting must be passed by a majority of the votes of Directors present and entitled to vote on the resolution.
- (b) In case of an equality of votes, the chairperson of the meeting, in addition to the Chairperson's deliberative vote (if any), has a casting vote.

16.5. Minutes

- (a) The Directors must cause minutes to be made of:
 - (i) all appointments of Directors, Alternate Directors and officers;
 - (ii) the names of the Directors present at each meeting of the Directors;

- (iii) all orders made by the Directors;
- (iv) all declarations made or notices given by any Director (either generally or specifically) of their interest in any contract or proposed contract or of their holding of any office or property whereby any conflict of duty or interest may arise; and
- (v) all resolutions and proceedings of all general meetings and meetings of Directors,

and retain the minutes in a minute book for a period of at least 10 years or such other period as may be required under the Act.

- (b) The minutes of a meeting must be signed by the chairperson of the meeting or the chairperson of the next meeting.
- (c) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this clause 16.5 is evidence of the matters shown in the minute.

16.6. Director's personal interests

- (a) If a Director has a material personal interest in a matter that relates to the affairs of the Company (other than an interest that does not have to be disclosed under section 191(2) of the Act) the Director must, by notice in writing to the Board, disclose the nature and extent of the interest and its relation to the affairs of the Company and given as soon as practicable after the Director becomes aware of their interest in the matter.
- (b) Except as permitted by the Act, at a meeting of the Directors at which there is considered any contract or proposed contract or arrangement in which the Director has a direct or indirect material personal interest, a Director must not:
 - (i) vote on the matter; or
 - (ii) be present while the matter is being considered,
- (c) If notice of the interest is given in accordance with clause 16.6(a) and the matter is voted on in accordance with clause 16.6(b) then:
 - (i) any transactions that relate to the interest may proceed; and
 - (ii) if the disclosure is made before the transaction is entered into:
 - (A) the Director may retain benefits under the transaction even though the Director has the interest; and
 - (B) the Company cannot avoid the transaction merely because of the existence of the interest.
- (d) If the provisions of this clause and the Act are observed by a Director with regard to any contract or arrangement in which the Director is in any way interested, the fact that the Director signs, affixes or witnesses the affixing of a Seal to the document evidencing the contract or arrangement does not in any way affect its validity.

16.7. Quorum

- (a) At a meeting of Directors properly convened, the number of Directors whose presence is necessary to constitute a quorum is 7 Directors or such other number as is determined from time to time by the Directors.
- (b) If the office of a Director becomes vacant, the remaining Directors may act but, if the total number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, the Directors may act only for the purpose of convening a general meeting of the Company.

16.8. President and Deputy President

- (a) No sooner than 4 months before each annual general meeting Directors will elect from their number a President and Deputy President.
- (b) The term of office for the President and Deputy President will be from the first Meeting of Directors held after that annual general meeting until the commencement of the first Meeting of Directors held after the annual general meeting in the following year.
- (c) The President shall be the ceremonial representative and official spokesman of the Board. The Deputy President shall perform the role of President when called upon by the President to do so and when required by circumstances.

16.9. Chairperson

- (a) The President shall act as Chairperson of Directors' meetings and the Deputy President shall be Deputy Chairperson.
- (b) Where a meeting of the Directors is held and both the President and Deputy President decline to act or are not present within 15 minutes after the time appointed for the holding of the meeting the Directors present must elect one of their number to chair the meeting or part of the meeting (as the case may be).

16.10. Immediate Past President

If the Immediate Past President is not a Director he may attend all Board meetings but is not entitled to vote on any matter being considered at such Board meetings.

16.11. Delegation to committees

- (a) The Directors may delegate any of their powers to a committee or committees consisting of any number of them and such other persons as the Directors from time to time think fit.
- (b) A committee must exercise the powers delegated to it in accordance with any directions of the Directors. The effect of the committee exercising a power in this way is the same as if it had been exercised by the Directors.
- (c) The members of a committee may elect one of their number as chairperson of their meetings.
- (d) Where a meeting of a committee is held and:
 - (i) a chairperson has not already been elected to chair that meeting pursuant to clause 16.11(c); or

- (ii) the previously elected chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the members present may elect one of their number to be chairperson of the meeting.

- (e) A committee may meet and adjourn as it thinks fit unless otherwise directed by the Directors.
- (f) Questions arising at a meeting of a committee must be determined by a majority of votes of the members present and voting.
- (g) In the case of an equality of votes, the chairperson has a casting vote, in addition to any vote the chairperson has in the chairperson's capacity as a member of the committee (if any).

16.12. Acts of Directors valid despite defective appointment

Any act done at any meeting of the Directors or of a Committee of Directors by any person acting as a Director is, although it is later discovered that there was some defect in the appointment of any such Director or that the Director was disqualified, is valid as if the Director had been duly appointed and was qualified to be a Director or to be a member of the Committee.

17. Alternate Directors

17.1. Power to Appoint Alternate Directors

Each Member may appoint 2 Alternate Directors to exercise some or all of the Members' nominated Director's powers for a specified period. An Alternate Director must not be a Representative.

17.2. Appointment

- (a) The appointment of an Alternate Director must be in writing and a copy given to the Company.
- (b) A document appointing an Alternate Director must as nearly as circumstances permit be to the following effect:

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....., a Member of the Company, pursuant to clause 17 of the Company's Constitution nominates of to act as Alternate Director in place of ("the Absent Director") and to exercise and discharge all duties as a Director of the Company on all occasions when the Absent Director is unable to act personally whether by reason of absence, illness or any other cause.

- (c) The appointment of an Alternate Directors is only valid for 12 months from the time the document appointing the Alternate Director is received by the Company.

17.3. Rights and powers

- (a) An Alternate Director is entitled to notice of Directors' meetings and, if the nominated Director for whom the Alternate Director has been appointed is not present at such a meeting, is entitled to attend and vote in the nominated Director's stead.

- (b) An Alternate Director may exercise any powers which the Absent Director may exercise. When an Alternate Director exercises the Absent Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Absent Director.

17.4. Alternate Director is not agent of appointor

An Alternate Director is responsible to the Company for their own acts and defaults as if they were an ordinary Director and is not deemed to be an agent of the appointor.

17.5. Termination of Appointment

- (a) The appointing Member may terminate the Alternate Director's appointment at any time. The termination of an Alternate Director must be in writing and a copy given to the Company.
- (b) In any case, the appointment of an Alternate Director terminates when the Alternate Director is replaced by a new Alternate Director or when the Absent Director ceases to hold office as Director.

18. National Executive Committee

18.1. Establishment and Powers of National Executive Committee

- (a) The Board may establish a National Executive Committee and delegate any of the Board's powers as the Board from time to time determines.
- (b) The National Executive Committee will act in accordance with guidelines determined by the Board from time to time.

18.2. Membership of National Executive Committee

- (a) The Board shall appoint the members of the National Executive Committee in accordance with clause 18.2(b) for such terms as the Board from time to time determines.
- (b) The National Executive Committee shall comprise the following:
 - (i) President;
 - (ii) Deputy President;
 - (iii) Immediate Past President;
 - (iv) a Director,
 or such other person or persons as the Board from time to time determines.
- (c) If the Immediate Past President is not a Director he may attend all *National Executive Committee* meetings but is not entitled to vote on any matter being considered at such meetings.

19. By-Laws

The Directors may by resolution make, repeal and alter By-Laws not inconsistent with this Constitution or any matter within the Directors' power to regulate.

20. Secretary

A Secretary of the Company holds office on such terms and conditions, as to remuneration and otherwise, as the Directors determine.

21. Seal

21.1. Safe Custody

The Directors must provide for the safe custody of the Seal.

21.2. Authority to Use

- (a) The Seal must only be used by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal.
- (b) Every document to which the Seal is affixed must be signed by a Director and countersigned by another Director, the Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

21.3. Additional Seal

The Company may have for use outside the state in which the Office is located, one or more Seals each of which must only be used in accordance with the provisions of this clause 21.

21.4. Seal register

- (a) The Secretary must record details of every document to which the Seal is affixed in a Seal register.
- (b) The Seal register must be produced at each Directors' meeting for the purpose of the Directors approving the affixing of the Seal to each document recorded in the Seal register since the last Directors' meeting.

22. Inspection of Records

The Directors will, subject to the provisions of the Act, from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the Company or any of them will be open to inspection of the Members, and no Member will have any right to inspect any account or book or document of the Company unless and except as conferred by statute or as authorised by the Directors or by a resolution of the Company in general meeting.

23. Cheques, Bills, Etc

All cheques, bills of exchange and promissory notes must be signed, drawn, made, accepted or endorsed (as the case may be) for and on behalf of the Company in such manner as the Directors may from time to time determine .

24. Accounts

- (a) The Company must keep such accounting records as correctly record and explain the transactions of the Company and the financial position of the Company and must keep its accounting records in such a manner as will enable:

- (i) the preparation from time to time of true and fair accounts of the Company; and
- (ii) the accounts of the Company to be conveniently and properly audited in accordance with the Act.

The accounting records will be kept at the Office or at such place or places as the Directors think fit.

- (b) At the annual general meeting in every year, the Directors will lay before the meeting:
 - (i) the financial report for the last financial year of the Company that ended before that meeting; and
 - (ii) any other accounts, reports and statements as are required by the Act.
- (c) Subject to the Act, a copy of the financial report and other reports referred to in clause 24(b) must be sent to Members and other persons entitled to receive them as required by the Act.
- (d) The financial report of the Company when audited and approved or received by a general meeting at which it is presented will be conclusive except as regards any material error discovered in it within 3 months after its approval or receipt. If any material error is discovered within that 3 month period, the financial report will be corrected immediately and then it will be conclusive.

25. Audit

The Directors will appoint an Auditor. In the event of the removal or retirement of the Auditor, another Auditor will be appointed as soon as practicable.

26. Notices

26.1. Notices in Writing

Any notice given by the Company to any Member must be:

- (a) in writing, legible and in English; and
- (b) signed by an officer of the Company or under the Company's Seal.

26.2. Service

The Company must give a notice to any Member by:

- (a) serving it personally at the Member's registered office;
- (b) sending it by post to the Member's address as shown in the Register or an alternative address (if any) supplied by the Member to the Company for the purpose of giving notices; or
- (c) sending it by facsimile to the facsimile number (if any) nominated by the Member.
- (d) sending it by email to the email address (if any) nominated by the Member.

26.3. Deemed Receipt

A notice is deemed to be duly given or made in the case of:

- (a) delivery in person, when delivered;
- (b) delivery by post:
 - (i) in Australia to an Australian address, on the third day after posting; or
 - (ii) in any other case, on the tenth day after posting; or
- (c) delivery by facsimile, on a transmission report being printed by the Company's facsimile machine stating that the document has been sent to the Member's facsimile number;
- (d) delivery by email on an email report printed by the Company's email delivery device stating the time and date the email was transferred to the Member's email address,

but if delivery is not made before 4.00 pm on a day it will be deemed to be received at 9.00 am on the next day.

27. Confidentiality

- (a) In this clause **Information** means all or any part of information contained in or related to a transaction of the Company, a Board Document or a discussion at a meeting of the Company and any information or knowledge concerning Members.
- (b) Subject to this Constitution and to the Act, every person who by reason of his or her office in the Company or connection with the Company is exposed to, learns of or has access to Information must keep the Information confidential and is not entitled to communicate or divulge the Information to any person without prior written consent of the Company.

28. Indemnity

28.1. Scope of Indemnity

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

- (a) every officer of the Company will be indemnified out of the assets of the Company against any liability incurred by them in relation to the execution of their office;
- (b) no officer of the Company is liable for any loss or damage incurred by the Company in relation to the execution of their office;
- (c) every officer of the Company will be indemnified out of the assets of the Company against any liability which they incur:
 - (i) in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted;
 - (ii) in connection with any application, in relation to any such proceedings, in which relief is granted under the Act to the officer by the Court; and

- (d) every officer of the Company will be indemnified out of the assets of the Company against any liability to another person (other than the Company or a related body corporate of the Company) where the liability is incurred by the officer in their capacity as an officer of the Company, provided that this indemnity will not apply where the liability arises out of conduct involving a lack of good faith.

28.2. Insurance

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

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

28.3. Interpretation

In this clause 28, "proceedings" means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act in their capacity as an officer of the Company (including proceedings alleging that they were guilty of negligence, default, breach of trust or breach of duty in relation to the Company).

29. Variation or Amendment of Constitution

This Constitution may be varied or amended from time to time by special resolution of the Company. A conformed copy of the Constitution must be sent to Members.

30. Change of Company Name

The name of the Company may only be changed by special resolution of the Company.