

Constitution

Hunter Business Chamber
ACN 083 977 459

Contents

1	<i>Definitions</i>	3
2	<i>Objects</i>	4
3	<i>Membership</i>	6
4	<i>Membership fees</i>	9
5	<i>Meetings</i>	9
6	<i>Board</i>	14
7	<i>Chief Executive Officer</i>	19
8	<i>Accounts</i>	20
9	<i>Audit</i>	20
10	<i>Notices</i>	20
11	<i>Winding up</i>	21
12	<i>Indemnities and insurance</i>	21

1 Definitions

1.1 In this Constitution:

“*Affiliates*” or “*Affiliated Members*” means a member of the Company that is approved, from time to time, by the Board as an affiliated member of the Company.

“*ASIC*” means the Australian Securities and Investments Commission.

“*the Company*” means Hunter Business Chamber ACN 083 977 459 which was formed by a merger of Newcastle Regional Chamber of Commerce ACN 001 691 783 incorporated on 20 April 1979 under the Companies Act, 1961 as a company limited by guarantee having on that date taken over the assets and liabilities of the unincorporated association known as “Newcastle Chamber of Commerce and Industry” constituted in 1886; and ABL Hunter Region Committee or Council commonly known as Hunter Regional Council Australian Business Chamber which was first established in Newcastle as the Newcastle & Northern Districts Branch of the Chamber of Manufactures on 5 December 1916.

“*Board*” mean the members of the Board of Directors of the Company.

“*By-laws*” means such regulations as are made by the Board from time to time for the good order and governance of the Company.

“*Chief Executive Officer*” means the person appointed from time to time as such whether with that title or otherwise, by the Board under this Constitution.

“*Constitution*” means this instrument and any amendments to it.

“*Hunter First*” means the membership category offered to existing or potential members of the Company representing businesses with a significant presence, interest or stake in the Hunter Region to help foster a high-level thought leadership and strategic research, policy and advocacy program to advance economic growth and development and to co-ordinate a united voice to government and business on strategic issues relevant to the Hunter Region including with such packages, programs, offerings and pricing as may be determined by the Company from time to time.

“*the Hunter Region*” means such geographical area as the Board so decides from time to time.

“*the Act*” means the *Corporations Act 2001*.

“*member*” means a member of the Company including Hunter First members and the Special Member for the time being and includes honorary members but does not include affiliates.

“*NSWBC*” means NSW Business Chamber Limited ACN 000 014 504 and its successors.

“*Register*” means the register of members and honorary members to be kept pursuant to the Act.

“*Representative*” means any person from time to time appointed as hereinafter provided to represent any firm, corporation or association incorporated or otherwise which is a member.

“*the seal*” means the common seal of the Company.

“*Secretary*” means any person appointed to perform the duties of a Secretary of the Company, and includes any Assistant Secretary or any person appointed to act as such temporarily.

“*Special Member*” means NSWBC.

“*State*” means the State of New South Wales.

“*Term*” is the period of time between elections.

- 1.2 Words importing persons shall include partnerships, associations, corporations, companies unincorporated and incorporated whether by act of Parliament or otherwise as well as individuals.
- 1.3 Words importing singular include plural and vice versa and words importing any gender shall include all other genders.
- 1.4 Expressions referring to writing, shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing works in a visible form including all forms of electronic transmission.
- 1.5 Words or expressions contained in this Constitution shall be interpreted in accordance with the provisions of the Act.

2 Objects

- 2.1 The objects for which the Company is established are:

Mission

- (a) to champion development, capability and prosperity of the Hunter Region’s business for the continued prosperity of the Hunter Region;
- (b) to be the independent representative body in the Hunter Region for the development thereof;
- (c) to foster knowledge of the Hunter Region nationally and internationally;
- (d) to engage in other business activities as opportunities present themselves and as decided by the Board.

Affiliations

- (e) to promote and maintain co-operation, collaboration and close relations with other like-minded organisations, and with other groups representing business interests within the Hunter Region;
- (f) to offer unified representation for business in the Hunter Region.

Member Services

- (g) to create opportunities for members to share knowledge, expertise and resources, and to develop productive business relationships to achieve the objects;
- (h) to provide a full range of business orientated services and provide facilities to that end;
- (i) to provide such services as deemed appropriate to facilitate business;
- (j) to promote, develop and protect business of the Hunter Region;

- (k) to continue to maintain and grow the Hunter First membership category and branding.

Other

- (l) to raise money by subscription and by levy and to grant any rights and privileges to subscribers;
- (m) to engage professional assistance of any kind, and to remunerate any person for services rendered or to be rendered in or about the formation or promotion of the Company, or the conduct of its affairs;
- (n) to appoint, employ, remove or suspend such managers, clerks, secretaries, workman and other persons as may be necessary or convenient for the purpose of the Company;
- (o) to borrow or raise money by the issue of, or upon bonds, debentures, bills of exchange, promissory notes or other obligations or securities of the Company, or by mortgage or charge of all or any part of the property of the Company;
- (p) to invest and deal with the monies of the Company in such manner as may from time to time be determined;
- (q) to enter into any arrangements with any Government or authority, supreme, municipal, local or otherwise, that may seem conducive to the Company's objects or any of them and to obtain from any such Government or authority any rights, privileges and concessions which the Company may think it desirable to obtain; and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (r) in furtherance of the objects of the Company to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, institutions, societies or associations with which the Company is authorised to amalgamate;
- (s) to do all such acts and things in furtherance of these objects.

2.2 The income and property of the Company shall be applied solely towards the promotion of the objects of the Company. No portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to the members of the Company. This shall not prevent the payment in good faith:

- (a) of remuneration to any officers of the Company;
- (b) to any member of the Company in return for any services actually rendered to the Company;
- (c) for goods supplied in the ordinary course of business;
- (d) of interest at commercial rates on money borrowed;
- (e) reasonable and proper rent from premises demised or let by any members of the Company; and
- (f) out of pocket expenses lost,

but no remuneration or other benefit in money or money's worth shall be paid or given by the Company to any member of the Board except as is herein provided and then only when approved by the Board.

3 Membership

3.1 Membership shall be comprised of:

- (a) individuals, firms, corporations or associations who are financial members of the Company;
- (b) the Special Member, which is also a financial member of the Company;
- (c) Affiliated Members; and
- (d) Honorary Members,

being such persons as the Board shall admit to membership in accordance with this Constitution and shall be entered in the register of members accordingly from time to time.

3.2 (a) Except for members admitted as a result of affiliation arrangements entered into pursuant to clause 3.942 of this Constitution, all applications for membership, other than for honorary membership, shall be submitted to a meeting of the Board or the Membership Committee, if the Membership Committee has delegated authority from the Board to consider applications for membership. The Board or the Membership Committee, as the case may be, may accept or reject the same or adjourn, from time to time, consideration of the same or may reject any such application without being required to give any reason for so doing. If an application for membership is rejected by the Board or the Membership Committee, the Board or the Membership Committee shall, within a reasonable time notify the applicant of the decision and refund to the applicant any monies paid by the applicant to the company in relation to the membership application.

- (b) The Board may resolve to establish more than one class or category of membership and determine the rights and privileges associated with that class or category of membership (including such classes or categories of membership in which the members may elect, at their discretion that the combinations of rights and privileges associated with their membership). The Board shall determine the duration of membership and the amount of membership fees if any, for each class or category of membership including flexible membership fee arrangements in respect of classes or categories of membership in which the members may elect, at their discretion, the combination of rights and privileges associated with their membership.

3.3 Each member shall pay the membership fee appropriate to each particular class of membership as determined by the Board, provided that the membership fee for the Special Member shall at all times be the same as the fee for members other than Affiliated Members.

3.4 On acceptance of any application for membership₁ or upon appointment of an honorary member, the name of the applicant or appointee shall be entered in the register whereupon and whilst the name shall be so entered such person shall unless in arrears with any monies due and owing to the Company be entitled to all privileges associated with that class or category of membership.

3.5 The rights and privileges of every member are personal to each member and are not transferable by the members own act or by operation of Law.

Members' Liability

- 3.6 The liability to the members is limited.

Representatives of Members

- 3.7 Members being firms, corporations or associations incorporated or otherwise shall appoint a person(s) being a partner, director or employee of such firm, corporation or association or such other person(s) approved by the Board to represent such member in all matters incidental to the business of the Company involving the presence in person of a member being an individual or requiring the exercise of any vote under these regulations or otherwise and any such appointment may from time to time by notice in writing to the Secretary be revoked and the appointment of another similarly qualified person as such representative substituted. The representative is eligible to be nominated to the Board.
- 3.8 Any member being a firm, corporation or association shall be bound by its representative appointed under this Constitution in all matters and things wherein such representative is by this Constitution authorised or deemed to be authorised to act and the opinion of the Board on the scope of the authority of such representative shall be final and conclusive.

Affiliated Members

- 3.9 Any Chamber of Commerce and any organisation with similar objectives to the Company may apply for affiliate membership. Affiliated members shall not be entitled to vote.

Honorary Members

- 3.10 Any person may for services rendered to the Company or any person whether or not otherwise eligible for membership and for special reasons considered in the absolute discretion of the Board to be sufficient be appointed an honorary member of the Company for life or any lesser period.
- 3.11 The Board may at any time and notwithstanding that the period for which the appointment of any honorary member was made has not expired terminate the appointment of such honorary member.
- 3.12 Honorary members shall during the period of their appointment as such be exempt from the payment of any membership fees.

Binding Effect of the Constitution

- 3.13 Members shall be bound by this Constitution.

Suspension of Membership

- 3.14 Except that the Board may not suspend the membership of the Special Member, the Board may suspend membership for conduct, which in the opinion of the Board is inconsistent with the objects of the Company.
- 3.15 If the Board proposes to suspend membership, other than that of the Special Member, it shall afford the member the opportunity to make a written submission or explanation to the Secretary prior to the next Board meeting.

- 3.16 Except that the Board may not suspend the membership or membership privileges of the Special Member, in addition to or in substitution for suspending membership, the Board may suspend membership privileges.
- 3.17 The Board shall not be required to give any reason for its decision to suspend membership, which is final.

Resignation

- 3.18 Any member may resign their membership by delivering their resignation in writing to the Secretary and upon such resignation being accepted by the Board such member shall cease to be a member of the Company or be entitled to any claim on its funds, property or benefits; provided nevertheless that any member so resigning shall be and remain liable for any membership_fees or other sums in the nature of fines, levies or penalties due or becoming due by them prior to the acceptance of such resignation and also for all monies which at the time of their ceasing to be a member were due from them to the Company.

Arrears of Membership Fees or Levy

- 3.19 Any member, except the Special Member, whose membership_fees or levy is in arrears three (3) months after having become due shall after notice of default has been sent to the member by the Secretary be liable to have their membership cancelled by the Board provided that the Board may reinstate the member on payment of all arrears if the Board thinks fit to do so.

Cessation of Membership

- 3.20 If in the opinion of the Board:
- (a) a member, other than the Special Member, infringes the Constitution or by-Laws of the Company;
 - (b) a member, other than the Special Member, is guilty of any act proceeding or practice which is dishonourable or inconsistent with membership of the Company or is calculated to bring discredit on the Company or otherwise prejudicial or inimical to its interests; or
 - (c) the interests of the Company require that any member thereof shall cease to be a member;

the Board may if it thinks fit by notice in writing request the member, other than the Special Member, to resign from membership of the Company within a time specified in such notice.

In default of the receipt of such resignation within the time specified for that purpose the Board shall submit the question of the cancellation of the membership of the member so called upon to resign to a subsequent meeting of the Board and upon the passing of a resolution by the Board for the cancellation of their membership such member shall thereupon cease to be a member of the Company provided that such member shall have first have been given the opportunity of showing cause, in person or in writing, to such meeting of the Board why their membership should not be cancelled.

- 3.21 Notwithstanding that the member ceases to be a member of the Company, they shall still continue to be liable for:

- (a) all membership fees or other amounts owing by them to the Company which are due and unpaid as at the date that the member ceases to be a member; and
- (b) amounts which that member is or may become liable to pay the Company under clause 11.2

3.22 The Special Member shall not be removed as a member of the Company unless and until the Board shall convene a general meeting of members in accordance with this Constitution and at which general meeting not less than seventy five per cent (75%) of the members present, in person or by proxy, and entitled to vote, shall vote in favour of a special resolution to remove the Special Member as a member. For the sake of clarity, the Special Member shall not be entitled to vote on such a resolution.

4 Membership fees

4.1 The membership fee (if any) of members of the Company will be due and payable as the Board may from time to time prescribe. The basis of determination and amount of such membership fees will be determined by the Board from time to time (including in respect of classes or categories of membership in which the members may elect at their discretion the combination of rights and privileges associated with their membership for which the membership fees will be determined depending on the rights and privileges associated with each membership package). A member will, if required, provide to the Company, such information as is required by the Board for the purpose of assisting in establishing the amount of the membership fees applicable to that member.

4.2 The Board may from time to time provide for the abatement of a part of the membership fees or levy of any member admitted as such during the currency of any financial year.

Levies

4.3 The Board may from time to time by resolution impose a levy on members on such basis as may in their opinion be regarded as just and equitable for the purpose of providing necessary funds to promote the objects of the Company and such resolution shall be binding on all members provided that in no event shall a member's liability in respect of any such levy or levies exceed in any one financial year of the Company an amount equal to that member's membership fees for that financial year.

5 Meetings

5.1 The Board may whenever it thinks fit convene a general meeting of members.

5.2 The Annual General Meeting required by the Act shall be held in accordance with the Act at such time and place as may be determined by the Board.

5.3 The Board shall on the written request of the Special Member or on the requisition in writing of no less than five per cent (5%) of the members having a right to vote at a meeting of members proceed to convene a general meeting of members to be held as soon as practicable but in any case not later than two (2) months after the date of the requisition and the following provisions shall have effect.

5.4 The written request of the Special Member or the requisition (as the case may be) must state the objects of the meeting and shall be signed on behalf of the Special Member or by the requisitionists (as the case may be) and deposited at the registered office and may in the case of a requisition consist of several documents in like form each signed by one or more requisitionists.

- 5.5 If the Board does not proceed to convene a meeting to be held within twenty one (21) days from the date of the request or requisition being so deposited the Special Member or the requisitionists or a majority of them may themselves convene the meeting but any meeting so convened shall not be held after three (3) months from the date of depositing such requisition.
- 5.6 If at any such meeting a resolution requiring confirmation at another meeting is passed the Board shall forthwith convene a further general meeting for the purpose of considering the resolution and if thought fit of confirming it as a special resolution and if the Board does not convene the meeting within fourteen (14) days from the date of the passing of the first resolution the Special Member or the requisitionists (as the case may be) or a majority of them may themselves convene the meeting.
- 5.7 Any meeting convened under this clause by the Special Member or the requisitionists shall be convened in the same manner as nearly as possible as that in which meetings are to be convened by the Board.
- 5.8 Subject to the provisions of the Act relating to special resolutions and agreements for shorter notice, twenty one (21) days clear notice specifying the place, date and hour of meeting and in the case of special business the general nature of such business shall be given by post or otherwise served as hereinafter provided to such persons as are entitled to receive such notices from the Company.
- 5.9 The accidental omission to give notice of any meeting to, or the non- receipt of any such notice by, any of the members shall not invalidate a resolution passed at any such meeting or any proceedings thereat.
- 5.10 Where it is proposed to pass a special resolution requiring confirmation at a second meeting, the two meetings may be convened by one and the same notice and there is no objection to such notice that it only convenes the second meeting contingently on the resolution being passed by the requisite majority at the first meeting.
- 5.11 The Board shall have power to cancel or postpone the holding of any meeting of members other than one convened by the Special Member or by requisitionists or in response to a requisition by members. The Board may notify the members of such cancellation or postponement by such means as it sees fit. Whenever any meeting is postponed for thirty (30) days or more then not less than five (5) days' notice shall be sent to members of every such postponed meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at such postponed meeting.

Proceedings at General Meetings

- 5.12 No business shall be transacted at any meeting of members unless a quorum of members is present at the commencement of business. Notwithstanding any other provision:
- (a) a quorum of members shall not be present at any meeting, including an Annual General Meeting, unless the Special Member is present in person (by representative) or by proxy; and
 - (b) a quorum of members shall be constituted by the attendance and presence at any meeting, including an Annual General Meeting, of thirty (30) members which must include the Special Member in person (by representative) or by proxy.

However, in the event of an adjourned meeting that has been so adjourned because of a lack of a quorum at the initial meeting, a quorum of members at the adjourned meeting shall be constituted by the attendance and presence of the Special Member in person (by representative) or by proxy.

President

- 5.13 The President shall be entitled to take the chair at every meeting of members and in the absence the Vice President in attendance at the meeting. If at any meeting the President or a Vice President shall not be present within fifteen (15) minutes after the time appointed for holding the meeting or is unwilling to act the members present may choose one of their own number as a Chairperson.
- 5.14 If a quorum is not present within fifteen (15) minutes from the time appointed for the meeting:
- (a) where the meeting was convened by or in response to a requisition of members, the meeting shall be dissolved, but;
 - (b) in any other case the meeting shall stand adjourned to such day and at such time and place as the Board determines or if no determination is so made then the same day in the next week at the same time and place. If at such adjourned meeting a quorum is not present within fifteen (15) minutes from the time appointed for the meeting, the meeting shall be dissolved.
- 5.15 The Business of an Annual General Meeting shall be to:
- (a) receive the Company's financial statement and the Board's statement and report and the auditor's report on the financial statements;
 - (b) elect members to the Board and declare the result of the election to members;
 - (c) appoint auditors if necessary;
 - (d) transact any and all other business of which due notice shall have been given or which in the opinion of the Chairperson may be considered expedient and which under those present may or ought to be transacted at an Annual General Meeting;
 - (e) all business other than under sub-paragraphs 5.15(a) – (d) transacted at an Annual General Meeting and all business transacted at other meetings of members shall be deemed special;
 - (f) no special business may be transacted at any meeting of members other than that stated in the Notice convening the meeting unless the Chairperson consents or it is a matter of which due notice has been given in accordance with the Act;
 - (g) the Chairperson of a general meeting at which a quorum is present may with the consent of the meeting and shall if so directed by the meeting, adjourn the same from time to time and from place to place as the Chairperson may determine, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjourned took place. It shall not be necessary to give any notice of any adjournment or of the business to be transacted at any adjourned meeting unless it is adjourned for thirty (30) days or more in which event notice of the adjourned meeting shall be given.

Voting at Meetings of Members

- 5.16 Subject to clause 3.22 of this Constitution, but notwithstanding any other provision of this Constitution to the contrary, which provisions are subject to this clause, at any meeting of members, including but not limited to the Annual General Meeting, on any question or resolution put to members at which the Special Member is present (in person (by representative) or by proxy) the Special Member's vote shall represent and be counted as fifty one per cent (51%) of the total number of votes cast by members.
- 5.17 Every question submitted to a meeting shall be decided in the first instance by a show of hands and in the case of an equality of votes the Chairperson shall on a show of hands and at any poll have a second or casting vote in addition to the vote to which the Chairperson is entitled as a member.
- 5.18 Subject to clause 5.16, at any general meeting unless a poll is demanded (before or on the declaration of the result of the show of hands) by the Chairperson or by at least five (5) members entitled to vote or is demanded by the Special Member, a declaration by the Chairperson that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority and an entry to that effect in the minutes of proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. For the sake of clarity, at any general meeting, the Special Member cannot demand a poll on any resolution concerning the election of a Chairperson of that general meeting or the adjournment that general meeting.
- 5.19 If a poll is properly demanded as aforesaid it shall be taken in such manner by post or otherwise and at such time (not exceeding fourteen (14) days from the meeting at which the same is demanded) and place and either at once or after an interval or adjournment or otherwise as the Chairperson directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. A poll duly demanded on the election of a Chairperson of a meeting or on any question of adjournment shall be taken forthwith. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. The demand for a poll may be withdrawn.
- 5.20 Every member other than an honorary member shall be entitled to one vote save as provided by this Constitution in case of any equality of votes. For the sake of clarity, the Special Member's vote for the purposes of a poll shall represent and be counted as fifty one per cent (51%) of the total votes cast by members in a poll.
- 5.21 Any member by whom monies shall be owing to the Company which shall be three (3) months in arrears shall be debarred from voting and shall not be entitled to a vote until such monies have been paid.

Proxies

- 5.22 An instrument appointing a proxy (and the power of attorney or other authority, if any, under which it is signed or proof of it to the satisfaction of the Board) shall be deposited at the registered office (or at such place as is specified for that purpose in the notice convening the meeting) not less than seven (7) days before the time for the holding of the meeting or adjourned meeting as the case may be at which the person named in such instrument proposes to vote. The person so named shall be a member or representative of a member.

- 5.23 A certificate evidencing the appointment of a corporate representative, a power of attorney and an instrument appointing a proxy shall be in writing under the hand of the appointor or the appointor's attorney duly authorised in writing or, if such appointor is a corporation, under its common seal or the hand of its attorney or officer duly authorised. Only one representative shall be recognised in respect of a member which is a firm, corporation or association incorporated or otherwise.
- 5.24 Unless the Board in determining the form of the instrument specifies otherwise, an instrument appointing a proxy shall only be for a single meeting and each instrument shall specify the day upon which the meeting at which it is intended to be used is to be held and shall be operative only for the meeting so specified and any adjournment of that meeting. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- 5.25 Every instrument appointing a proxy may be in the form hereunder unless otherwise determined by the Board from time to time and:
 - (a) may make provision for the Chairperson of the meeting to act as proxy in the absence of any other appointment or if the member or members nominated fails or all fail to attend;
 - (b) may enable the member to vote for or against each or any of the resolutions to be proposed and the proxy shall not be entitled to vote on a resolution in a manner contrary to that specified in the instrument.

I

being a member of the Hunter Business Chamber

hereby appoint of or failing themof

as my proxy to vote for me on my behalf at the (annual or special, as the case may be) general meeting of the Company, to be held on the day of 20..... and at any adjournment thereof. My proxy is hereby authorised to vote *in favour of/*against the following resolutions:

Signed this day of 20

Note 1 In the event of the member desiring to vote for or against any resolution he shall instruct his proxy accordingly. Unless otherwise instructed, the proxy may vote as he thinks fit

** Strike out whichever is not desired.*

- 1 A vote given or act done in accordance with the terms of an instrument appointing a proxy or power of attorney shall be valid despite the previous death or unsoundness of mind of the principal, or revocation of the proxy or power of attorney, or cessation of membership in respect of which the vote is given or act done, provided no intimation in writing of the death or unsoundness of mind, revocation or cessation shall have been received at the registered office or by the Chairperson of the meeting before the vote is given or act done. Any proxy may be revoked at any time. The Chairperson's decision as to whether a proxy has been revoked shall be final and conclusive.
- 2 The Chairperson of any meeting of members shall be sole judge of the validity of every vote tendered at such meeting and the Chairperson's determination shall be final and conclusive.

6 Board

- 6.1 A director is either elected by the members or is Board appointed:
- (a) the number of directors shall not exceed ten (10) nor be less than eight (8), one of whom shall be a nominee of the Special Member whilst ever it remains a member of the Company;
 - (b) subject to the Act and the remaining provisions of this clause, Directors are elected for a Term of approximately two (2) years, being from the conclusion of the Annual General Meeting at which the Director's election is declared, and ending at the conclusion of the second Annual General Meeting after the Annual General Meeting at which the Director's election is declared;
 - (c) a director must be a member of the Company or the representative of a member of the Company;
 - (d) a person is not eligible for election or appointment to the Board if they will have served for three (3) consecutive Terms up to the time of the election or appointment (but they are eligible if they are a President or Vice President and have only been so for less than a Term but in any case they cannot be an elected director for more than ten (10) consecutive years);
 - (e) the composition of the Board shall be made up as follows:
 - (i) three (3) directors who are representatives of a Hunter First category member,
 - (ii) five (5) directors who are a member of the Company or the representative of a member of the Company,
 - (iii) one (1) director who is appointed by the Board and who is a representative of Local Chambers of Commerce within the Hunter Region who have entered into an affiliation agreement with the Company, and
 - (iv) one (1) director who is a nominee of the Special Member whilst ever it remains a member of the Company. The Board must promptly approve the appointment of the director subject to receiving a consent to act form from the nominee and provided the nominee is otherwise eligible to serve as a director of the Company.
- 6.2 Subject to the clause 6.1(a) and (d), the Board at its discretion may appoint additional directors as it sees fit one of whom may be the Chief Executive Officer.
- 6.3 Subject to this Constitution the elected members of the Board shall be elected for a term of two (2) years to a maximum of three (3) consecutive terms.

The Company in general meeting may from time to time increase or reduce the number of directors to be elected to the Board and the minimum number of elected directors of the Board below which the Board may not act.

Election of Board of Directors

- 6.4 The election of members of the Board shall take place in the following manner:
- (a) all nominations for the office of Director shall be in writing and signed by two members and the written consent of the members so nominated shall be subscribed thereunder;

- (b) the nomination shall be lodged with the Secretary at least twenty eight (28) days before the Annual General Meeting;
- (c) no such nomination shall be valid unless the candidate is a financial member, or a representative of such a member of the Company for the then current year and has paid all membership fees and any other money (if any owing) to the Company;
- (d) a list of the candidates' names in alphabetical order, with the proposers' and seconders' names, shall be posted in a conspicuous place in the registered office of the Company for a least fourteen (14) days immediately preceding the Annual General Meeting;
- (e) if the number of candidates nominated is not greater than the number candidates required to be elected the Chairperson of the Annual General Meeting shall declare the candidates nominated duly elected;
- (f) if more candidates are nominated than the number required to fill vacancies, the election shall be by ballot of the members;
- (g) any such ballot shall be conducted under the sole control and supervision of an Election Committee, of three (3) members, comprising 2 honorary members (life) and a member of the company auditors none of whom may be a Director or a candidate for election to that office;
- (h) the Election Committee shall be appointed by the Board, which shall also appoint one of the members of such committee to be the Presiding Officer thereof;
- (i) balloting lists shall be prepared (if necessary) containing the names of the candidates only in alphabetical order. Each member shall be entitled to vote for any number of such candidates not exceeding the number of vacancies. If directed by the Board all continuing candidates' attendance records at Board and committee meetings shall be circulated to members;
- (j) each candidate shall be entitled to provide a business profile not exceeding one hundred (100) words which may be edited by the Presiding Officer;
- (k) the Election Committee shall as soon as practicable issue by post, electronic means or otherwise to each member whose subscription fee for the then current financial year of the Company shall have been paid, the ballot paper (and candidate's information) initialled by the Presiding Officer, together with an envelope (if required) addressed to the Election Committee;
- (l) a member shall vote by placing a mark in the square opposite the names of the candidates for whom the member desires to vote, and shall vote for no more or less than the number of candidates required to fill the vacancies, otherwise the vote shall be informal and shall be rejected. For the sake of clarity, each member has one vote with respect to each candidate;
- (m) the ballot paper so marked shall be enclosed in the envelope so issued, sealed, and deposited with or posted to the Election Committee in time to be placed in a sealed ballot box to be placed for that purpose in a conspicuous position in the registered office of the Company;
- (n) the ballot shall close 12 midday two (2) days preceding the day of the Annual General Meeting;

- (o) the Election Committee, together with such other scrutineers as may be appointed by the Board shall thereupon proceed to count the votes and shall report the result to the President who shall at the Annual General Meeting declare the candidates who have received the largest number of votes duly elected Directors of the Company, such candidates so declared as elected not to exceed in number the Directors to be elected at such general meeting. The three (3) highest polling candidates representing Hunter First category members will be declared as being the candidates to fill the positions in clause 6.1(e)(i). The five (5) highest polling candidates after excluding the candidates declared as being the candidates to fill the positions in clause 6.1(e)(i) will be declared as being the candidates to fill the positions in clause 6.1(e)(ii);
- (p) as between candidates who receive an equal number of votes the Returning officer shall determine which candidate is elected bylot;

Executive

- 6.5 From its elected members the Board will after each Annual General Meeting appoint an Executive of a President, Senior Vice President and Vice President and one Board member who may be the most Immediate Past President.
- (a) any member of the Executive may have their appointment revoked by the Board;
 - (b) a quorum of the Executive shall be not less than 50% of its members.
- 6.6 If the office of President, Senior Vice President and Vice President becomes vacant for any reason the Board must elect from its members the President, Senior Vice President and Vice President as the case may be.
- 6.7 If an elected or appointed member of the Board vacates a position on the Board then the Board may appoint another member of the Company in their place or stead for the duration of the retiring Board members' term.

Termination of Office

- 6.8 The Office of a member of the Board shall become vacant if a member:
- (a) becomes bankrupt;
 - (b) becomes disqualified from being a director or officer of a company by reason of any order made under the Act;
 - (c) ceases to be a member of the Board by operation of the Act;
 - (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (e) resigns their office by notice in writing to the Company;
 - (f) for more than three (3) months is absent without permission of the Board from meetings of the Board held during that period;
 - (g) ceases to be a member or representative of a member of the Company or is suspended;
 - (h) is directly or indirectly interested in any contract or proposed contract with the Company, provided always that nothing in this paragraph shall apply if the member of the Board shall have declared their interest in the manner required by the Act;

- (i) being an appointed Board member is removed from the Board or has their appointment revoked.

Provided that where an appointment is terminated another appointment may be made by the Board for the duration of that director's Term.

Functions and Duties of the Board

- 6.9 Subject to the Act and any other provisions of this Constitution it shall be the duty of the Board to transact the business and carry on the management and control of the affairs of the Company and its funds, income and property and for such purpose the Board may exercise all the powers and authorities conferred on the Board by the Act and this Constitution.
- 6.10 Any rule, regulation or by-law of the Company made by the Board may be disallowed by the Company in general meeting.
- 6.11 No resolution made by the Company in the general meeting shall invalidate any prior act of the Board which would have been valid if that resolution had not been passed or made.
- 6.12 In the construction of the duties, powers and liabilities of any Board member each such person shall, unless the contrary intention appears, be regarded as a "director" both under the Act and the general law.
- 6.13 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such persons or in such other manner as the Board from time to time by resolution determines.
- 6.14 The Board shall cause minutes to be made:
 - (a) of all appointments of officers;
 - (b) of the names of members present at the meetings of the Company and of the Board; and
 - (c) of all proceedings at all meetings of the Company and of the Board.
- 6.15 Such minutes shall be signed by the Chairperson of the meetings at which the proceedings were held or by the Chairperson of the next succeeding meeting.

Proceedings of the Board

- 6.16 The Board members may meet together for the dispatch of the business and adjourn and otherwise regulate their meetings as they see fit, but they shall meet for not less than six (6) times per year. Board members may conduct their meetings by telephone or other forms of electronic communication without a Board member being in the physical presence of the other Board members and provided that all members can hear and be heard by each other.
- 6.17 A quorum for a meeting of the Board is not less than fifty per cent (50%) of its members or such greater number as may be fixed by the Board.
- 6.18 The President may at any time convene a meeting of the Board to be held at such time and place as the President chooses and such meeting shall not be invalidated by reason only of lack of convenience if a quorum of Board members forms.

- 6.19 The Secretary, upon the request of any other Board member shall convene a meeting of the Board to be held within not less than seven (7) days of such request at such time and place as is convenient to the Board.
- 6.20 Notice of every Board meeting shall be given by such means as is convenient to each Board member.
- 6.21 Questions arising at any meeting of the Board shall be decided by a majority of votes and each Board member shall have one vote. In the case of an equality of votes the Chairperson shall have a second or casting vote.
- 6.22 A resolution in writing signed by all the Board members entitled to vote on the resolution shall be as valid and effectual as if it has been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more Board members. If the documents are signed on different days, the meeting shall be deemed to have been held on the day on which the document was last signed by a Board member unless the document, by its terms, is said to take effect from an earlier date. A facsimile transmission, computer transmission or such similar means of communication addressed to or received by the Company and purporting to be signed by a Board member shall for the purpose of this Constitution be deemed to be in writing signed by such Board member.
- 6.23 The continuing members of the Board must act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of the Board, the continuing member of the Board or members of the Board may act for the purpose of increasing the number of members of the Board to the quorum number or for the purpose of summoning a general meeting of the Company, but for no other purpose.
- 6.24 The President shall preside at every meeting of the Board or if there is no President, or if at any meeting the President is not present within fifteen (15) minutes after the time appointed for holding the meeting or if the Vice President is not present at the meeting then the members may choose one of their number to be Chairperson of the meeting.
- 6.25 In accordance with section 195 of the Act, any director who has a material personal interest or financial interest in a matter that relates to the affairs of the Company, or receives any gift from an affiliated body of the Company ("**interested director**") cannot:
- (a) vote on that matter;
 - (b) be counted towards any quorum for that vote; or
 - (c) be present while the matter is being considered by the meeting,
- unless:
- (d) the director is not required to give notice of the interest pursuant to section 191(2) of the Act; or
 - (e) the Board, excluding the interested director, has passed a resolution stating that the interested director should not be disqualified; or
 - (f) ASIC has declared that section 195 of the Act should not apply in the particular case.

Committees

- 6.26 The Board may delegate any of its powers to the Executive and or to one or more committees consisting of such members of the Company as the Board sees fit. The Executive and any committee so formed shall conform to any regulation that may be imposed by the Board and subject thereto shall elect a Chairperson and shall have power to co-opt any member of the Company or any other person with the required skills and all members of such committees shall have one (1) vote each at committee meetings.

Member Committees

- 6.27 The Board may appoint one or more advisory committees consisting of such members as the Board thinks fit. Such advisory committees shall act in an advisory capacity only. They shall conform to any regulations that may be imposed by the Board and subject thereto shall have power to co-opt any members of the Company and all members of such advisory committees shall have one (1) vote each at advisory committee meetings.
- 6.28 A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the committee members present, and in the case of an equality of votes the Chairperson shall have second or casting vote.
- 6.29 All acts done by any meeting of the Board or of a committee or by any person acting as a member of the Board or committee shall notwithstanding that it is afterwards discovered that there was some defect in the appointment of such member of the Board or committee, or that the member(s) of the Board or committee was disqualified, be as valid as if every such person has been duly appointed and was qualified to be a member of the Board or committee.

7 Chief Executive Officer

- 7.1 The Chief Executive Officer or any other appointed person shall be the Secretary of the Company unless the Board otherwise decides.
- 7.2 The Chief Executive Officer shall be appointed by the Board for such term on such remuneration and upon such conditions as it thinks fit; and any Chief Executive Officer so appointed may be removed by it.
- 7.3 The duties of the Chief Executive Officer shall include:
- (a) attendance at all meetings of or in connection with the Company as required by the Board, except for reasonable cause;
 - (b) to keep the records and minutes thereof;
 - (c) to receive all memorials, letters and applications;
 - (d) to arrange business for consideration of the Board or committees;
 - (e) to conduct under the supervision of the President the correspondence of the Company and the Board or committees;
 - (f) to keep the accounts, to collect the funds of the Company and to lodge the same in a bank in the name of the Company;
 - (g) to collect and arrange all statistical information that may be deemed valuable; and

- (h) to assist in all matters connected with the affairs of the Company and to carry out instructions of the Board.
- 7.4 All books, documents, records and papers shall be in the charge and custody of the Chief Executive Officer and kept at the offices of the Company.
- 7.5 The offices of the Company, its registers and minutes of meetings and such resolutions of members, documents and records as may be determined by the Board, shall be open to the members during business hours.

The Seal

- 7.6 The Board shall determine when it uses the Seal.

8 Accounts

- 8.1 The Board shall cause the Company to comply with the Act in relation to:
 - (a) maintaining proper accounting and other records;
 - (b) preparation of annual financial and other reports; and
 - (c) reporting to members; and shall lay such reports before the Annual General Meeting.
- 8.2 The Board shall from time to time determine at which times and places and under what conditions or regulations the accounting and other records of the Company shall be open to the inspection of members.

9 Audit

- 9.1 The Company shall in accordance with the Act appoint an auditor or auditors of the Company to report to the members on the reports required to be laid before the Company at the Annual General Meeting and on the Company's accounting records and other records relating to those reports and to otherwise comply with by the Act.

10 Notices

- 10.1 Any notices required by Law or by or under this Constitution to be given, unless otherwise provided, shall be given as determined by the Board and if there is no determination it may be given:
 - (a) personally;
 - (b) by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member;
 - (c) by sending it to the fax number or electronic address (if any) nominated by the member; or
 - (d) by sending it to the members by other electronic means (if any) nominated by the member and such electronic notice may refer to a hyperlink to a document posted on a website (provided that the notice referring to the hyperlink advises of the general nature of the information on the hyperlink and, with respect to a meeting, the time and purpose of the meeting).
- 10.2 Notice of every general meeting shall be given in any manner authorised by the Board to:
 - (a) every member; and

- (b) the auditor or auditors for the time being of the Company. No other person shall be entitled to receive notices of general meetings.

11 Winding up

- 11.1 Every member of the Company undertakes to contribute to the property of the Company, in the event of the same being wound up while they are a member, or within one year after they cease to be a member for payment of the debts and liabilities of the Company contracted before they cease to be a member and of the cost, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding fifty dollars (\$50.00).
- 11.2 If upon the winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the company but shall be given or transferred to some other institution or institutions having objects compatible with the objects of the Company and whose constitutions shall prevent the distribution of income and property amongst members to an extent at least as great as is imposed on the Company, such institution to be determined by the members of the Company at General Meeting at or before the time of the dissolution of the Company.

12 Indemnities and insurance

12.1 Indemnity

- (a) To the extent permitted by law and subject to the restrictions in section 199A of the Act, the Company indemnifies every person who is or has been a Director or a Secretary of the Company (Officer) against any liability (other than for legal costs) incurred by that person as an Officer of the Company (including liabilities incurred by the Officer as an Officer of a subsidiary of the Company where the Company requested the Officer to accept that appointment).
- (b) To the extent permitted by law and subject to the restrictions in section 199A of the Act, the Company indemnifies every person who is or has been an Officer of the Company against reasonable legal costs incurred in defending an action for a liability incurred or allegedly incurred by that person as an Officer of the Company (including such legal costs incurred by the Officer as an Officer of a subsidiary of the Company where the Company requested the Officer to accept that appointment).
- (c) The amount of any indemnity payable under clauses 12.1(a) or 12.1(b) will include an additional amount (GST Amount) equal to any GST payable by the Officer being indemnified (Indemnified Officer) in connection with the indemnity (less the amount of any input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.
- (d) The Board may agree to advance to an Officer an amount which it might otherwise be liable to pay to the Officer under clause 12.1(a) on such terms as the Board thinks fit but which are consistent with this clause, pending the outcome of any findings of a relevant court or tribunal which would have a bearing on whether the Company is in fact liable to indemnify the Officer under clause 12.1(a). If after the Company makes the advance, the Board forms the view that the Company is not liable to indemnify the Officer, the Company may

recover any advance from the Officer as a debt due by the Officer to the Company.

- (e) This clause 12.1 does not exclude or limit any other powers the Company may have, including powers to grant indemnities to any person, including Officers.

12.2 Insurance

- (a) To the extent permitted by law and subject to the restrictions in section 199B of the Act, the Company may enter into or agree to enter into a contract of insurance, and pay or agree to pay premiums for, under or in respect of a contract of insurance, insuring a person who is or has been:

- (i) an “officer” of the Company (as that term is defined in the Act); or
- (ii) an employee of the Company,

against liability incurred by the person in that capacity, including a liability for legal costs.

- (b) This clause 12.2 does not exclude or limit any other powers the Company may have, including powers to enter into or agree to enter into, or pay or agree to pay premiums for, under or in respect of, contracts of insurance of any kind or insuring any person, including the persons referred to in clauses 12.2(a)(i) and (ii).

12.3 Deeds of access, insurance and indemnity

- (a) To the extent permitted by law and subject to the restrictions in sections 199A and 199B of the Act, the Company may enter into deeds or agreements of access, indemnity and insurance with any person on such terms as the Board thinks fit.
- (b) This clause 12.3 does not exclude or limit any other powers the Company may have to enter into contracts of any kind with any person.