

Corporations Act 2001 (Cth)
Company Limited by Guarantee

Constitution of
NSW Business Chamber Limited
ACN 000 014 504

23 November 2012

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CORPORATIONS LAW
A COMPANY LIMITED BY GUARANTEE AND NOT HAVING SHARE CAPITAL

CONSTITUTION
OF
NSW BUSINESS CHAMBER LIMITED
ACN 000 014 504

TITLE AND PREAMBLE

1. Pursuant to this Constitution:
 - (a) The name of the Company is “NSW BUSINESS CHAMBER LIMITED” (hereinafter called “**the Company**”).
 - (b) The Company was established pursuant to section 53 of the “*Companies Act 1899*” to acquire and take over the property and affairs of the company or association known as The New South Wales Chamber of Manufactures (in liquidation) including all rights and privileges and other assets, liabilities and obligations whatsoever of the said company or association and to enter into, adopt and carry out with or without modification all such agreements and do and execute all such other acts, deeds, matters and things as may be necessary or expedient for the purposes aforesaid and in particular to carry into effect with or without modification and agreement a draft of which has already been prepared and is expressed to be made between The New South Wales Chamber of Manufactures (in liquidation) and William Charles Shipway its Liquidator of the one part and the Chamber of Manufactures of New South Wales of the other part a copy which has, for the purpose of identification, been signed by Charles Ludowici President of the said company or association.

OBJECTS

2. The objects for which the Company is established are:
 - (a) Principally, to promote, advance and protect the interests, including the industrial interests, of the Company’s members.
 - (b) Principally to promote the development of manufacturing, industry, trade and commerce in Australia.
 - (c) Principally to promote, encourage, maintain, support and assist manufacturing and other producing industries and trade and commerce throughout Australia.
 - (d) To promote, support and service trade and commerce between Australia and other nations of the world.
 - (e) To represent manufacturing and other producing industries and their products at State and National level.
 - (f) To contribute to the development and promotion of efficient and competitive manufacturing in Australia for export enhancement.
 - (g) To promote and maintain, in a lawful manner, co-operation, collaboration and close relations with Australian Business Industrial.

- (h) To promote and maintain, in a lawful manner, co-operation, collaboration and close relations with Australian Business Foundation.
- (i) To improve either abroad or within Australia the relations of members of the Company with their employees or with producers, distributors and consumers of Australian products and manufactures.
- (j) To promote all forms of education and training in order to encourage and preserve skills and to train and instruct in manufacturing and other producing industries and trade and commerce.
- (k) To assist members of the Company and businesses in relation to matters concerning workplace health and safety.
- (l) To secure to members of the Company all the advantages of unity of action and to protect the interests of members in any manner whatsoever in all matters relating to the manufacturing and other producing industries and trade and commerce.
- (m) To secure proper representation for the furtherance of manufacturing and other producing industries and trade and commerce.
- (n) To promote or oppose legislative and other measures affecting or likely to affect manufacturing and other producing industries and trade and commerce.
- (o) To prosecute or defend any suits, applications or proceedings before any court, tribunal or like body whatsoever as may be deemed necessary or expedient in the interests of all or any of the Company or its members.
- (p) To bring or refer matters to and represent members, employers and interested persons before the Industrial Relations Commission of New South Wales or such other arbitral tribunals or courts, Federal or State, as may from time to time exercise like jurisdiction to that of that Commission, the High Court of Australia, any Supreme Court, any County, District or Local Court, Boards of Reference, Inquiries, Commissions, Royal Commissions and other tribunals, courts, arbitrators, conciliation committees, mediators and bodies, and to represent members and/or interested persons at conferences, meetings and discussions with government instrumentalities unions and other bodies of employees or employers.
- (q) To enter into agreements and contracts with organisations, associations or companies with the object of assisting in any lawful manner members or groups or sections of members of the Company or employers or groups or sections of employers generally against the consequences of industrial disputes or industrial action, or of awards, determinations, agreements or prescriptions.
- (r) To establish, subsidise, promote, co-operate with, receive into union or affiliation, subscribe and donate to, become a member of, control, manage, superintend, lend or give monetary assistance to or otherwise aid organisations incorporated or not incorporated within the Commonwealth of Australia or elsewhere which might further the objects of the Company.
- (s) To promote, encourage, maintain, support and assist research and development activities including scientific research as defined in Section 73A of the *Income Tax Assessment Act 1936 (Cth)* as amended.

- (t) To act as Trustee of trusts and funds established for attaining any of the objects of the Company.

INCOME AND PROPERTY

- 3. 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 of the income and property shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to the members of the Company. Provided that nothing herein shall prevent the payment, in good faith of reasonable remuneration to Councillors and Directors or servants of the Company or to any Member of the Company in return for any services actually rendered to the Company or repayment of out-of-pocket expenses incurred on behalf of the Company or for goods supplied in the ordinary and usual way of business nor prevent the payment of interest at a rate not exceeding the rate for the time being fixed for the purpose of this clause by the Constitution on money borrowed from any Members of the Company or reasonable and proper rent for premises demised or let by any Member to the Company and further provided that the Chief Executive Officer of the Company shall not be prohibited from acting in the capacity of Managing Director of the Company should the Chief Executive Officer be appointed the Managing Director in accordance with this Constitution.

PROPERTY ON WINDING UP

- 4. 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 similar to the objects of the Company and which is exempt from income tax and whose Constitution shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of clause 3 of this Constitution, such institution or institutions to be determined by the members of the Company at or before the time of the dissolution and in default thereof by application to the Supreme Court of New South Wales for determination.

DISPOSAL OF ASSETS

- 5. The Board of Directors of the Company shall not dispose of the whole or the greater part of any major asset of the Company or merge the Company with any other organisation, association or body without first giving to the Councillors of the Company through the Secretary of the Company at least twenty eight (28) days notice in writing of its intention so to do.

LIMITED LIABILITY

- 6. The liability of the members is limited.

EXTENT OF LIABILITY

- 7. 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 costs, 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 ten dollars (\$10.00).

AMENDMENT OF THIS CONSTITUTION

8. A special resolution altering or adding to or omitting clauses 2(b) or 2(c), 3, 4, or this clause of the Company's Constitution or clauses 164 and 165 of the Company's Constitution (the "Entrenched Provisions") does not have any effect unless and until that special resolution is passed at a general meeting of members by a majority that:
- (a) together holds at least seventy five percent (75%) of the votes in the Company;
 - (b) comprises at least seventy five percent (75%) of the Members whether those holders vote personally, by proxy or attorney or (in the case of a body corporate) by representative; and where;
 - (c) the notice convening the meeting at which the special resolution is to be proposed is given not less than twenty one (21) days before the date that meeting is to be held and sets out that in the opinion of all the Directors of the Company and the Chief Judge of the Equity Division of the Supreme Court of New South Wales or such other Judge of that Court as may have or acquire jurisdiction that it is in the interests of the Company as a whole for that special resolution to be passed bearing in mind the history of the Company and the fundamental importance of the Company's role in promoting the development of manufacturing, industry, trade and commerce in Australia and the prohibition against members receiving any profits of the Company; and
 - (d) the meeting at which that special resolution is to be proposed transacts no business other than the consideration of the special resolution.

DEFINITIONS AND INTERPRETATION

9. In this Constitution:
- (a) **"Affiliated Organisation"** means organisations that are approved from time to time by the Board as affiliated with the Company.
 - (b) **"Associate Member"** means an associate member for the time being of the Company.
 - (c) **"Board of Directors"** or **"Board"** or **"Board Member"** means those members of the Council elected by the Council, and other persons appointed pursuant to this Constitution, as members of the board of the Company including ex officio members, who are the Directors of the Company for the purposes of the Corporations Law.
 - (d) **"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.
 - (e) **"Company"** means NSW Business Chamber Limited (ACN 000 014 504), a Company incorporated in accordance with the Corporations Law.
 - (f) **"Corporations Law"** means the *Corporations Act 2001 (Cth)* as amended, modified or re-enacted from time to time.

- (g) **“Council”** means the Council as constituted by clause 64 of the Constitution and includes all Councillors of the Company for the time being or a quorum of the Councillors present at a meeting of the Council.
- (h) **“Councillor”** means a Member or a representative of a Member elected or appointed to the Council.
- (i) **“Director”** means any person holding the position of director of the Company and **“Directors”** means the directors for the time being of the Company or as the context permits such number of them as have authority to act for the Company.
- (j) **“Election Period”** means the period commencing with the close of nominations for election of Councillors and concluding with the election of Councillors.
- (k) **“Industrial Relations Law”** means the *Industrial Relations Act 1996 (NSW)* and any other State or Federal legislation relating to the registration and governance of industrial organisations of employers as applicable to the Company and as amended, modified or re-enacted from time to time.
- (l) **“Member”** means all persons, firms, corporations and organisations, admitted to membership of the Company in accordance with this Constitution.
- (m) **“Member Elected Councillor”** means a Councillor elected from and by the Members of the Company in accordance with this Constitution.
- (n) **“Membership Committee”** means, if delegated the power to do so by the Council, a committee formed by the Council for the purpose of reviewing and approving membership applications in accordance with this Constitution including any other powers and functions as delegated by the Council from time to time.
- (o) **“Meeting of Members”** means a general meeting of Members duly called and constituted in accordance with this Constitution and the Corporations Law and any adjourned holding of it.
- (p) **“Office”** means the registered office for the time being of the Company.
- (q) **“Officer”** means a person who is elected or appointed to hold office pursuant to this Constitution, including without limitation, Directors, the Secretary, President and Vice President.
- (r) **“Office Bearer”** means a person elected pursuant to this Constitution holding the office of President or Vice President.
- (s) **“Region”** means a region or constituent group as determined from time to time by the Council.
- (t) **“Regional Council”** means a body of members from and elected by Members in the designated Region.
- (u) **“Regional Councillor”** means a Member or a representative of a Member elected from and by the Members in the designated Region.
- (v) **“Regional Nominated Councillor”** means a Regional Councillor elected from and by the Regional Council in accordance with this Constitution.

- (w) **“Regional President”** means the president for the time being of a Regional Council, elected by the Regional Council.
- (x) **“Register”** means the Register of Members which the Company is required to keep pursuant to the Corporations Law.
- (y) **“Representative”** means any person from time to time appointed as hereinafter provided to represent any firm, corporation, organisation, incorporated association or unincorporated association, which shall be a Member.
- (z) **“Resolution”** means a resolution within the meaning of the Corporations Law.
- (aa) **“Returning Officer”** means a person appointed to oversee an election in accordance with this Constitution.
- (bb) **“Seal”** means the common seal of the Company and includes any duplicate common seal and any official seal of the Company.
- (cc) **“Secretary”** means any person appointed to perform the duties of secretary of the Company and includes any assistant secretary or any person appointed to act as such temporarily.
- (dd) **“Special Resolution”** means a special resolution within the meaning of the Corporations Law.
- (ee) Words importing persons shall include firms, partnerships, corporations, organisations, associations unincorporated or incorporated whether by Act of Parliament or otherwise as well as individuals.
- (ff) Words importing singular include plural and vice versa and words importing any gender shall include all other genders.
- (gg) 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 words in a visible form including all forms of electronic transmission. Words or expressions contained in this Constitution shall, unless the contrary intention appears, be interpreted in accordance with the provisions of the Corporations Law.
- (hh) Any reference to a “day” shall, unless otherwise indicated, be a reference to a calendar day.

MEMBERSHIP

- 10. The membership of the Company shall consist of:
 - (a) Members comprising persons, firms, corporations and organisations that have been admitted to membership as Members of the Company in accordance with this Constitution and whose names are entered on the Register;

- (b) Associate Members comprising persons, firms, corporations and organisations, that have been admitted to membership as Associate Members of the Company in accordance with this Constitution and whose names are entered on the Register; and
 - (c) honorary members appointed pursuant to clause 17.
- 11. A person, firm, corporation or organisation is eligible for membership of the Company if, in the opinion of the Council, the person, firm, corporation or organisation is a bona fide employer of labour or engaged in manufacturing or the development and advancement of Australian industry, trade or commerce. An eligible applicant under this clause shall submit an application for membership, whether electronically or otherwise, in the form prescribed by the Council from time to time.
- 12. Except for members admitted as a result of affiliation arrangements entered into pursuant to clause 14 of this Constitution, all applications for membership, other than for honorary membership, shall be submitted to a meeting of the Council or the Membership Committee if the Membership Committee has delegated authority from the Council to consider applications for membership. The Council or the Membership Committee 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 Council or the Membership Committee, the Council 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. The Council 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. The Board shall determine the amount of membership fees, if any, for each class or category of membership.
- 13. Upon acceptance of any application for membership, or upon appointment of an honorary member, the name of the applicant or appointee shall be entered in the Register and thereupon 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 rights and privileges associated with that class or category of membership.
- 14. The Board may, in a lawful manner, enter into affiliation arrangements with Affiliated Organisations from time to time. Notwithstanding any other provision in this Constitution, the power of the Board to enter into affiliation arrangements with Affiliated Organisations includes the power to admit members of the Affiliated Organisations as members of the Company and to determine the fees payable, if any, and the rights and privileges that apply to the members of the Affiliated Organisation that becomes members of the Company.

ASSOCIATE MEMBERS

- 15. The Council may establish more than one class or category of Associate Membership but Associate Members will not be entitled to:
 - (a) be represented at Meetings of Members, except at the invitation of the Council;
 - (b) vote at Meetings of Members;
 - (c) appoint a Representative in accordance with clause 20 of this Constitution;
 - (d) hold office in the Company or the Council; or

- (e) any income or property of the Company at any time including on any winding up or dissolution of the Company.
16. Subject to clause 15, the Council may otherwise determine the rights and privileges of Associate Members.

HONORARY MEMBERS

17. 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 Council to be sufficient, be appointed an honorary member of the Company for life or any lesser period. No honorary member is required to pay a membership fee. All past presidents shall be honorary members and all honorary members shall not be entitled to vote.
18. The Council 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 whose membership of the Company shall thereupon cease.

BINDING EFFECT OF CONSTITUTION

19. All Members, Councillors, Regional Councillors and Regional Councils are bound by the Constitution (together with any relevant charters or by-laws) to the extent they are lawfully capable of applying to such persons and provided always that the Constitution shall apply in the event of any conflict.

REPRESENTATIVES OF MEMBERS

20. Every Member being a firm, corporation or organisation shall, if requested by the Company, submit in writing to the Secretary, the name of the representative who is to act on the Member's behalf and represent the Member in respect of all matters pertaining to the Member under the Constitution and the Corporations Law. Such a representative must be a partner, director, officer or employee of the firm, corporation or organisation. The Member may from time to time revoke and substitute the said representative by notice in writing to the Secretary.
21. Any Member being a firm, corporation, organisation, incorporated association or unincorporated association shall be bound by its representative appointment 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 Council on the scope of the authority of such representative shall be final and conclusive.
22. Any appointment of a representative by the Member pursuant to clause 20 shall be revoked, in accordance with the relevant charters or by laws, if the appointed representative ceases to be a partner, director, officer or employee of a Member that is a firm, corporation, organisation, incorporated association or unincorporated association.

CESSATION OF MEMBERSHIP

23. Any Member may resign their membership by submitting their resignation in writing to the Secretary and upon receipt of such resignation by the Company or on the date specified in the resignation, whichever date is the later, such Member shall cease to be a Member of the Company provided nevertheless that any Member so resigning shall be and remain liable for any annual 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 moneys which at the time of their ceasing to be a Member were due from them to the Company.

24. Any Member who shall in the opinion of the Council cease to be eligible for membership to the Company or cease to be engaged in the objects of the Company shall be deemed thereupon to have resigned their membership and they shall cease to be a Member provided nevertheless that the Council may allow for such a period, and on such terms as it thinks, fit the continuation of such membership.
25. Any Member whose membership fees or levy is in arrears ninety (90) days after having become due shall, after notice of default has been sent to them by the Company:
 - (a) be liable to have their membership cancelled by the Council, at the Council's sole and absolute discretion; and
 - (b) be liable to have their membership rights and services, which the Member would otherwise be entitled to, suspended or cancelled at the Council's sole and absolute discretion,

PROVIDED THAT the Council may reinstate the Member, or reinstate the Member's membership rights and services, on payment of all arrears if the Council thinks fit to do so.

26. Any Member whose membership fees or levy is in arrears one hundred and eighty (180) days after having become due shall, after notice of default has been sent to them by the Company, have their membership automatically cancelled and their membership rights and services automatically ceased.
27. Subject to clause 29, if in the opinion of a majority of Councillors for the time being of the Council, a Member of the Company:
 - (a) infringes the Constitution or by-laws of the Company; or
 - (b) is guilty of any act, conduct or practice which is dishonourable or inconsistent with membership of the Company or is calculated to bring discredit on or to the Company or otherwise prejudicial or inimical to its interests or the interests of the Company,the Council, if it thinks fit, may by notice in writing terminate the membership of that Member of the Company within the time specified in such notice.
28. Subject to clause 29, upon the passing of a resolution by the majority of the Council for the termination of their membership, such Member shall thereupon cease to be a Member of the Company within the time specified by the Council.
29. Before passing the resolution referred to in clause 28, the Council must provide the Member, against whom the allegation has been made, with at least thirty (30) days written notice of the meeting at which the allegation will be considered including:
 - (a) the time and place of the Council meeting;
 - (b) details of the allegation against the Member;
 - (c) details of the proposed resolution of the Council;

- (d) advice that the Member has the right to give any oral or written explanation or defence they may think fit at the Council meeting; and
 - (e) advice that any resolution of the Council will be final and binding.
30. The Council must provide the Member with a reasonable opportunity to give an oral or written explanation or defence in relation to the allegation.
31. Notwithstanding that the Member ceases to be a Member of the Company, they shall 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 the Member is or may become liable to pay to the Company under clause 7 of this Constitution.

MEMBERSHIP FEES

32. The annual membership fee (if any) of Members to 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 year to year. A Member will, if required, in each year, provide to the Company, at the time payment of membership fees is due, such information as is required by the Board for the purpose of assisting in establishing the amount of the annual membership fees. Honorary members shall be exempt from the payment of annual membership fees.
33. The Board may from time to time provide for the abatement of a proportionate part of the membership fees or levy of any Member admitted as such during the currency of any financial year.
34. The Board may from time to time fix at different rates, suspend or waive payment of the annual membership fees in favour of any Member.

LEVIES

35. 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 annual membership fees for that financial year.

MEETINGS OF MEMBERS

36. The Council or the Board may whenever the Council or the Board thinks fit convene a Meeting of Members.
37. The Annual General Meeting required by the Corporations Law shall be held in accordance with the Corporations Law at such time and place as may be determined by the Board.
38. Without prejudice to the rights of Members under the Corporations Law, the Council or the Board shall convene a General Meeting of Members at the request of Members with at least five per cent (5%) of the votes that may be cast at a meeting of Members or at least one

hundred (100) Members who are entitled to vote at a meeting of Members, whichever is the lesser, to be held as soon as practicable but in any case no later than two (2) months after the date of the request and the following provisions shall have effect:

- (a) the request must state the objects of the meeting and shall be signed by the Members making the request and deposited at the Office of the Company and may consist of several documents in like form each signed by one or more Members;
 - (b) if the Council or the Board does not proceed to convene a meeting within twenty one (21) days from the date of the request being so deposited, the Members making the request, or a majority of them, may themselves convene the meeting but any meeting so convened must be held within three (3) months from the date of depositing such request;
 - (c) if at any such meeting a Resolution requiring confirmation at another meeting is passed the Council or the Board shall forthwith convene a further Meeting of Members for the purpose of considering the Resolution and if thought fit of confirming it as a Special Resolution and if the Council or the Board does not convene the meeting within fourteen (14) days from the date of the passing of the first Resolution, the Members making the request or a majority of them may themselves convene the meeting; and
 - (d) any meeting convened under this clause by the Members making the requests, or a majority of them, shall be convened in the same or similar manner as that in which meetings are to be convened by the Council or the Board.
39. Subject to the provisions of the Corporations Law relating to Special Resolutions and agreements for shorter notice, twenty one (21) clear days notice specifying the place, date and hour of meeting, and in the case of special business the general nature of the special business, shall be given by post or otherwise served in accordance with the Corporations Law to such persons as are entitled to receive such notices from the Company.
40. 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 at any such meeting or any proceedings thereat.
41. Where it is proposed to pass a Special Resolution by law requiring confirmation the two (2) meetings may be convened by one (1) and the same notice and it is to be 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.
42. The Board shall have power to cancel or postpone the holding of any meeting of Members other than one convened by the Council pursuant to clause 36 or Members pursuant to clause 38 or in response to a request 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

43. No business shall be transacted at any Meeting of Members unless a quorum of Members is present at the commencement of business. A quorum shall be ten (10) or more Members in person or by proxy or by their duly appointed representative.

44. The President shall be entitled to take the chair at every Meeting of Members and in their absence the Deputy President in attendance at the meeting. If at any meeting the President or the Deputy 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 Chairman.
45. If a quorum is not present within fifteen (15) minutes from the time appointed for the meeting:
- (a) where the Meeting of Members was convened by or in response to a request by Members, the Meeting of Members shall be dissolved; but
 - (b) in any other case the Meeting of Members shall stand adjourned to such day and at such time and place as the Board or Council determines or if no determination is so made then to 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.
46. The business of an Annual General Meeting shall be to:
- (a) receive the Company's Financial Statements and the Board's Statement and Report and the Auditor's Report on the Financial Statements;
 - (b) elect Members to become Member Elected Councillors and declare the result of the election to Members;
 - (c) confirm the appointment to the Council of the Regional Nominated Councillors;
 - (d) appoint Auditors if necessary;
 - (e) transact any and all other business of which due notice shall have been given or which in the opinion of the Chairman may be considered expedient and which under these presents may or ought to be transacted at an Annual General Meeting; and
 - (f) all business other than under sub-clauses 46(a) to 46(e) inclusive transacted at an Annual General Meeting and all business transacted at other meetings of Members shall be deemed special.
47. No special business may be transacted at any Meeting of Members other than that stated in the notice convening the meeting unless the Chairman consents or it is a matter of which due notice has been given in accordance with the Corporations Law.
48. The Chairman 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 Chairman may determine, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. It shall not be necessary to give any notice of an 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

49. Any Member whose membership fees are owing to the Company, which membership fees are sixty (60) days or more in arrears, is not entitled to a vote until all such membership fees have been paid to the Company.

50. Subject to clause 49, only:

(a) existing Members of the Company, but not including Associate Members, honorary members or any members that have paid a membership fee for a membership package in a class or category of membership that the Council has resolved does not include voting rights; and

(b) any applicants whose membership applications have been approved by the Council or the Membership Committee, but not including Associate Members, honorary members or any applicants that have paid a membership fee for a membership package in a class or category of membership that the Council has resolved does not include voting rights,

may vote at a Meeting of the Members of the Company or at an Annual General Meeting of the Company.

51. 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 Chairman shall on a show of hands and at any subsequent poll have a second or casting vote in addition to the vote to which they are entitled as a Member.

52. At any Meeting of members, unless a poll is demanded (before or on the declaration of the result of the show of hands) by:

(a) the Chairman;

(b) at least five (5) Members present in person or by proxy and entitled to vote on the resolution; or

(c) a Member or Members present in person or by proxy and representing not less than five per cent (5%) of the total voting rights of all the Members having the right to vote on the resolution,

a declaration by the Chairman 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.

53. A poll may be demanded:

(a) before a vote on a resolution is taken;

(b) before the voting results on a show of hands are declared; or

(c) immediately after the voting results on a show of hands are declared.

54. If a poll is properly demanded:
- (a) 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 immediately or after an interval or adjournment, as the Chairman directs subject to clause 54(c);
 - (b) the results of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded;
 - (c) notwithstanding clause 54(a), a poll duly demanded on the election of a Chairman of the meeting or on any question of adjournment of the meeting shall be taken immediately;
 - (d) 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; and
 - (e) the demand for a poll may be withdrawn.
55. Subject to clauses 49 and 50, every Member shall be entitled to one vote save as provided by this Constitution in case of an equality of votes.

PROXIES

56. Appointment of Proxies

- (a) A Member who is entitled to attend and vote at a general meeting of the Company may appoint a person as the Member's proxy to attend and vote for the Member at the meeting and such person need not be a Member.
- (b) If a Member appoints a proxy that proxy is only entitled to vote on a poll.

57. Instrument of Appointment

- (a) The instrument appointing a proxy must be in writing, signed by the appointor or the appointor's attorney, duly authorised in writing or if the appointor is a corporation, signed by an authorised officer or attorney of the corporation.
- (b) The instrument of proxy is valid if it contains the information required by the Corporations Law, which at the date of this Constitution is the following information:
 - (i) the name and address of the Member;
 - (ii) the name of the Company;
 - (iii) the proxy's name or the name of the office of the proxy; and
 - (iv) the meetings at which the instrument of proxy may be used.
- (c) An instrument of proxy shall not be treated as invalid merely because it does not specify all of the information required by clause 57(b).

- (d) An instrument of proxy may be revoked at any time by notice in writing to the Company.

58. Lodgement of Proxies

- (a) An instrument appointing a proxy, attorney or other representative must be deposited (or sent in any other manner determined by the Board from time to time) at the Office, or at such other place as is specified for that purpose in the notice convening the general meeting, not less than forty-eight (48) hours (or such shorter period as the Directors may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote and in default the instrument of proxy or the power of attorney will not be treated as valid.
- (b) For the purposes of this clause it will be sufficient that any document required to be lodged by a Member, other than an executed original or certified copy, be received in legible form electronically to a nominated email address or by facsimile at the place at which the document is required to be delivered by the Member and the document shall be regarded as received at the time the email was received at such nominated email address or at the time the facsimile was received at that place.

59. Validity of Proxies

A vote exercised pursuant to an instrument of proxy, a power of attorney or other instrument of appointment is valid:

- (a) notwithstanding the death or unsoundness of mind of the Member;
- (b) notwithstanding the bankruptcy or liquidation of the Member; and
- (c) notwithstanding the revocation of the instrument of proxy, the power of attorney or any other instrument under which the power was granted if such revocation, notice of death, bankruptcy or liquidation of the Member was not received by the Company at its Office address at least forty-eight (48) hours prior to the meeting.

60. Voting Rights of Proxies

- (a) The instrument appointing a proxy will be taken to confer authority to demand or join in demanding a poll.
- (b) Unless a Member by the instrument of proxy directs the proxy to vote in a certain manner the proxy may vote as the proxy thinks fit on any motion or resolution. Otherwise the proxy shall follow the voting instructions contained in the instrument of proxy.
- (c) A proxy will not be revoked by the appointor attending and taking part in any Meeting of Members but if the appointor votes on a poll the person acting as proxy for the appointor shall not be entitled to vote in that capacity in respect of the resolution.
- (d) The chairperson of a Meeting of Members may require any person acting as a proxy to establish to the satisfaction of the chairperson that they are the person nominated as proxy in the form of proxy lodged under this Constitution. If the person is unable to establish their identity they may be excluded from voting.

- (e) Unless the Board in determining the form of instrument specifies otherwise, an instrument of proxy may be expressed to be a standing appointment. An instrument of proxy for a specified meeting is only valid for that meeting and any postponement or adjournment of that meeting.
61. An instrument appointing a proxy:
- (a) may make provision for the Chairman of the meeting to act as proxy in the absence of any other appointment or if the Member or Members nominated fails or fail to attend; and
 - (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.
62. If a Chairman is appointed a proxy by a Member pursuant to clause 61(a), the Chairman must follow the voting instructions set out in the instrument of proxy and if no such instructions are set out, the Chairman may vote as the Chairman sees fit to do so.
63. The Chairman of any meeting of Members shall be the sole judge of the validity of every vote tendered at such meeting and the Chairman's determination shall be final and conclusive.

THE COUNCIL

64. The Council is, amongst other things, an electoral college which shall consist of not more than forty (40) Members:
- (a) of whom not less than sixteen (16) but not more than twenty (20) shall be Regional Nominated Councillors, each of which is elected as a Regional President (except where a different representative for a Region is agreed with the Council) from and by the Regional Councillors in each Region in accordance with this Constitution, relevant Charter and by-laws; and
 - (b) the balance (excepting vacancies from time to time in the permitted number of Regional Nominated Councillors which are anticipated to be filled by virtue of entitlements) shall be Member Elected Councillors being Members or representatives of firms, corporations or organisations which are Members of the Company and are elected by the Members.
- A Councillor is either a Regional Nominated Councillor or a Member Elected Councillor and no existing Councillor may nominate to fill any vacancy on the Council.
65. A representative of a Member being a firm, corporation or organisation shall be eligible for election to the Council but no more than one of the partners, directors, officers or representatives of any one firm, corporation or organisation being a Member shall be eligible for election or appointment to the Council.
66. A Member, or representative of a Member, by whom any membership fees shall be owing to the Company sixty (60) days or more in arrears:
- (a) shall not be eligible to hold office;

- (b) shall not vote in any meeting of the Council or meeting of the Members of the Company; and
- (c) shall not be qualified to be or act as a Member of the Council or Board,

PROVIDED THAT the Council or the Board, as the case may be, may reinstate that Member's (or that representative's) eligibility to hold office, entitlement to vote in any meeting of the Council or Board or meeting of the Members of the Company and qualification to act as a Member of the Council or Board upon payment of all arrears and if the Council or the Board, as the case may be, thinks fit to do so.

- 67. Subject to clause 66, the Council may, by Resolution passed at a meeting of the Council, remove a Member, or representative of a Member, from the Council if the membership fees owed to the Company by that Member or remain outstanding for sixty (60) or more days.
- 68. Save for the purpose of filling vacancies or convening a Meeting of Members the Council shall not act if vacancies reduce the number of Councillors thereto below fifteen (15).
- 69. The Council may, by a resolution passed at a meeting of the Council by a majority of Councillors entitled to vote at such a meeting, fill any vacancy amongst the Member Elected Councillors. For the filling of one or more casual vacancies where there are more nominees than positions available on the Council, the process is as follows:
 - (a) any nominees present shall be asked to leave the meeting;
 - (b) as the name of each nominee is read out Councillors shall be asked to vote for each nominee. Nominees with a majority vote shall proceed to the next level. Nominees who do not receive a majority vote shall be declared unsuccessful (**Level 1**);
 - (c) if a nominee has received a majority vote in Level 1, Councillors shall be asked to declare their vote for one nominee only as each name is read out (**Level 2**);
 - (d) at the end of Level 2, the nominee receiving the fewest or no votes shall be declared unsuccessful;
 - (e) the voting process shall continue in the manner described in sub-clause 69 (c) above until such time as the number of nominees equals the number of positions available or a nominee receives the majority of votes from the Council in the case of a single vacancy (**Level 3**); and
 - (f) following Level 3, the successful nominee(s) shall be declared elected.
- 70. Subject to the provisions of this Constitution, Regional Nominated Councillors shall be elected for a term of two (2) years and Member Elected Councillors shall be elected for a term of four (4) years with up to one half of the Member Elected Councillors to retire from office every two (2) years. No term of a Councillor shall be longer than four (4) years without re-election.
- 71. In determining the Member Elected Councillors who are to retire:
 - (a) Member Elected Councillors who have been Councillors for a period of (4) years since their last election shall be the first persons required to retire;

- (b) if required, Member Elected Councillors (if any) appointed to fill a vacancy shall be the second persons required to retire, with the first person required to retire being the Member Elected Councillor who has been longest in office since their appointment to fill a vacancy; and
 - (c) if required, Member Elected Councillors with the longest period of service as a Councillor shall be the third persons required to retire.
72. A retiring Councillor being otherwise eligible under this Constitution shall be eligible for re-election.
73. The Council shall hold an election for members of the Council at a Meeting of Members by no later than the end of November every two (2) years in odd numbered years (for example xx09, xx11, xx13).

ELECTION OF REGIONAL NOMINATED COUNCILLORS

74. Subject to clause 75, the number of Regional Nominated Councillors nominated to the state Council shall be less or equal to the number required or able to be elected under clause 64 in which case no ballot shall be conducted and the Returning Officer shall report to the President accordingly and the President shall declare the Regional Nominated Councillors that have been nominated duly elected as Regional Nominated Councillors.
75. A Region may only nominate one Regional Nominated Councillor to be elected, or able to be elected, from that Region (who shall be the Regional President, except where a different representative for a Region is agreed with the Council).

ELECTION OF MEMBER ELECTED COUNCILLORS

76. Subject to the Corporations Law the election of Member Elected Councillors shall be by ballot and conducted in the manner set out in this Constitution.
77. At least sixty (60) days prior to an election a Returning Officer for the election of Member Elected Councillors shall be appointed by the Council and the Council shall at its last meeting prior to the election appoint two (2) scrutineers. The Returning Officer shall not be a candidate for election to the Council or a Councillor.
78. No Member shall be capable of being elected a Member Elected Councillor unless duly nominated in accordance with this Constitution.
79. A nomination shall be in such form as prescribed by the Council, shall name the nominee and be signed by not less than two (2) Members entitled to vote at such election and shall bear the consent of the candidate for election to their nomination endorsed thereon.
80. Nominations shall be made to the Returning Officer or the Secretary at the Office and shall close at a time and on a date to be fixed by the Council such date being not later than thirty (30) days prior to the Annual General Meeting at which the election is to take place and shall be subject to clause 99.
81. A candidate may withdraw their consent to nomination at any time before the close of nominations (but not after) by lodging with the Returning Officer or the Secretary at the Office a notice of withdrawal and as a consequence the nomination shall be cancelled.

THE BALLOT

82. In respect of Member Elected Councillor elections, if the number of candidates nominated is greater than the number required to be elected, a postal ballot shall be conducted with voting at the ballot to close on a date to be fixed by the Returning Officer such date being not less than one (1) day before the date fixed for the holding of the Annual General Meeting at which the election is to take place and the results of the election declared.
83. The Returning Officer shall cause ballot papers to be prepared which shall contain:
- (a) the names of the candidates in order determined by lot;
 - (b) where in the opinion of the Returning Officer the names of two (2) or more candidates are so similar as to be likely to cause confusion, such other matter as will, in the opinion of the Returning Officer, distinguish them from one another;
 - (c) a statement as to the number of candidates to be elected; and
 - (d) whether on the front or back of the ballot paper, such directions as to the manner in which the vote is to be recorded, ballot paper returned to the Returning Officer and recording of particulars to identify the Member as determined from time to time by the Council. Such directions may be omitted in whole or part where such directions are set out in material which, in the opinion of the Council, is likely to accompany the ballot paper when dispatched to Members.
84. The Council may from time to time determine the manner of identifying the Member. Whatever procedure is determined (whether it be by recording particulars on an envelope addressed to the Returning Officer, the use of slips of paper, a second envelope for enclosing the ballot paper, technical or electrical devices or otherwise) the procedure must maintain the secrecy of the ballot. The requirements of the next three (3) clauses shall be read subject to the procedure so determined by the Council. Unless otherwise determined by the Council the procedure shall be as set out in clauses 85 and 86.
85. The Returning Officer shall despatch by post (or in the manner permitted by Corporations Law) to each Member entitled to vote at meetings of Members a ballot paper or approved form, and may despatch an envelope addressed to the Returning Officer. The ballot papers, approved form or envelope shall provide on it for the Member to record particulars which identify the Member such particulars being determined from time to time by the Council.
86. A Member who wishes to vote shall record the Member's vote by:
- (a) completing the ballot paper, approved form or envelope in accordance with the directions shown on it or shown on any material which accompanied it when despatched;
 - (b) placing the completed ballot paper or approved form in either the envelope addressed to the Returning Officer and despatched with the ballot paper or an envelope provided by the Member which is so addressed;
 - (c) sealing the envelope;
 - (d) recording on the envelope the necessary particulars which identify the Member; and

- (e) returning the envelope to the Returning Officer at any nominated place no later than the close of the ballot.
87. Upon receipt of an envelope purporting to contain a ballot paper or approved form, the Returning Officer shall examine the name or other particulars on the envelope and if satisfied by such examination that a Member of the name or with such particulars is on the Register, is entitled to vote and has not apparently already voted in that ballot, accept the ballot paper in that envelope for scrutiny but the Returning Officer shall reject any ballot paper where the Returning Officer is not so satisfied or where the envelope is received after the close of the ballot.
 88. The Returning Officer may adopt and act on as the voting roll the Register, or a copy of the Register, as at such date in the Election Period as the Returning Officer determines.
 89. The scrutiny of the ballot papers shall commence after the close of the ballot, and shall be conducted by the Returning Officer, in the presence of the scrutineers. Subject to the provisions of the Constitution concerning the death of a candidate, a ballot paper shall be informal if it does not indicate the voter's vote for exactly the number of candidates who are stated on the ballot paper to be elected. A ballot paper shall not be informal for any reason other than specified in this clause, but shall be given effect to according to the voter's intention so far as that intention is clear.
 90. The Returning Officer shall count the votes given for each candidate on all unrejected ballot papers. If any candidates have an equal number of votes the Returning Officer shall have a casting vote which shall be determined by lot. The Returning Officer shall make out and sign a report setting out the number of votes given for each candidate and shall convey the report to the President.
 91. The President shall declare elected as Councillors the eligible candidates who according to the Returning Officer's report have received the highest number of votes or are elected unopposed.
 92. The Councillors so elected shall take office at the conclusion of the Election Period.
 93. Any vacancy in the Council to occur at the conclusion of an Election Period shall be treated as a vacancy.
 94. If during the Election Period any candidate dies and the deceased was a Councillor who was re-nominated:
 - (a) the number of candidates required to be elected shall be reduced by one (1) (for each such deceased) and each of the relevant clause shall be read accordingly;
 - (b) the Council may in the Election Period or thereafter fill the vacancy;
 - (c) if the vacancy is not filled by the Council in that Election Period it shall not be capable of being filled by the ballot being held during the Election Period.
 95. If during the Election Period a Councillor other than a candidate who had been renominated, vacates office:
 - (a) the Council may, in that Election Period or thereafter, fill the vacancy; and

- (b) if the vacancy is not so filled in that Election Period it shall not be capable of being filled by the ballot being held during that Election Period.
96. If during the Election Period any candidate dies and the candidates remaining are not greater in number than the candidates then required to be elected (taking into account the effect of clause 94, if applicable) no ballot shall be conducted and the President shall declare the eligible candidates nominated duly elected. If ballot papers have already been despatched to Members at the time of such death it shall not be necessary for the Returning Officer to examine envelopes or scrutinise any ballot papers that are returned.
97. If during the Election Period any candidate dies and the candidates remaining are greater in number than the candidates then required to be elected (taking into account the effect of clause 95, if applicable), a ballot shall be conducted and the paper shall not be informal by reason only:
- (a) of the inclusion on the ballot paper of the name of the deceased candidate;
 - (b) of the incorrect statement on the ballot paper of the number of candidates to be elected; or
 - (c) of any vote recorded for the deceased candidate or any resultant failure to vote for the exact number of candidates then required to be elected.
98. A person conducting an election for an office in the Company may despite anything contained in this Constitution take such action and give such directions as the person considers necessary in relation to the conduct of the election or in order to ensure that no irregularities occur in relation to the election or to remedy any procedural defects in this Constitution that may appear to the person to exist.
99. The decision of the Returning Officer shall be final and binding with regard to any matter touching the validity or formality of any nomination or vote or on any matter touching or concerning such election and the conduct of the election.

RESIGNATION OF COUNCILLORS

100. Any Councillor may retire from office by giving notice in writing to the Company of the Councillor's intention to do so. Such resignation shall take effect forthwith unless the resignation is stated in the notice to expire at some future time in which event it shall take effect upon the expiration of such time or the date ninety (90) days from the giving of the notice, whichever is the earlier.
101. In addition to the circumstances in which the office of Councillor becomes vacant by virtue of the Corporations Law, the Industrial Relations Law or other provisions of or a change to the Constitution the office of Councillor shall by the very fact be vacated if the Councillor:
- (a) for any reason whatsoever ceases to be a Member or a representative of a Member of the Company;
 - (b) being a Member or a representative of a Member, becomes bankrupt or insolvent or makes an assignment for the benefit of their creditors or proposes to pay a compromise to their creditors;
 - (c) being a representative of a firm any partner in which becomes bankrupt or insolvent or makes an assignment for the benefit of their creditors or proposes to pay a

compromise to their creditors or being the representative of a corporation, organisation, incorporated association or unincorporated association which shall go into liquidation otherwise than for the purposes of reconstruction or makes any arrangement or composition with creditors generally;

- (d) becomes mentally incapable or the Councillor's estate is liable to be dealt with in a way under the law relating to mental health;
- (e) is prohibited or disqualified from being a director pursuant to the provisions of the Corporations Law, the Industrial Relations Law or by reason of any order made under the Corporations Law;
- (f) the entitlement to remain a Councillor no longer subsists (for example, the person ceases to be the Regional President of a Region, or other capacity agreed with the Council);
- (g) is absent from three (3) consecutive meetings of the Council, unless by leave of absence granted by the Council or through sickness or injury, and the Council resolves, by a resolution passed by the majority of Councillors in attendance at a meeting of the Council, that the Councillor vacate office; or
- (h) in the opinion of the majority of the Council (such opinion not being determined until such Member has been afforded a reasonable opportunity of being heard in their defence) infringe any of the provisions of this Constitution or by-laws of the Company; or any by-laws or order of the Council or be guilty of any act proceeding or practice which the Council may consider to be dishonourable or to be inconsistent with their position as a Member of the Council or calculated to bring discredit on the Company, bring the Company into disrepute or to be otherwise inimical to the interests of the Company.

102. In addition to clause 101, the Members of the Company may remove any Councillor from the Council by passing a Special Resolution to that effect at a Meeting of Members if that Councillor has been found guilty of:

- (a) misappropriation of the funds of the Company;
- (b) a substantial breach of this Constitution; or
- (c) gross misbehaviour or gross neglect of duty;

or has ceased, under this Constitution, to be eligible to remain as a Councillor, PROVIDED THAT the relevant Councillor shall be given at least fourteen (14) days written notice of the grounds upon which the Special Resolution is to be put and also given a reasonable opportunity to present submissions to the Meeting of Members prior to the consideration of the Special Resolution.

FUNCTIONS OF THE COUNCIL

103. The functions of the Council shall be:

- (a) subject to this Constitution to elect from its Members the President and Deputy President as Office Bearers and up to seven (7) other members of the Board;

- (b) to act as principal advisory body of the Company and be responsible for advising the Board on issues affecting or likely to affect Members generally in all matters relevant to the objects for which the Company is established including membership matters and membership fees;
 - (c) to recommend the number of Regions; and
 - (d) to exercise the powers and discretions conferred by this Constitution.
104. Except as permitted by this Constitution, no person shall be eligible as a member of the Board who is not a member of the Council.

PROCEEDINGS OF THE COUNCIL

105. Unless otherwise resolved the Council shall meet at least four (4) times each year at a time and place determined by the President.
106. The business of the Company shall be conducted by the Board who shall meet whenever convened by the President, or in their absence the Deputy President, for that purpose. At the next following Council meeting the Council shall receive a report from the Board on any business conducted by it under this clause and clause 132.
107. A quorum for a meeting of the Council is ten (10) Councillors attending personally, or represented by proxy, or such other number as may be determined from time to time by the Council.
108. The President may at any time convene a meeting of the Council to be held at such a time and place in New South Wales or the Australian Capital Territory as the President chooses and such meeting shall not be invalidated by reason only of lack of convenience if a quorum of Councillors forms.
109. The Secretary shall call a meeting of the Council to be held within fourteen (14) days after and upon the request of twenty per cent (20%) of Council members.
110. Notice of every meeting of the Council shall be given by such means as is convenient (including by telephone) to each Councillor who in the belief of the Secretary, is within Australia but it shall not be necessary to give notice of a meeting of the Council to any Councillor who is absent from Australia or who has been given special leave of absence. The non receipt of the notice by the Councillor does not invalidate the notice.
111. The President or, in the President's absence, the Deputy President, shall be entitled to take the chair at each meeting of the Council. If neither the President nor the Deputy President is present within fifteen (15) minutes after the time appointed for holding such meeting, or neither of them is willing to take the chair, the Councillors present may choose one of their number as a chairman of the meeting.
112. Questions arising at any meeting of the Council shall be decided by a majority of votes and each Councillor attending personally, or represented by proxy, shall have one vote. In case of an equality of votes, the Chairman shall have a second casting vote.
113. A resolution in writing signed by all the Councillors for the time being entitled both to receive notice of a meeting of the Council and to vote on the resolution shall be as valid and effective as if it had been passed at a meeting of the Council duly convened and held. Any such resolution may consist of several documents in like form each signed by one (1) or more

Councillors. 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 Councillor unless the document, by its terms, is said to take effect from an earlier date. A facsimile transmission, electronic communication, computer transmission or such similar means of communication addressed to or received by the Company and purporting to be signed by a Councillor shall, for the purpose of this clause, be deemed to be in writing signed by such Councillor.

114. No resolution passed by a Meeting of Members of the Company shall invalidate any prior act of the Council or the Board which would have been valid if that resolution had not been passed.
115. All acts done in good faith by any collective body of the Company or by persons purporting to act as such collective body and all acts done in good faith by a person holding or purporting to hold an office or position in the Company shall be valid.

ELECTION OF OFFICE BEARERS AND BOARD OF DIRECTORS

116. Every second year a Council meeting shall be convened, within 3 months following the Annual General Meeting, to elect the Board of Directors and Office Bearers in accordance with clause 119.
117. In relation to the term of office:
 - (a) the Directors so elected shall hold office for a period of two (2) years and will automatically retire from their respective positions at the Council meeting referred to in clause 116 following the second Annual General Meeting after the date on which they are elected and be eligible for re-election in that office for a further term or terms;
 - (b) the President so elected shall hold office as a Board Member for a period of four (4) years but will automatically retire from the office of President at the Council meeting referred to in clause 116 following the second Annual General Meeting after the date on which he or she is elected President. The President shall not be eligible for re-election as President for a further term or terms;
 - (c) the Vice President so elected shall hold office for a period of two (2) years and will automatically retire from her or his respective position at the Council meeting referred to in clause 116 following the second Annual General Meeting after the date on which he or she is elected and shall not be eligible for re-election in that office for a further term or terms; and
 - (d) The automatic retirement of Directors and Office Bearers pursuant to this clause 117 takes effect concurrently with the election of new Office Bearers and Directors by the Council pursuant to clause 116.
118. Office Bearers shall be Councillors at the time of their election.
119. The election by the Council of, firstly, Office Bearers and secondly, Councillors to the Board, whenever conducted, shall be conducted in the manner set out in the following sub-clauses
 - (a) Nominations for each position shall be called for and received by a person appointed by the Council to act as the Returning Officer. If no person has been appointed, the Secretary is to act as the Returning Officer for the purpose of any election that is held in accordance with this Constitution.

- (b) The Council shall initially vote in relation to each nominated candidate to ensure each nominated candidate receives a majority vote. Candidates who do not receive a majority vote of the Council will be disqualified. Candidates who receive a majority vote will proceed to the next stage of the election process. For the purposes of the election process the majority shall be determined by reference to the total number of Member Elected Councillors and Regional Nominated Councillors at the commencement of the election process.
- (c) If the number of candidates who receive the majority vote of the Council is equal to or less than the number of candidates required to be elected, the Chairman of the meeting of the Council shall declare the candidates nominated duly elected.
- (d) If the number of candidates nominated who receive the majority vote of the Council is greater than the number of candidates required to be elected a separate ballot shall be conducted to elect each person.
- (e) The ballot papers shall contain the names of the candidates for each election in order determined by lot.
- (f) The Returning Officer shall count the votes in the following manner:
 - (i) the Returning Officer shall arrange the unrejected ballot papers under the names of the respective candidates by placing in a separate pile all those on which the preference is indicated for the same candidate;
 - (ii) the Returning Officer shall count the votes given for each candidate on all unrejected ballot papers;
 - (iii) the candidate, for President or Vice President, who has received the largest number of votes shall be elected;
 - (iv) the seven (7) candidates for the Board who receive the largest number of votes shall be elected;
 - (v) as between candidates who receive an equal number of votes the Returning Officer shall determine which candidate is elected by lot;
 - (vi) the Returning Officer's decision of the validity of ballot papers shall be final; and
 - (vii) the Returning Officer shall convey the result of the ballot to the Chairman of the meeting of the Council who shall declare the result of the ballot.

120. The Members do not have the power to elect or appoint Directors or Office Bearers at a Meeting of Members or to fill a vacancy. Directors and Office Bearers shall be elected by the Council pursuant to clause 116 or clause 122.

REMOVAL OF BOARD MEMBERS

121. Any Board Member may retire or resign from that office by giving notice in writing to the Company of the Board Member's intention to do so. Such retirement or resignation shall take effect forthwith unless the retirement or resignation is stated in the notice to expire at some future time in which event it shall take effect upon the expiration of such time or the date

upon which the Members remove the Board Member from that office, whichever is the earlier.

122. The Council may at any time and from time to time appoint any Councillor to fill a vacancy in the Board. The continuing Board Members may act despite any vacancy in the Board pending the vacancy being filled by the Council.
123. Any Board Member appointed under the preceding clause shall hold office up to the election of new Office Bearers and Directors by the Council pursuant to clause 116.
124. The Members may, in accordance with the Corporations Law, remove any Board Member from that office.
125. In addition to the circumstances in which the office of Board Member becomes vacant by virtue of other provisions of this Constitution, but subject to clause 129, the office of Board Member shall, by the very fact, be vacated if the Board Member:
 - (a) is absent from meetings of the Board for a continuous period of three (3) consecutive meetings of the Board or six (6) months without leave of absence from the Board and the Council thereupon declares the Board Member's seat to be vacant; or
 - (b) ceases to be a Councillor or a Member or representative of a Member.
126. The President shall ex officio be Chairman of the Board and in their absence the Deputy President shall act as Chairman.
127. In the absence of the President and Deputy President the Board Members shall elect a Chairman.

REMOVAL OF OFFICE BEARERS

128. Subject to clause 129, the office of Office Bearer shall, by the very fact, be vacated if the Office Bearer:
 - (a) retires from that office by giving notice in writing to the Company of the Office Bearer's intention to do so;
 - (b) ceases to be a Councillor or ceases for a period of thirty (30) days or more to be a Member or a representative of a Member of the Company. The Council may at any time and from time to time appoint a Councillor to fill a vacancy of an Office Bearer for the term unexpired of that Office Bearer; or
 - (c) in addition to other circumstances in which the office of Office Bearer becomes vacant as provided for in this Constitution, the office of Office Bearer shall automatically be vacated if the Director elected as Office Bearer:
 - (i) is prohibited from being or ceases to be or is removed as a Director pursuant to the provisions of the Corporations Law or by reason of any order made under the Corporations Law;
 - (ii) becomes bankrupt or makes any composition or arrangement with their creditors or any class of their creditors;

- (iii) 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;
- (iv) is absent from meetings of the Directors during a period of three (3) consecutive meetings of the Board or six (6) months without special leave of absence from the Board and the Directors as a result declare their office to be vacant; or
- (v) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Corporations Law.

OFFICE BEARERS AND BOARD MEMBERS CEASING AS COUNCILLORS

129. Notwithstanding clause 125(b) and clause 128(b), if an Office Bearer or Board Member ceases to be a Councillor during the period from the commencement of the Annual General Meeting to the Council meeting referred to in clause 116, the relevant Office Bearer or Board Member shall continue to hold office as an Office Bearer or Board Member until the election of the new Office Bearers and Board Members by the Council pursuant to clause 116.

BOARD OF DIRECTORS

130. There shall be a Board of Directors which shall consist of not less than eight (8) or more than ten (10) persons as determined from time to time by the Council constituted as follows:

- (a) the President of the Company who shall hold office as a Board Member ex officio;
- (b) the Deputy President of the Company who shall hold office as a Board Member ex officio; and
- (c) up to seven (7) Councillors elected by and from the Council,

provided that at all times, subject to clause 129, the Board Members shall be Councillors.

131. The Directors and Councillors shall be entitled to payment of up to an aggregated amount as resolved by the Council from time to time, or such other fees for their service as is decided at any time in any resolution passed by the Council. As at the date of this Constitution, the aggregate amount is up to \$1,000,000, per annum.

- (a) Fees payable under this clause 131 shall accrue from day to day and be:
 - (i) allocated among the Directors and Councillors in any proportions agreed by the Board; and
 - (ii) exclusive of any benefit provided by the Company to Directors or Councillors in compliance with any legislative scheme, including any superannuation guarantee or similar scheme, or any other benefit permitted by the Corporations Law or this Constitution.
- (b) Any Director engaged as an executive director and remunerated under an engagement agreement shall not be paid fees under this provision.
- (c) Any Director shall be entitled to payment or reimbursement of any travelling and other cost properly incurred by that Director in attending and returning from any

meeting, Board or Committee meeting, or general meeting or otherwise in connection with the business of the Company.

- (d) The Company may pay any special and additional remuneration as decided by the Board to any Director or Councillor, who performs any extra service, travelling or going to reside overseas or makes any special effort for the benefit of the Company.
- (e) Any special or additional remuneration shall not compromise any commission on or percentage of profits, operating revenue or turnover.
- (f) A Director may be engaged as an agent of the Company in any other capacity, except as an auditor, upon any provisions as to remuneration, engagement period and otherwise as decided by the Board.

FUNCTIONS OF THE BOARD

- 132. Subject to the Corporations Law 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 Corporations Law, or this Constitution.
- 133. 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 Corporations Law and the general law.

CHIEF EXECUTIVE OFFICER

- 134. The Board may from time to time appoint a person to be Chief Executive Officer of the Company, define that person’s powers, fix that person’s remuneration and duties and from time to time (subject to the provisions of any contract between the person and the Company) vary any of the powers so conferred and revoke such appointment and appoint another in that person’s place.

PROCEEDINGS OF THE BOARD

- 135. The Board Members may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they see fit. Board Members may conduct their meetings by telephone or other form of electronic communication without a Board Member being in the physical presence of another Board Member or other Board Members providing all Board Members are thereby enabled to hear and be heard by each other.
- 136. A quorum for a meeting of the Board is five (5) Board Members.
- 137. The President may at any time convene a meeting of the Board to be held at such time and place in Sydney or such other place as may be agreed by a majority of the Board, 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.
- 138. The Secretary, upon the request of any other Board Member, shall convene a meeting of the Board to be held within fourteen (14) days of such request at such time and place as is convenient to the Board.

139. Notice of every Board meeting shall be given by such means as is convenient (including by telephone) to each Board Member who, in the belief of the Secretary, is within Australia but it shall not be necessary to give notice of a meeting of the Board to any Board Member who is absent from Australia or who has been given special leave of absence.
140. 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 Chairman shall have a second or casting vote.
141. A resolution in writing signed by all the Board Members for the time being in Australia entitled both to receive notice of a meeting of the Board and to vote on the resolution shall be as valid and effectual as if it had 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 Member. 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, electronic transmission, computer transmission or such similar means of communication which is 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.
142. A Board Member must personally attend Board Meetings and is not entitled to appoint a Councillor, or any other person to act as an alternate Board Member during their absence.

COMMITTEES

143. Each of the Council and the Board may, by resolution:
- (a) delegate any of its powers to committees consisting of such member or members of its body as it may think fit to act; and
 - (b) establish advisory committees (or other committees not having delegated power) consisting of such person or persons as it may think fit,
- any committee so formed or person or persons so appointed shall, in the exercise of the powers so delegated, or functions entrusted conform to any regulations that may from time to time be imposed by the Council or Board as the case may be.
144. The meetings and proceedings of any committee consisting of two (2) or more persons shall be governed by the provisions in the Constitution for regulating the meetings and proceedings of the Board so far as they are capable of application and not affected by any resolution or regulation made by the Council or Board under the preceding clause.

SECRETARY

145. The Secretary shall be appointed by the Board and shall hold office until the Secretary's services are terminated by the Board. The Company shall at all times have at least one (1) Secretary residing in Australia.
146. The Secretary shall perform such duties as are required of that person by the Corporations Law, the Industrial Relations Law and this Constitution and, in addition, shall perform such duties and exercise such powers as shall from time to time be directed by the Board.

147. The Board may also appoint an Assistant Secretary or Assistant Secretaries and temporary substitutes for the Secretary. Any such Assistant Secretary or temporary substitute shall for the purposes of this Constitution be deemed to be and may fulfil the duty of the Secretary subject to any limitation prescribed by the Board.

EXECUTION OF DOCUMENTS

148. Without limiting the manner in which the Company may execute any instrument, including as permitted under section 127 of the Corporations Law, the Company may execute any instrument by:
- (a) two (2) Directors signing the same; or
 - (b) one (1) Director and one (1) Secretary signing the same.
149. Nothing in this Constitution requires the Company to execute any instrument under common seal for the same to be effectively executed by the Company.

SAFE CUSTODY

150. The Directors shall provide for the safe custody of the Seals.

NOTICES

151. Where the Constitution, the Corporations Law or other legislation requires or permits a document to be served on, given, sent or despatched to, any person, whether any such expression or any other expression is used (in this and the next clause referred to as “served”) the document may be served on the person:
- (a) by delivering it to the person personally;
 - (b) by despatching it, whether by post, contractor, agent, electronic means or otherwise, to the address of the place of residence or business of that person last known to the person serving the document or, in the case of a Member to the address of the Member entered in the register and the document, by such despatch, shall be regarded as left at that address;
 - (c) by publication in a newspaper circulating generally in New South Wales;
 - (d) by publication in or accompanying any bulletin, journal, gazette or like publication published by the Company from time to time for its Members if delivered or despatched in the manner referred to in sub-clauses 151(a) and 151(b).
152. A document served under the preceding clause shall be deemed to have been duly served, irrespective of whether it is actually received:
- (a) where sub-clauses 151(b) and 151(d) of that clause applies on the day following the day when despatch occurred; and
 - (b) where sub-clause 151(c) of that clause applies the day the newspaper is first published.
153. It shall not be necessary to give a ballot paper or a notice of meeting of Members to any person entitled to receive same where the address on the register is outside Australia.

154. In the case of a joint membership all notices may be given to the first named in the register and notice so given shall be sufficient notice to all the persons or entities admitted as that single member.
155. Subject to the Corporations Law, where a specified number of days notice or notice extending over any period is required to be given, both the day of service and day upon which notice will expire shall be included in such number of days or other period.

INSPECTION OF RECORDS

156. Subject to the Corporations Law and the Industrial Relations Law, the Directors shall decide whether and to what extent, and at what time and places and under what conditions, the Register, the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than those who are also Directors).
157. A Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in a Meeting of Members.

ACCOUNTS

158. The Board shall cause proper accounting and other records to be kept and shall distribute copies of every profit and loss account and balance sheet (including every document required by law to be attached thereto) accompanied by a copy of the Auditors report thereon as required by the Corporations Law and Industrial Relations Law, provided however, that the Board shall cause to be made out and laid before each Annual General Meeting a balance sheet and profit and loss account made up to date not more than five (5) months before the date of the meeting.
159. The Board shall determine from time to time the level above which all accounts shall be paid by cheque or by electronic transfer and such cheques shall be signed and countersigned respectively, or such electronic transfers authorised by such persons as may from time to time be authorised by the Board.
160. For the purpose of clause 3 of the Constitution the rate of interest in respect of money lent by Members to the Company shall not exceed the lowest rate paid on the commensurate amounts for the time being by the Commonwealth Bank of Australia in respect of term deposits.

AUDIT

161. The Company shall in accordance with the Corporations Law and Industrial Relations Law and, if required by the Corporations Law or the Industrial Relations Law, appoint a person or persons or a firm or firms or a person or persons and a firm or firms as auditor or auditors of the Company to report to the Members on the accounts 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 accounts and whose duties shall be otherwise regulated by the Corporations Law.

WINDING UP

162. The provisions of clause 4 of the Constitution relating to the winding up or dissolution of the Company shall have effect and be observed as if the same were repeated in this Constitution.

INDEMNITIES AND INSURANCE

163. To the extent permitted by law:

- (a) every person who is or has been an Officer of the Company or of a related body corporate of the Company will be indemnified out of the property of the Company against any liability for costs and expenses incurred by that person in defending any action for a liability incurred as an Officer of the Company or related body corporate of the Company;
- (b) every person who is or has been an Officer of the Company or of a related body corporate of the Company will be indemnified out of the property of the Company against any liability as an Officer of the Company or related body corporate of the Company; and
- (c) the Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been an Officer of the Company or of a related body corporate of the Company against a liability incurred by the person in their capacity as an Officer of the Company or a related body corporate of the Company.

CHANGE OF STATUS

164. Any resolution to be proposed pursuant to Section 162 of the Corporations Law may only be passed by the majority as described in clause 8 of the Constitution.

SCHEMES OF ARRANGEMENT

165. An application to the Court under Section 411(1) of the Corporations Law may only be made by the Company following the passing of a special resolution of the Company authorising the Directors to make such an application which has been passed by the majority as described in clause 8 of the Constitution.