

Good Environmental Choice Australia

Transforming the actions of business and consumers to drive a substantial increase in the sustainability of consumption.



CONSTITUTION

June 2015

A public company limited by guarantee, registered in New South Wales.

CORPORATIONS ACT 2001

PUBLIC SPECIAL PURPOSE COMPANY LIMITED BY GUARANTEE

CONSTITUTION

OF

GOOD ENVIRONMENTAL CHOICE – AUSTRALIA
ACN 118 766 153

PRELIMINARY

1. MEANING OF WORDS AND INTERPRETATION

1.1 In this Constitution:

'Act' means the Corporations Act of Australia as amended from time to time.

'Alternate Director' means a person appointed as an alternate director under clause 34.

'Auditor' means the Company's auditor.

'Company' means Good Environmental Choice Australia. ACN 118 766 153

'Constitution' means the constitution of the Company as amended from time to time.

'Consumers' means industry, government and the general public where they are buyers of products that have an environmental impact.

'Director' includes any person occupying the position of director of the Company and, where appropriate, includes an Alternate Director.

'Directors' means all or some of the Directors acting as a board.

'Honorary Member' means a Member as defined in clause 5.2

'Member' means a member under clause 5, and includes Honorary Members and Ordinary Members.

'Office' means the Company's registered office.

'Ordinary Member' means a Member as defined in clause 5

'Register' means the register of Members of the Company.

'Registered Address' means the last known address of a Member as noted in the Register.

'Representative' means a person appointed as such under clause 8

'Seal' means the Company's common seal (if any).

'Secretary' means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of those joint secretaries.

1.2 In this Constitution:

- (a) the singular includes the plural and vice versa and words importing a gender include other genders.
- (b) words importing natural persons include corporations.
- (c) words and expressions defined in the *Corporations Act 2001* have the same meaning in this Constitution.
- (d) headings are for ease of reference only and do not affect the construction of this Constitution.

1.3 Unless the contrary intention appears in this Constitution, an expression in a clause of this Constitution has the same meaning as in a provision of the Act that deals with the same matter as the clause.

1.4 To the extent permitted by law, the replaceable rules in the Act do not apply to the Company.

2. OBJECTS

2.1 The objects for which the Company is established are:

- a) To encourage the development of the industrial and manufacturing resources of Australia towards environmental innovation and domestic and international recognition of this innovation.
- b) To deliver to the Australian market a national environmental labelling and declaration program in conformance to international best practice and international standards recognising environmentally innovative products and services to be known as the "Australian Ecolabel Program".

The goals of the Australian Ecolabel Program are to:

- (i). Deliver a national full product life cycle environmental labelling program in general conformance to ISO 14024 as a Third Party Independent Program.
- (ii). Improve the quality of the environment by promoting sustainable consumption in Australia.
- (iii). Provide market incentives to reduce the environmental impacts of products sold in Australia principally by certifying products that have environmental credentials on a life cycle assessment basis;
- (iv). Provide a clear, credible and independent guide to consumers wishing to take account of

environmental impacts in their purchasing decisions;

- (v). Encourage consumers to purchase products which have lower environmental impacts;
- (vi). Recognise and reward activities by organisations to reduce the adverse environmental impacts of the life cycle of their products and services; and
- (vii). Provide guidance to organisations seeking to reduce their environmental impacts.
 - c) To deliver programs to the broad Australian community promoting lifestyles, consumption behaviors and the establishment of community attitudes that preserve and enhance the natural environment.
 - d) To promote and develop information on the environmental and social impacts of market activity and with the objective of increasing market efficiency, raising awareness of market externalities, promoting good market practice by organizations in Australia or that trade with Australia .
 - e) To act as a representative office for overseas ISO 14024 based environmental labelling programs.
 - f) To deliver and regularly review other environmental standard setting and verification activities where these will help to effectively reduce the environmental impact by Australians to the biosphere.

2.2 The assets and income of the Company shall be applied solely in furtherance of its above mentioned objects and no portion shall be distributed directly or indirectly to the members of the Company except as bona fide compensation for services rendered or expenses incurred on behalf of the Company.

2.3 The Company may only exercise the powers in section 124(1) of the Act to: carry out the objects in this clause 2 and do all things incidental or convenient to achieve this.

3. INCOME AND PROPERTY OF THE COMPANY

3.1 The income and property of the Company will only be applied towards the promotion of the objects of the Company set out in clause 2.

3.2 No income or property will be paid or transferred directly or indirectly to any Member of the Company except for payments to a Member:

- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
- (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.

3.3 True accounts shall be kept of all monies received and expended by the Company and the matters in

respect of which such receipt and expenditure takes place, and of the property, credits and liabilities of the Company.

4. PAYMENTS TO DIRECTORS

No payment will be made to any Director of the Company except:

- (a) for out of pocket expenses incurred by the Director in performing any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- (b) relating to an indemnity in favour of a Director and permitted by section 199A of the Act or a contract of insurance permitted by section 199B or
- (c) as allowed by section 150, 199A or 199B of the Act .
- (d) by way of an amount for Directors fees determined by the Board from time to time with the limitation that Directors fees must in aggregate be no more than an amount specified by the members in general meeting or in the absence of any specification by members no more than 10% of the company's total revenue for the preceding financial year.
- (e) payment to a Director serving in an executive role in the company for such time as she or he is appointed to that role by the Board at a rate determined by the Board to be reasonable having regard to general market conditions and the salary of the CEO and other senior staff of the organisation.

5. ADMISSION AS A MEMBER

5.1 There shall be two classes of membership of the Company, namely:

1. Ordinary Members
2. Honorary Members

5.2 The Honorary Members of the Company shall be natural persons accepted by the Directors as having rendered meritorious service to the Company, and who have consented to become Honorary Members. The term of appointment shall be determined by the Directors but is usually life membership.

5.3 Maximum number of members.

The total number of Ordinary Members of the Company shall not exceed 2000 or such higher number as is determined from time to time by the Directors.

5.4 Conditions governing membership

Any body corporate or other entity including a natural person may apply to be admitted as an Ordinary Member of the Company if it:

- (a) demonstrates to the satisfaction of the Directors sufficient interest, concern and knowledge of the affairs of the Company;
- (b) provides the Directors with any particulars, undertakings or documents the Directors require;
- (c) is approved by the Directors; and
- (d) agrees to be bound by this Constitution by signing and forwarding an application to the Secretary in the following form:

[name of entity] applies to become a member of Good Environmental Choice Australia and agrees to be bound by the Constitution of the Company and abide by the Code of Conduct attached to this application.

Dated:

Signed:

Title:

5.5 Application for membership

- (a) Each application for membership shall be sent to the Secretary and accompanied by a remittance of any entrance fee and any annual or other subscription fees payable, the remittance to be refunded in the event the applicant is not admitted to membership.
- (b) The fees payable pursuant to this rule shall be the amount determined from time to time by the Directors.

5.6 Admission to membership

- (a) An application for Membership must be made in the form and accompanied by any fee prescribed by the Board. The Board will consider and in its absolute discretion accept or reject any application. The Board is not required to give any reasons for the rejection of an application. If the Board rejects the application, any moneys tendered with it will be repaid to the applicant without interest.
- (b) Where the Board approves an application for membership the Secretary will enter the candidate's name on the Register.

5.7 Annual subscription fee and other fees

- (a) The Directors shall determine the amount of fees payable by Members, including the annual subscription fee and entrance fee (if any). Separate fees may be determined by the Directors for each Membership Group. The Directors may grant any concession in regard to membership fees that they see fit, including the full or partial waiver of all or any of such fees.
- (b) The Directors shall review the fees payable by Members as they consider necessary, but at least once each financial year.
- (c) The annual subscription fee (if any) shall be payable annually in advance on the first day of the month in which each Member's membership anniversary falls or on such other day as the Directors

determine.

- (d) Any other fees shall be payable at the time determined by the Directors, provided that members are given at least two months prior notice.
- (e) A member who ceases to be a member before any fee becomes due and payable shall not be liable for that fee.
- (f) The Directors may remit the annual subscription fee and other fees, and any arrears thereof, of any member on any grounds they consider appropriate.

5.8 Resignation of membership

A Member's resignation shall be in writing and addressed and forwarded to the Secretary.

5.9 Effect of termination on fees due and payable

Subject to rule 5.7(e), resignation or other termination of a Member's membership of the Company will not relieve a Member of responsibility for any financial obligations, including fees and other amounts due and payable, accrued up to the effective date of termination.

5.10 The rights and privileges of every Member will be personal to each Member and will not be transferable by the Member or by operation of law.

6. CEASING TO BE A MEMBER

6.1 Membership of the Company will cease:

- (a) if the Member gives the Secretary written notice of resignation, from the date of receipt of that notice by the Secretary;
- (b) if a majority of three-quarters of the Directors present and voting at a meeting of Directors by resolution terminate the membership of a Member: whose conduct in their opinion renders it undesirable that that Member continue to be a Member of the Company.
- (c) where the Member is an individual, if the Member:
 - (i) dies;
 - (ii) becomes mentally incapacitated or someone whose person or estate is liable to be dealt with in any way under the laws relating to mental health; or
 - (iii) is convicted of an indictable offence; or
- (d) where the Member is not an individual, if:
 - (iv) a liquidator is appointed in connection with the winding up of the member or;
 - (v) an order is made by a Court for the winding-up or deregistration of the member.

6.2 Member entitled to due process

If a resolution under clause 6.1(b) is proposed in relation to any Member, that Member is entitled to:

- (a) receive at least seven days' notice of the resolution and notice of the reason(s) that the resolution is proposed; and
- (b) put their case to the Directors by giving the Secretary a written statement for circulation to the Directors and speaking to the resolution for a reasonable time (which time is to be determined by the Chairperson) at the meeting at which the resolution is considered.

A statement given under paragraph (b) must be circulated to the Directors before the meeting or, if there is insufficient time, read out at the meeting before the resolution is considered, unless the statement is more than 1,000 words long or is considered defamatory by the Chairperson.

6.3 Any Member ceasing to be a Member:

- (a) will not be entitled to any refund of any part of a subscription; and
- (b) will remain liable for and will pay to the Company all subscriptions and moneys which were due at the date of ceasing to be a Member.

7 POWERS OF ATTORNEY

- 7.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the Attorney to the Company for notation.
- 7.2 If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- 7.3 The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

8 REPRESENTATIVES

- 8.1 Any corporation or organisation which is a Member must by written notice to the Secretary:
 - (a) appoint a natural person to act as its Representative in all matters connected with the Company as permitted by the Act; including setting out restrictions (if any) on the Representatives powers, and;
 - (b) remove a Representative.
- 8.2 A natural person may only act as a Representative for one Member at any given time.

8.3 A Representative is entitled to:

- (c) exercise at a general meeting all the powers which the corporation or organisation which appointed him or her could exercise if it were a natural person;
- (d) stand for election as an office bearer or Director; and
- (e) be counted towards a quorum on the basis that the Member corporation or organisation is to be considered personally present at a general meeting by its Representative.

8.4 A certificate executed in accordance with section 127 of the Act is rebuttable evidence of the appointment or of the removal (as appropriate) of the Representative.

9 CALLING A GENERAL MEETING

9.1 Any Director may, at any time, call a general meeting.

9.2 A Member may: only request the Directors to call a general meeting in accordance with section 249D of the Act.

10 NOTICE OF GENERAL MEETING

10.1 Subject to the provisions of the Act allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) of any general meeting must be given to Members.

10.2 A notice calling a general meeting:

- (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
- (b) must state the general nature of the business to be conducted at the meeting (and if the business includes a special resolution, the terms of that resolution); and
- (c) may specify a place, facsimile number and electronic address for the purposes of appointing a proxy.

10.3 A notice of an annual general meeting need not state that the business to be conducted at the meeting includes:

- (d) consideration of the annual financial report, Directors' report and the Auditor's report;
- (e) the election of Directors; or

(f) the appointment and fixing of the remuneration of the Auditor.

- 10.4 (a) The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 9.2).
- (b) The Directors must give notice of the postponement or cancellation to all persons entitled to receive notices from the Company.
- 10.5 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

11. QUORUM

- 11.1 No business may be transacted at a general meeting unless a quorum of Members is present in person or by Representative when the meeting proceeds to business.
- 11.2 A quorum of Members is 5 Ordinary Members present in person or by Representative.
- 11.3 If a quorum is not present within 30 minutes after the time appointed for a meeting:
- (a) if the meeting was called on the requisition of Members, it is automatically dissolved;
or
 - (b) in any other case:
 - (i) the meeting will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
 - (ii) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is automatically dissolved.

12 CHAIRPERSON

12.1 The Chairperson of the Board of Directors, or in the Chairperson's absence the deputy Chairperson, will be the Chairperson at every meeting of Members.

12.2 The Directors present may elect a Chairperson for a meeting of Members .If:

- (a) there is no Chairperson or deputy Chairperson; or
- (b) neither the Chairperson nor deputy Chairperson is present within 15 minutes after the time appointed for holding the meeting; or
- (c) the Chairperson and deputy Chairperson are unwilling to act as chairperson of the meeting,

12.3 If no election is made under clause 12.2, then:

- (d) the Members may elect one of the Directors present as Chairperson; or
- (e) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.

12.3 If there is a dispute at a general meeting about a question of procedure, the Chairperson may determine the question.

13 ADJOURNMENT

13.1 The Chairperson of a meeting at which a quorum is present:

- (a) in his or her discretion may adjourn a meeting with the meeting's consent; and
- (b) must adjourn a meeting if the meeting directs him or her to do so.

13.2 An adjourned meeting may take place at a different venue to the initial meeting.

13.3 The only business that can be transacted at an adjourned meeting is the unfinished business of the initial meeting.

13.4 Notice of an adjourned meeting need only be given in accordance with clause 10 if a general meeting has been adjourned for more than 21 days.

14. DECISION ON QUESTIONS

14.1 Subject to the Act in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

14.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the Act.

14.3 Unless a poll is demanded:

- (a) a declaration by the Chairperson that a resolution has been carried, carried by a specified majority, or lost; and
- (b) an entry to that effect in the minutes of the meeting, are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

14.4 The demand for a poll may be withdrawn.

14.5 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the meeting was not entitled to do so.

15. TAKING A POLL

- 15.1 A poll will be taken when and in the manner that the Chairperson directs.
- 15.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.
- 15.3 The Chairperson may determine any dispute about the admission or rejection of a vote.
- 15.4 The Chairperson's determination, if made in good faith, will be final and conclusive.
- 15.5 A poll demanded on the election of the Chairperson or the adjournment of a meeting must be taken immediately.
- 15.6 After a poll has been demanded at a meeting, the meeting may continue for the transaction of business other than the question on which the poll was demanded.

16. CASTING VOTE OF CHAIRPERSON

The Chairperson does not have a casting vote in addition to the Chairperson's votes as a Member, proxy, attorney or Representative. If the votes are even then the Chairperson's vote is counted as null and the votes recounted.

17. OFFENSIVE MATERIAL

A person may be refused admission to, or required to leave and not return to, a meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
 - (i) electronic or recording device;
 - (ii) placard or banner; or
 - (iii) other article,

which the Chairperson considers to be dangerous, offensive or liable to cause disruption.

18. ENTITLEMENT TO VOTE

- 18.1 A Member is not entitled to vote at a general meeting if the Member's annual subscription is more

than one month in arrears at the date of the meeting.

18.2 A Member entitled to vote has one vote.

19. OBJECTIONS

19.1 An objection to the qualification of a voter may only be raised at the meeting or adjourned meeting at which the voter tendered its vote.

19.2 An objection must be referred to the Chairperson of the meeting, whose decision is final.

19.3 A vote that the Chairperson does not disallow because of an objection is valid for all purposes.

20. VOTES BY PROXY OR ATTORNEY

20.1 If a Member appoints a proxy or an attorney, the proxy or attorney may not vote on a show of hands.

20.2 A proxy or attorney may demand or join in demanding a poll and may vote on a poll

21 APPOINTING A PROXY

21.1 An appointment of a proxy is valid if the Member making the appointment signs it and contains the information required by subsection 250A(1) of the Act. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required by section 250A(1) of the Act.

21.2 For the purposes of clause 21.1, an appointment received at an electronic address will be taken to be signed by the Member if:

(a) a personal identification code allocated by the Company to the Member has been included in the appointment; or

(b) the appointment has been verified in another manner approved by the Directors.

21.3 A proxy need not be a Member.

21.4 A proxy may vote or abstain as he or she chooses except where an appointment of the proxy directs the way the proxy is to vote on a particular resolution. Unless otherwise indicated when voting, if a proxy votes at all, the proxy will be deemed to have voted all directed proxies in the manner directed.

21.5 A proxy's appointment is valid at an adjourned meeting.

21.6 A proxy or attorney may be appointed for all meetings or for any number of meetings or for a particular purpose.

21.7 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:

- (a) to vote on:
 - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
 - (ii) any procedural motion, including any motion to elect the Chairperson, to vacate the chair or to adjourn the meeting, even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
- (b) to vote on any motion before the meeting whether or not the motion is referred to in the appointment.

21.8 If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the Chairperson may either cast as proxy or complete the appointment by inserting the name or names of one or more Directors or the Secretary.

22. LODGMENT OF PROXY

22.1 The Company must receive the written appointment of a proxy or attorney at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:

- (a) the time for holding the meeting or adjourned meeting at which the appointee proposes to vote; or
- (b) the taking of a poll on which the appointee proposes to vote.

22.2 The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:

- (a) the Office;
- (b) a facsimile number at the Office; or
- (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

23. VALIDITY

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointer:

- (a) died;
- (b) became mentally incapacitated; or
- (c) revoked the proxy or power,

unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant meeting or adjourned meeting.

24. BOARD OF DIRECTORS

- 24.1 The business of the Company is managed by the Board of Directors who may exercise all powers of the Company that this Constitution and the Act do not require to be exercised by the Company in general meeting.
- 24.2 Without limiting the generality of clause 24.1, the Directors may exercise all the powers of the Company to:
- (a) borrow money;
 - (b) charge any property or business of the Company;
 - (c) give security for a debt, liability or obligation of the Company or of any other person; and
 - (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

25. NUMBER OF DIRECTORS

- (a) There will not be less than three, nor more than seven Directors, unless the Company in a general meeting by resolution changes the minimum or maximum number.
- (b) No more than two Directors at any one time may be employees or significant shareholders in a company that manufactures, distributes or markets in Australia a product that is licensed to bear the GECA ecolabel.

26. APPOINTMENT AND REMOVAL OF DIRECTORS

- 26.1 The Company may by resolution passed in general meeting:
- (a) appoint new Directors;
 - (b) subject to clause 25 increase or reduce the number of Directors;
 - (c) remove any Director before the end of the Director's period of office; and
 - (d) appoint another person in the Director's place.
- 26.2 A person appointed under clause 26.1 (d) will hold office for the period for which the Director replaced would have held office if the Director had not been removed.

27. ADDITIONAL AND CASUAL DIRECTORS

27.1 The Directors may:

- (a) appoint any person as a Director to fill a casual vacancy.
- (b) appoint any person as an additional Director if in the opinion of the Directors it is in the interests of the company to do so. A maximum of two persons may be so appointed.

28. TERM OF OFFICE AND RETIREMENT

28.1 A Director must retire from office at the conclusion of the third annual general meeting after the Director was last elected.

28.2 A retiring Director will be eligible for re-election but must not serve more than four consecutive terms in office.

28.3 The period in office or number of the terms of office of a Director prior to the adoption of this Constitution are not to be included in calculating eligibility for continuing office as a Director, and such calculations will only commence in respect of periods in office or numbers of terms of office after the date of adoption of this constitution.

29. NOMINATION OF DIRECTOR

29.1 A person other than a retiring Director is not eligible for election as a Director at a general meeting unless the person, or a Member who intends to propose the person, has left at the Office a written notice signed by him or her:

- (a) giving the person's consent to the nomination; and
- (b) stating either that the person is a candidate for the office of Director or that the Member intends to propose the person for election.

29.2 A notice given in accordance with clause 29.1 must be left at the Office at least 15 days before the relevant general meeting.

29.3 A written notice referring to all Director vacancies and each candidate for election, must be sent to all Members at least seven days before every general meeting at which an election of a Director will take place.

30. VACATION OF OFFICE

The office of a Director immediately becomes vacant if the Director:

- (a) is prohibited by the Act from holding office or continuing as a Director;
- (b) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs.
- (c) resigns by notice in writing to the Company; or
- (d) is removed by a resolution of the Company;
- (e) is absent from 3 consecutive Directors' meetings without leave of absence from the Directors;
- (f) holds any office of profit under the Company;
- (g) 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 Act
- (h) is the Chief Executive Officer (or equivalent) of a Member that ceases to be an Ordinary Member. Or
- (i) is a Representative of a Member in a Membership Group, where at least one half of the Directors then in office are Representatives or employees or officers of Members in the same Membership Group.

31. DIRECTORS' MEETINGS

- 31.1 (a) The Directors shall meet a minimum of two times per year.
- 31.2 (b) A Director may at any time, and the Secretary must on the request of a Director, call a Directors' meeting by notifying all directors via any communication means and confirming the next suitable date for such a meeting.
- (c) A Directors' meeting must be called on at least 48 hours written notice of a meeting to each Director and each Alternate Director.
- (d) A quorum for a meeting of the Board is 3 or 50% of the Directors then in office whichever is the larger at the time.
- 31.3 It is not necessary to give notice of a meeting of the Directors to a Director whom the Secretary, when giving notice to the other Directors, reasonably believes to be outside Australia.
- 31.4 (a) Subject to the Act the Directors may hold a Directors' meeting by communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.

- (b) The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- (c) A Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.

31.5 Clause 31.3 applies to meetings of Directors' committees as if all committee members were Directors.

31.6 The Directors may meet together, adjourn and regulate their meetings as they think fit.

31.7 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

32. DECISION ON QUESTIONS

32.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to this clause, each Director has one vote.

32.2 The chairperson of a meeting does not have a casting vote in addition to his or her deliberative vote.

- (a) An Alternate Director has one vote for each Director for whom he or she is an alternate.

- (b) If the Alternate Director is a Director, he or she also has a vote as a Director.

33. DIRECTORS' INTERESTS

33.1 A Director or a body or entity in which a Director has a material personal interest may not:

- (a) enter into any agreement or arrangement with the Company except as permitted by clause 4 of this Constitution;

- (b) hold any office or place of profit in the Company; or

- (c) act in a professional capacity for the Company.

33.2 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:

- (a) be present while the matter is being considered at the meeting;

or

- (b) vote on the matter, unless permitted by the Act to do so, in which case the Director may:

- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
- (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

33.3 A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise, but is accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate unless the Members by ordinary resolution determine otherwise.

34. ALTERNATE DIRECTORS

- 34.1 A Director may, with the approval of the Directors, appoint any person as his or her alternate for a period determined by that Director.
- 34.2 An Alternate Director is entitled to notice of Directors' meetings and, if the appointor is not present at a meeting, is entitled to attend, be counted in a quorum and vote as a Director.
- 34.3 An Alternate Director is an officer of the Company and is not an agent of the appointor.
- 34.4 The provisions of this Constitution that apply to Directors also apply to Alternate Directors.
- 34.5
 - (a) The appointer or the other Directors may revoke the appointment of an Alternate Director at any time.
 - (b) An Alternate Director's appointment ends automatically when his or her appointer ceases to be a Director.
- 34.6 Any appointment or revocation under this clause must be effected by written notice delivered to the Secretary.

35. REMAINING DIRECTORS

- 35.1 The Directors may act even if there are vacancies on the board.
- 35.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:
 - (a) appoint a Director; or
 - (b) Call a general meeting

36. CHAIRPERSON

- 36.1 The Directors may elect a Director as Chairperson of Directors' meetings and may determine the period for which the Chairperson will hold office.
- 36.2 If no Chairperson is elected or if the Chairperson is not present at any Directors' meeting within ten minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.
- 36.3 The Directors may elect a Director as deputy Chairperson to act as chairperson in the Chairperson's absence.

37. DELEGATION AND MANAGEMENT.

- 37.1 (a) The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees. The Directors may at any time revoke any delegation of power to a committee.
- 37.2 (b) The Directors may appoint and (subject to the terms of any employment agreement) remove a person as the chief executive officer of the Company. Appointment and supervision of all of the staff of the Company will be the responsibility of the chief executive officer. The chief executive officer will be responsible to the Directors for the management and operations of the Company, subject to any direction given by the Directors.
- 37.3 The provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors, will govern meetings of any committee of Directors. The provisions apply as if each member was a Director.

38. WRITTEN RESOLUTIONS

- 38.1 The Directors may pass a resolution without a Director's meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.
- 38.2 For the purposes of this clause separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 38.3 Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- 38.4 The minutes of Directors' meetings must record that a meeting was held in accordance with this clause.
- 38.5 This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

39. VALIDITY OF ACTS OF DIRECTORS

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director, Alternate Director or member of a Directors' committee; or
- (b) a person appointed to one of those positions was disqualified,

all acts of the Directors or the Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

40. MINUTES, REGISTERS AND AMENDMENTS TO CONSTITUTION

40.1 The Directors must ensure minutes are made of:

- (a) the names of the Directors present at all general meetings, Directors' meetings and meetings of Directors' committees;
- (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
- (c) all resolutions passed by Directors in accordance with clause 38;
- (d) all appointments of officers;
- (e) all orders made by the Directors and Directors' committees; and
- (f) all disclosures of interests made under clause 33.

40.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.

40.3 The Company must keep all registers required by this Constitution and the Act

41. SECRETARY

41.1 There must be at least one secretary of the Company appointed by the Directors for a term and at remuneration and on conditions determined by them.

41.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.

41.3 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

42. COMMON SEAL

42.1 If the Company has a Seal:

- (a) the Directors must provide for the safe custody of the Seal;
- (b) the Seal must not be used without the authority of the Directors or a Directors' committee authorised to use the Seal;
- (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign the document.

43. INSPECTION OF RECORDS

43.1 Except as otherwise required by the *Corporations Act 2001*, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.

43.2 A Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

44. SERVICE OF NOTICES

44.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution:

- (a) by serving it on the person; or
- (b) by sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.

44.2 A notice sent by post is taken to be served:

- (a) by properly addressing, prepaying and posting a letter containing the notice; and
- (b) on the day after the day on which it was posted.

44.3 A notice sent by facsimile transmission or electronic notification is taken to be served:

- (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
- (b) on the day after its dispatch.

- 44.4 If a Member has no Registered Address a notice will be taken to be served on that Member 24 hours after it was posted on a notice board at the Office.
- 44.5 A Member whose Registered Address is not in Australia may specify in writing an address in Australia to be taken to be the Member's Registered Address within the meaning of this clause.
- 44.6 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 44.7 Subject to the *Corporations Act 2001* the signature to a written notice given by the Company may be written or printed.
- 44.8 All notices sent by post outside Australia must be sent by prepaid airmail post.

45. PERSONS ENTITLED TO NOTICE

- 45.1 Notice of every general meeting must be given to:
- (a) every Member;
 - (b) every Director and Alternate Director; and
 - (c) any Auditor.
- 45.2 No other person is entitled to receive notice of a general meeting.

46. AUDIT AND ACCOUNTS

The Directors must cause the Company to keep written financial records in relation to the business of the Company and cause them to be audited in accordance with the requirements of the Act.

47. WINDING UP AND LIABILITY

- 47.1 The liability of the members is limited.
- 47.2 If the Company is wound up:
- (a) each Member; and
 - (b) each person who has ceased to be a Member in the preceding year, undertakes to contribute to the property of the Company for the:
 - (c) payment of debts and liabilities of the Company (in relation to clause 47.20,

contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and

- (d) adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding \$2.00.

47.3 If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another corporation which, by its constitution, is:

- (a) required to pursue objects similar to the objectives of the Company;
- (b) required to apply its profits (if any) or other income in promoting its objects;
- (c) prohibited from making any distribution to its members or paying fees to its directors;

such corporation to be determined by the Members at or before the winding up and in default, by application to the Supreme Court for determination.

48 INDEMNITY AND INSURANCE

48.1 To the extent permitted by law and subject to the restrictions in sections 199A and 199B of the Act the Company indemnifies every person who is or has been an officer of the Company against any liability (other than for legal costs) incurred by that person as such an officer of the Company (including liabilities incurred by the officer as a director of a subsidiary of the Company where the Company requested the officer to accept appointment as director).

48.2 To the extent permitted by law and subject to the restrictions in sections 199A and 199B 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 by that person as such an officer of the Company (including such legal costs incurred by the officer as a director of a subsidiary of the Company where the Company requested the officer to accept appointment as director).

48.3 For the purposes of this clause 48, 'officer' means:

- (a) a Director;
- (b) a Secretary; and
- (c) an executive officer of the Company as defined by the Act.

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