

**Corporations Act 2001**  
**A Company Limited by Guarantee**

**ROYAL LIFE SAVING SOCIETY AUSTRALIA ACT LIMITED**  
**CONSTITUTION**  
**2019**



9<sup>th</sup> Floor, Canberra House, 40 Marcus Clarke Street, Canberra ACT 2601  
GPO Box 240 Canberra ACT 2601 | DX 5633 Canberra | [www.ballawyers.com.au](http://www.ballawyers.com.au)  
T: 02 6274 0999 | F: 02 6274 0888  
Our Ref: **190777**

## TABLE OF CONTENTS

<b>PART I   PRELIMINARY</b>	<b>1</b>
1. PRELIMINARY	1
2. OBJECTS & POWERS	3
<b>PART II   MEMBERSHIP</b>	<b>5</b>
3. MEMBERSHIP	5
4. GENERAL MEETINGS OF MEMBERS	5
<b>PART III   THE BOARD</b>	<b>7</b>
5. COMPANY BOARD	7
6. VACATION OF OFFICE	8
7. PROCEEDINGS OF THE BOARD	9
8. INTERESTS OF DIRECTORS	10
9. COMMITTEES & DELEGATIONS	11
<b>PART IV   NOT FOR PROFIT</b>	<b>12</b>
10. NOT FOR PROFIT	12
<b>PART V   MISCELLANEOUS</b>	<b>13</b>
11. EXECUTION OF DOCUMENTS	13
12. ADMINISTRATION	13
13. WINDING UP	15
14. SEVERING INVALID PROVISIONS	16
15. TECHNOLOGY	16

**Corporations Act 2001**  
**A Company Limited by Guarantee**

**CONSTITUTION**  
**of**  
**Royal Life Saving Society Australia ACT Limited**

**DATE:**           **2019**

**PART I | PRELIMINARY**

**1.       PRELIMINARY**

**1.1     Definitions**

In this document, unless the context otherwise requires:

- (a)       **“ACNC Act”** means the *Australian Charities and Not-for-Profits Commission Act 2012* (Cth).
- (b)       **“Auditor”** means the person or persons appointed as auditor or auditors of the Company pursuant to clause 12.4;
- (c)       **“Board”** means the board of Directors of the Company, for the time being;
- (d)       **“Business Day”** means a day other than a Saturday, Sunday, or public holiday in the Australian Capital Territory;
- (e)       **“Business hours”** means between 9.00am and 5.00pm on a Business Day;
- (f)       **“Ceasing Resolution”** means a resolution proposed and passed as a Special Resolution by which the Initial Members shall cease to be members of the Company, which for clarity, can be passed but be contingent in its effect on the expiry of a time period not exceeding three months;
- (g)       **“Chair”** means the person appointed by the Board to preside over Board meetings, and any other meetings of the Company;
- (h)       **“Chief Executive Officer”** means the person appointed by the Board as the ‘Chief Executive Officer’ or ‘General Manager’ of the Company per clause 5.1(b)(iv) and having the day-to-day functions provided in clause 11.3(d);
- (i)       **“Company”** means Royal Life Saving Society Australia Limited;
- (j)       **“Corporations Act”** means the *Corporations Act 2001* (Cth), except to the extent of any exemption, modification, declaration or order made in respect of that legislation which applies to the Company;
- (k)       **“Deputy Chair”** means the person appointed by the Board to preside over Board meetings of the Company where the Chair is absent or unwilling to act;
- (l)       **“Directors”** means the directors of the Company for the time being, and if the Company has only one director, that director;

- (m) **“Financial Year”** means a year commencing on 1 July in any year and ending on 30 June in the following year;
- (n) **“Initial Members”** means each person or entity who was a member of Royal Life Saving Society Australia ACT Branch Inc immediately before its registration as a company limited by guarantee under the Corporations Act;
- (o) **“Objects”** means the objects of the Company as per clause 2.1;
- (p) **“Registered charity”** means a charity that is registered under the ACNC Act;
- (q) **“Related Body Corporate”** means any body corporate which is a related body corporate of the Company under the Corporations Act;
- (r) **“Secretary”** means a company secretary of the Company for the time being;
- (s) **“Special Resolution”** means a resolution:
  - (i) of which notice has been given under clause 4.2(c); and
  - (ii) that has been passed by at least 75% of the votes cast by members present and entitled to vote on the resolution;
- (t) **“Subsidiary”** means any company or corporation which is a subsidiary of the Company in accordance with the Corporations Act;
- (u) **“Technology”** includes all information and communications devices for audio, visual, audio-visual or electronic communication including, but not limited to, radio, telephone, facsimile, closed circuit television, data storage devices, internet communication via an automated or user operated system, electronic mail, automated election processes, direct recording electronic voting systems, or any other electronic means available; and
- (v) **“Year”** means the calendar year unless designated as the Financial Year.

## 1.2 Interpretation

In this Constitution, unless a contrary intention appears:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include all other genders;
- (c) any headings inserted in this Constitution are included for convenience and shall not affect its construction;
- (d) words or expressions not otherwise defined in this Constitution will be interpreted in accordance with the provisions of the Corporations Act as in force at the date when such interpretation is required;
- (e) the word "includes" in any form is not a word of limitation;
- (f) the word "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust; and
- (g) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning.

### 1.3 **Name of Company**

The name of the Company is the "Royal Life Saving Society Australia ACT Limited".

### 1.4 **Nature of Company**

The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity and public benevolent institution.

### 1.5 **Limited Liability of Members & Guarantee**

- (a) The liability of Members is limited to the amount of the guarantee in clause 1.5(b).
- (b) Each Member must contribute a maximum amount of \$10.00 to the property of the Company if the Company is wound up while the Member is a member, or within twelve (12) months after they stop being a member, and this contribution is required to pay for the:
  - (i) debts and liabilities of the Company incurred before the member stopped being a member; and/or
  - (ii) costs of winding up.

### 1.6 **The Corporations Act and the ACNC Act**

- (a) The replaceable rules in the Corporations Act do not apply to the Company.
- (b) While the Company is a registered charity, the ACNC Act and the Corporations Act override any clauses in this Constitution which are inconsistent with those Acts.
- (c) If the Company is not a registered charity (even if it remains a charity) the Corporations Act overrides any clause in this Constitution which is inconsistent with the Corporations Act.

## 2. **OBJECTS & POWERS**

*'Whomever you see in distress recognise in him a fellow man'*  
William Henry, Founder of The Royal Life Saving Society.

### 2.1 **Objects of the Company**

The Company's Objects are as follows:

- (a) To prevent loss of life and injury in the community, with an emphasis on the aquatic environment;
- (b) To promote technical education in life saving and resuscitation of persons apparently drowned, suffocated, gassed, electrocuted, strangled or in any incident where breathing and/or heart action is interrupted;
- (c) To stimulate public opinion in favour of the general adoption of swimming and lifesaving as part of the normal curriculum of schools, colleges and other institutions;
- (d) To encourage floating, diving, plunging and such other swimming skills as would be of assistance to a person endeavouring to save life;
- (e) To arrange and promote public lectures, demonstrations, competitions, and to form classes of instruction so as to bring about a widespread knowledge of the principles which underlie the skill of swimming and lifesaving;
- (f) To make awards and issue certificates for proficiency in lifesaving and lifeguarding;

- (g) To promote technical reseach and initiation of research within the field of water safety and lifesaving;
- (h) To purchase, take on lease or exchange, hire and otherwise acquire any lands, buildings, easements or property, real or personal, and any rights, privileges which may be required for the purpose of, or capable of being conveniently used in connection with any of the objectives of the Company;
- (i) To enter into any arrangement with any Government or Authority that are incidental or conducive to the attainment of the objectives and the exercise of the power of the Company, to obtain from any such Government or Authority any rights, privileges and concessions which the Company may think desirable to obtain and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (j) To appoint, employ, remove or suspend such officers, managers, clerks secretaries, servants, agents, lecturers, instructors and other persons as may be necessary for the purpose of the Company.
- (k) To construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, grounds, works or conveniences which may seem calculated directly or indirectly to advance the Company's interests;
- (l) To invest and deal with the money of the Company not immediately required in such a manner as from time to time be thought fit;
- (m) To raise or morrow money upon such terms and in such a manner as it thinks fit;
- (n) To secure the repayments of moneys raised or borrowed or the repayment of any debit or liability of the Company by giving mortgages, charges or securities upon or over all or any part of the property and rights of the Company;
- (o) To sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Company;
- (p) To take such steps by person or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purposes of procuring contributions to the funds of the Company, in the shape of donations, annual subscriptions or otherwise;
- (q) To print and publish any publications the Company may think desirable for the promotion of its objectives;
- (r) To make donations for patriotic, charitable or community purposes; and
- (s) To do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the Company.

## 2.2 Powers of the Company

- (a) The Company has all the powers of an individual and all the powers set out in the Corporations Act but only to do all things that are necessary, convenient or incidental to carry out the objects set out in clause 2.1.
- (b) Subject to the Corporations Act, the Company may do all things necessary or convenient for carrying out its objects or purposes, and in particular, may -
  - (i) Acquire, hold and dispose of real or personal property;
  - (ii) Open and operate accounts with financial institutions;
  - (iii) Invest its money in any security in which trust monies may lawfully be invested;

- (iv) Raise and borrow money on the terms and in the manner it considers appropriate;
- (v) Secure the repayment of money raised or borrowed, or the payment of a debt or liability;
- (vi) Appoint agents to transact business on its behalf;
- (vii) Enter into any other contract it considers necessary or desirable; and
- (viii) Act in the interests of its holding company.

## **PART II | MEMBERSHIP**

### **3. MEMBERSHIP**

3.1 The members of the Company are:

- (a) the Initial Members; and
- (b) upon receipt of an application for membership, Royal Life Saving Society of Australia (New South Wales Branch) ACN 000 580 825.

3.2 The Initial Members shall cease to be a member of the Company when a Ceasing Resolution becomes effective causing the Initial Members to cease being Members of the Company, whereupon the sole member of the Company shall be Royal Life Saving Society of Australia (New South Wales Branch) ACN 000 580 825.

### **4. GENERAL MEETINGS OF MEMBERS**

4.1 The Directors may call a general meeting on short notice provided that notice in writing is given to:

- (a) each member entitled to vote at the meeting;
- (b) each director; and
- (c) the auditor (if any),

at least 3 days before the meeting.

4.2 Notice of a general meeting may be given by email and must include:

- (a) the place, date and time for 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) the general nature of the meeting's business;
- (c) if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution; and
- (d) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
  - (i) the proxy does not need to be a member of the Company;
  - (ii) the proxy form must be delivered to the Company at its registered address or the address (including an electronic address) specified in the notice of the meeting; and

- (iii) the proxy form must be delivered to the Company at least 24 hours before the meeting.

4.3 For a general meeting to be held, at least 2 members (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one member). If there is no quorum present within 30 minutes after the starting time stated in the notice of general meeting, the general meeting is adjourned to the date, time and place that the Chair specifies.

4.4 No business may be conducted at a general meeting if a quorum is not present.

4.5 The auditor (if any) is entitled to attend any general meeting and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.

4.6 An incorporated member may appoint as a representative:

- (a) 1 individual to represent the member at meetings; and
- (b) the same individual or another individual for the purpose of being appointed or elected as a director.

The appointment of a representative by a member must:

- (c) be in writing;
- (d) include the name of the representative;
- (e) be signed on behalf of the member; and
- (f) be given to the Company or, for representation at a meeting, be given to the Chair before the meeting starts.

A representative has all the rights of a member relevant to the purposes of the appointment as a representative. The appointment of a representative may be standing (ongoing).

4.7 The Company may hold a general meeting at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard. Anyone using this technology is taken to be present in person at the meeting.

4.8 Each member has 1 vote at a general meeting. A member or the Chair may only challenge a person's right to vote at a general meeting at that meeting. If a challenge is made under this clause, the Chair must decide whether or not the person may vote. The Chair's decision is final.

4.9 Voting must be conducted and decided by:

- (a) a show of hands;
- (b) a vote in writing; or
- (c) another method chosen by the Chair that is fair and reasonable in the circumstances.

Before a vote is taken, the Chair must state whether any proxy votes have been received and, if so, how the proxy votes will be cast. On a show of hands, the Chair's decision is conclusive evidence of the result of the vote. The Chair and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:

- (d) at least 5 members present; or



- (e) the Chair.

A vote in writing must be taken when and how the Chair directs.

4.10 A member may appoint a proxy to attend and vote at a general meeting on their behalf. A proxy does not need to be a member. A proxy appointed to attend and vote for a member has the same rights as the member to:

- (a) speak at the meeting;
- (b) vote in a vote in writing (but only to the extent allowed by the appointment); and
- (c) join in to demand a vote in writing under clause 4.9.

An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:

- (d) the member's name and address;
- (e) the Company's name;
- (f) the proxy's name or the name of the office held by the proxy; and
- (g) the meeting(s) at which the appointment may be used.

A proxy appointment may be standing (ongoing). A proxy appointment may specify the way the proxy must vote on a particular resolution. Proxy forms must be received by the Company at the address stated in the notice under clause 4.2 or at the Company's registered address at least 24 hours before a meeting. A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.

4.11 A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands). When a vote in writing is held, a proxy:

- (a) does not need to vote, unless the proxy appointment specifies the way they must vote,
- (b) if the way they must vote is specified on the proxy form, must vote that way; and
- (c) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

## **PART III | THE BOARD**

### **5. COMPANY BOARD**

#### **5.1 Powers of the Board**

- (a) The affairs of the Company shall be controlled and managed by or under the direction of the Board.
- (b) Subject to this Constitution and the Corporations Act, the Board:
  - (i) shall control and manage the affairs of the Company;
  - (ii) may exercise all such powers of the Company other than those powers and functions that are required by these clauses to be exercised by the Member;
  - (iii) has power to perform all such acts and things as appear to the Board to be desirable or essential for the proper management of the business affairs of the Company including the arrangement of all compulsory insurances;

- (iv) has the power to appoint from time to time the Chief Executive Officer to fulfil the duties of that office; and
- (v) has the power to do all things appropriate to fulfil the Objects of the Company.

## 5.2 **Composition**

The Board will consist of a minimum of three (3) Directors.

## 5.3 **Appointment**

The Member must appoint from time to time not less than three (3) persons to be Directors of the Company and may do so as it see fit, with such offices and roles as it sees fit.

## 5.4 **Eligibility of Directors**

A person is eligible for appointment as a Director if they are not ineligible to be a director under the Corporations Act or the ACNC Act.

## 5.5 **Term of Office**

- (a) A Director holds office from the conclusion of the meeting at which they were appointed until the Director:
  - (i) resigns;
  - (ii) is removed from office;
  - (iii) vacates the office; or
  - (iv) is disqualified from holding the office.
- (b) There is no limit on how long a Director can serve on the Board.

## 5.6 **Removal of Board Member**

The Member may remove any Director before the Director's term of office ends.

## 6. **VACATION OF OFFICE**

### 6.1 **Vacancies Generally**

A Director vacates office if he or she:

- (a) dies;
- (b) resigns their office by notice in writing given to the Secretary;
- (c) is removed by the Company pursuant to clause 5.6;
- (d) becomes bankrupt or insolvent;
- (e) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (f) is disqualified from office pursuant to the Corporations Act; or
- (g) fails to attend all meetings of the Board in a period of six (6) consecutive months, without prior notice of absence having been approved by the Board.

## 6.2 Filling Casual Vacancies

The Board has the power, at any time and from time to time, to appoint a person to hold office on the Board to fill a casual vacancy provided they meet the relevant eligibility criteria. Any person so appointed will hold office until such time as the Member either:

- (a) confirms the appointment of that person as a Director; or
- (b) appoints a new person to the Board.

## 7. PROCEEDINGS OF THE BOARD

### 7.1 Frequency

The Board shall meet at least three (3) times each year at such places and such times as the Board may determine.

### 7.2 Calling Board Meetings

Meetings of the Board may be convened by any Director.

### 7.3 Quorum

- (a) Fifty percent (50%) of Directors (personally present or participating by telephonic or electronic media) constitute a quorum for the transaction of the business of a meeting of the Board.
- (b) No business shall be transacted at a Board meeting unless a quorum is present and if, within thirty (30) minutes of the time appointed for the meeting, a quorum is not present, the meeting shall be adjourned to a time and place determined by the person presiding and notified to the Directors by either:
  - (i) delivering it to them personally or by post; or
  - (ii) sending it by facsimile or electronic transmission to a number or email address nominated by the Director.

### 7.4 Procedure and order of business

- (a) The procedure to be followed at a Board meeting shall be determined from time to time by the Board.
- (b) The order of business may be determined by the Directors present at the meeting.
- (c) Only the business for which the meeting is convened may be considered at an extra board meeting.

### 7.5 Chair

- (a) The Chair will be appointed by the Member.
- (b) The Chair must, if present and willing to act, chair each Board meeting.
- (c) If the Chair is absent or unwilling to act, then the Deputy Chair will chair the meeting.
- (d) The Directors present (provided they constitute a quorum) must elect one of themselves to chair all or part of the meeting of Directors if:
  - (i) there is no Chair or Deputy Chair; or

- (ii) the Chair or Deputy Chair is not present within fifteen (15) minutes after the time appointed for the holding of a meeting of Directors; or
- (iii) the Chair and/or Deputy Chair are present within that time but are not willing to chair all or part of that meeting.

## 7.6 Circulating Resolutions

- (a) Where a Board meeting is not physically held, either:
  - (i) a resolution in writing signed by all Directors for the time being entitled to receive notice of a meeting thereof; or
  - (ii) a resolution approved by all Directors for the time being entitled to receive notice of a meeting thereof circulated by email (and approved by email without the need for signatures),will be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held.
- (b) Any such resolution may consist of several documents in like form each signed by one or more Directors.
- (c) Electronic copies of scanned originals of signed copies will be sufficient evidence of a signed assent by Directors.

## 7.7 Validity of acts of Directors

If it is afterwards discovered that there was some defect in the election or appointment of a Director, or to act in that capacity, or that a person so elected or appointed was disqualified, all acts done by that person are valid as if the person had been duly elected or appointed and was qualified to act in that capacity.

## 7.8 Use of Technology

A meeting of Directors may be called or held using any Technology that provides contemporaneous linking together by an instantaneous communication device.

## 8. INTERESTS OF DIRECTORS

### 8.1 Disclosure of Interests

If a Director has a material personal interest in a matter that relates to the affairs of the Company and:

- (a) the Director discloses the nature and extent of the interests and its relation to the affairs of the Company at a meeting of the Directors in accordance with the Corporations Act; or
- (b) the interest is one that does not need to be disclosed;

then:

- (c) the Director may vote on matters that relate to the interest; and
- (d) any transaction that relates to the interest may proceed; and
- (e) the Director may retain benefits under the transaction even though the Director has the interest; and

- (f) the Company cannot avoid the transaction merely because of the existence of the interest.

## 8.2 **Prior Disclosure**

If disclosure is required in accordance with the Corporations Act, clauses 8.1(e) and 8.1(f) apply only if the disclosure is made before the transaction is entered into.

## 9. **COMMITTEES & DELEGATIONS**

### 9.1 **Committees**

The Board may establish such committees as it deems appropriate.

### 9.2 **Delegations**

- (a) The Board may delegate the exercise of one or more of its functions to a committee other than:
  - (i) this power of delegation; and
  - (ii) a function which is imposed on the Board by the Corporations Act.
- (b) A function, the exercise of which has been delegated to a committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the committee in accordance with the terms of the delegation.
- (c) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (d) Notwithstanding any delegation under this rule, the Board may continue to exercise any function delegated.
- (e) Any act or thing done or suffered by a committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the Board.
- (f) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (g) A committee may meet and adjourn as it thinks proper.

### 9.3 **Secretary**

- (a) The Secretary will be appointed by the Board by ordinary resolution.
- (b) In the event of the resignation of the Secretary from the Company and pending the appointment of a new Secretary the Chief Executive Officer is to perform the duties of Secretary.
- (c) The Secretary shall:
  - (i) arrange to keep minutes of the resolutions and proceedings of each General Meeting and each Board meeting in books provided for that purpose, together with a record of the names of persons present at meetings;
  - (ii) arrange to retain copies of all board papers and if in electronic form to be kept and backed up on separate medium on separate systems;

- (iii) shall collect and receive all moneys due to the Board and make all payments on behalf of the Board;
- (iv) shall keep correct accounts and books showing the financial affairs of the Board with full details of all receipts and expenditure connected with the activities of the Board; and
- (v) prepare and file on behalf of the Board all Company returns required by the Corporations Act.

## **PART IV | NOT FOR PROFIT**

### **10. NOT FOR PROFIT**

#### **10.1 Not for Profit**

- (a) The Company must not distribute any income or assets directly or indirectly to its Members, except as provided for in clauses 10.1(c) and 10.4.
- (b) The Company's income and property must be solely applied towards promoting the Company's Objects.
- (c) Clause 10.1(a) does not prevent the Company from doing the following things, provided they are done in good faith:
  - (i) paying the Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Company, or
  - (ii) making a payment to the Member in carrying out the Company's charitable purposes.

#### **10.2 Payments to Directors**

- (a) The Company must not pay fees to a Director for acting as a director.
- (b) The Company may:
  - (i) pay a Director for work they do for the Company, other than as a director, if the amount is no more than a reasonable fee for the work done; or
  - (ii) reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Company.
- (c) Any payment made under clause 10.2(b) must be approved by the Directors.
- (d) The Company may pay premiums for insurance indemnifying directors, as allowed for by law (including the Corporations Act) and this constitution.

#### **10.3 Surplus assets not to be distributed to members**

If the Company is wound up, any surplus assets must not be distributed to a Member or a former Member of the Company, unless that Member or former Member is a charity described in clause 10.4(a).

#### **10.4 Distribution of surplus assets**

- (a) Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets that remain after the Company is wound up or dissolved must be distributed to one or more organisations:

- (i) with charitable purpose(s) similar to, or inclusive of, the Objects in clause 2.1, and
  - (ii) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the Company.
- (b) The decision as to the charity or charities to be given the surplus assets is at the sole discretion of the Member at or before the time of winding up. If the Member does not make this decision, the Company may apply to the Supreme Court of the ACT to make this decision.

## **PART V | MISCELLANEOUS**

### **11. EXECUTION OF DOCUMENTS**

#### **11.1 Common Seal**

If the Company has a common seal, the Company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by:

- (a) two (2) Directors;
- (b) a Director and a Secretary;
- (c) a Director and another person appointed by the Directors for that purpose.

#### **11.2 Without Common Seal**

The Company may execute a document without a common seal if the document is signed by:

- (a) two (2) Directors;
- (b) a Director and a Secretary;
- (c) a Director and another person appointed by the Directors for that purpose.

#### **11.3 Other Execution & Resolutions**

- (a) The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with clause 11.1 or clause 11.2 or is executed by a person duly appointed as an attorney of the Company under a valid Power of Attorney.
- (b) The Directors may resolve, generally or in a particular case, that any signature may be affixed by mechanical, electronic or other means.
- (c) Negotiable instruments may be signed, drawn, accepted, endorsed or otherwise executed by or on behalf of the Company in the manner and by the persons as the Directors resolve.
- (d) Notwithstanding clauses 11.1 and 11.2, the Directors may resolve, generally or in a particular case, to delegate authority to the Chief Executive Officer to execute documents on behalf of the Company.

### **12. ADMINISTRATION**

#### **12.1 Minutes and Board Papers**

- (a) The Board must cause minutes to be made in accordance with the Corporations Act and to be provided for the purpose of:

- (i) all appointments of Directors made by the Board;
  - (ii) the names of the Directors present at each Board meeting; and
  - (iii) all resolutions and proceedings at all meetings of the Directors.
- (b) The minutes and Board papers must be made available on request to any current and former Director.

## 12.2 Accounts

- (a) A separate bank account shall be established in which all of the Company's income and expenditure is recorded.
- (b) The Board will cause proper books of account to be kept, including full, true and complete accounts of the affairs and transactions of the Company.
- (c) The books of account will be open to the inspection of the Board at any time.
- (d) The Board will provide financial reports, which comprise a balance sheet and an income statement in respect of the last completed Financial Year of the Company and as required by the Corporations Act.

## 12.3 Officers Indemnities and Insurance

- (a) To the extent permitted by the Corporations Act:
  - (i) the Company indemnifies every person who is or has been an Officer of the Company or of a wholly-owned subsidiary of the Company against any liability for costs and expenses incurred by that person in defending any proceedings in which judgement is given in that person's favour, or in which the person is acquitted, or in connection with an application in relation to any proceedings in which the Court grants relief to the person under the law; and
  - (ii) the Company indemnifies every person who is or has been an Officer of the Company or of a wholly-owned subsidiary of the Company against any liability incurred by that person, as an Officer of the Company or of a wholly-owned subsidiary of the Company, to another person (other than the Company or a Related Body Corporate of the Company) unless the liability arises out of conduct involving a lack of good faith.
- (b) 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 subsidiary of the Company against a liability:
  - (i) incurred by the person in their capacity as an Officer of the Company or of a subsidiary of the Company or in the course of acting in connection with the affairs of the Company of a subsidiary of the Company or otherwise arising out of the Officer holding such office provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a subsidiary of the Company or a contravention of Sections 182 and 183 of the Corporations Act; or
  - (ii) for costs and expenses incurred by that person in defending proceedings, whatever their outcome.
- (c) In this clause 12.1:
  - (i) the term "proceedings" means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act, matter or thing in their capacity as Officer, or in the course of



acting in connection with the affairs of the Company or a wholly-owned subsidiary or subsidiary of the Company, or otherwise out of the Officer holding such office, including proceedings alleging that he or she was guilty of negligence, default, breach of trust or breach of duty in relation to the Company or a wholly-owned subsidiary or subsidiary of the Company, and

- (ii) The term "Officer" has the meaning given to that term in section 9 of the Corporations Act.

#### 12.4 **Audit**

- (a) If required by law, the books of account, and financial reports and records will be audited each year by an Auditor or Auditors appointed by the Member in accordance with the Corporations Act.
- (b) The remuneration of the Auditor (if applicable) must be fixed and the Auditor's duties regulated in accordance with the Corporations Act.
- (c) If any casual vacancy occurs in the office of the Auditor the Board shall appoint the Auditor and fix the Auditor's fee within one (1) month of the vacancy. The Auditor so chosen will hold office as Auditor of the Company. There is no limit on how long the Auditor can hold office following their appointment. The Directors may resolve to remove the Auditor as it sees fit from time to time.
- (d) The Auditor or the Auditor's agent so authorised in writing is entitled:
  - (i) to attend any meeting of the Company;
  - (ii) for that purpose to receive all notices of and other communications in relation to any meeting which the Member is entitled to receive; and
  - (iii) to be heard at any meeting which he or she attends on any part of the business of the meeting which concerns the Auditor as Auditor, and is entitled to be heard.

#### 12.5 **Custody of Records**

- (a) Except as otherwise provided in the Constitution, the Secretary shall keep in their custody or under their control all books, documents and securities of the Company, which shall be available for inspection at all reasonable times by the Member.
- (b) Upon the request of the Member and the payment of the fee prescribed by the Board, the Secretary will arrange to provide the Member with copies of:
  - (i) the current Constitution of the Company; and
  - (ii) the deeds of any trust of the Company.

#### 12.6 **Inspection of Records**

Subject to the Corporations Act, the Directors must determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of the Members, and the Members do not have any 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 the Company's Members.

### 13. **WINDING UP**

#### 13.1 **Dissolution**

The Company may be dissolved by a special resolution of the Member.

## **14. SEVERING INVALID PROVISIONS**

### **14.1 Invalidity**

If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that does not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.

## **15. TECHNOLOGY**

### **15.1 General Meetings by Using Technology**

Without limiting the discretion of the Board to regulate their meetings, the Board may, if it sees fit, give notice of meetings, confer or meet or hold elections using any Technology.

### **15.2 Resolutions**

Notwithstanding that the Board are not present together in one place at the time of the meeting, a resolution passed will be deemed to have been passed at a meeting of the Board or the Company held on the day and time at which the meeting was held.

### **15.3 Quorum**

A Director present at the commencement of the meeting will be conclusively presumed to have been present and, subject to other provisions of this Constitution, to have formed part of the quorum throughout the meeting.

### **15.4 Procedures**

The provisions relating to the procedure of Board meetings apply to the meetings to the extent they are capable of applying, and with the necessary changes.