

**TOURISM INDUSTRY COUNCIL**  
**(ACT & REGION) LIMITED**

**ACN 095 850 838**

**CONSTITUTION**

As at November 2007

CORPORATIONS ACT  
COMPANY LIMITED BY GUARANTEE

**CONSTITUTION**  
**of**  
**TOURISM INDUSTRY COUNCIL (ACT & REGION) LIMITED**  
**ACN 095 850 838**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Constitution:

**“Alternate Director”** means a person for the time being holding office as an alternate director of the Company under clause 16.

**“Appointer”** means in respect of an Alternate Director the Director who appointed the Alternate Director under clause 16.

**“Director”** means a Director for the time being of the Company.

**“Executive Director”** means a Director who is appointed by the Board of the Company (whether full-time or part-time) to manage the affairs of the Company.

**“Member”** means a person admitted to membership of the Company in accordance with this Constitution.

**“Office”** means the registered office for the time being of the Company.

**“Officer”** means an officer as defined in the Corporations Act.

**“Region”** means the Australian Capital Territory and the south-east region of the State of New South Wales.

**“Register”** means the register of Members kept under the Corporations Act.

**“Representative”** means a person appointed as a representative of a body corporate pursuant with the Corporations Act.

**“Seal”** means the common seal of the Company (if any).

**“Secretary”** means the secretary for the time being of the company, and if there are joint secretaries, any one or more of such joint secretaries.

**“Subscriber”** means a person specified in the application for the Company’s registration under the Corporations Act as a person who consents to become a member.

**1.2 Interpretation**

In this Constitution:

(a) headings are for convenience only and do not affect meaning;

and unless the contrary intention appears:

(b) words importing the singular number include the plural number and vice versa;

(c) words importing any gender include all other genders;

- (d) a reference to a person includes a corporation, a partnership, a body corporate, an unincorporated association and a statutory authority;
- (e) where any word or phrase is given a defined meaning any other part of speech or grammatical form in respect of that word or phrase has a corresponding meaning;
- (f) a reference to a clause is to be a clause of this Constitution; and
- (g) any power, right, discretion or authority conferred upon any person or groups of persons under this Constitution may be exercised at any time and from time to time.

### **1.3 Application of Corporations Act**

Except so far as a contrary intention appears anywhere in this Constitution:

- (a) section 110B of the Corporations Act is to operate to apply provisions of the Corporations Act in the interpretation of this Constitution so far as they can apply and with such changes as are necessary as if this Constitution were an instrument made under the Corporations Act, but is not to so apply to sections 105, 109D, 109X and 109Y;
- (b) an expression used in a particular Part or Division of the Corporations Act which is given a special meaning for the purposes of that Part or Division, has in any of this Constitution which deals with a matter dealt with by that Part or Division, the same meaning as in that Part or Division;
- (c) an expression which is given a general meaning by any provision of the Corporations Act has the same meaning in this Constitution; and
- (d) section 110C of the Corporations Act (which deals amongst other things with the severance of invalid provisions) applies in the interpretation and operation of this Constitution as if this Constitution were an instrument made under the Corporations Act.

## **2. OBJECTS AND POWERS**

### **2.1 Objects**

The objects for which the Company is established are to:

- (a) promote wider understanding of tourism and travel as a major activity that contributes substantially to the economic and social well-being of the Region;
- (b) develop and pursue policies which no single industry sector, association, or region could be expected to advance on its own and provide advocacy on key industry issues;
- (c) bring cohesion to the travel and tourism industry in the Region and to increase its recognition by seeking and presenting unified policy positions;
- (d) promote and facilitate the development and delivery of quality experiences for visitors within and to the Region;
- (e) encourage the adoption of Regional, national and international policies which facilitate tourism and travel for visitors and create new business opportunities;
- (f) pursue with Federal, State, Region and Local Governments and their agencies programs, policies and actions which are responsive to the needs of travel and tourism within and to the Region;
- (g) promote a profitable and professional travel and tourism industry in the Region;
- (h) maximise the benefits of travel and tourism as a sustainable force for social, cultural, environmental and economic development and employment growth; and

- (i) promote, undertake and disseminate research, education and information relating to the business of tourism and travel.
- (j) Support the continual improvement of quality and standards in the industry
- (k) Promote activities that recognise that tourism is a competitive and dynamic industry and one that requires flexibility and the ability to react decisively to changing market trends.
- (l) Assist with the dissemination of research and information relating to the business of travel and tourism.
- (m) Promote and facilitate special attention to the particular needs of tourism in regional areas.
- (n) Encourage the implementation of a national accreditation program to lift and maintain high standards for tourism businesses.
- (o) Provide support and networking opportunities for the industry.

## **2.2 Powers**

Solely for the purpose of carrying out the objects stated in clause 2.1 and not otherwise, the Company has the power to do all such things as are necessary, incidental or conducive to the attainment of these objects and, for that purpose and not otherwise, the Company has the legal capacity of an individual with all consequential powers as conferred by the Corporations Act.

## **3. INCOME AND PROPERTY**

### **3.1 Application of Income**

The income and property of the Company will be applied solely towards the promotion of the objects of the Company as set forth in this Constitution and no part of it will be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to Members provided that:

- (a) nothing contained in this Constitution will prevent the payment in good faith of remuneration to any Officer, employee or Member of the Company (including any firm or corporation in which any such Officer, employee or Member has an interest) in return for any services actually rendered or for any goods supplied to the Company in the ordinary and usual way of business, nor prevent the payment in good faith of interest on money borrowed by the Company from any Member, or reasonable and proper rent for the premises let by any Member to the Company;
- (b) except as provided by (a), no Director of the Company (other than the Executive Director) will be paid any fee, commission, honorarium, or other remuneration for acting as a Director other than reasonable out-of-pocket expenses.

### **3.2 Contributions of Members**

Each Member of the Company undertakes to contribute to the property of the Company, in the event of the Company being wound up while that person is a Member or within one year after that person ceases to be a Member, for payment of the debts and liabilities of the Company contracted before that person ceases to be a Member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributors among themselves, such amount as may be required not exceeding ten dollars (\$10.00).

### **3.3 No Distribution of Property**

If on the winding up or dissolution of the Company there remains, after satisfaction of all debts and liabilities, any property whatsoever, the same will not be paid to or distributed among the Members of the Company, but will be given or transferred to some other institution or institutions having objects similar to the objects of the Company, and whose constitution or rules prohibit the distribution of its or their income or property among its or their Members to an extent at least as great as is imposed on the Company under 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 such court as may have or acquire jurisdiction in the matter.

## **4. MEMBERSHIP**

### **4.1 Members**

The Subscribers and such other persons as the Directors shall admit to membership of the Company in accordance with this Constitution shall be Members of the Company.

### **4.2 Application for membership**

Every applicant for membership of the Company (other than subscribers) shall execute and deliver to the Company an application for membership in such form as the Directors from time to time determine together with the entrance fee (if any) determined by the Directors.

### **4.3 Further Information**

An applicant for membership of the Company shall provide in writing such other information in addition to that contained in the application as the Directors require.

### **4.4 Determination of Directors**

The Directors shall determine the admission or rejection of an applicant for membership of the Company. The Directors may reject an application for membership of the Company without giving any reason for the rejection.

### **4.5 Entrance Fee**

The Directors may from time to time determine any entrance fee payable by applicants on application for membership of the Company and until so determined no entrance fee shall be payable.

### **4.6 Notification of acceptance**

- (a) When an applicant has been accepted for membership of the Company, the Executive Director shall forthwith send to the applicant written notice of the applicant's acceptance and shall enter the applicant's name in the Register.
- (b) When an application for membership of the Company is rejected, the Executive Director shall forthwith send to the applicant written notice of such rejection and the entrance fee paid by such applicant shall be refunded in full.

#### **4.7 Certificates**

A certificate of membership of the Company may be issued by the Company to any Member. Such certificate shall remain the property of the Company and on demand in writing by the Executive Director shall be returned to the Company.

#### **4.8 Membership not transferable**

Membership of the Company shall not be transferable whether by operation of law or otherwise and all rights and privileges of membership of the Company shall cease upon the person ceasing to be a Member whether by resignation, death, winding-up or otherwise.

### **5. FEES**

#### **5.1 Fees**

Members shall pay annual membership fees and such other fees in such amounts and at such times as the Directors may from time to time determine.

#### **5.2 Levies**

In order to provide additional funds required for the operation of the Company, the Directors may determine that levies are to be paid by Members and may fix the amount and the dates for payment thereof but until so determined no levies shall be payable by Members.

#### **5.3 Different fees or levies payable**

In determining fees or levies under this Clause, the Directors may differentiate between classes of Members as to the amounts of fees or levies payable.

6. [DELETED]

### **7. CESSATION OF MEMBERSHIP**

#### **7.1 Non payment of fees or levies**

If any fees or levies payable by a Member shall remain unpaid for a period of 2 calendar months after notice of such default is given to the Member by the Company, the Executive Director shall suspend all the privileges of membership (including the right to vote) of that Member, provided that the Executive Director may reinstate the privileges of membership of that Member on payment of all arrears.

#### **7.2 Cessation of membership**

A Member's membership of the Company shall cease:

- (a) if the Member resigns that membership by giving notice in writing addressed to the Executive Director of the Company and such resignation shall be effective from the date of receipt of the notice by the Executive Director;
- (b) if the membership of the Member is terminated under clause 7.4 and such termination shall be effective from the date of the resolution of the Directors;
- (c) in the case of a Member who is an individual if:
  - (i) the Member dies; or

- (ii) the Member becomes of unsound mind or his person or estate is liable to be dealt with in any way under the laws relating to mental health; or
- (d) in the case of a Member who is not an individual if:
  - (i) a liquidator is appointed in connection with the winding up of the Member; or
  - (ii) an order is made by a court for the winding up of a Member being a corporation.

### **7.3 Continuing rights, liabilities, etc.**

- (a) The termination of a Member's membership (whether by resignation, expulsion or otherwise) shall not in any way prejudice, lessen or affect the rights, duties, liabilities and obligations of a Member whether they:
  - (i) arise under this Constitution or otherwise; and
  - (ii) are existing at the date of such termination or may arise or crystallise after that date out of or by reason of facts or circumstances occurring or in existence at or before that date.
- (b) Without limiting the generality of clause 7.3(a), termination of a Member's membership shall not relieve a Member from any obligation to record or account for or pay any levies or fees referred to in clause 5.

### **7.4 Non-compliance with Constitution, misconduct**

- (a) If any Member shall:
  - (i) willfully refuse or neglect to comply with the provisions of this Constitution; or
  - (ii) be guilty of any conduct which in the opinion of the Directors is unbecoming of the Member or prejudicial of the interests of the Company, the Directors may by resolution censure, suspend or expel the Member from the Company.
- (b) Any Member who is proposed to be censured, suspended or expelled:
  - (i) shall be given at least one week's notice of the meeting of the Directors at which such a resolution is to be put which shall state the nature of the allegations against the Member and the intended resolution;
  - (ii) must have the opportunity of giving orally or in writing any explanation or defence the Member may think fit at such meeting, before the passing of any resolution for censure, suspension or expulsion.

## **8. POWERS OF COMPANY AND ITS DIRECTORS**

### **8.1 Directors have powers of the Company**

- (a) The management of the business and affairs of the Company is vested in the Directors.
- (b) The Directors may exercise all powers and do all such acts and things which the Company is authorised or permitted to exercise and do and which are not by this Constitution or by statute directed or required to be exercised or done by the Company in general meeting.
- (c) The operation and effect of this clause 8.1 are not limited in any way by clauses 8.2 to 8.7.

**8.2 Directors may exercise Company's power to borrow**

The Directors may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company, to issue debentures or give any other security for a debt, liability or obligations of the Company or of any other person, to guarantee or to become liable for the payment of money or the performance of any obligations by any other person.

**8.3 Directors may exercise power to give security**

The Directors may exercise the powers conferred on them by clause 8.2 in such manner and upon terms and conditions in all respects as they think fit, and in particular but without limiting the generality of the foregoing, by the issue of any debenture, debenture stock (perpetual, redeemable or otherwise) bonds, notes, charge, bill of sale, debt instrument or other security on the whole or any part of the property of the Company (both present and future).

**8.4 Assignability of debentures**

Debenture, debenture stock, bonds, notes, charges, bills of sale, other securities or debt instruments issued or given by the Company may be made assignable free from any equities between the Company and the person to whom the same may be issued.

**8.5 Security from Company for Directors**

If the Directors or any of them or any other person become or are about to become personally liable for the payment of any sum due from the Company, the Directors may execute or cause to be executed any mortgage, charge, bill of sale or security over or affecting the whole or any part of the assets of the Company in order to secure the Directors or persons so becoming liable from any loss in respect of such liability.

**8.6 Directors may appoint attorney or agent**

- (a) The Directors may, by resolution, power of attorney, or other written instrument, appoint any person or persons to be attorney or agent of the Company for such purposes, with such powers, authorities and discretions being powers, authorities and discretions vested in or exercisable by the Directors for such period and subject to such conditions as they think fit.
- (b) The appointment may be on such terms for the protection and convenience of persons dealing with the attorney or agent as the Directors think fit and may also authorise the attorney or agent to delegate all of any of the powers, authorities and discretions vested in him.

**8.7 Execution of Company cheques, etc**

All cheques, promissory notes, banker's drafts, bills of exchange and other negotiable instruments signed, drawn, accepted, endorsed or otherwise executed by the Company, and all receipts for money paid to the Company, will be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner and by such persons as the Directors determine.

## **9. GENERAL MEETINGS**

### **9.1 Convening of general meeting**

- (a) The Directors may convene a general meeting of the Company's Members whenever they think fit.
- (b) The Directors will convene a general meeting on the request of Members in accordance with the Corporations Act.
- (c) A general meeting may be convened by the Members in accordance with the Corporations Act.

### **9.2 Annual general meeting**

Annual general meetings will be held in compliance with the Corporations Act.

### **9.3 Notice period**

Subject to the provisions of the Corporations Act relating to agreements for shorter notice, at least 21 days' notice must be given of a general meeting of the Company's Members.

### **9.4 Contents of notice**

A notice of a general meeting of the Company's Members will specify:

- (a) the place, day and time of the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
- (b) the general nature of the meeting's business;
- (c) in the case of an election of Directors, the names of the candidates for election; and
- (d) such other information as is required by the Corporations Act.

### **9.5 Failure to give notice**

Subject to the Corporations Act, the accidental omission to give notice of any meeting of the Company's Members to or the non-receipt of that notice by any of the Members will not invalidate any resolution passed at that meeting.

### **9.6 Notice of adjourned meeting in certain circumstances only**

- (a) Whenever a meeting of the Company's Members is adjourned for less than 21 days, no further notice of the time and place of the adjourned meeting need be given.
- (b) Whenever a meeting of the Company's Members is adjourned for 21 days or more, at least 3 days' notice of the time and place of the adjourned meeting will be given to Members.

### **9.7 Persons entitled to notice of general meeting**

Notice of every general meeting of the Company will be given in a manner authorised by clause 22 and in accordance with the Corporations Act to:

- (a) every Member;
- (b) every Director and Alternate Director; and
- (c) the auditors of the Company.

**9.8 No other person is entitled to attend general meetings**

- (a) All Members are entitled to attend meetings of the Company's Members as well as any other persons entitled to attend under the Corporations Act.
- (b) The chairperson may require any person to leave and remain out of any meeting who in the opinion of the chairperson is not complying with his or her reasonable directions.

**9.9 Postponement or Cancellation of Meeting**

The Directors may whenever they think fit postpone or cancel any meeting of the Company's Members other than a meeting convened under clause 9.1(b) or (c).

**10. PROCEEDINGS AT GENERAL MEETINGS****10.1 Business of annual general meeting**

The business of an annual general meeting is:

- (a) to receive and consider the annual financial report and any other accounts, reports and statements as are required to be laid before the meeting.
- (b) to elect Directors in the place of those retiring; and
- (c) to transact any other business which under this Constitution or by the provisions of the Corporations Act ought to be or may be transacted at an annual general meeting.

**10.2 Special business**

- (a) All other business transacted at an annual general meeting and all business transacted at any other meeting of the Company's Members will be deemed special.
- (b) Except pursuant to the provisions of the Corporations Act, with the prior approval of the Directors, or with the permission of the chairperson, no person may, as regards any special business of which notice has been given, move at any meeting of the Company's Members any resolution (other than a resolution in the same terms as specified in that notice) or any amendment of a resolution.

**10.3 Quorum**

- (a) A quorum for a general meeting is at least 3 persons.
- (b) For the purposes of determining whether a quorum is present:
  - (i) where a Member appoints more than one proxy or attorney or Representative, only one such proxy, attorney or Representative will be counted; and
  - (ii) a Member who is present in their own capacity and as a proxy, attorney or Representative of another Member will be counted once for each capacity.
- (c) No business can be transacted at any meeting of the Company's Members unless the requisite quorum is present at the commencement of the meeting.
- (d) If a quorum is present at the beginning of a meeting of the Company's Members it is deemed present throughout the meeting unless the chairperson otherwise declares on the chairperson's own motion or at the instance of a Member, the attorney of a Member, the proxy of a Member, or a Representative.

**10.4 Chairperson**

- (a) The Chairperson of Directors shall preside as chairperson at every meeting of the Members of the Company.
- (b) In the absence of the Chairperson of Directors, or if the Chairperson of Directors declines to act, then the Deputy Chairperson of Directors shall preside at the meeting.
- (c) If there is no such Chairperson or Deputy Chairperson, or if at any meeting of the Company's Members such person is not present within 15 minutes of the time appointed for holding the meeting or willing to act for all or part of the meeting, the Director or Directors present may choose another Director as chairperson of the meeting (or part of it).
- (d) If no Director is present or if all Directors present decline to act as chairperson for all or part of the meeting, the Members present may choose one of their number to be chairperson of the meeting (or part of it).

**10.5 If quorum absent**

If half an hour after the time appointed for a meeting of the Company's Members a quorum is not present, a meeting convened by the Directors on a request of Members or by the Members as is provided by the Corporations Act will be dissolved, but in any other case the meeting will be adjourned to such other day, time and place as the Directors may be notice to the Members appoint, but failing such appointment, then to the same day in the next week at the same time and place as the meeting adjourned.

**10.6 Dissolution of adjourned general meeting if quorum absent**

If at any adjourned general meeting a quorum is not present after half an hour from the time appointed for that adjourned general meeting then the meeting shall be dissolved.

**10.7 Chairperson has casting vote**

In the case of an equality of votes at any general meeting, the chairperson has a casting vote both on a show of hands and on a poll, in addition to the vote or votes of which the chairperson is entitled as a Member, proxy or attorney of a Member or Representative.

**10.8 Voting: show of hands or poll**

At any meeting of the Company's members at which an election for directors is required the election shall be conducted by a poll and not by a show of hands.

At any meeting of the Company's Members any other resolution put to the vote of the meeting will be decided on a show of hands unless before a vote is taken or before or immediately after the declaration of the result of the show of hands a poll is demanded:

- (a) by the chairperson;
- (b) by at least 5 Members, present in person or by proxy or attorney or by a Representative, having the right to vote at the meeting; or
- (c) by any Member or Members, present in person or by proxy or attorney or by a Representative, who are together entitled to at least 5% of the votes that may be cast on that resolution on a poll,

but no poll will be demanded on any resolution concerning the election of a chairperson of a meeting or the adjournment of any meeting.

**10.9 Questions decided by majority**

Subject to the requirements of the Corporations Act in relation to special resolutions a resolution will be taken to be carried if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution exceeds one-half.

**10.10 Declaration by chairperson that resolution carried**

A declaration by the chairperson that a resolution has on a show of hands 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 book of proceedings of the Company will be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

**10.11 Conduct of poll**

- (a) If a poll has been demanded under this Constitution it will be taken in such manner and at such time and place as the chairperson directs, and either at once or after an interval or adjournment or otherwise.
- (b) The result of the poll will be deemed to be the resolution of the general meeting at which the poll was demanded.
- (c) The demand for a poll may be withdrawn.

**10.12 Continuation of meeting notwithstanding poll**

The demand for a poll will not prevent the continuance of the meeting or the transaction of any business other than the resolution on which a poll has been demanded.

**10.13 Adjournment of general meetings**

- (a) The chairperson will adjourn a meeting of the Company's Members from time to time and from place to place; of the Members present with a majority of votes that may be cast at that meeting agree to direct the chairperson to do so.
- (b) No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

**10.14 General Conduct of Meetings**

- (a) Subject to the requirements of the Corporations Act, the chairperson will be responsible for the general conduct of general meetings and for the procedures to be adopted at general meetings.
- (b) The chairperson may make rulings, adjourn the meeting without putting the question (or any question) to the vote if such action is required to ensure the orderly conduct of the meeting.
- (c) The chairperson may require the adoption of any procedures which are in the chairperson's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.
- (d) The chairperson may determine conclusively any dispute concerning the admission, validity or rejection of a vote.
- (e) Persons in possession of visual-recording, pictorial-recording or sound-recording devices or placards, banners or articles considered by the Directors or the chairperson

to be dangerous, offensive or liable to cause disruption, or persons who refuse to produce or to permit examination of any articles in their possession or the contents thereof, may be refused admission to any general meeting or may be required to leave and remain out of the meeting.

- (f) Nothing contained in this clause will be taken to limit the powers conferred on the chairperson by law.

## **11. VOTES AT GENERAL MEETINGS**

### **11.1 Number of votes**

Subject to clauses 11.3 and 11.7:

- (a) on a show of hands at a meeting of the Company's Members every person present who is either a Member, a proxy, an attorney or a Representative of a Member shall have one vote; and
- (b) on a poll at a meeting of the Company's members every Member (not being a corporation) present in person or by proxy or attorney and every Member (being a corporation) present by a Representative or by proxy or attorney shall have one vote .

### **11.2 Votes of incapacitated member**

If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the Member's committee or trustee or such other person as properly has the management of the Member's estate may exercise any rights of the Member in relation to a meeting of the Company's Members as if the committee, trustee or other person were the Member.

### **11.3 No vote if fees unpaid**

Notwithstanding this Constitution, a Member will not be entitled to vote on any question, either personally, by proxy, by attorney, or by a Representative at any meeting of the Company's Members, or on a poll if at the time of the meeting and fees or levies payable by the Member shall remain unpaid for a period of 2 calendar months.

### **11.4 Chairperson to determine disputes re votes**

In the case of any dispute as to the admission or rejection of a vote, the chairperson may determine the dispute and such determination made in good faith will be conclusive.

### **11.5 Objections to qualification to vote**

- (a) No objection to the qualification of any person to vote will be raised except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at that meeting is valid for all purposes.
- (b) Any objection to the qualification of any person to vote at a meeting of the Company's Members made in due time will be referred to the chairperson, whose decision made in good faith is final and conclusive.

### **11.6 Proxy not to vote if Member present**

If a Member is present at a meeting of the Company and a proxy or attorney for such Member is also present, the proxy or attorney is not in respect of the membership to which the proxy or attorney relates entitled to vote on a show of hands or on a poll.

**11.7 When numerous proxies or Representatives are present**

If more than one proxy or attorney or Representative for a Member is present at a meeting of the Company, none of them will be entitled to vote on a show of hands, or on a poll.

**11.8 No vote if contrary to Corporations Act**

Notwithstanding any other Clause, a Member shall not be entitled to vote, and any vote purported to be cast by the Member or any proxy, attorney or Representative for the Member, shall be disregarded on a particular resolution where such a vote is prohibited by the Corporations Act.

**12. PROXIES AND REPRESENTATIVES****12.1 Right to appoint proxy/attorney**

- (a) A Member is entitled to appoint another person (whether a Member or not) as the Member's proxy or attorney.
- (b) A proxy or attorney may be appointed for all meetings or for any number of meetings or for a particular purpose.

**12.2 Proxy or attorney will be written**

- (a) An instrument appointing a proxy or attorney:
  - (i) will be in writing executed under the hand of the appointer or of the appointer's attorney duly authorised in writing or, if the appointer is a corporation, under its common seal or the hand of its duly authorised attorney or in a manner permitted by the Corporations Act; and
  - (ii) may contain directions as to the manner in which the proxy or a power of attorney is valid, unless the notice of meeting of the Company's Members to which the appointment relates requires production of the written appointment at the meeting and that requirement is not complied with.

**12.3 Directors or chairperson decide validity**

Subject to the Corporations Act, the Directors' or chairperson's decision as to the validity of a proxy or power of attorney or a facsimile thereof will be final and binding.

**12.4 Authority conferred on Proxy or Attorney**

Unless otherwise provided in the instrument, an instrument appointing a proxy or attorney will be taken to confer authority:

- (a) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this Constitution;
- (b) to agree to a resolution being proposed and passed as a resolution at a meeting of which less than 21 days' notice has been given;
- (c) even though the instrument may refer to specific resolutions and may direct the proxy or attorney how to vote on those resolutions:
  - (i) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion; and

- (ii) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting;
- (d) to speak on any proposed resolution on which the proxy or attorney may vote; and
- (e) to demand or join in demanding a poll on any resolution on which the proxy or attorney may vote.

#### **12.5 Power of attorney and proxy form to be deposited before meeting**

An instrument appointing an attorney or a proxy and, the power of attorney or other authority (if any) under which it is signed or a copy of that power or authority certified as a true copy by statutory declaration or a facsimile of any of the documents referred to in this clause, will be deposited at the Office not less than 48 hours before the time scheduled for commencement of the meeting (or any adjournment of that meeting) at which the person named in the instrument intends to vote.

#### **12.6 Vote by proxy valid notwithstanding intervening death etc of Member**

A vote given in accordance with the terms of an instrument appointing a proxy or attorney will be valid notwithstanding the previous death or unsoundness of mind of the principal, or revocation of the proxy or power of attorney if no intimation in writing of the death, unsoundness of mind or revocation has been received at the Office, not less than 48 hours before the time scheduled for the commencement of the meeting at which the person named in the proxy or power of attorney, as the case may be, intends to vote.

#### **12.7 Member may indicate whether proxy is to vote for or against resolution**

- (a) Any form of proxy sent out by the Company to Members in respect of a proposed general meeting of Members will make provision for the Member to indicate whether the Member wishes to vote for or against any resolution.
- (b) The Member may but need not give an indication or direction as to the manner in which a proxy is to vote in respect of a particular resolution.
- (c) Whether an indication or direction is given, the proxy is not entitled to vote on the resolution on behalf of that Member except in accordance with that indication or direction.

#### **12.8 Form of proxy/attorney**

Every instrument appointing a proxy or attorney whether for a specified meeting or otherwise will be in such form as the Directors may prescribe or accept.

#### **12.9 Failure to name appointee**

Any instrument of proxy in which the name of the appointee is not filled in will be deemed to be given in favour of the chairperson or such other person as is nominated by the Directors in the notice convening the relevant meeting of the Company's Members.

#### **12.10 Appointment of Representative by Corporation**

- (a) Any Corporation which is a Member of the Company by a resolution of its directors may authorise any person (whether a Member or not) it thinks fit to act as its Representative at all meetings or any particular meeting or meetings held during the

continuance of the authority, whether the meeting is of the Company or of any class of Members of the Company.

- (b) Unless otherwise specified in the appointment, a Representative acting in accordance with his or her authority until it is revoked by the Corporation, is entitled to exercise the same powers on behalf of that Corporation as that Corporation could exercise at a meeting or in voting on a resolution.

### **12.11 Proof of appointment or revocation of appointment of Representative**

A certificate:

- (a) under the seal of the Corporation;
- (b) signed by two directors of the Corporation (or where the Corporation has only one director, signed by that director); or
- (c) signed by one director and one secretary of the Corporation,

or such other document as the chairperson of the meeting in his or her sole discretion considers sufficient will be prima facie evidence of the appointment or of the revocation of the appointment (as the case may be) of a Representative.

## **13. DIRECTORS: APPOINTMENT AND REMOVAL**

### **13.1 Number of Directors**

- (a) Subject to paragraph (b), the number of Directors will be subject to any applicable legislation be such number not less than 3 nor more than 9 (including the Executive Director as the Directors may determine, provided that the Directors shall not reduce the number of Directors below the number in office at the time of such determination.
- (b) The Company in general meetings may by ordinary resolution increase or reduce the maximum or minimum number of Directors, provided that the minimum will not be less than 3.
- (c) The first Directors will be the persons named in the application for registration of the Company.

### **13.2 Limited ability of Directors to act during vacancies**

The continuing Directors may act notwithstanding any vacancy in their number; but for as long as the number of Directors is below the minimum fixed by this Constitution, the Directors will not act except in emergencies or for the purpose of filling up vacancies or convening a meeting of the Company.

### **13.3 Director must be a Member**

With the exception of the Executive Director, a Director must be a Member of the Company or a Representative of a corporate Member of the Company.

### **13.4 Directors may attend and speak at general meetings**

A Director is entitled to receive all notices to be served or given under clause 9.7 and is entitled to attend and speak at all meetings the subject of such notices and at every meeting of every class of membership.

**13.5 Directors may fill casual vacancies and may appoint additional Directors**

- (a) The Directors have power to appoint any person as a Director either to fill a casual vacancy or as an addition to the Directors, but the total number of Directors will never exceed the maximum number fixed by this Constitution.
- (c) Any Director so appointed will retire at the next following annual general meeting of the Company and will then be eligible for re-election.
- (d) In the event of there being insufficient Directors of a particular class in accordance with clause 14.3, the Directors may fill the resultant casual vacancies from an member irrespective of what class of member.

**13.6 Appointment of Directors by general meeting**

Subject to the provisions of this Constitution, the Company in general meeting may by ordinary resolution appoint new Directors.

**13.7 Resignation of Directors**

A Director may resign from office on giving the Company notice in writing.

**13.8 Removal of Directors by general meeting**

Subject to the Corporations Act, the Company in general meeting convened on at least 21 days' notice may by ordinary resolution:

- (a) remove any Director; and
- (b) appoint another qualified person in place of that Director.

**13.9 Suspension of Director guilty of prejudicial behaviour**

- (a) If the conduct or position of any Director is such that continuance in office appears to a majority of the Directors to be prejudicial to the interests of the Company, a majority of the Directors at a meeting of the Directors specially convened for that purpose may suspend that Director;
- (b) Within 14 days of the suspension, the Directors will call a general meeting, at which the Members may either confirm the suspension and remove that Director from office in accordance with Clause 13.8, or annul the suspension and reinstate that Director.

**13.10 Vacation of office of Director: automatic**

The office of a Director is vacated if that Director:

- (a) 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;
- (b) is absent without the consent of the Directors from all meetings of the Directors held during a period of 3 months and the Directors resolve that his or her office be vacated.
- (c) resigns the office of Director in accordance with clause 13.7;
- (d) is removed under the provisions of clause 13.8;
- (e) becomes bankrupt or suspends payment or liquidates by arrangement or compounds with or assigns his or her estate for the benefit of his or her creditors; or

- (f) otherwise ceases to be, or becomes prohibited from being, a Director by virtue of the Corporations Act.

## **14. RETIREMENT OF DIRECTORS**

### **14.1 Retirement of Directors at annual general meetings in certain circumstances**

At every annual general meeting, all Directors except for the Executive Director shall retire from office and be eligible for re-election.

### **14.2 Retiring Director stays for meeting**

A Director retiring will retain office until the dissolution of the general meeting at which that Director retires.

### **14.3 Election of Directors by general meeting**

Subject to the provisions of this Constitution, the Company in general meeting at which any Director retires or at the conclusion of which any Director ceases to hold office may fill up all or any of the vacated offices by electing a like number of persons to be Directors.

### **14.4 Director may continue if place not filled**

If the vacated office is not filled by election, the retiring Director, if offering himself or herself for re-election and not being disqualified under the Corporations Act from holding office as a Director, is deemed to have been re-elected unless at that meeting:

- (a) it is expressly resolved not to fill the vacated office at that time; or
- (b) a resolution for the re-election of that Director is put and lost.

### **14.5 Nomination of Directors for office**

- (a) No person other than a Director retiring in accordance with this Constitution is eligible for election to the office of Director at any general meeting unless in the case of a person whose nomination is recommended by the Directors, at least 21 days, and in any other case, at least 30 Business Days before the meeting there has been left at the Office:
  - (i) a notice in writing signed by a Member duly entitled to attend and vote at the meeting for which such notice is given of that Member's intention to propose the person for election; and
  - (ii) notice in writing signed by the person of his or her willingness to be elected.
- (b) Members duly entitled to attend and vote at the meeting may also propose themselves for election in accordance with this Constitution.
- (c) Notice of each and every candidature will be given to all Members at least 21 days before the meeting at which the election is to be held.

## **15. PROCEEDINGS OF DIRECTORS**

### **15.1 Meetings of Directors**

The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

**15.2 Quorum for meetings of Directors**

- (a) A quorum for a meeting of the Directors is at least 50% of the Directors.
- (b) A meeting of the Directors during which a quorum is present is competent to exercise all or any of the authorities, powers and discretions under this Constitution for the time being vested in or exercisable by the Directors.
- (c) Where a quorum cannot be established for a meeting of Directors (or consideration of a particular matter) a Director may convene a general meeting of Members to deal with the matter or the matters in question.
- (d) For the purpose of determining whether a quorum is present, an Alternate Director who is present in both his or her own capacity as a Director and as an Alternate Director for one or more Appointers will be counted once for each capacity.

**15.3 CONVENING MEETINGS OF DIRECTORS**

The chairperson or Directors may at any time and the Executive Director or the Secretary will on the request of 2 or more Directors convene a meeting of the Directors.

**15.4 Notice of meeting of Directors**

- (a) Notice of every Directors' meeting will be given to each Director and Alternate Director who is within Australia, but it is not necessary to give notice to any Director or Alternate Director who is outside Australia.
- (b) Notice of a meeting of Directors may be given in writing or by radio, telephone, closed-circuit television or other electronic means of audio or audio-visual communication.

**15.5 Meetings by Electronic Means**

- (a) Without limiting the discretion of the Directors to regulate their meetings under Clause 15.1, the Directors may, if they think fit, confer by radio, telephone, closed circuit television or other electronic means of audio or audio-visual communication.
- (b) Notwithstanding that the Directors are not present together in one place at the time of the conference, a resolution passed by such a conference will be deemed to have been passed at a meeting of the Directors held on the day on which and at the time at which the conference was held.
- (c) The provisions of this Constitution relating to proceedings of Directors apply to such conferences to the extent that they are capable of applying, and with the necessary changes.
- (d) A Director present at the commencement of the conference 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 conference.
- (e) Any minutes of a conference of the type referred to in clause 15.5(a) purporting to be signed by the chairperson of that conference or by the chairperson of the next succeeding meeting of Directors will be sufficient evidence of the observance of all necessary formalities regarding the convening and conduct of the conference.
- (f) When by the operation of clause 15.5(b) a resolution is deemed to have been passed at a meeting of the Directors, that meeting will be deemed to have been held at such place as is determined by the chairperson of the relevant conference, provided that at least one of the Directors who took part in the conference was at such place for the duration of the conference.

**15.6 Votes at meeting of Directors**

- (a) Motions and resolutions arising at any meeting of the Directors will be decided by a majority of votes and each Director has one vote.
- (b) A person who is an Alternate Director is entitled to one vote (in addition to the Alternate Director's own vote as a Director, if any) on behalf of each Appointer whose alternate the Alternate Director is and who is not personally present.

**15.7 Casting vote for chairperson of Directors**

Subject to the Corporations Act, in case of an equality of votes the chairperson of a meeting of Directors will have a second or casting vote.

**15.8 Chairperson and deputy chairperson of Directors**

- (a) The Directors may elect a Chairperson of Directors. The Chairperson may also be referred to as the Chair, Chairman or Chairwoman.
- (b) The Directors may also elect a Deputy Chairperson who in the absence of the Chairperson at a meeting of the Directors may exercise all the powers and authorities of the chairperson. The Deputy Chairperson may also be referred to as the Deputy Chair, Deputy Chairman or Deputy Chairwoman.
- (c) If no chairperson or deputy chairperson is elected or if at any meeting the chairperson or deputy chairperson is not present within 15 minutes of the time appointed for holding the meeting or is not willing to act as chairperson for all or part of that meeting, the Directors present will choose one of their number to be chairperson of that meeting or part of that meeting (as the case may be).
- (d) The Directors may determine the period for which a person elected as a chairperson or deputy chairperson is to hold office.
- (e) If the Directors do not make such a determination under clause 15.8(d), then the person concerned will hold office until otherwise resolved by the Directors or until the person ceases to be a Director.
- (f) If the Directors do make such a determination then the person concerned will hold office until the first to occur of the expiration of that period, the person ceasing to be a Director or the Directors at any time during that period resolving that the person will from that time cease to hold that office.
- (g) When a Director who is the chairperson or deputy chairperson retires at an annual general meeting either by retirement or otherwise and is re-appointed or re-elected as a Director at that meeting, that chairperson or deputy chairperson will not by that fact alone cease to be the chairperson or deputy chairperson as the case may be.

**15.9 Executive Director**

- (a) The Directors may appoint a person to the office of Executive Director and in that capacity the person shall be a Director of the Company and a voting member of the Board.
- (b) The Executive Director automatically ceases to hold that office and also the office of a Director if removed from either position by resolution of the Directors.
- (c) The Executive Director is exempt from retirement at an annual general meeting of members.

- (d) The remuneration of the Executive Director may be fixed by the Directors and may be by way of salary or commission or participation in profits or by any other method determined by the Directors.
- (e) The Directors may delegate to the Executive Director such of the powers exercisable by them as they think fit. Such delegation shall be on such terms and conditions and subject to such restrictions as the Directors determine and may be withdrawn or varied by them. These powers of delegation are additional to those available under the Corporations Act.

#### **15.10 Committees of Directors**

- (a) The Directors may delegate any of their powers to committees consisting of one or more members who are Directors as they think fit, and the Directors may revoke that delegation.
- (b) A committee will conform to any directions and regulations that may be imposed upon it by the Directors in the exercise of its powers.
- (c) So far as they are capable of application and with the necessary changes, the provisions of the Clauses for regulating the meetings and proceedings of the Directors govern the meetings and proceedings of committees of 2 or more members to the extent that the same are consistent with any directions and regulations made by the Directors. A quorum will be at least 50% of the members of the committee.

#### **15.11 Defects in appointment or qualifications of Director**

All acts done at any meeting of the Directors or of a committee of Directors or by any person acting as a Director will be as valid as if every such person or committee had been duly appointed and every Director was qualified and entitled to vote, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a Director or of the committee or of the person acting as aforesaid, or that any Director was disqualified or not entitled to vote.

#### **15.12 Written resolution of Directors**

- (a) If all of the Directors required to be given notice of a meeting as specified in clause 15.4, being not less than the number of Directors required to constitute a quorum for a meeting of the Directors, have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document or documents as the case may be, a resolution in those terms will be deemed to have been passed at a meeting of the Directors held on the day on which the document was signed and at the time at which the document was last signed by a Director or, if the Directors signed the document or documents on different days, on the day on which, and at the time at which the document was last signed by a Director.
- (b) For the purposes of this clause 15.12:
  - (i) 2 or more separate documents containing statements in identical terms each of which is signed by one or more Directors will together be deemed to constitute one document containing a statement in those terms signed by the Directors.
  - (ii) a reference to all the Directors does not include a reference to a Director who, at a meeting of Directors, would not be entitled to vote on the resolution;
  - (iii) a document signed by an Alternate Director need not also be signed by the Alternate Director's Appointer and, if signed by a Director who has appointed an Alternate Director, need not be signed by the Alternate Director in that capacity; and

- (iv) any document so signed by a Director may be received by the Company at the Office (or other place agreed by the Directors) by post, by facsimile or other electronic means or by being delivered personally by that Director.

**16. [DELETED]**

**17. MINUTES**

**17.1 Minutes of all proceedings to be kept**

The Directors will cause minutes of:

- (a) all proceedings and resolutions of meetings of Members;
- (b) all proceedings and resolutions of meetings of the Directors, including meetings of committees of Directors;
- (c) all resolutions passed by Members without a meeting; and
- (d) all resolutions passed by the Directors without a meeting,

to be duly entered in books kept for that purpose in accordance with the Corporations Act.

**17.2 Minutes to be signed by chairperson**

The Directors will cause the minutes referred to in clause 17.1 to be signed by:

- (a) the chairperson of the meeting at which the proceedings took place or at which the resolutions were proposed; or
- (b) the chairperson of the next succeeding meeting.

**17.3 Minutes to be presumed accurate**

Where the minutes referred to in clause 17.1 are signed in accordance with clause 17.2, those minutes shall be presumed to be an accurate record of the relevant proceedings and resolutions unless the contrary is proved.

**17.4 Inspection of minutes of general meeting**

Books containing the minutes of proceedings of meetings of Members will be open for inspection by any Member without charge.

**18. SECRETARY**

**18.1 Appointment and removal of Secretary**

A Secretary or Secretaries will be appointed by the Directors in accordance with the Corporations Act for such term, at such remuneration and on such conditions as they think fit, and any Secretary so appointed may be removed by the Directors.

**18.2 Acting Secretary**

The Directors may appoint a person as an acting Secretary or as a temporary substitute for a Secretary who for the purpose of this Constitution will be deemed to be a Secretary.

## **19. EXECUTION OF DOCUMENTS**

### **19.1 Custody and use of Seal**

- (a) The Directors will provide a Seal for the Company (if any) and will provide for the safe custody of that Seal.
- (b) The Seal will only be used by the authority of the Directors or of a committee of the Directors authorised by the Directors in that behalf.

### **19.2 Execution of documents**

- (a) The Company may execute a document using a Seal if the Seal is affixed to the document and the affixing of the Seal is witnessed by:
  - (i) 2 Directors;
  - (ii) a Director and a Secretary; or
  - (iii) a Director and another person appointed by the Directors for this purpose.
- (b) The Company may execute a document without using a Seal if the document is signed by:
  - (i) 2 Directors;
  - (ii) a Director and a Secretary; or
  - (iii) a Director and another person appointed by the Directors for this purpose.

### **19.3 Facsimile signature under Seals**

The Directors may determine either generally or in a particular case and in any event subject to such conditions as they think fit that wherever a signature is required by this Constitution on a document to or in which the Seal is affixed or incorporated, that requirement will be satisfied by a facsimile of the signature by mechanical or other means.

### **19.4 Effect of sealing**

Any instrument being the Seal if issued for valuable consideration will be binding on the Company notwithstanding any irregularity touching the authority of the Directors to issue the same, or the circumstances of its issue.

## **20. ACCOUNTS**

### **20.1 Company to keep**

The Company will keep such accounting and other records of the business as it is required to keep by the Corporations Act.

### **20.2 Annual accounts to be laid before annual general meeting**

At the annual general meeting in every year the Directors will lay before the Company the financial report for the last financial year of the Company, together with such other accounts, reports and statements as are required by the Corporations Act.

### **20.3 Copy of accounts to be sent**

Other than those Members who have provided written notice to the Company stating that they do not wish to receive a copy of every document which is required to be laid before each

annual general meeting by clause 20.1, a copy of these documents will be sent to all persons entitled to receive notices of meetings of the Company's members together with the notice of meeting as required by the Corporations Act.

#### **20.4 Accounts Conclusive**

Every account of the Directors when audited and approved or received by a general meeting at which it is presented will be conclusive except as regards any material error discovered in it within 3 months next after its approval or adoption. Whenever any material error is discovered within that period the account will forthwith be corrected and then it will be conclusive.

### **21. SECRECY**

#### **21.1 Members not entitled to discovery**

- (a) The Directors will determine whether and to what extent, at what time and place or places, and under what conditions the accounting records and other documents of the Company will be open to the inspection of Members other than Directors.
- (b) Subject to the Corporations Act, (but excluding section 247D of the Corporations Act), a Member not being a Director does not have the right, but may in the absolute discretion of the Directors be authorised, to inspect or to require or receive any information, or to require discovery of any record or document of the Company or any information respecting any detail of the Company's trading or business, or any matter which is or may be in the nature of a trade secret, confidential information, mystery of trade or secret process which may related to the conduct of the business of the Company.

#### **21.2 Officers of Company not to disclose information**

- (a) Every Director, Executive Director, manager, Secretary, auditor, trustee, member of a committee, agent, accountant or other Officer is bound to observe with respect to all transactions of the Company with its customers, the state of the account of any individual, and all related matters.
- (b) If required by the Directors, every such person will, before commencing that person's duties or employment or at any time afterwards, sign and make a declaration in a book to be kept for that purpose that they will not reveal or make known any of the matters, affairs or concerns which may come to their knowledge as Director, Executive Director, manager, Secretary, auditor, trustee, member of a committee, agent, accountant or other Officer and whether relating to transactions of the Company with its customers or the state of the account of any individual or to anything else, to any person or persons except in the course and in the performance of their duties, or under compulsion or obligation of law, or when officially required so to do by the Directors or by the auditors for the time being, or by any general meeting of Members.

### **22. NOTICES**

#### **22.1 Method of service of notices**

A notice may be served by the Company on a Member or other person receiving notice under this Constitution by any of the following methods:

- (a) by serving it personally on the Member;
- (b) by leaving it at the address of the Member in the Register;

- (c) by sending it by prepaid post addressed to the Member at the address of the Member in the Register; or
- (d) by sending it by facsimile transmission, email or other form of electronic communication to a facsimile number or electronic address nominated by the Member for the purpose of serving notices on the Member.

## **22.2 Notification of alternative address for notices**

Each Member whose address in the Register is not in the Region may at any time notify in writing to the Company an address in the Region which will be deemed to be that Member's address in the Register within the meaning of clause 22.1.

## **22.3 Notice to overseas members without Australian address**

If the address of a Member in the Register is not within Australia, all notices will be posted by air mail, or sent by facsimile transmission, email or other form of electronic communication or air courier.

## **22.4 Notice by advertisement**

Where a notice is required or allowed by a court of law or otherwise to be given by the Company to the Members or any of them by advertisement it will unless otherwise stipulated be sufficiently advertised if it appears once in each daily newspaper published in the Region.

## **22.5 Time of service by post**

Any notice sent by post, air mail or air courier will be deemed to have been served on the business day following that on which the notice is posted or delivered to the air courier, and in proving service it will be sufficient to prove that the notice was properly addressed and put into the post office or other public postal receptacle or delivered to the air courier. A certificate in writing signed by any Director, Executive Director, manager, Secretary or other Officer of the Company that the notice was so addressed and posted is conclusive evidence thereof.

## **22.6 Time of service by electronic communication**

Any notice sent by facsimile transmission, email or other electronic means will be deemed to have been served on receipt by the Company of a transmission report confirming successful transmission.

## **22.7 Signatures on notices**

The signature to any notice to be given by the Company may be written or printed or a facsimile thereof may be affixed by mechanical or other means.

## **22.8 Calculation of notice period**

Where a period of notice is required to be given, the day on which the notice is dispatched and the day of doing the act or other thing will not be included in the number of days or other period.

## **23. OFFICERS: INDEMNITIES AND INSURANCE**

### **23.1 Indemnities**

To the extent permitted by law:

- (a) 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 judgment 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 Corporations Act; and
- (b) 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 the 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.

### **23.2 Insurance**

To the extent permitted by law, 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:

- (a) incurred by the person in his or her capacity as an Officer of the Company or a subsidiary of the Company or in the course of acting in connection with the affairs of the Company or 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 willful breach of duty in relation to the Company or a subsidiary of the Company or a contravention of sections 232(5) or (6) of the Corporations Act; or
- (b) for costs and expenses incurred by that person in defending Proceedings, whatever their outcome.

### **23.3 Interpretation**

In clauses 23.1 and 23.2:

- (a) 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 his or her capacity as such an Officer or in the course of acting in connection with the affairs of the Company or a wholly-owned subsidiary (in clause 23.1) or subsidiary (in clause 23.2) of the Company or otherwise arising out of the Officer's 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 (in clause 23.1) or subsidiary (in clause 23.2) of the Company.
- (b) the term "Officer" has the meaning given to that term in section 241(4) of the Corporations Act.

### **23.4 Rights of Access**

The Company grants rights of access to every person who is or has been a Director or Officer of the Company or of a wholly-owned subsidiary of the Company to all documents of the Company, including those given or made available by the Company to the Director or Officer for the purpose of the performance of the Director's or Officer's function as a Director or Officer, for a period of 7 years after the date the Director or Officer ceases to hold office as a Director or Officer, for the following permitted purposes:

- (a) For use in relation to a Claim:-
  - i. To which the Director or Officer is subject or a party; or
  - ii. That the Director or Officer proposes in good faith to bring; or
  - iii. That the Director or Officer has reason to believe will be brought against the Director or Officer (but not necessarily solely against the Director or Officer);  
or
- (b) Such other purpose determined by the Directors as being in the interests of the Company.