

Constitution of Water Services
Association of Australia Limited
(ACN117 907 285)

The Corporations Act

An unlisted public company limited by guarantee

Registered in Victoria

Amended by Members on 29 November 2023

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Constitution of Water Services Association of Australia Limited (ACN 117 907 285), a public company limited by guarantee

General

1. Definitions

The following definitions apply in this constitution unless the context requires otherwise:

Chair means the person occupying the position of Chair or when appropriate deputy Chair of the Directors under rule 32.

Company means Water Services Association of Australia Limited (ACN 117 907 285)

Corporations Act means the *Corporations Act 2001* (Cth) and the Corporations Regulations.

Director means a person appointed or elected to the office of director of the Company in accordance with this constitution..

Executive Director means an individual appointed to the office of executive director of the Company in accordance with this constitution.

Member means a member of the Company recorded on the Register in accordance with rule 10.

Member Present means, in connection with a meeting, the Member present at the venue or venues for the meeting, or participating in the meeting using technology, by duly appointed Representative or proxy.

Metropolitan Member means a Voting Member that predominantly services an urban area that exceeds a base population as determined by the Board from time to time.

person and words importing persons means any person including partnerships, associations and bodies corporate, unincorporated bodies and all other entities or associations recognised by law as well as individuals.

Regional Member means a Voting Member that has no, or only a minor, proportion of properties that it services located in a metropolitan area covered by a Metropolitan Member with the minor proportion of properties to be determined by the Board from time to time.

Register means the register of Members pursuant to the Corporations Act and in accordance with rule 10.

Representative means the individual appointed in accordance with the Corporations Act by a Member that is a body corporate to represent the Member.

Secretary means a person appointed as, or to perform the duties of, secretary of the Company.

Senior Officer means

- (a) the Chief Executive Officer (or equivalent) of the Member: or
- (b) where the water services of the Member are carried out by a discrete division or entity of the Member, the head of that division or entity.

State means any one of any of the States of Australia any of the Territories of Australia and the Realm of New Zealand.

2. Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless any contrary intention appears in this constitution or the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (d) A word or phrase given a meaning in the Corporations Act has the same meaning in this constitution.

3. Replaceable Rules

The replaceable rules contained in the Corporations Act do not apply to the Company.

Purposes

4. Purposes

The Company is incorporated as a non-profit organisation for the purposes of fostering the exchange of information relating to the provision of urban water services between industry, government and the community, and promoting sustainable water resource management including, without limitation:

- (a) influencing national and state policies on the provision of urban water services and sustainable water resource management;
- (b) promoting debate on environmentally sustainable development and management of water resources and the community health requirements of public water supplies;
- (c) improving industry performance and establishing benchmarks and industry best practices for water service processes; and
- (d) fostering the exchange of information on education, training, research, water management, water and wastewater treatment, water supply, wastewater disposal and other matters of common interest.

5. Application of Income and Property to Purposes

The income and property of the Company must be applied solely towards purposes of the Company set out in rule 4 and no part of it is to be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of distribution of profit to any Member except as bona fide compensation for services rendered or expenses incurred on behalf of the Company in accordance with rule 25 of this constitution.

Membership

6. Membership

- (a) The Company shall have at least one Member and no maximum number of Members.
- (b) Subject to rule 8, the Members of the Company are:
 - (i) the persons listed in the Register as current Members at the date of adoption of this amendment 11 Nov 2014; and
 - (ii) such other persons as the Board admits to membership and who have consented in writing to be Members.
- (c) The Board may, in its absolute discretion, admit to membership:
 - (i) as a Voting Member any public or private agency or utility that is either based or operating in Australasia and that provides water services and/or wastewater services directly or indirectly to at least 25,000 property connections; or
 - (ii) as a Non-voting Member any other agency, utility or organisation that provides water services and/or wastewater services including allied services,

if the Board is otherwise satisfied that the Company would benefit from the applicant being admitted to membership.
- (d) Within each class of membership the Board may provide for different categories of membership provided the rights of all Members shall be in accordance with rule 6 (c).
- (e) For all purposes, including purposes under the Corporations Act, a category of membership under this constitution does not necessarily constitute a distinct class of Member.
- (f) Unless otherwise provided by the terms of membership of a class of Member:
 - (i) all or any of the rights or privileges attached to a class may be varied, whether or not the Company is being wound up, with the consent in writing of the members of that class where at least 75% of any responses are in favour, or with the approval of a special resolution adopted at a meeting of the members of that class; and

- (ii) the rights of members of that class are to be taken as not being varied by the admission of further members to that class or any category, the establishment of and admission of Members into any new class or category of membership, or the cessation of membership irrespective of how it occurs.
- (g) An application for membership must be in the form as determined by the Board from time to time.
- (h) The Board may delegate the consideration and determination of any membership application.
- (i) Upon the Board or their delegate approving an application for membership:
 - (i) the Secretary must notify the nominee that it is approved for membership and request that the nominee pay the applicable annual membership fee; and
 - (ii) upon receipt of the applicable annual membership fee, the Secretary must enter the name of the nominee in the Register and upon the name being so entered the nominee becomes a Member of the Company.
- (j) A right, privilege or obligation which a person has by reason of being a Member of the Company:
 - (i) is personal to the Member and not capable of being transferred to another person by a Member's own act or by operation of the law; and
 - (ii) subject to rule 9, terminates upon the cessation of membership by whatever cause.
- (k) A Member may resign from the Company by giving two year's notice in writing to the Board.

7. Annual Membership Fee

- (a) Members must pay an annual membership fee and, when and where it is applied, a research contribution.
- (b) No person is entitled to exercise any rights or privileges as a Member until the Member has paid all moneys for the time being due and payable in respect of the membership.
- (c) The amount of the annual membership fee must be determined by the Board prior to the Annual General Meeting.
- (d) The Board may determine different fees for amounts charged to Members as between different categories, if any, of Members and as between Members within a category of membership. Any amounts charged to Members are payable in such manner and at such times as are determined by the Board.
- (e) Membership fees paid to the Company are not refundable to a Member that resigns or whose membership is cancelled.

- (f) If a Member fails to pay any sum payable in respect of membership on or before the day for payment, the Directors may serve a notice on the Member requiring payment of the unpaid sum, together with all expenses of the Company incurred by reason of the non-payment.
- (g) The notice must:
 - (i) specify a day (not earlier than 14 days after the date of service of the notice) on or before which and a place where the payment required by the notice is to be made; and
 - (ii) state that, if payment is not made by the time and at the place specified, the membership in respect of which the sum was payable is liable to be cancelled.

8. Cancellation of Membership

- (a) The Board may, by resolution, cancel the membership of any Member that has not complied with:
 - (i) the requirements of a notice served under rule 7(f), at any time before the payment required by such notice has been made; or
 - (ii) the provisions of this constitution or any by-laws, rules or regulations of the Company or whose conduct in the opinion of the Board is prejudicial to the interests of the Company.
- (b) A proposed resolution under rule 8(a) must be notified to the affected Member in writing at least 14 days before the meeting of the Board at which the resolution will be voted on. The notice must set out the proposed resolution of the Board and the grounds on which it is based, and where a resolution has been proposed under rule 8(a)(ii):
 - (i) state that the Member may address the Directors at the meeting of the Board and state the date, time and place of that meeting;
 - (ii) inform the Member that it may do one or more of the following:
 - (A) attend that meeting and be heard by the Board;
 - (B) submit a written statement to the Board prior to the meeting seeking the revocation of that resolution; and
 - (C) at least 24 hours before the date of that meeting, lodge with the Secretary a notice stating that it wishes to appeal the resolution to the Company at a general meeting.
- (c) Where the secretary receives a notice under rule 8(b)(ii)(C), the Board must convene a general meeting of the Company to be held as soon as practicable in accordance with these rules and the law.
- (d) At a general meeting convened under rule 8(c):
 - (i) no business other than the question of the expulsion will be transacted;

- (ii) the Board may place before the meeting details of the grounds for the proposed resolution;
 - (iii) the Member will be given an opportunity to be heard; and
 - (iv) the Members Present will vote by poll on the resolution.
- (e) Where at a general meeting held to expel a Member a resolution is passed for the expulsion of the Member by a majority of two-thirds of votes cast, then the Secretary must remove the Member's name from the Register.
- (f) Nothing in this rule affects any right or remedy which any law confers on the Company and any right or remedy is enforceable by the Company whether against the Member or the Member's Representative.

9. Consequences of Cancellation

A person whose membership has been cancelled:

- (a) ceases to be a Member at the time and on the date of the passing of the resolution by the Directors or Members (as the case may be);
- (b) has no claims or demands against the Company in respect of that membership;
- (c) has no other rights incident to the membership except the rights that are provided by the Corporations Act or saved by this constitution; and
- (d) remains liable to pay to the Company all money that, at the date of cancellation, was payable by the person to the Company in respect of the membership. The Directors may enforce the payment of the money or any part of the money for which the Member is liable as they determine. No Member who ceased to be a Member shall be readmitted as a Member until any unpaid money outstanding at the time they ceased to be a Member is paid including any interest or other charges levied on any outstanding money.

10. Register of Members

- (a) The Register must be kept by the Secretary and must contain full names and current addresses of the Members as supplied by them, the date of entry of the name of each Member, the name of the Representative nominated by that Member and such other particulars as the Directors may prescribe.
- (b) The latest address in the Register is deemed to be the Member's registered address.

General Meetings

11. General Meetings

- (a) The Directors may convene a general meeting of the Company whenever the Directors think fit.

- (b) The time, place of, and the technology to be used (if any), at, the general meeting is to be determined by the Directors.
- (c) A general meeting may be held at one or more venues, or wholly or partly online or virtually, using any technology that provides the Members a reasonable opportunity to participate, including the ability to hear and be heard.
- (d) If a general meeting is held using technology, all persons participating in the general meeting using technology are taken to be present in person at the meeting.
- (e) The Directors may cancel or postpone any meeting convened by the Directors by notice in writing to all persons who were entitled to receive notice of that meeting, except where the cancellation or postponement would be contrary to the Corporations Act. Any failure to give notice of cancellation or postponement does not invalidate the cancellation or postponement or any resolution passed at a postponed meeting.

12. Notice of General Meetings

- (a) A notice of a general meeting is to specify the place and time of the meeting, the general nature of the business to be transacted at the meeting and any other matters required by the Corporations Act. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate any resolution passed at the meeting.
- (b) Except where shorter notice is permitted by the Corporations Act, at least 21 days' notice of any general meeting must be given to
 - (i) each Member;
 - (ii) each Director; and
 - (iii) the auditor of the Company, if any.

13. Quorum

- (a) No business may be transacted at any general meeting except, subject to rule 14, the election of the Chair unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this constitution, five Members Present and entitled to vote constitutes a quorum.
- (c) If there is not a quorum at a general meeting within 30 minutes after the time specified in the notice of the meeting, the meeting is dissolved unless the Chair or the Directors adjourn the meeting to a date, time and place determined by the Chair or the Directors. If no quorum is present at any adjourned meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

14. Conduct of Meetings

- (a) Subject to rule 14(b), the Chair of Directors or, in the Chair's absence, the deputy Chair is entitled to preside as chair at every general meeting.
- (b) Where a general meeting is held and:
 - (i) there is no Chair or deputy Chair; or
 - (ii) the Chair or deputy Chair is not present within 15 minutes after the time appointed for the meeting or does not wish to act as chair of the meeting, the Directors present may choose one of their number or, in the absence of all Directors or if none of the Directors present wishes to act, the Members Present may elect one of their number who is eligible to vote to be chair of the meeting.
- (c) The general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined at, during or prior to the meeting by the chair of the meeting.
- (d) The chair of the meeting may make rulings without putting the question (or any question) to the vote if the chair of the meeting considers action is required to ensure the orderly conduct of the meeting.
- (e) At any time the chair of the meeting considers it necessary or desirable for the proper and orderly conduct of the meeting, the chair of the meeting may demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members Present.
- (f) Any determination by the chair of the meeting in relation to matters of procedure (including any procedural motions moved at, or put to, any meeting) or any other matter arising directly or indirectly from the business is final (including any procedural motions moved at, or put to, any meeting). Any challenge to a right to vote (whether on a show of hands or on a poll) or to a determination to allow or disregard to vote may only be made at the meeting and may be determined by the chair of the meeting whose decision is final.
- (g) If a person purports to cast a vote in contravention of the Corporations Act, the chair of the meeting may determine that the vote be disregarded and treated as not having been cast.
- (h) Nothing contained in this rule limits the powers conferred on a chair of the meeting by law.

15. Adjournments

During the course of the meeting the chair may adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion either to a later time at the same meeting or to an adjourned meeting. If the chair of the meeting exercises a right of adjournment of a meeting under this rule, the chair of the meeting has the sole discretion to decide whether

to seek the approval of the Members Present to the adjournment and, unless the chair of the meeting exercises that discretion, no vote may be taken by the Members Present in respect of the adjournment. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

16. Voting at General Meetings

- (a) Subject to rule 16(d), each question submitted to a general meeting is to be decided by a show of hands of the Representatives of the Members Present and entitled to vote, unless a poll is demanded.
- (b) Unless a poll is demanded, a declaration by the chair of the meeting following a vote on a show of hands that a resolution has been passed or lost is conclusive.
- (c) A poll may be demanded by a Member in accordance with the Corporations Act (and not otherwise) or by the chair of the meeting. No poll may be demanded on the election of a chair of a meeting or, unless the chair of the meeting otherwise determines, the adjournment of a meeting. A demand for a poll may be withdrawn.
- (d) .

17. Special Meetings

All the provisions of this constitution as to general meetings apply to any special meeting of any class of Members which may be held under the operation of this constitution or the Corporations Act.

18. Procedure for Polls

- (a) When demanded, a poll may be taken in the manner and at the time the chair of the meeting directs.
- (b) The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) as the chair of the meeting considers appropriate.
- (c) The result of the poll is the resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll does not prevent a meeting from continuing for the transaction of any business other than that on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting and without adjournment.

19. Chair does not have Casting Vote

In the case of equality of votes on a show of hands or on a poll, the chair of the meeting does not have a casting vote in addition to any vote to which the chair may be entitled as a Member or as a proxy, attorney or properly appointed Representative of a Member.

20. Representation and Voting of Members

Subject to this constitution and any rights or restrictions for the time being attached to any class or classes of membership only Voting Members have a right to vote at general meetings:

- (a) at meetings of Members or classes of Members each Member entitled to attend and vote may attend and vote by Representative or by proxy;
- (b) on a show of hands:
 - (i) subject to rules 20(b)(ii) and (iii), each Member Present by Representative has one vote;
 - (ii) where a Member has appointed more than one Representative only one of the Representatives is entitled to vote; and
 - (iii) where a person is entitled to vote because of rule 20(a) in more than one capacity, that person is entitled only to one vote; and
- (c) on a poll, only Members Present may vote and every Member Present having the right to vote on the resolution has the number of votes set out in the following table where the amount paid is the total of the annual membership fee and research contribution (GST inclusive) payable by the Voting Member in respect of the financial year in which the general meeting is held:

Amount Paid	Number of votes
\$1 - \$50,000	1 vote
\$50,001 - \$100,000	2 votes
\$100,001 - \$200,000	3 votes
\$200,001 - \$300,000	4 votes

and thereafter 1 additional vote for each \$100,000 or part thereof

21. Restriction on Voting Rights

- (a) A Member is not entitled to attend or vote at a general meeting unless all sums presently due and payable (see rule 7(f)) by the Member in respect of membership have been paid.
- (b) Non-voting Members are not entitled to vote at any general meeting of the Company.

22. Form of Proxy

- (a) A Member who is entitled to attend and vote at a meeting of the Company may appoint a person as a proxy to attend and vote for the Member in accordance with the Corporations Act but not otherwise. A proxy appointed in accordance with the Corporations Act to attend and vote may exercise the rights of the Member on the basis and subject to the restrictions provided in the Corporations Act and this constitution but not otherwise.
- (b) A form of appointment of a proxy is valid if it is in accordance with the Corporations Act or in any form (including electronic) which the Directors may prescribe or accept.
- (c) Any appointment of proxy under this rule 22 which is incomplete may be completed by the Secretary on the authority of the Directors and the Directors may authorise completion of the proxy by the insertion of the position of chair of the meeting as the person in whose favour the proxy is given.
- (d) Where a notice of meeting provides for electronic lodgement of proxies, a proxy lodged at the electronic address specified in the notice is taken to have been received at the registered office and validated by the Member if there is compliance with the requirements set out in the notice.

23. Validity of Proxies

- (a) A vote exercised in accordance with the terms of an instrument of proxy or other relevant instrument of appointment is valid despite the revocation of the instrument (or of the authority under which the instrument was executed) or the power if no notice in writing of the revocation or transfer (as the case may be) has been received by the Company at its registered office at least 48 hours (or any shorter period as the Directors may permit or specified by the Corporations Act) before the commencement of the meeting, or adjourned meeting at which the instrument is used or the power is exercised.
- (b) A proxy is not revoked by the principal attending and taking part in the meeting unless the principal actually votes at the meeting on a resolution for which the proxy is proposed to be used.
- (c) Voting instructions given by a Member to a Director or employee of the Company who is appointed as proxy (**Company Proxy**) are valid only if contained in the form of appointment of the Company Proxy or, in the case of new instructions or variations to earlier instructions, the new or varied instructions are only valid if either they are received at the registered office of the Company at least 48 hours before the meeting or adjourned meeting by a notice in writing signed by the Member or they are otherwise validated by the Member in a manner acceptable to the Directors in their discretion prior to the commencement of the meeting.

Eligibility, Appointment, Removal and Remuneration of Directors

24. Eligibility, Appointment and Removal

- (a) The number of Directors must not be less than four nor more than 11 unless otherwise determined by Voting Members at a general meeting. Each Director is to be a natural person. One Director must be from a Regional Member and one Director position must be for an Executive Director.
- (b) To be eligible for election, appointment, or to hold office as a Director (other than an Executive Director) of the Company, a person must be the Senior Officer of a relevant Voting Member. Where a Director ceases to hold the position of Senior Officer of the relevant Voting Member:
 - the office of that Director is terminated and the vacancy becomes a casual vacancy that may be filled in accordance with rule 24(d).
- (c) No more than one Director who is an officer of each Member may be on the Board at any one time and no more than two Directors from Metropolitan Members in any one metropolitan area and from Members in any one State may be Directors (other than an Executive Director) at any one time.
- (d)
 - (i) The Directors may at any time; and
 - (ii) the Members Present at a general meeting may by ordinary resolution, appoint any eligible person under rules 24(b) and 24(c) as a Director either to fill a casual vacancy or as an addition to the board of Directors provided the number of Directors does not exceed the maximum in accordance with rule 24(a).
- (e) Any Director appointed pursuant to rule 24(d)(i) automatically retires at the next annual general meeting and is eligible for re-election at that meeting.
- (f) A Director (other than an Executive Director) may not hold office for a continuous period in excess of three years or past the third annual general meeting following the Director's last election or re-election to the Board, whichever is the longer, without submitting for re-election. If no Director has agreed or would otherwise be required by this rule 24 to submit for election, and no nomination for an additional Director has been received under rule 24(i), no election will be held.
- (g) No Director (other than an Executive Director) may be appointed for more than three successive terms without the approval of the Board.
- (h) A Director who retires at a general meeting and seeks re-election at the meeting retains office until the dissolution or adjournment of the meeting at which the Director retires.
- (i) No person (other than a retiring Director) is eligible for election to the office of Director at any general meeting unless the person or a Member intending to nominate the person has given notice to the Company. A valid notice under this rule 24(i) must:
 - (i) be in writing;

- (ii) be signed by the nominee giving consent to the nomination;
 - (iii) confirm that the Member intends to nominate the nominee and that the nominee is eligible for election to the office of Director.
 - (iv) be left at the registered office of the Company in the time prescribed by the Board..
- (j) When there is no Director from a Regional Member and no candidate from a Regional Member is nominated for election in accordance with rule 24(i) then the Directors should nominate a candidate from a Regional Member in accordance with rule 24(i). If the Directors do not nominate a relevant candidate or a relevant candidate is nominated but is not elected then, irrespective of the number of candidates standing for election, one of the available positions for a Director must, in accordance with rule 24(a), be reserved for a Director from a Regional Member. When such an event occurs, the Directors must appoint a Director from a Regional Member in accordance with rule 24(d)(i). This appointment may be from any State and may be in addition to any limit imposed on the number of Directors from any one State under rule 24(c). The Board must ensure that the order of election of Directors facilitates the implementation of this rule 24(j).
- (k) The election of Directors will be conducted by ballot if more nominations are received than there are vacant positions, in the manner directed from time to time by the Board, which may be an electronic ballot conducted prior to the annual general meeting. If there are fewer nominations than vacant positions or the same number of nominations as there are vacant positions then each Director standing for election is elected only if appointed by ordinary resolution of the general meeting.

25. Remuneration

- (a) Subject to these rules, no Director is entitled to be paid a fee for their service as a Director provided that any Executive Director may be paid as an employee of the Company.
- (b) Unless the Directors resolve otherwise, a Director is not entitled to be paid or reimbursed for any travelling or other expenses incurred by them in attending or returning from any meeting of the Directors, committee of the Directors, or general meeting of the Company.
- (c) If any Director, with the approval of the Directors, performs extra services or makes any special exertions for the benefit of the Company, the Directors may approve the payment to that Director of special and additional remuneration as the Directors determine having regard to the value to the Company of the extra services or special exertions. Any special or additional remuneration must not include a commission on or percentage of profits or operating revenue or turnover.
- (d) An executive Director may be appointed on terms as to remuneration, tenure of office and otherwise as may be agreed by the Directors.

- (e) Subject to the Corporations Act, a Director may be engaged by the Company in any other capacity (other than auditor) and may be appointed on terms as to remuneration, tenure of office and otherwise as may be agreed by the Directors.

26. Vacation of Office

- (a) In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act or elsewhere under these rules, the office of a Director becomes vacant if the Director:
 - (i) 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;
 - (ii) resigns by notice in writing to the Company;
 - (iii) has failed to disclose a material personal interest as required by the law unless at the next meeting of the Board the Board resolves otherwise;
 - (iv) is absent with or without the consent of the Directors from meetings of the Directors held during a continuous period of 6 months unless at the next meeting of the Board, the Board resolves otherwise; or
 - (v) dies.
- (b) The office of an Executive Director who is an employee of the Company or any of its subsidiaries is terminated on the Director ceasing to be employed by the Company but the person concerned is eligible for reappointment or re-election as a Director of the Company in accordance with this constitution.
- (c) A Director is terminated as a Director if the Member of which the Director is the Senior Officer ceases to be a Member.

27. Alternate Directors

Alternate Directors are not permitted..

Executive Director and Powers of Directors

28. Appointment of a Executive Director

- (a) The Directors may appoint a natural person to be the Executive Director of the Company for the period and on the terms as they determine. Subject to the terms of any agreement entered into in a particular case, the Directors may at any time revoke any appointment, with or without cause.

29. Powers of Directors

- (a) The business of the Company is managed by the Directors, who may exercise all powers of the Company which are not, by the law or this constitution, required to be exercised by the Company in general meeting.

- (b) The Directors may delegate any of its powers to:
 - (i) a committee;
 - (ii) a Director;
 - (iii) an employee of the Company; or
 - (iv) any other person,and may revoke that delegation.
- (c) The delegate must exercise the powers delegated in accordance with any directions, terms and conditions as set by the Directors.
- (d) The Directors may make, amend, or repeal such by-laws as it determines are appropriate for the purposes of giving effect to any provision of this constitution or to govern the procedures and activities of the Company. Such by-laws:
 - (i) must be consistent with the provisions in this constitution; and
 - (ii) when in force, are binding on all Members, provided that any Code of Ethics for Members developed by the Board may only be binding on Members after it has been endorsed by an ordinary resolution at a general meeting of Members.

Proceedings of Directors

30. Proceedings

- (a) The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they determine.
- (b) Until otherwise determined by the Directors, a quorum for meetings of the Board is half of the number of Directors or, if the number of Directors is not a multiple of two, then the odd number nearest to and greater than half the number of Directors.
- (c) Notice of meeting of the Directors may be given by mail (electronic or otherwise), personal delivery or facsimile transmission to the usual place of business or residence of the Director or at any other address given to the Secretary by the Director or by any technology agreed by all the Directors.

31. Meetings by Technology

- (a) For the purposes of the Corporations Act, each Director, by consenting to be a Director (or by reason of the adoption of this constitution), consents to the use of each of the following technologies for holding a Directors meeting:
 - (i) video;
 - (ii) telephone;
 - (iii) electronic mail;

- (iv) any other technology which permits each Director to communicate with every other Director; or
- (v) any combination of these technologies.

A Director may withdraw the consent given under this rule in accordance with the Corporations Act.

- (b) Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:
 - (i) the participating Directors are, for the purpose of every provision of this constitution concerning meetings of the Directors, taken to be assembled together at a meeting and to be present at that meeting; and
 - (ii) all proceedings of those Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were physically present in the one location.

32. Chair of Directors

- (a) The Directors may elect one of their number as their Chair and may elect a deputy Chair and may decide the period for which the Chair, and the deputy Chair, is to hold office as Chair or deputy Chair. References to the Chair in this constitution include, in the absence of the Chair, the deputy Chair (unless the context otherwise requires).
- (b) Where a meeting of Directors is held and:
 - (i) a Chair has not been elected as provided by rule 32(a); or
 - (ii) the Chair is not present at the time appointed for the holding of the meeting or does not wish to Chair the meeting,the Directors present may elect one of their number to be Chair of the meeting.

33. Directors' Voting Rights and Exercise of Powers

- (a) Subject to this constitution, questions arising at a meeting of Directors are decided by a majority of votes of Directors present and voting.
- (b) In the case of an equality of votes at a meeting of Directors, the Chair of the meeting does not have a casting vote in addition to the Chair's deliberative vote.
- (c) Subject to rule 34 and the Corporations Act, a Director:
 - (i) who has an interest in a matter may vote in respect of that matter if it comes before the Directors and be counted as part of the quorum;
 - (ii) may enter into contracts with, or otherwise have dealings with, the Company; and
 - (iii) may hold other offices in the Company.

- (d) A Director is not disqualified from the Director's office by contracting with the Company or any related body corporate of the Company in any capacity by reason of holding the office of Director.
- (e) A Director is not liable to account to the Company for any profit realised by any contract or arrangement, by reason only of holding the office of Director or of the fiduciary relationship established by the office.
- (f) Subject to the Corporations Act, a Director or any person who is an associate of a Director may participate in any issue by the Company of financial products.
- (g) Despite having an interest in any contract or arrangement a Director may participate in the execution of any document evidencing or connected with the contract or arrangement, whether by signing, sealing or otherwise.

34. Material Personal Interests

In relation to a contract or arrangement in which a Director has a material personal interest:

- (a) the fact that the Director signed the document evidencing the contract or arrangement will not in any way affect its validity;
- (b) a contract or arrangement made by the Company or any related body corporate with a Director may not be avoided merely because the Director is a party to the contract or arrangement or otherwise interested in it; and
- (c) the Director will not be liable to account to the Company for any profit derived in respect of the contract or arrangement merely because of the Director's office or the fiduciary relationship it entails.
- (d) Nothing in this clause affects the duty of a Director:
 - (i) who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with the Directors' duties or interests as a Director, to declare at a meeting of Directors, the fact and the nature, character and extent of the conflict; or
 - (ii) to comply with the Corporations Act.

35. Committees

- (a) The Directors may delegate any of their powers to committees consisting of any one or more Directors or any other person or persons as the Directors think fit. In the exercise of delegated power, any committee formed or person or persons appointed to the committee must conform to any regulations that may be imposed by the Directors. A delegate of the Directors may be authorised to sub-delegate any of the powers for the time being vested in the delegate.
- (b) The meetings and proceedings of any committee are to be governed by the provisions of this constitution for regulating the meetings and proceedings of the Directors so far as they are applicable and are not in conflict with or superseded by, any regulations made by the Directors under rule 35(a).

- (c) Nothing in this rule 35 limits the power of the Directors to delegate.

36. Written Resolutions

A resolution in writing signed by all Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the Directors) is a valid resolution of the Directors and is effective when signed by the last of all the Directors entitled to vote. The resolution may consist of several documents in the same form each signed by one or more of the Directors. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is considered a document in writing signed by the Director and is deemed to be signed when received in legible form.

37. Defects in Appointments

- (a) All actions at any meeting of the Directors or by a committee or by any person acting as a Director are, despite the fact that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been properly appointed and was qualified and continued to be a Director or a Member of the committee.
- (b) If the number of Directors is reduced below the minimum number fixed under this constitution, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of calling a general meeting of the Company but for no other purpose.

38. Secretaries

- (a) A Secretary of the Company holds office on the terms and conditions as to remuneration and otherwise, as the Directors decide.
- (b) The Directors may at any time terminate the appointment of a Secretary.

39. Other Officers

- (a) The Directors may from time to time:
- (i) create any other position or positions in the Company with the powers and responsibilities as the Directors may from time to time confer; and
 - (ii) appoint any person, whether or not a Director, to any position or positions created under rule 39(a)(i).
- (b) The Directors may at any time terminate the appointment of a person holding a position created under rule 39(a)(i) and may abolish the position.

Seals

40. Seals and their Use

The Company may have a common seal and a duplicate common seal which are to be used by the Company as determined by the Directors.

Notices

41. Notices Generally

- (a) Any Member who has not left at or sent to the registered office, a place of address or an electronic mail address (for registration in the register) at or to which all notices and documents of the Company may be served or sent is not entitled to receive any notice.
- (b) A notice may be given by the Company to any Member by, in its discretion:
 - (i) serving it on the Member personally;
 - (ii) sending it by post to the Member or leaving it at the Member address as shown in the register or the address supplied by the Member to the Company for the giving of notices;
 - (iii) sending it to the fax number supplied by the Member to the Company for the giving of notices;
 - (iv) sending it electronically to the electronic mail address given by the Member to the Company for giving notices; or
 - (v) serving it in any manner contemplated in this rule 41(b) on a Member's attorney as specified by the Member in a notice given under rule 41(c).
- (c) By written notice to the Secretary left at or sent to the registered office, a Member may request that all notices to be given by the Company or the Directors be served on the Member's attorney at an address specified in the notice and the Company may do so in its discretion.
- (d) Notice to a Member whose address for notices is outside Australia may be sent by airmail, air courier, fax or electronic mail.
- (e) Any notice sent by post is considered to have been served at the expiration of 24 hours after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a Member personally or left at the Member's registered address is considered to have been served when delivered. Any notice served on a Member by facsimile or other electronic transmission is considered to have been served when the transmission is sent.
- (f) Every person who, by operation of law, transfer or any other means, becomes entitled to be registered as a Member is bound by every notice which, prior to the person's name and address being entered in the register in respect of the

membership, was properly given to the person from whom the person derived title to that membership.

Winding Up

42. Limited Liability

The liability of the Members of the Company is limited.

43. Members' Liability on Winding Up

Each Member of the Company undertakes to contribute to the assets of the Company in the event of the Company being wound up while they are a Member or within one year after they cease to be a Member for payment of the debts and liabilities of the Company (contracted before they ceased to be a Member) and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories amongst themselves, such amounts as may be required not exceeding \$10.00.

44. Distribution of Surplus Property

If the Company is wound up, the amount that remains after such winding up and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes to the Company which is not carried on for the profit or gain of its members.

Indemnity

45. Indemnity of Officers, Insurance and Access

- (a) The Company is to indemnify each officer of the Company out of the assets of the Company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer.
- (b) Where the Directors consider it appropriate, the Company may execute a documentary indemnity in any form in favour of any officer of the Company or a subsidiary.
- (c) Where the Directors consider it appropriate, the Company may:
 - (i) make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer; and
 - (ii) bind itself in any contract or deed with any officer of the Company to make the payments.

- (d) Where the Directors consider it appropriate, the Company may:
- (i) give a former Director access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents; and
 - (ii) bind itself in any contract with a Director or former Director to give the access.
- (e) In this rule 45:
- (i) **officer** means:
 - (A) a Director or secretary, executive officer or employee; or
 - (B) a person appointed as a trustee by, or acting as a trustee at the request of, the Company,and includes a former officer.
 - (ii) **duties of the officer** includes, in any particular case where the Directors consider it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Company or, where applicable, the subsidiary of the Company to any other corporation.
 - (iii) **to the relevant extent** means:
 - (A) to the extent the Company is not precluded by law from doing so;
 - (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and
 - (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.
 - (iv) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.

Financial records

46. Accounts and Audit

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- (a) The Company must prepare and deal with such accounts as are required under the Corporations Act.
 - (b) If required by the Corporations Act, the Directors must cause the financial records of the Company to be audited in accordance with the Act.

- (c) The financial year shall be the period of 12 months ending on 30 June, unless the Board determines a different end date.