



Esthers Australia Limited

Constitution

Corporations Act 2001

A Company Limited by Guarantee

rae&partners
LAWYERS

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1. DEFINITIONS AND INTERPRETATION

1.1 Defined Terms

In this Constitution, unless the context requires otherwise:

- (a) "ACNC" means the Australian Charities and Not-for-profits Commission;
- (b) "ACNC Act" means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth);
- (c) "Act" means the *Corporations Act 2001* (Cth);
- (d) "ATO" means the Australian Taxation Office;
- (e) "Board" means the Board of Directors of the Company;
- (f) "Business Day" means a day on which banks are open for general business in the State other than Saturday or Sunday;
- (g) "Chair" means the chairperson of the Board of Directors, appointed in accordance with this Constitution;
- (h) "Company" means the Company, duly incorporated under the *Corporations Act 2001* to which this Constitution relates;
- (i) "Company Secretary" means the person (if any) appointed to perform the duties of a company secretary of the Company;
- (j) "Constitution" means this Constitution, as amended from time to time;
- (k) "DGR" means deductible gift recipient;
- (l) "Directors" means the director or directors of the Company acting as a body and where the Company only has only one director means that director;
- (m) "Guarantee" means the obligation of the Members to contribute to the assets of the Company on a winding up;
- (n) "Guarantee Amount" means the actual dollar amount of the Guarantee that each Member agrees to contribute pursuant to this Constitution, being the sum of ten dollars (\$10.00) per Member;
- (o) "ITE" means income tax exempt;
- (p) "Initial Member" means all of those persons or entities listed in the Schedule of Initial Members, who are the founding members of the Company;
- (q) "Member" means any person or entity recorded from time to time as a member in the Company's register of members;



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- (r) "Ordinary Resolution" means:
 - (i) in respect of a resolution to be passed by the Members, a resolution requiring a simple majority, namely 50% of votes plus one (1), from Members entitled to vote on a motion in a general meeting; and
 - (ii) in respect of a resolution to be passed by the Directors, a resolution requiring a simple majority, namely 50% of the votes plus one (1), from Directors entitled to vote on a motion in a Directors meeting;
 - (s) "Related Corporation" means a company that is related to another company as related bodies corporate under the Act;
 - (t) "Special Resolution" means:
 - (i) in respect of a resolution to be passed by the Members, a resolution requiring 75% of votes from Members entitled to vote on a motion in a general meeting; and
 - (ii) in respect of a resolution to be passed by the Directors, a resolution requiring 75% of votes from Directors entitled to vote on a motion in a Directors meeting; and
 - (u) "State" means the State or Territory in which the Company is incorporated.

1.2 Interpretation

In this Constitution, unless the context requires otherwise:

- (a) Section 46 of the *Acts Interpretation Act 1901 (Cth)* applies as if it were an instrument made by an authority under a power conferred by the Act as in force the day on which this Constitution becomes binding on the Company.
- (b) this Constitution is to be interpreted subject to the Act. However, the rules that apply as replaceable rules to companies under the Act do not apply to the Company.
- (c) unless the contrary intention appears, an expression in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act has the same meaning as in that provision of the Act.
- (d) subject to section 1.2(c), unless the contrary intention appears, an expression in a regulation, rule or other legislative instrument that is defined for the purposes of the Act has the same meaning as in that regulation, rule or other legislative instrument.



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- (e)** if any term, covenant, condition, obligation, provision, stipulation or restriction contained in this Agreement is or becomes illegal or unenforceable, then this Agreement must be read and construed as if that term, covenant, condition, obligation, provision, stipulation or restriction, as the case may be, has been severed and the balance of this Agreement remains in full force and effect;
 - (f)** section headings are inserted for convenience only and are not to be used in the interpretation and construction of this constitution.
 - (g)** words importing:

 - (i)** the singular include the plural and vice versa;
 - (ii)** the masculine gender include the feminine and/or a corporation and vice versa; and
 - (iii)** persons include a firm, a body corporate, an unincorporated association or an authority and vice versa;
 - (h)** a reference to:

 - (i)** any party or other person includes that person's successors and permitted assigns;
 - (ii)** a right includes a benefit, remedy, discretion, authority, entitlement or power;
 - (iii)** a statute, ordinance or other legislation includes any amendment, replacement or re-enactment for the time being in force and includes all regulations, by-laws and statutory instruments made thereunder;
 - (iv)** this or any other document or instrument includes a reference to that document as amended, supplemented, novated or replaced from time to time;
 - (v)** a section is a reference to a section of this constitution;
 - (vi)** writing includes all means of reproducing words in a tangible and permanently visible form;
 - (vii)** a person includes a natural person, corporation, partnership, trust, estate, joint venture, sole partnership, government or governmental subdivision or agency, association, cooperative and any other legal or commercial entity or undertaking; and
 - (viii)** "dollar" or "\$" is a reference to the lawful currency of Australia;
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- (i) in relation to any reference made to a time or date affecting the performance of an obligation by a party:
 - (i) that reference is to the time and date in Tasmania, even though the obligation is to be or may be performed elsewhere;
 - (ii) if any period of time is expressed to be calculated from or after a specified day, that day is not included in the period; and
 - (iii) if the day on or by which anything is to be done is a Saturday, a Sunday or a public holiday in the place in which that thing is to be done then that thing must be done on or by the next succeeding business day; and
- (h) where a party comprises two or more persons any obligation to be performed or observed by that party binds those persons jointly and each of them severally, and a reference to that party is deemed to include a reference to any one or more of those persons.

2. ESTABLISHMENT OF THE COMPANY

2.1 Name of the Company

The name of the Company is Esthers Australia Limited.

2.2 Type of Company

The Company is a public company limited by guarantee.

2.3 Limited Liability of Members

The liability of the Members is limited to the Guarantee Amount.

2.4 Guarantee

Each Member must contribute the Guarantee Amount to the property of the Company if the Company is wound up whilst the Member is a member, or within twelve (12) months of the Member ceasing to be a Member, for the purposes of paying the debts and liabilities of the of the Company that have been incurred prior to the Member ceasing to be a Member and including the actual costs of the winding up.

2.5 Prospectuses

The Company must not engage in any activity that would require disclosure to investors under Chapter 6D of the Act, except as permitted by the Act.

2.6 Replaceable Rules

The Replaceable Rules found in the Act do not apply to the Company.



3. PURPOSE AND OBJECTIVES

3.1 Background

The following background material provides the historical context for the creation of the Company. It is included primarily as a reference point for future Directors and Members of the Company, as follows:

- (a)** Esthers Australia Limited is a social entrepreneurship organisation run by women for women. It is a not-for-profit charity and a registered deductible gift recipient as a public benevolent institution, registered with the ACNC;
- (b)** Esthers Australia Limited was set up (in a previous structure as an incorporated association and now as an incorporated company limited by guarantee) to assist women at their most vulnerable times by providing free services including counselling, advocacy, pregnancy support, reproductive choice information, mentoring, referral services and community connections. Services, carried out by both professionals and non-professionals, are delivered via outreach – meeting people in their own homes and/or within local community spaces/offices; and
- (c)** clients of Esthers Australia Limited contact the organisation for various reasons and most often they are experiencing more than one of the following: family violence, an unplanned pregnancy, grieving the loss of a child or suffering abortion grief, pregnant and navigating child safety services, pregnant and living with a disability, isolation, no family and/or just needing a hand up. No matter what the issue, Esthers Australia Limited offers women a friend to do the journey with and a safe space to pause, process and progress.

3.2 Vision

The vision of the Company is set out in the following statement:

“To see women and children valued, supported, empowered and living free from fear in all of its forms, creating happier and healthier families and individuals.”

3.3 Mission

The mission of the Company is set out in the following statement:

“Our aim is to reach every woman in Australia and across the globe by setting up small local teams in rural, coastal, country or city areas, to deliver free counselling, advocacy, and practical support. Our innovative model of care accesses buildings and services already established in the community in order to assist us in our delivery of both outreach and centre based support. Our professional and non-professional staff and volunteers work with women to address problems in a positive way. Our services help to clarify issues, explore options, develop strategies, increase self-awareness, provide practical support,



reduce isolation, and remove obstacles that prevent women from effectively parenting. As a result, women and their families are empowered to change, grow, and heal.

3.4 Values

The values of the Company are set out in the following table:

Value	From the Client's perspective	From the Company's perspective
Empowerment	Our support services empower women by providing the tools they need to make healthy choices and form safe and caring relationships.	By encouraging all our team members to use their strengths and creative abilities, individuals develop professionally and grow in confidence.
Support	Women need access to support when they are experiencing challenging times and/or difficult circumstances. Our service bridges many gaps by offering counselling, mentoring, advocacy, in-home help, online chat support, pregnancy support, reproductive choice information, and community connections.	All team members are valued and supported to achieve their full potential
Truth	Our counselling services support women, in their vulnerability, to discover - within their reality - wisdom to grow from their experiences and freedom to change.	As an organisation we believe that to be truly successful we must always be honest and transparent with our clients, stakeholders and staff.
Hope	Through a strength-based approach, hope is restored triggering a virtuous cycle that has a positive impact on mental health and creating a community environment that reduces isolation.	When people join our team and catch our vision it cultivates hope, motivating them to show up for the hard work, accepting setbacks and building resilience.
Excellence	Women who access our services have the right to expect professional, quality standards of service from our entire team.	All team members have access to professional support and training, and are accountable and responsible for their practice.



Relationship	Through mentoring we help women build healthy relationships by developing their interpersonal and life skills. This increases women’s confidence to develop connections within communities, reducing social isolation and promoting the concept “it takes a village”.	Within the organisation we cultivate a respectful, collaborative, flexible and fun environment, developing good working relationships, thereby improving productivity and increasing retention rates.
Stability	Our goal in offering women’s support services is to establish a stable presence that women can readily access and rely on.	We are dedicated to providing a dependable and unwavering service that unites us.

3.5 Charitable Objects

The Company is established to be a charity within the meaning of the ACNC Act for the charitable purposes of:

- (a) advancing social or public welfare by:
 - (i) relieving the poverty, distress or disadvantage of individuals or families; and
 - (ii) protecting children and young individuals;

by helping women who may be disadvantaged as a result of poverty, sickness, abuse, addiction, debt, mental health problems, low self-esteem or homelessness; and
- (a) advancing physical and mental health by providing counseling, mentoring, training and education to women and their children.

3.6 Basic Objects

In addition to the Charitable Objects of the Company, the basic objects of the Company in the furtherance of the primary purposes of the Company are to operate services and provide advocacy and to assist by all means available, any woman who is identified within the objectives (but without limiting the generality of the foregoing) with the provision of any or all of the following:

- (a) Counselling (face to face, phone and online);



- (b) Advocacy;
- (c) Mentoring;
- (d) Referrals
- (e) Pregnancy support;
- (f) Perinatal in-home help and meal support;
- (g) Emergency voucher assistance; and
- (h) Portable baby feed and change facility.

In addition to these specific basic objects, it is also within the general objects and purposes of the Company to:

- (i) establish centres throughout Australia and other places for the furtherance of the primary purposes of the Company;
- (j) do all things reasonably necessary, convenient and practical to properly, effectively and efficiently manage and resource those centres; and
- (k) do all things reasonably necessary, convenient and practical to ensure that ITE and DGR status of the Company is obtained and maintained pursuant to section 4.6 and 4.7 of this Constitution.

3.7 Ancillary Objects

The Company may do all other things which are lawful and which the Company has the legal power to do that are reasonably necessary to achieve the basic objects of the Company, whether those things are directly connected to, ancillary to or incidental to the basic objects of the Company.

3.8 Activities

Without any general or specific limitation to the extent of activities that the Company is permitted to undertake, to fulfil its mission and basic objects the Board may resolve from time to time that the Company engages in the following activities:

- (a) providing case management, counseling, education and support for women and to assist by all means available, any woman who is identified as falling within the objectives of the Company;
- (b) providing practical assistance and support for disadvantaged women and their babies during pregnancy and up until the child's first birthday;
- (c) operating telephone counselling and online chat services for women, including women facing an unplanned/crisis pregnancy;



- (d) operating telephone supervision service to new or extending mothers involved with child safety;
- (e) providing face-to-face counseling, advocacy and case management for women;
- (f) providing referral services to assist women to access relevant services from other providers;
- (g) providing mentors who can support and role model for women;
- (h) providing perinatal in-home help and meal support;
- (i) providing emergency voucher assistance;
- (j) providing training in perinatal care, parenting, financial management, cooking and nutrition, healthy relationships, and other relevant topics for advancing the health and wellbeing of women and their children;
- (k) tailoring programs to suit a diverse clientele, including women living with a disability and women who have children living with a disability;
- (m) offering baby care and related items on a learn-to-earn basis; and
- (n) offering portable baby feed and change facility operated at community events.

4. COMPANY STATUS

4.1 Not-For-Profit Charity

The Company is established to be a charity, as defined by the ACNC Act. The Company must comply with the provisions of the ACNC Act.

4.2 No Dividends

The Company must not distribute any income directly or indirectly to members, whether as dividends or otherwise, but nothing in this section prohibits the Company from contracting with, paying or reimbursing any Member or Director of the Company in accordance with any other express provision of this Constitution.

4.3 No Capital Distributions

The Company must not distribute any capital directly or indirectly to Members, whether as cash or by *in specie* distribution.

4.4 Approved Payments

Nothing in this section prohibits the Company from doing the following things, provided that they are done in good faith:

- (a) the Company may pay a Member for goods or services that the Member has provided to the Company or for expenses the Member has properly incurred, at



fair and reasonable rates or rates more favourable to the Company than otherwise commercially available; or

- (b) making a payment, gift or grant to a Member in carrying out the Company's purpose(s).

4.5 Catch All

For the avoidance of doubt, any other provision of this Constitution, whether express or implied, that is inconsistent with the provisions of this section is void and of no effect.

4.6 Income Tax Exemption

The Company must do and maintain all things reasonably necessary to ensure that ITE status is obtained and maintained from the ATO.

4.7 Deductible Gift Recipient

The Company must do and maintain all things reasonably necessary to ensure that DGR status is obtained and maintained from the ATO.

4.8 Gift Fund

If the Company establishes a Gift Fund for DGR purposes, the Company must only establish and operate the Gift Fund for the primary purposes of the Company, the Gift Fund expressly subject to the following rules:

- (a) the Company must maintain a Gift Fund for the primary purposes of the Company to which gifts of money or property for that purpose are to be made;
- (b) the Company must maintain a separate bank account for the Gift Fund;
- (c) all receipts of money and property received by the Company because of those gifts must be credited to the Gift Fund account;
- (d) the Gift Fund must not receive any other money or property;
- (e) the Company must only use, for the primary purposes of the Company, the following:
 - (i) gifts of money and property made to the Gift Fund;
 - (ii) any monies received because of those gifts; and
- (f) if ever the Company loses its DGR endorsement status, or otherwise on a winding up or dissolution of the Company any surplus of the following assets must be transferred to another organisation with similar objects, which is charitable at law, to which income tax deductible gifts can be made:
 - (i) gifts of money or property for the primary purposes of the Company;



- (ii) contributions made in relation to an eligible fundraising event held for the primary purposes of the Company; and
 - (iii) money received by the Company because of gifts and contributions received to the Gift Fund; and
- (g) The Company must keep proper and fulsome financial records that record and explain all transactions and other acts the association engages in that are relevant to the Company's status as a DGR and must retain those records at least five years after the completion of the transactions or acts to which they relate.

5. POWERS

5.1 General Powers of the Company

Subject to this section 5, the Company has the following general powers, which may only be used to carry out the Company's objects and purpose(s):

- (a) all of the legal powers of an individual, and
- (b) all the legal powers of a company limited by guarantee under the Act.

5.2 Specific Powers of the Company

Without limiting the scope and effect of any of the preceding provisions, the Company may specifically undertake the following ancillary activities to achieve the Company's primary purposes:

- (a) to receive donations, gifts and bequests in any form for the objects, purposes or activities of the Company;
- (b) to advertise, market and otherwise promote the Company's objects, purposes or activities in any forum and any place;
- (c) to acquire, purchase, lease, hire or otherwise obtain the use of land, buildings, furniture, furnishings or equipment that may be deemed necessary or convenient for any of the objects, purposes or activities of the Company;
- (d) to employ appoint, hire, remove or suspend directly or indirectly, any servant, agent, employee, contractor, or consultant necessary or expedient whether permanent or casual and whether for remuneration or not and otherwise on whatever terms the Directors think fit;
- (e) to buy, sell, lease, hire or otherwise use any personal property, plant and equipment, fixtures and fittings, machinery or other items, whether temporarily or permanently that may be required;



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- (f)** to contract, formally or informally, with any other party, including a Member or Director personally, in respect of the provision of goods and services to the Company;
 - (g)** to borrow or raise money with or without security and to charge the property of the Company with mortgages, charges, liens or otherwise;
 - (h)** to charge, mortgage, pledge or secure any assets of the Company in their own right or as security for any borrowings of the Company;
 - (i)** to sell, mortgage, lease, donate or otherwise dispose of the assets of the Company;
 - (j)** to invest monies and assets of the Company in any lawful investment from time to time, whether on a short-term or long-term basis so as to preserve the value of those monies or assets for the objects, purposes or activities of the Company;
 - (k)** to obtain and maintain any policy of insurance for the purpose of indemnifying the Directors, officers and other senior management personal of the Company against the usual risks that a prudent organisation would ordinarily insure against, including but not limited to public liability, negligence, malfeasance and any legal costs associated with actions in connections with those matters;
 - (l)** to engage any legal, accounting, financial or other professional adviser as may be deemed prudent by the Directors from time to time, and to take and follow advice from those advisers in the conduct of the objects, purposes or activities of the Company;
 - (m)** to sue (or be sued), to recover any debt due and payable and to otherwise take any legal action required to preserve the Company's assets and reputation from time to time; and
 - (n)** to do any of the things set out in this section 5.2 on its own account or to join in with other organisations, entities or persons to do any of those things.
 - (o)** to establish, conduct and manage commercial or other enterprises for the purpose of providing funds for the furtherance of the objects set out in this section, provided that those activities and all other activities of the Company are carried out without profit to any person or individual and no dividend or other profit will be transferred to any other body or person;
 - (p)** to co-operate with all bodies, organisations or departments whether established by governments, religious or secular groups which have purposes similar in whole or in part to those of the Company; and
 - (q)** generally, to do any other deeds, acts or things that are not inconsistent with the objectives set out above for the better performance of the Company in the
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attainment of the primary purposes of the Company as determined by resolution of the Board.

6. MEMBERSHIP

6.1 Initial Members

The initial Members of the Company are the initial Members set out in the Schedule of Initial Members.

6.2 Additional Members

Any other person, entity or organisation that the Directors allow to become a Member may, in accordance with this Constitution, become a Member of the Company.

6.3 Eligibility

A person, entity or organisation is taken to be a Member of the Company if the person, entity or organisation was:

- (a) in the case of an unincorporated body that is registered as the association - a member of that unincorporated body immediately before the registration of the association; or
- (b) in the case of an entity, organisation or association that is amalgamated to the Company - a member of that other entity, organisation or association immediately before the amalgamation, or
- (c) in the case of a registrable corporation that is registered as an association - a member of the registrable corporation immediately before that entity was registered as an association.

Further, a prospective member is eligible to be a Member of the Company if the prospective member:

- (d) is:
 - (i) a natural person; or
 - (ii) another entity or organisation that is formally constituted;
- (e) supports the purposes and objectives of the Company;
- (f) is willing, by acceptance as a Member, to become bound by this Constitution and any other written instrument or obligation purporting to bind the Members;
- (g) pays any subscription moneys for membership;
- (h) applies to, or is formally nominated to, the Board for membership; and
- (i) is approved for membership of the Company by the Board.



6.4 Classes of Membership

The Company may set, by enactment of a by-law, different classes of membership and may determine the rights, obligations, benefits and conditions (including as to subscription fees) that attach to each class of membership. As at the commencement date of this Constitution, the classes of membership that are available to Members are:

- (a) Ordinary Member (to be referred to as a “Member”); and
- (b) Affiliate Member (to be referred to as an “Affiliate”).

Unless determined otherwise by enactment of a by-law that expressly supersedes the operation of this section, the distinction between Ordinary Member and Affiliate Members is that Ordinary Members are empowered to vote on all matters in a general meeting, but Affiliate Members are not empowered to vote on any matter in a general meeting. For the avoidance of doubt, all Initial Members are deemed to be Ordinary Members, with full voting rights.

If an entity or organisation is an Ordinary Member, that Member must nominate a natural person as the representative of that Member for all purposes of Company, including voting on any motion of the Company to be considered by the Members. Any nominee of a Member under this provision must be approved and recognised by the Company in order to exercise that Member's voting rights, which approval and recognition may be revoked at any time by the Company with or without giving reasons.

6.5 Application for Membership

A prospective member who meets the eligibility criteria and who desires to become a Member of the Company may apply to the Company Secretary in the prescribed form, as set out in Appendix 1, to become a Member of the Company. The application must:

- (a) specify the class of Member that the applicant wishes to become;
- (b) certify that the applicant meets the requirements of section 6.3(e) and (f);
- (c) warrant that the applicant will, as a Member, pay the Guarantee Amount if and when called upon to do so; and
- (d) be endorsed, by way of support for the application, by an existing Member in good standing of the Company.

6.6 Nomination for Membership

In the alternative to an application:

- (a) an existing Member in good standing of the Company and seconded by another Member in good standing of the Company; or
- (b) the Board unilaterally



may nominate a prospective member for membership of the Company, by lodging the prescribed form, as set out in Appendix 2, with the Company Secretary. Upon receipt of a nomination for membership form by the Company Secretary, it must be dealt with from that point in the same manner as an application for membership form in accordance with section 6.7.

6.7 Consideration of Applications

- (a)** The Board must consider an application for membership within a reasonable time of the application being received by the Company Secretary, and the Board must approve or reject the application.
- (b)** If the Board approves the application, the Company Secretary must, as soon as possible:
 - (i)** notify the applicant, in writing, that the Board approved the application or nomination (whichever is applicable);
 - (ii)** issue, or cause to be issued, a tax invoice, for the first year's membership fee (or part thereof) to the applicant and request the applicant to pay (within the period of 28 days after receipt by the applicant of the notification) the sum payable as the annual subscription fee;
 - (iii)** provide a receipt to the new Member for any application money paid with the application; and
 - (iv)** enter, or cause to be entered, the new Member's name onto the Register of Members, subject to payment of the annual subscription fee.
- (d)** If the Board rejects the application, the Company Secretary must inform the applicant accordingly. The Company may, but is not required, to:
 - (i)** give reasons for the rejection;
 - (ii)** refund any application fee paid by the unsuccessful applicant.
- (e)** For the avoidance of doubt, any defect in the application or approval process does not invalidate the approval of a new Member as a Member.
- (f)** For avoidance of doubt, upon entry of the Member into the Register of Members, that Member unconditionally agrees to each of the matters set out in section 6.3.

6.8 When a Member Becomes a Member

Other than the Initial Members, a person or entity becomes a Member of the Company when that Member's name is entered onto the Register of Members.



6.9 Register of Members

- (a) The Company Secretary must establish and maintain a register of Members, which must contain all of the Initial Members set out in the Schedule of Initial Members and all other Members who become Members of the Company subsequently.
- (b) The Register of Members must contain the following information for each Member:
 - (i) for each current Member:
 - A. full name of the Member;
 - B. postal address of the Member, as last notified by the Member to the Company;
 - C. an alternative address, if any, nominated by the Member for the receiving of notices; and
 - D. the date that the Member was entered on to the register of Members; and
 - (ii) for each person or entity who ceased being a Member within the previous seven (7) years:
 - A. full name of Member or joint-Members;
 - B. address of the Member, as last notified by the Member to the Company;
 - C. an alternative address, if any, nominated by the Member for the receiving of notices;
 - D. the date that the membership commenced; and
 - E. the date that the membership ceased.
- (c) The register of members must be kept in Tasmania:
 - (i) at the principal place of business of the Company, or
 - (ii) if the Company has no principal place of business, then at the Company's registered office address.
- (d) The Company must make the Register of Members open for inspection, free of charge, by any Member of the Company at any reasonable hour.
- (e) Any Member of the Company may obtain a copy of any part of the Register of Members on payment of a fee of not more than \$1.00 for each page copied.



- (f) If a Member requests that any information contained on the Register of Members about the Member (other than the member's name) not be available for inspection, that information must not be made available for inspection.
- (g) A Member must not use information about any Member obtained from the register to contact or send material to that Member or any other Member, other than for:
 - (i) the purposes of sending the Member a newsletter, a notice in respect of a meeting or other event relating to the Company or other material relating to the Company; or
 - (ii) any other purpose necessary to comply with a requirement of the Act or the Regulation.
- (h) The Company Secretary must ensure that the Register of Members, or a proper copy (whether digital or otherwise) is available and accessible at every general meeting of the Company; and
- (i) The Company Secretary must ensure that the Register of Members is kept up to date and must, as a minimum, review and update the Registered of Members not less than one (1) month prior to the annual general meeting of the Company.

6.10 Membership Entitlements Not Transferable

Any right, privilege or obligation which a Member has by reason of being a Member of the Company:

- (a) is not capable of being transferred or transmitted to another person, whether by assignment, novation, will or otherwise; and
- (b) terminates on cessation of the Member's membership.

6.11 When a Member Ceases to be a Member

- (a) A Member who is a natural person immediately ceases to be a Member of the Company if that person:
 - (i) dies (but if a joint-Member the surviving Member continues as a Member);
 - (ii) resigns as a Member;
 - (iii) is expelled as a Member by the Board for any reason;
 - (iv) fails to pay the annual subscription fee to the Company within three (3) months after the annual subscription fee is due;
 - (v) fails to pay any amount payable to the Company by the due date for payment, after receipt of a written notification requiring that payment; or



- (vi) does not respond within three (3) months to a written request by the Company Secretary to the Member to confirm the Member's intention to remain as a Member.
- (b) A Member who is an entity or organisation immediately ceases to be a Member of the Company if that entity:
 - (i) is wound up or dissolved (whether voluntarily or otherwise);
 - (ii) resigns as a Member;
 - (iii) is expelled by the Board for any reason;
 - (iv) fails to pay the annual subscription fee to the Company within three (3) months after the annual subscription fee is due;
 - (v) fails to pay any amount payable to the Company by the due date for payment, after receipt of a written notification requiring that payment; or
 - (vi) does not respond within three (3) months to a written request by the Company Secretary to the Member to confirm the Member's intention to remain as a Member.

6.12 Resignation of Membership

- (a) A Member of the Company may resign from membership of the Company by giving to the Company Secretary written notice of at least one month (or any other period as the Board may determine) of the Member's intention to resign and, on the expiration of the period of notice, the Member ceases to be a Member.
- (b) If a Member of the Company ceases to be a member under subsection (a) and in every other case where a Member ceases to hold membership, the Company Secretary must make an appropriate entry in the Register of Members recording the date on which the Member ceased to be a Member.

7. MEMBERSHIP FEES

7.1 No Application Fee

The Company will not charge any prospective member a fee for applying to become a member of the Company.

7.2 Membership Fee

- (a) Upon approval of an application for membership, the applicant must, on admission as a member of the Company, pay to the Company a membership fee as set by the Board from time to time.
- (b) The Board may waive the requirements of this section in the case of any Member.



7.3 Annual Subscription Fee

The Board is entitled to set, and change from time to time, an annual subscription fee to be paid by each Member, provided that:

- (a) except as provided by paragraph (b), the annual subscription fee must be paid on or before 1 July in each calendar year;
- (b) if the Member becomes a Member on or after 1 July in any calendar year the annual subscription fee must be paid by the Member on becoming a member and thereafter on or before 1 July in each succeeding calendar year;
- (c) the subscription fees for each Member must not be changed more than once in any 12 month period;
- (d) the Board may, in its absolute discretion, prescribe different rates of subscription between different classes of Members, taking into account the varying benefits which Members may enjoy by reason of the operations of the Company along with any other matter that the Board considers relevant;
- (e) the annual subscription fee amount may be set at nil; and
- (f) the Board may, in addition, make any by-law concerning the calculation of the annual subscription fee, which by-law is binding on the Members.

7.4 Due Date for Payment of Annual Subscription Fees

All annual subscriptions fees are due and payable, in advance, by 1 July in each year and are deemed to apply for the period from 1 July of the year in which the fee is paid to 30 June of the following year.

7.5 Application of Income

The Company must apply:

- (a) all application fees from applicants;
- (b) all membership fees from Members and
- (b) all annual subscription fees from Members and
- (c) income earned from all other sources

to accomplishing the objectives of the Company, but may also apply those income resources to the ordinary expenses of administration and conducting the ordinary business of the Company, including the administrative costs of processing annual membership subscriptions.



7.6 Consequences of Late Payment

If any annual subscription fee amount (whether in whole or in part) of a Member remains unpaid for a period of three (3) calendar months after it becomes due and payable then the Board may do any one or more of the following:

- (a) suspend or restrict all membership rights of that Member;
- (b) send a notice to the Member requiring immediate payment;
- (c) enter into any reasonable arrangement with that Member to secure payment of the amount required to be paid; or
- (d) terminate the membership of the Member.

8. DISPUTE RESOLUTION FOR MEMBERS

8.1 Scope of Application

The dispute resolution procedures set out in this section apply to any dispute (disagreement) in respect of this Constitution, any other written instrument to which Members are bound as between a Member or a Director; and any other matter arising in respect of the Company, which arises between:

- (a) any one or more Members with any one or more other Members;
- (b) any one or more Members with any one or more Directors;
- (c) any one or more Directors with any one or more other Directors; and
- (d) any one or more Directors with any one or more Members,

unless any other dispute resolution procedure exists in a written instrument that binds the Members or the Directors that purports to supersede or take priority to this section, in which case that procedure must apply.

8.2 Pre-condition to Commencing Procedure

A party must not commence any dispute resolution procedure in relation to any matter that is the subject of a disciplinary proceeding under this Constitution unless and until that disciplinary proceeding is completed in full.

8.3 Procedure

Any party that has a dispute with another party that is subject to this dispute resolution procedure must give a written notice ("a Dispute Notice") of that dispute to the other party. A Dispute Notice must include:

- (a) full identification of the party alleging the dispute, including preferred contact details for the purposes of the dispute resolution process;



- (b) a full description of the dispute;
- (c) a statement about how or why the notifying party believes the dispute to be a dispute;
- (d) a proposal or request to the other party about how the dispute can be satisfactorily resolved; and
- (e) the signature of that party.

A copy of the Dispute Notice must be served on the Company Secretary at the same time as it is served on the other party, provided that if the dispute is with or in connection with the Company Secretary, the Dispute Notice may be served on any other director of the Company.

8.4 Good Faith Negotiations

A party receiving a Dispute Notice must, in good faith, make all reasonable attempts to resolve the dispute directly with the notifying party within fourteen (14) days of receiving the Dispute Notice. If the dispute is resolved by good faith negotiations, the party alleging the dispute must notify the Company Secretary of the resolution of the dispute and the Dispute Notice is deemed to be withdrawn.

8.5 Referral to the Board

If the dispute is not resolved satisfactorily within the time period allowed under section 8.4, either party may, within a further fourteen (14) days, refer the matter to the Board (“a Referral Notice”). If no referral is made by either party within the time allowed, the dispute is deemed to be resolved, and if not resolved, to be abandoned by the party alleging the dispute.

8.6 Mediation

If a Referral Notice is received by the Board, the Board may:

- (a) appoint one or more of the Directors to act as a mediator to the parties in dispute; or
- (b) in the case of a dispute with the Director, or with the Board, appoint an external mediator approved by the party alleging the dispute. If for any reason a mediator cannot be appointed reasonably, either party may ask the then President of the Law Society of Tasmania, to appoint an independent mediator.

The appointed Director or Directors, as mediator, or the independent mediator, must set a date for mediation within thirty (30) days of receiving a Referral Notice and the parties must, in good faith, attempt to settle the dispute by mediation. All costs of an independent mediator must be shared equally by the parties, but otherwise the parties must bear their own costs of and incidental to the mediation.



- 8.7** Any mediator, whether a Director or independent:
- (a) may be a Member or former Member of the Company;
 - (b) must not have a personal interest in the dispute or the outcome of the dispute;
 - (c) must act impartially and fairly towards all parties to the dispute;
 - (d) must ensure that the principles of due process and natural justice are strictly applied to the mediation process;
 - (e) may obtain expert advice about the conduct of the mediation if required; and
 - (f) must not make a decision about the dispute but must, in good faith, assist the parties to come to a resolution.
- 8.8** If the parties in dispute have completed all of the steps set out in this section, but no satisfactory resolution has been obtained, either party may then pursue whatever other remedies at law or in equity that the party may have, including but not limited to:
- (a) referring the dispute to arbitration under the *Commercial Arbitration Act 2011*; or
 - (b) initiating legal proceedings in a court of competent jurisdiction.

9. DISCIPLINARY ACTION AGAINST MEMBERS

9.1 Disciplinary Procedure

The disciplinary procedures set out in this section apply to all Members and Directors unless any other disciplinary procedure exists in a written instrument that binds the Members and Directors that purports to supersede or take priority to this section, in which case that procedure must apply.

9.2 Grounds for Making a Complaint

Any Member or Director may make a complaint to the Board about any other Member or Director in respect of conduct that:

- (a) is in breach of this Constitution or any other written instrument that is binding on the Members or Directors, as the case may be;
- (b) is objectionable or unbecoming of a Member;
- (c) brings, or is likely to bring, the Company into disrepute;
- (d) causes, or is likely to cause, injury, loss or damage to the Company; or
- (e) is illegal.

For the avoidance of doubt, this section 9.2 does not apply to any private conduct of a Member or Director toward another Member or Director that is not related to the



membership or directorship of the aggrieved or offending parties, regardless of whether or not the aggrieved party has any other private remedy at law or in equity.

9.3 Complaint Notice

Any party that wishes to make a complaint about another party must give a written notice ("a Complaint Notice") to the Board. A Complaint Notice must include:

- (a) full identification of the party making the complaint, including preferred contact details for the purposes of the disciplinary process;
- (b) a general description of the complaint, including sufficient detail to make out the alleged facts;
- (c) a statement about how or why the complainant believes the complaint to satisfy the requirements of with section 9.2; and
- (d) the signature of the complainant.

9.4 Acknowledgment of Complaint

Upon receipt of a Complaint Notice, the Board must:

- (a) provide written confirmation to the complainant, including providing a copy of this section 9, that the complaint has been received and will be considered under the terms of this section; and
- (b) either:
 - (i) appoint a subcommittee of the Board, as a Disciplinary Committee, to consider the complaint; or
 - (ii) commission an independent Disciplinary Committee if the complaint is against any Board member or the Board as a whole.

9.5 Disciplinary Committee

A Disciplinary Committee must be comprised of:

- (a) not less than two of the Directors and one independent person with a legal background (who is to be the chair of the committee); or
- (b) in the case of a dispute with any Director, or with the Board, three external persons must be appointed at least one of whom must have a legal background (who is to be the chair of the committee).

If for any reason a committee cannot be appointed reasonably, either party may ask the then President of the Law Society of Tasmania, to appoint a committee of three members.



9.6 Proceedings of the Disciplinary Committee

In considering any complaint, the Disciplinary Committee appointed:

- (a) must hear and consider the dispute between the parties, applying the principles of natural justice and procedural fairness;
- (b) must act reasonably in all regards, and in a timely way;
- (c) may undertake whatever investigations and enquiries it thinks fit;
- (d) may hear from the complainant or any other person in support of the complaint;
- (e) must allow the respondent who is the subject of the complaint to be heard, along with any other witnesses that the respondent may reasonably seek to have heard;
- (f) is otherwise not required to follow the ordinary rules of evidence; and
- (g) subject to the preceding subsections, must determine the matter in accordance with section 9.7 by delivering a written decision to the parties.

9.7 Determinations

Having properly considered the matter, the Disciplinary Committee may elect to:

- (a) dismiss the complaint as frivolous and vexatious, with or without seeking reimbursement of costs from the complainant member;
- (b) dismiss the complaint as being not sufficiently made out;
- (c) make a finding of no culpability of the respondent Member;
- (d) take no action at all against the respondent Member;
- (e) resolve to issue a warning to the respondent Member;
- (f) suspend the respondent Member's rights as a Member for a defined period of time not exceeding twelve (12) months at the discretion of the Board;
- (g) expel the respondent Member as a Member of the Company; or
- (h) refer the matter to appropriate civil or criminal law enforcement agencies.

For the avoidance of doubt, the Board does not have any power to impose a pecuniary penalty on any Member or Director.

9.8 Notification

Upon completion of the disciplinary process, the Company secretary must notify the affected parties in writing of the outcome. A written notice should provide reasons for the decision that has been taken by the Disciplinary Committee.



9.9 Appeal

Any Member or Director that is the subject of a disciplinary decision under this section is entitled to appeal that decision, at that party's own cost, through normal legal channels.

9.10 Confidentiality

For the expediency of all parties involved, all details of the disciplinary proceedings must be kept confidential and no notification or publication of the outcome of the proceedings may be made by any party until the whole of the process is complete. If the finding of the Disciplinary Committee falls under:

- (a) section 9.7(a) to (e) inclusive, then no public notification of the fact of the proceedings is to be made at all; or
- (b) section 9.7(f) to (h) inclusive, then the Board may, at its sole discretion, elect to notify the Members of the Company and/or make a public statement about the fact of the proceedings and the outcomes of it.

9.11 Costs

For the avoidance of doubt, any costs of appointing an independent panel, and the discharge of that panel's tasks are to be paid by the Company, but the Company is entitled to seek reimbursement from the party making the complaint if the complaint is found, objectively, to be frivolous or vexatious.

9.12 Liability

No party making a complaint, nor the Disciplinary Committee, nor the Company itself is liable under this Constitution to any Member or Director for any injury, loss or damage suffered by that Member or Director on account of a complaint being made against that party, which is made in good faith under this section, but which is not made out, but the exclusion of liability under this Constitution does not diminish any rights that the respondent may have in law or in equity.

10. GENERAL MEETINGS

10.1 Annual General Meeting

- (a) The Company must hold its first annual general meeting within 17 months after its incorporation under the Act.
- (b) The Company must hold its annual general meetings:
 - (i) within 5 months after the close of each financial year, or
 - (ii) within such later time as may be allowed by the Act.



- (c) Subject to the preceding subsections, the annual general meeting of the Company is, subject to the Act, to be convened on such date and at such place and time as the Board thinks fit.
- (d) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
 - (i) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting;
 - (ii) to receive from the Board reports on the activities of the Company during the last preceding financial year;
 - (iii) to elect office-bearers of the Company and ordinary committee members as may be required;
 - (iv) to receive and consider any financial statement or report required to be submitted to Members under the Act.
- (e) An annual general meeting must be specified as such in the notice convening it.

10.2 Convening General Meetings

- (a) Any Director may call a meeting of Members.
- (b) The Directors must call a meeting of Members if requested by not less than 5% of the Members to do so.
- (c) The Directors must otherwise call a meeting of Members if required to do so by the Act.

10.3 Notice of Meeting

- (a) Subject to the provisions of the Act relating to agreements for shorter notice, at least 21 days' written notice (not including the day on which the notice is served or deemed to be served, but including the day of the meeting for which notice is given) must be given of any meeting of Members.
- (b) The notice must be given to all Members, being persons and entities, who are entitled to receive notices from the Company and must:
 - (i) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (ii) state the general nature of the meeting's business;



- (iii) if any motion for a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the motion upon which the special resolution is to be based;
- (iv) if a Member is entitled to appoint a proxy, contain a statement setting out the following information:
 - A. that the Member has a right to appoint a proxy;
 - B. whether or not the proxy needs to be a Member of the Company; and
 - C. that a Member who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise; and
- (v) include a valid pro forma proxy form for a Member to appoint a proxy.

10.4 Requisition of a Special General Meeting by Members

- (a) A requisition of Members for a special general meeting, pursuant to section 10.2(b):
 - (i) must state the purpose or purposes of the meeting;
 - (ii) must be signed by the members making the requisition;
 - (iii) must be lodged with the Company secretary; and
 - (iv) may consist of several documents in a similar form, each signed by one or more of the Members making the requisition.
- (b) If the Board fails to convene a special general meeting to be held within 1 month after the date on which a requisition of Members for the meeting is lodged with the Company Secretary, any one or more of the Members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- (c) A special general meeting convened by a Member or Members as referred to in sub-section (b) must be convened as nearly as is practicable in the same manner as general meetings are convened by the Board, including as to notice.

10.5 Place of Meeting

The Company may hold a meeting of Members at two or more venues using any technology that gives the Members, as a whole, a fair and reasonable opportunity to fully participate in the meeting.



10.6 Notice of Business

- (a)** No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under sub-section 10.1
- (b)** A member desiring to bring any business before a general meeting may give notice in writing of that business to the Company Secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the Member.

11. PROCEEDINGS AT GENERAL MEETINGS

11.1 Quorum

- (a)** No item of business except:
 - (i)** the election of a chairperson ("the Chair"); or
 - (ii)** the adjournment of the meetingis to be transacted at a general meeting unless a quorum of Members entitled under this Constitution to vote is present during the time the meeting is considering that item.
- (b)** Five Members present (being Members entitled under this Constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (c)** If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
 - (i)** if convened on the requisition of Members, is to be dissolved, or
 - (ii)** in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned) at the same place.
- (d)** If, at the adjourned meeting, a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present (being at least 3) are to constitute a quorum.

11.2 Proxies or Representatives in Quorum

In determining whether a quorum is present:

- (a)** individuals attending as proxies or under power of attorney or as representatives of bodies corporate are counted;



- (b) if a Member has appointed more than one proxy, power of attorney or representative then only one of them is counted on behalf of the Member;
- (c) if an individual is attending, both as a Member in their own right and as a proxy or attorney under power or body corporate representative, the individual may be counted once in respect of each separate capacity in which that individual is attending; and
- (d) if multiple individuals attend on behalf of an entity Member, only one of those individuals is counted on behalf of that entity Member.

11.3 Chair of General Meeting

- (a) The Chair, if any, of the Board will act as Chair at every general meeting of the Company.
- (b) If:
 - (i) there is no Chair;
 - (ii) the Chair is not present within fifteen minutes after the time appointed for the holding of the meeting; or
 - (iii) the Chair is unwilling to act;

the Members present may elect one of their number to be chair of the meeting.

11.4 Conduct of General Meetings

Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the Chair of the meeting, whose decision is final.

11.5 Taking of Decisions

- (a) A question arising at a general meeting of the Company is to be determined by either:
 - (i) a show of hands, or
 - (ii) if, on the motion of the Chair, or if 5 or more Members present at the meeting decide that the question should be determined by a written ballot, then a written ballot.
- (b) If the question is to be determined by a show of hands, a declaration by the Chair that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Company, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.



- (c) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the Chair.

11.6 Resolutions

- (a) Except in the case of any resolution that, as a matter of law, requires a Special Resolution, motions arising at a general meeting are to be decided by Ordinary Resolution of the Members present at the meeting and any decision is, for all purposes, a decision of the Members.
- (b) Before a vote is taken the Chair must inform the meeting whether proxies have been received and how those proxies are to be cast.

11.7 Votes of Members

- (a) On any motion arising at a general meeting of the Company a Member has one vote only.
- (b) In the case of an equality of votes on a question at a general meeting, the Chair the meeting does not have any second or casting vote.
- (c) A Member is not entitled to vote at any general meeting of the Company unless all money due and payable by the Member to the Company has been paid.
- (d) A Member is not entitled to vote at any general meeting of the Company if the Member is under 18 years of age.

11.8 Disallowance of Vote

A challenge to a right to vote at a meeting of Members:

- (a) may only be made at the meeting; and
- (b) must be determined by the Chair whose decision is final.

Every vote not disallowed by the Chair under this section is valid for all purposes.

11.9 Adjournment Generally

- (a) The Chair of a general meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting from time to time and place to place.
- (b) If a general meeting is adjourned for 14 days or more, the Company Secretary must give written or oral notice of the adjourned meeting to each Member of the Company stating the place, date and time of the meeting and the nature of the business to be transacted at the adjourned meeting.



- (c) Except as provided in subsections (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.
- (d) No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

12. REPRESENTATION AT GENERAL MEETINGS

12.1 Appointment of Entity Member Representatives

Any Member that is itself an entity, organisation or body corporate, or otherwise not a natural person, must nominate a natural person as that Member's authorised Member representative for the purposes of conducting and representing the interests of the Member to and with the Company. In this regard, the Member:

- (a) may nominate any person whom the Member chooses subject to the requirement that the Member representative must be approved by the Board;
- (b) may change the authorised representative from time to time as the Member may require;
- (c) must comply with any by-law or other directive set by the Company in respect of selecting and nominating representatives; and
- (d) must notify the Company as soon as practicable of the appointment of change of appointment of the authorised Member representative.

12.2 Role of Representative

For the avoidance of doubt, the appointment by a Member of a representative is to be distinguished from the appointment of a proxy or attorney, in the sense that the duly appointed representative of a Member is a natural person representing the Member whereas a proxy or attorney is only to be used, as a proxy or attorney is ordinarily understood, when the Member or the appointed representative of the Member is not available.

12.3 Authority of Representative

Unless otherwise provided, the appointment of a Member representative is taken to confer authority on behalf of the Member to:

- (a) agree to a meeting being convened by shorter notice than is required by the Act or by this constitution;
- (b) speak on any proposed resolution on which the proxy, attorney or representative may vote;



- (c) demand or join in demanding a written ballot on any resolution on which the proxy, attorney or representative may vote;
- (d) even though the instrument may refer to specific resolutions and may direct the representative 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;
 - (ii) to vote on any procedural motion, including any motion to elect the chair, to vacate the chair or to adjourn the meeting;
 - (iii) to act generally at the meeting; and
- (e) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.

12.4 Representation by Proxy or Attorney

- (a) Subject to this Constitution, each Member entitled to vote at a meeting of Members may vote:
 - (i) by proxy; or
 - (ii) by attorney.
- (b) A proxy or attorney may, but need not, be a member of the Company.
- (c) A proxy or attorney may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.

12.5 Instruments Appointing Proxies or Attorneys

- (a) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument. Alternatively, the instrument may not, and is not required to, direct how the proxy or attorney must vote on any motion.
- (b) An instrument appointing a proxy or attorney need not be in any particular form, provided it is in writing, legally valid and signed by the Member or the Member's Representative appointing the proxy or attorney.



- (c) In respect of appointment of an attorney, the instrument appointing the attorney must be registered with the appropriate authority and all other requirements of that authority to validate the instrument must be complied with.
- (d) Subject to subsection 12.5(e) a proxy or attorney may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority under which the instrument is signed, or a certified copy of the authority are:
 - (i) received at the registered office of the Company, a fax number at the Company's registered office or at another place, fax number or electronic address specified for that purpose in the notice calling the meeting before the time for holding the meeting or adjourned meeting (as the case may be); or
 - (ii) in the case of a meeting or an adjourned meeting, tabled at the meeting or adjourned meeting at which the person named in the instrument proposes to vote.
- (e) The Directors may waive all or any of the requirements of subsection 12.5(d) and in particular may, upon the production of other evidence as the Directors require to prove the validity of the appointment of a proxy or attorney, except:
 - (i) in an oral appointment of a proxy or attorney;
 - (ii) an appointment of a proxy or attorney which is not signed or executed in the prescribed manner; and
 - (iii) the deposit, tabling or production of a copy (including a copy sent by fax) of an instrument appointing a proxy or attorney or of the power of attorney or other authority under which the instrument is signed.

12.6 Validity of Representative's Votes

- (a) Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy or attorney votes, a vote cast by the proxy or attorney will be valid even if before the proxy or attorney votes:
 - (i) the appointing Member (if a natural person) dies; or
 - (ii) the Member (if a natural person) subsequently becomes mentally incapacitated; or
 - (iii) the Member revokes the proxy's or attorney's appointment; or
 - (iv) the Member revokes the authority under which the proxy or attorney was appointed by a third party.



- (b) The appointment of a proxy or attorney is not revoked by the appointor attending and taking part in the general meeting but, if the appointor votes on any resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointor's proxy or attorney on the resolution.

13. RESOLUTIONS WITHOUT MEETINGS

13.1 Written Resolutions

- (a) The Company may pass a resolution without a general meeting being held if all Members entitled to vote on the resolution sign a document containing a statement that the Members are in favour of the resolution set out in the document.
- (b) Separate counterpart copies of the document may be used for signing by Members if the wording of the resolution statement is identical on each counterpart copy.
- (c) The resolution is passed when the last Member signs, by reference to the date on which the counterpart copies are signed.
- (d) A Member may be deemed by the Board to have signed a document in accordance with this section by e-mail (or other means) if that Member has at any time previously provided the Company with notice that the Member may use e-mail (or other means) to sign Company documents, and that notice contains the e-mail address(es) and electronic signature(s) (if any) that the Member will use for this purpose, or any other information that the Company requires, as determined by the Board, to be able to identify the deemed signature as being that of the Member.
- (e) The receipt by the Company of a deemed signature of a Member which complies with the notice given by the Member in accordance with subsection (d) is conclusive evidence that the Member has assented to the relevant resolution.
- (f) The provisions of this section do not apply to a resolution to remove the auditor.

14. DIRECTORS

14.1 Initial Directors

The initial Directors appointed are the persons specified with the consent of those Directors, as proposed Directors, in the application for the Company's registration. In accordance with the Act, there must be a minimum of three (3) Directors, including the Chair, who is also a Director of the Company.



14.2 Number of Directors

- (a) Unless otherwise determined by the Company in general meeting, the number of Directors will be seven (7), but in any event, the number of Directors must not be:
 - (i) less than three (3); nor
 - (ii) more than nine (9).
- (b) At least one (1) of the Directors must be an Australian resident and there must be an Australian resident Director of the Company at all times.
- (c) As a measure of best practice, wherever it is possible and practical to do so, the Company should endeavour to have appointed an odd number of Directors at all times, but this is not mandatory and any decision of the Board that comprises an even number of Directors is as equally valid and binding as if it were made by an odd number of Directors.

14.3 Appointment of Directors

Subject to section 14.2, the Directors have power at any time, and from time to time, to appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing Directors.

14.4 Appointment of Directors by Sole Director

- (a) If, for any reason, the Company has only one Director at any given time, then that Director must appoint at least 2 other Directors as soon as reasonably practicable.
- (b) In those circumstances the Director must not act in any business of the Company except in exceptional or emergency circumstances, for example to take necessary action to preserve a wasting asset.
- (c) All actions under this section 14.4 must be subsequently ratified by subsequent resolution of the Members in a general meeting.

14.5 Appointment and Removal of Directors by Company

Subject to section 14.2, the Members of the Company may:

- (a) remove any Director; and
- (b) appoint any person as a Director

by Ordinary Resolution.



14.6 Term

Unless a Special Resolution is passed to vary the effect of this section in respect of any one or more Directors, the following provisions apply in respect of the term for which a Director may serve on the Board of the Company:

- (a) once appointed, a Director serves for a term of three (3) years;
- (b) the term of appointment commences immediately upon the conclusion of the annual general meeting at which the Director is appointed;
- (c) the appointment of Directors should be managed, as well as possible, by the Board so that, as nearly as possible, one third of the Directors' terms expire each year;
- (d) upon the expiry of a term, a Director is entitled to stand for a further term;
- (e) no Director may stand for any more than three (3) terms, whether consecutive or otherwise except pursuant to sub-section (f); and
- (f) a Director who is reappointed as the Chair of the Company at an annual general meeting may continue to serve, regardless of the length of any prior service, provided that a person appointed as the Chair must not serve in that role for any more than five (5) years, whether consecutive or otherwise.

14.7 Vacation of Office of Director

In addition to the circumstances in which the office of a director becomes vacant by virtue of the Act, the office of a director is automatically vacated if the Director:

- (a) becomes bankrupt; or
- (b) 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; or
- (c) resigns by giving written notice to the Company at the Company's registered office; or
- (d) becomes prohibited from being, or otherwise ceases to be, a director by virtue of the Act; or
- (e) dies.

14.8 Founding Director

Notwithstanding the preceding provisions of this section 14 the Company is at all times subject to the following special provisions in respect of the appointment of a Founding Director:

- (a) on and from the date of incorporation, the Founding Director is Gaylene James ("Founding Director");



- (b) the position of Founding director is not subject to the Director nomination and appointment process or the rotation process required for Directors in sections 14.5 and 14.6 respectively;
- (c) Subject to section 14.8(b), the Founding Director has all rights and obligations as a Director under this constitution, the ACNC Act and the Act;
- (d) This section 14.8 does not affect the operation of section 18.4 and for the avoidance of doubt, all Directors, including the Founding director, may choose among themselves who is to be appointed Chair of any meeting under section 18.4;
- (e) Subject in particular to the requirements for disclosure of a conflict of interest at Directors meetings in section 17.3, the Founding Director may also serve the company in an employed or contracted capacity as Chief Executive Officer; and
- (f) The Founding Director may vacate the position of founding Director at any time, by notice in writing to the Company and if the Founding Director so notifies the Company, or dies, or is otherwise unable or unwilling to continue service as a director of the Company, the position of Founding Director is retired and the provisions of this section 14.8 are no longer applicable to the Company.

15. DIRECTORS REMUNERATION, ETC.

15.1 Payments to Directors

- (a) The Company must not pay fees, in any form, to a Director solely for acting as a director of the Company.
- (b) The Company may:
 - (i) pay a Director for work the Director does for the Company, other than as a director, if the amount is no more than a reasonable fee for the work done, or
 - (ii) reimburse a Director for expenses properly incurred by the Director in connection with conducting and managing the affairs of the Company.
- (c) The Company may engage the services of a Director as an employee of the Company provided that the terms of employment have been approved by a resolution of the Board.

15.2 Prior Approval Required

Any payment made under section 15.1 must be approved by the Board.



15.3 Directors Insurance

The Company may pay premiums for insurance indemnifying Directors, as allowed for by law (including the Act) and this Constitution.

16. POWERS AND DUTIES OF DIRECTORS

16.1 Management of the Company

The business of the Company is to be managed by or under the direction of the Directors.

16.2 General Powers of the Directors

The Directors may exercise all of the powers of the Company except any powers that the Act or this Constitution requires the Company to exercise in general meeting. Subject to the Act, this Constitution and to any resolution passed by the Company in general meeting, the Board:

- (a) has power to control and manage the affairs of the Company;
- (b) may exercise all functions as may be exercised by the Company; and
- (c) has power to perform all acts and do all things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Company.

16.3 Power of Attorney

- (a) The Directors may by power of attorney appoint any corporation, firm, or person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for any purposes and with powers, authorities, and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for any period and subject to any conditions as the Directors think fit.
- (b) The Directors may authorise any attorney appointed under subsection (a) to delegate all or any of the powers, discretions and duties vested in the attorney.
- (c) Any powers of attorney granted under subsection (a) may contain provisions for the protection and convenience of persons dealing with that attorney as the Directors think fit.

16.4 Minutes

- (a) The Directors must cause minute books to be kept in which the Company records within one (1) month:
 - (i) proceedings and resolutions of general meetings of Members;
 - (ii) proceedings and resolutions of Directors' meetings (including meetings of a committee of the Directors);



- (iii) resolutions passed by Members without a meeting; and
 - (iv) resolutions passed by the Directors without a meeting.
- (b) Any powers of attorney granted under section 16.4 and any other delegation of powers must be recorded in the Company's minute book.
- (c) The Directors must ensure that minutes of a meeting are signed within a reasonable time after the meeting by the Chair of the meeting or the Chair of the next meeting.
- (d) Subject to section 14, if, for any reason, the Company only has one (1) Director, that Director must sign the minutes of the making of any declaration or resolution by that Director within a reasonable time, not exceeding one (1) month, after the declaration is made.

16.5 Registers

The Directors must cause the following Company registers to be kept:

- (a) a register of Members, in accordance with section 6.9; and
- (b) where debentures are issued, a register of debenture holders.

16.6 Formation Costs

The Directors may pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting of the assets acquired by the Company through the formation process.

16.7 Negotiable Instruments

The Directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the Company.

16.8 Other Roles

To assist in the management of the Company, the Directors may, in their sole and absolute discretion as a Board:

- (a) appoint members of the Board (i.e. the Directors) to specific offices, roles and functions within the Board structure, as set out in section 19;
- (b) appoint other people to act in any roles of management of the Company, including, but not limited to appointing a CEO on whatever terms and conditions and with whatever delegated powers and authority that the Directors may deem fit and necessary; and



- (c) appoint, revoke and vary the terms, conditions, powers and authorities of any appointee from time to time as the Board thinks fit.

All officers so appointed by the Board are wholly accountable to the Board for the discharge and performance of those roles and duties.

17. DIRECTORS INTERESTS AND DISCLOSURE

17.1 Holding of Other Offices in the Company

A Director may hold any other office or place of profit (except that of auditor) under the Company in conjunction with the office of director on terms and conditions as to remuneration and otherwise as agreed by the Board or the Company in general meeting.

17.2 Directors' Interests

- (a) A Director is not disqualified from holding any office or place of profit (except that of auditor) in the Company or in any other company or entity in which the Company is a stakeholder or otherwise interested by virtue of being a Director of the Company.
- (b) A Director may contract with the Company either as vendor, purchaser or otherwise and no contract, agreement or arrangement entered into by or on behalf of the Company in which any Director is in any way interested will be avoided by reason of the Director being a party to that contract or agreement or arrangement;
- (c) No Director is liable to account to the Company for any profits arising from any office or place of profit or realised by any contract, agreement or arrangement by reason only of the Director holding that office or because of the fiduciary obligations arising out of that office.
- (d) Subject to subsection (e), a Director who is in any way interested in any contract, agreement or arrangement or proposed contract, agreement or arrangement may, despite that interest:
 - (i) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract, agreement or arrangement or proposed contract, agreement or arrangement;
 - (ii) vote in respect of, or in respect of any matter arising out of, the contract, agreement or arrangement or proposed contract, agreement or arrangement; and
 - (iii) sign any document relating to that contract, agreement or arrangement or proposed contract, agreement or arrangement the Company may execute.



- (e) Subsection (d) does not apply if, and to the extent that, it would be contrary to the Act.

17.3 Disclosure of Interests

- (a) A Director must declare the nature of the interest the Director has in any contract, agreement or arrangement or proposed contract, agreement or arrangement or any other material personal interest in a matter relating to the affairs of the Company at the meeting of the Board at which the contract, agreement, arrangement or matter is first taken into consideration if the interest exists at the time of the meeting or, in any other case, at the first meeting of the Directors after the director acquires the interest unless the Act specifies that notice does not need to be given.
- (b) If a Director becomes interested in a contract, agreement or arrangement after it is made or entered into, the declaration of the interest required by subsection (a) must be made at the first meeting of the Board held after the Director acquires the interest.

17.4 General Disclosure

- (a) A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under section 17.3 of a Director's interest.
- (b) After a Director gives a general notice under subsection (a), it is not necessary for that Director to give a special notice relating to any particular transaction with that firm or company.

17.5 Recording Disclosures

The Company Secretary is obliged to record in the minutes any declaration made or any general notice given by a Director under this section 17.

18. DIRECTORS MEETINGS

18.1 Holding of Board Meetings

- (a) The Board may meet for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- (b) A Director may at any time, and the Company Secretary will on the request of a Director, call a Board meeting by reasonable notice individually to each Director.
- (c) A Director who is, for the time being, out of Australia is only entitled to receive notice of a Board meeting if the Director has given written notice to the Company of an address for the giving of notices of meetings.



18.2 Manner of Holding Meetings

- (a) A Board meeting may be called or held using any technology consented to by all the Directors.
- (b) A consent to use technology is deemed to be a standing consent and remains valid unless and until it is revoked by a Director.
- (c) A Director may only withdraw the Director's consent under this section within a reasonable period before the meeting.

18.3 Quorum

Unless the Directors determine otherwise, or there is only 1 director, the quorum for a Board meeting is 50% of the Directors plus 1 and the quorum must be present at all times during the meeting.

18.4 Chair of Board Meetings

- (a) If the Company appoints an independent Chair, that Chair is the deemed to be the Chair of all Board meetings, otherwise the Chair of all meetings of the Board is the Director who is appointed as President pursuant to section 19.1.
- (b) If the Chair is not present, or is not willing or able to chair any Board meeting, the Directors may elect a Director to be the ad hoc chair of that Board meeting.
- (c) The Directors must elect a Director present at the meeting to chair a meeting, or part of it, if:
 - (i) the Chair is not present at the meeting; and
 - (ii) a Director has not already been elected to chair the meeting; and
 - (iii) a previously elected Chair is not available within 15 minutes after the time appointed for holding the meeting or declines to act for the meeting or the part of the meeting.

18.5 Delegation to Committees

- (a) The Board may, by instrument in writing, delegate to one or more committees consisting of some, but not all, of the Directors as the Board thinks fit, any of the functions of the Board as are specified in the instrument, other than:
 - (i) this power of delegation, and
 - (ii) a function which is a duty imposed on the Board by the Act or by any other lawand any delegation to a committee must be recorded in the minutes.



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- (b) A committee must:

 - (i) conform to any regulations that may be imposed on it by the Board in exercising the powers delegated by the Board; and
 - (ii) exercise the powers delegated to it in accordance with any directions of the Board.
 - (c) A committee may, with the approval of the Board co-opt other Members of the Company to serve on any committee on a permanent or ad-hoc basis and otherwise for whatever purpose and on whatever terms as the committee may think necessary and prudent.
 - (d) The effect of a committee exercising a power consistently with this section is the same as if the Board exercised the power.
 - (e) The appointment of a committee of the Board may be a standing committee or an ad hoc committee.
 - (f) A function, the exercise of which has been delegated to a committee under this section may, while the delegation remains unrevoked, be exercised from time to time by the committee in accordance with the terms of the delegation.
 - (g) A delegation under this section may be made subject to any conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
 - (h) Any act or thing done or suffered by a committee acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered by the Board.
 - (i) Despite any delegation under this section, the Board may continue to exercise any function delegated.
 - (j) The Board may, by instrument in writing, revoke wholly or in part any delegation under this section.
 - (k) The provisions of this section apply to the Executive Committee appointed under section 19.

18.6 Conduct of Committee Meetings

- (a) A committee may elect a chair of its meetings. If no chair is elected, or if at any meeting the chair is not present within 15 minutes after the time appointed for holding the meeting, the members present at the meeting may elect one of their number to be chair of the meeting.
 - (b) A committee may meet and adjourn as that committee thinks proper or necessary.
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18.7 Votes at Directors and Committee Meetings

- (a) Motions arising at a meeting of the Board or of any committee appointed by the Board are to be determined by Ordinary Resolution of the Directors or the members of the committee, as the case may require, present at the meeting.
- (b) Each Director present at a meeting of the Board or of any committee appointed by the Board (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the Chair does not have any second or casting vote.
- (c) Subject to the requirements for a quorum, the Board, or any committee may act despite any casual vacancy.
- (d) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a committee appointed by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any Director of the Board or any member of a committee.

18.8 Delegation to Individual Directors

- (a) The Board may delegate any of its powers to one Director.
- (b) A Director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Board.
- (c) Acceptance of a delegation in this form may, if the Board so resolves, be treated as an extra service or special exertion performed by the delegate for the purposes of subsection (b).

18.9 Validity of Directors' Acts

An act done by a person acting as a Director or by a Board meeting or a committee of the Board attended by a person acting as a Director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a Director;
- (b) the person being disqualified to be a Director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the Board or committee (as the case may be) when the act was done.

18.10 Written Resolution – Multiple Directors

- (a) If:
 - (i) all of the Directors, other than:



- A.** any Director on leave of absence approved by the Directors;
- B.** any Director who disqualifies himself or herself from considering the act, matter, thing or resolution in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; and
- C.** any Director who the Board reasonably believes is not entitled at law to do the act, matter or thing or to vote on the resolution in question,

assent to a document containing a statement to the effect that an act, matter or thing has been done or resolution has been passed; and

- (ii)** the Directors who assent to the document would have constituted a quorum at a Board meeting held to consider that act, matter, thing or resolution.

then that act, matter, thing or resolution is to be taken as having been done at or passed by a Board meeting.

- (b)** Separate counterpart documents may be used for signing by Directors if the wording of the resolution and statement is identical in each counterpart copy.
- (c)** The resolution is passed on that date on which the last Director signs.

19. EXECUTIVE COMMITTEE

19.1 Composition

Notwithstanding the general appointment of the Directors by the Members, once appointed, the Directors must appoint, from amongst the appointed Directors, the following office-bearers:

- (a)** President (also referred to as the Chair);
- (b)** Vice-President;
- (c)** Treasurer; and
- (d)** Secretary (also referred to as the Company Secretary).

For the avoidance of doubt, a single person may hold up to two (2) offices concurrently (other than the office of both President and Vice-President) but the general model should be that each office is held by a separate person.



19.2 Executive Committee

The elected office-bearers of the Company comprise an executive committee ("the Executive Committee") of the Company, to which the Board may delegate any powers the Board thinks fit, in accordance with section 18.5.

19.3 Tenure

Subject to section 14.6 each member of the Executive Committee is, subject to this Constitution, to hold office until the conclusion of the annual general meeting following the date of the Director's election, as an office-bearer, but is eligible for re-election.

19.4 Procedure for Appointment of Office-Bearers

Once the members of the Board have been settled for any given period, the procedure required for the appointment of the office-bearers of the Company by the Directors is as follows:

- (a)** a Director nominating or nominated as a candidate for appointment as an office-bearer of the Executive Committee must be:
 - (i)** a Member of the Company; and
 - (ii)** a duly appointed Director of the Company;
- (b)** a Director may:
 - (i)** nominate themselves for appointment as an office-bearer; or
 - (ii)** may be nominated by another Director, and if so nominated, the Director must positively accept that nomination;
- (c)** if only one Director is nominated to fill any position on the Executive Committee, that person is taken to be elected;
- (d)** if more than one Director is nominated to fill any position on the Executive Committee, the Directors must vote by Ordinary Resolution, which nominee should be appointed to that position; and
- (e)** if no nomination is received to fill a position on the Executive Committee, that position is taken to be casual vacancy.

19.5 Functions of the President

The principal duties and functions of the President are to:

- (a)** represent and speak on behalf of the Company on all matters connected to the operations and activities of the Company;



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- (b) chair all Board meetings and general meetings of the Company at which the President is present;
 - (c) be an *ipso facto* member of all committees of the Company;
 - (d) sign all minutes of the Company in respect of any meeting or resolution for which the President was present;
 - (e) sign all other deeds, documents and instruments that require the execution of an officer of the Company; and
 - (f) do all other deeds, acts and things, reasonably necessary to effect the operations and activities of the Company.

19.6 Functions of the Vice-President

The principal duties and functions of the Vice President are to:

- (a) assist the President in the discharge of all of the President's duties;
- (b) stand in the place of the President on all occasions when the President is not willing or able to do so; and
- (c) to do all other deeds, acts and things, reasonably necessary to effect the operations and activities of the Company.

19.7 Functions of the Treasurer

The principal duties and functions of the Treasurer are to:

- (a) ensure that all money due to the Company is collected and received and that all payments authorised by the Company are made;
- (b) ensure that correct books of accounts are kept showing the financial affairs of the Company, including full details of all receipts and expenditure connected with the activities of the Company; and
- (c) ensure that the Company has sound and prudent internal systems in place for the proper management and governance of all financial and monetary functions of the Company.

19.8 Functions of the (Company) Secretary

The principal duties and functions of the Company Secretary are to:



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- (a) maintain all Registers of the Company;
 - (b) give and receive notices to and from Members of the Company for all purposes;
 - (c) keep the following records:
 - (i) all appointments of Directors and office-bearers;
 - (ii) the names of members of the Directors present at a Board meeting or a general meeting of the Company;
 - (i) all proceedings at Director meetings, executive committee meetings and general meetings.
 - (d) assist the Board generally in any way required to effect the operations and activities of the Company; and
 - (e) do all other things required of the Company Secretary by the Act.

19.9 Casual Vacancies of Office-Bearers

- (a) In the event of a casual vacancy occurring in the membership of the Executive Committee, the Board may appoint at any time another Director to fill the vacancy and the Director so appointed is to hold office, subject to this Constitution, until the conclusion of the annual general meeting next following the date of the appointment.
- (b) A casual vacancy in the Executive Committee occurs if a member of the Executive Committee, being a Director:
 - (i) dies;
 - (ii) ceases to be a Director by any means;
 - (iii) ceases to be a Member of the Company by any means;
 - (ii) resigns office by notice in writing given to the Company Secretary;
 - (iii) becomes an insolvent under administration within the meaning of the Act;
 - (iv) becomes a mentally incapacitated person;
 - (v) is absent without the consent of the executive committee from 3 consecutive meetings of the executive committee; or
 - (vi) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months.



19.10 Removal of Executive Committee Members

- (a)** The Company in general meeting may by resolution remove any member of the Executive Committee from any office before the expiration of the Director's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the Director so removed.
- (b)** If a member of the Executive Committee to whom a motion referred to in subsection (a) relates makes representations in writing to the Company Secretary or President (not exceeding a reasonable length) and requests that the representations be notified to the Members of the Company, the Company Secretary or the President may send a copy of the representations to each Member of the Company or, if the representations are not so sent, the member of the Executive Committee to whom the motion relates is entitled to require that the representations be read out at the meeting at which the motion is considered.

19.11 Executive Committee Meetings

- (a)** The Executive Committee may meet at any place and time as the Executive Committee may determine.
- (b)** Oral or written notice of a meeting of the Executive Committee must be given by the Company Secretary to each member of the Executive Committee at least 48 hours (or any other period as may be unanimously agreed on by the members of the Executive Committee) before the time appointed for the holding of the meeting.
- (c)** any 3 members of the Executive Committee constitute a quorum for the transaction of the business of a meeting of the Executive Committee.
- (d)** No business is to be transacted by the Executive Committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (e)** If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (f)** At a meeting of the Executive Committee the President or, in the President's absence, the Vice-President is to preside as Chair of the Executive Committee.



20. ASSOCIATE DIRECTORS

20.1 Alternate Directors

Any Director, with approval of the Board, may appoint another person as an alternate director to exercise some or all of the Director's powers for a specified period and:

- (a) if the appointing Director requests the Company to give the alternate Director notice of Board meetings, the Company must do so;
- (b) when an alternate Director exercises the Director's powers, the exercise of the power is as effective as if the powers were exercised by the Director;
- (c) the Company is not be required to pay the alternate Director any remuneration but the alternate Director must be reimbursed for expenses incurred as for other Directors;
- (d) the appointing Director may terminate the alternate Director's appointment at any time; and
- (e) an appointment or its termination must be in writing, with a copy given to the Company.

21. EXECUTION OF DOCUMENTS

21.1 Common Seal

The Company may have a common seal. If the Company does have common seal then:

- (a) the common seal must comply with the Act;
- (b) the Directors must provide for the safe custody of the common seal; and
- (c) the seal may only be used by the authority of the Board or of a committee of the Board authorised by the Board in that respect.

21.2 Execution under Common Seal

If the Company does have a common seal then it may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:

- (a) two (2) Directors of the Company;
- (b) a Director and a Company Secretary;
- (c) a Director nominated for that purpose by the Board; or
- (d) if, for any reason, the Company has a sole Director who is also the sole Company Secretary or a sole Director and no secretary – that Director.



21.3 Execution without Common Seal

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

- (a) two (2) Directors of the Company;
- (b) a Director and a Company Secretary;
- (c) a Director nominated for that purpose by the Board; or
- (d) if, for any reason, the Company has a sole Director who is also the sole Company Secretary or a sole Director and no Secretary – that Director.

21.4 Directors' Interests

A Director may sign a document to which the seal of the Company is affixed even if the Director is interested in the contract, agreement or arrangement to which the document relates.

22. INCOME

22.1 Determination of Income

The Company must determine income in accordance with ordinary accounting principles, and unless otherwise exempt, must pay all taxation liabilities on the derivation of that income as may be required from time to time.

22.2 Income Year

The income (financial) year of the Company is:

- (a) the period of time commencing on the date of incorporation of the Company and ending on the following 30 June, and
- (b) each period of 12 months after the expiration of the previous financial year of the association, commencing on 1 July and ending on the following 30 June.

23. FUNDS

23.1 Source

- (a) The funds of the Company are to be derived from:
 - (i) application and membership fees;
 - (ii) annual subscriptions fees of members;
 - (iii) grants, regardless of source;
 - (iv) donations from private and public sources; and



- (v) subject to any resolution passed by the Company in general meeting, any other sources as the Board determines.
- (b) All money received by the Company must be deposited as soon as practicable and without deduction into either:
 - (i) the Gift Fund, for all donations and other income that is required to be paid directly into the Gift Fund; or
 - (ii) in all other cases, the Company's bank or other authorised deposit-taking institution account.
- (c) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

23.2 Management

- (a) Subject to any resolution passed by the Company in general meeting, the funds of the Company are to be used in pursuance of the objects of the Company in the manner that the Board determines.
- (b) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the Executive Committee or employees of the Company, being members or employees authorised to do so by the Board.

24. CAPITALISATION OF PROFITS

24.1 Capitalisation of Reserves

The Directors may resolve to capitalise any part of the amount for the time being standing to the credit of any of the Company's reserve accounts or to the credit of the profit and loss account or otherwise.

24.2 Powers of Directors

Whenever a resolution under section 24.1 has been passed, the Directors must make all appropriations and applications of the undivided profits resolved to be capitalised by that resolution and generally do all acts and things required to give effect to that resolution.

25. ACCOUNTS & RECORDS

25.1 Accounting Records

The Board must cause proper accounting and other records to be kept and must distribute copies of financial statements as required by the Act.



25.2 Control

The Company Secretary must keep in his or her custody or under his or her control all records, books and other documents relating to the Company, but this requirement does not preclude the Company Secretary lodging any records, books and other documents relating to the Company with the Company's accountants or lawyers, in safe custody, from time to time.

25.3 Access to Records

- (a) The following documents must be open to inspection, free of charge, by a Member of the Company at any reasonable hour:
- (i) this Constitution
 - (ii) the Register of Members; and
 - (iii) minutes of all general meetings of the Company.
- (b) A Member of the Company may obtain a copy of any of the documents referred to in subsection (a) on payment of a fee of not more than \$1.00 for each page copied.

26. NOTICES

26.1 Giving of Notices

- (a) For the purpose of this Constitution, a notice may be served on or given to a person:
- (i) by delivering it to the person personally, or
 - (ii) by sending it by pre-paid post to the address of the person, or
 - (iii) by sending it by facsimile transmission or some other form of electronic transmission, including by email, to an address specified by the person for giving or serving the notice.
- (b) For the purpose of this Constitution, a notice is taken, unless the contrary is proved, to have been given or served:
- (i) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
 - (ii) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
 - (iii) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.



26.2 Entitlement to Notices

Notice of every general meeting will be given in any manner authorised by this Constitution to:

- (a) every Member, except those Members who (having no registered address within Australia) have not supplied to the Company an address for the giving of notices to them;
- (b) every person entitled to a share in consequence of the death or bankruptcy of a member who, but for the death or bankruptcy, would be entitled to receive notice of the meeting;
- (c) the Directors of the Company;
- (d) the Company Secretary or secretaries; and
- (e) the auditor for the time being of the Company.

No other person is entitled to receive notices of general meetings.

27. BY-LAWS

27.1 Subject to section 27.2, the Board may pass any resolution to make by-laws that are binding on the Members, whether to give effect to:

- (a) this Constitution; or
- (b) any other written instrument that purports to bind the Members;

27.2 Any by-law that purports to limit or encumber the power of Members in relation to the appointment and removal of the Directors must be approved by a Special Resolution of the Members.

28. INDEMNITY AND INSURANCE

28.1 Extent of Indemnity

The Company must indemnify (either directly or through one or more interposed entities) any person who is or has been a Director, Company Secretary or CEO of the Company and, if so resolved by the Directors, the auditor of the Company, out of the funds of the Company against the following:

- (a) any liability to another person (other than the Company or a related body corporate) unless the liability arises out of conduct involving a lack of good faith;
- (b) any liability for costs and expenses incurred by that person:
 - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or



- (ii) in connection with an application, in relation to those proceedings, in which the court grants relief to the person under the Act.

28.2 Insurance

The Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been an officer of the Company or of a related body corporate of the Company against a liability:

- (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 otherwise arising out of the officer holding any office provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a subsidiary of the Company or a contravention of sections 482 and 183 of the Act; or
- (b) for the costs and expenses incurred by that person in defending proceedings, whatever their outcome.

28.3 Other Insurance

The Company may otherwise obtain and maintain any policy of insurance for any purpose as the Board, in its sole and absolute discretion, thinks fit.

29. AUDIT

29.1 Audit

An auditor or auditors must be appointed by the Board if the Company is required to appoint an auditor by the Act and, if not so required, then the Board has the discretion to appoint an auditor or auditors.

29.2 Compliance

In all other respects, the Company must comply with generally accepted accounting principles in the jurisdiction in which the Company is based and must provide the necessary reports as required by the Corporations Law, in accordance with the Tier in which the Company is positioned from time to time.

30. WINDING UP

30.1 No Distribution of Surplus Assets to Members

If the Company is wound up (whether voluntarily or otherwise) no surplus assets may be distributed to any Member of the Company or any former Member of the Company.



30.2 Distribution of Surplus Assets

After all of the liabilities (including employee entitlements) and expenses of winding up have been paid and settled, subject to:

- (a) the Act;
- (b) any other act or legislation that may apply; and
- (c) the order of any court of competent jurisdiction

the Company may distribute any surplus assets to any one or more organisations with similar purposes and objectives to the Company that are charities registered with the Australian Charities and Not-For-Profits Commission provided that any recipient of surplus assets from the Company must also have provisions in its constituent documents that:

- (d) prohibits the distribution of income and capital to its members; and
- (e) requires the distribution of surplus assets to be treated in a similar manner as this section.

31. AMENDMENT

31.1 Amendments Generally

Any amendment or variation to this Constitution may only be made by a Special Resolution of the Company in general meeting.



SCHEDULE & CONSENT OF INITIAL MEMBERS

Each of the undersigned, being the persons specified in the application for the Company's registration as a person who consents to become a member, agrees to the terms of this Constitution.

Full name and address of each member	Signature on behalf of the Member
<p>1. Gaylene Jean James 25 Fitzroy Street Sorell TAS 7172</p>	
<p>2. Katherine Anne Crombie 17 Kent Road Geeveston TAS 7116</p>	
<p>3. Katie Hannah Lachman 47 Upper Hilton Road Claremont TAS 7011</p>	
<p>4. Kazia Imelda Chodasewicz 1422 Huon Riad Neika TAS 7054</p>	
<p>5. Andrea Elizabeth Pitlo PO Box 675 Hagley TAS 7292</p>	



APPENDIX 1

Application for Membership of the Company

To: Esthers Australia Limited

I, [insert full name of applicant]

of [insert address of applicant]

..... [insert occupation of applicant]

hereby apply to become an Ordinary Member/Affiliate Member [strike out whichever does not apply] of the abovenamed Company. In support of my application for admission as a member:

- 1. I certify that I meet the requirements of section 6.3(e) and (f) of the Constitution, namely that I:
 - (a) support the purposes and objectives of the Company; and
 - (b) agree to be bound by the terms of the Constitution of the Company in force from time to time; and
- 2. I warrant to the Company that I will pay the Guarantee Amount if and when called upon to do so.

..... /..... /.....
 Signature of applicant Date

Endorsement of Existing Member

I, [insert name of existing Member] being a Member in good standing of the Company, endorse the application for membership of the Company of the abovenamed applicant.

..... /..... /.....
 Signature of Member Date



APPENDIX 2

Nomination of Prospective Member of the Company

To: Esthers Australia Limited

I, [insert name of existing Member]
being a Member in good standing of the Company, nominate the following person/organisation to
be accepted for membership of the Company as an Ordinary Member/Affiliate Member [strike out
whichever does not apply].

Nominated Applicant

..... [insert full name of nominee]
of [insert address of nominee]
..... [insert occupation of nominee]

.....
Signature of Proposer Member Date

Secunder

I, [insert name of Secunder Member]
also being a Member in good standing of the Company, second the nomination of the
person/organisation nominated above.

.....
Signature of Secunder Member Date