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# **Constitution of GetUp Limited**

**A Company Limited by Guarantee**

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# Operative provisions

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## 1 Preliminary

### Definitions

1.1 In this Constitution, unless the context otherwise requires:

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

*Alternate Director* has the meaning given in clause 8.10.

*Appointing Director* has the meaning given in clause 8.10.

*Auditors* has the meaning given in clause 21.1.

*Board* means the board of Directors.

*Company* means GetUp Limited.

*Constitution* means the Constitution of the Company for the time being in force.

*Directors* means the directors of the Company from time to time.

*Financial Year* has the same meaning as in the Act.

*Founding Member* means each of:

- (a) Amanda Tattersall;
- (b) David Madden; and
- (c) Jeremy Heimans.

*Full Member* means each of the persons listed in the Members Register as a Full Member.

*Member* means a person who is granted Membership in the Company and is entered in the Members Register, including the Founding Members and the Full Members.

*Membership* means membership of the Company.

*Members Register* means the register of Members to be kept pursuant to the Act.

*Month* means calendar month.

*National Director* has the meaning given in clause 13.1.

*Objects* means the objects of the Company as set out in clause 1.5.

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

*Officer* means an officer (as that term is defined in section 9 of the Act) of the Company from time to time.

**Ordinary Resolution** means a resolution that has been passed by more than 50% of the votes cast by the persons present and entitled to vote on the resolution.

**Replaceable Rules** means the provisions of the Act which would but for this Constitution apply as replaceable rules under the Act.

**Resolution** means a resolution other than a Special Resolution.

**Seal** means the common seal of the Company (if the Board resolves to adopt a common seal) or, where appropriate, the duplicate seal or the official seal.

**Secretary** means a person appointed as secretary of the Company from time to time.

**Special Resolution** means a resolution that has been passed by at least 75% of the votes cast by persons present and entitled to vote on the resolution.

## Interpretation

1.2 In this Constitution, unless the context otherwise requires:

- (a) a reference to:
  - (i) the singular includes the plural and vice versa;
  - (ii) the Act, any section, regulation or schedule of the Act or any other legislation is a reference to that law as amended, consolidated, supplemented or replaced;
  - (iii) \$ means Australian dollars;
  - (iv) *in writing* or *written* includes printing, lithography, photography and other means of representing or reproducing words in a visible form;
  - (v) *paid up* or *paid* includes credited as paid up or paid;
  - (vi) the word *including* or *includes* means *including but not limited to or including without limitation*; and
- (b) headings are for convenience only and must be ignored in interpreting this Constitution.

## Replaceable Rules not to apply

1.3 The Replaceable Rules are displaced by this Constitution and do not apply to the Company.

## Constitution subject to the Act

1.4 This Constitution is subject to the Act and where there is any inconsistency between a clause of this Constitution and the Act, the Act prevails to the extent of the inconsistency.

## Objects

1.5 The object for which the company is formed is to advance progressive public policy in Australia, including by

- (a) building a diverse community of Australians committed to strengthening progressive public policy;
- (b) providing new and innovative ways for Australians to participate in the political life of the nation;
- (c) campaigning to advance progressive public policy in Australia; and
- (d) educating Australians about progressive public policy issues.

### **Income and property**

- 1.6 Subject to clause 1.7 and 13.5, the income and property of the Company wherever derived shall be applied solely towards promoting the Objects and no portion may be paid or transferred (whether directly or indirectly and whether by way of dividend, bonus or otherwise) to the Members or Directors.
- 1.7 Clause 1.6 does not prevent the payment in good faith of:
- (a) reasonable and proper interest to a Member on money advanced by the Member to the Company or otherwise owing by the Company to the Member;
  - (b) reasonable and proper charges for goods hired by the Company from a Member;
  - (c) remuneration of an amount not more than commercially reasonable payment to any Officer or employee of the Company or to a Member or other person in return for any services actually rendered to the Company;
  - (d) money representing reimbursement to any Officer or employee of the Company or a Member of out-of-pocket expenses incurred in performing a duty for the Company; or
  - (e) reasonable and proper rent for premises demised or let by any Member to the Company.

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## **2 Membership**

### **Categories of Membership**

- 2.1 The Company will consist of:
- (a) the Full Members;
  - (b) the Founding Members; and
  - (c) any other class of Members determined by the Board from time to time.

### **Voting Rights**

- 2.2 Full Members and Founding Members have the same rights, privileges and obligations except that no Founding Member is required to pay the entrance fee or annual subscription fee required under clauses 2.10 and 2.11 respectively.

### **Application for Membership**

- 2.3 Only persons nominated by at least two Members may apply for Membership.

- 2.4 Every applicant for Membership must:
- (a) have been nominated by at least two Members under clause 2.3;
  - (b) be an individual who:
    - (i) is interested in and agrees to support the Objects;
    - (ii) agrees to abide by this Constitution as amended from time to time; and
    - (iii) meets any additional criteria established for Membership in the Company as may be adopted by the Board and approved by the Members from time to time;
  - (c) sign an application for Membership in the form prescribed by the Directors, if any, at time of application; and
  - (d) be accompanied by the entrance fee set by the Directors, if any, and annual subscription fee set by the Members, if any.

### **Approval of Membership**

- 2.5 At the next meeting of Members after the receipt of any application for Membership that meets the requirements under clause 2.4, the application will be considered by the Members in a separate meeting and the Members may, in their sole discretion, resolve to admit such applicant as a Member of the Company by Special Resolution. In no case will the Members be required to give any reason for the acceptance or rejection of an applicant for Membership
- 2.6 When an applicant has been admitted to Membership under clause [2.5](#), the Secretary (or other person who the Directors may appoint) will notify the applicant of the acceptance and the applicant will be registered in the Register and will immediately become a Member of the Company.
- 2.7 If the applicant is rejected, any entrance fee or annual subscription paid in advance will be refunded in full.

### **Membership rights not transferable**

- 2.8 A right, privilege, or obligation of a person by reason of his or her Membership:
- (a) is not capable of being transferred or transmitted to another person; and
  - (b) terminates upon the cessation of Membership (except as otherwise provided in this Constitution).

### **Rights and privileges of Membership**

- 2.9 Without limiting any other rights conferred on Members, Members have the right to receive notice of, attend and vote at any general meeting of the Company.

### **Entrance fees**

- 2.10 The entrance fee for membership of the Company is as set by resolution of the Directors from time to time. If there is no resolution, there is no entrance fee.

## **Annual subscription**

- 2.11 Subject to clause 2.2, the annual subscriptions payable by Members of the Company may be set by the Members from time to time in accordance with the following process:
- (a) if the Directors, in their absolute discretion, decide that annual subscriptions should be payable by Members, the Directors will recommend to the Members that annual subscriptions should be payable by Members and the amount of such subscription, and may convene a meeting of Members under clause 3 for the purpose of considering an Ordinary Resolution to approve such subscription; and
  - (b) if there is no resolution approving such subscription, there is no annual subscription.
- 2.12 If an annual subscription has been set, then it will become due and payable in advance on the first day of July every year.

## **Register of Members**

- 2.13 The Secretary shall keep and maintain the Members Register in which shall be entered the full name, address and date of entry of the name of each Member and the register shall be available for inspection by Members at the Company's address.

## **Resignation of Member**

- 2.14 A Member who has paid all moneys due and payable to the Company may cease their Membership by giving one Month's notice in writing to the Secretary. On expiration of the notice period, the Member shall cease to be a Member. The Member will remain liable for any annual subscription and all other moneys due by them to the Company and unpaid as at the date of resignation and for any sum for which they are liable under clause 2.21.
- 2.15 Upon the expiration of a notice given under clause 2.14, the Secretary shall make in the Members Register an entry recording the date on which the relevant Member ceased to be a Member.

## **Expulsion, suspension and fines**

- 2.16 The Board may by resolution:
- (a) expel a Member;
  - (b) suspend a Member from Membership for a specified period; or
  - (c) fine a Member,
- who has:
- (d) refused or neglected to comply with this Constitution; or
  - (e) engaged in conduct that is prejudicial to the interests of the Company or contravenes any of the Company's policies from time to time.
- 2.17 If the subscription of a Member remains unpaid for 3 Months after it becomes due, the Secretary will give notice to the Member of that fact. If the subscription remains unpaid 14 days after the date of the notice, the Board may by resolution expel the Member from membership of the Company and remove the Member's name from the Register. The Board may reinstate the Member on payment of all arrears if the Board thinks fit to do so.

- 2.18 Where the Board passes a resolution under clause 2.16 or 2.17, the Secretary shall, as soon as practicable, cause to be served on the Member a notice in writing setting out the resolution of the Board and the grounds on which it is based.

### **Other grounds for cessation of Membership**

- 2.19 A Member's membership of the Company will automatically cease
- (a) on the date that the Member:
    - (i) dies; or
    - (ii) becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the laws relating to mental health.

### **Limited liability**

- 2.20 The liability of the Members is limited.

### **Members' guarantee**

- 2.21 If the Company is wound up, anyone who is a Member when the Company is wound up or who ceases to be a Member within one year before the Company is wound up must, on winding up, contribute to the Company's property the lesser of:
- (a) the amount required for:
    - (i) payment of the Company's debts and liabilities that were contracted before the person ceased to be a Member;
    - (ii) the costs, charges and expenses of the winding up; and
    - (iii) adjustment of the rights of contributors between themselves; and
  - (b) \$10.00.

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## **3 General meetings**

### **Annual general meetings**

- 3.1 Subject to the Act:
- (a) the Company must hold its first annual general meeting by the end of the calendar year of the registration of the Company; and
  - (b) subsequent annual general meetings must be held at least once in every calendar year and within five Months after the end of the financial year of the Company.

The annual general meeting shall be specified as such in the notice convening it.

- 3.2 All other general meetings of the Company may be convened at any time.

### **Deemed holding of annual general meeting**

- 3.3 An annual general meeting is deemed to have been held if the Company has held a general meeting at which resolutions have been passed dealing with all matters required to be dealt



with at an annual general meeting, but this does not affect the obligation to hold an annual general meeting as required by the Act or this Constitution.

### **Calling of general meetings**

- 3.4 In relation to the convening of general meetings, either:
- (a) the Directors may by Ordinary Resolution call a general meeting to be held at any place the Directors, by Ordinary Resolution, determine; or
  - (b) the Directors must call, and arrange to hold, a general meeting within 21 days after being requested to do so by Members with at least 5% of the votes that may be cast at the general meeting or at least 100 Members who are entitled to vote at the general meeting, whichever is the lower.

### **Notice of general meetings**

- 3.5 Except as permitted by the Act, at least 21 days' notice of every general meeting or meeting of any class of Members must be given in the manner provided by this Constitution to the Members and the persons entitled under this Constitution to receive notices.

### **Contents of notice of general meetings**

- 3.6 Every notice convening a general meeting must:
- (a) 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);
  - (b) set out the rights of and requirements for a Member to appoint a proxy;
  - (c) be accompanied by an instrument of proxy in the form which complies with the Act, and this Constitution or in any other form as the Directors may from time to time prescribe or accept; and
  - (d) otherwise comply with the requirements of section 249L of the Act.

### **Omission to give notice**

- 3.7 The accidental omission to give notice of a meeting of Members to, or the non-receipt of any such notice by, a person or other entity entitled to receive it does not invalidate the proceedings at, or any resolution passed at, the meeting.

### **Class meetings**

- 3.8 Subject to any additional or different requirements imposed by law, the provisions in this Constitution relating to meetings of Members (including this clause 3, and clauses 4, 5, 6 and 7) apply to meetings of a class of Members as though references to the Members are references to the Members of that class.

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## **4 Proceedings at general meeting**

### **Business at annual general meeting**

- 4.1 The business of an annual general meeting may include the following even if not referred to in the notice of the meeting:

- (a) to consider the annual financial report, the Director's report and auditor's report;
- (b) to appoint the Directors;
- (c) to appoint the Auditor;
- (d) to fix the remuneration of the auditors (if relevant); and
- (e) to admit new Members under clause [2.5](#);
- (f) to transact any other business which may be properly brought before the meeting.

### **Technology**

- 4.2 The Company may hold a general meeting at 2 or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate, including telephone, VOIP and video conferencing.

### **Quorum for general meeting**

- 4.3 No business will be transacted at any general meeting unless a quorum is present at the beginning of the business and during the whole of the meeting. A quorum is constituted by 60 per cent of the Members being present.
- 4.4 For the purpose of determining whether there is a quorum for a general meeting, a Member present at any venue using any technology as permitted under clause 4.2, and any person attending as a proxy, or as an attorney for a Member, or as a duly authorised representative of a corporation that is a Member, will be taken to be a Member present in person.

### **No quorum**

- 4.5 If a quorum is not present within 20 minutes after the time appointed for the meeting:
- (a) any meeting convened on a requisition of Members will be dissolved; and
  - (b) any other meeting will be adjourned to the same day in the next week at the same time and place or to such other day, time and place that the Directors may appoint by notice to the Members.

If at the adjourned meeting a quorum is not present, the meeting will be dissolved.

### **Chairperson of general meeting**

- 4.6 The Directors may elect one of their number as chairperson of the general meeting and may decide the period for which the elected Director is to hold office.
- 4.7 The chairperson of the Directors, or, in the chairperson's absence, the deputy chairperson (if any), is entitled to take the chair at every general meeting.
- 4.8 If there is no chairperson or if at any meeting the chairperson is not present within 15 minutes after the time appointed for holding the meeting or if the chairperson is unwilling to act:
- (a) the Directors present may choose a chairperson; or

- (b) if the Directors do not choose a chairperson, the Members present must choose one of the Directors to be chairperson and if no Director is present or willing to take the chair, the Members must choose someone to be chairperson.

### **Powers of chairperson**

- 4.9 At any general meeting, a declaration by the chairperson that a resolution has been carried or carried by a particular majority or not carried and a recording of that declaration in the minute book will be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against that resolution.

### **Adjournment of general meeting**

- 4.10 The chairperson of a general meeting may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but only business left unfinished at the original meeting may be transacted at the adjournment.

### **Notice of adjourned meeting**

- 4.11 If any general meeting is adjourned for more than one Month, a notice of the adjournment must be given to Members of the Company in the same manner as notice was or ought to have been given of the original meeting. In the case of all other adjournments, it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

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## **5 Voting**

### **Matters requiring a Special Resolution**

- 5.1 The following matters will require a Special Resolution of the Members at a meeting:
- (a) admission of an applicant for Membership;
  - (b) subject to law, any business which is transacted at a general meeting that is not the annual general meeting, with the exception of the receipt and consideration of the balance sheet and the reports of the Directors and the auditors, the notification of the election of Directors and the fixing of the remuneration of the Auditors;
  - (c) any business which the Act or this Constitution requires a Special Resolution;
  - (d) any alteration to the Company's legal status;
  - (e) voluntary winding up of the Company, or the sale or disposal of all or substantially all the Company's assets or undertakings; and
  - (f) any variation or amendment to, or repeal of, this Constitution.

### **Voting and resolutions**

- 5.2 At a general meeting of Members:
- (a) all questions submitted to the meeting will be decided by an Ordinary Resolution except where a greater majority is required by clause 5.1, or elsewhere in this Constitution, or the Act;
  - (b) in the first instance, voting will be on a show of hands; and

- (c) a poll may be demanded on any question before the close of the meeting by the chairperson, any Member, or their proxy, attorney or representative. The chairperson must decide in each case the manner in which a poll will be taken. Any dispute about the admission or rejection of a vote must be determined by the chairperson and the chairperson's determination made in good faith will be final and conclusive.

## **Votes**

- 5.3 On a show of hands and on a poll every person present as a Member or as a duly authorised representative, proxy or attorney of a Member will have one vote whether present in person or by proxy, attorney or representative.
- 5.4 A person entitled to cast more than one vote on a poll need not use all their votes or cast all the votes they use in the same way.
- 5.5 Subject to any restrictions affecting a class of Members, each Member is entitled to receive notices and to attend any general meeting and to vote and be counted in a quorum even if moneys are then due and payable to the Company by that Member.

## **Objections to qualification to vote**

- 5.6 An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 5.7 Any such objection will be resolved by the chairperson of the meeting, whose decision is final.
- 5.8 A vote not disallowed pursuant to an objection is valid for all purposes.

## **Attorney of Member**

- 5.9 Any Member may appoint an attorney to act on the Members' behalf at all meetings of the Company or all meetings of the Company during a specified period. Before the first meeting at which the attorney acts on the Members' behalf, the relevant power of attorney must be deposited at the Office or at any place specified in the notice convening that meeting. At the first meeting and at any subsequent meeting to which the power of attorney may relate, the attorney must hand to the chairperson of the meeting a properly executed declaration of non-revocation of the power of attorney.

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# **6 Proxies**

## **Instrument appointing proxy**

- 6.1 The instrument appointing a proxy must be in writing signed by the appointor or by the appointor's attorney properly authorised in writing.

## **Validity of appointment**

- 6.2 The instrument appointing a proxy and the original power of attorney (if any) under which it is signed or a certified copy of the power of attorney must be received by the Company prior to the time for holding the meeting either by delivery to the Office, by email to the Secretary or otherwise by any other means permissible under section 250B(3) of the Act.
- 6.3 An instrument appointing a proxy will only be valid for 12 Months from the date of its execution unless it states that it is valid for all meetings until revoked, except that any

instrument may be used at any adjournment of the meeting for which it was originally intended.

### **Validity of vote given in accordance with proxy**

- 6.4 Unless the Company has received written notice of the matter before the start or resumption of the Members' meeting at which a proxy or an attorney votes, a vote cast by the proxy or attorney will be valid even if, before the proxy or attorney voted, the Member:
- (a) dies;
  - (b) is mentally incapacitated;
  - (c) revokes the proxy's or attorney's appointment; or
  - (d) revokes the authority under which the proxy was appointed by a third party.

### **Form of proxy**

- 6.5 Every instrument of proxy must specify the Members' name and address, the Company's name, the proxy's name or the name of the office held by the proxy and the meetings at which the proxy may be used, and must otherwise comply with the provisions of section 250A of the Act.
- 6.6 The instrument of proxy may be worded so that a proxy is directed to vote either for or against each of the resolutions to be proposed. Any instrument of proxy deposited in accordance with this Constitution in which the name of the appointee is not filled will be deemed to be given in favour of the chairperson of the meeting to which it relates. The instrument of proxy may specify the proportion or number of votes that the proxy may exercise.

### **Two proxies**

- 6.7 A Member entitled to cast two or more votes at a meeting may appoint two proxies. If the Member appoints two proxies and the appointment does not specify the proportion or number of the Members' votes, each proxy may exercise half of the votes.

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## **7 Resolutions without meetings**

- 7.1 Any resolution, other than a resolution to remove an auditor under section 329 of the Act, may be passed without a general meeting being held if all the Members entitled to vote on the resolution sign a statement that they are in favour of a resolution set out in the document. Identical copies of the document and accompanying information may be distributed for signing by different Members. The resolution is passed when the last Member signs the document.

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## **8 Directors**

### **Number of directors**

- 8.1 The number of the Directors is between five and nine, until otherwise determined by the Company in general meeting.

### **Eligibility**

- 8.2 At least two of the Directors must be natural persons who ordinarily reside within Australia.

8.3 All Directors will become Members at the time of appointment.

#### **Consent to act as Director**

8.4 Before being appointed as a Director a person must give the Company a signed consent to act as Director, which must be retained by the Company.

#### **Directors' tenure of office**

8.5 A Director must not hold office for more than 3 years without re-election pursuant to clause 8.6 and 8.8 and must not be re-elected for more than three terms of 3 years each.

#### **Appointment, re-election or removal of Directors**

8.6 Directors may be appointed, re-elected or removed either by Ordinary Resolution of Members at any general meeting or by notice in writing to the Company signed by or on behalf of Full Members and Founding Members holding a majority of the votes that may be cast at general meetings. Any removal, re-election or appointment by notice takes effect immediately on delivery of the notice to the Office or on presentation at a duly constituted Directors' meeting.

#### **Directors may fill casual vacancies or appoint additional Directors**

8.7 The Directors also have the power at any time to appoint any other person as a Director, to fill a casual vacancy, including a vacancy arising from there being an insufficient number of Directors elected, provided that the total number of Directors must not at any time exceed the maximum number for the time being fixed by or under this Constitution.

#### **Eligibility for re-election as Director**

- 8.8 A Director is eligible for re-election for a further term of 3 years if:
- (a) the Director satisfies the performance criteria as agreed between that Director and the Board, and
  - (b) the Director has not served more than the maximum number of terms in clause 8.5, unless that Director is being appointed to fill a casual vacancy as at 8.7 as agreed by Special Resolution at any general meeting or by notice as prescribed in clause 8.6.

#### **Auditor cannot be Director**

8.9 Subject to the Act, an auditor of the Company or partner or employee or employer of an auditor of the Company must not be appointed a Director or an Alternate Director.

#### **Director**

- 8.10 Subject to the Act, each Director (*Appointing Director*) may with the approval of a majority of the other Directors (and subject to any conditions determined by the other Directors) by writing under hand or by facsimile appoint any person to act as an alternate Director in the Appointing Director's place (*Alternate Director*) during any period the Appointing Director thinks fit. Any Alternate Director:
- (a) may be removed or suspended from office by written notice to the Company from the Appointing Director;
  - (b) is entitled to receive notice of meetings of the Board, to attend meetings (if the Appointing Director is not present) and to be counted towards a quorum at meetings;

- (c) is entitled to vote at meetings he or she attends on all resolutions on which the Appointing Director could vote had he or she attended and, where the Alternate Director is a Director in his or her own right, will have a separate vote on behalf of the Appointing Director in addition to the Alternate Director's own vote;
- (d) need not be a Member;
- (e) may exercise any powers that the Appointing Director may exercise in the Alternate Director's own right where the Appointing Director is unavailable for any reason except the power to appoint an Alternate Director. The action of an Alternate Director will be conclusive evidence as against third parties of the unavailability of the Appointing Director;
- (f) will automatically vacate office if the Appointing Director is removed or otherwise ceases to hold office for any reason;
- (g) while acting as an Alternate Director is responsible to the Company for his or her own acts and defaults and will not be deemed to be the agent of the Appointing Director;
- (h) will not be entitled to receive any remuneration from the Company but will, if approved by the Directors, be entitled to reimbursement for reasonable travelling and other expenses incurred by the Alternate Director in attending meetings of the Board or otherwise on the Company's business;
- (i) will not be taken into account in determining the number of Directors for the purposes of this Constitution; and
- (j) may act as an Alternate Director for more than one Director.

### **Vacation of office**

8.11 The office of a Director will be automatically vacated if the Director:

- (a) becomes a candidate for parliamentary office of the Commonwealth, a State or Territory of Australia;
- (b) becomes insolvent;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health;
- (d) vacates office or is prohibited from being a Director under any of the provisions of the Act or any order made under the Act;
- (e) fails to attend at least four of the meetings of Directors called in any 12 month period;  
or
- (f) resigns office by notice in writing to the Company.

8.12 A Director whose office is vacated under clauses 8.11(a), 8.11(c) or 8.11(d) will not be eligible for re-election until the disability (or disabilities) referred to is (or are) removed.

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## **9 Proceedings of Directors**

### **Board meetings**

9.1 A meeting of Directors must be held at least once every two months and at least six times in total in each year.

### **Quorum for Board meeting**

9.2 No business will be transacted at any Board meeting unless a quorum is present at the beginning of the meeting. A quorum is constituted by two thirds of the Directors (rounded down to the nearest whole number) being present at the beginning of the meeting.

9.3 Unless clause 9.4 applies:

- (a) the Directors may meet for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit; and
- (b) if a quorum is present at the beginning of the meeting, it is deemed to be present throughout the meeting even if a Director absents himself or herself, or absents from voting, for any reason.

9.4 In the event of a vacancy or vacancies in the office of a Director or offices of Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may only act for the purposes of:

- (a) increasing the number of Directors to a number sufficient to constitute a quorum; or
- (b) convening a general meeting of the Company.

### **Use of technology**

9.5 A Directors' meeting may be called or held by telephone or by using any other technology consented to by all the Directors. The consent may be a standing one and may only be varied or withdrawn by a further ordinary resolution of Directors.

### **Calling of Board meeting and place of meeting**

9.6 The Directors must meet whenever a meeting is called by at least three Directors provided that not less than three working days' written notice has been given to the other Directors.

### **Board meeting competent to exercise all powers**

9.7 A meeting of the Directors at which a quorum is present may exercise all or any of the powers and discretions vested in or exercisable by the Directors generally.

### **Resolution passed deemed to be determination of Board**

9.8 Any resolution properly passed under clause 9.10 at a duly convened meeting of the Directors at which a quorum is present will be deemed to be a determination by all the Directors of the Board for the purposes of this Constitution.



## **Chairperson of Board meetings**

- 9.9 The Directors may elect a chairperson and deputy chairperson of their meetings and determine the period they are to hold office. If no chairperson or deputy chairperson is elected, or if elected, both the chairperson and deputy chairperson decline to act, or if at any meeting neither the chairperson nor the deputy chairperson is present at the time appointed for the meeting, the Directors present at the meeting must choose one of their number to be chairperson of the meeting. In the event of a question arising at a meeting of Directors having the same number of votes cast for and against by the Directors present and entitled to vote at that meeting, the chairperson has a second or casting vote.

## **Questions to be decided by Ordinary Resolution**

- 9.10 Questions arising at any meeting of Directors will require an Ordinary Resolution cast by the Directors present and entitled to vote on the question.

## **Resolutions without meetings**

- 9.11 If more than half of the Directors entitled to attend at a meeting of Directors and vote on a resolution, sign a document that sets out a resolution and contains a statement that they are in favour of that resolution, the resolution will be taken to have been passed at a meeting of the Directors duly convened and held on the day on which and at the time at which the document was last signed by a Director, provided that all Directors have been given the document and at least 3 working day's prior notice to consider the resolution.
- 9.12 For the purposes of clause 9.11:
- (a) two or more separate documents containing statements in identical terms each of which is signed by one or more Directors will together be taken to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents; and
  - (b) a facsimile message or email which is received by the Company and is expressed to have been sent by a Director or Alternate Director will be taken to be a document signed by that Director or Alternate Director at the time of receipt of the telex, telegram or facsimile message by the Company.

## **Validity of acts of Directors**

- 9.13 All acts done by any meeting of the Directors or by a committee of the Directors or by any person acting as a Director are valid even if it is discovered afterwards that there was some defect in the appointment or election of any Director or person acting as a Director or that any Director was disqualified or had vacated office or was otherwise not entitled to vote or act or the Board was otherwise not validly constituted.

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# **10 Board committees**

## **Committee powers and meetings**

- 10.1 The Directors may delegate any of their powers to a committee of Directors or to a sole Director and may revoke any delegation. Any committee or sole Director must exercise the powers delegated to it in accordance with any directions of the Board. The meetings and proceedings of any committee consisting of two or more Directors will be governed by the provisions of this Constitution regulating the meetings and proceedings of the Directors so far

as they are applicable and are not superseded by any direction made by the Board under this clause 10.1.

10.2 Subject to the clause 10.1:

- (a) the Board may at its complete discretion appoint a finance committee (***Finance Committee***), which shall consist of any number of Directors and the National Director. In addition, the Board may appoint a financial manager to the Finance Committee. The Finance Committee shall:
  - (i) oversee the financial management of the Company;
  - (ii) liaise with the Auditors;
  - (iii) oversee and prepare financial statements on behalf of the Board;
  - (iv) report to the Board regarding the financial status of the Company; and
- (b) the Board may at its complete discretion appoint a remuneration committee (***Remuneration Committee***), which shall consist of at least two Directors and any other person the Board thinks fit. The Remuneration Committee shall:
  - (i) determine and recommend to the Board the salary for the National Director;
  - (ii) determine and recommend to the Board the superannuation and workers compensation arrangements for the Company's staff and the National Director, and oversee the implementation of such arrangements as approved by the Board; and
  - (iii) report to the Board at least once per year regarding the proceedings and activities of the Remuneration Committee.

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## **11 Directors' external interests**

### **Directors not disqualified from holding office or contracting with the Company**

11.1 No Director is disqualified because of his or her office from:

- (a) holding any other office or position with the Company or with any company promoted by the Company or with any corporation in which the Company is a member or which is a Member of the Company or in which the Company is otherwise interested; or
- (b) contracting with the Company (whether as vendor, purchaser or otherwise).

11.2 No contract referred to in clause 11.1(b) or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested will be avoided and no Director will be liable to account to the Company for any profit arising from such a contract or arrangement or from any office referred to in clause 11.1(a) (or other place of profit) only because that Director holds that office or because of the fiduciary relations established by it.

### **Director may vote on contract in which that Director is interested**

11.3 Subject to the Act (and in particular section 195) and to clause 13.5, a Director may vote on any matter about any contract or arrangement in which the Director is interested (whether

directly or indirectly) and may be counted in a quorum, may affix the Seal to, and may otherwise act on any matter about that contract or arrangement.

### **Director not deemed to be interested in certain contracts or arrangements**

- 11.4 A Director will not be deemed to be interested (whether directly or indirectly) or to have been at any time interested in any contract or arrangement or proposed contract or arrangement of a type referred to in section 191(2) of the Act.

### **Directors to declare interest**

- 11.5 Any Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of the interest, unless the interest is of a type referred to in section 191(2)(a) of the Act, or the conditions referred to in section 191(2)(b), (c) or (d) of the Act are satisfied.
- 11.6 The Director must declare the nature and extent of the Director's interest and the relation of the interest to the affairs of the Company at the meeting of the Directors as soon as possible after the Director becomes aware of their interest in the matter.
- 11.7 A Director who has an interest in a matter may give a standing notice to the other Directors of the nature and extent of that Director's interest in the matter in accordance with section 192 of the Act.

### **Directors to declare potential conflicts**

- 11.8 Any Director who holds any office or possesses any property which might (whether directly or indirectly) create duties or interests in conflict with that Director's duties or interests as a Director of the Company must declare the fact of the holding and the nature and extent of any conflict at the first meeting of the Directors held after the Director becomes a Director or (if already a Director) at the first meeting of the Directors held after the relevant facts came to the Director's knowledge.

### **Secretary to record declarations of Directors**

- 11.9 The Secretary must record any declarations made or notices given by a Director under this Constitution.

### **Effect of failure to make or record disclosures**

- 11.10 Failure to make or to record any disclosures will not render voidable or void any contract, transaction or arrangement to which the disclosure relates.

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## **12 Powers of Directors**

### **Powers of Directors**

- 12.1 Subject to the Act and this Constitution, the business of the Company will be managed by the Directors, who may pay and, if approved by the Directors, be reimbursed by the Company for, all expenses incurred in promoting and forming the Company and may exercise all of the powers of the Company that are not, by the Act or by this Constitution, required to be exercised by the Company in general meeting.

## **Powers to borrow or raise money**

- 12.2 Without limiting the clause 12.1, the Directors may from time to time borrow or raise any sum or sums of money or incur other financial obligations for the purposes of the Company and may give or take security over the repayment of that sum or sums or the payment, performance or fulfilment of any debts, liabilities, contracts or obligations incurred or undertaken by the Company on terms and conditions as they determine.

## **Directors may vote shares in other corporations**

- 12.3 Subject to the Act, the Directors may exercise the voting power conferred by the shares in any corporation held by the Company as they determine, including in circumstances where a Director may be interested in the exercise, such as an exercise in favour of any resolution appointing a Director as an Officer of a corporation or voting or providing for the payment of remuneration to Officers of the other corporation.

## **Security over the Company's assets**

- 12.4 Subject to the Act, if any Director or any other person becomes personally liable (whether as surety or otherwise) for the performance of any of the Company's obligations, the Directors may, despite their interest, execute or cause to be executed any mortgage, charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the liability.

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# **13 Executive Directors**

## **National Director**

- 13.1 The Directors may at any time and from time to time appoint any person (whether or not a Director) to the office of National Director or to any other executive office for any period and on any terms they think fit and, subject to the terms of any agreement entered into in any particular case, may revoke the appointment.
- 13.2 Each person or persons appointed as National Director may or may not be at the Board's complete discretion, a Director and/or Member for the duration of his or her appointment as National Director or such longer period as provided for in this Constitution.

## **Directors may confer powers**

- 13.3 The Directors may grant the National Director or other persons appointed to an executive office, any of the powers exercisable by the Directors on terms and conditions and with any restrictions that they think fit. Any powers which are conferred may be concurrent with or to the exclusion of their own powers. The Directors may at any time revoke, withdraw, alter or vary all or any of those powers.
- 13.4 A National Director or other executive Director must report to the Board on matters relating to the exercise of his or her powers and the performance of his or her duties, and otherwise relating to the Company, as required by the Board from time to time.

## **Remuneration of Directors**

- 13.5 The Company may, pursuant to a resolution of the Directors, pay the Directors reasonable remuneration in relation to the performance of their duties as Directors.

## **Expenses of Directors**

- 13.6 If approved by the Directors, a Director may also be paid all travelling and other expenses incurred by them in attending and returning from meetings of the Directors, any committee of the Directors or any general meetings of the Company or otherwise in connection with the business of the Company.

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## **14 Power of attorney Appointment**

- 14.1 The Directors may at any time by power of attorney appoint any person or persons to be the attorney or attorneys of the Company for those purposes and with those powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for that period and subject to those conditions that the Directors think fit.
- 14.2 Without limiting clause 14.1, any appointment may be made in favour of any company or the members, directors, nominees or managers of any company or firm or in favour of any fluctuating body of persons (whether nominated by the Directors or otherwise).

### **Indemnification of attorneys**

- 14.3 Any power of attorney given on behalf of the Company may contain provisions for the indemnification, protection or convenience of the attorney or attorneys and of persons dealing with the attorney or attorneys.

### **Sub-delegation of powers**

- 14.4 Any attorney appointed by the Directors under clause 14.1 may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions given to them.

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## **15 Minutes and registers to be kept**

### **Minutes**

- 15.1 The Directors must ensure that minute books are kept in which are recorded, within one Month of the relevant meeting, the following:
- (a) the names of the Directors present at each meeting of the Directors and of any committee of Directors;
  - (b) all resolutions and proceedings of general meetings of the Company, meetings of the Directors and meetings of any committee of the Directors; and
  - (c) resolutions passed by Members or Directors without a meeting.
- 15.2 Any minutes of any general meetings of the Company, meetings of the Directors or meetings of any committee of the Directors must be signed within a reasonable time after the meeting by the chairperson of the meeting or by the chairperson of the next succeeding meeting and once signed will be evidence of the matters stated in the minutes.

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## **16 The Secretary**

### **Appointment of Secretary**

16.1 A Secretary or Secretaries of the Company must be appointed by the Directors complying with the Act. The Directors may also appoint acting and assistant secretaries. At least one Secretary must be ordinarily resident in Australia. Any appointment may be for that term, at that remuneration and on those conditions the Directors think fit and any person so appointed may be removed by the Directors.

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## **17 The Seal**

### **Use of the Seal**

17.1 If the Company has a Seal:

- (a) the Directors must provide for the safe custody of the Seal;
- (b) the Seal must be used only by the authority of the Board or a committee of the Directors with authority from the Board to authorise the use of the Seal; and
- (c) every document to which the Seal is affixed must be signed by a Director and countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

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## **18 Negotiable instruments**

### **Terms of negotiable instruments**

18.1 All cheques, bills of exchange, promissory notes and other negotiable instruments must be signed, drawn, accepted, made or endorsed (as the case may be) for and on behalf of the Company by those persons and in that manner determined by the Directors.

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## **19 Asset valuation**

### **Revaluation of assets**

19.1 Subject to the Act, the Directors may revalue any assets of the Company.

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## **20 Financial statements**

### **Financial records**

20.1 The Directors must cause financial and other records to be kept to record correctly and explain the transactions and financial position of the Company, to enable true and fair profit and loss accounts and balance sheets to be prepared and to permit preparation of any other documents required by the Act or this Constitution. The records must be kept:

- (a) in a manner which will enable them to be conveniently and properly audited;
- (b) for seven years after the completion of the transactions or operations to which they relate; and

- (c) at the Office or at any other place the Directors think fit and at all times be open to inspection by the Directors.

### **Financial statements/reports**

- 20.2 At each annual general meeting the Directors must lay before the Company:
- (a) a profit and loss account for the last financial year of the Company;
  - (b) a balance sheet as at the date to which the profit and loss account is made up;
  - (c) an account of the contributions of each Member for the last financial year; and
  - (d) attached to the documents listed in paragraphs (a) and (b), a report by the Directors regarding the state of the Company's affairs, a statement by the Director's in accordance with the Act and the auditor's report regarding the documents, unless the Company in accordance with the Act has resolved not to appoint auditors.

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## **21 Audit**

### **Auditors**

- 21.1 Auditors of the Company (*Auditors*) must be appointed and removed and their remuneration, rights and duties must be regulated in accordance with the provisions of the Act.
- 21.2 The financial statements of the Company must be audited for each Financial Year of the Company and the correctness of the profit and loss account and balance sheet must be ascertained by the Auditors of the Company complying with the Act.

### **Approval of financial statements**

- 21.3 Financial statements of the Company when approved by a general meeting will be conclusive except regarding any error identified within three Months after the date of preparation. If any error is identified within this period, the financial statements must immediately be corrected and will then be conclusive.

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## **22 Inspection of records**

### **Right to inspect**

- 22.1 Subject to the Act, the Directors will determine whether, to what extent, at what times and places and under what conditions the accounting and other records of the Company or any of them will be open to the inspection of the Members.
- 22.2 A Member who is not a Director will not have any right to inspect any account, book or document of the Company or receive any information concerning the business, trading or customers of the Company or any trade secret or secret process of the Company except as provided by the Act or as authorised by the Directors or a resolution of the Company in general meeting.

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## **23 Notices**

### **Service of notices by the Company**

- 23.1 A notice may be given by the Company to any Member either personally or electronically to the relevant email address of the Member as shown on the Members Register or as advised by the Member, by sending it by post addressed to the Member at the address shown in the Members Register, or otherwise by any other method as the Directors determine.

### **Notice deemed to be served**

- 23.2 A notice sent by electronic means will be deemed to have been served on the same day that it is sent.
- 23.3 Any notice sent by post will be deemed to have been served on the fifth day following the day on which the notice is posted, unless sent by airmail to an address outside the country in which it was posted, in which case it will be deemed to have been served on the tenth day following the day on which it is posted.

### **Service by post**

- 23.4 To prove service by post, it is sufficient to prove that the notice with required postage was properly addressed and posted. A certificate in writing signed by any manager, Secretary or other Officer of the Company that the notice was properly addressed and posted will be conclusive evidence of those matters.

### **Notices to Members whose whereabouts unknown**

- 23.5 Where:
- (a) the Company has a genuine reason to believe that a Member is not resident at the address shown for that Member in the Members Register;
  - (b) the Company has subsequently made an enquiry at that address as to the whereabouts of the Member; and
  - (c) the enquiry either elicits no response or a response indicating that the Member's present whereabouts are unknown,

all future notices will be deemed to be given to the Member if the notice is exhibited in the Office for a period (not including weekends and public holidays) of not less than 48 hours and will be deemed to be duly served at the beginning of that period.

- 23.6 Clause 23.5 will apply unless and until the Member informs the Company of a registered place of address or that the Member has resumed residence at the Members address shown in the Members Register or notifies the Company of a new address to which the Company may send the Member notices (which will be deemed to be the Member's registered address from the time the Company receives such notice).

### **Signing of notices**

- 23.7 The signature to any notice to be given by the Company may be written or printed.



## **Counting of days**

- 23.8 Where a given number of days' notice or notice extending over any period is required to be given, the day on which notice is deemed to be given will be included in the number of days or other period.

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## **24 Winding up**

### **Distribution of assets**

- 24.1 If upon the winding up or dissolution of the Company there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed amongst the Members of the Company but shall be given or transferred to one or more other entities which or each of which:
- (a) has purposes similar to the purposes of the Company;
  - (b) whose Constitution prohibits the distribution of its income and property among its Members to an extent at least as great as is imposed on the Company under or by virtue of clauses 1.6; and
  - (c) meets the requirements of clause 24.2.
- 24.2 Any entity is to be determined by the Board at or before the time of dissolution or failing which is to be determined by application to the courts.

### **Fee or commission paid to liquidator to be approved in general meeting**

- 24.3 No fee or commission will be paid by the Company to any Director or liquidator upon any sale or realisation of the Company's undertaking or assets or any part of them except with the approval of the Company in general meeting, that meeting to be convened by notice specifying the fee or commission proposed to be paid.

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## **25 Indemnity and insurance**

### **Indemnity**

- 25.1 To the extent permitted by law, the Company may make a payment, or agree to make a payment, whether by way of advance, loan or otherwise, for any legal costs incurred by a Director, Secretary or, where applicable, other Officer, on the condition that the Director, Secretary or, where applicable, other Officer, must repay the amount paid by the Company to the extent that the Company is ultimately found not liable to indemnify the Director, Secretary or, where applicable, other Officer, for those legal costs.

### **Insurance**

- 25.2 To the extent permitted by law the Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been a Director, Secretary or other Officer, of the Company (or such persons in respect of a subsidiary of the Company), other than a liability arising out of:
- (a) conduct involving wilful breach of duty in relation to the Company; or
  - (b) a contravention of section 182 or 183 of the Act.

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## **26 Internal disputes**

- 26.1 The Directors may provide for a mechanism to be established for resolving internal disputes within its Membership, which includes, without limitation:
- (a) the appointment of an independent person to arbitrate the dispute;
  - (b) a process to bring disputing parties together to resolve the dispute at an early stage;
  - (c) a process to ensure that all parties receive a full and fair opportunity of presenting their case; and
  - (d) where the dispute cannot be resolved internally by mediation or arbitration, to refer the matter to a community justice centre, or equivalent which functions as “a centre for dispute settlement”.

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## **27 Amendment of the Constitution**

- 27.1 Subject to the Act, this Constitution may be amended by a Special Resolution passed at any annual general meeting at which notice of the proposed amendment will have been given, or at a special general meeting convened for such purpose, subject to State or Federal laws in force at the relevant time.