

Constitution of Cancer Council Queensland

ACN 009 784 356

“Corporations Act 2001 (Cth)”

A company limited by guarantee

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1. Introduction

1.1 Definitions

In this Constitution:

Auditor means the auditor of the Company from time to time.

Chair means the man or woman appointed to that role in accordance with clause 5.8(a).

Cited Member has the meaning that term is given in clause 3.4(b).

Charter means the Corporate Governance Charter of the Company, as varied, amended or replaced from time to time.

Company means Cancer Council Queensland ACN 009 784 356.

Constitution means this Constitution as amended or added to from time to time.

Corporate Governance Charter means the document entitled "Corporate Governance Charter" adopted by the Board on or about the date this Constitution is adopted, as may be amended, varied, replaced or renamed from time to time by resolution of the Board;

Corporations Act 2001 (Cth) means the *Corporations Act 2001 (Cth)* and/or any statutory modification amendment or re-enactment for the time being in force or any later Act relating to Companies and for the time being in force in lieu thereof in the place of incorporation of the Company and a reference to a particular provision of the *Corporations Act 2001 (Cth)* is a reference to that provision as so modified, amended or re-enacted or contained in any such later Act.

Deputy Chair means the Director appointed as the deputy Chair in accordance with clause 5.8(b).

Directors or the Board means the whole or any number of the Directors of the Company for the time being assembled at a meeting of Directors, being not less than a quorum, or such one or more of them as shall have authority to act for the Company.

Director means any person acting as a Director, howsoever called.

Eligible Person means a person who can demonstrate, to the satisfaction of the Board, that they have the ability and capacity to make a meaningful and constructive contribution to the Company that is consistent with the objects set out in the Constitution of the Company.

Insolvency Event means in the case of a natural person, if that person commits any act of bankruptcy or calls or threatens to call any meeting with a view to entering into a composition or arrangement with his creditors.

Member means a natural person admitted to membership of the Company in accordance with clause 3.2.

Members' Meeting means a duly constituted meeting of Members, or a class of Members, and being either;

- (a) an annual general meeting; or
- (b) a general meeting,

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and **Members' Meetings** shall have a corresponding meaning.

Office means the registered office for the time being of the Company as determined by the Directors from time to time.

Officer shall have the meaning ascribed to that term in section 9 of the *Corporations Act 2001* (Cth).

person and words importing "*persons*" includes partnerships, associations (whether incorporated or not), corporations and bodies corporate.

Register means the register of members kept pursuant to the *Corporations Act 2001* (Cth).

Regulations means:

- (a) the Charter; and
- (b) any other regulations of the Company, approved and adopted from time to time by the Board pursuant to the power afforded by clause 5.12(b);

Secretary means any person appointed to perform the duties of Secretary of the Company and includes the acting Secretary where appropriate.

1.2 Interpretation

- (a) Terms used in this Constitution and not defined in clause 1.1 shall have the meaning ascribed to them in the *Corporations Act 2001* (Cth).
- (b) Words importing the singular include the plural and vice versa.
- (c) Words importing the masculine include the feminine and the neuter and vice versa.
- (d) The index and headings shall not affect the construction of this Constitution.

2. Objects of the Company

2.1 Objects

The objects for which the Company is established are:

- (a) to support, fund and conduct research activities into cancer control;
- (b) to provide support and information to individuals diagnosed with cancer, their families and communities;
- (c) to provide supportive accommodation facilities for cancer patients;
- (d) to educate the community about prevention and early detection of cancer;
- (e) to assist in the provision of facilities and services for the diagnosis and treatment of cancer;
- (f) to obtain monies through fundraising programmes or by any other lawful means and to invest those monies and hold those investments;
- (g) to acquire and disseminate knowledge on all matters related to cancer control;

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- (h) to communicate and advertise the activities of the Company using all available media; and
- (i) to become a Member of, establish or cooperate with any organisation (both within Australia and overseas) having objects whole or in part similar to the objects of the Company.

2.2 Exercise of Powers

The Company can only exercise its powers to:

- (a) carry out the objects of the Company set out in clause 2.1; and
- (b) do all things incidental or convenient in relation to the exercise of power under clause 2.1.

2.3 Application of income and property

The income and property of the Company will only be applied towards the promotion of the objects of the Company.

3. Membership

3.1 General

- (a) A person who becomes a Member agrees to observe and perform the provisions of the Constitution of the Company and any Regulations which may be made in accordance with provisions of the Constitution of the Company.
- (b) Unless and until the Company shall otherwise resolve, the number of Members of the Company shall not be less than three (3) nor more than ten (10).
- (c) The only persons able to be Members shall be Directors of the Company.

3.2 Admission of Members

- (a) The Board may at any time invite an Eligible Person to apply to become a member.
- (b) Every application for membership shall:
 - (1) be accompanied by a consent to guarantee the Company's debts to an amount of \$20.00;
 - (2) include an undertaking by the applicant that if admitted to membership the applicant will at all times faithfully observe and comply with and abide by this Constitution; and
 - (3) include such other information and documents as may be determined from time to time by the Board.

3.3 Members rights, privileges and duties

- (a) All Members shall, so far as they are able, take part in the activities of the Company and shall aid the Company in the attainment of its objects from time to time.

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- (b) All Members admitted to membership shall be deemed to have accepted and be bound by this Constitution (including all variations, amendments and alterations of this Constitution).
- (c) All Members shall take all necessary and reasonable steps to ensure that resolutions of the Board and the Company at a Members' Meeting from time to time are carried out and observed by them.
- (d) All Members shall meet all subscriptions, fees, levies and other financial obligations in a proper and timely manner, as determined by the Board from time to time.
- (e) The rights of membership in the Company are not transferable.
- (f) All Members shall have the right to:
 - (1) either personally or by their proxy attend and vote at Members' Meetings of the Company; and
 - (2) exercise such other rights as are granted by the Constitution or by law.

3.4 Cessation of Membership

- (a) Any Member may resign from the Company by giving to the Company Secretary notice in writing of the Member's intention to do so. Such resignation shall take effect at the expiration of one (1) month from the date of service of that notice.
- (b) The Board may (in addition to any other right it may exercise under this Constitution) resolve to suspend or expel any Member (the **Cited Member**) for:
 - (1) any misconduct;
 - (2) action or omissions injurious to the Company;
 - (3) any matter which in the opinion of the Board is contrary to the interests of the Company;
 - (4) for failure to comply with the Constitution or the Regulations; or
 - (5) suffering an Insolvency Event.
- (c) Upon the occurrence of any of the events in clause 3.4(b), the Company Secretary shall give not less than 14 days' notice to the Cited Member of any intention that the Board proposes to take action pursuant to this clause. The notice shall specify:
 - (1) the alleged circumstances upon which the Board seeks to rely;
 - (2) the date, time and place at which the Board will give consideration to the matter;
 - (3) that the Cited Member shall be given an adequate opportunity by the Board to be heard;
 - (4) that on the application of the Cited Member the Board may (in its discretion) permit the Member to be legally represented; and
 - (5) that the Board may in its absolute discretion defer for a period not exceeding one (1) year the operation of any resolution to suspend or expel a Member under clause 3.4(b) on such terms and conditions as it sees fit and may rescind

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any such resolution prior to the expiry of any deferral period on such terms and conditions as it sees fit.

3.5 Register of Members

- (a) The Company must record in the Register:
 - (1) the full names and addresses of all Members;
 - (2) the date of admission to and cessation of membership of all Members; and
 - (3) such other information as the Board may from time to time determine.
- (b) The Company must keep the Register at the Office and may keep a copy at such other places as the Board may from time to time approve.

4. Meetings of the Members of the Company

4.1 General

- (a) An annual general meeting of the Company shall be held in accordance with the provisions of the *Corporations Act 2001* (Cth).
- (b) The Directors shall convene a general meeting of Members of the Company:
 - (1) on the requisition of a majority of Directors;
 - (2) on the requisition of such other person as shall be entitled to requisition such meeting under the *Corporations Act 2001* (Cth); or
 - (3) upon the Board so resolving,and the Directors shall comply with any provisions of the *Corporations Act 2001* (Cth) with respect to the convening of such Members' Meetings.
- (c) Subject to the provisions of the *Corporations Act 2001* (Cth) relating to special resolutions, special notice and agreements for shorter notice, 21 days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of the Members' Meeting and the general nature of the business to be transacted at the Members' Meeting shall be given to such persons as are entitled to receive such notices from the Company pursuant to this Constitution.
- (d) The accidental omission to give the notice required by this Constitution to any of the Members or the non-receipt of such notice by any Member shall not invalidate any resolution passed at a Members' Meeting or adjournment.

4.2 Quorum at Members' Meetings

- (a) No business shall be transacted at any Members' Meeting unless a quorum of Members is present at the time when the Members' Meeting proceeds to business.
- (b) For the purpose of determining whether a quorum is present, a person attending as a proxy shall be deemed to be a Member.

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- (c) Unless otherwise provided in this Constitution a quorum for any Members' Meeting shall be at least 50.1% of the Members entitled to attend and vote thereat.
- (d) If a quorum is not present within half an hour or such other time as the Chair or other person designated by this Constitution to be the Chair may determine:
 - (1) where the Members' Meeting was convened upon the requisition of the Board, the Members' Meeting shall be dissolved; and
 - (2) in any other case:
 - (A) the Members' Meeting shall stand adjourned to such day, and at such time and place, as the Chair or such other person designated by this Constitution to be the Chair determines, or if no such determination is made, to the same day in the next week at the same time and place; and
 - (B) if at the adjourned Members' Meeting a quorum of the Members entitled to attend and vote is not present within half an hour from the time appointed for the Members' Meeting, the Members' Meeting shall be dissolved.

4.3 Chair at Members' Meetings

- (a) The person elected or appointed under this Constitution to be the Chair shall act as Chair of Members' Meeting.
- (b) If the Chair is not present within 15 minutes after the time appointed for the holding of the Members' Meeting or is unwilling to act or if there is not a Chair, then the Deputy Chair shall be entitled to take the chair. If the Deputy Chair is not present within 15 minutes after the time appointed for the Members' Meeting then the Members present shall elect one of their number to be Chair of the Members' Meeting.
- (c) Unless otherwise provided in this Constitution, the form, conduct and procedure of any Members' Meeting shall be at the discretion and under the control of the Chair, who shall at all times exercise their discretion so as to ensure the Members' Meeting is conducted in a fair and proper manner, and that every person present and entitled to do so has a reasonable opportunity to put forward their views.

4.4 Adjournments of Members' Meetings

- (a) The Chair may with the consent of any Members' Meeting at which a quorum is present, and shall if so directed by the Members' Meeting, adjourn the Members' Meeting from time to time and from place to place, but no business shall be transacted of which due notice has not been given at any adjourned Members' Meeting other than the business left unfinished at the Members' Meeting from which the adjournment took place.
- (b) When a Members' Meeting is adjourned for 30 days or more, notice of the adjourned Members' Meeting shall be given as in the case of an original Members' Meeting.
- (c) Except as provided by this Constitution, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned Members' Meeting.

4.5 Voting rights of Members

- (a) A Member may vote in person or by proxy and on a show of hands or on a poll every Member present has one vote.

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- (b) An ordinary resolution put to the vote at a Members' Meeting may be passed by a simple majority on a show of hands.
- (c) A declaration by the Chair that a Resolution has been:
 - (1) carried;
 - (2) carried unanimously;
 - (3) carried by a particularly majority; or
 - (4) lost,

and an entry to that effect in the Company's minute book is prima facie evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

4.6 Casting vote

In every case of an equality of votes the Chair shall have a second or casting vote.

4.7 Proxies

- (a) Any person who is entitled to attend and vote at any Members' Meeting of the Company may appoint another member as his proxy to attend and vote at the Members' Meeting on his behalf.
- (b) The instrument appointing a proxy shall be in writing under the hand of the Member and must be given to the Secretary no less than 48 hours before the Members Meeting.

5. The Board of Directors

5.1 Constitution of the Board

- (a) The Company may from time to time by resolution passed at a Members' Meeting increase or reduce the number of Directors.
- (b) Unless and until the Company shall otherwise resolve the number of Directors shall not be less than three (3) nor more than ten (10).
- (c) Directors must be Members, or must become within 1 month of their appointment as Director, a Member.
- (d) The Directors appointed as Directors of the Company together with those who hold office at the conclusion of the Members' Meeting at which this Constitution is adopted by the Company shall be considered the initial directors of the Company for the purposes of this Constitution. The initial Directors are as stated in Schedule 1 of this Constitution.

5.2 Vacation of office of Director

- (a) The office of a Director shall become vacant if the Director:
 - (1) ceases to be a Director by virtue of the *Corporations Act 2001* (Cth);

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- (2) becomes prohibited from being a Director by reason of any order made under the *Corporations Act 2001* (Cth);
 - (3) suffers an Insolvency Event;
 - (4) becomes of unsound mind or a person whose personal estate is liable to be dealt with in any way under the law relating to mental health;
 - (5) resigns his office upon giving notice in writing to the Company of his intention to do so;
 - (6) other than by reason of sickness or accident or with the leave of absence of the Board, not attend three (3) consecutive meetings of the Board; or
 - (7) is removed from office pursuant to clause 5.2(b).
- (b) Subject to the provisions of the *Corporations Act 2001* (Cth), the Company at a Members' Meeting may by resolution remove any Director before the expiration of his term of office and may appoint a person as a Director in his stead.

5.3 Qualification of Directors

- (a) Every Director shall be a natural person.
- (b) Every Director shall be a Member of the Company.

5.4 Term of office of Directors

- (a) Despite anything to the contrary in this Constitution, a Director shall not continue in office for a period of three years without submitting themselves for re-election.
- (b) A retiring Director shall remain in office until the conclusion of the Members Meeting at which the Director's successor is elected.
- (c) Subject to this clause, and to Clause 5.5, a retiring Director shall be eligible for re-election.
- (d) The Company at any Members' Meeting at which the Directors retire in the manner provided for in the Constitution may elect a like person to fill the vacancies left by the retiring Director.
- (e) The Board may fill a casual vacancy from time to time but any Director so appointed shall remain in Office only until the next following Members Meeting.

5.5 Compulsory retirement of Directors

- (a) A Director must retire at an annual general meeting (**Relevant Meeting**) if, prior to the next annual general meeting after the Relevant Meeting, the Director will have held office (irrespective of whether the Director has retired and been re-elected in accordance in clause 5.4) for a period exceeding nine (9) consecutive years.
- (b) A Director retiring under clause 5.5(a) (**Retiring Director**) shall not be eligible for re-election except pursuant to a special resolution to that effect.
- (c) Despite anything else in this clause 5, any period of office as a Director prior to the appointment of that Director as Chair shall be disregarded for the purpose of determining the number of consecutive years that the Chair may be a Director under

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clause 5.5(a), which for the avoidance of doubt, shall be three (3) consecutive years commencing from the date the Director is appointed as Chair.

- (d) Despite anything else in this clause 5, but subject to clause 5.5(c), any period of office as a Director prior to the appointment of that Director as Deputy Chair shall be disregarded for the purpose of determining the number of consecutive years that the Deputy Chair may be a Director under clause 5.5(a), which for the avoidance of doubt, shall be three (3) consecutive years commencing from the date the Director is appointed as Deputy Chair.

5.6 Directorships in other companies

Subject to this Constitution, a Director of the Company may be or become a director of any other company, whether promoted by the Company or not, and no Director who is or becomes a director in another company shall be accountable for any benefits received as a director or Member of such other company provided that a Director shall not, without the approval of the Board accept, hold or retain the office of director of any other company which in the opinion of the Directors is for the time being in active competition with or carrying out activities which are contrary to the interests of the Company.

5.7 Directors' meetings

- (a) The Directors may meet together in person or by electronic device, provided that at all times the Directors shall be able to hear and may be heard by all other Directors at the meeting, for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- (b) The Board shall meet at least five (5) times each financial year.
- (c) The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed shall be at least 50.1% of the Directors entitled to attend and vote thereat.
- (d) The Company Secretary shall upon the requisition of one (1) Director convene a meeting of the Directors.
- (e) Unless otherwise decided by the Directors, reasonable notice of every meeting of Directors shall be given by delivering the same to, or by letter, facsimile or other form of visible communication to each Director at an address notified by the Director to the Company Secretary as the Director's address for receipt of notice.
- (f) If, prior to any meeting of Directors, the Company Secretary is advised by the Chair or by any other Director that any urgent or contentious business is or may be transacted at such meeting, notice of such meeting shall be given by letter, facsimile, or other form of visible communication to the address of a Director. The notice under this Constitution shall contain a statement of the general nature of the urgent or contentious business to be transacted.
- (g) Questions arising at any meeting of the Directors shall be determined by a majority of votes and such a determination shall be deemed a determination of the Directors.
- (h) In case of an equality of votes the Chair of the meeting shall not have a casting vote and the resolution shall be deemed to have lapsed.
- (i) A resolution in writing which is signed and dated by all or a majority of the Directors (as the circumstances require) for the time being in Australia, shall be as valid and effectual as if it had been duly passed at a meeting of Directors duly convened and

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constituted. Any such resolution may consist of several documents in like form each signed by one or more Directors.

- (j) A resolution pursuant to clause 5.7(i) shall be deemed to have been passed on the day (according to the dates of signing) when the resolution shall have been signed by all the Directors for the time being in Australia. If a signed copy of the resolution shall be returned to the Secretary undated, the Secretary shall fill in the date on which it was received and the same shall be deemed to have been signed on that day.
- (k) For the purposes of this Constitution:
 - (1) a facsimile or other form of visible communication issued by a Director shall be deemed to be signed and dated by such Director; and
 - (2) a reference to all the Directors for the time being within Australia does not include a reference to a Director who, at a meeting of Directors, would not be entitled to vote on the resolution.
- (l) A meeting of the Directors at which a quorum is present shall be competent to exercise all or any of the authority's powers and discretions by or under this Constitution or by or under statute for the time being vested in or exercisable by the Directors generally.

5.8 Chair and Deputy Chair

- (a) The Directors may from time to time appoint a Chair and may entrust to and confer upon such Chair all or any of the powers of the Directors (excepting the powers to borrow or otherwise raise money or issue debentures) that they may think fit. But the exercise of all powers by such Chair shall be subject to such regulations and restrictions as the Directors may from time to time make and impose and the said powers may at any time be withdrawn, revoked or varied.
- (b) The Directors may from time to time appoint a Deputy Chair with such powers that the Directors think fit, subject to this Constitution.
- (c) The Chair shall be entitled, if present, to take the chair at meetings of the Directors. If the Chair is not present within 15 minutes after the time appointed for the meeting then the Deputy Chair shall be entitled to take the chair. If the Deputy Chair is not present within 15 minutes after the time appointed for the meeting then the Directors shall choose one of their number to be Chair of the meeting.
- (d) The Chair or Deputy Chair may be removed at any time by resolution of which notice shall have been given to all Directors for the time being in Australia not less than 14 days before the meeting of Directors at which the resolution is proposed.
- (e) The Chair and/or Deputy Chair must retire from those respective roles at an annual general meeting (**Relevant Meeting**) if, prior to the next annual general meeting after the Relevant Meeting, the Chair and/or Deputy Chair, as applicable, will have held that office for a period exceeding three (3) consecutive years.
- (f) A Chair and/or Deputy Chair retiring under clause 5.8(e) shall not be eligible for re-election except pursuant to a special resolution to that effect.

5.9 Defective appointment of Directors

All acts done at a meeting of the Directors or of a committee of the Directors or by any person acting bona fide as a Director shall be as valid as if every such person had been duly appointed or had duly continued in office and was qualified and had continued to be a Director, notwithstanding that it be afterwards discovered that there was some defect in the appointment

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or continuance in office of any of such Directors or persons acting as aforesaid or that any of them were disqualified or had vacated office.

5.10 Delegation to committees and advisory panels

- (a) The Directors may delegate any of their powers to committees or advisory panels consisting of such persons as they think fit and may revoke or vary such delegation whenever they think fit. The Directors must appoint a Chair and Deputy Chair of such committees or advisory panels as they establish.
- (b) Any committee or advisory panel so formed shall in the exercise of the powers so delegated conform to any Regulations that may be imposed on it from time to time by the Directors.
- (c) A committee or advisory panel may meet and adjourn as it thinks proper, questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the Chair shall have a second or casting vote.
- (d) A committee may also appoint sub-committees, task groups and advisory committees to assist with any operational matters of the Company from time to time.
- (e) Without limiting the power in clause 5.10(a), immediately after the adoption of this Constitution, the Directors will establish the following committees:
 - (1) Finance Audit and Risk Management Committee;
 - (2) Medical and Scientific Committee; and,
 - (3) People and Workplace Committee.

to be governed in accordance with the Charter and this Constitution.

5.11 Minutes of meetings

- (a) The Directors shall cause minutes to be made and faithfully entered in books provided for that purpose:
 - (1) of all appointments of officers;
 - (2) of names of Directors present at all meetings of the Company and of the Directors and of any committee of the Directors; and
 - (3) all proceedings at all meetings of the Company and of the Directors and of committees of Directors.
- (b) Such minutes shall be signed by the Chair of the meeting at which the proceedings were held or by the Chair of the next succeeding meeting.
- (c) The minutes of a meeting signed by the Chair as provided in clause 5.11(a) shall be sufficient evidence without further proof of the facts therein stated.

5.12 General powers of Directors

- (a) The management and control of the business and affairs of the Company shall be vested in the Directors who may exercise all such powers and do all such acts and things as the Company is by its Constitution or otherwise authorised to exercise and do

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and are not by this Constitution or by statute directed or required to be exercised or done by the Company at a Members' Meeting.

- (b) The Board may from time to time prescribe such Regulations of the Company as it sees fit. The Board may amend, modify, add to, delete from or cancel any Regulation at any time as it sees fit. Such Regulations shall not be inconsistent with this Constitution or the *Corporations Act 2001* (Cth).
- (c) The powers of the Directors under this Constitution shall be subject to the provisions of the *Corporations Act 2001* (Cth) and of this Constitution, and to any Regulations from time to time and at all times to resolutions made by the Company in Members' Meeting provided that no Regulations so made shall invalidate any prior act of the Directors which would have been valid if such Regulation had not been made.
- (d) So far as shall be practicable and not inconsistent with the provisions of this Constitution, any power authority or discretion vested in the Directors may be exercised at any time and from time to time as they shall think fit.

5.13 Payments to Directors

No payment will be made to Directors of the Company other than payment:

- (a) of out of pocket expenses incurred by the Director in the performance of any duty as a Director of the Company where the amount payable does not exceed an amount previously approved by the Board;
- (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
- (c) of any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Board;
- (d) relation to an indemnity in favour of the Director and permitted by section 199A of the *Corporations Act 2001* (Cth) or a contract of insurance permitted by section 199B of the *Corporations Act 2001* (Cth); and
- (e) approved by the Board.

5.14 Directors' Interests

Directors' shall not contract with or be interested in any contract of financial arrangement made by the Company.

6. General administration

6.1 Attorneys for Company

The Directors may from time to time by resolution or writing under the common seal appoint any corporation, firm, or person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or agent of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as they may think fit, and any such appointment may contain such provisions for the protection and convenience of persons dealing with any such attorney or agent as the Directors may think fit

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and may also authorise any such attorney or agent to delegate all or any of the powers, authorities, and discretions vested in the Director.

6.2 Execution of documentation

- (a) If the Company has a common seal, the Directors shall provide for the safe custody of the seal.
- (b) No document, writing or other material shall be executed by the Company except pursuant to the authority of the Directors.
- (c) Without limiting the manner in which the Company may execute any agreement, deed, share certificate (if any) or other document, the Company may execute any such document either with or without the use of the common seal. Every document which is executed shall be signed (whether with or without the common seal) by at least one Director, a Director and Secretary or a Director and another person specifically authorised by the Directors for that purpose.
- (d) A Director may be appointed as a Director, in whose presence any document or instrument may be executed by the Company notwithstanding that the Director is interested in the Contract or arrangement to which the document or instrument relates.

6.3 Bills of exchange

All cheques, promissory notes, drafts, bills of exchange, and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by any two Directors or in such other manner as the Directors from time to time determine.

6.4 Secretary

- (a) The Company Secretary shall:
 - (1) act as secretary or cause an appropriate person to act as secretary of the Company's Board for any meeting of the Board or other Members' Meeting;
 - (2) receive reports from and communicate to Members information on matters of common interest as provided;
 - (3) as far as practicable keep themselves fully informed and apprised of developments in the Company and in particular of other bodies whose objects and functions are comparable with the Company;
 - (4) maintain personal contact with all Directors;
 - (5) render such other services as may be proper under the direction of the Board;
 - (6) ensure that all cheques, negotiable instruments and money received by the Company shall be paid as soon as practicable to the Company's account or accounts at the offices of such bankers as shall from time to time be nominated by the Board;
 - (7) arrange for the preparation of corporate plans, reports and budgets as may be required by the Board from time to time; and
 - (8) ensure that appropriate accounts are maintained of all Company assets, property and income and of all disbursements by the Company.

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6.5 Public officer

The Directors shall appoint a public officer to the Company and may if they think fit remove such person from office and appoint another in their place.

7. Financial statements

7.1 Accounts

- (a) The Directors shall cause the Company to:
- (1) keep such accounting records as necessary to correctly record and explain the transactions (including any transactions as trustee) and financial position of the Company;
 - (2) keep its accounting records in such a manner as will enable true and fair accounts of the Company to be prepared from time to time; and
 - (3) keep its accounting records in such manner as will enable the accounts of the Company to be conveniently and properly audited in accordance with the *Corporations Act 2001* (Cth).
- (b) Subject to any law to the contrary, the Directors shall lay before each annual general meeting of the Company:
- (1) A duly audited statement of financial position made up to the end of the Company's financial year giving a true and fair view of the state of affairs of the Company as at the end of that financial year; and
 - (2) a duly audited statement of financial performance for the last financial year of the Company, being an account that gives a true and fair view of the state of affairs of the Company as at the end of that financial year,
- such statement of financial position and statement of financial performance to comply with the requirements of the *Corporations Act 2001* (Cth).
- (c) The Company shall by way of note attached to the statement of financial position send to Members such details required to be specified by the *Corporations Act 2001* (Cth) of any material contracts involving Directors' interests, and which is either still subsisting at the end of the financial year or, if not then subsisting, has been entered into since the end of the previous financial year.
- (d) For the purposes of clause 7.1(c) **contract** shall be deemed to include any agreement or arrangement whether formal or informal, and whether expressed or implied, and includes an agreement that is not enforceable by legal proceedings whether or not it was intended to be so enforceable. A contract with a related corporation of the Company shall be taken into account as if it were a contract with the Company.

7.2 Directors report

The Directors of the Company shall cause to be attached to every statement of financial position a report made in accordance with a resolution of the Directors and signed by not less than two of the Directors with respect to the financial performance of the Company for that financial year and the state of the Company's affairs as at the end of that financial year, stating the matters required by the *Corporations Act 2001* (Cth).

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7.3 Distribution of accounts

A printed copy of such statement of financial performance, statement of financial position and report, together with such other material as is required to be sent by Section 314(1) of the *Corporations Act 2001* (Cth), shall be sent direct to every person entitled to receive notice of Members' Meetings of the Company at least 14 days before the date of the Members' Meeting at which they are to be considered.

7.4 Audit

- (a) An Auditor or Auditors shall be appointed in accordance with the *Corporations Act 2001* (Cth) and his or their duties shall be regulated in accordance with the *Corporations Act 2001* (Cth).
- (b) The Auditor shall report to the Members on the accounts to be laid before the Company at a Members' Meeting and on the Company's accounting records relating to those accounts.
- (c) Any person who is:
 - (1) a Director of the Company;
 - (2) an officer of the Company;
 - (3) a partner, employer or employee of a Director or officer of the Company;
 - (4) a partner, employer or employee of an employee of a Director or officer of the Company;
 - (5) not a registered company auditor; or
 - (6) indebted in any amount exceeding \$5,000.00 to the Company or to a related corporation,

shall not be capable of being appointed or of acting as Auditor of the Company.

8. Notices

8.1 Formal requirements for notices

Any notice or other communication to or by any party must be:

- (a) in writing and in the English language;
- (b) addressed to the address of the recipient as notified from time to time by the parties; and
- (c) be signed by the sender.

8.2 How notices may be given

In addition to any other method of service authorised by law, the notice may be:

- (a) personally served on a party;
- (b) left at the party's current address for service;

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- (c) sent to the party's current address for service by prepaid ordinary mail;
- (d) sent by facsimile to the party's current numbers for service; or
- (e) sent by electronic mail to the party's electronic mail address.

8.3 When a notice is deemed to be received

If a notice is sent or delivered in the manner provided in clause 8.2 it must be treated as given to or received by the addressee in the case of:

- (a) delivery in person, when delivered;
- (b) delivery by post, the second business day after posting; or
- (c) facsimile, when a transmission report is printed by the sender's facsimile machine stating that the document has been sent to the recipient's facsimile number; or
- (d) electronic mail, when the sender's computer reports that the message has been delivered to the electronic mail address of the addressee;

but if delivery is made after 5.00pm on a business day it must be treated as received on the next business day in that place.

9. Miscellaneous

9.1 Confidential information

Every Director or member of a committee of the Company may be required by the Directors to sign a declaration pledging to observe strict secrecy respecting all transactions of the Company. Such a declaration may require the person so signing to pledge not to reveal any of the matters which may come to their knowledge in the discharge of their duties except when required to do so by the Directors or a member of a Committee or by any Members' Meeting or by a Court of law and except so far as may be necessary in order to comply with any of the provisions in this Constitution.

9.2 Indemnity and liability of Directors and other Officers

- (a) To the extent permitted by law, the Company shall:
 - (1) indemnify a person who is or has been an Officer of the Company against liability incurred by the person as such an Officer to another person (other than the Company or a related body corporate); and
 - (2) indemnify a person who is or has been an Officer or Auditor of the Company against liability for costs and expenses incurred by the person 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 in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the *Corporations Act*.
- (b) The Company may pay, or agree to pay, at the discretion of the Directors, a premium in respect of a contract insuring a person who is or has been an Officer of the Company against the liability incurred by the person as such an Officer, except for a liability arising out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the *Corporations Act*. In the

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case of a Director, any such premium shall be paid in addition to any remuneration paid to that Director by the Company in accordance with the Constitution.

9.3 **Winding up**

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 be given or transferred to some other institution or company, (excluding any Member of the Company), having objects similar to those of the Company and whose constitution prohibits the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Company. Such company or institution shall be determined by the Members of the Company at or before the time of the dissolution and in default thereof by application to the Supreme Court for determination.