

# CONSTITUTION

of



## Waste Management Association of Australia Ltd

(ACN 071 897 848)

(A Company Limited by Guarantee)

**May 2007**

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**1. NAME**

1.1 The name of the company is Waste Management of Australia Association Ltd (hereinafter called "the Company").

**2. COMPANY**

2.1 The Company is a company limited by guarantee.

**3. DEFINITIONS**

3.1 In this Constitution:

"Act" means *the Corporations Act 2001 (Cth)*;

"AGM" means the Annual General Meeting of Members;

"Article" means an article of this Constitution;

"Board" means the board of directors of the Company, which is constituted by the persons who hold office as directors, from time to time;

"Business Day" means a day except a Saturday, Sunday or public holiday;

"By-laws" means the by-laws of the Company made and substituted by the Board from time to time under this Constitution;

"Directors" mean the directors of the Company for the time being;

"Fees" means a fee or levy payable by Members as determined by Members from time to time in General Meeting;

"Financial Year" means the period between 1 January and 31 December;

"General Meeting" means a meeting of the Members of the Company;

"Industry" means those individuals and organisations that are involved in waste or secondary resource management including those who manage, collect, store, transport, treat, recover or dispose of any component of a waste stream e.g. Waste Management Industry, Secondary Resources Management Industry and Local Government.

"Liability" of a person means a liability incurred by that person as an officer of the Company or a subsidiary of the Company;

"Member" means a person whose name is entered in the Register as a Member of the Company;

"Month" shall mean a calendar month;

"Notice" means a notice given pursuant to, or for the purpose of, this Constitution or the Act;

"Register" means the Register of Members kept under the Act;

"Resolution" means a resolution other than a special resolution;

“Seal” means the common seal of the Company and includes any official seal of the Company;

“Secondary Resources” means those goods, materials and their embodied energy that present as by-products emissions or wastes generated during the provision and use of goods and services for and by society;

“Secretary” means any person appointed to perform the duties of Secretary of the Company and includes an Honorary Secretary;

“SGM” means a Special General Meeting of Members;

“Special Resolution” means a resolution:

- (a) of which notice has been given; and
- (b) that has been passed by at least 75% of the votes cast, by the Members entitled to vote on the resolution.

“SAC” means the Strategic Advisory Council;

“Term” means a term of office of 2 years. ;

“Waste” means materials and energy which have no further use and are released to the environment as a means of disposal.

#### **4. INTERPRETATION**

4.1 In this Constitution:

- (a) a reference to a meeting of Members includes a meeting of any category of Members;
- (b) a Member is taken to be present at a meeting of Members if the Member is present in person;
- (c) a reference to a notice or document in writing includes a notice or document given by fax, email or any other form of written communication.

4.2 In this Constitution, headings are for convenience only and do not affect interpretation and, unless the context indicates a contrary intention:

- (a) a reference to a function includes a reference to a power, authority or duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural (and vice versa);
- (d) the word “person” includes an individual, the estate of an individual, a corporation, unincorporated enterprise, sole trader, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (e) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and

(f) the word “includes” in any form is not a word of limitation.

4.3 Unless the context indicates a contrary intention, in this Constitution:

(a) a reference to an Article is to an article of this Constitution; and

(b) a reference to this Constitution, is to this Constitution (and, where applicable, to any of its provisions) as modified or repealed from time to time.

4.4 Unless the context indicates a contrary intention, in this Constitution, a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it.

4.5 Unless the context indicates a contrary intention, in this Constitution:

(a) an expression that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision; and

(b) an expression that is defined in the Act has the same meaning as in that section.

4.6 Unless the contrary intention appears, expressions referring to “writing” shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form.

## **5. OBJECTS**

5.1 The objects for which the Company is established are to:

(a) promote sustainable waste and secondary resources management and utilisation strategies, technologies and systems, including waste management functions necessary for those materials that cannot be reclaimed or recovered for further use, for the advancement of the Industry in general and the Members in particular;

(b) pursue and encourage the betterment and professionalism of people working within the Industry;

(c) foster improved understanding, education, training and basic and applied research into sustainable waste and secondary resources management principles and practices; and

(d) do all things necessary for, and incidental to, the advancement of those objects and purposes. In pursuit of these objects and purposes the Company will:

(i) provide a forum for the interchange of information and the sharing of knowledge and ideas on all aspects of waste and secondary resources management among people involved in the Industry, the public, government, and other industry and business sectors generally;

(ii) encourage the development and implementation of new practices and technologies of relevance to the Company's objects and purpose;

(iii) encourage best practice in existing practices and technologies where they are appropriate.

- (iv) facilitate communication between the Industry and all other relevant stakeholders in Government, the community in general and all other sectors of the economy;
- (v) arrange or sponsor meetings, conferences, training courses and seminars or similar gatherings on subjects of interest to the Industry and its stakeholders; and
- (vi) liaise with, and establish affiliations with local, national and international organisations with similar purposes and concerns.

## **6. LEGAL CAPACITY AND POWERS**

### **6.1 The Company:**

- (a) has the legal capacity and, subject to the provisions of the Act, all the rights, powers and privileges of a natural person;
- (b) does not have the power to issue shares.

6.2 Subject to Article 6.3, the income and property of the Company must be applied solely towards the promotion of its objects and no portion may be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to any Member.

6.3 The Company is not prevented from the payment in good faith of remuneration to any officer or employee of the Company or to any Director in return for any services actually rendered to the Company, for goods supplied in the ordinary course of business, from the payment of interest at a rate not exceeding the overdraft rate for the time being fixed by the Company's bankers for the amount in question, from the payment of reasonable rent for premises or from out-of-pocket expenses incurred by any Director while engaged on Company business.

6.4 The Company must not support with its funds any endeavour to impose any regulation or restriction by its Members or others which would make the Company a trade union within the meaning of the *Workplace Relations and Other Legislation Amendment Act 1996 (Cth)*.

6.5 The Company must not subscribe to, or support with its funds, or amalgamate with, any Company or organisation which does not prohibit the distribution of its income and property among its members to an extent at least as great as that imposed on the Company.

## **7. REPLACEABLE RULES**

7.1 Except where the contrary intention appears in this Constitution, an expression in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, has the same meaning as in the provision of the Act.

7.2 The replaceable rules referred to in the Act are displaced by this Constitution.

## **8. EXERCISE OF POWERS**

8.1 Unless the contrary intention appears, where this Constitution confers a power or imposes a duty, that power may be exercised and that duty must be performed, from time to time, as the occasion requires.

## **9. MEMBERS**

### **9.1 Register of Members**

9.1.1 A Register of Members must be kept and contain:

- (a) the name and relevant contact details of each member;
- (b) the name and relevant contact details of the nominated representative of each corporate member
- (c) the date on which each member was admitted to the Company; and
- (d) if applicable, the date of, and reason(s) for, resignation or termination of membership.

9.1.2 The Register may be inspected by a Member giving to the Secretary 7 days' notice in writing or such lesser time to which the Secretary agrees.

## 9.2 **Application for Membership**

9.2.1 There shall be at least the following 5 classes of Member:

- (a) Individual;
- (b) Corporate;
- (c) Gold Corporate;
- (d) Life; and
- (e) Student / Concession.

The Board may from time to time create additional classes of Member.

9.2.2 Any person or organisation may apply for membership of the Company. The application for membership shall be made in writing using the current application form. The application shall be in such form as the Board may prescribe from time to time. The first annual subscription is paid upon application. The Secretary shall, on receipt of the applicant's annual subscription enter the applicant's name in the Register and, upon the applicant's name being so entered, the applicant becomes a Member of the Company.

9.2.3 A Member may be proposed for Life Membership of the Company by one Member and seconded by another Member. A proposal for Life Membership shall be made in the form as the Board may prescribe from time to time and will be conferred by the Board. The Secretary shall record in the Register that the Member has been appointed a Life Member.

9.2.4 The Board may determine from time to time the maximum number of Life Members of the Company.

## 9.3 **Representative**

9.3.1 Each Member which is a company or organisation must be represented at meetings of the Company by:

- (a) its nominated representative; or
- (b) in his / her absence, by a duly nominated proxy.

9.3.2 Each member must notify the Secretary of the name and contact details of its nominated representative under Article 9.3.1. A Member must, if it wishes to change its nominated

representative, notify the Secretary accordingly of the name and contact details of its new representative.

#### **9.4 Membership not transferable**

9.4.1 The rights and privileges of any Member shall be personal to the Member and are not transferable.

#### **9.5 Subscriptions**

9.5.1 The subscription fees for each class of membership shall be such sum, (if any), as the Members shall determine from time to time in a General Meeting.

9.5.2 The subscription fees of each class of membership shall be payable annually on the anniversary of joining or at such other time as the Board shall determine from time to time.

9.5.3 Any Member who fails to pay his / her subscription 1 month after the due date shall cease to be a Member of the Company.

#### **9.6 Ceasing to be a Member**

9.6.1 A person will cease to be a Member of the Company upon the occurrence of any of the following events:

- (a) the Member resigns in accordance with Article 9.7;
- (b) the Member is expelled under Article 9.8;
- (c) if the member is a natural person, upon the death of the member;
- (d) if the person is a corporate body, upon the winding up of the corporate body; or
- (e) if the member fails to pay his / her annual subscription by the due date.

9.6.2 The Secretary shall make an appropriate notation in the Register upon a person ceasing to be a Member of the Company.

9.6.3 The estate of a deceased Member is not released from any liability in respect of that person being a Member.

9.6.4 Ceasing to be a Member does not release an organisation from its accrued liabilities to the Company.

#### **9.7 Resignation**

9.7.1 A Member may resign as a Member by giving the Company notice in writing.

9.7.2 Unless the notice provides otherwise, a resignation by a Member takes effect immediately from the date given in that notice to the Company.

9.7.3 Any Member so resigning shall be liable for any outstanding subscriptions which may be recovered as a debt due to the Company.

9.7.4 The Company may retain the unexpired portion of a resigned Member's annual Membership subscription.

## **9.8 Expulsion or suspension**

- 9.8.1 Subject to giving a Member an opportunity to be heard or to make a written submission, the Board may resolve to expel a Member upon a charge of misconduct detrimental to the interests of the Company.
- 9.8.2 Particulars of the charge shall be communicated to the Member at least one month before the meeting of the Board at which the matter will be determined.
- 9.8.3 The determination of the Board shall be communicated to the Member, and in the event of an adverse determination the Member shall, (subject to Sub-Article 9.8.4), cease to be a Member 14 days after the Board has communicated its determination to the Member.
- 9.8.4 It shall be open to a Member to appeal to the Company in a General Meeting against the expulsion. The intention to appeal shall be communicated to the Secretary of the Company within 14 days after the determination of the Board has been communicated to the Member.
- 9.8.5 In the event of an appeal under Sub-Article 9.8.4, the appellant's membership of the Company shall not be terminated unless the determination of the Board to expel the Member is upheld by the Members of the Company in a General Meeting after the appellant has been heard by the members of the Company, and in such event membership will be terminated at the date of the General Meeting at which the determination of the Board is upheld.

## **10. MEMBER CONTRIBUTION**

10.1 Each Member undertakes to contribute an amount as may be required not exceeding \$10.00 to the property of the Company in the event of the Company being wound up:

- (a) at a time when that person is a Member; or
- (b) within one year of the time that person ceased to be a Member,

for:

- (c) payment of the debts and liabilities of the Company contracted before that person ceased to be a Member;
- (d) payment of the costs, charges and expenses of winding-up the Company; and
- (e) adjustment of the rights of the contributors amongst themselves.

## **11. THE BOARD**

- 11.1 The affairs of the Company shall be managed and controlled exclusively by the Board which, in addition to any powers and authorities conferred by the Constitution, may exercise all such powers and do all such things as are within the objects of the Company, and are not required, by the Act or the Constitution, to be done by the Company in a General Meeting.
- 11.2 The Board shall have the power to appoint such officers and employees as are required to carry out the objects of the Company and may delegate any of its powers to such officers and employees.

- 11.3 The Board shall be comprised of a person for each of the following roles (that is, no two roles can be held by one person): 1 President; 1 Vice President; 2 Branch representatives; 1 National Division representative; 1 individual representing the Gold Corporate Membership category; and up to 3 individuals with specific skills from the SAC if available, or from the membership.
- 11.4 In the event of more than one candidate being nominated for each position, the President and Vice President only shall each be elected by ballot in which all Company members may vote.
- 11.5 In the event of an election, each Corporate Member has only one vote and is entitled to put forward only one candidate (provided that that Member does not already have a Director on the Board).
- 11.6 The counting of all votes will take place prior to the AGM and the candidates elected by simple majority. In the event that candidates receive equal numbers of votes, those to be elected are (unless they otherwise agree among themselves) determined by lot.
- 11.7 The Board should comprise of Directors each representing different categories of Members except Life Members and Student / Concession Members.
- 11.8 The State Branch and National Division Board Members shall each represent their relevant category and, in the case of these positions, the Board Member representing that category shall be elected by, and from, the nominated representatives of each category.
- 11.9 The Members of the Gold Corporate membership category shall elect the Gold Corporate Board Member.
- 11.10 . A person elected or invited to the Board shall be entitled to serve in a specific role for no more than 2 consecutive terms.

## **12. TERMS OF OFFICE OF BOARD MEMBERS**

- 12.1 A person elected to the office of President or Vice-President shall occupy such office for no more than 2 consecutive terms of office and shall not stand for reappointment to such office at the conclusion of his / her second term.
- 12.2 In the event of a casual vacancy occurring in the membership of the Board, the Board shall, where possible, appoint a Member to fill the vacancy and the Member so appointed shall hold office, subject to the Constitution until the next Annual General Meeting at which the original Board Member would have been required by the Constitution to retire from office.
- 12.3 A retiring Board Member, shall be eligible to stand for re-appointment without nomination but no person not being a Board Member shall be eligible to stand for election unless a Member of the Company or the category for which they are a representative has nominated them at least 42 days before the ballot vote by delivering the nomination of that person to the Returning Officers. The nomination shall be signed by the proposer and the nominee to signify a willingness to stand for election.
- 12.4 If only one nomination is received to fill a vacancy on the Board, the candidate nominated shall be deemed to be elected.
- 12.5 Any further vacancies remaining on the Board shall be deemed to be casual vacancies and can be filled by the Board.
- 12.6 A nomination of a candidate for election is not valid if that candidate has been nominated for election to more than one office under this Article.

- 12.7 A nomination may be withdrawn by notice in writing, signed by the person nominated, and delivered to the Returning Officers at any time before the ballot papers are delivered to Members.
- 12.8 If before the ballot papers are delivered to Members the number of nominees for any office be reduced by withdrawal or otherwise to the number required to fill the vacancies in that office, the Chair shall declare the candidate(s) remaining duly elected.

### **13. CASUAL VACANCIES**

For the purposes of the Constitution, a casual vacancy on the Board occurs if a Board Member:

- (a) dies;
- (b) ceases to be a Member;
- (c) becomes prohibited from being a director of a company by reason of any order made under the Act;
- (d) becomes bankrupt within the meaning of the *Bankruptcy Act 1966 (Cth)*;
- (e) resigns their office by notice in writing given to the Secretary;
- (f) is removed from office pursuant to Article 14;
- (g) becomes of unsound mind, or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, or is otherwise permanently incapacitated by ill health;
- (h) is absent, without apology, for more than 3 consecutive Board Meetings, including meetings by teleconference, or more than three Board Meetings in a financial year;  
or
- (i) is no longer the duly appointed representative of a Corporate member.

### **14. REMOVAL OF A BOARD MEMBER**

- 14.1 The Company in a general meeting may, by resolution, remove any Board Member from the office of Board Member before the expiration of that Board Member's term of office and may, by resolution, appoint another person to hold office until the expiration of the term of office of the Board Member so removed.
- 14.2 Where a Board Member to whom a proposed resolution referred to in Sub-Article 14.1 hereof makes representations in writing to the Secretary or President and requests that the representations be notified to the Members, the Secretary or the President may send a copy of the representations to each Member, or, if they are not so sent, the Board member is entitled to require that the representation be read out at the meeting at which the resolution regarding his or her removal is considered.

### **15. PROCEEDINGS OF BOARD**

- 15.1 The Board shall meet at least 6 times, including meetings by teleconference, in each period of twelve months at such place and time or in such manner as the Board may determine.
- 15.2 Additional meetings of the Board may be convened by the President, or in the absence of the President by the Vice- President, or by any 2 Board members.

- 15.3 Oral or written notice of a Board Meeting shall be given by the Secretary to each Board Member at least 48 hours (or such other period as may be unanimously agreed upon by the Board members) before the time appointed for the holding of the meeting.
- 15.4 Notice of the meeting given pursuant to Sub-Article 15.3 shall specify the general nature of business to be transacted at the meeting. No business other than that business shall be dealt with at the meeting, except other business which the Board Members present unanimously agree to deal with.
- 15.5 A quorum for a Board Meeting shall be greater than 50% of the Directors on the Board at any one time.
- 15.6 If the total number of Board Members is not enough to make up that quorum, then the Board may only act for the purpose of increasing the number of Board Members to make up a quorum or for convening a General Meeting.
- 15.7 A decision of the Board must be passed by a majority of the votes cast by the Board Members entitled to vote on the resolution.
- 15.8 Each Director has only 1 vote per resolution.
- 15.9 A Board Member having a pecuniary interest in a contract with the Company must disclose that interest to the Board as required by the Act. A Board Member is not entitled to vote in respect of any contract or proposed contract with the Company in which he / she is in any way, whether directly or indirectly, interested or in respect of any matter arising out of such a contract or proposed contract and, if he / she votes in contravention of this Article, his / her vote shall not be counted.
- 15.10 If all the Board Members have signed a document containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a Board Meeting held on the day on which the document was signed and at the time at which the document was last signed by a Board Member or, if the Board Members signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Board Member.
- 15.11 The Board Members who are entitled to vote may, by majority, pass a resolution without a Board meeting being held on receipt of evidence in writing or electronically from those Board Members that they are in favour of the resolution set out in the document.
- 15.12 Passage of such a resolution must be recorded in the minutes of the subsequent Board Meeting.

## **16. POWERS AND DUTIES OF BOARD MEMBERS**

- 16.1 The Company must be managed by or under the direction of and controlled by the Board.
- 16.2 The Board has and may exercise the functions conferred or imposed on it by or under the Constitution.
- 16.3 Without prejudice to and without limiting the powers conferred by the Constitution, the Board shall have the power to do any of the following:
- (a) open and maintain a bank account or bank accounts to be operated by such person or persons whether Board Members or not as it shall from time to time determine;
  - (b) appoint any staff as may be necessary;

- (c) employ and superannuate officers and employees;
  - (d) review staff positions at intervals not exceeding 2 years;
  - (e) publish and distribute information concerning the Constitution and the regulations to Members and other interested persons;
  - (f) do all such other things that are in the opinion of the Board incidental to or conducive to the attainment of the objects of the Company;
  - (g) do all things necessary to give effect to the powers contained in the Constitution.
- 16.4 The Board may make and amend By-laws from time to time to regulate the affairs of the Company provided they are not inconsistent with this Constitution.
- 16.5 The Board may exercise all the powers of the Company to borrow money and to mortgage or charge its property, or any part, and to issue debentures and other securities whether outright or as security for any debt, liability, or obligation of the Company.
- 16.6 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 Directors or in such other manner as the Board from time to time determines.
- 16.7 The Board Members may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Board Members), for such period and subject to such conditions as they think fit.
- 16.8 Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board Members think appropriate and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her.
- 16.9 All acts done by any Board Meeting or of a committee of the Board or by any person acting as a Board Member are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a of the Board Member or a member of the committee, or to act as a Board Member, or that a person so appointed was disqualified, is valid as if the person had been duly appointed and was qualified to be a Board Member or to be a member of the committee.

## **17. STRATEGIC ADVISORY COUNCIL (SAC)**

- 17.1 The SAC shall consist of:
- (a) the State Branch Presidents or their nominees;
  - (b) the Board;
  - (c) the Chairs of any National Divisions or their nominees;
  - (d) the National Knowledge Manager; and
  - (e) the International Solid Waste Association (ISWA) representative (if he / she is a Member of the Company).
- 17.2 The SAC shall have the power to:

- (a) act as a forum for considering the views of Members at large;
  - (b) participate in the Company's strategic planning process;
  - (c) broadly comment on initiatives of the Company;
  - (d) develop their own Agenda and make suggestions to the Board for matters to be placed on the Board's agenda;
  - (e) consider any matter referred to it by the Board.
- 17.3 The SAC shall elect its own Chairperson to hold the position for up to 24 months unless re-elected for a maximum of one further term of 24 months.
- 17.4 The SAC shall meet at least 2 times each year.
- 17.5 At meetings of the SAC each participant will have one vote.
- 17.6 Each member of the SAC shall assume his / her duties at the time of a meeting of the SAC and shall continue as a member until expiry of his / her position as a State Branch President, Board Member or the Chair or their nominee of any National Division, the National Knowledge Manager and the International Association representative (if they are a member of the Company), as aforesaid unless such member:
- (a) ceases to be a Member or nominee of a Corporate Member of the Company for any reason; or
  - (b) tenders his or her resignation from such office; or
  - (c) dies or becomes of unsound mind; or
  - (d) is removed from office by resolution of the Members at an AGM; or
  - (e) is found guilty by the Board of an offence; or
  - (f) becomes a bankrupt under administration; or
  - (g) misses two consecutive face-to-face meetings and fails to show good cause to the Board.
- 17.7 Positions on the SAC may be created or removed by a special resolution of the Board.

## **18. ANNUAL GENERAL MEETING (AGM)**

- 18.1 The Board shall call an AGM in accordance with the Act and the Constitution.
- 18.2 The AGM shall be held within 5 months after the end of its financial year.
- 18.3 The order of the business at the meeting shall be:
- (a) the confirmation of the minutes of the previous AGM and of any SGM held since that meeting;
  - (b) the consideration of the accounts and reports of the Board and the Auditor's report; including any borrowings;
  - (c) the election of Board Members;

- (d) the appointment of Auditors;
- (e) the fixing of the Auditor's remuneration;
- (f) any other business requiring consideration by the Company in a General Meeting.

18.4 All business at an AGM other than consideration of the accounts, balance sheets and the reports of the Board and auditors, the election of office bearers and the appointment of the auditors, and all business at any other General Meeting, constitutes special business.

18.5 The Chair of an AGM must allow a reasonable opportunity, at the meeting, for the Members as a whole to ask questions about or make comments on the management of the Company.

## **19. SPECIAL GENERAL MEETING (SGM)**

19.1 The Board may call a SGM of the Company at any time.

19.2 Upon a requisition in writing of not less than 10% of the total number of Members of the Company, the Board shall within 1 month of the receipt of the requisition, convene a SGM for the purpose specified in the requisition.

19.3 Every requisition for a SGM shall be signed by the relevant Members and shall state the purpose of the meeting.

19.4 If a SGM is not convened within 1 month, as required by Sub-Article 19.2, the requisitionists, or at least 50% of their number, may convene a SGM. Such a meeting shall be convened in the same manner as nearly as practical as a meeting convened by the Board, and for this purpose the Board shall ensure that the requisitionists are supplied free of charge with particulars of the Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting shall be borne by the Company.

## **20. NOTICE OF GENERAL MEETINGS**

20.1 Subject to Sub-Article 20.2, at least 14 days notice of any General Meeting shall be given to Members. The notice shall set out where and when the meeting will be held, and particulars of the nature and order of the business to be transacted at the meeting.

20.2 Notice of a meeting at which a special resolution is to be proposed shall be given at least 21 days prior to the date of the meeting.

20.3 A notice may be given by the Company to any Member by serving the Member with the notice personally, or by sending it by post, email or fax to the contact details appearing in the Register.

20.4 Where a notice is sent by post:

- (a) the service is effected by properly addressing, prepaying and posting a letter or packet containing the notice; and
- (b) unless the contrary is proved, service will be taken to have been effected within 3 business days of date of which the letter was posted at the time at which the letter or packet would be delivered in the ordinary course of post.

20.5 Where a notice is sent by email or fax the service will be taken to have been effected 1 business day after the email or fax was distributed.

## **21. PROCEEDINGS AT GENERAL MEETINGS**

- 21.1 A General Meeting must be held at a reasonable time and place.
- 21.2 A General Meeting may be held at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.
- 21.3 Members shall be entitled to be present at General Meetings.
- 21.4 Ten members present personally or by proxy shall constitute a quorum for the transaction of business at any General Meeting.
- 21.5 If within 30 minutes after the time appointed for the meeting a quorum of Members is not present, a meeting convened upon the requisition of Members shall lapse. In any other case, the meeting shall stand adjourned to the same day in the next week, at the same time and place, where possible, and if at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting the Members present shall form a quorum.
- 21.6 Subject to Sub-Article 21.7, the President shall preside as Chair at a General Meeting of the Company.
- 21.7 If the President is not present within five minutes after the time appointed for holding the meeting, or he /she is present but declines to take or retires from the chair, the Vice President shall be Chair, or in his / her absence, members may choose a Board Member or one of their own number to be the Chair of that meeting.

## **22. ADJOURNMENT OF GENERAL MEETING**

- 22.1 The Chair may adjourn the meeting from time to time but no business shall be transacted at any adjourned General Meeting other than the business left unfinished at the General Meeting from which the adjournment took place.
- 22.2 When a General Meeting is adjourned, new notice of the resumed General Meeting must be given if the General Meeting is adjourned for one month or more.
- 22.3 Except as provided by Article 22.2, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned General Meeting.
- 22.4 A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

## **23. VOTING AT GENERAL MEETINGS**

- 23.1 Subject to the Constitution, every Member of the Company has only one vote at a meeting of the Company.
- 23.2 Subject to the Constitution, a question for decision at a General Meeting, other than a Special Resolution, must be determined by a majority of members who vote in person or, where proxies are allowed, by proxy, at that meeting.
- 23.3 Unless a poll is demanded by at least 5 Members, a question for decision at a General Meeting must be determined by a show of hands.

23.4 A Member being a Corporate shall be entitled to appoint one person, who is not already an Individual Member of the Company, to represent it at a particular General Meeting or at all General Meetings of the Company. That person shall be appointed by the Corporate Member and the Secretary should be advised in writing. Such a person shall be deemed to be a Member of the Company for all purposes until the authority to represent the Corporate Member is revoked.

## **24. POLL AT GENERAL MEETINGS**

24.1 If a poll is demanded by at least five members, it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.

24.2 A poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

## **25. SPECIAL AND ORDINARY RESOLUTIONS**

25.1 A Special Resolution is a special resolution as defined in the Act.

25.2 An Ordinary Resolution is a resolution passed by a simple majority at a general meeting.

## **26. PROXIES**

A Member shall be entitled to appoint in writing a natural person who is also a Member of the Company to be their proxy, and attend and vote at any General Meeting of the Company.

## **27. CHIEF EXECUTIVE OFFICER**

27.1 The Board may, but is not compelled to, appoint a Chief Executive Officer with such powers and responsibilities and to perform such functions and duties as the Board determines from time to time. The appointment of a Chief Executive Officer shall be for such term and upon such conditions as the Board thinks fit, and the Board shall have the absolute power to terminate such appointment.

27.2 The Chief Executive Officer may also be known as the Executive Director or any other title determined by the Board from time to time. The Chief Executive Officer of the Company has authority to bind the Company pursuant to the Act.

## **28. SECRETARY**

28.1 The Board Members appoint the Secretary.

28.2 The Secretary must consent in writing to holding the position of Secretary.

28.3 The Secretary has and may exercise such functions as are conferred or imposed on the Secretary by or under the Constitution.

28.4 The Secretary is responsible for:

- (a) conducting the correspondence;
- (b) maintaining records; and
- (c) performing such duties as pertain to his or her office.

28.5 The same person may be both a Board Member and the Secretary.

- 28.6 The Board may, from time to time, appoint a person to act as Secretary during the illness or absence of the Secretary, and the person, while so acting, has and may exercise all the functions of the Secretary and is taken to be the Secretary.
- 28.7 The Secretary may delegate to a person the exercise of:
- (a) any of the functions of the Secretary under the Constitution, other than this power of delegation; or
  - (b) any functions delegated to the Secretary by the Board, unless the Board otherwise provides in its instrument of delegation to the Secretaries.
- 28.8 The Secretary may resign by giving written notice of the resignation to the Company.

## **29. BRANCHES**

- 29.1 The Board may from time to time, and at any time, recognise and establish in any State or Territory of Australia, one or more State or Territory Branches with a focus on local and state specific issues.
- 29.2 The Board may, at its sole discretion, and at any time, disband or suspend any Branch as the case may be and any such disbanding or suspending shall take effect immediately or at such time as the Board may decide.
- 29.3 The Board may from time to time and at any time compile rules and regulations including Codes of Conduct applicable to the Branches as the case may be and by which each member of the Branch will be bound.

## **30. NATIONAL DIVISIONS**

- 30.1 The Board may from time to time, and at any time, recognise and establish one or more National Divisions to focus on special interest areas at a National level.
- 30.2 The Board may, at its sole discretion, and at any time, disband or suspend any National Division as the case may be and any such disbanding or suspending shall take effect immediately or at such time as the Board may decide.
- 30.3 The Board may from time to time and at any time compile rules and regulations including Codes of Conduct applicable to the National Divisions as the case may be and which will bind each member of the National Division.

## **31. DELEGATION AND COMMITTEES**

- 31.1 The Board may delegate any of its powers to a committee of the Board consisting of such Board Members as the Board decides.
- 31.2 A committee must exercise the powers delegated to it in accordance with any directions of the Board.
- 31.3 The effect of the committee exercising a power in this way is the same as if the Board exercised it.
- 31.4 The delegation must be recorded in the minute book.
- 31.5 The members of such a committee may elect one of their number as Chair of their meetings.

- 31.6 The procedure for the calling of meetings of any such committee and for the conduct of business at those meetings is as determined by the Board or (subject to any direction of the Board) by the committee.
- 31.7 A committee may meet and adjourn as it thinks proper.
- 31.8 Questions arising at a meeting of a committee shall be determined by a majority of votes of the members present and voting.
- 31.9 In the case of an equality of votes, the Chair, in addition to his /her deliberative vote (if any), has a casting vote.
- 31.10 The Board may delegate to the Secretary or any other person the exercise of any of its functions, other than this power of delegation.

## **32. AUDITORS**

- 32.1 If the Auditor or his / her representative is at the meeting, the Chair of an AGM must allow a reasonable opportunity, at the meeting, for the Members as a whole to ask the Auditor or his / her representative questions relevant to the conduct of the audit and the preparation and content of the Auditor's report.
- 32.2 The Auditor is entitled to attend any General Meeting.
- 32.3 The Auditor is entitled to be heard at the General Meeting on any part of the business of the General Meeting that concerns the auditor in their capacity as Auditor.
- 32.4 The Auditor is entitled to be heard even if:
- (a) the Auditor retires at the General Meeting; or
  - (b) the General Meeting passes a resolution to remove the Auditor from office.
- 32.5 The Auditor may authorise a person in writing as his / her representative for the purpose of attending and speaking at any General Meeting.

## **33. MINUTES**

- 33.1 The Company must keep minutes books in which it records:
- (a) proceedings and resolutions of General Meetings;
  - (b) proceedings and resolutions of Board Meetings (including meetings of a committee of the Board);
  - (c) resolutions passed by Board Members without a meeting.
- 33.2 The minutes kept pursuant to this Article must be confirmed by the members of the Company or the Board Members (as relevant) at a subsequent meeting.
- 33.3 The minutes kept pursuant to this Article shall be signed by the Chair of the meeting at which the proceedings took place or by the Chair of the next succeeding meeting at which the minutes are confirmed.
- 33.4 Where minutes are entered and signed they shall, until the contrary is proved, be evidence that the meeting was convened and duly held and that all decisions and appointments made at a meeting shall be deemed to be valid.

## **34. FINANCIAL REPORTS AND PROPERTY**

- 34.1 The financial year of the Company shall be the period ending on 31 December each year.
- 34.2 The Board must apply the income and property of the Company solely towards the promotion of the objects of the Company as set forth in this Constitution and none of it may be paid or transferred, directly or indirectly, to Members, either by dividend, bonus or otherwise.
- 34.3 No Board Member shall be paid any salary or fees or receive any remuneration or other benefit in money or money's worth from the Company.
- 34.4 Articles 34.2 and 34.3 do not prevent the Board in good faith authorising:
- (a) the payment of:
    - (i) reasonable and proper remuneration or fees to any Member (excluding a Board Member) or employee for any goods or services provided or rendered to the Company;
    - (ii) any debt or any reasonable and proper fees to any Board Member under a contract between the Company and that Board Member for the provision of goods or services which are outside the scope of the ordinary duties of a Director;
    - (iii) reasonable and proper rent for premises demised or let to the Company by any Member (including a Board Member);
    - (iv) interest at a rate not exceeding the lowest rate paid for the time being by the Company's bank in respect of term deposits on money borrowed from any Member (including a Board Member);
  - (b) the reimbursement of any Board Member for out-of-pocket expenses properly incurred:
    - (i) in attending and returning from Board Meetings or any meetings of committees of Board Members;
    - (ii) in attending any General Meetings; and
    - (iii) in connection with the Company's business.
- 34.5 All payments to Board Members must be approved at a Board Meeting or as delegated by the Board.
- 34.6 The Board may employ a Public Trustee or a trustee company for the purpose of acting as a custodian trustee of the documents and securities of the Company.
- 34.7 Any Public Trustee or trustee company so employed may be remunerated in accordance with its published scale of fees, commissions and charges.
- 34.8 The Company must keep written financial records which:
- (a) correctly record and explain its transactions and financial position and performance; and
  - (b) would enable true and fair financial statements to be prepared and audited.

- 34.9 A properly qualified Auditor or Auditors is to be appointed to examine the financial records.
- 34.10 The Company must report to Members for a financial year by either:
- (a) sending Members copies of:
    - (i) the financial report for the year; and
    - (ii) the Board's report for the year; and
    - (iii) the Auditor's report on the financial report; or
  - (b) sending Members a concise report for the year that complies with Article 34.11.
- 34.11 A concise report for a financial year consists of:
- (a) a concise financial report for the year drawn up in accordance with accounting standards made for the purposes of this Article; and
  - (b) the Board's report for the year; and
  - (c) a statement by the Auditor:
    - (i) that the financial report has been audited; and
    - (ii) whether, in the Auditor's opinion, the concise financial report complies with the accounting standards made for the purposes of Article 34.8(a); and
  - (d) a copy of any qualification in, and of any statements included in, the Auditor's report on the financial report; and
  - (e) a statement that the report is a concise report and that the full financial report and Auditor's report will be sent to the Member free of charge if the Member asks for them.
- 34.12 The Company must report to Members under Article 34.10 by the earlier of:
- (a) 30 days before the next AGM after the end of the financial year; or
  - (b) 5 months after the end of the financial year.
- 34.13 A Member may request the Company:
- (a) not to send them the material required by Article 34.10; or
  - (b) to send his / her a full financial report and the Board's report and Auditor's report.
- 34.14 A request may be a standing request or for a particular financial year. The Member is not entitled to a report for a financial year earlier than the one before the financial year in which the request is made.
- 34.15 The time for complying with a request under Article 34.13(b) is:
- (a) 21 days after the request is received; or
  - (b) the deadline for reporting under Article 34.14;

whichever is later.

34.16 A full financial report, the Board's report and Auditor's report are to be sent free of charge unless the Member has already received a copy of them free of charge.

34.17 A Member has a right of access to the financial records at all reasonable times.

### **35. BORROWING POWERS**

35.1 Subject to this Article, the Company may borrow money from banks or other financial institutions upon such terms and conditions as the Board sees fit, and may secure the repayment thereof by charging the property of the Company.

35.2 Subject to the Act, the Company may invite and accept deposits of money from any person on such terms and conditions as may be determined by the Board from time to time.

35.3 All borrowings shall be reported to the subsequent Annual General Meeting.

### **36. BY-LAWS AND REGULATIONS**

36.1 The Company may at a General Meeting pass a resolution (not being a Special Resolution) making, altering or revoking a by-law or regulation dealing with:

- (a) the rights or obligations of Members; or
- (b) other matters;

which are not specified by the Constitution or the Act.

36.2 A by-law or regulation, which, directly or indirectly, is inconsistent with a provision of the Constitution or the Act, is invalid.

36.3 A copy of every alteration or addition made to the by-laws or regulations is to be sent to every Member at his / her last known address.

36.4 The omission, unless wilfully made, to send a copy or the non-receipt of it does not invalidate the alteration or addition.

36.5 The Board is the sole authority for interpreting the by-laws and regulations.

### **37. INDEMNITY**

37.1 Every person who is or has been a Director, Secretary or principal executive officer of the Company is entitled to be indemnified, to the maximum extent permitted by law, out of the property of the Company against any liabilities for costs and expenses incurred by that person:

- (a) in defending any proceedings in relation to that person's position with the Company, whether civil or criminal, in which judgement is given in that person's favour or in which that person is acquitted or which are withdrawn before judgement; or
- (b) in connection with any administrative proceedings relating to that person's position with the Company, except proceedings which give rise to civil or criminal proceedings against that person in which judgement is not given in that person's favour or in which that person is not acquitted or which arise out of conduct involving a lack of good faith; or

- (c) in connection with any application in relation to proceedings relating to that person's position in the Company, whether civil or criminal, in which relief is granted to that person under the Act by the court.

37.2 Every person who is or has been a Director, Secretary or principal executive officer of the Company is entitled to be indemnified, to the maximum extent permitted by law, out of the property of the Company against any liability to another person (other than the Company) as such an officer unless the liability arises out of conduct involving a lack of good faith.

37.3 The Company may pay a premium for a contract insuring a person who is or has been a Director, Secretary or principal executive officer of the Company against:

- (a) any liability incurred by that person as such an officer which does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of the Act; and
- (b) any liability for costs and expenses incurred by that person in defending proceedings relating to that person's position with the Company, whether civil or criminal, and whatever their outcome.

### **38. DISSOLUTION AND WINDING UP**

38.1 If upon the dissolution or winding-up of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatever, the same shall not be paid to or distributed among the Members, but shall be given or transferred to some other fund, authority or institution:

- (a) having objects similar to the objects of the Company;
- (b) which prohibits the distribution of its income and property to a similar extent to that imposed on the Company under the Act.
- (c) which is a fund, authority or institution approved by the Commissioner of Taxation of the Commonwealth of Australia as a fund, authority or institution covered by the *Income Tax Assessment Act 1997 (Cth)* (as amended).

38.2 That fund, authority or institution may be determined by the Members at or before the time of dissolution, and insofar as effect cannot be given to such provision, then to some other charitable object which satisfies the criteria prescribed by Article 38.1.

### **39. NOTICE**

39.1 A notice may be given by the Company to any Member by sending it to the contact details for the Member in the Register or the last contact details of the person known to the Secretary or the alternative address, if any, nominated in writing by the Member.

39.2 A notice of a General Meeting sent by post is taken to be given 3 business days after the letter is posted.

39.3 A notice sent by fax, e-mail or other electronic means is taken to be given on the business day after it is sent.

### **40. COMPLIANCE**

40.1 Every Member, Director, committee member and every other officer of the Company must comply with the provisions of this Constitution and any By-laws.

## **41. ADOPTION AND MODIFICATION OF CONSTITUTION**

- 41.1 The Members may modify or repeal the Constitution, or a provision of the Constitution, by special resolution passed at either an Annual General Meeting or at a Special General Meeting.
- 41.2 A notice of the proposed alterations must be provided in writing to every Member at least 28 days prior to the date of the meeting.
- 41.3 Date of effect of adoption, modification or repeal of Constitution. A special resolution adopting, modifying or repealing the Constitution takes effect:
- (a) if no later date is specified in the resolution, then on the date on which the resolution is passed; or
  - (b) on a later date specified in, or determined in accordance with, the resolution.
- 41.4 The Company must send a copy of the Constitution to a Member within 21 days if the Member:
- (a) asks the Company, in writing, for the copy; and
  - (b) pays any fee (up to the prescribed amount) required by the Company.

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