
**Corporations Act 2001
Company Limited by Guarantee**

**Constitution
of
Multiple Sclerosis Australia
ACN 008 515 508**



Consolidated to 19 September 2010

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**CORPORATIONS ACT 2001
COMPANY LIMITED BY GUARANTEE**

CONSTITUTION

of

**MULTIPLE SCLEROSIS AUSTRALIA
ACN 008 515 508**

1. INTERPRETATION

1.1 Company limited by guarantee

The Company is limited by guarantee and the liability of members is limited as provided in this document.

1.2 This Constitution

This Constitution contains clauses setting out the manner in which the Members of the Company have agreed to conduct the internal administration of the Company.

1.3 Replaceable Rules

This Constitution takes the place of the Replaceable Rules to the extent set out below.

1.4 Definitions

In this Constitution, unless the context otherwise requires:

AGM means Annual General Meeting of the Company.

Application for Membership means an application for membership to the Company in the form set out in clause 3.2 of this Constitution.

Board means the Board of Directors of the Company.

Carer means a person whose life is affected by caring for a person with Multiple Sclerosis.

Company means the Multiple Sclerosis Australia ACN 008 515 508.

Constitution means the constitution and any supplementary, substituted or amended constitution being in force from time to time.

Director means a person who is appointed to that position in accordance with the Constitution and is acting in that capacity including alternate directors.

EGM means Extraordinary General Meeting.

Law means the *Corporations Act 2001(Cth)* or any statutory modification, amendment or re-enactment in force and any reference to any section, part or division is to that provision as so modified, amended or re-enacted.

Member means any existing Member as set out in clause 3.1(b) of this Constitution and any other Organisation admitted in accordance with clause 3.

Multiple Sclerosis means a progressive disease that attacks the central nervous system and affects multiple functions of the body as a consequence of such disease.

Organisation means any association or corporation formed in any State or Territory of the Commonwealth of Australia whether incorporated or unincorporated:

- (a) having objects substantially similar to those contained in clause 2 of this Constitution; and
- (b) being subject to restrictions on distribution of income or property to at least the extent set out in this Constitution.

Replaceable Rule has the same meaning as is ascribed to it in the Law.

Seal means the common seal of the Company.

Secretary means any person appointed to perform the duties of a secretary of the Company and includes an honorary secretary.

Special Resolution has the same meaning as is ascribed to it in the Law.

State means any State of the Commonwealth of Australia and includes each of the Australian Capital Territory and Northern Territory.

1.5 Meaning of words

- (a) expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, facsimile and electronic transmissions, photography and other modes of representing or reproducing words in a visible form;
- (b) word or expressions contained in this Constitution shall be interpreted in accordance with the provision of the Law as in force at the date at which this Constitution becomes binding on the Company;
- (c) persons include companies and corporations and vice versa;
- (d) the masculine gender includes the feminine gender and vice versa; and
- (e) the singular number includes the plural number and vice versa.

2. PURPOSE OF COMPANY

2.1 Charitable purposes

The Company has the following public charitable purposes:

- (a) to provide assistance to people who have been diagnosed with Multiple Sclerosis and other chronic, degenerative, neurological diseases. This assistance will be provided to:
 - (i) people who have been diagnosed with Multiple Sclerosis and other chronic, degenerative, neurological diseases, and their families and carers, to assist people who have been diagnosed to access and participate in, as far as they are able, all facets of life and to remove barriers that prevent them from enjoying equal access, opportunities and participation within the community; and
 - (ii) Members and other organisations with similar purposes;
- (b) to support research into the cause, cure, effects and treatments of Multiple Sclerosis and other chronic, degenerative, neurological diseases, including the incidence, prevalence, economic, social and other effects of Multiple Sclerosis and other chronic, degenerative, neurological diseases on people and their Carers affected by these diseases;
- (c) to provide and engage in education of the public and members of Parliaments in the effects of Multiple Sclerosis and advocate on behalf of people affected by Multiple Sclerosis; and
- (d) to do all such lawful things as are incidental or conducive to the attainment of any or all of the purposes referred to in sub-clauses (a) and (c) of this clause.

2.2 Capacity

The Company has power to do any or all activities for the purposes set out in clause 2.1 for or on behalf of or as agent for, or in partnership or joint venture with all or any of its Members.

2.3 Income

The Company must apply its income solely towards promoting the purposes of the Company as stated in clause 2.1. No part of the Company's income may be paid or transferred directly or indirectly by way of dividend bonus or otherwise to Members, except that this does not prevent the Company paying to a Member:

- (a) interest at no more than commercial rates on money lent by the Member to the Company;
- (b) distribution of net income from specific programs operated nationally on behalf of any one or more Members;

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- (c) reasonable remuneration for goods or services supplied by the member to the Company in the ordinary course of business; and
- (d) reasonable rent for premises made available by the member to the Company.

3. MEMBERS

3.1 Eligibility to be a Member

- (a) Any Organisation is eligible to become a Member who the Board considers suitable to assist the Company to further its purposes as set out in clause 2.
- (b) At the time of adoption of this Constitution as amended and as subsequently the existing Members are:
 - (i) The Multiple Sclerosis Society of Western Australia (Incorporated) A159/72;
 - (ii) The Multiple Sclerosis Society of South Australia and Northern Territory Incorporated SA A2777;
 - (iii) The Multiple Sclerosis Society of Tasmania ACN 009 484 093;
 - (iv) Multiple Sclerosis Society of Queensland; and
 - (v) Multiple Sclerosis Limited ACN 004 942 287.

3.2 Admission of Members

- (a) An applicant for membership shall complete, duly execute and deliver to the Secretary an Application for Membership in the following form:

"To the Secretary
Multiple Sclerosis Australia ACN 008 515 508
of [*insert address of Company*]

[*insert name of Applicant*] apply to become a member of the Multiple Sclerosis Society of Australia and if accepted for membership agrees to be bound by the Constitution and Rules and Regulations of Multiple Sclerosis Australia ACN 008 515 508 as amended from time to time.

[*insert name of Applicant*] acknowledges that the Board of Multiple Sclerosis Australia has absolute discretion as to whether or not to accept the application and it is not required to give reasons for its decision to the Applicant.

Dated: 20

Signed for and on behalf of [*insert name of Applicant*]

..... "

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- (b) The Board shall consider any Application for Membership submitted by applicants in accordance with this Constitution.
- (c) The Board is not required to give reasons for its decision to accept or reject an applicant to them.
- (d) When an applicant has been accepted for membership, the Secretary shall forthwith send to the applicant written notice of his acceptance and request for payment of its entrance fee (if any) and first annual subscription (if any) or such part of it as determined by the Board. Upon payment of the entrance fee and the first annual subscription the applicant shall become a Member of the Company. If such payment is not made within two (2) calendar months after the date of the notice, the Board may in its discretion cancel the acceptance of the Application for Membership of the Company.

3.3 Election of Life Members

Life members may be elected at any AGM of the Company on the following basis:

- (a) Life members shall be restricted to those persons who have contributed to furthering the purposes listed in clause 2 by their participation in the activities of the Company and or its members for a total period of at least 10 years or for outstanding achievement involving meritorious, commendable or praiseworthy service of a high degree and who are nominated by a Member or the Board for election at an AGM of the Company.
- (b) Names of nominees for life membership shall be submitted to the Secretary at least 21 days prior to the AGM at which such nominees are to be proposed for election as life members.
- (c) Nominees for election as life members to be elected must obtain the votes of at least three-fourths of those Members attending and eligible to vote.
- (d) Not more than 2 life members shall be elected at any one AGM.
- (e) A history of the service of each nominee for election as a life member shall accompany the application.
- (f) Life members shall be entitled to attend all general meetings of the Company. The Life members shall not be entitled to a vote at general meetings of the Company.

3.4 Disciplining of Members

- (a) Subject to clauses 3.4(b) and 3.4(c), the Board has the power to censure, suspend or expel (**Disciplinary Action**) a Member from the Company if such Member shall:
 - (i) wilfully refuse or neglect to comply with the provisions of the Constitution of the Company; or

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- (ii) be guilty of any conduct which in the opinion of the Board is unbecoming of a Member or prejudicial to the interests, image or welfare of the Company;
or
 - (iii) make public statements which in the opinion of the Board are damaging to the reputation of the Company or its Board; or
 - (iv) fail to pay to the Company any moneys due by the Member to the Company after due notice has been given.
- (b) At least 14 days before the meeting of the Board at which a resolution in accordance with clause 3.4(a) is proposed, the Board must give written notice to the Member advising the Member of:
- (i) the date, time and place of the meeting;
 - (ii) the general nature of what is alleged against it; and
 - (iii) the intended resolution proposed by the Board.
- (c) At such meeting before the passing of any resolution in relation to a Member, the Member must be given an opportunity of giving orally or in writing any explanation or defence it may think fit.
- (d) The Board has absolute discretion as to whether or not to censure, suspend or expel a Member from the Company on the grounds set out in clause 3.4(a) and is not required to give reasons for its decisions to the Member, but may do so if requested.
- (e) A Member expelled from the Company for any of the reasons set out in clause 3.4(a) automatically waives any claim it may have against the Company, its funds or property.
- (f) Notwithstanding clause 4.2 but subject to clause 4.3, a Member who is subject to a Disciplinary Action has the right to appeal an adverse decision of the Board before the other Members in an EGM. During the period between the Board's decision being notified to it and the EGM taking place the affected Member's voting and other rights are suspended. The Members must pass a Special Resolution either to confirm or to reject the Board's decision. If the Member affected does not convene an EGM within 5 Business Days of being notified by the Board of its decision, the Board's decision is final and takes effect.

3.5 Cessation of Membership

A Member shall cease to be a Member of the Company and its name shall be deleted from the Register of Members if the Member:

- (a) is wound up or dissolved according to law;
- (b) resigns as a Member by notice in writing to the Company; or

- (c) is expelled from the Company in accordance with clause 3.4 above.

3.6 Fees

- (a) The entrance fee and annual subscription payable by Members of the Company shall be such amount and payable in such manner as the Board shall prescribe from time to time.
- (b) In the event of a serious dispute regarding the level of subscription, the Board will consult Members to reach an understanding of Members' ability to pay the subscription, prior to finalising the amount.

3.7 Register

The Company shall keep at its Registered Office a register of Members setting out their names, addresses where notices may be served, the date when such Member was entered in the Register and the date it ceased to be a Member.

4. GENERAL MEETINGS

4.1 AGM

An AGM of the Company shall be held in accordance with the provision of the Law. Any general meeting of the Company, other than an AGM, shall be called an EGM.

4.2 Convening of an EGM

Any 3 Members, whenever they think fit, may convene an EGM. An EGM shall be convened on such requisition or in default may be convened by such requisitions as provided by the Law.

4.3 Period of notice of meetings

- (a) Subject to the provisions of the Law relating to special resolutions and agreements for shorter notice, at least 21 days notice of a general meeting shall be given to Members and such other persons as are entitled to receive such notices from the Company specifying:
 - (i) the place of meeting;
 - (ii) the day and hour of meeting; and
 - (iii) in case of special business, the general nature of that business.
- (b) The period of notice given by the Company shall be exclusive of:
 - (i) the day on which the notice is served or deemed to be served; and
 - (ii) the day for which notice is given.

4.4 Notice of meeting

Subject to clause 4.5 at least 21 days' written notice of a meeting of members must be given individually to:

- (a) each Member (whether or not the Member is entitled to vote at the meeting);
- (b) each Director (other than an Alternate); and
- (c) to the auditor.

4.5 Business at meetings

For the purposes of this clause 4, business shall be special that is transacted at an EGM and also all that is transacted at an AGM, with the exception of the following:

- (a) receipt and consideration of the balance sheet and income and expenditure accounts and the report of the Auditors;
- (b) receipt and consideration of reports of the Board;
- (c) election of Directors; and
- (d) appointment of the Auditors, if necessary.

5. PROCEEDINGS AT GENERAL MEETING

5.1 Quorum

(a) **Number required for quorum**

The quorum for a meeting of Members of the Company is 3 Members and the quorum must be present at all times during the meeting.

(b) **Determining whether quorum present**

In determining whether a quorum is present, the Company must count individuals attending as proxies or body corporate representatives. If a Member has appointed more than 1 proxy or representative, the Company must count only 1 of them.

(c) **No quorum present**

A meeting of Members of the Company that does not have a quorum present within 30 minutes after the time for the meeting set out in the notice of meeting is adjourned to the date, time and place the majority Members present specify. If the Members present do not specify 1 or more of those things, the meeting is adjourned:

- (i) if the date is not specified - the same day in the next week;
- (ii) if the time is not specified - the same time; and
- (iii) if the place is not specified - the same place.

(d) **No quorum at resumed meetings**

If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

5.2 Chairing of meetings of Members

(a) **Chairman**

The President, or in his/her absence the Vice President, shall chair general meetings of the Company.

(b) **Members must elect chairman in certain circumstances**

The Members at a meeting of Members of the Company must elect a Member present to chair the meeting (or part of it) if both the President and the Vice President are not available, or decline to act, for the meeting (or part of the meeting).

5.3 Adjournment of meeting

The Chairman with the consent of any meeting at which a quorum is present may (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of any original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment of the business to be transacted at an adjourned meeting.

5.4 Method of voting

At any General Meeting, a resolution put to the vote of the meeting shall be decided by a show of hands unless a poll is (before or on the declaration of the show of hands) demanded:

- (a) by the Chairman; or
- (b) by any Member present in person or by proxy.

Unless a poll is so demanded a declaration by the Chairman that a resolution has on show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceeding of the Company, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

5.5 Proxies

(a) **Appointment of proxy**

A Member who is entitled to attend and cast a vote at a meeting of the Company, may appoint a person as its proxy to attend and vote for the Member at the meeting.

(b) **Proxy votes**

Before a vote is taken, the Chairman must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.

(c) **Validity of proxy vote**

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:

- (i) the appointing Member has been wound up or dissolved; or
- (ii) the Member revokes the appointment of the proxy; or
- (iii) the Member revokes the authority under which the proxy was appointed by a third party.

(d) **Proxy must be in writing**

The instrument appointing a proxy shall be in writing under the hand of the appointor or its attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. A Member shall be entitled to instruct its proxy to vote in favour of or against any proposed resolutions. Unless otherwise instructed, the proxy may vote as the proxy thinks fit.

(e) **Proxy instrument**

- (i) The instrument appointing a proxy may be in the form at schedule 1 or in a common or usual form.
- (ii) The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power of attorney or authority shall be deposited at the registered office of the Company or at such other place within the State as is specified for that purpose in the notice convening the meeting, not less than 24 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, and in default, the instrument of proxy shall not be treated as valid.

(f) **Poll**

- (i) If a poll is duly demanded, it shall be taken in such a manner and either at once or after an interval or adjournment or otherwise as the Chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded, but a poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith.

- (ii) Subject to clause 5.5(f)(iii), when a poll is conducted:
 - (A) each Member (excluding a Life member and Multiple Sclerosis Limited) whether represented in person or by proxy, shall be entitled to one vote; and
 - (B) Multiple Sclerosis Limited, whether represented in person or by proxy, shall be entitled to two votes.
- (iii) Subject to clause 5.5(f)(iv), in the event that:
 - (A) a Member (in this subclause the **Transferor**) transfers a substantial part of its assets and operations to another Member (in this subclause the **Transferee**); and
 - (B) the Transferor subsequently ceases to be a Member,

the Transferee shall be entitled to an additional vote as a Member.
- (iv) No Member shall be entitled to a majority of votes by reason of the operation of clause 5.5(f)(iii).

(g) **Equality**

In the case of an equality of votes, whether by a secret ballot or on a show of hands or on a poll, the Chairman of the meeting at which the vote by secret ballot or the show of hands takes place or at which the poll is demanded shall declare the motion or resolution not carried.

(h) **Objection to right to vote**

A challenge to a right to vote at a General Meeting:

- (i) may only be made at the meeting; and
- (ii) must be determined by the Chairman, whose decision is final.

(i) **No vote - unpaid fees**

No Member shall be entitled to vote at any General Meeting if its subscription shall be more than 1 month in arrears at the date of the meeting.

5.6 Accidental omission

The accidental omission to give notice to, or the non-receipt of notice by, any of those entitled to it does not invalidate any resolution passed at a meeting of members.

5.7 Use of technology for general meeting

- (a) A general meeting may be held using any means of audio or audio-visual communication by which each Member participating can hear and be heard by each other Member participating.
- (b) A general meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Members present at the meeting is located or, if an equal number of Members is located in each of 2 or more places, at the place where the chairman of the meeting is located.
- (c) A Member may not leave a general meeting held solely or partly by technology by disconnecting his means of audio or audio visual communication unless the Member has previously obtained the express permission of the Chairman of the meeting.
- (d) A Member shall be conclusively presumed to have been present and to have formed part of the quorum at all times during a general meeting held solely or partly by technology unless the Member has previously obtained the express permission of the Chairman of the meeting to leave the meeting or it becomes apparent to the Chairman of the meeting that the Member has been disconnected due to a failure in technology

6. THE BOARD

6.1 Number of Board

- (a) The Board shall consist of not less than 9 and not more than 15 persons.
- (b) All Directors shall be appointed as provided in this Constitution.

6.2 Eligibility to be a Director

No person may be appointed as a Director if that person:

- (a) is the Chief Executive Officer or an employee of the Company or any person acting in that principal capacity of Chief Executive Officer; or
- (b) is the Chief Executive Officer or an employee of a Member or any person acting in that principal capacity of Chief Executive Officer;
- (c) has held office as a Director for 10 or more terms unless approved by Special Resolution in a general meeting.

6.3 Appointment of Directors

- (a) Each Member is entitled to nominate one Director, except that if a Member represents more than one State then that Member may nominate a Director from each of the States represented by that Member.

- (b) Subject to clause 6.3(a), if a Member represents a State, the person nominated by that Member as a Director must reside in that State.
- (c) Each Member's right to nominate a Director shall be exercised by written nomination delivered to the Secretary no later than 7 days after notice of the AGM is received by the Member. In the event that no nomination is received from a Member within 7 days of the notice of the AGM being received by a Member, the Member is deemed to have delivered a written nomination of the person who is President of the Member for the time being at the time of the nomination.
- (d) Prior to each AGM, the Board must recommend as a Director for a term commencing on the date of the AGM at which it is making the recommendation, a person representing people with Multiple Sclerosis.
- (e) Subject and in addition to paragraphs (a) to (d) of this clause 6.3, the Board may recommend additional persons with particular skills as Directors.
- (f) Each person appointed as a Director pursuant to this clause 6.3 shall hold office from the conclusion of the AGM at which his appointment is voted on or, in the case of an appointment under paragraph (e), from the date of appointment by the Board, for a term ending at the conclusion of the next following AGM.

6.4 President and Vice President

- (a) At the first meeting of the Board after each AGM, the Board shall elect 1 Director to be the President and 1 Director the Vice-President who, subject to clause 6.4(b) shall hold office until the conclusion of the next AGM.
- (b) Notwithstanding clause 6.4(a), a two-thirds majority of the Board may vote to remove the President and/or the Vice President from office and to appoint a new President and/or new Vice President at any time.

6.5 Majority decisions and equality

A resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution. In the case of an equality of votes at a Board meeting, the Chairman of the meeting shall declare the motion or resolution not carried.

6.6 Alternate Directors

(a) **Need for approval**

With the approval of the majority of the Board, a Director may appoint an alternate to exercise some or all of the Director's powers for a specified period.

(b) **Request for notice**

If the appointing Director requests the Company to give the alternate notice of meetings of the Board, the Company must do so.

(c) **Exercise of powers**

When an alternate exercises the powers of the Director, the exercise of the powers is just as effective as if the powers were exercised by the Director.

(d) **Termination**

The appointing Director may terminate the alternate's appointment at any time.

(e) **Document required**

An appointment or its termination of an alternate Director must be in writing. A copy must be given the Company.

6.7 Removal of Director

The Company may by ordinary resolution at a general meeting of which notice has been given:

- (a) remove any Director before the expiration of the Director's period of office; and
- (b) appoint another person in that Director's stead. The person so appointed shall hold office only until the next following AGM.

6.8 Vacancy on Board

- (a) The office of a Director shall become vacant if the Director:
 - (i) becomes bankrupt or makes any arrangement or composition with that Director's creditors generally;
 - (ii) become prohibited from being a director of a company by reason of any order made under the Law;
 - (iii) ceases to be a Director by operation of Section 201C of the Law;
 - (iv) 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;
 - (v) resigns his office by notice in writing to the Company;
 - (vi) for more than 6 months is absent without permission of the Board from meetings of the Board held during that period;
 - (vii) holds any office of profit under the Company or a Member organisation; or
 - (viii) is directly or indirectly interested in any contract or proposed contract with the Company.
- (b) Nothing in this clause 6.8 shall affect the operation of clause 2 of this Constitution.

6.9 Casual vacancy

If at any time the office of a Director shall become vacant, then subject to clause 6.2 the Board may appoint a person to fill the vacancy. Such appointed person shall hold office until the next AGM at which time he/she must retire but shall be eligible for re-election.

7. POWERS AND DUTIES OF THE BOARD

7.1 Board powers

For the purposes outlined in clause 2.1, the Board may:

- (a) formulate policies;
- (b) make rules in connection with any policy;
- (c) revoke or amend any policy or rules and formulate others; and
- (d) borrow money and to mortgage or charge its property or any part of it; and
- (e) issue debentures and other securities whether outright or as security for any debt, liability or obligation of the Company; and
- (f) make decisions and take such other action as required to further the Company's charitable purposes, in accordance with this clause 7.

7.2 Management of Company business

- (a) Subject to:
 - (i) clause 2.1 of this Constitution;
 - (ii) the provisions of the Law;
 - (iii) such regulations or provisions, being not inconsistent with this Constitution, as may be prescribed by the Company in general meeting; and
 - (iv) clauses 7.2(b) and 7.2(c);

the business of the Company shall be managed by the Board who may:

- (A) pay all expenses incurred in promoting and registering the Company; and
 - (B) exercise all such powers of the Company as are not, by the Law or by this Constitution, required to be exercised by the Company in general meeting.
- (b) Any rule, regulation or by-law of the Company made by the Board may be disallowed by the Company in general meeting.

- (c) No resolution or regulation made by the Company in general meeting shall invalidate any prior act of the Board which would have been valid if that resolution or regulation has not been passed or made.

7.3 Loan from Members

For the purpose of clause 2.3(a), the rate of interest payable in respect of money lent by Members to the Company shall be the rate approved by a resolution of the Board.

7.4 Executing negotiable instruments

The Board must decide the manner (including the use of facsimile signatures if thought appropriate) in which negotiable instruments can be executed, accepted or endorsed for and on behalf of the Company. The Company may execute, accept, or endorse negotiable instruments only in the manner decided by the Board.

8. PROCEEDINGS OF THE BOARD

8.1 Frequency of meetings

The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.

8.2 Circulating resolutions

(a) **Resolutions**

The Board of the Company may pass a resolution without a Board meeting being held if all Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

(b) **Copies**

Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.

(c) **Resolution passed**

The resolution is passed when the last Director signs it.

8.3 Calling Board meetings

A Board meeting may be called by the President, Vice President, any two Directors or the Secretary giving reasonable notice individually to every other Director.

8.4 Use of technology for Board meetings

- (a) A Board meeting may be held using any means of audio or audio-visual communication by which each Director participating can hear and be heard by each other Director participating or in any other way permitted by section 248D of the Law.

- (b) A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located in each of 2 or more places, at the place where the chairman of the meeting is located.
- (c) A Director may not leave a Board Meeting held solely or partly by technology by disconnecting his means of audio or audio visual communication unless the Director has previously obtained the express permission of the Chairman of the meeting.
- (d) A Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during a Board meeting held solely or partly by technology unless the Director has previously obtained the express permission of the Chairman of the meeting to leave the meeting or it becomes apparent to the Chairman of the meeting that the Director has been disconnected due to a failure in technology

8.5 Quorum

The quorum necessary for the transaction of the business of the Board shall be a majority of the Directors from time to time as provided in this Constitution or such greater number as may be fixed by the Board.

8.6 Vacancy

The continuing Directors may act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum for a meeting of the Board, the continuing Director or Directors may act for the purpose of increasing the number of Directors to the required number or of summoning a general meeting of the Company but for no other purpose.

8.7 Chair

The President or in his/her absence the Vice President shall chair all meetings of the Board. If both the President and the Vice President are absent from or unwilling or unable to chair a meeting of the Board, then the Directors may choose one of their number to chair the meeting

8.8 Committees

- (a) The Board may delegate any of its powers and or functions (not being duties imposed on the Board as Directors of the Company by the Law or the general law) to one or more Committees consisting of such, Directors, Members of the Company or other such persons as the Board thinks fit. Any Committee so formed shall conform to any regulation that may be imposed by the Board and subject thereto shall have the power to co-opt any Director Member of the Company or other person and all members of such Committees shall have one vote.

- (b) A Committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members of the Committee present, and in the case of an equality of votes the Chairman of the Committee meeting shall declare the motion or resolution not carried.

8.9 Advisory Boards

The Board may appoint one or more advisory boards consisting of such Directors, Members of the Company or other persons as the Board thinks fit. Such advisory boards shall act in an advisory capacity only. They shall conform to any regulations that may be imposed by the Board and subject thereto shall have power to co-opt Directors, Members of the Company or other persons and all members of such advisory boards shall have one vote, and in the case of an equality of votes the Chairman of the Advisory Board meeting shall declare the motion or resolution not carried.

8.10 Validity of acts

All acts done by any meeting of the Board or of a Committee or by any person acting as a Director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that the Director or any of them were disqualified, be as valid as if every person had been duly appointed and was qualified to be a Director.

9. SECRETARY

9.1 Appointment of Secretary

The Board:

- (a) must appoint at least 1 individual; and
- (b) may appoint more than 1 individual,

to be a Secretary either for a specified term or without specifying a term.

9.2 Term of appointment

The Secretary shall in accordance with the Law be appointed by the Board for such term and upon such conditions as the Board thinks fit, and any Secretary so appointed may be removed by it. Nothing shall prevent the Board from appointing a Director or employee of the Company as Secretary and any person so appointed as Secretary shall forthwith become an office-bearer of the Company and he shall be subject to the provisions of the Constitution.

9.3 Cessation of Secretary's appointment

The person automatically ceases to be a Secretary if the person:

- (a) is not permitted by Law (or an order made under the Law) to be a secretary of a company;

- (b) becomes disqualified from managing corporations under Part 2D.6 of the Law and is not given permission or leave to manage the Company under section 206F or 206G of the Law;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) resigns by notice in writing to the Company; or
- (e) is removed from office under the Law.

9.4 Removal from office

The Board may remove a Secretary from that office whether or not the appointment was expressed to be for a specified term.

10. SEAL

The Board shall provide for the safe custody of the Seal which shall only be used by the authority of the Board or of a Committee of members of the Board authorised by the Board in that behalf and every instrument to which the Seal is affixed shall be signed by a Director and shall be countersigned by the Secretary or by a second Director or by some other person appointed by the Board for that purpose.

11. ACCOUNTS

- (a) The Board shall cause proper accounting and other records to be kept and shall distribute copies of every profit and loss account and balance sheet (including every document required by law to be attached thereto) accompanied by a copy of the Auditors report thereon as required by the Law.
- (b) The Board shall cause to be made out and laid before each AGM a balance sheet and profit and loss account made up to date no more than five months before the date of the AGM.
- (c) The Board shall cause the accounting and other records of the Company to be open for inspection of Members, and shall from time to time determine at what times and places under what conditions or regulation the accounting and other records of the Company shall be open to inspection of Members.

12. AUDIT

A properly qualified Auditor or Auditors shall be appointed by the Company and his/her or their duties regulated in accordance with the Law.

13. NOTICE

- (a) A notice is properly given by the Company if it is:
 - (i) in writing signed on behalf of the Company (by original or printed signature);

- (ii) addressed to the person to whom it is to be given; and
- (iii) either:
 - (A) delivered personally;
 - (B) sent by prepaid airmail to that person's address; or
 - (C) sent by fax to the fax number (if any) nominated by that person; or
 - (D) sent by electronic message to the electronic address (if any) nominated by that person.
- (b) A notice to a person by the Company is regarded as given and received:
 - (i) if it is delivered personally:
 - (A) by 5.00 pm (local time in the place of receipt) on a business day - on that day; or
 - (B) after 5.00 pm (local time in the place of receipt) on a business day, or on a day that is not a business day - on the next business day;
 - (ii) if it is sent by fax or electronic message:
 - (A) by 5.00 pm (local time in the place from which it is sent or given) on a business day - on that day; or
 - (B) after 5.00 pm (local time in the place from which it is sent or given) on a business day, or on a day that is not a business day - on the next business day; and
 - (iii) if it is sent by mail within Australia - 1 business day after posting.
- (c) A certificate in writing signed by a Director or Secretary stating that a notice was sent is conclusive evidence of sending.
- (d) For the purposes of clause 13(b), a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.
- (e) If a specified period must pass after a notice is given before an action may be taken, neither the day on which the notice is given nor the day on which the action is to be taken may be counted in reckoning the period.
- (f) Notice of every general meeting shall be given in any manner herein before authorised to:
 - (i) every Member; and
 - (ii) the auditor or auditors for the time being of the Company.
- (g) No other person shall be entitled to receive notices of general meetings.

14. WINDING UP

14.1 Members' contributions

Every Member undertakes to contribute to the assets of the Company in the event of the same being wound up during the time he is a Member or within a year afterwards for payment of debts and liabilities of the Company contracted before the time at which he or she ceases to be a Member and the costs charges and expenses of winding up the same and for the adjustment of the rights of the contributors among themselves such amounts as may be required not exceeding \$50.

14.2 Transfer of property

If, on the winding up of the Company, any surplus assets remain after the satisfaction of all its debts and liabilities, the Company must give and transfer the surplus assets to a fund authority or institution:

- (a) that is charitable at law and complies with section 150(1) of the Law;
- (b) whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as is outlined in clause 2.3;
- (c) gifts to which can be deducted under Division 30 of Income Tax Assessment Act (ITAA 97), due to it being characterised as a public benevolent institution under item 4.1.1 of the table in section 30-45 or a health promotion charity under item 1.1.6 of section 30-20, as the Company decides by special resolution of the Company in General Meeting; and
- (d) where gifts to fund, authority or institution are deductible only if, among other things, the conditions set out in the relevant table item in Subdivision 30B of the ITAA 97 are satisfied, the gift and transfer must be made in accordance with those conditions.

15. INDEMNITY AND INSURANCE

15.1 Directors and officers

Subject to the Law, the Company may indemnify any Director, Secretary or executive officer of the Company:

- (a) against all liabilities incurred by the Director, Secretary or executive officer, acting in that capacity, to a person other than the Company or a related body corporate where the liability does not arise out of lack of good faith; and/or
- (b) for the costs and expenses incurred by the Director, Secretary or executive officer:
 - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the Director, Secretary or executive officer or in which he or she is acquitted; and/or

- (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the Director, Secretary or executive officer under the Law.

15.2 Employees

Every employee of the Company who is not a Director, Secretary or executive officer may be indemnified out of the property of the Company:

- (a) against a liability incurred by the employee acting in that capacity; and/or
- (b) for the costs and expenses incurred by an employee:
 - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which the person is acquitted; and/or
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under the Law.

15.3 Payment of insurance premiums

Subject to the Law, the Company may pay any insurance premiums in respect of insurance effected for the benefit of a Director, Secretary, executive officer or employee acting in that capacity against:

- (a) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
- (b) a liability arising from negligence or other conduct not being a liability incurred by the person acting in that capacity and arising out of conduct involving a wilful breach of duty in relation to the Company or a breach of the provisions of the Law dealing with improper use of inside information or position.

