

# **Constitution**

## **Sports Aviation Federation of Australia Limited**

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## 1. DEFINITIONS AND INTERPRETATIONS

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### 1.1 Definitions

In this Constitution unless the context requires otherwise:

**Affiliated Director** means a director representing the Voting Members of a Regional Association.

**Affiliated Entity** means a Sports Club or Regional Association currently recognized as an affiliated entity.

**AGM** or **Annual General Meeting** means the annual General Meeting of the Company required to be held by the Company in each calendar year under the Corporations Act.

**Appointed Director** means a Director appointed under **clause 11.6**.

**Aviation Authority** means the authority delegated to the Company by CASA to assist with the administration of the Sports.

**Board** means the Directors acting collectively via a meeting or circular resolution.

**CASA** means the Australian Civil Aviation Safety Authority or any successor agency established by the Australian Parliament.

**COO** means a person appointed as the Chief Operating Officer of the Company by the Directors.

**Chair** means the person who presides over meetings.

**Committee** means a committee established by the Directors under **clause 15**.

**Company** means Sports Aviation Federation of Australia Limited (ACN 635 378 139).

**Company Secretary** means a person appointed as a company secretary of the Company by the Directors under **clause 13**.

**Constitution** means this Constitution as amended from time to time, and a reference to a particular clause is a reference to a clause of this Constitution.

**Corporations Act** means the *Corporations Act 2001* (Cth) as modified and amended from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company.

**Director** means a director of the Company and includes Elected Directors, Affiliated Directors and Appointed Directors.

**Directors** mean as the case requires, all or some of the Directors acting together as a Board in accordance with their powers and authority under this Constitution.

**Elected Director** means a Director elected under **clause 13**.

**FAI** means the World Air Sports Federation.

**General Meeting** means a general meeting of Members and includes the AGM.

**Individual Member** means a person admitted to the Company as an individual member under **clause 5.2**.

**Intellectual Property** means all rights subsisting in copyright, business names, names, trade marks (or signs), logos, designs, equipment including computer software, images (including photographs, videos or films) or service marks relating to the Company or any activity of or conducted, promoted or administered by the Company.

**Life Member** means a person admitted to the Company as a life member under **clause 5.4**.

**Member** means a member of the Company under **clause 5**.

**Objects** mean the objects of the Company in **clause 2**.

**Operations Manual** is a Policy to give effect to the Aviation Authority of the Company.

**Official Position** means, in connection with a body corporate or organisation, a person who:

- (a) holds a position, whether elected or appointed, as president, vice president, secretary, treasurer, director or equivalent of that body corporate or organisation; or
- (b) has, directly or indirectly, a material ownership or financial interest in that body corporate or organisation.

**Policy** means a policy made under **clause 16**.

**President** or means the person elected as the Chair of the Company under **clause 13**.

**Privileges** means those rights and benefits afforded to members under **clause 5**.

**Region** means the geographic extent of a Regional Association.

**Regional Association** means an Affiliated Entity which serves the interests of Individual Members in relation to the Sport within a particular Region.

**Register** means the Register of Members kept as required by the Act.

**Sport** means those activities where CASA has delegated Aviation Authority, including, at the date of adoption of this constitution, hang gliding, powered hang gliding, paragliding, powered paragliding, and weight shift microlighting.

**Sports Club** means an Affiliated Entity which promotes the Sport.

**Sporting Power** means any power delegated to the Company by FAI for the exclusive control and management of a sport in Australia.

**Special Resolution** has the same meaning as that given to it in the Corporations Act.

**Statutes and Regulations** means any regulations issued by CASA for the conduct of aviation in Australia and any sporting regulations issued by the FAI.

**Telecommunications Meeting** means a meeting held by telephone, video, any other technology (or any combination of these technologies), which permits each Director at a meeting of Directors or each Voting Member at a meeting of members to communicate with any other participant.

**Voting Member** means, in relation to a General Meeting and procedures in place to elect Directors, those Members of the Company entitled to vote in accordance with **clause 5**.

**Qualifications** means certificates, endorsements, and ratings afforded to Members under the Operations Manual

## 1.2 Interpretation

In this Constitution unless the context requires otherwise:

- (a) **(presence of a Member)** a reference to a Member present at a General Meeting means the Member present in person, by proxy, or by electronic means agreed by the Directors;
- (b) **(presence of a Director)** a reference to a Director present at a Board Meeting means the **Director** present in person, by proxy, or by electronic means agreed by the Directors;
- (c) **(document)** a reference to a document or instrument includes any amendments made to it from time to time and, unless the contrary intention appears, includes a replacement;
- (d) **(gender)** words importing any gender include all other genders;
- (e) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (f) **(successors)** a reference to an organisation includes a reference to its successors;
- (g) **(singular includes plural)** the singular includes the plural and vice versa;
- (h) **(instruments)** a reference to a law includes regulations and instruments made under it;

- (i) **(amendments to legislation)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by a State or the Commonwealth or otherwise;
- (j) **(include)** the words include, includes, including and for example are not to be interpreted as words of limitation;
- (k) **(signed)** where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Directors;
- (l) **(writing)** writing and written includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and
- (m) **(headings)** headings are inserted for convenience and do not affect the interpretation of this Constitution.

### 1.3 Corporations Act

- (a) In this Constitution, unless the context requires otherwise, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act.
- (b) The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

## 2. OBJECTS

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The Objects of the Company shall be to:

- (a) facilitate the safe enjoyment of these Sports by our members,
- (b) encourage members of the public to take up these Sports,
- (c) work in partnership with CASA to enable effective self-administration of these Sports,
- (d) have regard for the public interests and public safety in the execution of these Sports,
- (e) facilitate and to encourage the establishment of flying sites and the retention of flying sites related to the Sport,
- (f) facilitate the engagement of our members in competitive aspects of these Sports domestically and internationally,



- (g) to create and promulgate appropriate regulations for the safe enjoyment of these Sports in Australia,
- (h) implement cost-effective group insurance policies to protect the interests of the organization and our Members,
- (i) ensure that the Sports are conducted without harassment, bullying or discrimination,
- (j) exploit all opportunities to promote the Sport via the use of branding, intellectual property and seeking external sponsorships, and
- (k) undertake other actions or activities necessary, incidental or conducive to advance these Objects.

### 3. **POWERS**

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Solely for furthering the Objects under **clause 2**, the Company, in addition to the Sporting Power, Aviation Authority, and any other powers it has under the Corporations Act, has the legal capacity and powers of a company limited by guarantee as set out under section 124 of the Corporations Act.

### 4. **INCOME AND PROPERTY OF COMPANY**

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#### 4.1 **Sole Purpose**

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

#### 4.2 **Payments to Members**

No income or property will be paid or transferred directly or indirectly to any Member except for payments to a Member:

- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
- (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent; or
- (c) of reasonable rent for premises let to the Company by them.

### 5. **MEMBERSHIP**

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#### 5.1 **Categories of members**

- (a) **Individual Members** of the company shall be natural persons, pay Membership Fees required by Policy, and are Voting Members.

- (b) **Life Members** of the company who have been awarded life membership in accord with the life membership procedures shall be natural persons and are Voting Members.
- (c) **Associate Members** are those subcategories of members who are natural persons and are not Voting Members.
- (d) **Affiliated Entities** are not members of the association.

## **5.2 Admission of Individual Members**

The COO may admit a person to be an Individual Member of the Company subject to:

- (a) the completion of a membership application by the person,
- (b) the demonstration of being a fit and proper person to undertake the Sport,
- (c) the demonstration by the person of medical requirements required by Policy,
- (d) an agreement by the person:
  - i. to waive liability in relation to the Sport and affairs of the Company against the Company, Directors, other Members, and Affiliated Entities,
  - ii. to be bound by the Policies of the Company, and
  - iii. to support the objects of the Company.

and,

- (e) other Policy as determined by the Directors.

## **5.3 Admission of Life Members**

The Directors may admit a person to be an Individual Member of the Company subject to:

- (a) Life Membership is the highest honour that can be bestowed by the Company for longstanding and valued service to the Sports in Australia.
- (b) A Regional Association may forward a proposed nomination for an Individual Member to be granted Life Membership to the Directors for its consideration.
- (c) The awarding of life membership is done in accord with the Policy on Life Members.
- (d) A person may be posthumously recognised as a Life Member.

## **5.4 Admission of Associate Members**

The COO may admit a person to be an Associate Member of the Company subject to:

- (a) Persons undergoing training in the Sport and persons visiting from overseas are admitted as Associate Members in accordance with Policy.
- (b) Other persons may be admitted as an Associate Member provided they do not undertake the Sport in Australia.
- (c) Associate Members who undertake the Sport are required to meet the admission requirements of Individual Members described in **clause 5.2**

## **5.5 Affiliated Entities**

- (a) The Directors may affiliate Regional Associations as Affiliated Entities to Coordinate the conduct of the Sport subject to:
  - i. The affiliation of a new Regional Association or un-affiliation of an existing Regional Association must be agreed by Directors through a resolution of the Board where the votes cast in favour of the resolution are no less than three quarters of the Directors who are entitled to vote.
  - ii. The Region of each Regional Associations is to be established in Policy by the Directors such that no Region overlaps with another.
  - iii. Members of the Company whose residential address is recorded in the registrar of Members to be within a Region are to be considered eligible to vote for Affiliated Directors under **clause 11.5**.
  - iv. The Company may collect levies from Members to support the activities of Regional Associations as a condition of membership of the Company.
- (b) The Directors may affiliate Sports Clubs as Affiliated Entities in accordance with the Policy on Sports Clubs.
- (c) An Affiliated Entity must be recognised as an entity under Commonwealth or State Law.
- (d) The Company may make Policy regarding reporting and ongoing affiliation requirements for Affiliated Entities.

## **5.6 Discretion to Reject Applications**

The Directors may accept or reject an application for membership or affiliation for any reason.

## **5.7 Privileges of Members**

Members of the Company may be afforded rights and benefits of membership including:

- (a) Subject to **clause 5.1**, the right to be a Voting Member.
- (b) Qualifications issued to the Member provided:

- i. the member is able to demonstrate satisfactory competence and experience to a designated representative of the COO,
  - ii. the issuance of Qualifications by the Company does not create any property rights or guarantee that such Qualifications will be renewed in future years, and
  - iii. Qualifications are issued in accordance with the Company Operations Manual.
- (c) Aircraft registrations issued to the Member.
  - (d) Insurance provided by the Company in relation to the administration and conduct of the Sport.
  - (e) The use of Sport facilities under the control of the Company or of Affiliated Entities.
  - (f) Other Privileges as determined by Policy.

## 5.8 General

- (a) The Company must keep a register of all Members in accordance with the Corporations Act.
- (b) A Member whose membership ceases may not make any claim against the Company or the Directors for damages or otherwise arising from cessation or termination of membership.
- (c) Membership is personal to a Member. No Member shall, or purport to, assign the rights comprising or associated with membership to any other person and any attempt to do so shall be void.
- (d) A Member must treat all staff, contractors and representatives of the Company with respect and courtesy at all times.
- (e) A Member must not act in a manner unbecoming of a Member as defined in Policy or prejudicial to the Objects and interests of the Company.

## 6. CESSATION OF MEMBERSHIP

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### 6.1 Cessation

A person ceases to be a Member on:

- (a) resignation;
- (b) death;
- (c) failure to pay Membership Fees required by **clause 8**;

- (d) the termination of their membership under the Policy or Policies referred to in **clause 7**; or
- (e) without limiting the foregoing, that Member no longer meets the requirements for admission as a Member according to **clause 5**.

## **6.2 Resignation**

For the purposes of **clause 6.1(a)**, a Member may resign as a member of the Company by giving 14 days written notice to the Directors.

## **6.3 Removal of Privileges**

A person who ceases to be a Member has the privileges afforded to them under **clause 5.7** revoked.

## **6.4 Forfeiture of Rights**

A Member who or which ceases to be a Member shall forfeit all right in and claim upon the Company or the Directors for damages or otherwise, or claim upon its property including the Intellectual Property.

# **7. GRIEVANCES AND DISCIPLINE OF MEMBERS**

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## **7.1 Jurisdiction**

All Members will be subject to, and submit unreservedly to, the jurisdiction, procedures, penalties and appeal mechanisms of the Company whether under the Policies or under this Constitution.

## **7.2 Grievances and Discipline Policies**

- (a) The Directors may make a Policy or Policies:
  - i. for the hearing and determination of grievances by any Member or Affiliated Entity who feels aggrieved by a decision or action of the Company (or a Member or Affiliated Entity);
  - ii. for the hearing and determination of disputes between Members relating to the conduct or administration of the Sport;
  - iii. for the discipline of Members;
  - iv. for the formation and administration of an appeals tribunal which must be independent of any party before it on the matter which is the subject of the appeal in question; and
  - v. for the termination of Members.

- (b) The Directors in their sole discretion may refer an allegation (which in the opinion of the Directors is not vexatious, trifling or frivolous) by a complainant (including a Director or a Member or an Affiliated Entity) that a Member has:
- i. breached, failed, refused or neglected to comply with a provision of this Constitution, the Policies or any other resolution or determination of the Directors or any duly authorised Committee; or
  - ii. acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of the Company or Sport, or both; or
  - iii. prejudiced the Company or Sport or brought the Company or Sport or themselves into disrepute,
- for investigation or determination either under the procedures set down in the Policies or by such other procedure and/or persons as the Directors consider appropriate.
- (c) During investigatory or disciplinary proceedings under this **clause 7** a respondents Qualifications may be suspended by the COO, pending the determination of such proceedings (including any available appeal), if the Directors are of the opinion that:
- i. continued participation is not appropriate having regard to the matter at hand,
  - ii. the Member has acted in a manner dangerous to themselves, other Members or members of the public,
  - iii. acted in a manner dangerous to public property, in the course of any aviation activity; or
  - iv. acted in a manner prejudicial to the interests of the Company.
- (d) The Directors may include in any Policy or Policies a final right of appeal to an independent body.

## **8. FEES AND SUBSCRIPTIONS**

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### **8.1 Membership Fee**

- (a) The Directors must determine from time to time:
- i. the amount (if any) payable by an applicant for membership;
  - ii. the amount of the subscription fee payable by each Member, or any category of Members;
  - iii. any other amount to be paid by each Member, or any category of Members, whether of a recurrent or any other nature; and

- iv. the payment method and the due date for payment.
- (b) Each Member must pay to the Company the amounts determined under this **clause 8** in accordance with **clause 8.1(a)(iv)**.

## **8.2 Deferral or reduction of subscriptions**

- (a) The Directors may defer the obligations of a Member to pay a subscription or other amount, or reduce (including to zero) the subscription or other amount payable by a Member, if the Directors are satisfied that:
  - i. there are reasonable grounds for doing so;
  - ii. the Company will not be materially disadvantaged as a result; and
  - iii. the Member agrees to pay the deferred or (if greater than zero) the reduced subscription or other amount within a time fixed by the Directors.
- (b) If the Directors defer or reduce a subscription or other amount payable by a Member under this **clause 8**, that Member will retain their voting rights, and other advantages of membership unless otherwise specified by the Directors.

## **8.3 Non-Payment of Fees**

The privileges of a Member afforded to them under **clause 5.7** are suspended while the payment of any subscription or other amount determined under **clause 8.1 and 8.2** is in arrears.

## **9. GENERAL MEETINGS**

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### **9.1 Annual General Meeting**

AGMs of the Company are to be held:

- (a) according to the Corporations Act; and
- (b) at a date and venue determined by the Directors.

### **9.2 Power to convene General Meeting**

- (a) The Directors may convene a General Meeting when they think fit and must do so if required by the Corporations Act.
- (b) The Voting Members may convene a General Meeting in accordance with the Corporations Act.

### **9.3 Notice of a General Meeting**

- (a) Notice of a General Meeting of Members must be given:

- i. to all Members entitled to attend the General Meeting, the Directors, and the auditor of the Company; and
  - ii. in accordance with **clause 19** and the Corporations Act.
- (b) At least 45 days prior to the proposed date of the AGM, the COO will request from Voting Members notices of motions, which must be received no less than 28 days prior to the AGM.
- (c) At least 21 days notice of the time and place of a General Meeting must be given, together with:
  - i. all information required to be included in accordance with the Corporations Act;
  - ii. in the case of a proposed Special Resolution, the intention to propose the Special Resolution and the terms of the proposed Special Resolution.
  - iii. where applicable, any notice of motion received from any Voting Member or Director in accordance with the Corporations Act.

#### **9.4 No other business**

No business other than that stated in the notice of meeting may be transacted at a General Meeting.

#### **9.5 Cancellation or postponement of General Meeting**

- (a) Where a General Meeting (including an AGM) is convened by the Directors they may, if they think fit, cancel the meeting or postpone the meeting to a date and time they determine.
- (b) **Clause 9.5 (a)** does not apply to a General Meeting convened by:
  - i. Members according to the Corporations Act;
  - ii. the Directors at the request of Members; or
  - iii. a court.

#### **9.6 Written notice of cancellation or postponement of General Meeting**

Notice of the cancellation or postponement of a General Meeting must state the reasons for doing so and be given to:

- (a) each Member entitled to attend the General Meeting; and
- (b) each other person entitled to notice of a General Meeting under the Corporations Act.



### **9.7 Contents of notice postponing General Meeting**

A notice postponing a General Meeting must specify:

- (a) the new date and time for the meeting;
- (b) the place where the meeting is to be held, which may be either the same as or different to the place specified in the notice originally convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to hold the meeting in that manner.

### **9.8 Number of clear days for postponement of General Meeting**

The number of clear days from the giving of a notice postponing a General Meeting to the date specified in that notice for the postponed meeting must not be less than the number of clear days' notice of that General Meeting required to be given by **clause 9.3** or the Corporations Act.

### **9.9 Business at postponed General Meeting**

The only business that may be transacted at a postponed General Meeting is the business specified in the notice originally convening the meeting.

### **9.10 Non-receipt of notice**

The non-receipt of a notice convening, canceling or postponing a General Meeting by, or the accidental omission to give a notice of that kind to, a person entitled to receive it, does not invalidate any resolution passed at the General Meeting or at a postponed meeting or the cancellation or postponement of the meeting.

### **9.11 Right to appoint proxy**

- (a) A Voting Member entitled to attend a General Meeting of the Company is entitled to appoint a person as their proxy to attend the meeting in their place in accordance with the Corporations Act.
- (b) A proxy may be revoked by the appointing Member at any time by notice in writing to the Company.

### **9.12 Form of proxy**

The instrument appointing a proxy may be in form determined by the Directors from time to time provided it complies with the requirements under the Corporations Act.

### **9.13 Lodgement of proxy**

- (a) A proxy may vote at a General Meeting or an adjourned or postponed meeting (as the case may be) only if the instrument appointing the proxy is received by the Company:

- i. at the office, electronic address or at such other place, specified for that purpose in the notice of meeting; and
  - ii. at least 48 hours before the scheduled commencement time for the meeting or adjourned or postponed meeting (as the case may be) at which the person named in the instrument proposes to vote. The scheduled commencement time is as specified in the notice of meeting.
- (b) An undated proxy is taken to be dated on the day that it is received by the Company.

#### **9.14 Authority given by appointment**

- (a) Unless the terms of the appointment specify to the contrary, an appointment by a Voting Member confers authority on a proxy:
  - i. to agree to a General Meeting being convened by shorter notice than is required by the Corporations Act or by this Constitution;
  - ii. to speak to any proposed resolution; and
  - iii. to demand or join in demanding a poll on any resolution.
- (b) Unless the terms of the appointment specify to the contrary, even if the instrument of appointment refers to specific resolutions and directs the proxy on how to vote on those resolutions, the appointment is taken to confer authority:
  - i. to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
  - ii. to vote on any procedural motion; and
  - iii. to act generally at the meeting.
- (c) Unless the terms of the appointment specify to the contrary, if the instrument of appointment refers to a specific meeting to be held at a specified time or venue and the meeting is postponed or adjourned or changed to another venue, then the appointment confers authority to attend and vote:
  - i. at the postponed or adjourned meeting; or
  - ii. at the new venue.
- (d) An appointment of a proxy may be a standing proxy — that is, the appointment under the proxy remains valid until it is revoked by the Voting Member that made the appointment.
- (e) The instrument appointing a proxy may provide for the President to act as proxy in the absence of any other appointment or if the person or persons nominated fails or fail to attend the meeting.

- (f) The instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution.
- (g) If a proxy is appointed to vote on a particular resolution by more than one Voting Member and the instruments appointing the proxy direct the proxy to vote on the resolution in different ways, then the proxy must not vote on a show of hands taken on the resolution.

## **10. PROCEEDINGS AT GENERAL MEETINGS**

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### **10.1 Number for a quorum**

A quorum will consist of at least five members.

### **10.2 Requirement for a quorum**

An item of business may not be transacted at a General Meeting unless a quorum is present at the commencement of, and remains throughout, the General Meeting.

### **10.3 Quorum and time**

If, within 30 minutes after the time appointed for a General Meeting, a quorum is not present, the meeting:

- (a) if convened by, or on requisition of, Members, is dissolved; and
- (b) in any other case stands adjourned to such other day, time and place as the Chair determines.

### **10.4 Adjourned meeting**

If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, those members then present shall constitute a quorum.

### **10.5 President to preside over General Meetings**

- (a) The President is entitled to preside as Chair at General Meetings.
- (b) If a General Meeting is convened and there is no President, or the President is not present within 15 minutes after the time appointed for the meeting, or is unable or unwilling to act, the following may preside as Chair (in order of entitlement):
  - i. a Director (or other person) chosen by a majority of the Directors present;
  - ii. the only Director present; or
  - iii. a Representative of a Voting Member who is entitled to vote and is chosen by a majority of the Voting Members present.

## **10.6 Conduct of General Meetings**

- (a) The Chair:
  - i. has charge of the general conduct of the meeting and of the procedures to be adopted;
  - ii. may require the adoption of any procedure which in his or her opinion is necessary or desirable for proper and orderly debate or discussion or the proper and orderly casting or recording of votes; and
  - iii. may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever he or she considers it necessary or desirable for the proper conduct of the meeting.
- (b) A decision by the Chair under this **clause 10.6** is final.

## **10.7 Adjournment of General Meeting**

- (a) The Chair may, with the consent of any General Meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting.
- (b) The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and place agreed by vote of the members present.
- (c) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

## **10.8 Notice of adjourned meeting**

- (a) It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for 30 days or more.
- (b) In that case, at least the same period of notice as was originally required for the meeting must be given for the adjourned meeting.

## **10.9 Questions decided by majority**

Subject to the requirements of the Corporations Act and except in the case of a Special Resolution, a resolution is carried if a simple majority of the votes cast on the resolution are in favour of it.

## **10.10 Equality of votes**

Where an equal number of votes are cast in favour of and against the resolution, the resolution is not carried.

### **10.11 Declaration of results**

- (a) The Chair may conduct a vote on a resolution by any mechanism whereby the intention of Voting Members, including those present at the meeting or represented by proxy, can be reasonably determined.
- (b) Neither the Chair nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded for or against the resolution.

### **10.12 Poll**

- (a) If a poll is properly demanded in accordance with the Corporations Act or by the Chair of the meeting, it must be taken in the manner and at the date and time directed by the Chair, and the result of the poll is the resolution of the meeting at which the poll was demanded.
- (b) A poll demanded on a question of adjournment must be taken immediately.
- (c) A demand for a poll may be withdrawn.
- (d) A demand for a poll does not prevent the General Meeting continuing for the transaction of any business other than the question on which the poll was demanded.

### **10.13 Objection to voting qualification**

- (a) An objection to the right of a person to attend or vote at a General Meeting (including an adjourned meeting):
  - i. may not be raised except at that meeting; and
  - ii. must be referred to the Chair, whose decision is final.
- (b) A vote not disallowed under the objection is valid for all purposes.

### **10.14 Chair to determine any voting dispute**

If there is a dispute about the admission or rejection of a vote, the Chair must decide it and the Chair's decision made is final.

### **10.15 Electronic voting**

Voting by electronic communication at General Meetings may be permitted from time to time in such instances as the Directors may determine and shall be held in accordance with procedures prescribed by the Directors.

### **10.16 Direct voting**

- (a) The board may determine that at any General Meeting of the Company, a member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution.

- (b) If the board determines that votes may be cast by direct vote, the board may specify the form, method and manner of casting a direct vote and the time by which a direct vote must be received by the Company in order for the vote to be valid.

## 11. DIRECTORS

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### 11.1 Categories of Directors

- (a) The Board of the Company consists of the following categories of Directors:
  - i. **Elected Directors.** Four Directors are elected by the Voting Members.
  - ii. **Affiliate Directors.** The Members in each Region are represented by one Affiliate Director.
  - iii. **Appointed Directors.** The Directors may appoint up to two external Appointed Directors.
- (b) All directors will exercise the same authority, regardless of category.
- (c) A person shall only be appointed in a single category of director at a particular time.

### 11.2 Eligibility

- (a) No person may be a Director of the company, who:
  - i. is an employee of the Company, or
  - ii. is disqualified by ASIC or the courts from serving as a company director.
- (b) A Director who accepts a disqualifying position must notify the other Directors of that fact immediately and is deemed to have vacated office as a Director.
- (c) A person elected or appointed as a Director at the time of holding a disqualifying position must resign from that disqualifying position within 30 days.
- (d) Each Director shall agree to be bound by the Policy on Director Conduct and Performance and shall actively engage in attending meetings and advancing the activities of the board.
- (e) Each Elected Director, shall, at the time of their nomination for election and appointment as a Director, be a Voting Member of the Company and be resident in Australia.
- (f) Each Affiliate Director, shall, at the time of their nomination for election and appointment as a Director, be a Voting Member of the Company and be resident in the Region of the affiliated Regional Association.

### 11.3 General Election

- (a) The Company shall hold a scheduled general election to elect Directors not less than once each two year period.
- (b) A resolution may be passed at any General Meeting that requires a general election to be held.
- (c) The terms of all Elected Directors and Affiliate Directors expires when a general election is held.
- (d) Once the dates of a general election have been set, the Company Secretary shall notify Voting Members and Regional Associations as soon as possible of the date of closing of nominations, the dates of the ballot, and the date the general election will be concluded.
- (e) Nominations for Elected Directors and Affiliate Directors are to be made to the Company Secretary not less than 30 days prior to a general election ballot commencing.
- (f) Nominations for an Elected Director position are to be supported by not less than five Voting Members of the Company.
- (g) Nominations for an Affiliate Director position are to be supported by:
  - i. not less than five Voting Members of the Company in the Region for which the Affiliate Director position is sought, or
  - ii. a different method a Regional Association has established for that Region under **clause 11.3 (h)**.
- (h) A Regional Association may propose any method to control nominations for an Affiliate Director for their Region provided:
  - i. the proposal is made prior to the closing date for nominations, and
  - ii. the Directors are satisfied that the proposed method has been supported by a special resolution considered under that Regional Association rules, whereby not less than 75 percent of Voting Members of the Company in that Region who voted in the Regional Association special resolution were in favour of the proposed method.
- (i) A general election may be decided using postal or electronic ballot.
- (j) The result of any ballot held at a general election are to be determined using a preferential voting system.
- (k) A general election is taken to have concluded 7 days after the scheduled date for closing of the ballot.
- (l) The general election shall be concluded:

- i. in the case of a general election conducted under **clause 11.3 (a)**, within two months following the AGM conducted in that calendar year, or
- ii. in the case of a general election conducted under **clause 11.3 (b)**, within three months following the General Meeting.

#### **11.4 Election of Elected Directors**

- (a) All Voting Members are eligible to vote in a ballot for Elected Directors.
- (b) If the number of nominations for Elected Directors is:
  - i. greater than four, then a ballot for Elected Directors shall be held;
  - ii. equal to four, then those persons nominated will be deemed to have been elected on the date the general election would have been concluded if the number of nominations was greater than four; or
  - iii. less than four, then those persons nominated will be deemed to have been elected on the date the general election would have been concluded if the number of nominations was greater than four, and the remaining Elected Director positions are to be filled in accordance with **clause 11.6(c)**.

#### **11.5 Election of Affiliate Directors**

- (a) The Voting Members resident in a Region are eligible to vote in a ballot for an Affiliate Director to represent that Region.
- (b) If the number of nominations for the Affiliate Director representing a Region is:
  - i. greater than one, then a ballot for that Region shall be held at the general election;
  - ii. equal to one, then the person nominated will be deemed to have been elected on the date the general election would have been concluded if the number of nominations was greater than one; or
  - iii. zero, then the Affiliate Director position for that region is to be filled in accordance with **clause 11.7(b)**.

#### **11.6 Appointed Directors**

- (a) In addition to the Elected Directors and Affiliate Directors, the Directors may themselves appoint up to two persons to be Appointed Directors because of their special business acumen or technical skills.
- (b) An Appointed Director holds office for a term determined by the Directors not to exceed two years and the appointment will be on such other terms as the Directors determine.



- (c) A person may only serve four consecutive years as an Appointed Director but, subject to the other requirements of this Constitution, are otherwise eligible to be elected to an Elected Director or Affiliate Director position.
- (d) Subject to this Constitution, the Directors may at any time appoint a person to fill a vacancy (as defined in **clause 11.7**) in the rank of the Appointed Directors on whatever terms the Directors decide.

### **11.7 Vacancies**

- (a) A directorial position will be declared vacant upon the death of a Director, the resignation of a Director, the permanent incapacitation of a Director, a person becoming a disqualified person under **clause 11.2**, or if the position was not filled at the conclusion of a general election.
- (b) If the vacant position is for an Affiliate Director the affiliated Regional Association shall appoint a Member of the Company who is eligible under **clause 11.2(f)** to fill the vacant Affiliate Director position.
- (c) If the vacant position is for an Elected Director:
  - i. the Directors shall vote on admitting the candidate with the next most votes in the preceding general election to fill the vacant Elected Director position,
  - ii. if Directors do not admit the candidate considered under **clause 11.7 (c)(i)**, then they shall vote on admitting the candidate with the next most votes in the preceding general election ballot, or
  - iii. if there are no further candidates who received votes in the preceding general election, the Directors shall appoint a Member of the Company who is eligible under **clause 11.2(e)** to fill the vacant Elected Director position.
- (d) Any Director who anticipates an extended, but non-permanent absence, may request a leave of absence. The remaining Directors will make arrangements for the smooth functioning of the Company in their absence.

### **11.8 Remuneration of Directors**

A Director must not be paid for services as a Director but, with the approval of the Directors and subject to the Corporations Act, may be:

- (a) paid by the Company for services rendered to it other than as a Director; and
- (b) reimbursed by the Company for their reasonable travelling, accommodation and other expenses when:
  - i. travelling to or from meetings of the Directors, a Committee or the Company; or

- ii. otherwise engaged in the affairs of the Company.

### **11.9 Removal of Director**

A Director may be removed in accordance with the Corporations Act.

### **11.10 Alternate Director**

- (a) A Director cannot appoint an alternate.
- (b) This provision shall not be construed as prohibiting a Director from appointing another Director to act as a proxy for a particular Board Meeting.

### **11.11 Establishment of the Board**

- (a) Following the conclusion of a general election, the date of transition of powers and duties of Directors to newly elected Directors is 23 days after the conclusion of the election.
- (b) The Company Secretary is to schedule a meeting of the Directors no more than 45 days following the conclusion of the election.
- (c) The Company Secretary, who is also a Director of the Company, retains the responsibilities of a Company Secretary required by the Corporations Act, until a new Company Secretary has been elected by the Directors under **clause 13.7(b)**.

## **12. POWERS AND DUTIES OF DIRECTORS**

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### **12.1 Directors to manage the Company**

The Directors are to manage the Company's business and may exercise those of the Company's powers that are not required, by the Corporations Act or by this Constitution, to be exercised by the Company in General Meeting.

### **12.2 Specific powers of Directors**

Without limiting **clause 12.1**, the Directors may exercise all the Company's powers to borrow or raise money, to charge any property or business or give any other security for a debt, liability or obligation of the Company or of any other person.

### **12.3 Time, etc**

Subject to the Corporations Act, where this Constitution requires that something be done by a particular time, or within a particular period, or that an event is to occur or a circumstance is to change on or by a particular date, the Directors may at their absolute discretion extend that time, period or date as they think fit.

#### **12.4 Appointment of attorney**

The Directors may appoint any person to be the Company's attorney for the purposes, with the powers, authorities and discretions, for the period and subject to the conditions they think fit.

#### **12.5 Provisions in power of attorney**

A power of attorney granted under **clause 12.4** may contain any provisions for the protection and convenience of persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

#### **12.6 Delegation of powers**

- (a) Without limiting **clause 14.4** the Directors may, by resolution or by power of attorney or writing under seal, delegate any of their powers to the COO or any employee of the Company or any other person as they think fit.
- (b) Any delegation by the Directors of their powers:
  - i. must specify the powers delegated, any restrictions on, and conditions attaching to, the exercise of those powers and the period during which that delegation is to be in force;
  - ii. may be either general or limited in any way provided in the terms of the delegation;
  - iii. need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position; and
  - iv. may include the power to delegate.
- (c) If exercising a power depends on a person's opinion, belief or state of mind, then that power may be exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.
- (d) Any power exercised by a delegate is as effective as if it had been exercised by the Directors.

### **13. PROCEEDINGS OF BOARD**

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#### **13.1 Board meetings**

- (a) The Directors will develop and make available a schedule of frequent Board meetings throughout the year. Meeting duration and frequency will be determined by the amount of business before the Directors.
- (b) The Directors may choose to conduct meetings in person or via appropriate telecommunications.

### **13.2 Questions normally decided by majority**

- (a) Unless otherwise described in this constitution, a question arising at a Board meeting or by a circular resolution is to be decided by a majority of votes of the Directors who are entitled to vote.
- (b) Each Director has one vote on a matter arising for decision by Directors.

### **13.3 Chair's casting vote**

The Chair of the meeting will not have a casting vote.

### **13.4 Quorum**

A quorum shall consist of five Directors who are entitled to vote.

### **13.5 Effect of vacancy**

- (a) The continuing Directors may act despite a vacancy in their number.
- (b) However, if the number of Directors is reduced below the number required for a quorum, the remaining Directors may act only for the purpose of filling the vacancies to the extent necessary to bring their number up to that required for a quorum or to convene a General Meeting.

### **13.6 Convening Board meetings**

- (a) The President will call Board meetings in accordance with the agreed schedule.
- (b) Any Director may request an additional Board meeting, the cancellation of a Board meeting or the rescheduling of a Board meeting. The decision of the President on such requests will be final and must be communicated to all Directors.

### **13.7 Official Board Positions**

- (a) The Directors must, at the first Board meeting after the general election, elect one of their number to be the President.
- (b) The Directors must, at the first Board meeting after the general election, elect one of their number to be the Company Secretary.
- (c) The Directors must, at the first Board meeting after the general election, elect one of their number to be the Treasurer.
- (d) The Directors may establish and fill other official positions, such as a Deputy President, as they see fit for the efficient operation of the board.
- (e) Any Director elected to an official position must meet all requirements to remain a Director for the duration of their term.

- (f) If a Director in an official positions ceases to be a director, the Directors will elect a replacement at the next Board meeting.
- (g) Should an Official whose presence is needed to properly conduct a meeting be unable to attend or be unwilling to officiate or not arrive within 15 minutes of the scheduled start of the meeting, the Directors may choose any Director present to serve in the role for the duration of the meeting.
- (h) The rights and responsibilities of official positions will be governed by the policy on official positions

### **13.8 Circulating resolutions**

- (a) The Directors may pass a circulating resolution without a Board meeting being held.
- (b) Any Director may propose a resolution by circulating the resolution to all Directors using a means described in the Policy.
- (c) Directors will indicate their agreement or disagreement using a means described in the Policy.
- (d) The circular resolution is passed when the requirements of **clause 13.2** are met.
- (e) If a circular resolution has been distributed but has not passed prior to the next scheduled Board meeting, the resolution will be considered by those present.
- (f) The decisions made in circular resolutions will be recorded in the minutes of the next scheduled Board meeting.

### **13.9 Validity of acts of Directors**

Everything done at a Board meeting by a person acting as a Director, is valid even if it is discovered later that there was some defect in the appointment, election or qualification of any of them or that any of them was disqualified or had vacated office.

### **13.10 Directors' Interests**

- (a) Should a Director become aware of a matter coming before the Board in which the Director may have a material personal interest or related party transaction, as defined by the Corporations Act, or in which the Director might appear to have a material interest, the Director will declare that matter to the other Directors as soon as practicable after that Director becomes aware of their interest in the matter.
- (b) The Director will offer to recuse themselves from voting on any such matter.

### **13.11 Minutes**

- (a) The Directors must cause minutes of meetings to be made and kept according to the Corporations Act.

- (b) Once approved as accurate at the next meeting, such minutes will be made available to all Voting Members.

## **14. CHIEF OPERATING OFFICER**

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### **14.1 Appointment of COO**

The Directors shall appoint a COO to be an employee of the Company.

### **14.2 Powers, duties and authorities of COO**

- (a) The COO holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated to them by the Directors.
- (b) The exercise of those powers and authorities, and the performance of those duties, by the COO are subject at all times to the control of the Directors.

### **14.3 Suspension and removal of COO**

Subject to the terms and conditions of the appointment, the Directors may suspend or remove the COO from that office.

### **14.4 Delegation by the Board to the COO**

- (a) The board will delegate powers to the COO via the Policy on COO Delegations and Responsibilities.
- (b) The COO will be bound by all Policies of the Company.
- (c) Subject to the establishment of positions by the board, the COO may hire and supervise employees of the Company.
- (d) The COO may delegate authorities to employees and Members of the Company but will remain responsible for oversight to assure duties are properly carried out.

### **14.5 COO attendance at Board meetings**

- (a) The COO should attend Board meetings when invited to do so by the Board.
- (b) The COO will provide the Board with written reports as required.
- (c) The COO may invite other employees of the Company to Board meetings when the COO is invited to attend.
- (d) When attending Board meetings the COO, or other employees invited by the COO, may speak on any matter but neither are entitled to vote on resolutions.

## 15. COMMITTEES

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### 15.1 Committees

- (a) The Board may establish Committees to advance the Objects of the Company.
- (b) Committees shall include at least one Director and may include employees and Members of the Company.
- (c) Ad hoc committees may be established for a specific purpose and a duration of less than six months.
- (d) Standing committees may be established on an ongoing basis with a specific charter.
- (e) No authorities of the Directors are delegated to committees unless the Board specifically delegates them.
- (f) The conduct of Committees will be governed by the Policy on Committees.
- (g) Not less than once per year, the Board will review the performance of each standing Committee. The results of such review will be made available to members at the next AGM.

## 16. POLICIES

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### 16.1 Making and amending Policies

- (a) The Directors may from time to time make Policies:
  - i. that are required to be made under this Constitution; and
  - ii. which the Directors deem necessary or desirable for the control, administration and management of the Company.
- (b) Policies may be amended, repealed and replaced by the Directors from time to time.
- (c) Policies agreed by Directors take effect 7 days after the service of the Policy on the Members and shall be of force and effect on that date.
- (d) In circumstances when Policies are inconsistent in relation to a particular matter:
  - i. the Operations Manual is taken to be the Policy with the highest precedent, and
  - ii. the Directors should determine among other inconsistencies which Policy takes precedent.

## **16.2 Effect of Policies**

A Policy:

- (a) is subject to this Constitution;
- (b) must be consistent with this Constitution;
- (c) when in force, is binding on all Members and has the same effect as a provision in this Constitution; and
- (d) may be overruled if a resolution to that effect is passed by the Members at a General Meeting.

## **17. INSPECTION OF RECORDS**

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A Member does not have the right to inspect any document of the Company (including registers kept by the Company) except as required by law.

## **18. ACCOUNTS**

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### **18.1 Accounting Records**

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

### **18.2 Auditor**

A properly qualified auditor or auditors shall be appointed by the Directors and the remuneration of such auditor or auditors fixed and duties regulated in accordance with the Corporations Act.

## **19. SERVICE OF DOCUMENTS**

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### **19.1 Document includes notice**

In this **clause 19**, document includes a notice.

### **19.2 Methods of service on a Member**

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member;
- (c) by sending it to an electronic address nominated by the Member; or



- (d) in the case of a Policy agreed by the Directors, by publishing the Policy in an electronic depository accessible to Members.

### **19.3 Methods of service on the Company**

A Member may give a document to the Company:

- (a) by delivering it to the Registered Office;
- (b) by sending it by post to the Registered Office; or
- (c) by sending it to an electronic address nominated by the Company.

### **19.4 Post**

A document sent by post if sent to an address:

- (a) in Australia, may be sent by ordinary post; and
- (b) outside Australia, or sent from an address outside Australia, must be sent by airmail,
- (c) and in either case is taken to have been received on the fourth business day after the date of its posting.

### **19.5 Electronic transmission**

If a document is sent by electronic transmission, delivery of the document is taken to:

- (a) be effected by properly addressing and transmitting the electronic transmission; and
- (b) have been delivered on the business day following its transmission.

## **20. INDEMNITY**

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### **20.1 Indemnity of officers**

- (a) This **clause 20** applies to every person who is or has been:
  - i. a Director or COO of the Company; and
  - ii. to any other officers, employees, former officers or former employees of the Company or of its Affiliated Entities as the Directors in each case determine.

Each person referred to in this paragraph (a) is referred to as an "Indemnified Officer" for the purposes of the rest of **clause 20**.

- (b) The Company will indemnify each Indemnified Officer out of the property of the Company against:
- i. every liability that the Indemnified Officer incurs as an Officer of the Company or of an Affiliated Entity of the Company; and
  - ii. all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the Indemnified Officer becomes involved as an officer of the Company or of an Affiliated Entity of the Company,
- unless:
- iii. the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
  - iv. an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute; or
  - v. the Indemnified Officer is found to have been knowingly negligent or has acted in a manner that contravenes the objects of the Company.

## **20.2 Insurance**

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring an Indemnified Officer against liability that the Indemnified Officer incurs as an officer of the Company or of an Affiliated Entity of the Company including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

## **20.3 Deed**

The Company may enter into a deed with any Indemnified Officer or a deed poll to give effect to the rights conferred by **clause 20.1** on the terms the Directors think fit (as long as they are consistent with **clause 20**).

## **21. WINDING UP**

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### **21.1 Contributions of Members on winding up**

- (a) Each Voting Member must contribute to the Company's property if the Company is wound up while they are a Member or within one year after their membership ceases.
- (b) The contribution is for:

- i. payment of the Company's debts and liabilities contracted before their membership ceased;
- ii. the costs of winding up; and
- iii. adjustment of the rights of the contributories among themselves,

and the amount is not to exceed \$1.00.

- (c) No other Member must contribute to the Company's property if the Company is wound up.

## **21.2 Excess property on winding up**

- (a) If on the winding up or dissolution of the Company, and after satisfaction of all its debts and liabilities, any property remains, that property must be given or transferred to another body or bodies:
  - i. having objects similar to those of the Company; and
  - ii. whose constitution prohibits (or each of whose constitutions prohibit) the distribution of its or their income and property among its or their members to an extent at least as great as is imposed under this Constitution.
- (b) That body is, or those bodies are, to be determined by the Voting Members at or before the time of dissolution or, failing that determination, by a judge who has or acquires jurisdiction in the matter.
- (c)