

A COMPANY LIMITED BY GUARANTEE

CONSTITUTION

of

**SUPER YACHT BASE AUSTRALIA LIMITED**

History valid from: 09/01/2003  
Amended: 18/05/2005  
Amended: / /

# TABLE OF CONTENTS

---

- 1. GENERAL ..... 1
  - 1.1 Name of Company ..... 1
  - 1.2 Replaceable Rules ..... 1
- 2. DEFINITIONS AND INTERPRETATION..... 1
  - 2.1 Definitions ..... 1
  - 2.2 Interpretation ..... 2
- 3. OBJECTS AND POWERS ..... 2
  - 3.1 Objects of Company ..... 2
  - 3.2 Separate objects ..... 3
  - 3.3 Powers of the Company ..... 3
  - 3.4 No power to issue shares ..... 5
- 4. NON-PROFIT NATURE OF THE COMPANY..... 5
  - 4.1 Non-profit ..... 5
  - 4.2 No distribution of profits to Members on winding up ..... 5
  - 4.3 Limited liability on winding up ..... 6
- 5. MEMBERSHIP ..... 6
  - 5.1 Types of Membership ..... 6
  - 5.2 Regional Cluster Member ..... 6
  - 5.3 Corporate Member ..... 6
  - 5.4 Business Member ..... 7
  - 5.5 Honorary Members ..... 8
  - 5.6 Life Members ..... 8
  - 5.7 Patron ..... 8
- 6. OTHER FEATURES OF MEMBERSHIP ..... 8
  - 6.1 Certificate..... 8
  - 6.2 Membership not transferable ..... 8
  - 6.3 Member’s Registered Address ..... 9
  - 6.4 Period of membership ..... 9
  - 6.5 Renewal of membership ..... 9
- 7. LEVIES & MEMBERSHIP FEES ..... 9
  - 7.1 Annual Membership Fee..... 9
  - 7.2 Levies..... 9
  - 7.3 Different fees and levies ..... 9
- 8. CESSATION OF MEMBERSHIP ..... 9
  - 8.1 Suspension of rights ..... 9

8.2	Reinstatement of rights .....	9
8.3	Board may censure, suspend or expel .....	10
8.4	Expulsion for failure to pay .....	10
8.5	Notice to member .....	10
8.6	Cessation of membership .....	10
8.7	Continuing rights and liability .....	10
9.	FINANCIAL RECORDS .....	10
9.1	Keeping of financial records .....	10
9.2	Banking of monies .....	11
9.3	Appointment of Auditor .....	11
9.4	Inspection of records of the Company .....	11
10.	GENERAL MEETINGS .....	11
10.1	General Meetings .....	11
10.2	Notice of General Meeting .....	11
11.	PROCEEDINGS OF MEETINGS .....	12
11.1	Business of General Meetings .....	12
11.2	Quorum .....	12
11.3	Adjournment in Absence of Quorum .....	12
11.4	Chairperson .....	12
11.5	General Conduct of Meeting .....	13
11.6	Adjournment .....	13
11.7	Voting .....	13
11.8	Declaration of Vote on a Show of Hands; When Poll Demanded .....	13
11.9	Taking a Poll .....	13
11.10	Continuation of Business .....	14
11.11	Special Meetings .....	14
12.	VOTING BY MEMBERS .....	14
12.1	Voting Rights .....	14
12.2	Appointment of Proxies .....	14
12.3	Voting by Corporation .....	14
12.4	Validity of Vote .....	15
12.5	Form and Execution of Instrument of Proxy .....	15
12.6	Board to Issue Forms of Proxy .....	15
12.7	Attorneys of Members .....	15
13.	THE BOARD .....	15
13.1	First Members of the Board .....	15
13.2	Composition of the Board .....	15
13.3	Manner of Appointment of Corporate Representatives .....	16
13.4	Representation of Geographical Regions .....	16
13.5	Maximum Number .....	16

13.6	Period of Office.....	16
13.7	Manner of Election .....	16
13.8	Casual Vacancies .....	17
14.	ELECTION OF CHAIRPERSON.....	17
14.1	Election .....	17
14.2	Manner of Election .....	17
14.3	Term of appointment.....	17
14.4	Removal.....	17
14.5	Resignation.....	18
15.	RESIGNATION AND REMOVAL .....	18
15.1	Resignation.....	18
15.2	Removal.....	18
15.3	Right to Present Case .....	18
16.	EXECUTIVE APPOINTMENTS.....	18
16.1	Appointment .....	18
16.2	Resignation.....	18
17.	EXERCISE OF VOTING POWER .....	19
18.	ALTERNATE BOARD MEMBERS .....	19
19.	PROCEEDINGS OF THE BOARD.....	19
19.1	Procedures Relating to Board Meetings .....	19
19.2	Meetings by Telephone or Other Means of Communication .....	20
19.3	Votes at Meetings .....	20
19.4	Convening of Meetings .....	20
19.5	Chairperson .....	20
19.6	Powers of Meetings.....	20
19.7	Delegation of Powers to Committees.....	20
19.8	Proceedings of Committees .....	20
19.9	Validity of Acts .....	21
19.10	Resolution in Writing .....	21
20.	POWERS OF THE BOARD .....	21
20.1	General Powers of the Board .....	21
20.2	Member of the Board contracting with the Company.....	22
21.	COMPANY SECRETARY .....	22
22.	OTHER SALARIED OFFICERS .....	22
23.	THE SEAL .....	22
23.1	Company Seal is optional .....	22
23.2	Affixing the Seal .....	23
23.3	Execution of documents without a Seal.....	23

23.4	Other ways of executing documents .....	23
24.	MINUTES .....	23
25.	NOTICES .....	23
25.1	Service of Notices .....	23
25.2	When Notice Deemed to be Served .....	23
25.3	Member Not Known at Registered Address .....	24
25.4	Signature to Notice.....	24
25.5	Reckoning of Period of Notice .....	24
25.6	Service on Deceased Members .....	24
25.7	Persons Entitled to Notice of General Meeting .....	24
26.	INDEMNITY.....	24
26.1	Indemnity for/in favour of members of the Board, Secretaries and Board Officers.....	24
26.2	Indemnity to Employees .....	24
26.3	Personal Liability of Officer.....	25
26.4	Insurance.....	25

# A COMPANY LIMITED BY GUARANTEE

## CONSTITUTION

of

**SUPER YACHT BASE AUSTRALIA LIMITED**

---

### 1. GENERAL

#### 1.1 Name of Company

The name of the Company is Super Yacht Base Australia Limited.

#### 1.2 Replaceable Rules

The Replaceable Rules do not apply to the Company.

### 2. DEFINITIONS AND INTERPRETATION

#### 2.1 Definitions

In these rules, unless it is inconsistent with the subject or context in which it is used:

‘**Alternate Board Member**’ means any person appointed as an alternate pursuant to **rule 18**;

‘**Annual Membership Fee**’ means the fee payable by a Member determined in accordance with **rule 7.1**;

‘**Board**’ means the members of the Board who are the directors of the Company for the time being;

‘**Business day**’ means a day on which banks (as that term is defined in the *Banking Act 1959*) are open for business in Brisbane;

‘**Chairperson**’ means the person elected as chairperson in accordance with **rule 14**;

‘**Committee**’ means a committee to which powers have been delegated pursuant to **rule 19.7**;

‘**Company**’ means Super Yacht Base Australia Limited;

‘**Constitution**’ means the constitution of the Company, as amended from time to time;

‘**Corporate Representative**’ means the persons appointed as corporate representatives pursuant to **rule 13.3**;

‘**Executive Director**’ means the person appointed as executive director pursuant to **rule 16**;

‘**Geographical Region**’ means such geographical region as determined by the Board from time to time;

‘**Law**’ means the *Corporations Act 2001* and the *Corporations Regulations 2001*;

‘**Levies**’ means the levies payable by Members determined in accordance with **rule 7.2**;

‘**Member**’ means any person who becomes a member in accordance with the Law and this Constitution and includes regional cluster members, corporate members, business members, associate members, honorary members, life members and patrons as those terms are used in this Constitution;

‘**Members present**’ means Members present at a general meeting of the Company in person or, if applicable, their duly appointed representative, proxy or attorney;

‘**Office**’ means the registered office, from time to time, of the Company;

**‘Person’** and words importing persons include partnerships, associations and corporations unincorporated and incorporated by Ordinance, Act of Parliament or registration as well as individuals;

**‘Register’** means the register of Members of the Company established pursuant to the Law;

**‘Registered Address’** means the address of a Member determined in accordance with **rule 6.3**;

**‘Replaceable Rules’** means all or any of the replaceable rules contained in the Law from time to time and includes any replaceable rule that was or may become, a provision of the Law;

**‘Rules’** means the rules of this Constitution as altered or added to from time to time;

**‘Seal’** means the common seal, if any, from time to time of the Company;

**‘Secretary’** means a person appointed as secretary of the Company and includes any person appointed to perform the duties of secretary;

**‘Super yacht’** means a cruising yacht with minimum dimensions of 24 metres (80ft) length all over;

**‘Writing’** and **‘written’** includes printing, typing, lithography and other modes of reproducing words in a visible form.

## **2.2 Interpretation**

- (a) An expression used in a particular Part, Division, Schedule or regulation of the Law that is given by that Part, Division, Schedule or regulation a special meaning for the purpose of that Part, Division Schedule or regulation has, in any of these rules that deals with a matter dealt with by that Part, Division, Schedule or regulation, unless the contrary intention appears, the same meaning as in that Part, Division, Schedule or regulation.
- (b) Words in the singular include the plural and vice versa.
- (c) Words importing a gender include each other gender.
- (d) A reference to the Law or any other statute or regulations is to be read as though the words ‘as modified or substituted from time to time’ were added to the reference.
- (e) The headings and sidenotes do not affect the construction of these rules.

## **3. OBJECTS AND POWERS**

### **3.1 Objects of Company**

The objects for which the Company is established are:

- (a) to represent the interests of Members in a manner consistent with other objects and powers as set forward in this Constitution;
- (b) to serve as the peak representative body for the Super Yacht Industry in Australia;
- (c) to promote the development of the Australian Super Yacht Industry generally including new builds, parts, ancillary items, maintenance, refit, repair, berthing and other relevant segments of the industry;
- (d) to cooperate and take an active role in the development of regional (industry) clusters in emerging regions;
- (e) to promote Australia as a destination for Super Yacht visitations and charter;
- (f) to adopt a role providing or promoting knowledge and administrative infrastructure of the Australian Super Yacht Industry including in the areas of training and accreditation;

- (g) to cooperate and play an active role in the securing of national legislation and the development of appropriate rules and regulations governing areas relevant to the Super Yacht Industry in Australia;
- (h) to cooperate and play an active role in securing greater harmony between individual state legislations in Australia in areas where they impinge on the interests and operations of the Australian Super Yacht Industry;
- (i) to cooperate and play an active role in the development, recognition and promotion of relevant and appropriate standards in the areas of quality, qualifications, compliance codes and the like, and being guided by principles of consistency and recognition of international trends;
- (j) to generate and promote recognition of the Super Yacht Industry and its contribution to national and regional economies in Australia;
- (k) to provide an information and resource service to owners and captains of Super Yachts visiting or considering visitation to Australian waters;
- (l) to encourage and promote functions and events for networking opportunities for Members, alliances and their associates;
- (m) to join, affiliate or associate with any organisations having objects similar or related to those of the Company;
- (n) to adopt such means of making known the objects of the Company as may to the Company seem expedient;
- (o) to do all such other lawful things incidental or conducive to the attainment of any of the above objects of the Company.

### 3.2 Separate objects

Each of the above objects constitutes a separate object of the Company, and no such object may be construed by reference to any other such object.

### 3.3 Powers of the Company

The Company has the power:

- (a) to deal with other bodies and as such to:
  - (i) subscribe to, become a member of and co-operate with or amalgamate with any other company, club, association or organisation, whether incorporated or not, whose objects are altogether or in part similar to those of the Company;
  - (ii) purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, clubs, associations or organisations with which the Company is authorised to amalgamate; and
  - (iii) transfer all or any part of the property, assets, liabilities and engagements of the Company to any one or more of the companies, clubs, associations or organisations with which the Company is authorised to amalgamate,

but the Company may only subscribe to and support with its funds or amalgamate with any company, club, association or organisation which prohibits the distribution of its income and property amongst its Members to an extent at least as great as that imposed on the Company under or by virtue of **rule 4.2** of this Constitution;
- (b) to enter into and carry out any arrangements with any government or authority that are incidental or conducive to the attainment of the objects and any rights, privileges and concessions which the Company may think it desirable to obtain;
- (c) to promote the objects and interests of the Company either alone or together with any other company, club, association or organisation by:
  - (i) holding meetings and displays; or
  - (ii) printing and publishing any articles, releases, newspapers, periodicals, books or leaflets; or
  - (iii) any other means the Company thinks fit;

- (d) in furtherance of the objects of the Company, to co-ordinate, initiate and undertake efforts for the raising of funds by way of donations, sponsorships, annual subscriptions, levies or otherwise;
- (e) to fairly impose and collect:
  - (i) membership fees and affiliation fees from Members; and
  - (ii) fees from Members and other persons for use of the Company's premises, property and assets and for entering or visiting the Company's premises;
- (f) to appoint such honorary staff, paid administrators and professional advisers as may be appropriate from time to time;
- (g) to appoint, employ, remove or suspend such managers, clerks, secretaries, servants, workmen and other person as may be necessary or convenient for the purposes of the Company;
- (h) to remunerate any person or body corporate for services rendered or to be rendered, and whether by way of brokerage or otherwise in placing or assisting to place or guaranteeing the placing of any unsecured notes, debentures or other securities of the Company or promotion of the Company or in furtherance of its objects;
- (i) to make regulations and by-laws for the better carrying out of its objects and to equitably enforce such regulations and by-laws;
- (j) to suspend, terminate, disqualify or otherwise cause to be dealt with any Member who has committed a breach of the Constitution of the Company, or of any of its rules and by-laws or for any action considered to be unfair, unbecoming or contrary to the interests, ideals or objects of the Company;
- (k) to form subcommittees or organisational sections or units to assist in the execution of its objects;
- (l) to purchase, take on lease, or in exchange, hire and otherwise acquire any land, buildings, easements or property, real and personal, and any rights or privileges which may be requisite for the purpose of, or capable of being conveniently used in connection with, any of the objects of the Company;
- (m) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Company in furtherance of the objects of the Company;
- (n) to take or hold mortgages, liens or charges, to secure payment of the purchase price, or any unpaid balance of the purchase price of any kind of the Company's property of whatever kind sold by the Company or any money due to the Company from purchasers and others;
- (o) to construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which seem calculated directly or indirectly to advance the Company's interests and to contribute to subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control of them;
- (p) where the Company takes or holds any property subject to a trust, to only deal with it in such manner as is allowed by law having regard to the trust;
- (q) to undertake and execute any trusts;
- (r) to invest and deal with the money of the Company not immediately required in such manner as the Company thinks fit, including the purchase of shares, debentures or other securities;
- (s) to lend and advance money or give credit to any person or body corporate, to guarantee and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or body corporate and otherwise to assist any person or body corporate in furtherance of the objects of the Company;
- (t) to borrow or raise money either alone or jointly with any other person or legal entity in such manner as the Company thinks fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred

or to be entered into by the Company in any way and in particular by the issue of debenture perpetual or otherwise charged upon all or any of the Company's property (both present and future), and to purchase, redeem and pay off such securities;

- (u) to make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (v) to insure against all risks, liabilities and eventualities as may seem advisable and to apply the proceeds of any claim under any insurance in such manner and for such purpose or purposes as the Company thinks fit;
- (w) in furtherance of the objects of the Company to buy, sell and deal in all kinds of commodities and provisions, both liquid and solid, for or to the Members or persons entering, visiting or using the Company's premises;
- (x) to take any gift of property, donation or legacy whether subject to any special trust or not, for any one or more of the objects of the Company;
- (y) to give or contribute towards the giving of gifts, prizes, medals, awards or trophies and make donations in furtherance of its objects and for patriotic, charitable or community purposes; and
- (z) to do all such things as are incidental and conducive to the attainment of the objects and the exercise of the powers of the Company.

### **3.4 No power to issue shares**

The Company has no power to issue or allot fully or partly paid shares to any person.

## **4. NON-PROFIT NATURE OF THE COMPANY**

### **4.1 Non-profit**

- (a) The income, property, profits and financial surplus of the Company, whenever derived must be applied solely towards the promotion of the objects of the Company as set out in this Constitution.
- (b) The Company is a non-profit organisation and shall not carry on business for the purpose of profit or gain to its individual Members and no portion of its income, property, profits and financial surplus may be paid, distributed to or transferred, directly, indirectly, by way of dividend, property, bonus or otherwise by way of profit, to the Members, or the Board, or their relatives, except as provided by this Constitution.
- (c) Nothing in this Constitution prevents the payment:
  - (i) in good faith, of reasonable and proper remuneration to any officer or servant of the Company, or to any Member of the Company or director, in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;
  - (ii) of interest at a rate not exceeding interest at the rate for the time being charged by the Company's bankers for overdrawn accounts on money borrowed from a Member; and
  - (iii) of reasonable and proper rent for premises demised or let by any Member to the Company.

### **4.2 No distribution of profits to Members on winding up**

Where property remains after the winding-up or dissolution of the Company and satisfaction of all its debts and liabilities, it may not be paid to nor distributed among the Members of the Company but must be given to or transferred to another fund, authority or institution having objects similar to the objects of the Company, and whose Constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of this Constitution, which fund, authority or institution is to be determined by the Members of the Company at or before the time of the dissolution.

### **4.3 Limited liability on winding up**

Each Member of the Company undertakes to contribute to the assets of the Company in the event of its being wound up while it is a Member or within one year after it ceases to be a Member for the payment of the debts and liabilities of the Company contracted before it ceases to be a Member and of the costs charges and expenses of winding up and for adjustment of the rights of the contributors among themselves such amount as may be required, not exceeding \$2.00.

## **5. MEMBERSHIP**

### **5.1 Types of Membership**

Until otherwise determined by the Company in general meeting, there shall be the following classes of Members:

- (a) Regional Cluster;
- (b) Corporate Member;
- (c) Business Member;
- (d) Associate Member;
- (e) Honorary Members;
- (f) Life Members; and
- (g) Patrons.

### **5.2 Regional Cluster Member**

- (a) The Board may, from time to time, in its absolute discretion, admit to Regional Cluster Membership of the Company any entity for such period as the Board deems appropriate.
- (b) The application must be in writing, be signed by the applicant and be in such form as the Board determines.
- (c) The Board may not deal with any application for Regional Cluster Membership unless the Annual Membership Fee payable in respect of the application has been received by the Company or paid as the Company directs.
- (d) The Board may, in its absolute discretion, admit or reject any applicant for Regional Cluster Membership without the necessity of assigning any reason therefore. If any application is rejected by the Board, all monies paid by the applicant to the Company must be refunded forthwith in full.
- (e) A Regional Cluster Member:
  - (i) is entitled to receive notice of a nominated representative who may attend general meetings of the Company;
  - (ii) is entitled to vote at a general meeting of the Company, with the right to 6 votes;
  - (iii) is entitled to appoint a representative as a director of the Company;
  - (iv) must represent a minimum of 5 entities, from the applicable region where the Regional Cluster Member is based, as determined by the Board, who are participants in or otherwise connected with the Australian Super Yacht Industry; and
  - (v) is entitled to such other rights and privileges which the Board may, from time to time, determine are applicable to Regional Cluster Members.

### **5.3 Corporate Member**

- (a) The Board may, from time to time, in its absolute discretion, admit to Corporate Membership of the Company any entity for such period as the Board deems appropriate.

- (b) The application must be in writing, be signed by the applicant and be in such form as the Board determines.
- (c) The Board may not deal with any application for Corporate Membership unless the Annual Membership Fee payable in respect of the application has been received by the Company or paid as the Company directs.
- (d) The Board may, in its absolute discretion, admit or reject any applicant for Corporate Membership without the necessity of assigning any reason therefore. If any application is rejected by the Board, all monies paid by the applicant to the Company must be refunded forthwith in full.
- (e) A Corporate Member:
  - (i) is entitled to vote at a general meeting of the Company, with the right to 3 votes;
  - (ii) is entitled to appoint a representative as a director of the Company.

#### **5.4 Business Member**

- (a) The Board may from time to time, in its absolute discretion, admit to Business Membership of the Company any entity or person who is more than 18 years of age, for such period as the Board deems appropriate.
- (b) The application must be in writing, be signed by the applicant and be in such form as the Board determines.
- (c) The Board may not deal with any application for Business Membership unless the Annual Membership Fee payable in respect of the application have been received by the Company or paid as the Company directs.
- (d) The Board may, in its absolute discretion, admit or reject any application for Business Membership without the necessity of assigning any reason therefore. If any application is rejected by the Board, all monies paid by the applicant to the Company must be refunded forthwith in full.
- (e) An Business Member is:
  - (i) entitled to receive notice of and attend general meetings of the Company;
  - (ii) entitled to vote at a general meeting of the Company, with the right to one vote;
  - (iii) entitled to such other rights and privileges, which the Board may, from time to time, determine, are applicable to associate members.

#### **5.5 Associate Member**

- (a) The Board may from time to time, in its absolute discretion, admit to Associate Membership of the Company any entity or person who is more than 18 years of age, for such period as the Board deems appropriate.
- (b) The application must be in writing, be signed by the applicant and be in such form as the Board determines.
- (c) The Board may not deal with any application for Associate Membership unless the Annual Membership Fee payable in respect of the application have been received by the Company or paid as the Company directs.
- (d) The Board may, in its absolute discretion, admit or reject any application for Associate Membership without the necessity of assigning any reason therefore. If any application is rejected by the Board, all monies paid by the applicant to the Company must be refunded forthwith in full.
- (e) An Associate Member is:
  - (i) entitled to receive notice of and attend general meetings of the Company;
  - (ii) not entitled to vote at general meetings of the Company;
  - (iii) entitled to such other rights and privileges, which the Board may, from time to time, determine, are applicable to associate members.

## **5.6 Honorary Members**

- (a) The Board may elect as Honorary Members of the Company, upon such terms and subject to such conditions as the Board may from time to time determine, such persons who by reason of their special qualifications are entitled, in the opinion of the Board, to such privilege.
- (b) The currency of an Honorary Membership may not exceed 1 year, unless renewed by the Board. The Board may in its absolute discretion revoke any honorary membership at any time.
- (c) There may be no more than 10 Honorary Members of the Company at any one time.
- (d) An Honorary Member is:
  - (i) entitled to receive notice of and attend general meetings of the Company;
  - (ii) not entitled to vote at general meetings of the company; and
  - (iii) entitled to such other rights and privileges which the Board may, from time to time, determine are applicable to Honorary Members.

## **5.7 Life Members**

- (a) The Board may nominate for Life Membership, any Member who, in the opinion of the Board, is regarded worthy of Life Membership of the Company, by reason of their outstanding and meritorious services to the Company.
- (b) A Life Member shall be admitted, on recommendation of the Board, if that recommendation is approved by three quarters majority of Members present and entitled to vote at an annual general meeting of the Company.
- (c) A Life Member is entitled for life, unless he or she ceases to be a Member (for any reason), to such rights and privileges as the Board may, from time to time, determine.

## **5.8 Patron**

- (a) The Board may from time to time, in its absolute discretion, admit a Patron of the Company any entity or person who is more than 18 years of age, for such period as the Board deems appropriate.
- (b) A Patron shall be admitted on the recommendation of the Board, if three-quarters majority of the Boards approves that recommendation.
- (c) There may be no more than 1 Patron of the Company at any one time.
- (d) A Patron is:
  - (i) entitled to receive notice of and attend general meetings of the Company;
  - (ii) not entitled to vote at general meetings of the company; and
  - (iii) entitled to such other rights and privileges which the Board may, from time to time, determine are applicable to Patrons.

## **6. OTHER FEATURES OF MEMBERSHIP**

### **6.1 Certificate**

The Company may issue a certificate of membership of the Company to any Member. Such certificate shall be the property of the Company and, on demand in writing by the Secretary, shall be returned to the Company.

### **6.2 Membership not transferable**

A Member's membership of the Company shall not be transferable whether by operation of law or otherwise and all rights and privileges of membership of the Company shall cease upon the person ceasing to be a Member for whatever reason.

### **6.3 Member's Registered Address**

The address of the Member, specified in the Member's application for membership in the Company, must be entered in the Register, and upon being so entered becomes the Registered Address of the Member. Every Member must promptly notify the Company of any change of his or her address and any such new address must be entered in the Register and, upon being so entered, becomes the new Registered Address of the Member.

### **6.4 Period of membership**

In the absence of a determination by the Board to the contrary and, subject to any other restriction in these rules, each Member (other than a life member) shall be admitted to membership of the Company for a period not to exceed 1 year, with each membership period commencing on the date on which the Board resolves to admit such Member to membership of the Company or renew such Member's membership (as the case may be) and terminating on the day immediately following the due date for payment of the relevant Annual Membership Fee.

### **6.5 Renewal of membership**

- (a) The Board may, in its absolute discretion, renew the membership of any Member.
- (b) The application for renewal of membership must, unless the Board otherwise grants an extension, be received by the Board prior to expiration of the period of that Member's membership and be in such form as the Board determines.
- (c) The Board may, in its absolute discretion, admit or reject any application for renewal of membership without assigning a reason. If any application is rejected by the Board, all monies paid by the applicant, in relation to the application for renewal only, must be refunded forthwith in full.

## **7. LEVIES & MEMBERSHIP FEES**

### **7.1 Annual Membership Fee**

The Annual Membership Fee for the various classes of membership are such amounts and are due at such times as the Board from time to time determines.

### **7.2 Levies**

In order to provide additional funds required for the operation of the Company, the Board may determine that Levies, in addition to the Annual Membership Fee, are to be paid by Members and may fix the amount and dates for payment of such Levies.

### **7.3 Different fees and levies**

In determining Annual Membership Fees or Levies payable by Members the Board may differentiate between classes of membership in the Company.

## **8. CESSATION OF MEMBERSHIP**

### **8.1 Suspension of rights**

If any Annual Membership Fee, Levy or other amounts payable by a Member pursuant to these rules are not paid within 7 days from the due date for payment of such amounts, the Board, without notice to the Member, may suspend all the privileges of membership (including the right to vote) of that Member.

### **8.2 Reinstatement of rights**

The Board may reinstate the privileges of membership of any Member suspended pursuant to **rule 8.1** on payment of all arrears if the Board thinks fit to do so.

### **8.3 Board may censure, suspend or expel**

In addition to its rights under **rule 8.1**, the Board may, subject to **rule 8.5**, censure, suspend or expel a Member from the Company, if such Member:

- (a) wilfully refuses or neglects to comply with the provisions of this Constitution; or
- (b) is guilty of conduct, which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interests of the Company.

### **8.4 Expulsion for failure to pay**

Without limitation, the failure of a Member to pay any Annual Membership Fee, Levy or other amount payable by a Member pursuant to the rules, for a period of 30 days after the Member has been given notice by the Board to do so, shall be sufficient grounds for the Board to expel such Member pursuant to **rule 8.3**, regardless of whether or not the Board has taken any action against such Member pursuant to **rule 8.1**.

### **8.5 Notice to member**

No Member shall be censured, suspended or expelled by the Board pursuant to **rule 8.3**, unless such Member has been given at least 1 weeks notice of the meeting of the Board at which such a resolution is to be put which shall state the nature of the allegations against the Member and the proposed resolution.

### **8.6 Cessation of membership**

A Member's membership of the Company shall cease if:

- (a) the Member resigns that membership by giving notice in writing addressed to the Secretary and such resignation will be effective from the date of receipt of the notice by the Secretary;
- (b) the period of the Member's membership, as determined by the Board, expires and such membership has not been renewed by the Board;
- (c) the Member is expelled by the Board pursuant to **rule 8.3**, such termination to be effective from the date of the resolution of the Board under that rule;
- (d) in the case of a Member who is an individual, if:
  - (i) the Member dies; or
  - (ii) the Member becomes of unsound mind or his person or estate is liable to be dealt with in any way under the laws relating to mental health; and
- (e) in the case of a Member who is not an individual, if:
  - (i) a liquidator is appointed in connection with the winding up of the Member; or
  - (ii) an order is made by a court for the winding up of the Member.

### **8.7 Continuing rights and liability**

Termination or expiration of a Member's membership shall not in any way prejudice or affect any duties, liabilities and obligations of a Member or any rights which the Company has against that Member which are existing as at the date of termination or expiration.

## **9. FINANCIAL RECORDS**

### **9.1 Keeping of financial records**

- (a) The financial year of the Company commences on the first day of July and ends on the 30th day of June in the following calendar year.
- (b) Proper books and financial records must be kept and maintained showing correctly the financial affairs of the Company. The Company must ensure the relevant accounting and auditing requirements of the Law are duly complied with.

- (c) The Board must distribute to all Members at the end of each financial year, copies of the financial report including a copy of the auditor's report and any other documentation required under the Law.
- (d) The Board must cause to be made out and laid before each annual general meeting a balance sheet, profit loss statement and cash flow statement made up to a date not more than 6 months before the date of the meeting.

## **9.2 Banking of monies**

All the monies of the Company shall be banked in the name of the Company in a bank account at such bank as the Board may from time to time direct.

## **9.3 Appointment of Auditor**

The Company must appoint and retain a properly qualified auditor whose duties are determined in accordance with the Law. No Member may act as auditor of the Company.

## **9.4 Inspection of records of the Company**

- (a) The Board may at its sole discretion determine whether and to what extent, and at what time and place and under what conditions the financial records and other documents of the Company or any of them will be open to the inspection of Members, other than the Board.
- (b) No Member, other than members of the Board, has the right to inspect any document of the Company except as provided by law or as authorised by the Board.

# **10. GENERAL MEETINGS**

## **10.1 General Meetings**

- (a) General meetings of the Company may be called and held at the times and places and in the manner determined by the Board. Except as permitted by the Law, the Members may not convene a meeting of the Company. By resolution of the Board any general meeting (other than a general meeting, which has been requisitioned or called by Members in accordance with the Law,) may be cancelled or postponed prior to the date on which it is to be held.
- (b) The chairperson of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:
  - (i) in possession of a pictorial-recording or sound-recording device;
  - (ii) in possession of a placard or banner;
  - (iii) in possession of an object considered by the chairperson to be dangerous, offensive or liable to cause disruption;
  - (iv) who refuses to produce or to permit examination of any object, or the contents of any object or container, in the person's possession;
  - (v) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
  - (vi) who is not:
    - (A) a Member, or a proxy, attorney or, if applicable, a corporate representative of a Member who is entitled to attend such meeting pursuant to these rules;
    - (B) a member of the Board; or
    - (C) the auditor of the Company.

## **10.2 Notice of General Meeting**

- (a) Not less than 21 days' notice of a general meeting must be given by the Board in the form and in the manner the Board thinks fit including notice of any general meeting at which the Board proposes or these rules require that an election of the Board be

held. Notice of meetings shall be given to the Members and to such persons as are entitled under these rules or the Law to receive notice. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice does not invalidate any resolution passed at that meeting.

- (b) If the meeting is to be held at 2 or more places the notice is to set out details of the technology that will be used to facilitate such a meeting and any other matters required to be stated by the Law in relation to the use of such technology.

## **11. PROCEEDINGS OF MEETINGS**

### **11.1 Business of General Meetings**

- (a) The business of an annual general meeting is to receive and consider the financial and other reports required by the Law to be laid before each annual general meeting, when relevant, to appoint an auditor, and to transact any other business which, under these rules, is required to be transacted at any annual general meeting. All other business transacted at an annual general meeting and all business transacted at other general meetings is deemed to be special. Except with the approval of the Board, with the permission of the chairperson of the meeting or, pursuant to the Law, no person may move at any meeting either:
  - (i) in regard to any special business of which notice has been given under **rule 10.2**, any resolution or any amendment of a resolution; or
  - (ii) any other resolution, which does not constitute part of special business of which notice, has been given under **rule 10.2**.
- (b) The auditors and their representative are entitled to attend and be heard on any part of the business of a meeting, which concerns the auditors. The auditors or their representative, if present at the meeting, may be questioned by the Members, as a whole, about the audit.

### **11.2 Quorum**

Three Members entitled to vote at a meeting present constitute a quorum for a meeting except if the Company at any time has only one Member or where a class of Members is constituted by one Member. No business may be transacted at any meeting except the election of a chairperson and the adjournment of the meeting unless the requisite quorum is present at the commencement of the business.

### **11.3 Adjournment in Absence of Quorum**

If within 15 minutes after the time specified for a general meeting a quorum is not present, the meeting, if convened upon a requisition or called by Members, is to be dissolved, and in any other case it is to be adjourned to the same day in the next week (or, where that day is not a business day, the business day next following that day) at the same time and place and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time specified for holding the meeting, the meeting is to be dissolved.

### **11.4 Chairperson**

- (a) The Chairperson is entitled to take the chair at every general meeting.
- (b) If at any general meeting:
  - (i) The Chairperson is not present at the specified time for holding the meeting; or
  - (ii) the Chairperson is present, but is unwilling to act as chairperson of the meeting,

the Executive Director is entitled to take the chair. If the Executive Director is not present or unwilling to act as chairperson, then the members of the Board present may choose another member of the Board as chairperson of the meeting and if no member of the Board is present or if each of the members of the Board present are unwilling to act as chairperson of the meeting, a Regional Cluster Member or

nominee chosen by the Regional Cluster Members or their nominees present, is entitled to take the chair at the meeting.

### **11.5 General Conduct of Meeting**

Except as provided by the Law, the general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined by the chairperson. The chairperson may at any time the chairperson considers it necessary or desirable for the proper and orderly conduct of the meeting demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present. The chairperson may require the adoption of any procedure which is in the chairperson's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.

### **11.6 Adjournment**

The chairperson may at any time during the course of the meeting adjourn from time to time and place to place the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question, resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting. If the chairperson exercises a right of adjournment of a meeting pursuant to this rule, the chairperson has the sole discretion to decide whether to seek the approval of the Members present to the adjournment and, unless the chairperson exercises that discretion, no vote may be taken by the Members present in respect of the adjournment. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

### **11.7 Voting**

- (a) Each question submitted to a general meeting is to be decided in the first instance by a show of hands of the Members present and entitled to vote. Subject to **rule 11.7(b)**, in the case of an equality of votes, the chairperson has, both on a show of hands and at a poll, a casting vote in addition to the vote or votes to which the chairperson may be entitled as a Member or as a proxy, attorney or, if applicable, a duly appointed corporate representative of a Member.
- (b) On a show of hands, where the chairperson has 2 or more appointments that specify different ways to vote on a resolution, the chairperson cannot vote but has a casting vote in the case of an equality of votes cast by Members entitled to vote at the meeting.

### **11.8 Declaration of Vote on a Show of Hands; When Poll Demanded**

- (a) At any meeting, unless a poll is demanded, a declaration by the chairperson that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the book to be kept of the proceedings of the Company signed by the chairperson of that or the next succeeding meeting, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution. A poll may be demanded:
  - (i) before a vote is taken;
  - (ii) before the voting results on a show of hands are declared; or
  - (iii) immediately after the voting results on a show of hands are declared.
- (b) A poll may be demanded by:
  - (i) the chairperson; or
  - (ii) at least 2 Members present entitled to vote on the resolution.
- (c) No poll may be demanded on the election of a chairperson of a meeting.

### **11.9 Taking a Poll**

If a poll is demanded as provided in **rule 11.8**, it is to be taken in the manner and at the time and place as the chairperson directs, and the result of the poll is deemed to be the resolution

of the meeting at which the poll was demanded. The demand for a poll may be withdrawn. In the case of any dispute as to the admission or rejection of a vote, the chairperson's determination in respect of the dispute made in good faith is final.

### **11.10 Continuation of Business**

A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting immediately and without adjournment.

### **11.11 Special Meetings**

All the provisions of these rules as to general meetings apply to any special meeting of any class of Members, which may be held pursuant to the operation of these rules, or the Law.

## **12. VOTING BY MEMBERS**

### **12.1 Voting Rights**

The entitlement to vote on a show of hands and on a poll is as follows:

- (a) every Regional Cluster Member has the right to six votes each;
- (b) every Corporate Member has the right to 3 votes each;
- (c) every Business Member has the right to one vote each;
- (d) every Associate Member has no right to vote; and
- (e) every Honorary Member, Life Member and Patron has no right to vote.

### **12.2 Appointment of Proxies**

- (a) Any Member entitled to vote at a general meeting may appoint one proxy.
- (b) A proxy must be a nominee of a Member, a chairperson of the meeting or a member of the Board.
- (c) The instrument appointing a proxy (and the power of attorney, if any, under which it is signed or proof of the power of attorney to the satisfaction of the Board) must be deposited duly stamped (if necessary) at the Office, faxed to the Office or deposited, faxed or sent by electronic mail to any other place specified in the notice of meeting, at least 48 hours (or a lesser period as the Board may determine and stipulate in the notice of meeting) before the time for holding the meeting or adjourned meeting or poll at which the person named in the instrument proposes to vote.
- (d) No instrument appointing a proxy is, except as provided in this rule, valid after the expiration of 12 months after the date of its execution. Any Member may deposit at the Office an instrument duly stamped (if necessary) appointing a proxy and the appointment is valid for all or any stipulated meetings of the Company until revocation.

### **12.3 Voting by Corporation**

Any corporation, being a Member and entitled to vote, may by resolution of its directors or other governing body or by an instrument of proxy authorise any person, though not a Member of the Company, or any person occupying a particular office from time to time, to act as its representative, and such representative is, in accordance with his authority and until his authority is revoked by the corporation which he represents, entitled to exercise the same powers at meetings on behalf of the corporation which he represents as that corporation could exercise if it were a natural person who was a Member and exercise any other powers permitted to be exercised by a body corporate representative under the Law.

## **12.4 Validity of Vote**

A vote given in accordance with the terms of an instrument of proxy or power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument of proxy or power of attorney in respect of which the vote is given, provided no notice in writing of the death, unsoundness of mind or revocation has been received at the Office before the meeting or any adjourned meeting. A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes at the meeting on the resolution for which the proxy is proposed to be used.

## **12.5 Form and Execution of Instrument of Proxy**

- (a) An instrument appointing a proxy is required to be in writing signed by the appointor or the attorney of the appointor or, if the appointor is a corporation, under its common Seal or signed by a duly authorised officer and in the form which the Board may from time to time prescribe to accept.
- (b) The instrument of proxy is deemed to include the right to demand or join in demanding a poll and (except to the extent to which the proxy is specifically directed to vote for or against any proposal) the power to act generally at the meeting for the person giving the proxy.
- (c) An instrument appointing a proxy, unless the contrary is stated, is valid for any adjournment of the meeting, as well as for the meeting to which it relates. Any duly signed proxy which is incomplete may be completed by the Secretary on authority from the Board and as permitted by the Law and the Board may authorise completion of the proxy by the insertion of the name of any member of the Board as the person in whose favour the proxy is given provided that that member of the Board is also entitled to vote at the general meeting as required by this **rule 12**.

## **12.6 Board to Issue Forms of Proxy**

The Board may issue with any notice of general meeting of Members or any class of Members forms of proxy for use by the Members. Each form is to make provision for the Member to write in the name of the person to be appointed as proxy and may provide that, if the Member does not so write in a name, the proxy is to be a person named on the form. The form may include the names of any of the members of the Board or of any other person as a suggested proxy. The forms are to be worded so that a proxy may be directed to vote either for or against each or any of the resolutions to be proposed.

## **12.7 Attorneys of Members**

Any Member may, by duly executed power of attorney, appoint an attorney to act on the Member's behalf at all or certain specified meetings of the Company. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the Board must be produced for inspection at the Office or any other place the Board may determine from time to time together, in each case, with evidence of the due execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the Member granting the power of attorney.

# **13. THE BOARD**

## **13.1 First Members of the Board**

The names of the first members of the Board are those persons named as directors in the application for registration of the Company.

## **13.2 Composition of the Board**

The Board consists of:

- (a) the Chairman;
- (b) the Executive Director;

- (c) two Corporate Representatives as appointed by the Board pursuant to **rule 13.3**; and
- (d) subject to the requirements of **rule 13.4**, such additional members as are elected by the Board pursuant to **rule 13.7** from time to time.

### **13.3 Manner of Appointment of Corporate Representatives**

Each of the members appointed under **rule 13.2(c)** shall be appointed in the following manner:

- (a) each candidate to serve as a Corporate Representative must be a natural person and a nominee of a Corporate Member;
- (b) no person is eligible for election to the Board as a Corporate Representative unless, in response to an invitation from the Board calling for nominations of Corporate Representatives, a Corporate Member intending to nominate the person has given notice in writing signed by the nominee giving consent to the nomination and signifying the intention of the Corporate Member to nominate the nominee;
- (c) to be valid the notice is required to be in writing and received by the Office within 30 days of the date of the invitation by the Board;
- (d) the Board shall consider all nominations received and shall extend an offer of appointment to the Board as a Corporate Representative to two nominees;
- (e) the appointment of a Corporate Representative shall take effect upon the acceptance of the invitation by the nominee; and
- (f) in the case where there are not a sufficient number of candidates nominated, the Board shall determine who will fill the vacancies.

### **13.4 Representation of Geographical Regions**

Each of the members appointed under **rule 13.2(d)** shall represent a separate Geographical Region, such that the appointment of a member under **rule 13.2(d)** will be invalid if the effect of that appointment would be that more than one member appointed under **rule 13.2(d)** represented the same Geographical Region.

### **13.5 Maximum Number**

The number of members of the Board (not including Alternate Board Members) may not be less than 3 and may not exceed such number as may be determined by the Board from time to time.

### **13.6 Period of Office**

- (a) Each member of the Board will hold office for a period of two years from appoint or until his or her office is vacated pursuant to **rule 15**.
- (b) Upon the retirement or vacation of office of a director, where applicable, the Regional Cluster Member who appointed that director shall be entitled to, subject to this Constitution and the Law, appoint that director or appoint a new director in accordance with **rule 13.7**. Retiring Corporate Representatives shall stand for re-appointment in accordance with **rule 13.3**.

### **13.7 Manner of Election**

Board members, other than Corporate Representatives, will be elected by the Board in the following manner:

- (a) a director proposed by a Regional Cluster Member to serve on the Board must be a natural person and a Regional Cluster Member or a nominee of a Regional Cluster Member;
- (b) no person is to be appointed to the Board unless that person has consented, in writing, to such appointment; and

- (c) at the next Board meeting after a Regional Cluster Member has proposed a person to serve on that Board, the Board must, subject to compliance with **rules 13.7(a)** and **(b)**, cause that person to be appointed as a member of the Board.

### **13.8 Casual Vacancies**

- (a) Subject to **rule 13.8(c)**, the Board has the power at any time and from time to time to appoint a qualified person as a member of the Board, either to fill a casual vacancy among the Board or as an addition to the existing members, but so that the total number of members of the Board may not at any time exceed the number fixed in accordance with this Constitution.
- (b) Any person appointed under **rule 13.8(a)** holds office for a period of 2 years or until the proposed appointment of a member of the Board by a Regional Cluster Member would result in the total number of members of the Board exceeding the number fixed in accordance with this Constitution.
- (c) Where a casual vacancy occurs on the Board as a result of the vacation of office of a director appointed by a Regional Cluster Member, that Regional Cluster Member may appoint another person to the Board, in accordance with the procedure outlined in **rule 13.7**, either, at the Regional Cluster Member's discretion, for the balance of the term of office of the vacated director or for a two year term.

## **14. ELECTION OF CHAIRPERSON**

### **14.1 Election**

At the first Board meeting after every second annual general meeting of the Company, the Board will elect a Chairperson in the manner provided for in **rule 14.2**.

### **14.2 Manner of Election**

The Chairperson will be elected in the following manner:

- (a) each candidate to serve as the Chairperson must be a natural person and a Regional Cluster Member, a nominee of a Regional Cluster Member, a Corporate Member or a nominee of a Corporate Member and a Board member having been elected to the current Board;
- (b) nominations for the position of Chairperson will be called for from the current members of the Board at the first Board meeting immediately following each annual general meeting referred to in **rule 14.1**; and
- (c) the Chairperson shall be elected by a majority of votes of the members of the Board present at that Board meeting.

### **14.3 Term of appointment**

The Chairperson will continue to hold office until the earlier of:

- (a) their resignation from that office in accordance with **rule 14.5**;
- (b) their removal from that office in accordance with **rule 14.4**;
- (c) their office as a member of the Board becomes vacant in accordance with this Constitution or he or she resigns or is removed from that office; or
- (d) the election of a new Chairperson at the first Board meeting after the second annual general meeting of the Company to be held after the Chairperson's election.

### **14.4 Removal**

The Board has the sole power at any time and from time to time to remove the Chairperson of the Board appointed under this Constitution from that office, but not from the office of member of the Board.

## 14.5 Resignation

Any Chairperson may resign at any time from such office by notice in writing delivered to the Secretary, but such resignation only takes effect at the time when the Secretary receives such notice unless some later date is specified in the notice when it shall take effect on and from that later date.

## 15. RESIGNATION AND REMOVAL

### 15.1 Resignation

Any member of the Board may resign at any time from their position as member of the Board by notice in writing delivered to the Secretary but such resignation only takes effect at the time when such notice is received by the Secretary unless some later date is specified in the notice when it shall take effect on the later date.

### 15.2 Removal

In addition to the circumstances in which the office of a member of the Board becomes vacant by virtue of the Law, the office becomes vacant:

- (a) subject to **rule 15.3**, if the member of the Board is removed from office by ordinary resolution of the Members entitled to vote at a general meeting of the Company convened for that purpose;
- (b) if the member of the Board 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;
- (c) if the member of the Board becomes a bankrupt under the Bankruptcy Act; or
- (d) if the member of the Board ceases to be a current financial Member of the Company, or a nominee of a current financial Member of the Company.

### 15.3 Right to Present Case

At any general meeting at which a member of the Board is to be removed from office pursuant to **rule 15.2(a)** the member of the Board must be given the opportunity to fully present his or her case either orally or in writing or partly by either of both of those means.

## 16. EXECUTIVE APPOINTMENTS

### 16.1 Appointment

- (a) The Board has the sole power at any time and from time to time to appoint an Executive Director or Chief Executive Officer or other Executive positions (**'Executive Officers'**).
- (b) The Executive Officers continue to hold office until the earlier of:
  - (i) their resignation from that office in accordance with **rule 16.2**;
  - (ii) their removal from that office in accordance with **rule 16.1(c)**; or
  - (iii) their office as a member of the Board becomes vacant in accordance with this Constitution or he or she resigns or is removed from that office;
- (c) The Board has the sole power at any time and from time to time to appoint any one of its members as Executive Officers and to remove any member of the Board appointed under this Constitution from any of those offices, but not from the office of member of the Board.

### 16.2 Resignation

Any Executive Officer may resign at any time from such office by notice in writing delivered to the Secretary, but such resignation only takes effect at the time when the Secretary receives

such notice unless some later date is specified in the notice when it shall take effect on and from that later date.

## **17. EXERCISE OF VOTING POWER**

The Board may exercise the voting power conferred by the shares in any corporation held or owned by the Company as the Board thinks fit (including the exercise of the voting power in favour of any resolution appointing the directors or any of them directors of that corporation) and a director of the Company may vote in favour of the exercise of those voting rights notwithstanding that the director is, or may be about to be appointed, a director of that other corporation and may be interested in the exercise of those voting rights.

## **18. ALTERNATE BOARD MEMBERS**

- (a) Subject to these rules, each member of the Board has power, from time to time, to appoint any person to act as their alternate in the place of that member of the Board, whether for a stated period or periods or until the happening of a specified event or from time to time, whenever by absence or illness or otherwise the member of the Board is unable to attend to their duties.
- (b) The member of the Board must first seek and obtain the consent of the Board to the appointment, which consent is not to be unreasonably withheld or delayed. The appointment is to be in writing and signed by member of the Board and a copy of the appointment is to be given by the appointing member of the Board to the Company by forwarding or delivering it to the Office.
- (c) The appointment takes effect immediately upon receipt of the appointment at the Office.
- (d) The following provisions apply to an Alternate Board Member:
  - (i) an Alternate Board Member may be removed or suspended from office upon receipt at the Office of written notice, letter, facsimile transmission or other form of visible communication from the member of the Board by whom the Alternate Board Member was appointed to the Company;
  - (ii) the Alternate Board Member is entitled to receive notice of meetings of the Board and to attend and vote at the meetings if the member of the Board by whom the Alternate Board Member was appointed is not present;
  - (iii) the Alternate Board Member is entitled to exercise all the powers (except the power to appoint an alternate) and perform all duties of a member of the Board, in so far as the member of the Board by whom the Alternate Board Member was appointed had not exercised or performed them;
  - (iv) the office of the Alternate Board Member is vacated upon vacation of office by the member of the Board or written resignation being given to the Company by the member of the Board, by whom the Alternate Board Member was appointed;
  - (v) the Alternate Board Member is not to be taken into account in determining the number of members of the Board; and
  - (vi) the Alternate Board Member is, while acting as a member of the Board, responsible to the Company for the its own acts and defaults and is not to be deemed to be the agent of the member of the Board by whom the Alternate Board Member was appointed.

## **19. PROCEEDINGS OF THE BOARD**

### **19.1 Procedures Relating to Board Meetings**

- (a) The Board may meet together, upon each member of the Board being given reasonable notice, for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.

- (b) Until otherwise determined by the Board, 3 members of the Board, one of whom must be the Chairperson or the Executive Director, form a quorum.
- (c) Notice is deemed to have been given to a member of the Board, and all members of the Board are hereby deemed to have consented to the method of giving notice, if notice is sent by mail, personal delivery, facsimile transmission or by electronic mail to the Registered Address of such member of the Board, the usual place of business or residence of such member of the Board or any other address given to the Secretary by the member of the Board from time to time.

## **19.2 Meetings by Telephone or Other Means of Communication**

The Board may meet either in person or by telephone or by other means of communication consented to by all members of the Board subject to the right of a member of the Board to withdraw their consent within a reasonable period before a meeting. All persons participating in the meeting must be able to hear and be heard by all other participants. A meeting conducted by telephone or other means of communication is deemed to be held at the place agreed upon by the members of the Board attending the meeting, provided that at least one of the members of the Board present at the meeting is at that place for the duration of the meeting.

## **19.3 Votes at Meetings**

Questions arising at any meeting of the Board are decided by a majority of votes. The Chairperson of the meeting of the Board shall, in addition to his deliberative vote, have a second or casting vote in the event of an equality of votes.

## **19.4 Convening of Meetings**

The Board may at any time, and the Secretary, upon the request of any three members of the Board, must convene a meeting of the Board.

## **19.5 Chairperson**

The Chairperson shall, if present, able and willing preside as chairperson at all meetings of the Board and if:

- (a) there is no such Chairperson;
- (b) the Chairperson is not present within 15 minutes after the time appointed for the meeting; or
- (c) the Chairperson is unable or unwilling to preside,

then the Executive Director shall act as chairperson of the meeting, or if the Executive Director is not present or is unwilling to act as chairperson at that meeting, a member of the Board appointed by the meeting is entitled to take the chair.

## **19.6 Powers of Meetings**

A meeting of the Board or any adjournment of a meeting at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

## **19.7 Delegation of Powers to Committees**

The Board may, subject to the constraints imposed by law, delegate any of its powers to Committees consisting of one or more members of the Board or any other person or persons as the Board thinks fit. Any Committee formed or person or persons appointed to the Committee must, in the exercise of the powers delegated, conform to any regulations that may from time to time be imposed by the Board. A delegate of the Board may be authorised to sub-delegate any of the powers for the time being vested in the delegate.

## **19.8 Proceedings of Committees**

- (a) The meetings and proceedings of any Committee are to be governed by the provisions of these rules for regulating the meetings and proceedings of the Board so

far as they are applicable and are not superseded by any regulations made by the Board under **rule 20.1**.

- (b) A Committee in the exercise of the duties delegated or assigned to it shall conform to any regulations, directions or instructions that may be imposed or given by the Board.
- (c) A Committee appointed by the Board shall be under the control and direction of the Board and has no direct part or power in the management of the Company.

### **19.9 Validity of Acts**

- (a) All acts done at any meeting of the Board or by a Committee or by any person acting as a member of the Board are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any member of the Board or member of the Committee or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a member of the Board or a member of the Committee (as the case may be).
- (b) If the number of members of the Board is reduced below the minimum number fixed pursuant to these rules, the continuing members of the Board may act for the purpose of increasing the number of members of the Board to that number or of calling a general meeting of the Company but for no other purpose.

### **19.10 Resolution in Writing**

A resolution in writing of which notice has been given to all members of the Board and which is signed by all such members of the Board entitled to vote on the resolution is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted and may consist of several documents in the same form each signed by one or more of the members of the Board. For the purposes of this rule the references to '**member of the Board**' includes any Alternate Board Member for the time being present in Australia who is appointed by a member of the Board not for the time being present in Australia but do not include any other Alternate Board Members. A facsimile transmission or other document produced by mechanical or electronic means under the name of a member of the Board with the member of the Board's authority is deemed to be a document in writing signed by that member of the Board.

## **20. POWERS OF THE BOARD**

### **20.1 General Powers of the Board**

- (a) The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred upon them by these rules) may exercise all powers and do all things as are within the power of the Company and are not by these rules or by Law directed or required to be exercised or done by the Company in general meeting.
- (b) The Board may make such regulations and by-laws not inconsistent with the Constitution, as in the opinion of the Board are necessary or desirable for the proper control, administration and management of the Company's finances, affairs and property or are necessary for the convenience, comfort and well-being of the Members (including the terms of entry of Members to the Company's premises and any event or function sponsored, promoted, facilitated or conducted by the Company) and amend or rescind from time to time any such regulations and by-laws.
- (c) A regulation or by-law of the Company made by the Board may be disallowed by the Company in a later general meeting.
- (d) A resolution or regulation made by the Company in general meeting cannot invalidate prior acts of the Board which would have been valid if that resolution or regulation had not been passed or made.

## **20.2 Member of the Board contracting with the Company**

- (a) Neither the holding of office as a member of the Board, nor the fiduciary relationship resulting from holding that office, shall:
  - (i) disqualify any member of the Board from holding any office or place of profit (other than that of auditor) in the Company;
  - (ii) disqualify any member of Board from entering into any arrangement, contract or dealing with the Company in any capacity;
  - (iii) avoid or vitiate any arrangement, contract or dealing entered into by or on behalf of the Company in which a member of the Board is any way interested; or
  - (iv) render any member of the Board or any corporation of which a member of the Board is an officer or member or in any way interested or any partnership of which a member of the Board is a member or in any way interested liable to account for any profit arising out of the holding of any such office or place of profit or any such arrangement, contract or dealing.
- (b) The nature of the interest of a member of the Board must be disclosed by him at the meeting of the Board at which the arrangement, contract or dealing is determined by the Board, if his interest then exists, or, in any other case, at the meeting of Board next following the acquisition of his interest.
- (c) Subject to the Law, a member of the Board who is any way interested in any arrangement, contract or dealing as referred to in **rule 20.2(a)** (whether existing or proposed) may not vote in respect of the arrangement, contract or dealing at a meeting of the Board and may not be counted in a quorum present at such meeting.
- (d) A director may affix or attest the affixation of the Seal to any instrument or sign or execute any document notwithstanding any interest which such director has in the subject matter of that instrument or document or any other office or place of profit held by such director.
- (e) All acts done by any meeting of the Board or of any Committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such member of the Board or member of the Committee or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member of the Board or member of the Committee.

## **21. COMPANY SECRETARY**

The Secretary holds office on such terms and conditions as to remuneration and otherwise as the Board determines.

## **22. OTHER SALARIED OFFICERS**

The Board may appoint such officers and employees at such salaries for such periods and on such terms as it thinks fit and may, subject to conditions of the employment of such officers and employees, dispense with their services and re-appoint or appoint other officers and employees as it thinks fit.

## **23. THE SEAL**

### **23.1 Company Seal is optional**

The Company may have a Seal.

## **23.2 Affixing the Seal**

If the Company has a Seal, the Board is to provide for its safe custody and it should only be used by the authority of the Board. Every instrument to which the Seal is affixed is to be signed by the Chairperson and countersigned by the Executive Director or by another person appointed by the Board for the purpose. The Board may determine either generally or in any particular case that a signature may be affixed by a mechanical means specified in the determination.

## **23.3 Execution of documents without a Seal**

The Company may execute a document, including a deed, by having the document signed by:

- (a) the Chairperson and the Executive Director; or
- (b) the Chairperson and another person appointed by the Board for that purpose; and

if the Company executes a deed, the document is to be expressed to be executed as a deed and be executed in accordance with the appropriate procedures set out in **rule 23.2** or this rule.

## **23.4 Other ways of executing documents**

Notwithstanding the provisions of **rules 23.2** and **23.3**, any document including a deed, may also be executed by the Company in any other manner permitted by law.

## **24. MINUTES**

The Board must ensure that minutes are duly recorded in any manner it thinks fit:

- (a) of the names of the members of the Board present at each meeting of the Company, the Board and of any Committees; and
- (b) of all resolutions and proceedings of general meetings of the Company and of meetings of the Board and any Committees,

and the minutes of any meeting of the Board or of any Committee or of the Company, if purporting to be signed by the Chairman of the meeting or by the Chairman of the next succeeding meeting, are prima facie evidence of the matters stated in the minutes.

## **25. NOTICES**

### **25.1 Service of Notices**

A notice may be given by the Company to a Member, or in the case of joint holders to the Member whose name stands first in the Register, personally, by leaving it at the Registered Address of the Member or by sending it by prepaid post or facsimile transmission addressed to the Registered Address of the Member or by sending it to the electronic address (if any) nominated by the Member. All notices sent by prepaid post to persons whose Registered Address is not in Australia may be sent by airmail or some other way that ensures that it will be received quickly.

### **25.2 When Notice Deemed to be Served**

Any notice sent by post is deemed to have been served at the expiration of 48 hours after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a Member personally or left at the Registered Address of the Member is deemed to have been served when delivered. Any notice served on a Member by facsimile transmission is deemed to have been served when the transmission is sent. A facsimile is deemed to be duly sent when the Company's facsimile system generates a message confirming successful transmission of the total number of pages of the notice to the addressee. Any notice served on a Member by electronic means is deemed to have been served when the electronic message is sent.

### **25.3 Member Not Known at Registered Address**

Where a Member does not have a Registered Address or where the Company has bona fide reason to believe that a Member is not known at the Registered Address of the Member, all future notices are deemed to be given to the Member if the notice is exhibited in the Office for a period of 48 hours (and is deemed to be duly served at the commencement of that period) unless and until the Member informs the Company of a registered place of address.

### **25.4 Signature to Notice**

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

### **25.5 Reckoning of Period of Notice**

Where a given number of days' notice or notice extending over any other period is required to be given, the day of service is not to be reckoned in the number of days or other period.

### **25.6 Service on Deceased Members**

A notice delivered or sent by post to the Registered Address of a Member pursuant to these rules is (notwithstanding that the Member is then dead and whether or not the Company has notice of the Member's death) deemed to have been duly served and the service is for all purposes deemed to be sufficient service of the notice or document on the Member's heirs, executors or administrators.

### **25.7 Persons Entitled to Notice of General Meeting**

- (a) Notice of every general meeting is to be given to:
  - (i) each Member individually who is entitled to receive such notice;
  - (ii) each member of the Board; and
  - (iii) the auditor for the time being of the Company.
- (b) No other person is entitled to receive notices of general meetings.

## **26. INDEMNITY**

### **26.1 Indemnity for/in favour of members of the Board, Secretaries and Board Officers**

Subject to the Law, the Company must indemnify every person who is or has been a member of the Board, Secretary or executive officer of the Company against a liability:

- (a) incurred by the person acting in their capacity as a member of the Board, Secretary or executive officer to a person other than the Company or a related body corporate where the liability does not arise out of a lack of good faith; and
- (b) for the costs and expenses incurred by the person:
  - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
  - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the person under the law.

### **26.2 Indemnity to Employees**

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

- (a) incurred by the employee acting in that capacity;
- (b) for the costs and expenses incurred by an employee; and
  - (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; or

- (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under the law.

### **26.3 Personal Liability of Officer**

If the Board or any member thereof or any officer of the Company becomes personally liable for the payment of any sum primarily due from the Company, the Board may execute or cause to be executed any charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the persons or person so becoming liable as aforesaid from any loss in respect of such liability.

### **26.4 Insurance**

- (a) Subject to the Law, the Company may pay insurance premiums in respect of insurance for the benefit of every person who is or has been a member of the Board, Secretary or executive officer acting in that capacity against:
  - (i) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
  - (ii) 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.
- (b) The Company may pay insurance premiums in respect of insurance for the benefit of the auditor or an employee of the Company who is not a member of the Board, Secretary or executive officer concerned in the management of the Company.