

Constitution

Australian Hydrogen Research Network Ltd
(ACN 669 894 115)
a company limited by guarantee

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A Company limited by guarantee

1. Nature of the Company

- (a) This Company is a not-for-profit public company limited by guarantee.
 - (b) The name of the Company is Australian Hydrogen Research Network Ltd.
 - (c) The Company does not have the power to issue shares.
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2. Definitions and interpretation

2.1 Definitions

The following definitions apply in this Constitution unless the context requires otherwise:

Alternate Director means any person who, for the time being, has been duly appointed and is acting as an alternate Director;

Annual fee means the annual fee determined under clause 5.7;

Appointing Director has the meaning given in clause 13(a);

Board means the Board of Directors of the Company from time to time;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Brisbane;

CEO means chief executive officer.

Chairperson means the chairperson of Directors appointed under clause 12.4;

Company means Australian Hydrogen Research Network Ltd (ACN 669 894 115);

Constitution means this constitution as amended, supplemented or replaced from time to time;

Corporate Member means a person who meets the eligibility requirements in clause 5.5(d) and is admitted to membership of the Company in accordance with clause 5.6;

Corporations Act means the *Corporations Act 2001 (Cth)* and any regulations made under that statute;

Director means a person appointed or elected to the office of director of the Company and, where appropriate, includes an Alternate Director;

Financial Year means the 12 month period ending on 30 June;

Insolvency Event means, in relation to a person, any one or more of the following events or circumstances:

- (a) a winding up, dissolution, liquidation, provisional liquidation, administration or bankruptcy;

- (b) having a controller (as defined in the Corporations Act), receiver, receiver and manager, administrator, liquidator (whether provisional or otherwise) or analogous person appointed to it or any of its property;
- (c) being unable to pay any of its debts as and when due and payable or being deemed to be insolvent under any provision of the Corporations Act or any other law;
- (d) seeking protection from its creditors under any law, entering into a compromise, moratorium, assignment, composition or arrangement with, or for the benefit of, any of its members or creditors; or
- (e) any analogous event or circumstance to those described in paragraphs (a) to (d) under any law;

Member means a member of the Company entered in the Register;

Objects means the objects of the Company as set out in clause 3;

Office means the registered office of the Company;

Ordinary Member means a person who meets the eligibility requirements in clause 5.5(a) and is admitted to membership of the Company in accordance with clause 5.6;

Present means, in connection with a meeting, a Member being present in person or by proxy, attorney or representative, and includes being present at a different venue from the venue at which other Members are participating in the same meeting, providing the pre-requisites for a valid meeting at different venues are observed;

Register means the register of Members of the Company;

Secretary means a person appointed to the office of secretary of the Company from time to time;

Small Company Limited By Guarantee has the meaning given to that term in section 45B of the Corporations Act;

Special Resolution has the meaning given to that term in section 9 of the Corporations Act; and

Student Member means a person who meets the eligibility requirements in clause 5.5(b) and is admitted to membership of the Company in accordance with clause 5.6.

2.2 Interpretation

In this Constitution, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;
- (c) headings are used for convenience only and do not affect the interpretation of this Constitution;
- (d) other grammatical forms of a defined word or expression have a corresponding meaning;

- (e) a reference to a document is to that document as amended, novated, supplemented, extended or restated from time to time;
- (f) If something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day;
- (g) “person” includes a natural person, partnership, body corporate, association, joint venture, governmental or local authority, and any other body or entity whether incorporated or not;
- (h) “month” means calendar month and “year” means 12 consecutive months;
- (i) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) is to that statute as amended, consolidated, re-enacted or replaced from time to time;
- (j) “include”, “for example” and any similar expressions are not used, and must not be interpreted, as words of limitation;
- (k) money amounts are stated in Australian currency unless otherwise specified;
- (l) a reference to any agency or body that ceases to exist, is reconstituted, renamed or replaced, or has its powers or functions removed (**defunct body**) is to the agency or body that performs most closely the powers or functions of the defunct body; and
- (m) any expression in a provision of this Constitution that relates to a particular provision of the Corporations Act has the same meaning as in that provision of the Corporations Act.

2.3 Replaceable rules

The replaceable rules contained in the Corporations Act are displaced under section 135(2) of the Corporations Act and do not apply to the Company.

2.4 Compliance with the Corporations Act

This Constitution is subject to the Corporations Act and where there is any inconsistency between a clause of this Constitution and the Corporations Act which is not permissible under the Corporations Act, the Corporations Act prevails to the extent of the inconsistency.

3. Vision, Objects and Powers of the Company

3.1 Vision

- (a) The vision for which the Company is formed is:
 - (i) to be the nexus of hydrogen related research and development in Australia;
 - (ii) to promote collaborative engagements across the community to disseminate hydrogen research and development to end users; and
 - (iii) to highlight and communicate future trends in hydrogen research and development,

(the **Vision**)

- (b) To achieve the Vision, the Objects for which the Company is established are to benefit the Members of the Company and broader community by:
 - (i) enabling the advancement of knowledge, understanding and application of hydrogen science and technology;
 - (ii) promoting and improving research in disciplines relating to hydrogen and the hydrogen industry;
 - (iii) promoting the dissemination of knowledge of hydrogen science and technology through conferences, lectures and the publication of papers and reports; and
 - (iv) encouraging the scientific interest and enquiry into hydrogen science and technology.

3.2 Powers of the Company

- (a) The Company has all the powers of a company set out in the Corporations Act. The Company may use its powers to do:
 - (i) anything which it considers will advance or achieve the Objects; and
 - (ii) all other things that are incidental or conducive to carrying out the Objects.
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4. Assets and income of the Company

- (a) Subject to clause 4(b), all assets, income and profits of the Company must be applied solely towards the promotion of the Objects, and no portion of the Company's assets, income or profits may be:
 - (i) paid or distributed directly or indirectly by way of dividend, bonus or otherwise to any Member; or
 - (ii) paid as fees or otherwise to any Director except in accordance with clause 4(b).
- (b) Nothing in this Constitution prevents the Company from making a payment approved by the Board:
 - (i) for out-of-pocket expenses properly incurred by a Director in attending meetings of Directors, general meetings and committee meetings and otherwise performing duties as Director;
 - (ii) as bona fide compensation for a service rendered to the Company by a Director or Member in a professional or technical capacity (other than in the capacity as a Director), where the amount payable is commercially reasonable;
 - (iii) in good faith to any Member for goods supplied in the ordinary course of business;
 - (iv) of remuneration payable to the CEO and any other executive Directors in accordance with clause 10.8(b); and

- (v) in respect of the indemnification of, or payment of premiums on contracts of insurance for, any Director, in accordance with clause 19.
 - (c) All other payments by the Company to the Directors must be approved by the Board.
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5. Membership

5.1 Number of Members

The number of Members of the Company is initially unlimited but the Company may by ordinary resolution determine to restrict membership from time to time.

5.2 Membership classes

The Members of the Company will consist of 4 classes:

- (a) Ordinary Members;
- (b) Student Members;
- (c) Honorary Members;
- (d) Corporate Members.

5.3 Membership requirements and undertaking

- (a) Every Member must:
 - (i) meet the eligibility requirements in clause 5.5 applicable to their class of membership;
 - (ii) be approved for membership in accordance with clause 5.6; and
 - (iii) fulfil their obligations under this Constitution.
- (b) Every Member undertakes to the best of their ability to:
 - (i) comply with this Constitution and any regulations, policies or standards of the Company in force from time to time; and
 - (ii) promote the Objects, interests and standing of the Company.

5.4 Liability of Members and undertaking

- (a) The liability of Members is limited to the amount of the guarantee in clause 5.4(b).
- (b) Each Member undertakes to contribute an amount of \$1.00 to the property of the Company if the Company is wound up while the Member is a Member or within one year after the Member ceases to be a Member, for:
 - (i) payment of the Company's debts and liabilities incurred before the time at which the Member ceased to be a Member;
 - (ii) the costs, charges and expenses of winding up; and
 - (iii) for the adjustment of rights of the contributories among themselves.

5.5 Eligibility and membership rights

- (a) Ordinary Members
- (i) To be eligible as an Ordinary Member, a person must have a demonstrated interest in the hydrogen industry or related disciplines and interest in the hydrogen industry's application in various fields as determined by the Board from time to time.
 - (ii) An Ordinary Member:
 - (A) has the right to receive notices from the Company;
 - (B) may attend all general meetings of the Company;
 - (C) does not have the right to request the convening of or to vote at or be heard at general meetings of the Company; and
 - (D) subject to the Board's discretion, may be appointed to any committee, working party or similar representative body of the Company or the Board, with or without a determinative vote.
- (b) Student Members
- (i) To be eligible as a Student Member, a person must be undertaking studies at a tertiary institution.
 - (ii) Except as set out below and as otherwise expressly provided in this Constitution, a Student Member has all the rights and benefits, and must comply with all the obligations, of Ordinary Members.
 - (iii) A Student Member:
 - (A) has the right to receive notices from the Company;
 - (B) may attend all general meetings of the Company;
 - (C) does not have the right to request the convening of or to vote at or be heard at general meetings of the Company; and
 - (D) subject to the Board's discretion, may be appointed to any committee, working party or similar representative body of the Company or the Board, with or without a determinative vote.
- (c) Honorary Members
- (i) To be eligible as a Honorary Member, a person must have:
 - (A) made notable contributions to, or promoted the interests of the Company as determined by the Board; or
 - (B) made notable contributions towards realising the Vision as determined by the Board.
 - (ii) Except as set out below and as otherwise expressly provided in this Constitution, a Honorary Member has all the rights and benefits, and must comply with all the obligations, of Ordinary Members.

- (iii) A Honorary Member:
 - (A) has the right to receive notices from the Company;
 - (B) may attend all general meetings of the Company;
 - (C) does not have the right to request the convening of or to vote at or be heard at general meetings of the Company; and
 - (D) subject to the Board's discretion, may be appointed to any committee, working party or similar representative body of the Company or the Board, with or without a determinative vote.
- (d) Corporate Members
 - (i) To be eligible as a Corporate Member, the member must be either a company, partnership, association, public authority, institution or entity directly associated with an energy-related discipline.
 - (ii) Except as set out below and as otherwise expressly provided in this Constitution, a Corporate Member has all the rights and benefits, and must comply with all the obligations, of Ordinary Members.
 - (iii) A Corporate Member must be represented by a natural person nominated by the Corporate Member and approved by the Board (**Corporate Representative**).
 - (iv) A Corporate Representative:
 - (A) has the right to receive notices from the Company;
 - (B) may attend all general meetings of the Company;
 - (C) does not have the right to request the convening of or to vote at or be heard at general meetings of the Company;
 - (D) subject to the Board's discretion, may be appointed to any committee, working party or similar representative body of the Company or the Board, with or without a determinative vote.

5.6 Application for membership

- (a) Any person that meets the eligibility requirements applicable to their class of membership in clause 5.5 can apply to become a Member.
- (b) Each applicant to become a Member must sign and deliver to the Company an application in the form which the Board determines, and pay any initial fee which the Board determines.
- (c) Within a reasonable period of receipt of a membership application, the Board will consider the application and will, in its absolute discretion without having to provide reasons:
 - (i) approve or reject the applicant and (if applicable) determine the class of membership; or

- (ii) decide to request an applicant to supply any evidence of eligibility that the Board considers reasonably necessary.
- (d) An applicant will be admitted to membership of the Company as a Member, if the Directors resolve by majority to admit the applicant as a Member.
- (e) If the Board rejects a membership application, the Secretary must, as soon as practicable, notify the applicant in writing that the application has been rejected.
- (f) If the Board approves a membership application, the Secretary must, as soon as practicable:
 - (i) notify the applicant in writing of the approval for membership and the class of membership; and
 - (ii) request payment of the applicant's entrance fee, all or part of the Annual Fee (as determined by the Board) and any special fee within 14 days after the date the applicant is notified of acceptance.
- (g) If an amount due under clause 5.6(f)(ii) is not paid by the due date, the Board may cancel the approval of the membership application.
- (h) The Secretary must, within 30 days after a membership application is approved by the Directors, enter the applicant's name in the Register in accordance with clause 6.

5.7 Membership fees

- (a) The entrance fee for membership and Annual Fees payable by all Members will be reviewed and adjusted by the Board from time to time.
- (b) Except for the first Annual Fee payable by a new Member in accordance with clause 5.6(f)(ii), all Annual Fees are due and payable in advance on 1 July each year or as otherwise determined by the Board from time to time.

5.8 Failure to pay membership fees

- (a) If any amount owing under clause 5.7 remains unpaid for a period of 60 days after it falls due, the Secretary will send a notice to the Member requiring payment of the outstanding amount within 30 days of the date of the notice.
- (b) If the amount is not paid within this 90 day period, then the Member will at the end of the period automatically and without further notice cease to be a Member.
- (c) The Board may, in its absolute discretion, reinstate the Member on payment of all arrears of amounts owing under clause 5.7.
- (d) This clause 5.8 does not apply to the cancellation of an approval of a membership application under clause 5.6(g).

5.9 No transfer of membership

A right, privilege or obligation of a person by reason of membership:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates upon the cessation of membership.

5.10 Cessation of membership

- (a) A Member will cease to be a Member:
- (i) if the Member resigns by notice in writing to the Secretary, on the date that the notice is received by the Secretary;
 - (ii) if their membership is cancelled in accordance with clause 5.8;
 - (iii) if, in the Board's reasonable opinion, either:
 - (A) the Member's status or conduct renders it undesirable that the Member continue to be a Member, including (without limitation) if the Member brings the reputation of the Company into disrepute; or
 - (B) the Member no longer meets the applicable criteria for membership in clause 5.5;

and both of the following requirements are met:

 - (C) the Directors resolve by majority to terminate the membership of the Member; and
 - (D) the Member has been given at least 21 days notice of the resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed; or
 - (iv) where the Member is an individual, if the Member:
 - (A) dies;
 - (B) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health; or
 - (C) is convicted of an indictable offence;
 - (v) where the Member is an organisation, if it is deregistered or otherwise ceases to be an organisation; or
 - (vi) if the Member is the subject of an Insolvency Event.
- (b) Any Member ceasing to be a Member:
- (i) will have its name removed from the Register;
 - (ii) is not entitled to any refund (or part refund) of any Annual Fee or other fee already paid; and
 - (iii) will remain liable for and must pay to the Company all fees and any other amounts which were due to the Company at the date of ceasing to be a Member.

6. Register of Members

- (a) The Secretary must keep and maintain a Register containing:
 - (i) the name and address of each Member;
 - (ii) the class of membership of each Member;
 - (iii) the date on which each Member's name was entered into the Register; and
 - (iv) the name and date of appointment of each representative relevant to each Member.
- (b) The Register is available for inspection free of charge by any Member upon request.

7. General meetings

7.1 Annual general meetings

- (a) The Company must hold an annual general meeting within 18 months after the date of its registration.
- (b) After the first annual general meeting, the Company must hold an annual general meeting once in each calendar year and no later than 5 months after the end of each Financial Year.
- (c) The annual general meeting must be held at the place that the Board sets for the meeting.

7.2 Business at annual general meeting

Even if these items are not set out in the notice of meeting under clause 7.6, the business of an annual general meeting may include:

- (a) considering the Company's activities and finances and the reports of the Directors and auditor (if any);
- (b) confirming the minutes of the last preceding annual general meeting and of any other general meeting held since the last annual general meeting;
- (c) electing Directors and other officers;
- (d) (where relevant) appointing the auditor and fixing the remuneration of the auditor; and
- (e) transacting any other business which under this Constitution or the Corporations Act may properly be brought before the meeting.

7.3 Power of Directors to convene general meeting

- (a) The Board may convene a general meeting of the Company's Members whenever it thinks fit, at any place it thinks fit.
- (b) The Board must convene a general meeting of Members, on the request of Members with at least 5% of the votes that may be cast at a general meeting.

- (c) Subject to the Corporations Act, the Board may cancel or postpone any general meeting or change its venue by giving notice to all persons to whom the notice of the original meeting was given, but may not cancel a general meeting which was called or requested by persons other than the Directors, without the prior written consent of those persons.

7.4 Power of Members to convene a general meeting

- (a) Members with at least 5% of the votes that may be cast at a general meeting may call, and arrange to hold, a general meeting.
- (b) As far as reasonably practicable, a general meeting under this clause 7.4 must be called in the same way in which general meetings of the Company are called.
- (c) The Members calling the general meeting must pay the expenses of calling and holding it under this clause 7.4.

7.5 Members' resolutions at a general meeting

- (a) Members with at least 5% of the votes that may be cast on a resolution may give the Company notice of a resolution they propose to move at a general meeting.
- (b) The notice under clause 7.5(a) must:
 - (i) be in writing;
 - (ii) set out the wording of the proposed resolution; and
 - (iii) be signed by the Members proposing to move the resolution.
- (c) If the Company has been given notice of a Members' resolution under clause 7.5(a), the resolution must be considered at the next general meeting of the Company that occurs more than 2 months after the notice is given.

7.6 Notice of general meetings

- (a) Written notice of a general meeting must be given in accordance with this Constitution to:
 - (i) every Member;
 - (ii) every Director; and
 - (iii) the auditor (if any).
- (b) Notice of general meetings (including annual general meetings) must be provided to Members at least 21 clear days before the meeting is to be held.
- (c) Subject to the Corporations Act and clause 7.6(d), the Company may call, on shorter notice than that specified in clause 7.6(b):
 - (i) an annual general meeting, if all the Members entitled to attend and vote at the annual general meeting agree prior to the annual general meeting; and
 - (ii) any other general meeting, if Members holding at least 95% of the votes that may be cast at the general meeting agree prior to the general meeting.

- (d) The Company cannot call a general meeting or annual general meeting on shorter notice than that specified in clause 7.6(b) if a resolution will be moved at the meeting to:
 - (i) appoint or remove a Director; or
 - (ii) remove an auditor.
- (e) Subject to the Corporations Act, the Company may give notices to Members electronically, by notifying the Member:
 - (i) that the notice is available; and
 - (ii) how the Member may use electronic means to access the notice,
 by any electronic means permitted by the Corporations Act and to an electronic address nominated by the relevant Member for the purpose of receiving notices.

7.7 Content of notice of general meetings

A notice of a general meeting must:

- (a) specify the place, date and time for the general meeting (and, if the meeting is to be held in 2 or more places in accordance with clause 7.9, the technology that will be used to facilitate this);
- (b) state the general nature of the business to be transacted at the general meeting;
- (c) (if a Special Resolution is to be proposed at the general meeting) set out an intention to propose the Special Resolution and state the resolution; and
- (d) contain a statement of:
 - (i) each Member's right to appoint a proxy; and
 - (ii) the fact that a proxy need not be a Member of the Company.

7.8 Failure to give notice

Any resolution passed at a general meeting is not invalidated by:

- (a) the accidental omission to give notice of a general meeting to any Member or non-receipt of that notice by a Member; or
- (b) the accidental omission to send out the instrument of proxy to a person entitled to receive notice or non-receipt of that instrument.

7.9 Use of technology

- (a) The Company may hold a meeting or permit Members to attend a meeting using any technology that gives Members a reasonable opportunity to participate, including through any internet-based meeting application or any analogous technology. A Member is present in person for such a meeting if that Member is participating through the internet-based meeting application.
- (b) The general meeting is taken to be held where the Chairperson of the general meeting conducts the general meeting. All proceedings conducted in accordance with

this clause 7.9 are as valid as if conducted at a single gathering of a quorum of those entitled to be present.

7.10 Quorum

- (a) No business may be transacted at a general meeting unless a quorum of Members is Present at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this Constitution, a quorum constitutes 10 Members Present.

7.11 If a quorum not Present

If a quorum is not Present within 15 minutes after the time appointed for the general meeting in the notice:

- (a) where the meeting is convened on the requisition of Members, the meeting must be automatically dissolved (subject to clause 7.14(a)); and
- (b) in any other case:
 - (i) the meeting stands adjourned to a day and at a time and place as the Directors decide or, if no decision is made by the Directors, to the same day in the next week at the same time and place; and
 - (ii) if no quorum is Present at the resumed meeting within 15 minutes after the time appointed for the meeting, the meeting must be dissolved.

7.12 Chairperson of general meeting

- (a) Subject to clause 7.12(b), the Chairperson must preside as chair at every general meeting.
- (b) If the Chairperson is not present within 15 minutes after the time appointed for the meeting or is unwilling to act as chair:
 - (i) the Directors present must elect a Director to chair the meeting; or
 - (ii) if none of the Directors present wish to act, or in the absence of all Directors, the Members Present must elect one of their number to chair the meeting.
- (c) Where a person is appointed to chair a meeting under clause 7.12(b), in relation to that meeting, references to the Chairperson in this Constitution include a reference to that person.

7.13 Right of officers and advisers to attend general meeting

Any other person (whether a Member or not) required by the Directors to attend any general meeting is entitled to be present and, at the request of the Chairperson of the general meeting, to speak at that general meeting.

7.14 Adjournments

- (a) The Chairperson may, and must if directed to do so by the general meeting, adjourn a general meeting from time to time and from place to place.

- (b) Only business left unfinished at the meeting which was adjourned may be transacted at a meeting resumed after an adjournment.
- (c) A resolution passed at a meeting resumed after an adjournment is passed on the day it was in fact passed.
- (d) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting. In all other cases it is not necessary to give notice of the adjourned meeting.

7.15 Written resolutions of Members

- (a) A resolution may be passed without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Identical copies of the document may be distributed for signing by different Members and taken together will constitute the same document.
- (c) The resolution is passed when the last Member signs the document, and satisfies any requirement in this Constitution or the Corporations Act that the resolution be passed at a general meeting.

8. Voting at general meetings

8.1 Voting rights

- (a) Each Member has 1 vote.
- (b) Each person present at the general meeting who represents more than 1 Member, either personally, by proxy, attorney or as representative, has 1 vote for each capacity that person represents.
- (c) A Member ordinarily entitled to vote is not entitled to vote if his or her Annual Fee is more than 3 months in arrears at the commencement of the relevant general meeting.

8.2 Members' resolutions

- (a) Except where by law a resolution is required to be a Special Resolution, a resolution put to the vote at a general meeting must be decided by a majority of votes cast by the Members Present at the general meeting.
- (b) A resolution put to the vote at a general meeting must be decided on a show of hands unless a poll is demanded in accordance with clause 8.3.
- (c) Before a vote is taken, the Chairperson must inform the general meeting whether any proxy votes have been received and how the proxy votes are to be cast on the resolution.
- (d) A declaration by the Chairperson that a resolution has on a show of hands been carried or lost and an entry to that effect in the minutes of the meeting is conclusive evidence of that fact. Neither the Chairperson nor the minutes of the meeting need to state the number or proportion of the votes recorded in favour or against the resolution.

8.3 Voting by poll

- (a) A poll may be demanded by:
 - (i) the Chairperson; or
 - (ii) at least 5 Members Present entitled to vote on the resolution.
- (b) A poll may be demanded:
 - (i) before a vote is taken; or
 - (ii) before or immediately after the voting results on a show of hands are declared.
- (c) The demand for a poll may be withdrawn.
- (d) Subject to clause 8.3(e), if a poll is demanded, it is to be taken in the manner and at the time the Chairperson directs.
- (e) A poll demanded on the election of a Chairperson or on a question of adjournment must be taken immediately.
- (f) The result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) The demand for a poll does not prevent a general meeting from proceeding with any other business.

8.4 Chairperson does not have a casting vote

Subject to the Corporations Act, in the case of an equality of votes on a show of hands or on a poll, the Chairperson of the relevant general meeting does not have a casting vote. In this case the resolution will be defeated.

8.5 Objection to qualification to vote

- (a) An objection to a person's right to vote at a general meeting:
 - (i) may only be raised at the general meeting or adjourned meeting at which the vote objected to is tendered; and
 - (ii) must be determined by the Chairperson of the meeting, whose decision is final.
- (b) A vote allowed after an objection is valid for all purposes.

8.6 Votes counted in error

If any vote is counted which ought not to have been counted or might have been rejected, the error will not invalidate the resolution unless the error is:

- (a) detected at the same general meeting; and
- (b) of sufficient magnitude, in the opinion of the Chairperson, as to invalidate the resolution.

9. Proxies

9.1 Appointment of proxies

- (a) A Member who is entitled to attend and vote at a general meeting may appoint a person as that Member's proxy to attend and vote for that Member at a general meeting.
- (b) A proxy must be a Member of the Company.

9.2 Rights of proxies

A proxy appointed to attend and vote at a general meeting for a Member in accordance with this clause 9 has the same rights as the Member to:

- (a) speak at the meeting;
- (b) vote (to the extent allowed by the appointment); and
- (c) demand, or join in a demand, for a poll.

9.3 Form of proxy

- (a) An instrument appointing a proxy is valid if it is in the form specified by the Directors from time to time and is:
 - (i) signed by or on behalf of the Member making the appointment; and
 - (ii) contains the following information:
 - (A) the Member's name and address;
 - (B) the Company's name;
 - (C) the proxy's name or the name of the office held by the proxy; and
 - (D) the meetings at which the appointment may be used.
- (b) The proxy form must provide for the Member to vote for or against each resolution and may provide for abstention to be indicated.
- (c) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution. Where it does so, the proxy is not entitled to vote on the resolution except as specified in the instrument. A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.
- (d) An instrument appointing a proxy will not be valid after 12 months from the date of its execution, unless it is expressly stated to be a standing appointment or to extend for a longer period.

9.4 Where proxy is incomplete

- (a) No instrument appointing a proxy is treated as invalid merely because:
 - (i) it does not contain the address of the appointor or proxy;

- (ii) it is not dated; or
 - (iii) in relation to any or all resolutions, it does not contain an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not indicate the name of the proxy, the instrument is treated as given in favour of the Chairperson of the general meeting.

9.5 Lodgement of proxy

- (a) An instrument appointing a proxy is not treated as valid unless:
- (i) the instrument;
 - (ii) and either:
 - (A) the power of attorney or other authority (if any) under which the instrument is signed; or
 - (B) a copy of that power or authority certified in a manner acceptable to the Directors,

are lodged not less than 48 hours (or any shorter period as the Directors may permit, subject to the Corporations Act) before the time for holding the meeting at the place specified for that purpose in the notice of the meeting or, if none, at the Office.
- (b) An instrument appointing a representative to act for a Member at all meetings of the Company or at all meetings for a specified period is not treated as valid unless:
- (i) the instrument of appointment or a certified copy of it, duly signed by hand or electronically authenticated in accordance with clause 9.5(c); and
 - (ii) any evidence as to the validity and non-revocation of that authority as may be required by the Directors,
- are lodged not less than 48 hours (or any shorter period as the Directors may permit) before the time for holding the meeting at the place specified for that purpose in the notice of the meeting or, if none, at the Office.
- (c) For the purposes of this clause 9.5:
- (i) subject to the Corporations Act, instead of signing or executing an instrument of appointment, a Member may electronically authenticate the appointment of a proxy, provided that:
 - (A) the Member is identified by personal details as required by the Company;
 - (B) the Member's approval of the information communicated to the Company is accompanied by a personal identification number or any other numbers provided by the Company; and
 - (C) the Member complies with any other requirements of the Company.

9.6 Validity of proxy vote

- (a) A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:
- (i) the previous death or mental incapacity of the appointing Member;
 - (ii) the revocation of the relevant instrument or of the authority under which the instrument was executed; or
 - (iii) the revocation of the power of attorney,
- if no notice in writing of the death, mental incapacity or revocation has been received by the Company at the Office before the commencement of the general meeting or adjourned meeting at which the instrument or power of attorney is used.
- (b) A proxy is not revoked by the appointing Member attending and taking part in the general meeting, unless the Member actually votes on the resolution for which the proxy is proposed to be used.

10. Board of Directors

10.1 Number of Directors

- (a) The Company must have at least 3 Directors, or such greater number of Directors not exceeding 15 as the Directors think fit, in office at all times. At least 2 of the Directors must be ordinarily resident in Australia.
- (b) The Company in general meeting may by ordinary resolution alter the number of Directors, provided that the minimum number is not reduced below 3.

10.2 Initial Directors

On the date of adoption of this Constitution, there will be 7 initial Directors as follows:

- (a) Andrew Leslie Dicks;
- (b) Anthony Paul Williams;
- (c) Jeffrey Genn Wah NG;
- (d) Fiona Jean Beck;
- (e) Patrick Gordon Hartley;
- (f) Jessica Alice Allen; and
- (g) Kenneth George Herbert Baldwin.

10.3 Appointment and removal of Directors

- (a) Subject to the Corporations Act, the Company may by resolution appoint or remove a Director from office.
- (b) Subject to the Corporations Act, the Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the number of

existing Directors, provided the total number of Directors does not exceed the maximum number specified in clause 10.1(a). That person holds office until the end of the next annual general meeting following their appointment and is eligible for election at that meeting.

10.4 Term of appointment as Director

- (a) No Director may hold office for a period in excess of 2 years, or beyond the second annual general meeting following the Director's election, whichever is the longer, without submitting himself or herself for re-election.
- (b) At each annual general meeting, the person or persons (if any) standing for election as Director will be, as applicable:
 - (i) any Director required to retire under clause 10.4(a) who stands for re-election;
 - (ii) any Director required to submit for election under clause 10.3(b); and
 - (iii) a person standing for election as a new Director.
- (c) A retiring Director is eligible for re-election without needing to give any prior notice of an intention to submit for re-election and holds office as a Director until the end of the meeting at which the Director retires.

10.5 Nomination of Directors

- (a) A Member may nominate any other Member for each position on the Board which is to be filled at the next annual general meeting in accordance with this Constitution.
- (b) A nomination under clause 10.5(a) must be in writing, signed by the nominator and be submitted to the Secretary at the Office at least 14 days before the annual general meeting at which the election is to take place.

10.6 Director qualifications

- (a) A Director must be a Member.
- (b) A person must give the Company a signed written consent to act as a Director before being appointed as a Director.

10.7 Vacation of office of Director

In addition to the circumstances in which the office of a Director becomes vacant:

- (a) under the Corporations Act;
- (b) because of a resolution under clause 10.3(a); or
- (c) under clause 10.4;

the office of a Director becomes vacant if the Director:

- (d) becomes physically or mentally incapable of performing the Director's duties and the Board resolves that his or her office be vacated for that reason;
- (e) is the subject of an Insolvency Event;

- (f) resigns by notice in writing to the Company;
- (g) dies;
- (h) ceases to be a Member;
- (i) is absent (and not represented by an Alternate Director) from meetings of the Directors for a continuous period of 6 months without special leave of absence from the Directors and the Board resolves that his or her office be vacated; or
- (j) subject to clause 11.7, without the prior or subsequent consent of the other Directors, is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the Director's interest as required by the Act.

10.8 Remuneration and payments to Directors

- (a) No payment will be made to any Director other than a payment allowed under clause 4(b) or 10.8(b).
- (b) Clause 10.8(a) does not apply to the remuneration of any executive Directors. Remuneration payable by the Company and any entity under its control to any executive Directors will be calculated on a commercial basis and fixed by the Board from time to time but must not be a distribution of, commission on, or a percentage of, profits or operating revenue.

11. Powers and duties of Directors

11.1 General management power

- (a) Subject to the Corporations Act and this Constitution, the Directors are responsible for managing the business of the Company and may exercise all powers of the Company which are not required to be exercised by the Company in a general meeting by the Corporations Act or this Constitution.
- (b) Without limiting clause 11.1(a), the Directors may exercise all the powers of the Company to:
 - (i) borrow or raise money;
 - (ii) grant security over any property or business of the Company or all or any of its uncalled capital;
 - (iii) pay interest on any debt due by the Company; and
 - (iv) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

11.2 Appointment of attorneys and representatives

- (a) The Directors may, by power of attorney or by general or specific appointment, appoint any person or persons to be an attorney or representative of the Company with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.

- (b) An appointment under clause 11.2(a) may be made on terms for the protection and convenience of persons dealing with the attorney or representative as the Directors think fit and may also authorise the attorney or representative to delegate all or any of the powers, authorities and discretions vested in the attorney or representative.

11.3 Committees

- (a) The Directors may create a committee or committees consisting of any number of Directors, Members or other persons (including, without limitation, employees or volunteers of the Company) as they think fit.
- (b) The Directors may delegate any of their powers to a committee. In that case:
 - (i) the committee must exercise those powers in accordance with any direction of the Directors; and
 - (ii) a power exercised in accordance with clause 11.3(b)(i) is taken to be exercised by the Directors.
- (c) If the Board does not delegate any of its powers to a committee, that committee will act as an advisory committee only.
- (d) Clauses 12.1, 12.2, 12.4 and 12.5 apply to any committee as if each reference in those clauses to the Directors was a reference to the members of the committee and each reference to a meeting of Directors were to a meeting of the committee.
- (e) Minutes of all the proceedings and decisions of every committee must be made, entered and signed in the same manner in all respects as minutes of proceedings of the Directors are required by the Corporations Act to be made, entered and signed.

11.4 Negotiable instruments and electronic payments

- (a) All negotiable instruments of the Company are to be executed by the persons and in the manner determined by the Directors from time to time.
- (b) All electronic payments by the Company are to be made or authorised in the manner determined by the Directors from time to time.

11.5 By-laws

- (a) The Directors have the power to make by-laws regulating the establishment, organisation and conduct of the Company and its committees, provided such by-laws are not inconsistent with this Constitution or the Corporations Act.
- (b) All by-laws made and in force from time to time are binding on the Members.

11.6 Acts of Directors valid despite defective appointment

Any act done at any meeting of the Directors or of a committee of Directors by any person acting as a Director is, although it is later discovered that there was some defect in the appointment of any such Director or that the Director was disqualified, is valid as if the Director had been duly appointed and was qualified to be a Director or to be a member of the committee.

11.7 Interested Directors

A Director:

- (a) may hold another position (except as auditor) in the Company or any related body corporate on terms as to remuneration, tenure and otherwise that the Directors think fit;
 - (i) may be employed by the Company or act in a professional or technical capacity (except as auditor) on behalf of the Company;
 - (ii) is not disqualified, merely because he or she is a Director, from contracting with the Company in any respect including, but not limited to:
 - (A) selling property to, or purchasing property from, the Company;
 - (B) lending money to the Company with or without interest or security;
 - (C) guaranteeing the repayment of money borrowed by the Company for a commission or profit; or
 - (D) underwriting or guaranteeing the subscription for securities in any related body corporate or other body corporate promoted by the Company or in which the Company is interested as a shareholder or otherwise, for a commission or profit.
- (b) The Directors may exercise the voting rights conferred by shares in any body corporate held or owned by the Company in the manner that they think fit.
- (c) A contract or arrangement made by the Company with a Director or in which a Director is in any way directly or indirectly interested may not be avoided merely because the Director is a party to or interested in it.
- (d) If a Director:
 - (i) has a material personal interest in a matter that relates to the affairs of the Company (other than an interest that does not have to be disclosed under section 191(2) of the Corporations Act);
 - (ii) the Director discloses the nature and extent of the interest and its relation to the affairs of the Company to the other Directors in accordance with section 191 of the Corporations Act; and
 - (iii) the Directors (other than the Director with the personal interest) approve the participation of that Director in the matter and permits that Director to vote on the matter,

then:

 - (iv) the Director may vote on matters that relate to the interest;
 - (v) any transactions that relate to the interest may proceed; and
 - (vi) if the disclosure is made before the transaction is entered into:
 - (A) the Director may retain benefits under the transaction even though the Director has the interest; and

- (B) the Company cannot avoid the transaction merely because of the existence of the interest.
- (e) The Directors may make regulations requiring the disclosure of interests that a Director, and any person considered by the Directors as related to or associated with the Director, may have in any matter concerning the Company. Any regulations made under this Constitution bind all Directors.

12. Proceedings of Directors

12.1 Calling and holding Directors' meetings

- (a) The Board or a Director may call a Directors' meeting by giving reasonable notice to each Director.
- (b) The Directors may adjourn and otherwise regulate their meetings as they think fit.

12.2 Meetings by telecommunications

Without limiting the power of the Directors to regulate their meetings as they think fit, the Directors may hold a valid meeting using any medium by which each of the Directors can simultaneously hear all the other participants (including telephone and video conferencing), and in that case:

- (a) the participating Directors are taken to be present at the meeting for the purposes of this Constitution;
- (b) the meeting is taken to be held where the Chairperson of the meeting is;
- (c) all proceedings of the Directors conducted in accordance with this clause 12.2 are as valid and effective as if conducted at a meeting at which all of them were present in person.

12.3 Quorum

- (a) At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is 3 Directors.
- (b) If the office of a Director becomes vacant, the remaining Directors may act but, if the total number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, the Directors may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum or for the purpose of convening a general meeting of the Company.

12.4 Chairperson

- (a) The Directors must elect a Director to chair Director's meetings (**Chairperson**) and may decide the period during which the Chairperson is to hold that office.
- (b) Where a meeting of the Directors is held and:
 - (i) a Chairperson has not been elected; or
 - (ii) the Chairperson declines to act or is not present within 15 minutes after the time appointed for the holding of the meeting,

the Directors present must elect one of their number to chair the meeting.

- (c) Where a person is appointed to chair a meeting under clause 12.4(b), in relation to that meeting, references to the Chairperson in this Constitution include a reference to that person.

12.5 Directors' resolutions

Subject to this Constitution, a resolution of the Board must be passed by a majority of the votes of Directors present and entitled to vote on the resolution.

12.6 Acts of Directors valid despite defective appointment

Any act done at any meeting of the Directors or of a committee of Directors by any person acting as a Director is, although it is later discovered that there was some defect in the appointment of any such Director or that the Director was disqualified, is valid as if the Director had been duly appointed and was qualified to be a Director or to be a member of the committee.

12.7 Minutes

- (a) The Directors must cause minutes to be made of:
 - (i) proceedings and resolutions of general meetings of the Members and resolutions passed by Members without a meeting;
 - (ii) all appointments of Directors, Alternate Directors and officers;
 - (iii) all orders made by the Directors;
 - (iv) proceedings and resolutions of Directors' meetings and resolutions passed by Directors without a meeting,

and retain the minutes in a minute book for a period of at least 10 years or such other period as may be required under the Corporations Act.

- (b) The Company must ensure that minutes are signed within a reasonable time after the date of the meeting or of the resolution being passed by:
 - (i) the Chairperson of the meeting; or
 - (ii) the Chairperson of the next meeting; or
 - (iii) in the case of a resolution without a meeting, a Director.
- (c) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this clause 12.7 is evidence of the matters shown in the minute.

12.8 Written resolutions of Directors

- (a) The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Identical copies of the document may be distributed for signing by different Directors and taken together will constitute the same document.

- (c) The resolution is passed when the last Director signs the document.
- (d) Where a committee consists of one Director only, a document signed by that Director and recording a decision of the committee is valid and effective as if it were a decision made at a meeting of that committee and that document constitutes a minute of that decision.

13. Alternate Directors and attendance by proxy

- (a) A Director (Appointing Director) may:
 - (i) with the approval of a majority of the other Directors, appoint a person who must be a Member; or
 - (ii) without the need for the approval of the other Directors, appoint another Director, to be an Alternate Director in the Appointing Director's place during any period that the Appointing Director thinks fit.
- (b) The appointment of an Alternate Director:
 - (i) may be terminated or suspended at any time by the Appointing Director; and
 - (ii) terminates automatically if the Appointing Director vacates office as a Director.
- (c) An appointment, or the termination or suspension of an appointment, of an Alternate Director is effected by delivery of a written notice signed by the Appointing Director to the other Directors. Delivery may be by post, fax or electronic message.
- (d) An Alternate Director:
 - (i) is entitled to notice of meetings of the Directors and, if the Appointing Director is not present at such a meeting, is entitled to attend, participate and vote in the Appointing Director's stead; and
 - (ii) subject to any limitation in the appointment of the Alternate Director, may exercise all the powers and perform all the duties of the Appointing Director, except the power to appoint an Alternate Director.
- (e) The exercise of any power by the Alternate Director is as officer of the Company and not as agent of the Appointing Director and the Alternate Director is responsible to the Company for his or her own acts and omissions.
- (f) Where the Alternate Director is another Director, that Director is entitled to cast a deliberative vote on the Director's own account and on account of each Appointing Director by whom the Director has been appointed as an Alternate Director.
- (g) Except for reimbursement of expenses in accordance with clause 4(b)(i), an Alternate Director is not entitled to receive remuneration for acting as Alternate Director.
- (h) An Alternate Director is not taken into account in determining the number of Directors or rotation of Directors.
- (i) A Director may attend and vote by proxy at any meeting of the Directors provided that such proxy is a Director and has been appointed in writing signed by the Appointing Director. Such appointment may be general or for any particular meeting or meetings.

14. Secretary

- (a) A person must give the Company a signed written consent to act as Secretary before being appointed as a Secretary.
- (b) A Secretary of the Company holds office on the terms and conditions, as to remuneration and otherwise, as the Directors decide.
- (c) A Secretary may be a Director or a Member, as the Board sees fit, but is not required to be either a Director or a Member.
- (d) The Secretary's responsibilities include:
 - (i) ensuring the minutes of the meetings of the Board and the Members are signed, saved and filed;
 - (ii) ensuring that all notices are duly given in accordance with the provisions of this Constitution or as required by law;
 - (iii) maintaining the Register; and
 - (iv) generally performing all duties incidental to the office of secretary of a corporation and such other duties as may be assigned to him or her by the Board from time to time.

15. Execution of documents

15.1 Execution generally

- (a) The Company may execute documents (including deeds) in any way permitted by the Corporations Act.
- (b) Without limiting clause 15.1(a), the Company may validly execute a document (including a deed) if the document is signed by a Director and countersigned by another Director, Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

15.2 Execution by authorised persons

Clause 15.1 does not limit the ability of the Directors to authorise a person who is not an officer of the Company to execute a document for and on behalf of the Company.

16. Notices

16.1 How notice to be given

The Company may give a notice to any Member by:

- (a) serving it on the Member personally;
- (b) sending it by post to the Member's address as shown in the Register or an alternative address (if any) supplied by the Member to the Company for the purpose of giving notices;

- (c) giving it to a Member's representative in any manner contemplated by this clause 16.1, where the Member has by written notice to the Secretary required that all notices to be given to the Member be given to its representative;
- (d) sending it by email to an email address nominated by the Member;
- (e) sending it via any other electronic means permitted by the Corporations Act and nominated by the Member for the giving of notices, including providing an electronic link to the notice; or
- (f) giving it by any other means permitted by the Corporations Act.

16.2 When notice is given

A notice is deemed to be given by the Company and received by the Member:

- (a) if delivered in person, when delivered to the Member;
- (b) if posted, on the day after the date of posting to the Member, whether delivered or not; or
- (c) if sent by email or other electronic means, on the day after the date of its transmission,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am (addressee's time) on the next Business Day.

16.3 No notice of no valid address

If:

- (a) any Member has not provided to the Office an address for registration in the Register; or
- (b) the Company believes that a Member is not known at the address registered in the Register,

unless and until the Member provides a valid address to the Office, all notices to be sent to that Member are taken to be given to the Member if the notice is displayed at the Company's Office for 48 hours, and are taken to be served at the commencement of that period.

17. Audit and accounts

17.1 Company must keep accounts

- (a) The Company must keep accounts in accordance with the requirements of the Corporations Act.
- (b) The Company must allow the Directors and the auditor to inspect those accounts at all reasonable times.

17.2 Audit

If required by the Corporations Act, the Board must cause the Company's financial report for each Financial Year to be audited and obtain an auditor's report.

17.3 Financial reporting

The Board must cause the Company to comply with all financial reporting obligations imposed on it under the Corporations Act.

18. Inspection of records

- (a) Subject to the Corporations Act, the Directors must determine whether and on what terms the accounting records and other documents of the Company or any of them will be open to the inspection of Members other than Directors.
 - (b) A Member other than a Director does not have the right to inspect any document of the Company except as provided by the Corporations Act, or otherwise as authorised by the Directors or by the Company in general meeting.
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19. Indemnity and insurance

19.1 Definition

In this clause **Officer** has the meaning given in section 9 of the Act.

19.2 Company must indemnify Officers

To the full extent permitted by law and without limiting the powers of the Company, the Company may indemnify any person who is or has been an Officer of the Company, or of a related body corporate of the Company against all losses, liabilities, damages, costs, charges and expenses of any kind incurred by the Officer as an officer of the Company or of a related body corporate.

19.3 Documentary indemnity and insurance policy

To the extent permitted by the Corporations Act and any applicable law and without limiting the powers of the Company, the Directors may authorise the Company to, and the Company may, enter into any:

- (a) documentary indemnity in favour of; or
- (b) insurance policy for the benefit of,

a person who is, or has been, an Officer of the Company or of a related body corporate of the Company, which indemnity or insurance policy may be in such terms as the Directors approve and, in particular, may apply to acts or omissions prior to or after the time of entering into the indemnity or policy.

20. Affiliation and membership of other similar organisations

The Company may in general meeting determine to affiliate with or become a member of, or to accept affiliation or membership of, any organisation (including any regional or international association) having similar or like interests to the Company.

21. Winding up

- (a) If upon the winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property or assets whatsoever, such property or assets will not be paid to or distributed among the Members, but will be given or transferred to another organisation or organisations:
- (i) with objects similar to the Objects; and
 - (ii) which prohibits the distribution of its income and property amongst its members to an extent at least as great as imposed on the Company under clause 4,

and determined by a Special Resolution of Members or if it not practicable to obtain such a Special Resolution, by a Judge of the court of jurisdiction who has jurisdiction in the matter.

22. Variation or amendment of Constitution

This Constitution may be varied or amended from time to time by Special Resolution of the Members, in accordance with the Corporations Act.