

## CONSTITUTION

of

### THE GEELONG CHAMBER OF COMMERCE LIMITED

#### 1. INTERPRETATION

In this Constitution the following words and phrases shall have the meanings assigned unless the context otherwise permits:

- 1.1. **Act** means the Corporations Act 2001 (Cth);
- 1.2. **Annual General Meeting** means an annual General Meeting held in accordance with clause 12;
- 1.3. **Appointed Directors** means Directors appointed in accordance with clause 14.3.1;
- 1.4. **Auditor** means an auditor of the Company appointed in accordance with clause 21;
- 1.5. **Board** means the board of Directors;
- 1.6. **Board Meeting** means a meeting of the Board convened in accordance with clause 17;
- 1.7. **Chairperson** means the person appointed as chairperson of the Company in accordance with clause 14.5;
- 1.8. **Chief Executive Officer** means the person appointed as Chief Executive Officer of the Company in accordance with clause 18;
- 1.9. **Committees** means any committees established by the Board pursuant to clause 16;
- 1.10. **Commonwealth** means the Commonwealth of Australia;
- 1.11. **Company** means The Geelong Chamber of Commerce ACN 004 284 735;
- 1.12. **Company Secretary** means any person appointed to perform the duties of a company secretary of the Company in accordance with clause 18;
- 1.13. **Constitution** means this Constitution as originally adopted or as amended from time to time;
- 1.14. **Corporate Member** means a Member that is a company, partnership, business, firm or other legal entity;
- 1.15. **Corporate Member Representative** means a person appointed to represent a Corporate Member and exercise all of that Corporate Member's rights, privileges and obligations as a Member;
- 1.16. **Deputy Chairperson** means the deputy chairperson of the Company appointed in accordance with clause 14.5;

- 1.17. **Directors** means the directors of the Company appointed pursuant to clause 14 and includes both Elected Directors and Appointed Directors;
- 1.18. **Elected Directors** means Directors holding office pursuant to clause 14.2.1;
- 1.19. **Extraordinary General Meeting** means a General Meeting other than an Annual General Meeting;
- 1.20. **Geelong Region** means the municipal areas of the Greater Geelong City Council, Borough of Queenscliffe, Golden Plains Shire, Surf Coast Shire and Colac Otway Shire;
- 1.21. **General Meeting** means a meeting of the Members of the Company and includes an Annual General Meeting;
- 1.22. **Governance & Risk Committee** means Governance, Finance, Audit & Risk Committee established pursuant to clause 16.2;
- 1.23. **Member Representative** means either an individual Member or a Corporate Member Representative as the case requires;
- 1.24. **Members** means the persons described in clause 5 and such other persons who become members of the Company;
- 1.25. **Person** shall include a corporation, partnership, business, firm and other legal entity;
- 1.26. **Special Resolution** means a special resolution as defined under the Act;
- 1.27. **State** means the State of Victoria;
- 1.28. Words or expressions contained in these regulations shall be interpreted in accordance with the provisions of the Interpretation of Legislation Act 1984 (Vic) of the State and of the Act;

## **2. AMENDING CONSTITUTION**

This Constitution may only be amended by a Special Resolution of Members.

## **3. NAME**

The name of the Company is The Geelong Chamber of Commerce.

## **4. OBJECTS**

- 4.1. The objects for which the Company is established are:
  - 4.1.1. to promote, encourage, maintain, support and assist businesses in the Geelong Region.
  - 4.1.2. to lobby on behalf of businesses in the Geelong Region;
  - 4.1.3. to foster knowledge of the Geelong Region nationally and internationally;
  - 4.1.4. to develop strategies for the benefits of Members;
  - 4.1.5. to offer and provide unified representation for business in the Geelong Region;

- 4.1.6. to promote public discussion of issues relating to trade, commerce and industry;
  - 4.1.7. to create opportunities for Members to share knowledge, expertise and resources, and to develop productive business relationships to achieve the objects;
  - 4.1.8. to grow industry trade, commerce and industry and the development of new business and industry for the Geelong Region;
  - 4.1.9. to take such steps as may be deemed necessary from time to time to place before the Commonwealth and State legislatures and the Local Government the view of persons engaged in trade, commerce and industry in the Geelong Region.
  - 4.1.10. to undertake such other measures for the assistance and advancement trade, commerce and industry in the Geelong Region as the Board may determine from time to time;
  - 4.1.11. to work collaboratively with other organisations within Australia who have similar purposes in order to promote the objects;
  - 4.1.12. to co-operate and/or collaborate with Local Government Authorities and other key interest groups, institutions, corporate entities, societies, associations and organisations where such where such collaboration or cooperation shall support and promote existing trade, commerce and industry in the Geelong Region or promote the Geelong Region as an attractive location for businesses to base their operations;
  - 4.1.13. apply the income and invest the assets of the Company to ensure the sustainability and longevity of the Company in the furtherance of these objects;
  - 4.1.14. to do all such acts as are incidental and conducive to the furtherance of these objects.
- 4.2. The Company shall not support with its funds or endeavour to impose on or procure to be observed by its Members or others, any regulation or restriction which would directly breach an object of the Company specified in this clause 4.

## **5. MEMBERS**

- 5.1. Members will be all Persons who are members of the Company at the time this Constitution is adopted and such other Persons who become Members in accordance with the provisions of this Constitution.
- 5.2. The Board may set different categories of membership of the Company.
- 5.3. Subject to clause 5.4, a right, privilege, or obligation of a Member by reason of membership of the Company is not capable of being transferred to another Person and terminates upon the cessation of membership whether by death, resignation or otherwise.
- 5.4. A right, privilege or obligation of a Member by reason of membership of the Company may be transferred in the case of a Corporate Member.

## **6. LIABILITY OF MEMBERS**

- 6.1. The liability of the Members is limited.

6.2. Each Member undertakes to contribute an amount not exceeding \$10.00 to the property of the Company if it is wound up while the Member is a member or within one year following the date upon which the Member ceases to be a Member, if required for payment:

6.2.1. of the debts and liabilities of the Company; and

6.2.2. of the costs, charges and expenses of winding up.

## **7. INCOME, PROPERTY AND REMUNERATION**

7.1. The income and property of the Company shall be applied solely towards the promotion of the objects of the Company, and no portion shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to the Members.

7.2. Nothing in this Constitution shall prevent the payment, in good faith by the Company:

7.2.1. of reasonable and proper remuneration to any officer of the Company, or to the Chairperson, Deputy Chairperson or to any Director in return for any services actually rendered to the Company;

7.2.2. of interest at a rate not exceeding interest at the then current official cash rate plus 5%; or

7.2.3. of reasonable and proper rent for premises demised or let by any Member to the Company.

## **8. APPLYING FOR MEMBERSHIP AND FEES**

8.1. A Person who applies and is approved to become a Member in accordance with this Constitution is eligible to be a Member on payment of any entrance fee and annual membership fee payable under Constitution.

8.2. The Board shall determine any entrance fee and annual membership fee that is payable for membership of the Company. The Board may set different annual membership fees for different categories of membership.

8.3. An application for membership of the Company must be made in writing in the form approved by the Board.

8.4. No Person can be a Member unless the Board has approved their membership of the Company.

8.5. If the Board rejects an application for membership, the Company Secretary must, as soon as practicable, notify the applicant in writing that the application has been rejected.

8.6. An applicant for membership becomes a Member and is entitled to exercise the rights of membership when their name is entered in the register of Members.

## **9. CESSATION OF MEMBERSHIP**

9.1. A Member may resign their membership of the Company by giving one month's notice in writing to the Company Secretary.

9.2. After the expiry of the notice period referred to in clause 9.1, the Member ceases to be a Member and the Company Secretary must record the date on which the membership ceased in the register.

- 9.3. Where a member fails to pay any annual membership fee fixed by the Board within two months of it falling due for payment, the ongoing entitlement to membership of the Member shall be considered by the Board. The Board may at its discretion either suspend or expel the Member.

## **10. DISCIPLINE, SUSPENSION AND EXPULSION OF MEMBERS**

- 10.1. If any Member willfully refuses or neglects to comply with the provisions of the Constitution or is guilty of any conduct which in the opinion of the Board is unbecoming of a Member or prejudicial to the interests of the Company, the Member may, with the approval of 75% of the Board, be expelled from membership of the Company and their name erased from the register of Members.
- 10.2. At least one week before the Board Meeting at which a resolution referred to in clause 10.1 is to be considered, the Member the subject of the resolution shall be given:
- 10.2.1. notice of such meeting;
  - 10.2.2. details of what is alleged against the Member;
  - 10.2.3. notice of the intended resolution for the Member's expulsion; and
  - 10.2.4. notice that at such meeting and before the passing of such resolution they shall have an opportunity of giving, orally or in writing, any explanation or defence in relation to the allegations made they may think fit.

## **11. DISPUTES AND MEDIATION**

- 11.1. The grievance procedure under this clause 11 applies to disputes between Members concerning matters relating to the Company, or to disputes between a Member and the Company.
- 11.2. Parties to a dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days by participating in good faith negotiations.
- 11.3. If the parties are unable to resolve the dispute at the meeting, or a party fails to attend that meeting, then the parties must, within 14 days, hold a meeting in the presence of a mediator.
- 11.4. The mediator may be:
- 11.4.1. a person chosen by agreement between the parties; or
  - 11.4.2. where the dispute is between two Members, a person appointed by the Board; or
  - 11.4.3. where the dispute is between a Member and the Company, a person who is a mediator employed by the Dispute Settlement Centre of Victoria (Department of Justice) or its successor.
- 11.5. The mediator, in conducting the mediation, must give the parties to the mediation every opportunity to be heard, must allow due consideration by all parties of any written statement submitted by another party and must ensure that natural justice is accorded to the parties to the dispute throughout the mediation process. The mediator must not determine the dispute.
- 11.6. If the mediation does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## **12. ANNUAL GENERAL MEETING**

- 12.1. An Annual General Meeting must be held within five months after the end of the financial year and otherwise in accordance with the provisions of the Act.
- 12.2. The purpose of the Annual General Meeting is:
  - 12.2.1. to confirm minutes of the previous Annual General Meeting and Extraordinary General Meetings, if any;
  - 12.2.2. to receive the report of the Board and audited statements of accounts for proceeding financial year;
  - 12.2.3. to elect the Elected Directors to any positions for which there is a vacancy;
  - 12.2.4. to appoint an Auditor and/or Auditors for the ensuing year; and
  - 12.2.5. for the transaction of any business of which 14 days' notice has been given by a Member or the Directors.

## **13. GENERAL MEETINGS**

### **13.1. Convening an Extraordinary General Meeting**

- 13.1.1. A minimum of two Directors may convene an Extraordinary General Meeting.
- 13.1.2. If Members with at least 5% of the votes that may be cast at a General Meeting make a written request to the Company for an Extraordinary General Meeting to be held, the Board must:
  - 13.1.2.1. within 21 days of the Members' request, give all Members notice of an Extraordinary General Meeting; and
  - 13.1.2.2. hold the Extraordinary General Meeting within two months of the Members' request.

### **13.2. Notice of a General Meeting**

Notice of a General Meeting:

- 13.2.1. must be given to:
  - 13.2.1.1. each Member entitled to vote at the meeting
  - 13.2.1.2. each Director; and
  - 13.2.1.3. the Auditor.
- 13.2.2. must be provided in writing at least 21 days before the meeting.
- 13.2.3. may be provided less than 21 days before the meeting if:
  - 13.2.3.1. for an Annual General Meeting, all the Members entitled to attend and vote at the Annual General Meeting agree beforehand; or

- 13.2.3.2. for any Extraordinary General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 13.2.4. must include:
  - 13.2.4.1. the place, date and time for the meeting;
  - 13.2.4.2. the general nature of the meeting's business;
  - 13.2.4.3. if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution;
  - 13.2.4.4. a statement that Members have the right to appoint proxies and that, if a member appoints a proxy:
    - 13.2.4.4.1. the proxy must be another Member Representative;
    - 13.2.4.4.2. the proxy must be in a form approved by the Board;
    - 13.2.4.4.3. the proxy form must be delivered to the Company at its registered address or the address (including an electronic address) specified in the notice of the meeting; and
    - 13.2.4.4.4. the proxy form must be delivered to the Company at least 24 hours before the meeting.
- 13.3. **Quorum**
  - 13.3.1. A quorum for a General Meeting is ten Members.
  - 13.3.2. No business shall be transacted at any General Meeting unless a quorum is present at the time when the General Meeting proceeds to business.
  - 13.3.3. Where a Member Representative holds a proxy for another Member, they shall, for the purposes of determining whether there is a quorum, be deemed to be present on their own behalf, and separately as a person present for each person for whom a proxy is held.
  - 13.3.4. If within half an hour from the time appointed for the General Meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present (being not less than five) shall be a quorum.
- 13.4. **Chairperson**
  - 13.4.1. The Chairperson shall preside as chairperson at every General Meeting.
  - 13.4.2. If the Chairperson is not present within 15 minutes after the time appointed for the holding of the General Meeting or is unwilling to act, the Deputy Chairperson shall preside as chairperson. If the Deputy Chairperson is

unable to act, the Members present shall elect one of the Member Representatives to be chairperson of the meeting.

**13.5. Adjourning a General Meeting**

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

**13.6. Members' Resolutions**

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

13.6.1.1. by the chairperson; or

13.6.1.2. by at least three Members present.

13.6.2. Every Member Representative shall have one vote for the Member they represent and one vote for each proxy held.

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

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

13.6.5. The chairperson of a General Meeting shall not have a second or casting vote.

13.6.6. A Member is not entitled to vote at a General Meeting unless all moneys due and payable by the Member to the Company have been paid, including the annual membership fee.

13.6.7. A Member who is of unsound mind or whose personal estate is liable to be dealt with in any way under the law relating to mental health may vote, whether on a show of hands or on a poll, by their representative or by their trustee or by such other person as properly has the management of their estate.

**13.7. Use of Technology**

13.7.1. Facilities may be available at a General Meeting to allow Members to participate in the meeting by video, telephone or any other technology which permits them to communicate with one another at the same time



and a Member who participates in the meeting by these means will be considered in attendance.

## **14. DIRECTORS**

### **14.1. Number of Directors and Tenure**

- 14.1.1. The Company shall have no more than nine Directors, whereby:
  - 14.1.1.1. up to six shall be Elected Directors; and
  - 14.1.1.2. up to three shall be Appointed Directors.
- 14.1.2. No person shall hold office as a Director for more than three consecutive terms regardless of whether the Director is appointed as an Elected Director or an Appointed Director.

### **14.2. Appointment of Elected Directors**

- 14.2.1. Elected Directors shall be elected at the Annual General Meeting and shall hold office for a term ending the conclusion of the second Annual General Meeting following their election and subject to clause 14.1.2, shall be eligible for re-election.
- 14.2.2. Should any adjustment to the term of an Elected Director be necessary to ensure rotational terms in office, this shall be determined by the Board. It is the intent that tenure for half of the Elected Directors shall expire at the conclusion of each Annual General Meeting.
- 14.2.3. When calling for nominations for Elected Directors, the Board may provide details of any skills or professional experience that may be desirable having regard to the objects of the Company and the existing composition of the Directors.
- 14.2.4. Any person standing for election as an Elected Director must submit a nomination to the Board at least 14 days prior to the Annual General Meeting at which the person intends to stand for election.
- 14.2.5. If at the election for an Elected Director:
  - 14.2.5.1. the number of nominations is the same or less than the number of vacant positions, then the nominated persons will be deemed to be elected without requirement for any vote to occur; or
  - 14.2.5.2. the number of nominations is the more than the number of vacant positions, a secret ballot must be held in such form as the chairperson of the Annual General Meeting directs.

### **14.3. Appointed Directors**

- 14.3.1. The Elected Directors may appoint up to three Member Representatives to be Appointed Directors who have skills or professional experience which will complement the composition of the Board.
- 14.3.2. Appointed Directors shall hold office for a term of two years and such shorter term as the Elected Directors determine at the time of appointment, and subject to clause 14.1.2, shall be eligible for re-election.

#### 14.4. **Appointment of Chairperson and Deputy Chairperson**

- 14.4.1. The Chairperson and Deputy Chairperson shall hold office until the conclusion of the second Annual General Meeting after their appointment. Subject to clause 4.1.2, a Chairperson and Deputy Chairperson shall be eligible for re-election.
- 14.4.2. An Elected Director or an Appointed Director is eligible to be the Chair or Deputy Chairperson.
- 14.4.3. At the first Board Meeting following an Annual General Meeting at which the term of the Chairperson and/or Deputy Chairperson is due to expire, the Board must elect the Chairperson and/or Deputy Chairperson (as the case may be) from the nominations received in accordance with clause 14.4.5.
- 14.4.4. At least seven days prior to the first Board Meeting after the Annual General Meeting, the Company Secretary shall advise the Board which positions of Chairperson and Deputy Chairperson are vacant or due to expire and the following shall apply:
  - 14.4.4.1. the Company Secretary must call for nominations to such of the office of Chairperson and Deputy Chairperson that are vacant or due to expire;
  - 14.4.4.2. if there is an intention for a Deputy Chairperson to accept a nomination for Chairperson, then their current office will be declared vacant;
  - 14.4.4.3. if there is an intention for a Chairperson to accept a nomination for Deputy Chairperson, then their current office will be declared vacant;
  - 14.4.4.4. any nomination for Chairperson or Deputy Chairperson must be signed by a nominating Director and accompanied by the signature of the nominee agreeing to the nomination, and delivered to the Company Secretary at least 48 hours prior to the first Board Meeting after the Annual General Meeting; and
  - 14.4.4.5. all Directors shall be advised of the nominations received under clause 14.4.4.4 at least 24 hours prior to the first Board Meeting after the Annual General Meeting.
- 14.4.5. If, during a Director's term in office as the Chairperson or Deputy Chairperson, their term as a Director is due to expire pursuant to clause 14.1.2, that Director's then current term will automatically be extended to the end of their term as Chairperson or Deputy Chairperson.

#### 14.5. **Casual Vacancies**

- 14.5.1. The Directors may appoint any Member Representative to fill a position on the Board which:
  - 14.5.1.1. has become vacant by virtue of the operation of clause 14.7; or
  - 14.5.1.2. was not filled by election at the last Annual General Meeting,

such person will hold office until the next Annual General Meeting or Board meeting following the next Annual General Meeting as the case may be.

- 14.5.2. If a person fills a casual vacancy to the Board under clause 14.5.1, the term for which the person fills the casual vacancy will not be counted towards the three consecutive terms under clause 14.1.2.

**14.6. Eligibility**

A Person is eligible to be a Director if they:

- 14.6.1. are not disqualified for the purposes of the Act; and
- 14.6.2. are a Member or Member Representative.

**14.7. Removal of Directors**

- 14.7.1. The Director will immediately stop being a Director if the Director:
  - 14.7.1.1. ceases to be a Director by virtue of the Act;
  - 14.7.1.2. becomes bankrupt or makes any arrangement or composition with their creditors generally;
  - 14.7.1.3. becomes prohibited from being a director of a company by reason of any order made under the Act;
  - 14.7.1.4. in the opinion of the majority of the Board, acts in a manner that adversely effects, or is likely to adversely affect, the reputation of the Company;
  - 14.7.1.5. 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;
  - 14.7.1.6. resigns their office by notice in writing to the Company;
  - 14.7.1.7. fails to attend three consecutive Directors' meetings without approval from the Directors;
  - 14.7.1.8. is or the Member the Director represents is in default of payment of membership fees for a period of four weeks or more;
  - 14.7.1.9. ceases to be a Member or a Member Representative.

**15. POWERS AND DUTIES OF THE DIRECTORS**

**15.1. Powers of the Directors**

- 15.1.1. The Directors are responsible for managing and directing the activities of the Company to achieve the objects of the Company.
- 15.1.2. The Directors may use all the powers of the Company except for powers that, under the Act or this Constitution, may only be used by Members.
- 15.1.3. The Directors must decide on the responsible financial management of the company including:

- 15.1.3.1. any suitable written delegations of power under clause 16.2, and
- 15.1.3.2. how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

**15.2. Delegations of Directors' powers**

- 15.2.1. The Directors may delegate any of their powers and functions to a committee, a director, an employee of the Company or any other person, as they consider appropriate. The delegation must be recorded in the Company's minute book.

**15.3. Minutes**

- 15.3.1. The Directors shall cause minutes to be made:
  - 15.3.1.1. of all appointments of officers and employees;
  - 15.3.1.2. of names of all Persons present at all General Meetings;
  - 15.3.1.3. of the names of all Persons present at Board Meetings; and
  - 15.3.1.4. of all proceedings at all General Meetings and Board Meetings.
- 15.3.2. Without limiting the obligations of the Company Secretary under clause 18.4.1, the Board may appoint a minutes secretary to carry out the functions specified in clause 15.3.1.

**16. COMMITTEES**

**16.1. Establishment of Committees**

- 16.1.1. The Board may establish Committees which shall comprise such number of Directors or external people as the Board may determine.
- 16.1.2. The function and powers of a Committee shall be determined by the Board and terms of reference may be prepared for that purpose.

**16.2. Governance & Risk Committee**

- 16.2.1. The Board must establish a Governance & Risk Committee which shall comprise such number of Directors or external people as the Board may determine.
- 16.2.2. The functions of the Governance & Risk Committee will include but not be limited to the following:
  - 16.2.2.1. provide oversight of the framework to manage the Company's governance and provide recommendations for good corporate governance to the Board;
  - 16.2.2.2. at the request of the Board, report to the Board regarding the financial position of the Company;

- 16.2.2.3. make recommendations as to how income and capital should be made, paid or applied in accordance with the objects of the Company as specified in clause 4;
  - 16.2.2.4. recommend how the Company should manage risk;
  - 16.2.2.5. make recommendations to the Board on the appointment of the Chief Executive Officer.
- 16.2.3. The functions of the Governance & Risk Committee may be amended from time to time by the Board.

## **17. BOARD MEETINGS**

### **17.1. Convening a Board Meeting**

- 17.1.1. The Board may decide how often, where and when they meet.
- 17.1.2. A Director may convene a Board Meeting by giving reasonable notice to all the other Directors.
- 17.1.3. A Director may give notice in writing or by any other means of communication that has previously been agreed to by the Board.

### **17.2. Chairperson of a Board Meeting**

- 17.2.1. The Chairperson shall preside as chairperson at every Board Meeting, or if there is no such person, or if at Board Meeting the Chairperson is not present within 15 minutes after the time appointed for holding the meeting, the Deputy Chairperson shall preside as chairperson and if the Deputy Chairperson is unable to act, Directors' present shall elect one of their number to be chairperson of the Board Meeting.
- 17.2.2. The chairperson of a Board Meeting will not have a second or casting vote.

### **17.3. Quorum at a Board Meeting**

- 17.3.1. Unless the Board determines otherwise, the quorum for a Board Meeting is five Directors.
- 17.3.2. A quorum must be present for the whole Board Meeting.
- 17.3.3. If a quorum is not present within 30 minutes of the time specified for a Board Meeting, the meeting will be adjourned to the same time and place seven days later, and any Directors in attendance at that adjourned meeting will constitute a quorum.

### **17.4. Passing Directors' resolutions**

- 17.4.1. Subject to any provision in this Constitution to the contrary, a Directors' resolution must be passed at a Board Meeting by a majority of the votes cast by Directors' present and entitled to vote on the resolution.

### **17.5. Circulating Resolution**

- 17.5.1. The Board may pass a circular resolution without a Board Meeting being held.

- 17.5.2. A circular resolution is passed if all the Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in this clause 17.5.
- 17.5.3. Each Director may sign:
  - 17.5.3.1. a single document setting out the resolution and containing a statement that they agree to the resolution, or
  - 17.5.3.2. separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 17.5.4. The Company may send a circular resolution by email to all the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 17.5.5. A circular resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in this clause 17.5.

**17.6. Use of technology**

- 17.6.1. Facilities must be available at each Board Meeting to allow a Director to participate in the meeting by video, telephone or any other technology which permits them to communicate with one another at the same time and a Director who participates in the meeting by these means will be considered to be in attendance.

**18. CHIEF EXECUTIVE OFFICER & COMPANY SECRETARY**

- 18.1. The appointment or dismissal of the Chief Executive Officer shall be determined by the Board.
- 18.2. The Chief Executive Officer must not hold or nominate for a political office.
- 18.3. The Chief Executive Officer (or person filling a similar office) shall act as the Company Secretary and shall be an ex officio member of the Board and a member of the Governance & Risk Committee.
- 18.4. The Company Secretary must:
  - 18.4.1. ensure accurate minutes of all meetings are kept;
  - 18.4.2. deal with correspondence and motions as directed; and
  - 18.4.3. send notifications of meetings and keep membership details up-to-date through an appropriate database program.
- 18.5. The Chief Executive Officer shall excuse themselves from a meeting for such time, or during the discussion of such topics, as determined by the Board.

**19. SEAL**

The Board shall provide for the safe custody of any seal. Any document requiring execution by the Company may be executed with or without seal on the authority of Board or by a sub-committee of Board authorised by the Board for that purpose and shall be signed by two Directors or by some other person appointed by the Directors for that purpose.

## **20. ACCOUNTS**

The Directors shall cause proper accounting and other records to be kept and shall distribute copies of every statement of financial performance and statement of financial position (including every document required by law to be attached thereto) accompanied by a copy of the Auditors report thereon as required by the Act, provided, however, that the Directors shall cause to be made out and laid before each Annual General Meeting a statement of financial performance and statement of financial position made up to date not more than 6 months before the date of the meeting.

## **21. AUDIT**

A properly qualified Auditor or Auditors shall be appointed and their remuneration fixed and duties regulated in accordance with the Act.

## **22. NOTICES**

22.1. All notices and other communications provided for or permitted by this Constitution will be sent by prepaid mail, by hand delivery or email. Each notice or communication will be deemed to have been duly received:

22.1.1. not later than two business days after being deposited in the mail with postage prepaid;

22.1.2. when delivered by hand; or

22.1.3. if sent by email upon production of a delivery confirmation report received by the sender which records the time the email was delivered unless the sender received a delivery failure notification.

## **23. WINDING-UP**

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

23.1.1. having objects similar to the objects of the Company;

23.1.2. which prohibits the distribution of its income and property to a similar extent to that imposed on the Company by this Constitution; and

23.1.3. which is approved by the Commissioner of Taxation as a fund, authority or institution contemplated above.

23.2. If, just before the winding up of the Company, the Company is an entity to which income tax deductible gifts can be made, or upon the Company ceasing to be endorsed as a deductible gift recipient pursuant to the Income Tax Assessment Act 1997 (ITAA97), any property remains after the satisfaction of all the Company's debts and liabilities, the Members must give and transfer the property to 1 or more funds, authorities or institutions which are charitable at law and gifts to which are deductible under Division 30 of the ITAA97.

## **24. COMPANY TO NOTIFY AUSTRALIAN TAXATION OFFICE**

If required by law, the Board shall notify the Australian Taxation Office within a reasonable time, of any changes to this Constitution or other founding documents of the Company.

## **25. CONFLICT OF INTEREST**

- 25.1. A Director must disclose to the other Directors the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a Board Meeting (or that is proposed in a circular resolution).
- 25.2. The disclosure of a conflict of interest by a Director must be recorded in the minutes of the Board Meeting.
- 25.3. A Director who, from time to time:
  - 25.3.1. holds any office;
  - 25.3.2. possesses any property; or
  - 25.3.3. has an interest in a contract or proposed contract with the Company,  
  
by which, whether directly or indirectly, duties or interests might be created in conflict with their duties or interests as Director must declare the fact and nature, character and extent of the conflict at a meeting of Directors.
- 25.4. If a Director has an interest in a contract or proposed contract with the Company (other than as a Member or a representative of a Member) and the Director declares the fact and nature, character and extent of the interest at a meeting of Directors:
  - 25.4.1. the Director may vote on whether the Company enters into the contract;
  - 25.4.2. the contract may be entered into;
  - 25.4.3. the Director may vote on matters involving the contract; and
  - 25.4.4. if the disclosure is made before the contract is entered into:
    - 25.4.4.1. the Director may retain benefits under the contract even though the Director has an interest in the contract;
    - 25.4.4.2. the Company cannot avoid the contract merely because of the existence of the interest.

## **26. INDEMNITY**

Every Director, Auditor, Company Secretary, manager employed by the Company, and other officer for the time being of the Company shall be indemnified out of the assets of the Company against any liability arising out of the execution of the duties of their office which is incurred by them in defending any proceedings, whether civil or criminal, in which judgment is given in their favour or in which they are acquitted or in connection with any application under the Act in which relief is granted to them by the Court in respect of any negligence default breach of duty or breach of trust.