



CONSTITUTION

OF

ECOTOURISM AUSTRALIA LIMITED

A PUBLIC COMPANY LIMITED

BY GUARANTEE PURSUANT TO THE

CORPORATIONS ACT 2001

ACN 110 755 694

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A handwritten signature in black ink, appearing to read 'C. Ellis', is enclosed within a thin black rectangular border.

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CONSTITUTION FOR
ECOTOURISM AUSTRALIA LIMITED (ACN 110 755 694)
PUBLIC COMPANY LIMITED BY GUARANTEE
PURSUANT TO THE CORPORATIONS ACT 2001

1. GENERAL

1.1 Name of Company

The name of the Company is Ecotourism Australia Limited.

1.2 Replaceable rules

This Constitution takes the place of the Replaceable Rules contained in the Act.

1.3 Constitution

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

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Constitution unless it is inconsistent with the subject or context in which it is used:

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

'AGM' means an Annual General Meeting of the Company held in accordance with section 250N of the Act;

'ASIC' means the Australian Securities and Investments Commission;

'Auditor' means the Auditor for the time being of the Company;

'Board' means the Members of the Board of the Company;

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

'Chair' includes an acting Chair under Rule **Error! Reference source not found.**;

'Code of Conduct' means the policy adopted by the Board which governs the manner in which each of the Directors are required to conduct themselves in the discharge of their duties.

'Committee' means a committee to which powers have been delegated by the Board pursuant to Rule 18.7;

'Company' means Ecotourism Australia Limited;

'Constitution' means this constitution and any supplementary, substituted or amended Constitution for the time being in force;

'Deputy Chair' means a person appointed in accordance with Rule 16.

'Direct vote' means a vote at a members' meeting delivered to the company by such means as approved by the Board

'Director' means a director for the time being of the company

'Electronic voting system' means a system approved by the board which enables members to submit their vote by electronic means.

'Ecotourism' means ecologically sustainable tourism with a primary focus on experiencing natural areas that fosters environmental and cultural understanding, appreciation and conservation.

‘Guarantee’ means the maximum amount each Member agrees to pay the Company in accordance with Rule 5;

‘Member’ means any person who becomes a member in accordance with the Act and this Constitution;

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

‘Nature Tourism’ means ecologically sustainable tourism with a primary focus on experiencing natural areas.

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

‘Officer’ means an officer of the Company within the meaning of section 9 of the Act;

‘Register’ means the register of Members of the Company to be kept pursuant to the Act ;

‘Registered address’ means the address of a Member specified in the Register or any other address of which the Member notifies the Company as a place at which the Member will accept service of notices;

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

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

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

‘Securities’ includes shares, rights to shares, options to acquire shares and other securities with rights of conversion to equity;

‘Special Persons’ means person who the Board considers can provide specialist or professional assistance to the Board and the Company.

‘Voting Member’ is a Member who under the Rules is entitled to vote at any general meeting;

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

2.2 Interpretation

(a) Words importing –

- (i) persons include companies and corporations and vice versa;
- (ii) the masculine gender includes the feminine gender and vice versa; and
- (iii) the singular number includes the plural number and vice versa.

(b) Division 8 of Part 1.2 (other than section 109X) of the Act applies in relation to this Constitution, so far as it is capable of application.

(c) Section 4.29 and 46(1), Parts III, IV, V, VII, and VIII of the *Acts Interpretation Act 1901* apply in relation to this Constitution so far as they are capable of application.

(d) Unless the context otherwise requires (or unless otherwise defined in this Constitution), an expression used in this Constitution that has a particular meaning in the Act has the same meaning in this Constitution.

(e) This Constitution is subject to the Act and where there is any inconsistency between a Rule of this Constitution and the Act, the Act prevail to the extent of the inconsistency.

3. THE COMPANY

3.1 Public Company limited by Guarantee

The Company is a public company limited by guarantee.

3.2 Restriction on shares

The Company does not have the power to issue or allot shares of any kind.

3.3 Non-profit

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

3.4 No distribution of profits to Members on winding up

- (a) If the Company is wound up or dissolved, the assets and property available for distribution after satisfaction of all debts and liabilities are to be given or transferred to some other institution or institutions:
 - (i) having objects similar to the objects of the Company;
 - (ii) whose constitution prohibits the distribution of its income and property to an extent at least as great as that imposed by this Constitution; and
 - (iii) approved by the Australian Commissioner of Taxation as an institution exempt from income tax.
- (b) The Directors may determine the identity of the institution or institutions for the purpose of Rule 3.4(a) at the time of dissolution in accordance with relevant Queensland legislation (on the basis that the Company is domiciled in Queensland) and the Act.

If the Directors fail to determine the identity of the institution or institutions under Rule 3.4(b), the Supreme Court of Queensland may make that determination.

4. GUARANTEE OF MEMBERS

In the event that the Company is wound up, each Member undertakes to contribute a maximum of \$10.00 to the Company for payment of:

- (a) the debts and liabilities of the Company;
- (b) the costs, charges and expenses of any winding up; and
- (c) the adjustment of the rights of Members among themselves,

while the Member is a Member or within one year after the Member ceases to be a Member.

5. SCOPE OF COMPANY'S POWERS

Provided that its capacities and powers are exercised directly or indirectly in the furtherance of its objects, the Company has the legal capacity and powers set out in section 124 of the Act.

6. OBJECTS OF THE COMPANY

The objects of the Company are:

- (a) to be leaders in assisting Ecotourism and other tourism operations and Destinations to become environmentally sustainable, economically viable, and socially and culturally responsible;
- (b) to develop and pursue policies consistent with the promotion of environmentally sustainable, economically viable and socially and culturally responsible tourism and to provide advocacy and support on key issues related to Nature Tourism and Ecotourism;
- (c) to develop and adopt practices consistent with sustainable tourism development;
- (d) to increase the professionalism of those working in the Nature and Ecotourism industry;
- (e) to streamline policies and practices that facilitate responsible behaviour in tourism operating in protected areas;
- (f) to pursue with federal, state and local governments and their agencies programs, policies and actions that are responsive to the needs of the Nature Tourism and Ecotourism industry nationally;
- (g) to encourage and assist tourism operators and Destinations to improve the quality of information imparted to their guests on ecotourism related issues;
- (h) to improve the visibility, positioning and financial viability of those operators who adopt and embrace sustainable practices;
- (i) to contribute to conservation solutions and projects, involving and providing benefits to local communities;
- (j) to maximise the benefits of Nature Tourism and Ecotourism as a sustainable force for social, cultural, environmental and economic development and employment growth; and
- (k) to promote, finance, facilitate and undertake and disseminate research and information relating to the business of Nature Tourism and Ecotourism
- (l) To develop and operate Certification Programs throughout Australia and elsewhere and to encourage tourism operators to participate in such Certification Programs which will reinforce best ecotourism standards, policies and practices.
- (m) To promote respect for and understanding of indigenous peoples' cultures, both traditional and contemporary

7. MEMBERSHIP

7.1 Number of Members

The Directors may set a limit on the minimum and maximum number of Members.

7.2 Admission to membership

- (a) The Board may from time to time in its absolute discretion admit to membership of the Company any person provided that, in the case of an individual, that person is more than 18 years of age.
- (b) The Board may in its absolute discretion admit or reject any applicant for membership. If the applicant is not admitted to membership in due course, all monies paid by that applicant to the Company must be returned in full.
- (c) The Board may fix the entrance fee (if any) and the subscription payable by an applicant for membership. The Board may not deal with any application for membership unless the entrance fee and subscription payable in respect of the application has been received by the Company.

7.3 Classes of Members

The Directors may:

- (a) establish different classes of Members; and
- (b) prescribe the qualifications, rights and privileges of persons to become a Member of a class.
 - (i) Student membership has no voting rights

7.4 Categories of ordinary membership

The following classes of ordinary Members exist:

- (a) individual;
- (b) business supporter (non-certifiable by an EA certification program);
- (c) certified operator;
- (d) state/regional tourism organization;
- (e) protected area managers; and
- (f) certified destination

7.5 Further Classes of Membership

The Directors may at any time:

- (a) establish a new category of ordinary membership;
- (b) establish a new class of membership;
- (c) determine or change the existing classes of membership including any entitlements including voting rights; or
- (d) set and amend the membership fees for each class of membership (or any category of ordinary membership).

The Members in general meetings are not entitled to amend or revoke a decision or determination of the Board made pursuant to this Rule.

7.6 Address of Member

- (a) Each Member is required to provide to the Secretary details of an address in Australia where the Company can send notices.
- (b) If a Member fails to provide an address in accordance with Rule 7.6(a), the address of the Member is deemed to be the Registered Office of the Company.

7.7 Cessation of membership

A Member ceases to be a Member if they:

- (a) die;
- (b) resign in writing;
- (c) become of unsound mind or become liable to be dealt with in any way under the law relating to mental health;
- (d) are convicted of an indictable offence pursuant to the *Crimes Act 1914* (Cth); or
- (e) if they are a company, have a receiver or a receiver and manager appointed to its assets or some of them or passes a resolution or takes or has taken against it any action having the effect of its winding up.
- (f) are validly expelled in accordance with Rule 7.9
- (g) fail to pay any subscription or membership fee, as determined pursuant to clause 8.1, within three (3) months of the due date. The Directors may, if they think fit, reinstate the member on payment of all arrears.

7.8 Effect of cessation

A Member who ceases to be a Member continues to be liable for:

- (a) any subscription and all arrears due and unpaid at the date of cessation;
- (b) all other moneys due by them to the Company; and
- (c) the Guarantee.

7.9 Power of Directors in respect of a Member's conduct

- (a) If any Member:
 - (i) wilfully refuses or neglects to comply with the provisions of this Constitution; or
 - (ii) is guilty of any conduct which, in the opinion of the Directors, is unbecoming of a Member or prejudicial to the interests of the Company,

the Directors have the power to censure, fine, suspend or expel the Member from the Company pursuant to a Directors' resolution.

- (b) At least one week before the meeting of the Board at which a resolution under Rule 7.9(a)

is passed, the Company must provide the Member with:

- (i) notice of the meeting;
 - (ii) any allegations against them; (iii) the intended resolution; and
 - (iv) advice that the Member may, at the meeting and before the passing of the resolution, have an opportunity to give, orally or in writing, any explanation of defence they think fit.
- (c) Any Member referred to in Rule 7.9(a) may, by notice in writing lodged with the Secretary at least 24 hours before the time for holding the meeting at which the resolution is to be considered by the Directors, elect to have the question dealt with by the Company in general meeting.
- (d) If an election is made under Rule 7.9(c):
- (i) a General Meeting must be convened and the resolution considered; and
 - (ii) if the resolution is passed by a majority of two-thirds of those present and voting (such vote to be taken by ballot), the Member concerned will be dealt with accordingly.

8. RIGHTS AND OBLIGATIONS OF MEMBERS

8.1 Amount of fees and subscriptions payable

Entrance fees, annual subscription fees for the various classes of membership and categories of ordinary membership, sponsorship payments and other periodical payments from Members or supporters of the Company will be in such amounts and due at such times as the Board determines.

8.2 Variation of rights of Members

- (a) Whilst membership is divided into different classes, the rights attached to any specific membership class (unless otherwise provided by the terms of application for membership of that class) may, whether or not the Company is being wound up, be varied only by resolution of the relevant membership class.
- (b) For the avoidance of doubt, ordinary Members of the Company (of whatever category of ordinary membership) constitute the same class of Members for the purposes of this Constitution.

9. FINANCIAL RECORDS

9.1 Keeping of Accounting and financial records

- (a) Accounting and other financial and business records must record and explain the transactions and financial position of the Company, to enable true and fair profit and loss accounts and balance sheets to be prepared and to permit preparation of any other documents required by the Act or this Constitution.
- (b) The financial records must be kept in such manner as to enable them to be conveniently and properly audited and in accordance with Australian Accounting Standards, Corporations and Australian Taxation law requirements.
- (c) The financial records must at all times be open to inspection by the Directors.

9.2 Financial year and financial reports

- (a) The financial year of the Company commences on the first day of July and ends on the 30th day of June in the following calendar year.
- (b) Each financial year, the Company must prepare a financial report and a Directors' report in accordance with the Act.
- (c) The financial report for each financial year must consist of:
 - (i) the financial statements for the year;
 - (ii) the notes to the financial statements; and
 - (iii) the Directors' declaration about the financial statements and the notes.
- (d) The financial statements for the year will consist of:
 - (i) a profit and loss statement for the previous financial year of the Company;

- (ii) a balance sheet at the date to which the profit and loss account is made up; (iii) a statement of cashflows for the year; and
 - (iv) if required by applicable accounting standards, a consolidated profit and loss statement, balance sheet and statement of cash flows.
- (e) The notes to the financial statements will consist of:
- (i) disclosures required by the Act and any applicable regulations;
 - (ii) the notes required by applicable accounting standards (if any); and
 - (iii) if required, any other information necessary to give a true and fair view of the financial position and performance of the Company.
- (f) The Board's declaration made pursuant to Rule 10.2(c)(iii) is a declaration by the Board:
- (i) that the financial statements, and the notes required by applicable accounting standards comply with those accounting standards;
 - (ii) that the financial statements and the attached notes give a true and fair view of the financial position and performance of the Company;
 - (iii) whether, in the Board's opinion, there are reasonable grounds to believe that the Company will be able to pay its debts as and when they become due and payable; and
 - (iv) whether, in the Board's opinion, the financial statements and attached notes are in accordance with the Act.

9.3 Keeping of financial records

- (a) Proper books and financial records must be kept and maintained correctly reflecting the financial affairs of the Company. The Company must ensure the relevant accounting and auditing requirements of the Act are duly complied with.
- (b) The Board must distribute to all Members at the end of each financial year, copies of the financial report including a copy of the Auditor's report and any other documentation required under the Act.

9.4 Banking of monies

All the monies of the Company are to be deposited in the name of the Company in an account at such financial institution as the Board may from time to time direct.

9.5 Appointment of Auditor

As per clause 9.3 the Company must ensure the relevant accounting and auditing requirements of the Act are duly complied with.

9.6 Inspection of financial records of the Company

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

10. GENERAL MEETINGS

10.1 Calling of meetings of Members by a Director

A Director may call a meeting of Members.

10.2 Calling of meetings by Members

Members with at least 5% of the votes that may be cast at a General Meeting of the Company may call and arrange to hold a General Meeting in accordance with section 249F of the Act.

10.3 Calling of General Meetings by Directors when requested by Members

The Directors must call and arrange to hold a General Meeting in accordance with section 249D(1) of the Act, on the request of:

- (a) Members with at least 5% of the votes that may be cast at a general meeting; or
- (b) at least 100 Members who are entitled to vote at the General Meeting.

10.4 Failure of Directors to call General Meeting

Members with more than 50% of the votes of all Members who make a request under section 249D of the Act, may call and arrange to hold a general meeting where the Directors do not do so within 21 days after the request is given to the Company (in accordance with section 249E of the Act).

10.5 Calling of Meetings by the Court

The Court may order a meeting of Members to be called in accordance with section 249G of the Act if it is impracticable to call the meeting in any other way.

10.6 Amount of notice of meetings

- (a) Subject to the Act, at least 21 days notice must be given of a meeting of Members.
- (b) Subject to Rule 10.6(c), the Company may call on shorter notice:
 - (i) an AGM, if all of the Members entitled to attend and vote at the AGM agree beforehand; and
 - (ii) any other general meeting, if Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (c) At least 21 days notice must be given of a meeting of Members at which a resolution will be moved to remove or appoint a Director or remove an Auditor.

10.7 Notice of meetings of Members

- (a) Written notice of the meeting of Members must be given individually to each Member entitled to vote at the meeting and to each Director.
- (b) Notice to joint Members must be given to the joint Member first named in the register of Members.
- (c) The Company may give the notice of meeting to a Member:
 - (i) personally;
 - (ii) by sending it by post to the address of the Member in the register of Members or the alternative address (if any) nominated by the Member;
 - (iii) by sending it to the electronic address nominated by the Member; or
 - (iv) by any other means authorised by the Act.
- (d) A notice of meeting sent by post is taken to be given three days after it is posted. A notice of meeting sent by electronic means is taken to be given when the electronic message is sent

10.8 Auditor entitled to notice and other communication

The Company must give its Auditor:

- (a) notice of a general meeting in the same way that a Member is entitled to receive notice; and
- (b) any other communication relating to the general meeting that a Member is entitled to receive.

10.9 Contents of notice of meeting

The notice of meeting must conform with the requirements of section 249L of the Act.

10.10 Notice of adjourned meetings

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for one month or more.

10.11 Members' rights to put resolutions at a General Meeting

- (a) The Members may propose a resolution to be moved at a General Meeting only in accordance with the provisions of Division 4 of Part 2G.2 of the Act.
- (b) Only a Voting Member may seek to place an item of business or resolution ('Matter') before a General Meeting. Any Voting Member who wishes to place a Matter before a General Meeting, must, at least 35 days before the next general meeting, give the Board written notice of the Matter. The Board may determine in its absolute discretion whether to include the Matter as part of the business of the General Meeting.

10.12 Time and place for meetings of Members

A meeting of Members must be held at a reasonable time and place determined by the Board.

10.13 Technology

The Company may hold a meeting of its Members using any technology that gives the Members as a whole a reasonable opportunity to participate.

11. PROCEEDINGS OF MEETINGS

11.1 Business of General Meetings

- (a) The Chair of a General Meeting may refuse admission to, or require to leave and remain out of the meeting, any person:
- (i) in possession of a pictorial-recording or sound-recording device;
 - (ii) in possession of a placard or banner;
 - (iii) in possession of an object considered by the Chairman to be dangerous, offensive or liable to cause disruption;
 - (iv) who refuses to produce or to permit examination of any object, or the contents of any object or container, in the person's possession;
 - (v) who behaves or threatens to behave in a dangerous, offensive or disruptive manner;
- or
- (vi) who is not:
- (A) a Voting Member;
 - (B) a proxy,
 - (C) an attorney or,
 - (D) if applicable, a duly appointed corporate representative of a Voting Member.
- (b) Except with the approval of the Board, with the permission of the Chair or pursuant to the Act, no person may move at any meeting either:
- (i) in regard to any special business of which notice has not been given under Rule 10.7, any resolution or any amendment of a resolution; or
 - (ii) any other resolution which does not constitute part of special business of which notice has been given under Rule 10.7.
- (c) The Auditors and their representative are entitled to attend and be heard on any part of the business of a meeting concerning an audit in their capacity as Auditor. The Auditors or their representative, if present at the meeting, may be questioned by the Members, as a whole, about the audit.

11.2 Quorum

- (a) No business may be transacted at any General Meeting unless a quorum of members is present. The quorum for a General Meeting of Members is 10 members present in person, in accordance with Rule 10.13 or by proxy. The quorum must be present at the commencement of the meeting, and must be present at all times during the meeting.
- (b) In determining whether a quorum is present, individuals attending as proxies or body corporate representatives are to be counted. If a Member has appointed more than one proxy or representative, only one of them is to be counted. If an individual is attending both as a Member and as a proxy or body corporate representative, the vote of the individual is to be counted as constituting one vote.

11.3 Adjournment in absence of quorum

- (a) A meeting that does not have a quorum present within 30 minutes after the time for the meeting set out in the notice of meeting is to be adjourned to such date, time and place as the Directors specify.
- (b) If the Directors do not specify one or more of those requirements, the meeting is to be adjourned to:
- (i) if the date is not specified, same day of the week;

- (ii) if the time is not specified, the same time; or
 - (iii) if the place is not specified, the same place.
- (c) If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

11.4 Chairing meetings of Members

- (a) The Chair of the Board is entitled to take the chair at every General Meeting
- (b) If at any General Meeting:
- (i) the Chair of the Board is not present at the specified time for holding the meeting; or
 - (ii) the Chair of the Board is present but is unwilling to act as Chair of the meeting, the Deputy Chair of the Board is entitled to take the chair at the meeting.
- (c) If at any general meeting:
- (i) there is no Chair of the Board or Deputy Chair of the Board;
 - (ii) the Chair of the Board and Deputy Chair of the Board are not present at the specified time for holding the meeting; or
 - (iii) the Chair of the Board and the Deputy Chair of the Board are present but each is unwilling to act as Chair of the meeting,
- the Directors present may choose another Director as Chair of the meeting and if no Director is present or if each of the Directors present is unwilling to act as Chair of the meeting, a Member chosen by the Members present is entitled to take the chair at the meeting.

11.5 General conduct of meeting

- (a) Subject to the requirements of the Act, the general conduct of each General Meeting of the Company and the procedures to be adopted at the meeting are determined by the Chair.
- (b) The Chair may, as considered necessary for the proper conduct of the meeting, demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present.
- (c) The Chair may require the adoption of any procedure that, in the Chair's opinion, is necessary or desirable for the proper and orderly casting or recording of votes at any General Meeting of the Company, whether on a show of hands, voices or on a poll.

11.6 Adjournment

- (a) Subject to the provisions of Rule 11.6(d), the Chair may at any time during the course of the meeting adjourn any business, motion, question, resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting.
- (b) Subject to the provisions of Rule 11.6(d), if the Chair exercises a right of adjournment of a meeting pursuant to Rule 11.6(a), the Chair has the discretion to decide whether to seek the approval of the Members present to the adjournment. Unless the Chair exercises that discretion, no votes regarding the adjournment can be taken by the Members present.
- (c) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (d) The Chair must adjourn the meeting if the Members present with a majority of votes at the meeting agree or direct that the Chair must do so.

11.7 Voting

- (a) Subject to any rights or restrictions attached to any class of Member, at a meeting of Members:
- (i) on a show of hands or voices each Voting Member has one vote; and on a poll, each Voting Member has one vote.
- (b) A challenge to a right to vote at a meeting of Members:

- (i) may only be made at the meeting; and
 - (ii) must be determined by the Chair whose decision is final.
- (c) Each question submitted to a General Meeting general meeting is to be decided in the first instance by a show of hands or voices of the Voting Members present and entitled to vote. Subject to paragraph (b) of this rule, in the case of equal votes, the Chair has, both on a show of hands and at a poll, a casting vote in addition to the vote or votes to which the Chair may be entitled as:
- (i) a Voting Member;
 - (ii) a proxy,
 - (iii) an attorney or,
 - (iv) if applicable, a duly appointed corporate representative of a Voting Member.
- (d) On a show of hands, where the Chair has two or more appointments that specify different ways to vote on a resolution, the Chair cannot vote but has a casting vote in the case of an equality of votes cast by Voting Members.

11.8 Direct Voting

- (1) The board may determine:
- (a) that members entitled to attend and vote at a members' meeting may cast a direct vote;
 - (b) the form, method and timing of giving a direct vote in order for the vote to be valid at a meeting;
 - (c) whether direct votes are counted where the vote is by show of hands.
- (2) A valid direct vote cast by a member has the same effect as if the member had cast the vote in person at the meeting

11.9 Electronic Ballot

- (1) The board may from time to time determine:
- (a) That the members may record their votes by an electronic voting system; and
- (2) (b) The manner in which members will be identified for the purposes of an election. If the board makes such a determination, the election procedures must incorporate the requirements of that determination.

11.10 Declaration of vote

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

11.11 Taking a poll

If a poll is demanded as provided in Rule 11.10(b), it is to be taken in the manner and at the time and place as the Chair directs, and the result of the poll is deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn. In the

case of any dispute as to the admission or rejection of a vote, the Chair's determination in respect of the dispute made in good faith is final.

11.12 Continuation of business

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

11.13 Special meetings

All the provisions of these rules as to general meetings apply to any special meeting of any class of Members that may be held pursuant to the operation of these Rules or the Act.

12. VOTES OF MEMBERS

12.1 Voting rights

- (a) The entitlement of Members to vote is as follows:
 - (i) every ordinary Member has the right to one vote;
 - (ii) the voting rights of other classes of Members is as determined by the Board.
- (b) In the case of a Member who is of unsound mind or whose personal affairs or estate are to be dealt with under the mental health laws, the trustee or person managing the Member's affairs or estate may exercise any of the Member's rights at a General Meeting as if the trustee or person managing were the Member.
- (c) A Member whose annual subscription is more than one month in arrears or paid in accordance with a schedule approved by the Board, at the date of the General Meeting, is not entitled to vote at that meeting.
- (d) Subject to paragraph (e) of this rule, where a person is entitled to vote in more than one capacity, that person is entitled only to one vote on a show of hands; and
- (e) If the person appointed as proxy has 2 or more appointments that specify different ways to vote on the resolution, the proxy must not vote on a show of hands.

12.2 Electronic Voting

- (a) If the company has an electronic voting system which permits members to vote at or prior to a meeting by electronic means on a direct vote, a vote cast by a member by electronic means is taken to have been cast on the show of hands or poll and is to be counted accordingly.
- (b) If a member has voted on a resolution by electronic means prior to a meeting, the member may not cast another vote on the resolution at the meeting.

12.3 Appointment of proxies

- (a) A Member who is entitled to attend and vote at a meeting of Members is entitled to appoint a person as the Member's proxy to attend and vote on behalf of the Member at the meeting. A proxy must be a full financial member.
- (b) An instrument appointing a proxy is valid if it is signed and dated by the Member making the appointment and contains the following information:
 - (i) the Member's name and address;
 - (ii) the proxy's name or the office held by the proxy;
 - (iii) the meeting or meetings at which the appointment may be used;and for this purpose the form of appointment of proxy may be in the form set out in an appendix to this Constitution or such similar form as the Company accepts.
- (c) A proxy appointed to attend and vote for a Member has the same rights as the Member to:
 - (i) speak at the meeting;
 - (ii) vote (but only as allowed by the appointment); and
 - (iii) join in the demand for a poll.
- (d) An instrument appointing a proxy may specify the way the proxy is to vote on a particular resolution or election and if it does so:

- (i) the proxy must vote on a show of hands, and must vote that way;
 - (ii) the proxy must vote on an election, and must vote that way;
 - (iii) if the proxy has 2 or more appointments that specify different ways to vote on a resolution or election, the proxy must act to ensure that all votes are cast and counted as directed.
- (e) If an instrument appointing a proxy specifies the way the proxy is to vote on a particular resolution or election, the proxy may vote on behalf of an unlimited number of Members.
- (f) For an appointment of proxy for a meeting of Members to be effective, the proxy's appointment must:
- (i) be given to a returning officer of the Company (as nominated by the Board) on or before a date nominated by the Returning Officer which will be no sooner than seven days and no later than 24 hours before the time of the meeting in respect of which the proxy is appointed;
 - (ii) in the case of elections, be placed by the returning officer into a locked box that is to be opened in the presence of such scrutineers as are appointed by the candidates for election; and
 - (iii) in the case of resolutions, be placed by the returning officer into a locked box that is to be opened in the presence of such scrutineers as are appointed by the Board.
- (g) If a meeting of Members has been adjourned, the appointment received by the Returning Officer at least 24 hours before the resumption of the meeting is effective for the resumed part of the meeting.

12.4 Attorneys of members

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

13. ANNUAL GENERAL MEETINGS

13.1 Holding of AGM

- (a) The Company must hold an AGM at least once in each calendar year and within five months after the end of its financial year unless it has lodged an application with ASIC to extend the period within which it is required to hold the AGM in accordance with section 250P of the Act.

(b) An AGM is to be held in addition to any other meetings held by the Company in a year.

13.2 Consideration of Reports at AGM

The Directors must lay before an AGM:

- (a) the financial report;
- (b) the Board's report; and
- (c) the Auditor's report for the last financial year that ended before the AGM completed in accordance with the requirements of Part 2M.3 of Chapter 2M of the Act.

13.3 Business of the AGM

The business of the AGM may include any of the following, even if not referred to in the notice of meeting:

- (a) the consideration of the annual financial report, Boards' report and Auditor's report;
- (b) the election of Directors;
- (c) the appointment of the Auditor; and
- (d) the fixing of the Auditor's remuneration.

13.4 Questions by Members of the Company

The Chair of the AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Company.

13.5 Questions by Members of Auditors

If the Auditor or their representative is at the AGM, the Chair must allow a reasonable opportunity for the Members as a whole at the meeting to ask the Auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the Auditor's report.

13.6 Auditor's right to be heard at meetings of Members

(a) The Auditor is entitled to attend and be heard at meetings of Members.

(b) The Auditor is entitled to be heard at the meeting on any part of the business of the meeting that concerns the Auditor in the capacity of Auditor.

(c) The Auditor is entitled to be heard even if:

(i) the Auditor retires at the meetings; or

(ii) the meeting passes a resolution to remove the Auditor from office.

(d) The Auditor may authorise a person in writing as their representative for the purpose of attending and speaking at any general meeting.

14. THE BOARD

14.1 Members of the Board

(a) The Board is composed of no more than ten (10) Directors, who are required to be elected or appointed in accordance with these Rules.

14.2 Obligations and duties of Directors

Each Director (including the Chair and Deputy Chair) is subject to, and must comply with, the requirements, obligations and duties imposed on directors under the Act, this Constitution, the Company's Code of Conduct (if adopted, and as amended) and at common law.

14.3 Election of Directors

(a) At every AGM, one half of the Directors or, if their number is not a multiple of 2, then the number nearest to half, rounded up or down, must retire from office. A Director must retire from office at the conclusion of 2 years after which the Director was elected or re-elected. A retiring Director retains office until the dissolution of the meeting at which the Director retires. Nothing in this Rule requires a Director to retire from office earlier than at the conclusion of the second AGM after which the Director was elected or re-elected.

(b) The Directors that are required to retire pursuant to this Rule are the Directors longest in office since last being elected. If Directors were elected on the same day, the Directors to retire are (in default of agreement between them) determined by ballot. The length of time a Director has been in office is calculated from the date of their last election or appointment. A retiring Director is, subject to these Rules, eligible for re-election.

(c) Any two (2) Voting Members may nominate any eligible person or a representative of a Voting Member to serve as a Director.

(d) No person is eligible for election to the Board unless the person, or some Member intending to nominate the person, has given notice in writing signed by the nominee giving consent to the nomination and signifying either candidature for the office or the intention of the Member to nominate the nominee. To be valid, the notice is required to be left at the Company's registered office not less than 25 days, and not more than 35 days, before the meeting.

(e) The election of Directors will be conducted by a direct vote of all eligible members.

- (f) If the company has an electronic voting system which permits members to vote for the election of directors by electronic means, then the board may determine:
 - (a) that the members may record their votes in the election by electronic means; and
 - (b) the manner in which members will be identified for the purposes of voting in the election.
- (g) If the board makes such a determination:
 - (a) members may vote by any approved means, but may only vote once;
 - (b) the returning officer shall provide an interactive copy of the ballot paper in a secure online system to facilitate voting by electronic means and make available to members all information reasonably necessary to facilitate voting by electronic means. Requirements for an authenticating mark of the returning officer on the ballot paper shall not apply, but the returning officer must ensure that a member cannot vote by electronic means more than once in the election.'
- (h) Where there is an insufficient number of candidates nominated, the Board may fill the remaining vacancy or vacancies as set out in Rule 14.5.

14.4 Qualification for membership of the Board

- (a) A Director must be a current Member of the Company or a representative of a current Member duly nominated by a valid representative of that Member.
- (b) All Directors are required to be natural persons.
- (c) The Auditor is ineligible to be elected or appointed as a Director.

14.5 Casual vacancies

- (a) The Board has the power at any time to appoint a qualified person as a Director either to fill a casual vacancy among the Board or as an addition to the existing members. However, the total number of Directors may not at any time exceed the number fixed in accordance with this Constitution.
- (b) Any person appointed under this Rule holds office for the remaining term of the casual vacancy.
- (c) The Members in General Meeting may by ordinary resolution elect a qualified person as a Director but so that the total number of Members do not at any time exceed the number fixed in accordance with this Constitution.

14.6 Appointment of Special Persons to the Board

- (a) The Board may from time to time appoint Special Persons as additional Directors.
- (b) Special Persons may not be appointed to the office of Chair, Deputy Chair or Secretary.
- (c) Special Persons may retire, resign or be removed from office by a resolution of the Board or an ordinary resolution of the Voting Members. Special Persons are required to retire at each AGM.
- (d) The number of Special Persons appointed to the Board is limited to 2. Special Persons may have the same rights in respect of voting at meeting as Voting Members.

15. RESIGNATION AND REMOVAL

15.1 Resignation

- (a) Any Director may resign from membership of the Board by notice in writing delivered to the Secretary.
- (b) Resignation takes effect at the time when such notice is received by the Secretary unless some later date is specified in the notice as the effective date.

15.2 Removal

- (a) A Director may be removed from office by ordinary resolution of the Members at a general meeting of the Company convened for that purpose. At any such general meeting the Director must be given the opportunity to fully present their case as to why they should not

be removed either orally or in writing or partly by either or both of these means.

- (b) A Director who ceases to be a Director under paragraph (a) of this Rule retains office until the dissolution or adjournment of the general meeting at which the member is removed.

15.3 Disqualification

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

- (a) ceases to be a member of the Company;
- (b) becomes insolvent under administration or makes any arrangement or composition with the Director's creditors generally;
- (c) 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;
- (d) in the opinion of the Board, the Director is unfit to be a member by reason of dishonourable or unprofessional conduct or a breach of this Constitution;
- (e) is absent from three consecutive Board meetings without prior verbal or written apology or leave of absence granted prior to absence;
- (f) holds any office of profit within the Company.

A Director who vacates office pursuant to this Rule is not to be taken into account in determining the number of Directors who are to retire by rotation at any AGM.

16. CHAIR AND DEPUTY CHAIR

16.1 Appointment to office

- (a) The Chair and Deputy Chair are elected to those offices by the Board, from among the Directors, at the first Board Meeting after any AGM.
- (b) The Chair and Deputy Chair continue to hold office until the earlier of:
 - (i) Their resignation from that office;
 - (ii) Their resignation from the Board or their removal from the Board in accordance with Rules 15.1 or 15.2; or
 - (iii) Their office as Director becoming vacant in accordance with this Constitution.
 - (iv) The date of the first Board Meeting after the AGM following their appointment to that office;
 - (v) Their removal from that office in accordance with Rule 16.1(b)
- (c) The Board has the sole power at any time to appoint any Director(s) as Chair and Deputy Chair and to remove any Director appointed under this constitution from any of those office's, but not from the office of Director.

16.2 Resignation

The Chair or Deputy Chair may resign their office at any time by notice in writing to the Secretary provided that a resignation from the office of Chair or Deputy Chair does not affect their position as a continuing Director unless the notice specifically indicates to the contrary.

17. EXERCISE OF VOTING POWER

17.1 Exercise of voting power in other corporations

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

18. BOARD PROCEEDINGS

18.1 Procedures relating to Board meetings

- (a) The Board may meet together, upon each Director being given reasonable notice, for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- (b) The quorum for a Directors' meeting shall be a majority of the total number of Directors holding office and present in Australia, but in any event not fewer than three (3). The quorum must be present at the commencement of the meeting, and must be present at all times during the meeting.
- (c) Notice is required to be provided to Directors in accordance with Rule 24.

18.2 Meetings by telephone or other means of communication

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

18.3 Votes at meetings

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

18.4 Convening of meetings

The Board may at any time, and the Secretary, upon the request of any one Director, must convene a Board meeting upon reasonable notice individually to each other Director.

18.5 Chair

The Chair, if present, able and willing, will preside as Chair at all meetings of the Board and if:

- (a) there is no such Chair;
 - (b) the Chair is not present within 15 minutes after the time appointed for the meeting;
 - or
 - (c) the Chair is unable or unwilling to preside,
- then the Deputy Chair, if present at the meeting, able and willing will preside; or in the absence or unwillingness of both of them a Director, appointed by the meeting, must act as Chair of the meeting.

18.6 Powers of meetings

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

18.7 Delegation of powers to Committees

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

18.8 Proceedings of Committees

- (a) Every Committee formed shall have Committee Chair appointed by the Board who shall serve at the pleasure of the Board.
- (b) The meetings and proceedings of any Committee are to be governed by the provisions of these rules for regulating the meetings and proceedings of the Board so far as they are applicable and are not superseded by any regulations made by the Board under Rule 18.7.

- (c) A Committee in the exercise of the duties delegated or assigned to it must conform to any regulations, directions or instructions that may be imposed or given by the Board.
- (d) A Committee appointed by the Board is under the control and direction of the Board and has no direct part or power in the management of the Company.
- (e) The quorum for a Committee of the Board shall be half of the Committee Members appointed provided that this will include at least one Director.

18.9 Validity of acts

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

18.10 Written resolutions

- (a) A written resolution of which notice has been given to all Directors and signed by a majority of such members entitled to vote on the resolution, is as valid and effectual as if it was passed at a Board meeting. The written resolution may consist of several documents in the same form each signed by one or more of the Directors.
- (b) A document produced by mechanical or electronic means under the name of a Director with the member's authority is deemed to be a document in writing signed by that member. Any resolution made pursuant to this Rule is passed when the last Director signs it.

19. POWERS OF THE BOARD

19.1 General Powers of the Board

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

19.2 Member of the Board contracting with the Company

- (a) Irrespective of whether a person holds office as a Director or has a fiduciary relationship as a result of holding office, the Member may:
 - (i) enter into any arrangement, contract or dealing with the Company in any capacity, and any existing arrangement, contract or dealing entered into by or on behalf of the Company in which a Director is any way interested is not avoided or vitiated; or
 - (ii) render any Director or any corporation of which a Director is an officer or member or in any way interested or any partnership of which a Director is a member or in any way interested liable to account for any profit arising out of the holding of any such office or

place of profit or any such arrangement, contract or dealing.

- (b) The Director must disclose the nature of any interest at the Board meeting at which the arrangement, contract or dealing is determined by the Board, or, in any other case, at the Board meeting next following the acquisition of the relevant interest.
- (c) Subject to the Act, a Director who has an existing or future interest in any arrangement, contract or dealing referred to in this Rule 19.2(a) may vote in respect of the matter at a Board meeting and may be counted in a quorum present at such meeting.
- (d) A Director may sign or execute any document irrespective of any interest that the Director has in the subject matter of that instrument or document, or any other office or place of profit held by such Director.
- (e) All acts done by Members at Board meetings or Committee will be valid as if every such person had been duly appointed and was qualified to be a Director or subcommittee, irrespective of any defect in the appointment of such member or disqualification.

20 SECRETARY

20.1 Appointment

The Directors must appoint a Secretary in accordance with the Act.

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

21 OTHER SALARIED OFFICERS

The Board has the power to appoint officers and employees at any time on such terms as it thinks fit and may, subject to conditions of the employment of such officers and employees, dispense with their services and appoint other officers and employees.

22 EXECUTING DOCUMENTS

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

- (a) Two (2) Directors; or
- (b) a Director and Secretary; and

if the Company executes a deed, the document is to be expressed to be executed as a deed and be executed in accordance with the appropriate procedures set out in this Rule or as required by law.

23 MINUTES AND ACCESS

23.1 Company must maintain minute books

- (a) The Company must keep minute books in which it records within one month:
 - (i) proceedings and resolutions of Members' meetings;
 - (ii) proceedings and resolutions of Directors' meetings and committee meetings (together with the names of the Directors present at each meeting of the Company, the Board and of any Committees);
 - (iii) resolutions passed by Members without a meeting; and
 - (iv) resolutions passed by Directors without a meeting.
- (b) The Company must ensure that the minutes of a meeting are signed by the Chair of the meeting or the Chair of the next meeting within a reasonable time after the meeting.

The minutes of any Board meeting or of any Committee or of the Company, if purporting to be signed by the Chair of the meeting or by the Chair of the next succeeding meeting are prima facie evidence of the matters stated in the minutes.
- (c) The Company must ensure that any minutes which record the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

23.2 Access to minutes

Members are entitled to gain access to the minute book of meetings of Members in accordance with the Act.

24 NOTICES

24.1 Service of notices

A notice may be given by the Company to a Member, or in the case of joint holders to the Member whose name stands first in the Register, in any of the formats described in this Rule 24.

24.2 When notice deemed to be served

Any notice served on a Member must be served in accordance with the provisions of Clause 10.7:

24.3 Member not known at Registered address

Where a Member does not have a Registered address or where the Company has bona fide reason to believe that a Member is not known at the Member's Registered address, all future notices are:

- (a) deemed to have been given to the Member if the notice is exhibited in the Office for a period of 48 hours; and
- (b) deemed to have been served at the commencement of that period unless and until the Member informs the Company of a registered place of address.

24.4 Provision of period of notice

Where a given number of days' notice is required to be provided, the day of service is not included in the calculation of the number of days.

24.5 Service on deceased Members

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

24.6 Persons entitled to notice of a General Meeting

- (a) Notice of every General Meeting is to be given to:
 - (i) each Member individually who is entitled to vote at general meetings of the Company;
 - (ii) each Director;
 - (iii) the Auditor for the time being of the Company.
- (b) No other person is entitled to receive notices of general meetings.

24.7 Notification of change of address

Every Member must notify the Company of any change of his or her address and any such new address must be entered in the register of Members as required to be kept by the Act and upon being so entered becomes the Member's Registered address.

25 INDEMNITY

25.1 Extent of indemnity

- (a) Subject to Part 2D.2 of the Act, a person who is an Officer or Auditor of the Company is indemnified by the Company against any liability to another person (other than the Company or a related body corporate of the Company as defined in the Act) incurred in that person's capacity as an Officer unless the liability:
 - (i) arises out of conduct involving a lack of good faith; or
 - (ii) is for a pecuniary penalty order or composition order under Part 9.4B of the Act.
- (b) The Company is required to indemnify an Officer against a liability for costs and expenses (including, without limitation, legal expenses on a full indemnity basis) incurred by the Officer:
 - (i) in defending proceedings, whether civil or criminal, in which
 - a. judgment is given in favour of the Officer; or
 - b. the Officer is acquitted; or
 - (ii) in connection with an application, in relation to proceedings under Rule 25(b)(i), in which a court grants relief to the Officer under the Act, subject to an obligation that the Officer repay to the Company the expenses advanced by the Company if:
 - (iii) judgment is not given in the Officer's favour;
 - (iv) the Officer is not acquitted;

- (v) a court subsequently determines that the indemnification is not permitted; or
 - (vi) the indemnification is not permitted by the Act.
- (c) For the purposes of this Rule, the Company has the burden of proving that the Officer to be indemnified is not entitled to the requested indemnification.
- (d) The indemnification rights in this Rule constitute a contract between the relevant parties seeking indemnification and the Company and continue to have effect following the rescission or restrictive modification of the clause with respect to events occurring prior to the rescission or modification of the clause.

25.2 Payment of costs

The Directors may, out of the funds of the Company, pay all costs, losses and expenses which any Officer incurs or will incur under any contract entered, as a result of an act or thing done by them as an Officer or due to the discharge of their duties.

25.3 Limit of indemnity

Subject to the provisions of the Act, an Officer of the Company is not liable for:

- (a) the acts, receipts, neglect or defaults of any other Officer;
- (b) joining in any receipt or other act of conformity or for any loss or expense happening to the Company through:
 - (i) the insufficiency or deficiency of title to any property acquired by order of the Officers for or on behalf of the Company; or
 - (ii) the insufficiency or deficiency of any security in or upon which any of the moneys of the Company are invested;
- (e) any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any moneys, securities or effects are deposited;
- (f) any loss occasioned by any error of judgment or oversight on the Officer's part; or
- (g) any other loss, damage or misfortune which occurs in the execution of the Officer's duties

unless the loss, damage or misfortune occurred through the Officer's own dishonesty.

25.4 Contract of insurance

Subject to law, the Company may pay a premium for a contract insuring a person who is or has been an Officer, against:

- (a) any liability incurred by the Officer which does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Act; or
- (b) any liability for costs and expenses incurred by that person in defending proceedings relating to that person's position with the Company, whether civil or criminal and whatever their outcome.

25.5 Personal liability of Officer

If the Board, Director, or any officer of the Company becomes personally liable for the payment of any sum primarily due from the Company, the Board may execute a charge or security over all or part of the Company assets as an indemnity for any loss incurred by the person as a result of the liability.

26.6 Insurance

- (a) Subject to law, the Company may pay insurance premiums in respect of insurance for the benefit of every person who is or has been a Director, Secretary or Board officer acting in that capacity against:
 - (i) costs and expenses in defending any proceedings, whether civil or criminal; or
 - (ii) a liability arising from negligence or other conduct, except for a liability incurred by the person acting in that capacity and arising out of conduct involving a wilful breach of duty in relation to the Company or a breach of the provisions of the Act.
- (b) The Company may pay insurance premiums in respect of insurance for the benefit of the Auditor or an employee of the Company who is not a Director, Secretary or Board officer concerned in the management of the Company.