

**CONSTITUTION OF
RECREATIONAL AVIATION
AUSTRALIA LIMITED**

ACN 070 931 645

An company limited by guarantee

List of Contents

Preliminary

1	Name of the Company.....	4
2	Type of Company.....	4
3	Limited liability of Members	4
4	The guarantee	4
5	Definitions	4

Purposes and powers

6	Object	4
7	Powers.....	4
8	Not-for-profit.....	5
9	Amending the Constitution	5

Members

10	Membership and register of Members.....	5
11	Who can be a Member.....	6
12	Classes of membership.....	6
13	How to apply to become a Member.....	6
14	Directors decide whether to approve membership.....	6
15	When a person becomes a Member	7
16	When a person stops being a Member	7

Dispute resolution and disciplinary procedures

17	Dispute resolution	7
----	--------------------------	---

General meetings of Members

18	General meetings called by Directors.....	8
19	General meetings called by Members	8
20	Annual General Meeting.....	8
21	Notice of general meetings	9
22	Quorum at general meetings	9
23	Auditor's right to attend meetings	10
24	Chairman for general meetings.....	10
25	Role of the Chairman.....	10
26	Adjournment of meetings	10

Members' resolutions and statements

27	Members' resolutions and statements	11
28	Company must give notice of proposed resolution or distribute statement	11

Voting at general meetings

29	How many votes a Member has.....	12
30	Challenge to Member's right to vote.....	12
31	How voting is carried out.....	12
32	When and how a poll must be conducted	12
33	Appointment of and voting by proxy	13

CONSTITUTION OF RECREATIONAL AVIATION AUSTRALIA LIMITED

Directors

34	Number and appointment of Directors.....	14
35	Election of Chairman.....	14
36	Term of office.....	14
37	When a Director stops being a Director.....	15

Powers of Directors

38	Powers of Directors.....	15
39	Delegation of Directors' powers.....	15
40	Payments to Directors.....	16
41	Execution of documents	16

Duties of Directors

42	Duties of Directors	16
43	Conflicts of interest.....	16

Directors' meetings

44	When the Directors meet.....	17
45	Calling Directors' meetings.....	17
46	Chairman for Directors' meetings	17
47	Quorum at Directors' meetings.....	18
48	Using technology to hold Directors' meetings.....	18
49	Passing Directors' resolutions	18
50	Circular resolutions of Directors.....	18

Secretary

51	Appointment and role of Secretary	18
----	---	----

Minutes and records

52	Minutes and records.....	19
53	Financial and related records.....	19

Member's Charter

54	Member's Charter.....	20
----	-----------------------	----

Notice

55	What is notice	20
56	Notice to the Company.....	20
57	Notice to Members.....	20
58	When notice is taken to be given	21

Financial year

59	Company's financial year	21
----	--------------------------------	----

Indemnity, insurance and access

60	Indemnity.....	21
61	Insurance.....	21
62	Directors' access to documents	22

CONSTITUTION OF RECREATIONAL AVIATION AUSTRALIA LIMITED

Winding up

63 Surplus assets not to be distributed to Members..... 22
64 Distribution of surplus assets 22

Definitions and interpretation

65 Definitions 22
66 Reading this Constitution with the Corporations Act 23
67 Interpretation 23

Preliminary

1 Name of the Company

The name of the **Company** is Recreational Aviation Australia Limited (the **Company**).

2 Type of Company

The **Company** is a not-for-profit public **Company** limited by guarantee.

3 Limited liability of Members

The liability of Members is limited to the amount of the guarantee in Clause 4.

4 The guarantee

Each Member must contribute an amount not more than one dollar (\$1) (the guarantee) to the property of the **Company** if the **Company** is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:

- (a) debts and liabilities of the **Company** incurred before the Member stopped being a Member, or
- (b) costs of winding up.

5 Definitions

In this Constitution, words and phrases have the meaning set out in Clauses 65 and 67.

Purposes and powers

6 Object

The **Company's** object is to pursue the following purposes:

- (a) the advancement of aviation in Australia including to take all actions howsoever connected with the design manufacture of all and any machine object device and/or concept that relates directly or indirectly to the advancement of flight whether powered or otherwise whereby such flight is under the control, supervision or participation in any degree by human activity, and
- (b) to encourage training in the art and science of aviation, piloting, operation, design, manufacture of aviation and/or space craft of whatsoever design and capability.

7 Powers

Subject to Clause 8, the **Company** has the following powers, which may only be used to carry out its purposes set out in Clause 6:

- (a) the powers of an individual, and
- (b) all the powers of a **Company** limited by guarantee under the **Corporations Act**.

8 Not-for-profit

- 8.1 The **Company** must not be carried on for the profit or gain of individual members and must not distribute any income or assets directly or indirectly to its Members, except as provided in Clauses 8.2 and 64.
- 8.2 Clause 8.1 does not stop the **Company** from doing the following things, provided they are done in good faith:
- (a) paying a Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **Company**, or
 - (b) making a payment to a Member in carrying out the **Company's** purposes.

9 Amending the Constitution

- 9.1 Subject to Clause 9.2, the Members may amend this Constitution by passing a **special resolution**.
- 9.2 The Members must not pass a **special resolution** that amends this Constitution if passing it causes the **Company** to no longer be eligible to be an income tax exempt entity under item 8.1(a) of section 50-40 of the Income Tax Assessment Act 1997 (Cth).

Members

10 Membership and register of Members

- 10.1 The Members of the **Company** are:
- (a) **initial Members**, and
 - (b) any other person that the Directors allow to be a Member, in accordance with this Constitution.
- 10.2 The **Company** must establish and maintain a register of Members. The register of Members must contain:
- (a) for each current Member:
 - i. name
 - ii. address
 - iii. any alternative address nominated by the Member for the service of notices, and
 - iv. date the Member was entered on to the register and
 - v. Such information as the Directors shall require of each Member concerning his or her interest in any aircraft, any licence, certificate or entitlement of whatsoever description and kind to do with any matter regarding aviation, whether the same is or may be required by any Australian aviation authority with power to require such information or otherwise as the Directors shall decide.
 - (b) for each person who stopped being a Member in the last seven (7) years:
 - i. name
 - ii. address

- iii. any alternative address nominated by the Member for the service of notices, and
- iv. dates the membership started and ended.

11 Who can be a Member

- 11.1 A person who supports the purposes of the **Company** is eligible to apply to be a Member of the **Company** under Clause 12.
- 11.2 In this Clause, 'person' means an individual or incorporated body.
- 11.3 A membership as Trustee and/or partnership and/or any unregistered organisation shall not be recognised.

12 Classes of membership

- 12.1 Directors may from time to time and at any time create and/or remove any class of membership PROVIDED that no Member shall by reason of such action of the Directors be denied membership of the **Company** save for proper reason given as required by this Constitution. The Board shall determine from time to time the rights associated with each class of membership.
- 12.2 In the event of a class of membership being altered revoked or deleted any person being a Member of the class of membership so affected shall forthwith be entitled to be regarded as the next most senior Member status PROVIDED that no authority shall be implied in such altered status of such a Member to enable the Member so affected to acquire any entitlement under all or any of the aviation laws of Australia to engage in any activity for which a licence not otherwise held by that Member shall be required.
- 12.3 Any change to a Member's rights where the Member did not prior to the alteration hold any voting rights shall not bestow voting rights by reason only of the change. A Member so affected may seek membership with such rights as he or she seeks by the ordinary process of application for membership.

13 How to apply to become a Member

A person (as defined in Clause 11.2) may apply to become a Member of the **Company** by writing to the **Company** in a format prescribed by the **Company** from time to time stating that they:

- (a) support the purposes of the **Company**, and
- (b) agree to comply with the **Company's** Constitution, including paying the guarantee under Clause 4 if required.

14 Directors decide whether to approve membership

- 14.1 The **Company** must consider an application for membership as soon as practical after the **Company** receives the application.
- 14.2 If the Directors approve an application, the **Company** must as soon as practical:
- (a) enter the new Member on the register of Members, and
 - (b) write to the applicant to tell them that their application was approved, and the date that their membership started (see Clause 15).
 - (c) The Directors may delegate the actions herein to the CEO.

- 14.3 If the Directors reject an application, the **Company** must write to the applicant as soon as possible to tell them that their application has been rejected with reasons for the rejection.
- 14.4 Within thirty (30) days of the entry of an applicant's name into the register of Members and subject to Clause 38.4 the Board may make a decision to retract their approval of the application and formally reject the application. If so rejected the Applicant shall be refunded all monies paid and no longer be a current Member of the **Company**. If not so reviewed the Member shall forthwith be confirmed without further action.
- 14.5 In the case of an applicant being rejected, that person shall be considered as a Member in the class for which they applied from the time of entry on the register until the time of rejection.
- 14.6 For the avoidance of doubt, the Directors may approve an application even if the application does not state the matters listed in Clauses 13(a) or 13(b). In that case, by applying to be a Member, the applicant agrees to those matters.

15 When a person becomes a Member

Other than **initial Members**, an applicant will become a Member when they are entered on the register of Members.

16 When a person stops being a Member

A person immediately stops being a Member if they:

- (a) die,
- (b) are wound up or otherwise dissolved or deregistered (for an incorporated Member),
- (c) resign, by writing to the **Company**,
- (d) fail to pay membership fees to the **Company** within 30 days of the fees falling due,
- (e) are the subject of a Directors resolution pursuant to Clause 14.4, or
- (f) are expelled under the dispute resolution and disciplinary procedures of the **Company**.

Dispute resolution and disciplinary procedures

17 Dispute resolution

- 17.1 The **Company** shall have the right to discipline, limit the privileges of, and/or remove a Member for cause.
- 17.2 The **Company** shall provide and make available to Members a policy and procedure whereby the processes referred to in 17.1 shall take place.
- 17.3 The **Company** shall ensure that any process referred to in 17.1 complies with the rules of procedural fairness and all decisions shall be made by persons independent of the facts, matters and things under review.

General meetings of Members

18 General meetings called by Directors

- 18.1 The Directors may call a **general meeting**.
- 18.2 If at least one hundred (100) **Members** or 5% of the membership, whichever is the lower, make a written request to the **Company** for a **general meeting** to be held, the Directors must:
- (a) within twenty-one (21) days of the Members' request, give all Members notice of a **general meeting**, and
 - (b) hold the **general meeting** at a time and place within reasonable access within two (2) months of the Members' request.
- 18.3 The Members requesting a **general meeting** pursuant to Clause 18.2 must be current Members with voting rights at the time of making the request.
- 18.4 The Members who make the request for a **general meeting** must:
- (a) state in the request any resolution and/or business to be proposed at the meeting,
 - (b) sign the request, and
 - (c) give the request to the **Company**.
- 18.5 Separate copies of a document setting out the request may be signed by Members if the wording of the request is the same in each copy.

19 General meetings called by Members

- 19.1 If the Directors do not call the meeting within twenty-one (21) days of being requested under Clause 18.2, 50% or more of the Members who made the request may call and arrange to hold a **general meeting**.
- 19.2 To call and hold a meeting under Clause 19.1 the Members must:
- (a) follow the procedures for **general meetings** set out in this Constitution including the appointment of a commencement Chairman who shall have control of the Meeting at commencement,
 - (b) state the business to be conducted at the Meeting which must be limited to those items listed in the request made under Clause 18.2 with the addition of the appointment of a Chairman which shall be conducted by the commencement Chairman until the meeting otherwise decides.
 - (c) call the meeting by directing the **Company** to serve the notice of the meeting on all of the Members, and
 - (d) hold the **general meeting** within two months after the request was given to the **Company**.
- 19.3 The **Company** must pay any reasonable expenses of calling and holding the **general meeting**.

20 Annual General Meeting

- 20.1 A **general meeting**, called the Annual **General Meeting**, must be held:
- (a) within eighteen (18) months after registration of the **Company**, and
 - (b) after the first Annual **General Meeting**, at least once in every calendar year.

- 20.2 Even if these items are not set out in the notice of meeting, the business of an Annual **General Meeting** must include:
- (a) a review of the **Company's** activities,
 - (b) a review of the **Company's** finances,
 - (c) any auditor's report,
 - (d) the election of Directors, and
 - (e) the appointment of auditors, if any.
- 20.3 Before or at the Annual **General Meeting**, the Directors must, in accordance with law, make available information to the Members on the **Company's** activities and finances during the period since the last Annual **General Meeting**.
- 20.4 The Chairman of the Annual **General Meeting** must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **Company**.

21 Notice of general meetings

- 21.1 Notice of a **general meeting** must be given to:
- (a) each Member entitled to vote at the meeting, and
 - (b) each Director.
- 21.2 Notice of a **general meeting** must be provided at least twenty-one (21) days before the meeting.
- 21.3 Notice of a **general meeting** must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this),
 - (b) the general nature of the meeting's business,
 - (c) if applicable, any **resolution** that is to be proposed and the words of the proposed resolution, and
 - (d) a statement that Members have the right to appoint a proxy.
- 21.4 If a **general meeting** is adjourned (put off) for one month or more, the Members must be given new notice of the resumed meeting.

22 Quorum at general meetings

- 22.1 For a **general meeting** to be held, at least twenty (20) Members (a Quorum) must be present in person or by proxy, for the whole meeting. At least five (5) persons must be physically present.
- 22.2 A Member attending on his or her own behalf and on behalf of a corporation shall be counted as two (2) persons present for the purpose of the declaration of a Quorum.
- 22.3 The meeting may commence after the appointed time for the meeting save for the exception permitted for an adjourned meeting under Clause 22.6 immediately upon a Quorum being present and declared by the Chairman
- 22.4 No business may be conducted at a **general meeting** if a Quorum is not present save for the exception permitted for an adjourned meeting under Clause 22.6.

- 22.5 If there is no Quorum present within sixty (60) minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the Chairman specifies. If the Chairman does not specify one or more of those things, the meeting is adjourned to:
- (a) if the date is not specified – the same day in the next week,
 - (b) if the time is not specified – the same time, and
 - (c) if the place is not specified – the same place.
- 22.6 If no Quorum is present at the resumed meeting within sixty (60) minutes after the starting time set for that meeting, the meeting will proceed as though a Quorum had been declared and provided that the Chairman and one other person is present.

23 Auditor's right to attend meetings

- 23.1 The auditor (if any) is entitled to attend any **general meeting** and to be heard by the Members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 23.2 The **Company** shall give the auditor (if any) any communications relating to the **general meeting** that a Member of the **Company** is entitled to receive.

24 Chairman for general meetings

- 24.1 The **elected Chairman** of the **Company** is entitled to chair **general meetings**.
- 24.2 The Members present and entitled to vote at a **general meeting** may choose a Director or Member to be the Chairman for that meeting or a portion thereof if:
- (a) there is no **elected Chairman**, or
 - (b) the **elected Chairman** is not present within thirty (30) minutes after the starting time set for the meeting, or
 - (c) the **elected Chairman** is present but declines to act as Chairman of the meeting or a portion thereof.

25 Role of the Chairman

- 25.1 The Chairman is responsible for the conduct of the **general meeting**, and for this purpose must give Members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 25.2 The Chairman does not have a casting vote.

26 Adjournment of meetings

- 26.1 If a Quorum is present, a **general meeting** must be adjourned if a majority of **Members present** direct the Chairman to adjourn it.
- 26.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

27 Members' resolutions and statements

- 27.1 Where the **Company** has called for resolutions, any current Member with voting rights may give:
- (a) written notice to the **Company** of a resolution they propose to move at the **general meeting** (Members' resolution), and/or
 - (b) a written request to the **Company** that the **Company** must make available to its Members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (Members' statement).
- 27.2 A notice of a Members' resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- 27.3 A request to distribute a Members' statement must be given to the Company at least seven (7) days prior to a general meeting and set out the statement to be distributed and be signed by the Members making the request.
- 27.4 Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.
- 27.5 If the **Company** has been given notice of a Members' resolution under Clause 27.1(a), the resolution must be considered at the **general meeting** for which the resolution was called.
- 27.6 This Clause does not limit the right that a Member has to propose a resolution at a **general meeting** under the **Corporations Act**.

28 Company must give notice of proposed resolution or distribute statement

- 28.1 If the **Company** has been given a notice or request under Clause 27:
- (a) in time to give notice of a proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, it must do so at the **Company's** cost, or
 - (b) too late to give notice of a proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, then the Members who proposed the resolution or made the request must pay the expenses reasonably incurred by the **Company** in giving Members notice of the proposed Members' resolution or a copy of the Members' statement. However, at a **general meeting**, the Members may pass a resolution that the **Company** will pay these expenses.
- 28.2 The **Company** does not need to give notice of a proposed Members' resolution or a copy of the Members' statement to Members if:
- (a) it is more than 1,000 words long,
 - (b) the Directors consider it may be defamatory,
 - (c) Clause 28.1(b) applies, and the Members who proposed the resolution or made the request have not paid the **Company** enough money to cover the cost of giving notice of the proposed Members' resolution or a copy of the Members' statement to Members, or
 - (d) in the case of a proposed Members' resolution, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the Members.

Voting at general meetings

29 How many votes a Member has

Only members who are natural persons shall be eligible to vote. No Member shall have more than one vote at any meeting of Members save for properly appointed proxy votes.

30 Challenge to Member's right to vote

- 30.1 A Member or the Chairman may only challenge a person's right to vote at a **general meeting** at that meeting.
- 30.2 If a challenge is made under Clause 30.1, the Chairman may decline a member's eligibility to vote only if that member is voting in a capacity other than as a natural person who is a current member pursuant to Clause 16. The Chairman's decision is final.

31 How voting is carried out

- 31.1 Voting must be conducted and decided by:
- (a) a show of hands,
 - (b) a poll, or
 - (c) another method chosen by the Chairman that is fair and reasonable in the circumstances.
- 31.2 Before a vote is taken, the Chairman must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 31.3 On a show of hands, the Chairman's decision is conclusive evidence of the result of the vote.
- 31.4 The Chairman and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.
- 31.5 Any member may ask for a recount of the votes or voting to be conducted by secret ballot.

32 When and how a poll must be conducted

- 32.1 A poll may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) at least ten (10) **Members present**, or
 - (b) the Chairman.
- 32.2 A poll must be taken when and how the Chairman directs, unless Clause 32.3 applies.
- 32.3 A poll must be held immediately if it is demanded under Clause 32.1:
- (a) for the election of a Chairman under Clause 24.2, or
 - (b) to decide whether to adjourn the meeting.
- 32.4 A demand for a poll may be withdrawn.

33 Appointment of and voting by proxy

- 33.1 A Member may appoint a proxy to attend and vote at a **general meeting** on their behalf.
- 33.2 A proxy does not need to be a Member and may be the Chairman of the meeting.
- 33.3 A proxy appointed to attend and vote for a Member has the same rights as the Member to:
- (a) speak at the meeting,
 - (b) participate in a poll (but only to the extent allowed by the appointment), and
 - (c) join in to demand a poll under Clause 32.1.
- 33.4 An appointment of proxy (proxy form) must be in the form prescribed by the **Company** and must be signed by the Member appointing the proxy and must contain:
- (a) the Member's name and address
 - (b) the **Company's** name
 - (c) the proxy's name or the name of the office held by the proxy, and
 - (d) the meeting(s) at which the appointment may be used.
- 33.5 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 must be delivered to the **Company** at least 48 hours before the meeting.
- 33.6 A proxy appointment may be ongoing.
- 33.7 A proxy does not have the authority to speak and vote for a Member at a meeting while the Member is at the meeting.
- 33.8 Unless the **Company** receives notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Member:
- (a) dies,
 - (b) is mentally incapacitated,
 - (c) revokes the proxy's appointment, or
 - (d) revokes the authority of a representative or agent who appointed the proxy.
- 33.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.
- 33.10 A proxy is not entitled to vote on a show of hands (but this does not prevent a Member appointed as a proxy from voting as a Member on a show of hands).
- 33.11 When a poll is held, a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way they must vote,
 - (b) if the way they must vote is specified on the proxy form, must vote that way, and
 - (c) if the proxy is also a Member or holds more than one proxy, may cast the votes held in different ways.

Directors

34 Number and appointment of Directors

- 34.1 The **Company** must have at least three (3) and no more than seven (7) Directors.
- 34.2 The initial Directors are the people who have agreed to act as Directors and who are named as proposed Directors in the application for registration of the **Company**.
- 34.3 A person is eligible for election as a Director of the **Company** if they:
- (a) are a Member of the **Company**,
 - (b) are nominated by two (2) Members entitled to vote,
 - (c) give the **Company** their signed consent to act as a Director of the **Company**, and
 - (d) are eligible to be a Director under the **Corporations Act**.
- 34.4 Subject to the **Corporations Act**, the Directors may from time to time determine the process by which Directors shall be elected and re-elected by the Members in **General Meeting**. Any voting method employed for the purpose of electing Directors shall be consistent with those methods accepted by the Australian Electoral Commission or an equivalent body.
- 34.5 The Directors shall ensure that the process of calling for nominations and the election of Directors shall be made available to members and candidates and take account of the skills and experience reasonably required to have oversight of the **Company**.
- 34.6 The Directors may appoint a person as a Director to fill a casual vacancy if that person is eligible under Clause 36.
- 34.7 If the number of Directors is reduced to fewer than three (3) or is less than the number required for a Quorum, the continuing Directors may act for the purpose of increasing the number of Directors to three (3) (or higher if required for a Quorum) or calling a **general meeting**, but for no other purpose.

35 Election of Chairman

The Directors must elect a Director as the **Company's** elected **Chairman**.

36 Term of office

- 36.1 At each annual **general meeting**:
- (a) any Director appointed by the Directors to fill a casual vacancy under Clause 34.6 must retire, and
 - (b) at least two (2) Directors must retire unless there are fewer than four (4) current Directors in which case at least one (1) Director must retire.
- 36.2 The Directors who must retire at each annual **general meeting** under Clause 36.1(b) will be the Directors who have been longest in office since last being elected.
- 36.3 Where Directors were elected on the same day, the Director(s) to retire under Clause 36.1(b) will be decided by lot unless they agree otherwise.

- 36.4 Other than a Director appointed under Clause 36.6, a Director's term of office starts at the end of the annual **general meeting** at which they are elected and ends at the end of the annual **general meeting** at which they retire.
- 36.5 Each Director must retire at least once every three (3) years.
- 36.6 A Director who retires under Clause 36.1 may nominate for election or re-election, subject to Clause 36.7.
- 36.7 A Director who has held office for a continuous period of nine (9) years or more may only be re-appointed or re-elected by a **special resolution**.

37 When a Director stops being a Director

A Director immediately and irrevocably stops being a Director if they:

- (a) give written notice of resignation as a Director to the **Company** with the resignation becoming effective as of the date specified in the notice,
- (b) die,
- (c) are removed as a Director by a resolution of the Members,
- (d) stop being a Member of the **Company**,
- (e) are absent for three (3) consecutive Directors' meetings without approval from the Directors, or
- (f) become ineligible to be a Director of the **Company** under the **Corporations Act**.

Powers of Directors

38 Powers of Directors

- 38.1 The Directors are responsible for oversight of the activities of the **Company** to achieve the purposes set out in Clause 6.
- 38.2 The Directors may use all the powers of the **Company** except for powers that, under the **Corporations Act** or this Constitution, may only be used by Members.
- 38.3 The Directors must decide on the responsible financial management of the **Company** including:
- (a) the appointment and terms of engagement of a Chief Executive Officer,
 - (b) any suitable written delegations of power under Clause 39, and
 - (c) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 38.4 The Directors cannot remove a Director or auditor. Directors and auditors may only be removed by a Members' resolution at a **general meeting**.

39 Delegation of Directors' powers

- 39.1 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.
- 39.2 The delegation must be recorded by the **Company**.

40 Payments to Directors

- 40.1 The **Company** may pay fees to a Director for acting as a Director.
- 40.2 The **Company** may reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the **Company**.
- 40.3 No Director may hold another office for the **Company** on a paid or voluntary basis, unless as provided for in Clause 51.
- 40.4 Prior to any payment being made under Clause 40.1 the amount proposed must be approved by a resolution voted on by Members.
- 40.5 The **Company** may pay premiums for insurance indemnifying Directors, as allowed for by law (including the **Corporations Act**) and this Constitution.

41 Execution of documents

The **Company** may execute a document without using a common seal if the document is signed by:

- (a) two (2) Directors of the **Company**, or
- (b) a Director and an officer of the **Company**.

Duties of Directors

42 Duties of Directors

The Directors must comply with their duties as Directors under legislation and common law (judge-made law), which include:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the **Company**,
- (b) to act in good faith in the best interests of the **Company** and to further the purposes of the **Company** set out in Clause 6
- (c) not to misuse their position as a Director
- (d) not to misuse information they gain in their role as a Director
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in Clause 43
- (f) to ensure that the financial affairs of the **Company** are managed responsibly, and
- (g) not to allow the **Company** to operate while it is insolvent.

43 Conflicts of interest

- 43.1 A Director or employee of the **Company** must disclose the nature and extent of any actual or perceived material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):
- (a) to the other Directors, or
 - (b) if all of the Directors have the same material personal interest, to the Members at the next **general meeting**, or at an earlier time if reasonable to do so.

- 43.2 The disclosure of a material personal interest by a Director must be recorded in the minutes of the meeting.
- 43.3 Except as provided for under Clause 43.4, any Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) must not:
- (a) be present at the meeting while the matter is being discussed, and/or
 - (b) vote on the matter (where they are eligible to do so).
- 43.4 A Director or employee of the **Company** may still be present and vote (where they are eligible to do so) if:
- (a) their interest arises because they are a Member of the **Company**, and the other Members have the same interest,
 - (b) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the **Company** (see Clause 61),
 - (c) their interest relates to a payment by the **Company** under Clause 60 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**,
 - (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the Director to vote on the matter, or
 - (e) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - i. identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the **Company**, and
 - ii. says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

Directors' meetings

44 When the Directors meet

- 44.1 The Directors may decide how often, where and when they meet.
- 44.2 The Directors shall meet face to face on not less than two (2) occasions in any calendar year.

45 Calling Directors' meetings

- 45.1 A Director may call a Directors' meeting by giving reasonable notice to all of the other Directors.
- 45.2 A Director may give notice in writing or using any established communication methods used by Directors or by any other means of communication that has previously been agreed to by all of the Directors.

46 Chairman for Directors' meetings

- 46.1 The **elected Chairman** is entitled to chair Directors' meetings.

46.2 The Directors at a Directors' meeting may choose a Director to be the Chairman for that meeting or a portion thereof if the **elected Chairman** is:

- (a) not present within thirty (30) minutes after the starting time set for the meeting, or
- (b) present but declines to act as Chairman of the meeting or a portion thereof.

47 Quorum at Directors' meetings

47.1 Unless the Directors determine otherwise, the Quorum for a Directors' meeting is no less than three Directors.

47.2 A Quorum must be present for the whole Directors' meeting and a Director absent pursuant to Clause 43.3 shall be deemed to be present for the purpose of maintaining a quorum.

48 Using technology to hold Directors' meetings

48.1 The Directors may hold their meetings by using any technology, except as provided for in clause 44.2.

49 Passing Directors' resolutions

49.1 A Directors' resolution must be passed by a majority of the votes cast by Directors present and entitled to vote on the resolution.

50 Circular resolutions of Directors

50.1 The Directors may pass a circular resolution without a Directors' meeting being held.

50.2 Each Director may sign:

- (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
- (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.

50.3 The **Company** may send a circular resolution by email to 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.

50.4 A circular resolution is passed when a majority of Directors sign or otherwise agree to the resolution in the manner set out in Clause 50.2 or Clause 50.3.

Secretary

51 Appointment and role of Secretary

51.1 The **Company** must have at least one Secretary, who may also be a Director.

51.2 The Secretary must be appointed by the Directors (after giving the **Company** signed consent to act as Secretary of the **Company**) and may be removed by the Directors.

51.3 The Directors must decide the terms and conditions under which the Secretary is appointed, including any remuneration.

51.4 The role of the Secretary must ensure:

- (a) a register of the **Company's** Members is maintained, and
- (b) the minutes and other records of **general meetings** (including notices of meetings), Directors' meetings and circular resolutions are maintained.

Minutes and records

52 Minutes and records

52.1 The **Company** must, within one month, make and keep the following records:

- (a) minutes of proceedings and resolutions of **general meetings**
- (b) minutes of circular resolutions of Members
- (c) a copy of a notice of each **general meeting**, and
- (d) a copy of a Members' statement distributed to Members under Clause 27.

52.2 The **Company** must, within one (1) month, make and keep the following records:

- (a) minutes of proceedings and resolutions of Directors' meetings (including meetings of any committees), and
- (b) minutes of circular resolutions of Directors.

52.3 The **Company** must allow Members to inspect those **Company** records which are lawfully accessible to Members at the registered **Company** address at a reasonable time.

52.4 The Directors must ensure that minutes of a **general meeting** or a Directors' meeting are signed within a reasonable time after the meeting by:

- (a) the Chairman of the meeting, or
- (b) the Chairman of the next meeting.

52.5 The Directors must ensure that minutes of the passing of a circular resolution (of Members or Directors) are signed by a Director within a reasonable time after the resolution is passed.

53 Financial and related records

53.1 The **Company** must make and keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance, and
- (b) enable true and fair financial statements to be prepared and to be audited.

53.2 The **Company** must also keep written records that correctly record its operations.

53.3 The **Company** must retain its records for at least seven (7) years.

53.4 The Directors must take reasonable steps to ensure that the **Company's** records are kept safe.

Members' Charter

54 Members' Charter

- 54.1 The **Company** will make a Members' Charter to set out the rights and responsibilities of Members pursuant to this Constitution as adopted and amended from time to time by Directors.
- 54.2 Members and Directors must comply with Members' Charter as if they were part of this Constitution. Breaches of the Members' Charter may be subject to the disciplinary processes of the **Company**.
- 54.3 In the event of any conflict between the Members' Charter and this Constitution then the provisions of this Constitution shall prevail.

Notice

55 What is notice

- 55.1 Anything written to or from the **Company** under any Clause in this Constitution is written notice and is subject to Clauses 56 to 58, unless specified otherwise.
- 55.2 Clauses 56 to 58 do not apply to a notice of proxy under Clause 33.

56 Notice to the Company

Written notice or any communication under this Constitution may be given to the **Company**, the Directors of the Company by:

- (a) delivering it to the **Company's** registered office
- (b) posting it to the **Company's** registered office or to another address chosen by the **Company** for notice to be provided
- (c) sending it to an email address or other electronic address notified by the **Company** to the Members as the **Company's** email address or other electronic address.

57 Notice to Members

- 57.1 Notice or any communication under this Constitution may be given to a Member:
- (a) by posting it to, or leaving it at the address of the Member in the register of Members or an alternative address (if any) nominated by the Member for service of notices,
 - (b) sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any),
 - (c) if agreed to by the Member, by notifying the Member at an email or other electronic address nominated by the Member, that the notice is available at a specified place or address (including an electronic address), or
 - (d) any other means made available by the **Company** and agreed to by the Member.
- 57.2 A Member may agree to receive notice by publication of a notice on the **Company's** website.
- 57.3 Notices given for the purposes of disciplinary or dispute resolution matters shall be delivered in accordance with the processes referred to in Clause 17.

58 When notice is taken to be given

A notice:

- (a) delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered,
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs, and
- (c) sent by email, or other electronic method, is taken to be given on the business day after it is sent.

Financial year

59 Company's financial year

The **Company's** financial year is from 1 July to 30 June unless the Directors pass a resolution to change the financial year.

Indemnity, insurance and access

60 Indemnity

- 60.1 The **Company** indemnifies each officer of the **Company** out of the assets of the **Company**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person acting bona fide as an officer of the **Company**.
- 60.2 In this Clause, an 'officer' has the meaning in the Corporations Act.
- 60.3 In this Clause, 'to the relevant extent' means:
 - (a) to the extent that the **Company** is not precluded by law (including the **Corporations Act**) from doing so, and
 - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 60.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **Company**.

61 Insurance

To the extent permitted by law (including the **Corporations Act**), and if the Directors consider it appropriate, the **Company** may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the **Company** against any liability incurred by the person as an officer of the **Company**.

62 Directors' access to documents

- 62.1 A Director has a right of access to all documents and records of the **Company** which that Director may require properly to perform and discharge his or her duty as a Director of the **Company** in accordance with the relevant laws and regulations governing the activities of the **Company**.
- 62.2 If the Directors agree, the **Company** must give a former Director access to:
- (a) such documents as relate to the affairs of the **Company** at the time of the former Director holding office but subject to cause being shown, and
 - (b) any other documents properly arising from inspection of those documents.

Winding up

63 Surplus assets not to be distributed to Members

If the **Company** is wound up, any **surplus assets** must not be distributed to a Member or a former Member of the **Company**, unless that Member or former Member is a not-for-profit entity described in Clause 64.1.

64 Distribution of surplus assets

- 64.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** that remain after the **Company** is wound up must be distributed to one or more not-for-profit entities:
- (a) with purpose(s) similar to, or inclusive of, the purpose(s) in Clause 6, and
 - (b) which has governing documents which prohibit the entity from being carried on for the profit or gain of individual members, and which prohibit the distribution of any **surplus assets** to its Members to at least the same extent as the **Company**.
- 64.2 The decision as to the entity or entities to be given the surplus assets must be made by a **special resolution** of Members at or before the time of winding up. If the Members do not make this decision, the **Company** may apply to the Supreme Court to make this decision.

Definitions and interpretation

65 Definitions

In this Constitution:

Company means the **Company** referred to in Clause 1

Corporations Act means the Corporations Act 2001 (Cth)

elected Chairman means a person elected by the Directors to be the **Company's** Chairman under Clause 35

general meeting means a meeting of Members and includes the Annual **General Meeting**, under Clause 20.1

initial Member means a person who is named in the application for registration of the **Company**, with their consent, as a proposed Member of the **Company**

Member present means, in connection with a **general meeting**, a **Member present** in person or by proxy at the venue or venues for the meeting

special resolution means a resolution:

- i. of which notice has been given under Clause 21.3(c), and
- ii. that has been passed by at least 75% of the votes cast by **Members present** and entitled to vote on the resolution, and

surplus assets means any assets of the **Company** that remain after paying all debts and other liabilities of the **Company**, including the costs of winding up.

66 Reading this Constitution with the Corporations Act

- 66.1 The replaceable rules set out in the **Corporations Act** are displaced by this Constitution and do not apply to the **Company**.
- 66.2 The **Corporations Act** override any Clauses in this Constitution which are inconsistent with that Act.
- 66.3 A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this Constitution.

67 Interpretation

In this Constitution:

- (a) the words ‘including’, ‘for example’, or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).
- (c) Any by-law, regulation, rule or document produced as a consequence of this Constitution shall be read as subordinate to and dependent upon this Constitution. In the event of any inconsistency between the Constitution and that document, the document shall be read down so that the provisions of this Constitution shall prevail.