

**ROYAL AUSTRALIAN ARTILLERY HISTORICAL COMPANY**

**ACN 084 470 539**

**CONSTITUTION**

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THE CORPORATIONS LAW  
A Company Limited by Guarantee  
CONSTITUTION  
of  
**ROYAL AUSTRALIAN ARTILLERY HISTORICAL COMPANY**  
**ACN 084 470 539**

**1. INTERPRETATION**

- 1.1. The name of the Company is the Royal Australian Artillery Historical Company (RAAHC).
- 1.2. The Company is a public company limited by guarantee.
- 1.3. In this Constitution, unless a contrary intention is indicated:
  - 1.3.1. **"Army Heritage"** means the technological and cultural heritage and history of Australian Army units and other military units;
  - 1.3.2. **"ASIC"** means Australian Securities & Investments Commission;
  - 1.3.3. **"Auditor"** means the person who for the time being holds the position of auditor of the Company in accordance with the Law;
  - 1.3.4. **"Board"** means the board of Directors of the Company;
  - 1.3.5. **"Association"** means an association or other body or a trust whose assets and liabilities the Company is authorised to take over by the Constitution;
  - 1.3.6. **"Chair"** means the chairman or chairwoman of the Board;
  - 1.3.7. **"Collection"** means a group of Items;
  - 1.3.8. **"Company"** means Royal Australian Artillery Historical Company;
  - 1.3.9. **"Constitution"** means the constitution of the Company as amended from time to time;

- 1.3.10. **"Director"** means a member of the Board;
- 1.3.11. **"Distributed Collection"** means all the Items which are owned by or in the possession of or under the control of the Company or which are being maintained, displayed, managed or otherwise used by the Company in accordance with the objects of the Company;
- 1.3.12. Honorary Secretary is a member of the Board who is appointed to conduct the administrative affairs of the Company.
- 1.3.13. Honorary Treasurer is a member of the Board who is appointed to conduct the financial affairs of the Company.
- 1.3.14. **"Item"** means an object such as a weapon, vehicle, aircraft, vessel, equipment, or any associated sub-system, assembly, component, unit, tool, training aid, simulator or simulation; device, icon, uniform, flag, banner, guidon, pennant, standard, colour, accoutrement, medal, award, decoration, citation, digital information file. sound recording, video recording, storage device, photograph, film, map, chart, plan, sketch, model, book, document, file, letter, diary, report, painting, bust, statue, or other artefact or relic and any other thing of historical military interest but does not include land or a building;
- 1.3.15. **"Law"** means the Corporations Law;
- 1.3.16. **"Member"** means member of the Company. A member may be an individual or a body corporate;
- 1.3.17. **"Month"** means calendar month;
- 1.3.18. **"Museum"** means any site that displays items associated with the history of artillery in Australia including, but not limited to, the Australian Army Artillery Museum;
- 1.3.19. **"Person"** includes an individual and or a body corporate;
- 1.3.20. **"RAA"** means Royal Australian Artillery;
- 1.3.21. **"RC RRAA"** means the Regimental Committee of the Royal Regiment of Australian Artillery;
- 1.3.22. **"Secretary"** means any person who is appointed for the purposes of the Law to the statutory office of Company Secretary; the appointment of Company Secretary may be held concurrently by the Honorary Secretary, another Director or an appropriate officer of the Company;

- 1.3.23. **"Site"** means the location of the Museum and any other location where part of the Distributed Collection is permanently accommodated, displayed, maintained or stored.
- 1.4. Expressions referring to writing shall, unless the contrary intention appears, include references to printing, photography, facsimile, electronic mail and other forms of electronic media.
- 1.5. Division 10 of Part 1.2 of the Law applies in relation to this Constitution as if it was an instrument made under the Law as in force on the day when this Constitution becomes binding on the Company.
- 1.6. Except to the extent that a contrary intention appears in this Constitution, words have, in a part of this Constitution that deals with a matter dealt with by a particular provision of the Law, the same meaning as in that provision of the Law.

## 2. **OBJECTS AND DUTIES**

### 2.1. **Objects.**

The objects of the Company are the charitable objects of providing money, property and other benefits to:

- 2.1.1. foster, maintain and promote the heritage of artillery in Australia;
- 2.1.2. collect, acquire, preserve and display weapons and other articles which relate to the history of artillery in Australia;
- 2.1.3. prepare and publish articles, documents and journals on subjects of historical interest, and to provide a source of reference and historical record for approved institutions, societies and individuals;
- 2.1.4. do all such other lawful things as are necessary, incidental or conducive to the attainment of the above objects or any of them or to the progress, development or welfare of the Company.

### 2.2. **Duties:**

In order to carry out the above objects the Company must:

- 2.2.1. invite contributions from the public;
- 2.2.2. issue receipts in the name of the Company with respect to all contributions received;
- 2.2.3. deposit all receipts and monetary donations received by the Company into its bank account;
- 2.2.4. make payments only from the Company's bank account, eg:

- 2.2.4.1. for the provision of funding to meet the above objects;
  - 2.2.4.2. for the reimbursement of out-of-pocket expenses incurred on behalf of the Company;
  - 2.2.4.3. to comply with statutory requirements necessarily incurred to enable the Company to comply with the above objects;
  - 2.2.4.4. for proper remuneration for administrative services but this shall not include paying fees to directors; or
  - 2.2.4.5. for investment in accordance with the other provisions of this Constitution.
- 2.2.5. operate on a non-profit basis and no moneys are to be distributed to members of any relevant managing committee or Director of the Company other than as set out in the preceding paragraph.

### **3. ALTERATION OF CONSTITUTION**

- 3.1. Subject to the law, the Constitution may be altered, changed or amended by a resolution passed by a majority of three-quarters of votes cast at a General Meeting of the Company.
- 3.2. If the Company is involved in making any public appeal for support or conducting charitable fund raising activities in any State or Territory and has obtained registration or a licence for such activity, then no alteration shall be made to or in the Constitution unless and until the alteration complies with all relevant State or Territory statutory requirements.
- 3.3. No alteration which may affect the tax exempt status of the income of the Company or the tax deductible status of donations to the Company shall be made to or in the Constitution unless not less than twenty-eight (28) days' prior written notice specifying the alterations proposed to be made shall have been given to the Commissioner of Taxation.

### **4. LIMITED LIABILITY**

- 4.1. The liability of the members is limited.
- 4.2. Each Member agrees that, if the Company is wound up while that person is a Member or within one year after that person ceases to be a member, that member will contribute to the property of the Company, for payment of the debts and liabilities of the Company (contracted before he she or it ceases to be a member) and for the costs, charges, and expenses of winding up and for the adjustment of the rights of the members among themselves, such amount as may be required, not exceeding ten dollars (\$10.00).

### **5. EXCESS ASSETS ON WINDING UP**

- 5.1. If, on the winding-up or dissolution of the Company, there remain any assets after satisfaction of all the Company's debts and liabilities, those assets shall not be paid to or distributed among the members, but shall

be given or transferred to some other Australian institution or institutions having objects similar or in part similar to the objects of the Company and objects incidental or conducive to those so specified and no other, and whose constitution shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of this Constitution and which institution or institutions is eligible to receive tax deductible donations under the provisions of the Income Tax Assessment Act 1997 and any legislation which amends or supersedes that Act.

- 5.2. Such institution or institutions shall be determined by the members at or before the time of the winding up or dissolution.
- 5.3. If the gift or transfer of any or all assets is not determined by the relevant members in accordance with the preceding paragraph, then the same shall be determined by the Board at or before the time of the winding up or dissolution, and in default thereof by determination by the then RC RRAA (or, if there is then no such office, by the person then holding the appointment as Director, Australian War Memorial) such latter determination to be made no later than three months after the time of winding up or dissolution and in default thereof by order of such Court as may have or acquire jurisdiction in the matter.

## 6. ACCOUNTS AND AUDIT

- 6.1. The Board shall cause proper and accurate written records to be kept of any money received and spent by the Company and the matter in respect of which such receipt and expenditure takes place, and of the assets and liabilities of the Company and of all relevant activities involving the Company. The records shall be kept in such a manner as will enable true and fair financial statements to be prepared and audited.
- 6.2. **Gift Fund.** Notwithstanding any other provision of this Constitution:
  - 6.2.1. The Company shall establish and thereafter administer, operate, use and maintain a gift fund ("The Fund") in accordance with the requirements of the Income Tax Assessment Act 1997 ("The Act") solely for the purpose of the Company's objects. All gifts received by the Company for those objects shall be separately identified and recorded in the Fund.
  - 6.2.2. The records, assets and bank account of the Fund shall be kept separate from the records, assets and bank account of the Company and accounted for accordingly.
  - 6.2.3. All money received by the Company by way of gift shall be credited to the Fund.
  - 6.2.4. Government grants to and other receipts of the Company which are not gifts and not proceeds of the disposal of gifts

shall not be credited to the Fund.

- 6.2.5. On the winding up or earlier revoking of the endorsement of the Fund under the Act, the surplus assets of the Fund must be dealt with in accordance with the requirements of the Act and transferred to a fund, authority or institution which is itself gift deductible under the Act.
- 6.3. The said records must be retained for at least seven (7) years after the transactions covered by the records are completed.
- 6.4. Each director of the Company has the right of access personally or by a nominee, being a practising lawyer or a registered company auditor, to the financial records and all other documents of the Company at all reasonable times, and the director and any such nominee may make copies of those records and other documents.
- 6.5. Subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Board, the financial records of the Company shall be open to inspection by the members or their nominees.
- 6.6. A qualified auditor whose duties shall be regulated in accordance with the Law shall be appointed by the Company.
- 6.7. Once at least in every year, the accounts of the Company shall be examined by the auditor who shall report to the members in accordance with the Law.

## **7. APPLICABLE LEGISLATION**

- 7.1. Notwithstanding any other provision in this Constitution, the Company and its officers and employees shall comply with all relevant Commonwealth, State and Territory legislation and all relevant regulations and ordinances.

## **8. USE OF ASSETS**

- 8.1. Assets of the company are divided into two categories, Financial Assets, representing cash, investments, shares, deposits and other financial products, and Non-Financial Assets being all other assets.
- 8.2. The Financial assets of the Company shall be managed by the Honorary Treasurer and the Board in accordance with the relevant sections of this Constitution.
- 8.3. The Non-Financial Assets of the Company, regardless of whether they were acquired by purchase from Company funds or received by way of Donation from another party shall, once received be valued and recorded in the records of the Company in accordance with the By-Laws relating to the management and control of assets.
- 8.4. Disposal of assets procedures as set down by the Board in the By-Laws are not to contradict the following limitations without approval of the Members. The limitation is that members are to be given prior notice of



the disposal of any collection/historical asset with a value greater than that set by the Board from time to time and any Donated Asset.

- 8.5. Paragraph 8.4 does not apply to any asset acquired by the company for the specific purpose of gifting where the members are already aware of that intention.
- 8.6. All of the income and property of the Company shall be used solely in accordance with the objects of the Company.
- 8.7. None of the Company's assets shall be paid or transferred, directly or indirectly, by way of dividend or on the winding up of the Company, to the members of the Company.
- 8.8. No payment shall be made by the Company to any director of the Company other than:
  - 8.8.1. for the payment of out-of-pocket expenses incurred by the director in performing any duty as director of the Company where the amount payable does not exceed an amount previously approved by the Board;
  - 8.8.2. for the provision of a financial benefit to a director as prescribed by the Law .
- 8.9. No money the property of the Company (including income derived from investments and proceeds of the realisation of investments) paid or accrued to the Company as a direct or indirect result of a gift and not then applied in accordance with the objects of the Company may be invested by the Company other than in a manner in which trustees are permitted by relevant legislation to invest trust money without special authorisation.

## **9. MEMBERSHIP**

- 9.1. The persons who consented in writing to become members of the Company and whose details as such consenting persons are included in the Application for registration of the Company and such other persons as the Board shall admit to membership in accordance with this Constitution shall be Members.
- 9.2. **Membership Applications**
  - 9.2.1. An application for membership shall be in writing, signed by the applicant, and shall be in such form and contain such requirements as the Board from time to time determines.
  - 9.2.2. As soon as practicable after the receipt of an application for membership it shall be considered by a committee of Directors delegated the authority by the Board to, approve or reject the application. The Committee is to refer all applications that it rejects to the Board. Should the Board support the Committee's rejection the Board shall not be required to give any reason for the rejection to the applicant.

9.2.3. Membership of the Company will be effective from the date that the committee of Directors approves the application. All such applications will be reported to the next meeting of the Board of Directors for noting by the Board.

**9.3. Entrance Fee and Subscription**

9.3.1. The entrance fee and annual subscription payable by members shall be such as the Board shall from time to time determine. Until the Board shall otherwise determine the entrance fee shall be nil and the annual subscription shall be nil. The Board may distinguish between categories of members in relation to the entrance fee and annual subscription.

9.3.2. All annual subscriptions (if any) shall become due and payable in advance on the first day of July in every year.

**9.4. Categories of Members**

Categories of members shall be such as the Board from time to time may determine.

**10. CESSATION OF MEMBERSHIP**

**10.1. Cessation.**

Membership of the Company ceases if the member:

10.1.1. resigns;

10.1.2. is expelled;

10.1.3. if an individual dies; or

10.1.4. if a body corporate, ceases to exist.

**10.2. Resignation.**

A member may at any time by giving notice in writing to the Honorary Secretary resign his, her or its membership of the Company but shall continue to be liable for any annual subscription and all arrears due and unpaid at the date of his her or its resignation and for all other moneys due by the member to the Company and in addition for any sum not exceeding ten dollars (\$10.00) for which he she or it is liable as a member of the Company under this Constitution

**10.3. Expulsion.**

10.3.1. If any member shall wilfully refuse or neglect to comply with the provisions of the Constitution or shall be guilty of any conduct which in the opinion of the Board is unbecoming of a member or prejudicial to the interests of the Company, then the Board shall have power by resolution to expel the member from the Company PROVIDED that:

10.3.1.1. at least fourteen (14) days before the meeting of the

Board at which such a resolution is passed, the member shall have had notice of such meeting and of what is alleged against the member and of the intended resolution;

10.3.1.2. the member shall, at such meeting and before the passing of such resolution, have had an opportunity exercisable at the option of the member, either personally or by the agent of the member, of giving orally or in writing any explanation or defence the member may think fit;

10.3.1.3. if a resolution to expel the member is passed at a meeting of the Board the member shall be notified in writing of the resolution without delay.

10.3.2. If and only if the member has availed himself, herself or itself of the opportunity of providing an explanation or defence to the Board in accordance with the preceding paragraph, the member may by written notice received by the Company no later than seven days after the member received such notification, elect to have the matter of expulsion dealt with by the Company in general meeting. In that event a general meeting of the Company shall be called for the purpose and, if at the meeting such a resolution is passed by a majority of two-thirds of those present and voting (such vote to be taken by secret ballot), the member concerned shall be expelled.

10.3.3. The provisions of this Constitution relating to the expulsion of members apply to all categories of members.

#### **10.4. Suspension of Privileges.**

10.4.1. If there is at any time an annual subscription for membership of the Company and the annual subscription of a member is not received by the Company by the due date, then the member may after notice of the default shall have been sent to him, her or it by the Honorary Secretary and a period of fourteen (14) days shall have elapsed after the date of the notice without the subscription having been received by the Company, the Board may resolve that that member shall cease to be a member and accordingly shall cease to enjoy all privileges of relevant membership. The Board may reinstate the member on such conditions as the Board may determine if the Board thinks fit to do so.

### **11. MEETINGS OF MEMBERS**

#### **11.1. Calling of Meetings and Notices**

11.1.1. The Chair may whenever the Chair thinks fit, and any two Directors may whenever they think fit, require the Honorary

Secretary to convene a general meeting of the Company, and general meetings shall be convened on such requisition or in default may be convened by such requisition as is provided by the Law.

11.1.2. Special resolutions are needed for important matters such as resolutions by members to wind up the company or change its name or provisions of its constitution. Unless at least 95% of the members agree, the notice for a meeting to pass a special resolution must be given within 21 days before the meeting and the resolution itself must be passed by at least three-quarters of the members who vote at the meeting.

11.1.3. **Time of Notice**

Subject to the provisions of the Law relating to special resolutions and agreements for shorter notice, twenty one (21) days notice at the least (exclusive of the day on which the notice is served or deemed to be served, and exclusive of the day for which notice is given) specifying the place the day and the time of meeting and the general nature of the meeting's business shall be given to such persons as are entitled to receive such notices from the Company.

11.1.4. **Notice of Meetings of Members to Members and Directors.**

Written notice of a meeting of the members must be given individually to each member entitled to vote at the meeting and to each director.

11.1.5. **How Notice is Given**

The Company may give the notice of meeting to a member:

11.1.5.1. personally; or

11.1.5.2. by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member; or

11.1.5.3. by sending it to the fax number or electronic address (if any) nominated by the member.

11.1.6. **When Notice is Given**

A notice of meeting sent by post is taken to be given five (5) days after it is posted postage prepaid. A notice of meeting sent by fax, or other electronic means, is taken to be given on the business day after it is sent.

11.1.7. **Auditor Entitled to Notice and Other Communications**

The Company must give its auditor:

11.1.7.1. notice of a general meeting in the same way that a member is entitled to receive notice; and

11.1.7.2. any other communications relating to the general meeting that a member is entitled to receive.

**11.1.8. Contents of Notice of Meetings of Members**

A notice of a meeting of the members must:

11.1.8.1. set out the place, date and time for the meeting (and, if the meeting is to be held in two (2) or more places, the technology that will be used to facilitate this); and

11.1.8.2. state the general nature of the meeting's business; and

11.1.8.3. if a special resolution is to be proposed at the meeting set out an intention to propose the special resolution and state the resolution; and

11.1.8.4. if a member is entitled to appoint a proxy - contain a statement setting out the following information:

11.1.8.4.1. the member has a right to appoint a proxy; and

11.1.8.4.2. that the proxy does not need to be a member.

**11.1.9. 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 (1) month or more

**11.2. Members' Rights to Put Resolutions and Distribute Statements**

**11.2.1. Members' Resolutions**

11.2.1.1. The following members may give the Company notice of a resolution that they propose to move at a general meeting or request that the Company give to all its members a statement provided by the members making the request about a resolution that is proposed to be moved at a general meeting or any other matter that may be properly considered at a general meeting:

11.2.1.1.1. members with at least 5% of the votes that may be cast on the resolution; or

11.2.1.1.2. at least 100 members who are entitled to vote at a general meeting.

- 11.2.1.2. The notice or request must:
- 11.2.1.2.1. be in writing; and
  - 11.2.1.2.2. set out the wording of the proposed resolution or the request; and
  - 11.2.1.2.3. be signed by the members proposing to move the resolution or make the request.
- 11.2.1.3. Separate copies of a document setting out the notice or request may be used for signing by members if the wording of the notice or request is identical in each copy.
- 11.2.1.4. The percentage of votes that members have is to be worked out as at the midnight before the members give the notice or the request to the Company.
- 11.2.1.5. If the Company has been given notice of a resolution as set out above, the resolution is to be considered at the next general meeting that occurs more than two (2) months after the notice is given.
- 11.2.1.6. The Company must give all its members notice of the resolution, or a copy of the statement at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a meeting.
- 11.2.1.7. The Company is responsible for the cost of giving members notice of the resolution or distributing the statement if the Company receives the notice or request in time to send it out to members with the notice of meeting.
- 11.2.1.8. The members giving notice or making the relevant request are jointly and individually liable for the expenses reasonably incurred by the Company in giving members notice of the resolution or distributing the statement if the Company does not receive the members' notice or request in time to send it out with the notice of meeting. At a general meeting the Company may resolve to meet the expenses itself
- 11.2.1.9. The Company need not give notice of the resolution or comply with the request:
- 11.2.1.9.1. if the relevant document is more than 1,000 words long or defamatory; or
  - 11.2.1.9.2. if the members making the request are to bear the expenses of sending the notice

out or distributing the statement - unless the members give the Company a sum reasonably sufficient to meet the expenses that it will reasonably incur in giving the notice or making the distribution.

## **12. HOLDING OF MEETINGS OF MEMBERS**

### **12.1. Time and Place for Meetings of Members**

A meeting of the members must be held at a reasonable time and place.

### **12.2. Technology**

The Company may hold a meeting of its members at two (2) or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

### **12.3. Quorum**

12.3.1. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to the business. Save as herein otherwise provided three (3) members present shall be a quorum.

12.3.2. In determining whether a quorum is present individuals attending as a proxy or attorney for a member or as a body corporate representative shall be counted. However, if a member has appointed more than one (1) proxy or representative, only one (1) of them shall be counted. If an individual is attending both as a member and as a proxy then that person will be counted as present in each such capacity.

12.3.3. If within fifteen minutes from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members shall be dissolved. In any other case it will be adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the members present (being not less than three) shall be a quorum.

### **12.4. Chair**

12.4.1. The Chair shall preside as Chair at any general meeting of the Company, or if there is no Chair, or if the Chair is not present within five minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, the Deputy Chair shall be the Chair or if the Deputy Chair is not present or is unwilling to act then the members present shall elect one of their number to be Chair of the meeting.

## **12.5. Auditor's Right to be Heard at General Meetings**

- 12.5.1. The auditor of the Company is entitled to attend any general meeting of the members and to be heard at the meeting on any part of the business of the meeting that concerns the auditor in his or her capacity as auditor.
- 12.5.2. The auditor is entitled to be heard even if the auditor retires at the meeting or if the meeting passes a resolution to remove the auditor from office.
- 12.5.3. The auditor may authorise a person in writing as the representative of the auditor for the purpose of attending and speaking at any general meeting.

## **12.6. Adjournments**

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

## **12.7. Proxy**

### **12.7.1. Who Can Appoint a Proxy**

Any member who is entitled to attend and cast a vote at a meeting of the members may appoint a person as the member's proxy to attend and vote for the member at the meeting.

- 12.7.2. Any instrument appointing a proxy shall be in writing under the hand of the appointer or of the attorney of the appointer duly authorised in writing or, if the appointer is a corporation, either under seal or under the hand of an officer or attorney duly authorised.
- 12.7.3. The instrument appointing a proxy shall be deemed to confer authority to speak at the meeting, demand or join in demanding a poll and (to the extent allowed by the instrument) to vote on a poll. The authority of a proxy to speak and vote for a member at a meeting is suspended while the member is present at the meeting.
- 12.7.4. A person attending a meeting as a proxy need not be a



member.

- 12.7.5. The instrument appointing a proxy may subject to this Constitution be in such form as the Chair of the meeting may determine is acceptable.
- 12.7.6. A maximum of five (5) proxies may be held by anyone person, except for the Chair who may hold any number of proxies.
- 12.7.7. If the Company sends a member a proxy appointment form for a meeting or a list of persons willing to act as proxies at a meeting;
  - 12.7.7.1. if the member requested the form or list, the Company must send the form or list to all members who requested it and who are entitled to appoint a proxy to attend and vote at the meeting; or
  - 12.7.7.2. otherwise, the Company must send the form or list to all its members entitled to appoint a proxy to attend and vote at the meeting.

12.7.8. **Appointing a Proxy**

- 12.7.8.1. An appointment of a proxy is valid if it is signed by the member making the appointment and contains the following information:
  - 12.7.8.1.1. the member's name and address;
  - 12.7.8.1.2. the name of the Company;
- 12.7.8.2. The instrument of appointment may specify the meetings at which the appointment may be used.
- 12.7.8.3. An undated appointment is taken to have been dated on the day it is given to the Company.
- 12.7.8.4. An appointment may specify the way the proxy is to vote on a particular resolution. Unless so instructed in writing, the proxy may vote as he or she thinks fit.
- 12.7.8.5. An instrument of appointment of a proxy does not have to be witnessed.

12.7.9. **Notification to the Company**

For an appointment of a proxy to be effective the instrument of appointment and the authority, if any, under which it is signed or a certified copy of that authority must be received by the Company at least twenty-four (24) hours before the start of the relevant meeting or adjourned meeting.

- 12.7.10. The Company shall have received an appointment instrument when it is received at any of the following:

- 12.7.10.1. the Company's registered office;
- 12.7.10.2. a fax number at the Company's registered office;
- 12.7.10.3. a place, fax number or electronic address specified for the purpose in the notice of meeting.

#### 12.7.11. Validity of proxy vote

A vote given on behalf of a member in accordance with the terms of an appoint of proxy or attorney shall be valid notwithstanding the previous death or mental incapacity of the member or revocation of the appointment or of the authority under which the appointment was executed if no written notice of such matter was received by the Company before the start or resumption of the meeting at which the proxy or attorney votes.

## 12.8. **Voting and Polls**

- 12.8.1. A member may vote in person or by proxy or by attorney. If any person is present as a member or representing one or more members that person shall on a show of hands have one vote. On a poll that person shall have one vote for each member he or she is representing and if he or she is a member a vote for himself or herself.
- 12.8.2. In the case of an equality of votes, whether on a show of hands or on a poll, the Chair of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
- 12.8.3. **Objections to Right to Vote**

A challenge to a right to vote at a meeting of the members

  - 12.8.3.1. may only be made at the meeting; and
  - 12.8.3.2. must be determined by the Chair of the meeting, whose decision is final.
- 12.8.4. At any meeting of members a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded:
  - 12.8.4.1. before the vote is taken; or
  - 12.8.4.2. before the voting results on a show of hands are declared; or
  - 12.8.4.3. immediately after the voting results on a show of hands are declared.
- 12.8.5. The persons entitled to demand a poll are:
  - 12.8.5.1. the Chair ;
  - 12.8.5.2. three (3) members entitled to vote; or
  - 12.8.5.3. members with at least 5% of the votes that may be cast on the resolution on a poll.
- 12.8.6. Before a vote is taken the Chair must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- 12.8.7. On a show of hands, a declaration by the Chair is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the Chair nor the minutes need to state the number or proportion of the votes recorded in favour or against.

12.8.8. If a poll is duly demanded it shall be taken when and in such manner as the Chair directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a Chair or on a question of adjournment shall be taken immediately and without discussion. A demand for a poll may be withdrawn.

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

12.8.9. No member shall be entitled to vote at any general meeting if relevant annual subscriptions of the member are in arrears at the date of the meeting, nor shall any person be entitled to vote on behalf of any such member.

### **13. ANNUAL GENERAL MEETINGS**

13.1. The Company must hold an Annual General meeting (AGM) at least once in each calendar year and within five (5) months after the end of its financial year.

13.2. An AGM is to be held in addition to any other meetings of members held by the Company in the year.

#### **13.3. Reports at AGM**

The Directors must lay before the AGM the financial report, the Directors' report and the auditor's report for the last financial year that ended before the AGM.

#### **13.4. Business of AGM**

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

13.4.1. consideration of the annual financial report, Directors' report and auditor's report;

13.4.2. the election of Directors;

13.4.3. the appointment of the auditor; and

13.4.4. the fixing of the auditor's remuneration.

#### **13.5. Questions and comments by members on management**

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.

13.6. If persons entitled to demand a poll so require, the Directors must cause the auditor's report to be read aloud to the AGM.

**13.7. Questions by Members of Auditors**

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

**14. MINUTES AND MEMBERS' ACCESS TO MINUTES**

**14.1. Minutes**

- 14.1.1. The Company must keep minute books in which it records within one (1) month:
  - 14.1.1.1. proceedings and resolutions of meetings of the Company's members; and
  - 14.1.1.2. proceedings and resolutions of Directors' meetings (including meetings of a committee of Directors); and
  - 14.1.1.3. resolutions passed by members without a meeting; and
  - 14.1.1.4. resolutions passed by Directors without a meeting; and
  - 14.1.1.5. all appointments of officers of the Company, and
  - 14.1.1.6. Names of Directors present at all meetings of the Company and Board.
- 14.1.2. Such minutes shall be signed by the Chair of the meeting at which the proceedings were held or by the Chair of the next succeeding meeting of the relevant body.
- 14.1.3. The Company must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.
- 14.1.4. Minutes shall be retained in a register (or registers) maintained by the Company for that purpose and kept at:
  - 14.1.4.1. its registered office; or
  - 14.1.4.2. its principal place of business in Australia; or
  - 14.1.4.3. another place approved by the ASIC.
- 14.1.5. A minute that is so recorded and signed is evidence of the proceeding or resolution to which it relates unless the contrary is proved.

## **14.2. Members' Access to Minutes**

- 14.2.1. The Company must ensure that the minute books for the meetings of its members and for resolutions of members passed without meetings are open for inspection by members free of charge.
- 14.2.2. A member of the Company may ask the Company in writing for a copy of:
  - 14.2.2.1. any minutes of a meeting of the Company's members or an extract of the minutes; or
  - 14.2.2.2. any minutes of a resolution passed by members without a meeting.

## **15. THE BOARD (INCLUDING OFFICE-BEARERS)**

### **15.1. Company Office Bearers**

- 15.1.1. The office-bearers of the Company shall be the Chair, Deputy Chair, Honorary Treasurer and Honorary Secretary.
- 15.1.2. The office-bearers and all other Directors must be members of the Company at all relevant times.

### **15.2. Board of Directors**

The persons who may be appointed from time to time in accordance with this Constitution shall be the Directors of the Company.

### **15.3. Maximum number of Directors**

The members may from time to time by ordinary resolution increase or reduce the number of Directors however, until the members pass such a resolution, there shall be no fewer than three (3) and no more than fifteen (15) Directors at any one time.

### **15.4. Election of Directors**

- 15.4.1. At each Annual General Meeting of the Company one third of the Directors for the time being, or, if their number is not three (3) or a multiple of three (3), then the number nearest one third, shall retire from office. The Directors to retire at an Annual General Meeting shall be those who have been longest in office since their most recent election but, as between persons who become Directors on the same day, those to retire shall (unless they agree among themselves) be determined by lot.
- 15.4.2. The election of Directors shall take place in the following manner:
  - 15.4.2.1. Any two members of the Company may nominate any other member to serve as a Director.

15.4.2.2. The nomination, which shall be in writing and signed by the nominated member and his or her proposer and seconder, shall be lodged with the Company at least 28 days before the Annual General Meeting at which the election is to take place. The nomination shall be accompanied by a written statement of not more than one hundred words signed by the nominee setting out the relevant experience and expertise which in the opinion of the nominee constitutes his or her qualifications for the position of director of the Company. This statement is referred to as a "qualification resume".

15.4.2.2.1. A list of the candidates' names in alphabetical order) with the proposers' and seconders' names, and a copy of each qualification resume shall be posted in a conspicuous place in the registered office of the Company for at least 14 days immediately before the Annual General Meeting.

15.4.2.2.2. A copy of each qualification resume shall be sent to each member of the company who requests same.

15.4.2.2.3. If the Board is advised in writing by a currently practising lawyer that it is for some reason improper for the whole or any part of a qualification resume to be either posted in the registered office or distributed to members upon request then the Board shall have regard to such advice and may act in accordance with same notwithstanding the preceding paragraphs.

15.4.2.3. Notice of all members seeking election to the Board in accordance with the above nomination provisions (candidates) shall be given to all members with the notice calling the meeting at which the election is to take place. If the number of candidates is equal to or less than the number of available positions then at the Annual General Meeting the Chair shall declare that the candidates have been elected Directors.

15.4.2.4. If there shall not be sufficient number of candidates nominated the Board may fill up the remaining vacancy or vacancies from among the members.

15.4.2.5. Balloting lists shall be prepared (if necessary)

containing only the names of the candidates in alphabetical order and each member present in person or by proxy at the Annual General Meeting shall be entitled to vote for any number of such candidates not exceeding the number of vacancies.

- 15.4.3. The Directors shall immediately after each Annual General Meeting elect one of their members as the Chair, another as Deputy Chair, a third as Honorary Treasurer and a fourth as Honorary Secretary. Should any such office fall vacant then the Directors shall as soon as possible elect one of their members to such office.

## 15.5. **Directors**

- 15.5.1. The Board shall have power at any time, and from time to time, to appoint any member to the Board, either to fill a casual vacancy or as an addition to the existing Directors or other members of the Board but so that the total number of Directors shall not at any time exceed the number fixed in accordance with the Constitution. Any Director so appointed shall hold office until the next Annual General Meeting.
- 15.5.2. The Company may remove any Director, whether or not an office holder, before the expiration of his or her period of office. Any such removal must be in accordance with the Law.
- 15.5.3. The office of a Director shall become vacant on the first to occur of the following events. If the Director:
  - 15.5.3.1. becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
  - 15.5.3.2. becomes prohibited from being a director of a company by reason of the Law or any order made under the Law;
  - 15.5.3.3. ceases to be a Director by operation of the Law;
  - 15.5.3.4. cannot manage the Company because of his or her mental incapacity and is a person whose estate or property has had a personal representative or trustee appointed to administer it;
  - 15.5.3.5. resigns his or her office by notice in writing received by the Company;
  - 15.5.3.6. is absent without permission of the Board from either three consecutive meetings of the Board or three meetings of the Board held in any financial year;
  - 15.5.3.7. holds any office of profit under the Company;



- 15.5.3.8. ceases to be a member of the Company;
- 15.5.3.9. is directly or indirectly interested in any contract or proposed contract with the Company and:
  - 15.5.3.9.1. does not disclose that interest to each relevant meeting; or
  - 15.5.3.9.2. votes at any relevant meeting in relation to that contract or proposed contract.
- 15.5.3.10. has been a Director (whether or not an office bearer) for nine (9) consecutive years.

## **16. DELEGATION BY BOARD TO A COMMITTEE**

- 16.1. The Board may from time to time appoint committees to assist the Board. The Board may co-opt members other than members of the Board to serve on any committee so appointed.
- 16.2. The Chair is ex officio a member of every committee.
- 16.3. A member of a committee appointed under this Constitution will, subject to this Constitution and the By Laws and, unless sooner removed by the Board, hold office until conclusion of the Annual General Meeting held next after the member's appointment.
- 16.4. Every committee appointed by the Board will exercise its powers and functions and perform its duties as the agent of the Board in accordance with terms of reference prepared by the Board. In the exercise of those powers and functions and the performance of those duties, the committee will be subject to the control of the Board and must comply with such directions as may from time to time be given to it by the Board.

## **17. GENERAL POWERS AND DUTIES OF THE BOARD**

- 17.1. The business of the Company shall be managed by the Board which may exercise all the powers of the Company except any powers that the Law or the Constitution requires to be exercised by the Company in general meeting. The Board's powers shall also be subject to such regulations, being not inconsistent with the Law or the Constitution, as may be prescribed by the Company in general meeting.
- 17.2. Notwithstanding the preceding paragraph the Company in general meeting may disallow any rule regulation or By Law of the Company made by the Board.
- 17.3. No resolution or regulation made by the Company in general meeting shall invalidate any prior act of the Board which would have been valid if that resolution or regulation had not been passed or made.

## 18. MEETINGS OF THE BOARD

- 18.1. The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit providing that the Board shall meet at least once every six months. A director may at any time and the Honorary Secretary shall on the requisition of a Director summon a meeting of the Board.
- 18.2. Without limiting the general power conferred on the Board by the preceding paragraph, the Directors may:
  - 18.2.1. conduct their meetings by telephone or other electronic device. A director shall be deemed to be present at such a meeting if the speech of the Director via the telephone or device is audible to each other Director who is present at the relevant meeting and if the first Director can hear the speech of each other Director;
  - 18.2.2. call or hold a meeting using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw his or her consent within a reasonable period before the holding of any relevant meeting.
- 18.3. A resolution of the Directors must be passed by a majority of the votes cast by the Directors present or deemed to be present and entitled to vote on the resolution. Each such Director shall have one vote. In case of an equality of votes the Chair of the meeting shall have a second or casting vote.
- 18.4. The quorum necessary for a Board meeting shall not be less than two (2) and shall be a majority of the then Directors providing always that the quorum must include at least one of the Chair, Deputy Chair, Honorary Treasurer or Honorary Secretary.
- 18.5. The continuing Directors may act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the necessary quorum of the Board, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company and for no other purpose.
- 18.6. The Chair shall preside as Chair at every meeting of the Board. If there is no Chair, or if at any meeting he or she has advised that he or she will not be present or if he or she has not so advised but is not present within ten minutes after the time appointed for holding the meeting, the Deputy Chair shall be Chair and if the Deputy Chair is not present at the meeting then the Directors present shall choose one of their number to Chair the meeting.
- 18.7. The Board may delegate any of its powers and/or functions (not being duties imposed exclusively on the Board by the Law or the Constitution)

to one or more committees consisting of such Directors as the Board thinks fit.

- 18.8. Any committee so formed shall conform to any regulation that may be imposed by the Board and subject thereto shall have power to co-opt any member of the Company. Each member of any committee shall have one vote at meetings of that committee.
- 18.9. Committees may meet and adjourn as they respectively think appropriate. Questions arising at any meeting shall be determined by a majority of votes of the members present and, in the case of an equality of votes, the Chair thereof shall have a second or casting vote.
- 18.10. All acts done by any meeting of the Board or committee or by any person acting as a Director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that the Directors or other persons were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director or member of the relevant body.
- 18.11. The Directors may pass a resolution without a Board meeting being held if either the Chair or the Deputy Chair and all other Directors in Australia for the time being entitled to vote on the resolution sign a document or dispatch an email from their email account containing a statement that they are in favour of the resolution set out in the document. Any such resolution may consist of several documents in like form, each signed or emailed by one or more Directors. The resolution is passed when the last Director signs or the Director's email is received by the Honorary Secretary.

## **19. DIRECTORS' CONFLICT OF INTEREST**

- 19.1. No Director shall vote at a meeting of the Board nor of any committee or sub-committee of the Board in respect of any matter in which that director has a material personal interest. If any Director votes in contravention of this paragraph the vote shall not be counted.
- 19.2. No Director who is precluded by the preceding paragraph from voting in respect of any matter, shall be present at any relevant meeting while that matter is being considered.

## **20. PATRON**

- 20.1. The Board may appoint one Patron of the Company who may be any person.
- 20.2. If the Patron is present at any meeting of the Board or any general meeting then, notwithstanding any provision of the Constitution of the Company to the contrary, should the Patron so wish, the Patron may Chair any such meeting. If the Patron, while chairing a meeting would

have been entitled as a member of the relevant meeting to cast a vote then he or she may do so however, the Patron, as Chair , shall not be entitled to a second or casting vote.

20.3. The Patron may be removed by the Board.

## **21. SECRETARY**

21.1. The Company Secretary shall, in accordance with the Law, be appointed by the Board for such term, and upon such conditions as the Board determines, and any person so appointed may be removed from the office of Company Secretary by the Board at any time.

## **22. USE OF BANK ACCOUNTS**

22.1. The Company shall receive, process, spend or transfer money which is the property of the Company in accordance with the Law, any other relevant law and this Constitution.

22.2. The Company is to operate its own bank (or credit union, building society or other accredited financial institution) account.

22.3. All money received by the Company which is the property of the Company, shall be deposited as soon as practicable and without deduction to the credit of the Company in the relevant bank account of the Company.

22.4. The Company shall, as soon as practicable after receiving any money, issue an appropriate receipt.

22.5. All payments by the Company shall be approved by at least two Directors where the payment is less than \$500 and from a budget approved by the Board. All other payments are to be approved by the Board.

## **23. FINANCIAL YEAR**

23.1. The first financial year of the Company shall end on the first 30th June after the registration of the Company and thereafter each succeeding financial year shall end on the next 30th June.

## **24. INDEMNITY**

24.1. Every Director, auditor, secretary and other officer for the time being of the Company (herein called "officer") shall be indemnified out of the assets of the Company against any liability, including a liability for costs and expenses arising out of the execution of the duties of their office, which is incurred by the officer in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted or in connection with any application under the Law in which relief is granted to the officer by the Court in

respect of any alleged negligence, default, breach of duty or breach of trust.

## **25. INTERNAL BY LAWS**

- 25.1. The Board may from time to time make rules, regulations or By Laws, not inconsistent with and subject to, the Law and the Constitution for the internal management of the Company.
- 25.2. The Board may from time to time vary or repeal such rules, regulations or By Laws.