



Constitution

of

OneCare Limited

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L Mollross*

Contents

1	Name of Corporation	1
2	Status of the Constitution	1
2.1	Constitution of the Company	1
2.2	Replaceable Rules	1
3	Interpretation	1
3.1	Definitions	1
3.2	Interpretation	3
4	Objects and purpose	3
5	Powers of the Company	4
6	Application of income and property of Company	4
6.1	To be applied towards objects	4
6.2	Not to be applied for benefit of members	4
6.3	Application of surplus property on winding-up	4
6.4	Choosing institution	4
7	Modification or repeal of this Constitution	5
7.1	Modifying or repealing Constitution	5
7.2	Date of effect of modification or repeal	5
8	Member's liability	5
8.1	Liability to contribute	5
8.2	Limited liability	5
9	Members	5
9.1	Number of Members	5
9.2	Pre-condition to Membership	5
9.3	Becoming a Member	5
9.4	Categories of Membership	5
9.5	Eligibility for General Membership	6
9.6	Eligibility for Voting Membership	6
9.7	Application for Membership	6
9.8	Consideration for application for Membership	6
9.9	Registration as Member	6
9.10	Conduct & Power of Members	6
9.11	Annual fees	7
10	Rights of Members are non-transferable	7
11	Cessation or Resignation of Membership	7
11.1	Cessation of Membership of a natural person	7
11.2	Resignation of Member	8
12	Expulsion of Member	8
12.1	How expelled	8
12.2	Proposal for expulsion	8

12.3	Notice of proposal	8
12.4	Right to make representations	8
12.5	Publishing representations	8
12.6	Right to be heard	8
12.7	Validity of resolution to expel	8
12.8	Effect of expulsion	8
13	Maintenance of Register of Members	9
13.1	Register of Members	9
13.2	Inspection of Register of Members	9
14	Governors	9
14.1	Eligibility to become Governor	9
14.2	Role of Governor	9
14.3	Tenure of Governor	10
14.4	Power of Governors	10
15	General meetings	10
15.1	Annual general meetings	10
15.2	Business at annual general meeting	10
15.3	Director or Govenor convening a general meeting	10
15.4	Notice of general meeting	10
15.5	Shorter notice of general meeting	11
15.6	Notice of resumption of an adjourned meeting	11
15.7	General meetings at two or more places	11
15.8	Postponement or cancellation of general meeting	11
15.9	Notice of change, postponement or cancellation of meeting	11
15.10	Omission to give notice relating to general meeting	11
16	Proceedings at general meetings	12
16.1	Quorum	12
16.2	Lack of quorum	12
16.3	Chairing general meetings	12
16.4	Conduct of general meetings	13
16.5	Adjournment	13
17	Proxy	13
17.1	Appointment of proxy	13
17.2	Proxy instruments	13
17.3	Proxy to be received by Company	14
17.4	Power to demand poll	14
17.5	Revocation of proxy	14
17.6	Validity of votes of proxy	14
17.7	No liability	14
18	Voting	15
18.1	Entitlement to vote	15
18.2	Casting vote	15
18.3	Voting on resolution	15
18.4	Objection to right to vote	15
18.5	Written resolutions	15

18.6	Minutes	15
19	Poll	16
19.1	Chair may determine to take a poll	16
19.2	Right to demand poll	16
19.3	Procedure for demanding poll	16
20	Appointment and removal of Directors	16
20.1	Number of Directors	16
20.2	Tenure of Directors	16
20.3	Appointment of Directors	16
20.4	Nomination of Directors	17
20.5	Selection Panel	17
20.6	Selection Criteria	18
20.7	Removal of Director	18
20.8	Cessation of Directorship	19
20.9	Resignation of Directors	19
21	Powers and duties of Board	19
21.1	General	19
22	Negotiable instruments	20
23	Chairperson	20
24	Remuneration and reimbursement for expenses	20
24.1	Remuneration of Director	20
24.2	Reimbursement of expenses	20
25	Board and committee meetings	20
25.1	Convening meetings	20
25.2	Notice of meetings	20
25.3	Omission to give notice	21
25.4	Use of technology	21
25.5	Quorum at meetings	21
25.6	Chair of meetings	21
25.7	Passing resolutions at meetings	21
25.8	Casting vote	21
25.9	Conduct of meetings	22
25.10	Written resolutions	22
25.11	Minutes of meetings	22
26	Committees and Task Forces	22
26.1	Committees Generally	22
26.2	Committee Meetings	22
26.3	Certain Committees to Exist	22
26.4	Task Forces Generally	22
27	Directors' interests	23
27.1	Director not disqualified	23
27.2	Directors not liable to account	23
27.3	Directors acting in professional capacity	23

27.4	Declaration of interest	23
27.5	Voting by interested Directors	23
27.6	Directors' and Officers' Insurance	24
27.7	Director may execute documents despite interest	24
28	Appointment of Secretary	24
<hr/>		
29	Accounts & Financial records	24
<hr/>		
29.1	Keeping accounts	24
29.2	Member's access to financial records	24
29.3	Directors' access to financial records	24
29.4	Access to financial records after ceasing to be a Director	25
30	Notices	25
<hr/>		
30.1	General	25
30.2	How to give a communication	25
30.3	Communications by post	25
30.4	Communications by fax	25
30.5	Communications by email	25
30.6	After hours communications	25
31	Indemnity and Insurance	26
<hr/>		
31.1	General Indemnity	26
31.2	Indemnity for cost incurred in defending proceedings	26
31.3	Documenting indemnity	26
31.4	Notice to the Company	26
31.5	Where indemnity not available	27
31.6	Insurance	28
31.7	Severing unlawful provisions	28
32	Transitional arrangements	28
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1 Name of Corporation

The name of the company is **OneCare Limited ACN 100 869 421**.

2 Status of the Constitution

2.1 Constitution of the Company

This is the constitution of the Company.

2.2 Replaceable Rules

This Constitution displaces the Replaceable Rules.

To the extent that this Constitution does not modify or displace any Replaceable Rule, that Replaceable Rule applies.

3 Interpretation

3.1 Definitions

In this Constitution:

2018 SGM means the Special General Meeting held on 31 May 2018.

Auditor means the person appointed for the time being as the auditor of the Company.

Board means the Directors present at a meeting, duly convened as a Board meeting, at which a quorum is present.

Business Day means a day which is not a Saturday, Sunday or bank or public holiday in **Australia**.

Chairperson means the Chairperson of the Directors appointed under Rule 23.

Chief Executive Officer means an employee of the Company appointed by the Directors to manage the operations of the Company.

Claim means:

- (i) any writ, summons, cross-claim, counterclaim application or other originating legal or arbitral process against an Officer as such an Officer;
- (ii) any hearing, complaint, enquiry, investigation, proceeding or application however commenced or originating against an Officer as such an Officer; or
- (iii) any written or oral demand or threat that might result in the Officer reasonably believing that any such process, hearing, complaint, enquiry, investigation, proceeding or application referred to in (i) or (ii) above may be initiated.

Client means any person who receives the benefit of the Company's services and includes residents of the Company's Residential Care Facilities, Independent Living Units Home Care and Health Care services and members, but does not include Voting Members.

Company means **OneCare Limited ACN 100 869 421**.

Constitution means the constitution for the time being of the Company as constituted by this document and any resolutions of the Company modifying this document.

Corporations Act means the *Corporations Act 2001* (Cth).

Core Services means the provision of Aged care services to clients in OneCare facilities, provision of Independent Living Units, Home Care Services and any other services as determined by the Board and not inconsistent with the objects of the Company in this constitution.

Director means a person who is a Director for the time being of the Company and **Directors** means more than one Director, and in relation to rules applying to meetings of the Board, including voting by Directors and material personal interests.

Facilities means the Company's Residential Aged Care, Independent Living, Home Care, Health Care, Community or similar facilities throughout Australia.

Life Member means a member who has been nominated by a Director at an Annual General Meeting, for providing long, meritorious or special service to the Company, and has been accepted by the meeting to receive that honour.

Member means a person who is, or who is registered as, a member of the Company and **Members** means more than one Member.

Members Guarantee Amount means an amount equal to **\$10.00**.

Membership means being a Member of the Company.

Officer means:

- (i) a person who is or has been a Director, Secretary or Executive Officer of the Company or a wholly owned subsidiary of the Company; and
- (ii) a person who is or has been a Director, Secretary or Executive Officer of a related body corporate of the Company (other than a wholly owned subsidiary of the Company) while also a Director or an employee of the Company or a wholly owned subsidiary of the Company.

Policies and Procedures means:

- (i) the TAGS™ (Australian Governance System);
- (ii) TAGS™, governance principles;
- (iii) TAGS™, governance policies and procedures;
- (iv) TAGS™, governance documents and tools;
- (v) Any other governance, principles, policies, procedures, documents or tools the board may adopt from time to time; and
- (vi) Any amendments to the above documents as adopted by the board from time to time.

And includes **Governance Principles**.

Register of Members means the register of Members maintained pursuant to the Corporations Act.

Replaceable Rules means the replaceable rules applicable to a public Company limited by guarantee set out in the Corporations Act.

Seal means the common seal for the time being of the Company.

Secretary means any person appointed for the time being as, or to perform the functions of, secretary of the Company.

Selection Panel means the Selection Panel as prescribed in Rule 20.

3.2 Interpretation

In this Constitution:

- (a) the words “including”, “include” and “includes” are to be construed without limitation;
- (b) a reference to legislation is to be construed as a reference to that legislation, any subordinate legislation under it, and that legislation and subordinate legislation as amended, re-enacted or replaced for the time being;
- (c) a reference to a “person” includes a corporate representative appointed pursuant to section 250D of the Corporations Act;
- (d) headings are used for convenience only and are not intended to affect the interpretation of this Constitution; and
- (e) a word or expression defined in the Corporations Act and used, but not defined, in this Constitution has the same meaning given to it in the Corporations Act.

4 Objects and purpose

OneCare is a professional services company specializing in aged care and health services; enhancing the wellness, lifestyle and health of ageing or disabled people who have:

- (a) emerging or actual chronic health or complex health conditions;
- (b) an injury or accident;
- (c) acute illness/es;
- (d) end life or palliative care requirements;

or any combination of these four health status categories.

The objects for which the Company is established are:

- (a) to provide care for those in need of assistance for daily living and to assist those in need of affordable housing;
- (b) to provide facilities and services for high quality care of the aged, disabled, sick or terminally ill;
- (c) to provide alternative facilities and accommodation for the aged or disabled persons;
- (d) to provide and support funds for medical research;
- (e) to provide temporal and spiritual support for ageing or disabled people who have:
 - (i) emerging or actual chronic health or complex health conditions
 - (ii) an injury or accident
 - (iii) acute illness/es
 - (iv) end life or palliative care requirements,or any combination of these four health status categories;

- (f) to provide financial assistance to associated entities of the Company, registered as public benevolent institutions and deductible gift recipients;
- (g) to provide and support education and training of persons in any programs furthering these objects;
- (h) to foster community involvement in the achievement of the objects of the Company; and
- (i) any other object which the Directors consider is consistent with one or more of the other objects.

5 Powers of the Company

The Company has all the powers a company limited by guarantee has under the Corporations Act but must only exercise those powers:

- (a) in the promotion of the objects of the Company;
- (b) subject to this Constitution; and
- (c) in the way the Corporations Act requires.

6 Application of income and property of Company

6.1 To be applied towards objects

The Company must apply its income and property solely towards the promotion of the objects of the Company.

6.2 Not to be applied for benefit of members

The Company must not pay or transfer directly or indirectly any of its income and property to any Member except that the Company may, subject to complying with Chapter 2E of the Corporations Act where required, pay:

- (a) reasonable and proper remuneration to any Member in return for:
 - (i) services actually rendered to the Company; and
 - (ii) goods supplied in the ordinary and usual way of business;
- (b) reasonable and proper interest on money borrowed from any Member; and
- (c) reasonable and proper rent for premises leased by any Member to the Company.

6.3 Application of surplus property on winding-up

If, when the Company is wound up, a surplus of assets remains after all debts or liabilities of the Company have been paid, the surplus must be distributed to one or more corporations, funds, authorities or institutions:

- (a) having similar aims and basic objects to the Company; and
- (b) which when the distribution is to be made are funds to which section 30-15 of the Income Tax Assessment Act 1997 applies.

6.4 Choosing institution

The corporations, funds, authorities or institutions referred to in Rule 6.3 and the amounts to be distributed to each are to be chosen:

- (a) by Special Resolution of the Members on or before dissolution of the Company; or
- (b) if the Members do not so choose, by the Supreme Court of Tasmania.

7 Modification or repeal of this Constitution

7.1 Modifying or repealing Constitution

This Constitution may be modified or repealed only by a special resolution of the Company in a general meeting.

7.2 Date of effect of modification or repeal

Any modification or repeal of this Constitution takes effect on the date the special resolution is passed or any later date specified, or provided for, in the resolution.

8 Member's liability

8.1 Liability to contribute

Subject to this Constitution, each person who is a Member, and each person who was a Member during the year ending on the day of the commencement of the winding up of the Company, undertakes to contribute to the property of the Company for:

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

8.2 Limited liability

The amount that each Member or past Member is liable to contribute is limited to the amount of the Member's Guarantee Amount.

9 Members

9.1 Number of Members

The Company must have at least one Member.

9.2 Pre-condition to Membership

A person is entitled to become a Member if that person agrees to

- (a) assume the liability to pay the Member's Guarantee Amount, and
- (b) abide by the requirements of this Constitution or any amendments as made from time to time.

9.3 Becoming a Member

Subject to the Corporations Act, a person becomes a Member on the registration of that person's name in the Register of Members.

9.4 Categories of Membership

The Company's members will be made up of:

- (a) General members; and
- (b) Voting Members.

9.5 Eligibility for General Membership

- (a) Any natural person is eligible to become a General Member if they are:
 - (i) a close relative or guardian of a resident of one of the Company's facilities;
 - (ii) an employee of the Company; or
 - (iii) a leader of the community (to be determined by the Board).
- (b) A Client is automatically accepted as a General Member whilst they are a current Client of the Company without the requirement of making application for membership unless that Client declines membership.

9.6 Eligibility for Voting Membership

Any natural person is eligible to become a Voting Member:

- (a) whilst they are a Director on the Board; or
- (b) if they are a Governor.

9.7 Application for Membership

- (a) Only a person satisfying the eligibility requirements for General or Voting Membership may apply for Membership.
- (b) The Board may prescribe the form of the application for Membership.
- (c) An application for Membership must be
 - (i) proposed by a Member (**proposer**) and seconded by another Member (**second**);
 - (ii) in writing signed by the applicant, the proposer and the second; and
 - (iii) if the Board has prescribed the form of the application for Membership, be in that prescribed form.

9.8 Consideration for application for Membership

At the first meeting of the Board (or any other convenient time as determined by the Board) after an application for Membership has been received by the Board, the Board must consider the application and in their sole discretion may either accept, accept subject to conditions or reject the application. If the Board rejects an application for membership, it does not need to give reasons for the rejection.

9.9 Registration as Member

If the Board accepts an application for Membership, as soon as practicable, the Board must register the name of the person in the Register of Members and record any conditions imposed on that person's Membership.

9.10 Conduct & Power of Members

The Board may regulate the conduct and powers of the Members and in doing so may:

- (a) make by-laws, policies and procedures and issue codes of conduct for the continuation of sound practice; and

- (b) investigate the conduct of any Member and provide sanctions for those Members who wilfully refuse or neglect to or who do not comply with the rules of any such by-law or code of conduct.

9.11 Annual fees

- (a) Each Member, who is not a Client or a Life Member must pay an annual Membership subscription.
- (b) On payment of the annual Membership subscription the Member is a financial member of the Company until the following 30th June.
- (c) A person who ceases to be a Member is not entitled to a refund of any of the Membership subscription.
- (d) A Member who fails to renew their membership subscription by the 1st September in the year in which the subscription becomes due automatically ceases to be a Member of the Company.
- (e) The Board may determine the amount of annual Membership fees.
- (f) In the case of new Members, a person who becomes a Member of the Company must pay an initial membership equal to the last annual subscription. The initial subscription will expire on the following 30th June.

10 Rights of Members are non-transferable

The rights and obligations of a Member are personal and are not transferable.

11 Cessation or Resignation of Membership

11.1 Cessation of Membership of a natural person

A person ceases to be a Member:

- (a) if the person resigns as a Member in accordance with this Constitution;
- (b) if the person ceases to satisfy the eligibility requirements for Membership under this Constitution;
- (c) if the person is expelled as a Member in accordance with this Constitution;
- (d) if the person fails to pay any amount payable to the Company when required to do so by the Company;
- (e) if the person dies;
- (f) if the person becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act 2013 (TAS) or a person under detention under Part 3 or 4 of that Act (or any equivalent act in force in the state where the person is a resident) and the Board resolves that the person should cease to be a Member or Director;
- (g) if the person's whereabouts are unknown for more than 12 months and the Board resolves that the person should cease to be a Member; or
- (h) if the person becomes a bankrupt.

In the case of a Voting Member, if the person ceases to be a Director and is not made a Governor; they are no longer a Voting Member but may elect to remain a general member without the need to make application.

11.2 Resignation of Member

- (a) A Member may resign from the Company by giving notice in writing to the Company.
- (b) A resigning Member ceases to be a Member when the Company receives the notice of resignation.

12 Expulsion of Member

12.1 How expelled

The Company may expel any Member from Membership by special resolution of the Members.

12.2 Proposal for expulsion

A Member who wishes to propose a resolution to expel a Member must lodge with the Company written notice of the intention to do so identifying the Member and the grounds for the proposed expulsion at least six (6) weeks before the meeting at which the special resolution is to be considered.

12.3 Notice of proposal

The Company must promptly send a copy of any such notice it receives to the Member concerned.

12.4 Right to make representations

The Member concerned may make representations to the Company in respect of the proposed expulsion.

12.5 Publishing representations

If the Company receives representations from the Member concerned the Company must:

- (a) state in the notice of meeting that the representations have been received; and
- (b) send a copy of the representations to each Member to whom notice of the meeting is given;

unless the Company receives the representations too late to do so.

12.6 Right to be heard

The Member concerned is entitled to be heard on the resolution at the meeting.

12.7 Validity of resolution to expel

If this article is not complied with in connection with the expulsion of a Member, the resolution to expel the Member is invalid.

12.8 Effect of expulsion

An expelled Member ceases to be a Member when the resolution expelling the Member is passed.

13 Maintenance of Register of Members

13.1 Register of Members

The Secretary must maintain a Register of Members setting out:

- (a) the name and address of each Member;
- (b) the date on which each person became a Member;
- (c) that members eligibility status and any conditions imposed on a Member's Membership; and
- (d) in respect of each person who has ceased to be a Member, the date on which that person ceased to be a Member.

13.2 Inspection of Register of Members

The Register of Members must be kept at the Company's registered office or the principal place of business. A Member may inspect the Register of Members between the hours of 9.00 am and 5.00 pm on any Business Day. No amount may be charged for inspection.

14 Governors

14.1 Eligibility to become Governor

- (a) The Board at its sole discretion may from time to time appoint a retired director who is a member to be a Governor of the Company.
- (b) The number of Governors will not exceed half the number of Directors at any time.
- (c) In the event that the number of Directors increases then the number of Governors may be increased at the discretion of the Board.
- (d) In the event that the number of Directors decreases then the number of Governors will be decreased, if no consensus is achieved the last appointed will leave the Panel.

14.2 Role of Governor

- (a) A Governor will
 - (i) Convene as a member of the Selection Panel as and when required.
 - (ii) Convene with the Board to select a replacement Director in the event of a casual vacancy.
 - (iii) Undertake any lawful role required of them as prescribed in the Company's Policies and Procedures.
- (b) The Board will consult with the Governors in relation to
 - (i) Changes to the Company's constitution.
 - (ii) Any other matters that the Board determines.
- (c) Nothing in this section is intended to give Governors powers to make decisions that only the Board can legally make.

- (d) The Board will determine how meetings of the Board and Governors under this Rule, Rule 23.3 and Rule 23.5 are to be conducted, including the procedures to be adopted and the application of those procedures.

14.3 Tenure of Governor

Governors will hold Office for a period of five years from the date of their appointment and will be eligible for reappointment by the Board at the expiration of their term, for one further term unless

- (a) They are disqualified under this Constitution or the Corporations Act from being a Director; and
- (b) They do not satisfy the requirement of the Aged Care Act 1997 in respect of Key Personnel;

14.4 Power of Governors

In addition to those in Rule 14.2 Governors shall have all of the powers conferred to them under this constitution as a Voting Member.

15 General meetings

15.1 Annual general meetings

The Board:

- (a) may convene a general meeting whenever they think fit;
- (b) must convene an annual general meeting within five (5) months after the end of each financial year of the Company; and
- (c) must convene a general meeting if requisitioned under the Corporations Act and if they do not do so the requisitioners may convene a general meeting as provided by the Corporations Act.

15.2 Business at annual general meeting

All business transacted at a general meeting is special except for the following business at an annual general meeting:

- (a) the consideration of the annual financial report, directors' report and auditor's report;
- (b) the appointment of the auditor; and
- (c) authorise the Board to determine the auditor's remuneration.

15.3 Director or Governor convening a general meeting

- (a) Any Director may convene a general meeting.
- (b) The Board must convene a general meeting if requested to by all of the Governors.

15.4 Notice of general meeting

At least 21 days' notice of a general meeting must be given to the Members, Directors and Auditor. The notice must:

- (a) state the date, time and place (or places) of the meeting;

- (b) state the general nature of any special business to be conducted at the meeting;
- (c) state any proposed resolutions;
- (d) state the names of proxies that have been appointed (if any); and
- (e) contain a statement informing the Members of the right to appoint a proxy.

15.5 Shorter notice of general meeting

Subject to the Corporations Act, shorter notice of a general meeting may be given if the calling of the notice of the general meeting on shorter notice is agreed to:

- (a) in the case of an annual general meeting, by all Members entitled to attend and vote at the meeting; and
- (b) in the case of any other general meeting, by 95% of the Members entitled to attend and vote at the general meeting agree before the meeting;

and accordingly, any such general meeting will be treated as having been duly convened.

15.6 Notice of resumption of an adjourned meeting

The Company need not give any notice in respect of the adjourned meeting unless it is adjourned for ten days or more at one time; but the Company must give notice of the adjourned meeting as if it were an original meeting if it is adjourned for ten days or more at one time.

15.7 General meetings at two or more places

A general meeting may be held in two or more places. If a general meeting is held in two or more places, the Company must use technology that gives Members a reasonable opportunity to participate at that general meeting.

15.8 Postponement or cancellation of general meeting

- (a) Subject to this Constitution and the Corporations Act, the Board may change the place (or places) of, postpone or cancel a general meeting.
- (b) If a general meeting is convened pursuant to a request by Members, the Board may not postpone or cancel the general meeting without the consent of the requesting Members.

15.9 Notice of change, postponement or cancellation of meeting

- (a) If the Board changes the place (or places) of a general meeting, notice must be given to each Member and each person entitled to receive notice of the meeting of the new place (or places) of the meeting.
- (b) If the Board postpones a general meeting, notice must be given to each Member and each other person entitled to receive notice of the new date, time and place (or places) of the meeting.
- (c) If the Board cancels a general meeting, notice must be given to each Member and each other person entitled to receive notice of general meetings.

15.10 Omission to give notice relating to general meeting

No resolution passed at or proceedings at any general meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that general meeting;
- (b) any change of place (or places) of that general meeting;
- (c) postponement of that general meeting including, the date, time and place (or places) for the resumption of the adjourned meeting; or
- (d) resumption of that adjourned general meeting.

16 Proceedings at general meetings

16.1 Quorum

- (a) A quorum at a general meeting is constituted by the lesser of:
 - (i) 8 Voting Members eligible to vote at the general meeting; or
 - (ii) 50% of Voting Members eligible to vote at the general meeting.
- (b) The quorum must be present at all times during the general meeting.
- (c) If a Member has appointed more than one proxy and two or more proxies attend a general meeting, only one proxy will be counted for the purposes of determining whether there is a quorum.

16.2 Lack of quorum

- (a) If a quorum is not present within 30 minutes after the time appointed for a general meeting (or any longer period of time as the chair may allow) or ceases to be present at any time during the general meeting, the general meeting:
 - (i) if convened on the request of Members, is dissolved; or
 - (ii) in any other case:
 - (A) is adjourned to be resumed on a day, time and place (or places) as the chair determines or if the chair is not present as the Directors at the meeting may determine; or
 - (B) if the Directors do not so determine, no Director is present or no Director present determines:
 - the date for the resumption of the adjourned general meeting will be on the same day in the next week;
 - the time for the resumption of the adjourned general meeting will be at the same time as the adjourned meeting; and
 - the place (or places) for the resumption of the adjourned general meeting, will be at the same place (or places) as the adjourned meeting.
- (b) If a quorum is not present within 30 minutes after the time appointed for the resumption of the adjourned general meeting or ceases to be present during the meeting, the general meeting is dissolved.

16.3 Chairing general meetings

- (a) The chair of the general meeting will be the Director elected for the time being as chair of the Board meetings.

- (b) If the chair is not present within 15 minutes after the time appointed for any general meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that general meeting, the Directors present may elect a Director present to chair that general meeting.
- (c) If no Director is elected or if all the Directors present decline to take the chair for the whole or any part of that general meeting, the Members present (whether in person or by proxy) may elect a Member present (in person) to chair for the whole or any part of that general meeting. If the Members do not so elect a chair, the meeting will be adjourned to be resumed on the same day, at the same time and at the same place (or places) in the following week.

16.4 Conduct of general meetings

The chair of each general meeting has charge of conduct of that meeting, including the procedures to be adopted and the application of those procedures at that meeting.

16.5 Adjournment

- (a) The chair of a general meeting at which a quorum is present may adjourn the general meeting.
- (b) No business may be transacted on the resumption of the adjourned general meeting other than the business left unfinished at the adjourned general meeting.
- (c) The Company:
 - (i) need not give any notice in respect of the adjourned meeting unless it is adjourned for ten days or more at one time; but
 - (ii) must give notice of the adjourned meeting as if it were an original meeting if it is adjourned for ten days or more at one time.

17 Proxy

17.1 Appointment of proxy

- (a) A Member who is entitled to attend and to vote at a general meeting of the Company may appoint a person as proxy to attend, speak and vote for that Member. The instrument appointing a proxy may specify the exercise of any power.
- (b) A proxy must be a Voting Member.

17.2 Proxy instruments

- (a) An appointment of a proxy must be in writing and be signed by the Member appointing the proxy or by the duly authorised attorney of the Member and state:
 - (i) the Member's name and address;
 - (ii) the Company's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the general meeting at which the proxy may be used, or if the appointment is a standing one, a clear statement to that effect.

- (b) Where a proxy is signed pursuant to a power of attorney, a copy of the power of attorney (certified as a true copy of the original) must be attached to the proxy instrument sent to the Company.
- (c) An instrument appointing a proxy may direct the way in which a proxy is to vote on a particular resolution. If an instrument contains a direction, the proxy is not entitled to vote on the proposed resolution except as directed in the instrument.

17.3 Proxy to be received by Company

- (a) An instrument purporting to appoint a proxy is not effective unless it is received, together with any additional documentation, including a copy of the power of attorney (certified as a true copy of the original), by the Company at least 48 hours before the general meeting or, as the case may be, the resumption of an adjourned general meeting, at any of the following:
 - (i) the registered office;
 - (ii) a facsimile number at the registered office; or
 - (iii) a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.

17.4 Power to demand poll

A proxy may demand, or join in demanding, a poll in accordance with this Constitution.

17.5 Revocation of proxy

The appointment of a proxy may be revoked by the Member who appointed the proxy by notice to the Company from the Member or, as the case may be, the duly authorised attorney of the Member, stating that the appointment of a proxy is revoked or by appointing a new proxy.

17.6 Validity of votes of proxy

A vote cast by a proxy will be valid unless before the start of a general meeting (or, in the case of an adjourned general meeting, before the resumption of the adjourned general meeting) at which a proxy votes:

- (a) the Member who appointed the proxy ceases to be a Member;
- (b) the Company receives notice of:
 - (i) the revocation of the instrument appointing the proxy;
 - (ii) the appointment of a new proxy; or
 - (iii) the revocation of any power of attorney under which the proxy was appointed;
 - (iv) the member appointing the proxy dies or becomes insane, and the Company does not receive notice in writing of such death or insanity.

17.7 No liability

The Company is not responsible for ensuring that any directions provided in the instrument appointing the proxy or the way in which a proxy is to vote on a particular resolution are complied with, and accordingly is not liable if those directions are not complied with.

18 Voting

18.1 Entitlement to vote

- (a) Only Voting members are entitled to vote at general meetings
- (b) Each Voting Member entitled to vote at a general meeting may vote in person or by proxy. Each Voting Member has one vote, whether on a show of hands, or on a poll.

18.2 Casting vote

If on any ordinary resolution an equal number of votes is cast for and against a resolution, the chair has no casting vote.

18.3 Voting on resolution

At any general meeting, a resolution put to a vote must be decided by a show of hands unless a poll is demanded in accordance with this Constitution.

18.4 Objection to right to vote

- (a) A challenge to a right to vote at a general meeting:
 - (i) may only be made at that general meeting; and
 - (ii) must be determined by the chair.
- (b) A decision made by the chair in relation to a challenge to a right to vote is final.

18.5 Written resolutions

Members may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures of the Members may be contained in more than one document.

18.6 Minutes

- (a) Unless a poll is demanded in accordance with this Constitution, a declaration by the chair that a resolution has, on a show of hands, been:
 - (i) carried;
 - (ii) carried unanimously;
 - (iii) carried by a particular majority; or
 - (iv) lost or not carried by a particular majority,is conclusive evidence of the fact declared. An entry to that effect made in the minutes book of the Company signed by the chair is evidence of that fact unless the contrary is proved.
- (b) Within one month after each general meeting, the Directors must record or cause to be recorded in the minutes book:
 - (i) the proceedings and resolutions of each general meeting;
 - (ii) any declarations at each general meeting; and
 - (iii) all resolutions passed by Members without a general meeting.
- (c) The chair, or the chair of the next meeting, must sign the minutes within one month after the general meeting.

- (d) The minute books must be kept at the registered office.
- (e) Members may inspect the minute books between the hours of 9.00 am and 5.00 pm on any Business Day. No amount may be charged for inspection.

19 Poll

19.1 Chair may determine to take a poll

The chair of a general meeting may determine that a poll be taken on any resolution.

19.2 Right to demand poll

A poll may be demanded on any resolution at a general meeting by:

- (a) at least three Members entitled to vote on the resolution; or
- (b) Members with at least five (5) percent of the votes that may be cast on the resolution on a poll.

19.3 Procedure for demanding poll

- (a) A poll may be demanded:
 - (i) before a vote on a show of hands is taken;
 - (ii) before the result of a vote on a show of hands is declared; or
 - (iii) immediately after the result of a vote on a show of hands is declared.
- (b) If a poll is demanded, it may be taken in the manner and at the time and place (or places) as the chair directs.
- (c) A demand for a poll may be withdrawn at any time by the person or persons who demanded it. A demand for a poll which is withdrawn does not invalidate the result of a show of hands declared before the demand for the poll was made.
- (d) A demand for a poll does not prevent the general meeting continuing for the transaction of any business other than the question on which a poll has been duly demanded.

20 Appointment and removal of Directors

20.1 Number of Directors

The number of Directors must be at least six (6). The Directors must all reside in Australia.

20.2 Tenure of Directors

- (a) Each Director shall be appointed for a term of 4 years;
- (b) A Director shall not be eligible to be a Director of the Company after the Director has served two (2) consecutive 4-year terms.

20.3 Appointment of Directors

- (a) Directors are to be appointed by the Selection Panel.
- (b) At least Three (3) Directors are to be elected biannually (once every 2 years) at a meeting of the Selection Panel.

- (c) At every election for Directors each member of the Selection Panel will have equal voting rights and may vote for nominees to fill the vacant positions.
- (d) Subject to this Constitution, the Board, convening with up to three Governors, if available, may appoint a natural person as a Director, to fill the office of a Director vacated when a Director ceases to be a Director.
- (e) An appointment of a person as a Director is not effective unless a signed consent to the appointment is provided by that person to the Company. The appointment of a person as a Director will take effect on the later of the date of appointment and the date on which the Company receives the signed consent.

20.4 Nomination of Directors

- (a) In each election year as defined in the Policy and Procedures, the Directors shall set a date for a meeting of the Selection Panel to elect Directors. The meeting date set shall not be less than 28 days prior to that year's Annual General Meeting
- (b) Nominations may be made by:
 - (i) at least two Governors;
 - (ii) at least two Directors; or
 - (iii) a combination of at least one Governor or Director and one Governor or Director.
- (c) Each nomination must be signed by the candidate and the nominators and in a form published by the Company from time to time and made available to Governors and Directors.
- (d) The Company must notify the Selection Panel of the names of all nominees for election as a Director at least 21 days before the meeting at which the election is to take place.
- (e) In order to be eligible to nominate and be a Director of the Company, the candidate must:
 - (i) be a Member; and
 - (ii) not be disqualified under this Constitution or the Corporations Act from being a Director; and
 - (iii) be a person who satisfies the requirement of the Aged Care Act 1997 in respect of Key Personnel; and
 - (iv) lodge with the Company at least twenty eight (28) days before the meeting at which the election is to be held, a nomination complying with this Rule 20.4.

20.5 Selection Panel

- (a) The Selection Panel may be comprised of up to seven (7) persons made up as follows:
 - (i) The continuing Directors (i.e. those Directors not retiring or rotating);
 - (ii) Up to Three (3) Governors, if available, and a solicitor with a minimum of five years' experience in practice and employed by the Company's firm of external legal counsel, so that the Selection Panel does not exceed seven (7) persons,

- (b) The Selection Panel is to be chaired:
 - (i) in the case of the biennial election by a Chairperson of the Panel, who is to be a director, and selected by the Continuing Directors, or
 - (ii) in the case of a casual vacancy by the Chairperson of the Board, or if applicable, the Deputy Chairperson;

who will facilitate the meeting or meetings of the Selection Panel and generally manage the selection process.

The Chairperson of the Panel is to have a deliberative and casting vote if two nominees receive equal numbers of votes.
- (c) The Selection Panel will convene in each election year at a time determined by the Board, and the result of the Selection process will be reported to the next Annual General Meeting.
- (d) The term of a Director elected by the Selection Panel commences at the end of the Annual General Meeting following the selection.

20.6 Selection Criteria

- (a) The Selection Panel are to have regard to candidates who possess the particular skills, experience, expertise and diversity that will best complement the Boards effectiveness at the time and be guided by the Policies and Procedures. In its evaluation of candidates for Directors, the Selection Panel will have regard to the Company's Objects.
- (b) The Selection Panel should have particular regard to the need for "skill" based Directors who, notwithstanding previous Board or management experience, have particular experience and expertise in the aged care industry and like industries.

20.7 Removal of Director

- (a) The Company may remove a Director by special resolution at a general meeting.
- (b) At least two months' notice must be given to the Company of the intention to move a resolution to remove a Director at a general meeting.
- (c) If notice of intention to move a resolution to remove a Director at a general meeting is received by the Company, a Director must be given a copy of the notice as soon as practicable.
- (d) The Director must be informed that the Director:
 - (i) may submit a written statement to the Company for circulation to the Members before the meeting at which the resolution is put to a vote; and
 - (ii) may speak to the motion to remove the Director at the general meeting at which the resolution is to be put to vote.
- (e) At least 21 days' notice must be given to the Members of a general meeting at which the resolution for the removal of a Director is proposed. The notice must set out the proposed resolution and the grounds for the proposed resolution.

20.8 Cessation of Directorship

A person ceases to be a Director and the office of Director is vacated if the person:

- (a) is removed from office as a Director by a special resolution of the Company at a general meeting;
- (b) resigns as a Director in accordance with this Constitution;
- (c) if the person becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act 2013 (TAS) or a person under detention under Part 3 or 4 of that Act and the Board resolves that the person should cease to be a Director;
- (d) dies;
- (e) is disqualified from acting as a Director under the Corporations Act; or
- (f) ceases to be a person who satisfies the requirements of the Aged Care Act 1997 in respect of key personnel; or
- (g) fails to attend two consecutive meetings of Directors without:
 - (i) leave from the Directors given before or after the failure to attend; or
 - (ii) having a good reason to be absent and, if reasonably possible in the judgment of the other Directors, notifying the Secretary of the Director's inability to attend before the meeting.

20.9 Resignation of Directors

A Director may resign from the office of Director by giving notice of resignation to the Company at its registered office.

21 Powers and duties of Board

21.1 General

- (a) Subject to this Constitution and the Corporations Act, the activities of the Company are to be managed by, or under the direction of, the Board.
- (b) Subject to this Constitution and the Corporations Act, the Board may exercise all powers of the Company that are not required to be exercised by the Company in a general meeting.
- (c) The powers of the Board include the power to:
 - (i) borrow or otherwise raise money;
 - (ii) mortgage, charge (including in the form of a floating charge) any of the Company's assets (both present and future); and
 - (iii) issue debentures and other securities, and any instrument (including any bond).
- (d) The Board may delegate any of its powers to:
 - (i) a Director;
 - (ii) a committee of Directors;
 - (iii) an employee of the Company; or
 - (iv) any other person.

22 Negotiable instruments

All negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed in such manner as the Board may determine.

23 Chairperson

- (a) At the first meeting of the Board after each annual general meeting of the Company, the Board may appoint one of the Directors to the office of Chairperson to hold that office until the end of the next annual general meeting of the Company, and on such terms (including as to remuneration), as the Board determines.
- (b) The Board may confer on a Chairperson any of the powers that the Board may exercise.
- (c) The Chairperson shall hold that position for no longer than six (6) consecutive years.

24 Remuneration and reimbursement for expenses

24.1 Remuneration of Director

The Company may pay a Director any fee (or other remuneration) it determines by resolution for services performed as a Director.

24.2 Reimbursement of expenses

- (a) Directors are entitled to be reimbursed by the Company for reasonable costs and expenses incurred or to be incurred in connection with attendance at meetings of the Board and committees of the Board, and in connection with the business of the Company.
- (b) In addition to the above, the Company may remunerate any Director who with the agreement of the other Directors performs services which the Directors consider are outside the scope of the ordinary duties of a Director.

25 Board and committee meetings

25.1 Convening meetings

- (a) The Directors:
 - (i) must meet at least once each two (2) months; and
 - (ii) may meet, adjourn and regulate their meetings as they think fit.
- (b) The Chairperson may, and the Secretary must on the requisition of two (2) Directors, convene a Directors' meeting.

25.2 Notice of meetings

- (a) Reasonable notice of each meeting must be given to the Directors.
- (b) Each notice must state:
 - (i) the date, time and place (or places) of the Board meeting;

- (ii) the general nature of the business to be conducted at the Board meeting; and
- (iii) any proposed resolutions.

25.3 Omission to give notice

No resolution passed at or proceedings at any Board meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that Board meeting;
- (b) any change of place (or places) of that Board meeting;
- (c) postponement of that Board meeting; or
- (d) resumption of that adjourned meeting.

25.4 Use of technology

A Board meeting may be convened or held using any technology consented to by all Directors. The consent may be a standing one.

25.5 Quorum at meetings

- (a) A quorum at a Board meeting is at least one half of the Directors present in person.
- (b) A Director who is present at the start of the meeting is conclusively presumed to remain present and form part of the quorum during the rest of the meeting unless the Chairperson consents to him or her leaving.
- (c) As long as there is a quorum of Directors, the Directors may act even though some Directors' positions are vacant.
- (d) If the number of Directors is less than a quorum, the Directors can act only to:
 - (i) appoint a Director; or
 - (ii) convene a general meeting.

25.6 Chair of meetings

- (a) The Chairperson shall chair meetings.
- (b) If the chair is not present within 30 minutes after the time appointed for a Board meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that Board meeting, the Directors present may elect a Director present to chair that Board meeting.

25.7 Passing resolutions at meetings

- (a) A resolution must be passed by a majority of the votes cast by the Directors entitled to vote on the resolution.
- (b) Each Director present in person is entitled to vote and has one vote.

25.8 Casting vote

If on any resolution an equal number of votes is cast for and against a resolution, the chair has no casting vote in addition to any vote cast by the chair as a Director. In the event of an equal number of votes the resolution is lost.

25.9 Conduct of meetings

The chair of each Board meeting has charge of conduct of that meeting, of the procedures to be adopted and the application of those procedures at that meeting.

25.10 Written resolutions

The Board may pass a resolution without a Board meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures can be contained in more than one document.

25.11 Minutes of meetings

- (a) Within one month after each Board meeting, the Directors must record or cause to be recorded in the minute books:
 - (i) the proceedings and resolutions of each Board meeting; and
 - (ii) all resolutions passed without a meeting.
- (b) The Chairperson, or the Chairperson of the next Board meeting, must sign the minutes of the previous meeting. If the Chairperson certifies a minute of such a meeting as correct, that minute is sufficient evidence that all necessary formalities were observed.
- (c) The minute books must be kept at the registered office.
- (d) The Directors may inspect the minute books between the hours of 9.00 am and 5.00 pm on any Business Day. No amount may be charged for inspection.

26 Committees and Task Forces

26.1 Committees Generally

- (a) The Directors may delegate to a committee any of their powers other than those which by law they cannot delegate.
- (b) The Directors may revoke a delegation at any time.
- (c) A committee must conform with the directions of the Directors in exercising its powers.
- (d) The Directors are taken to have exercised any power exercised by a committee in compliance with the delegation.
- (e) The composition, terms of reference and conduct of the Committees will be as determined by the Policies and Procedures.

26.2 Committee Meetings

The Board will determine how meetings of any committee of the Board are to be conducted, including the procedures to be adopted and the application of those procedures.

26.3 Certain committees to exist

The following committees are to be standing committees:

- (a) A Governance Committee;
- (b) An Audit and Finance Committee;

- (c) A Clinical Governance Committee, and
- (d) A Chief Executive Officer Performance Review Committee.

26.4 Task Forces Generally

- (a) The Board may from time to time establish task forces to undertake specific tasks to assist the Board in any of its roles.
- (b) The composition, terms of reference and conduct of the Task Force will be as determined by the Policies and Procedures.

27 Directors' interests

27.1 Director not disqualified

A Director is not disqualified by the Director's office and the fiduciary relationship established by it from holding any office or place of profit, other than that of Auditor, under the Company or from entering any contract or arrangement with the Company.

27.2 Directors not liable to account

A Director is not liable to account to the Company for any remuneration or other benefits accruing from:

- (a) holding any office or place of profit under the Company; or
 - (b) being involved in a contract or arrangement with the Company,
- just because of the fiduciary relationship resulting from acting as a Director.

27.3 Directors acting in professional capacity

A Director or a firm of which the Director is a partner or employee may act in a professional capacity, other than as Auditor, for the Company or any related body corporate and a Director or a Director's firm is entitled to remuneration for professional services as if the relevant Director were not a Director.

27.4 Declaration of interest

- (a) Any Director who has a material personal interest in a contract or proposed contract of the Company, holds any office or owns any property such that the Director might have duties or interests which conflict or may conflict either directly or indirectly with the Director's duties or interests as a Director, must give the Board notice of the interest at a Board meeting.
- (b) A notice of a material personal interest must set out:
 - (i) the nature and extent of the interest; and
 - (ii) the relation of the interest to the affairs of the Company.
- (c) The notice must be provided to the Board at a Board meeting as soon as practicable.

27.5 Voting by interested Directors

- (a) A Director who has a material personal interest in a matter that is being considered at a Board meeting:
 - (i) must not vote on the matter at a meeting; and

- (ii) must not be present while the matter is being considered at the meeting, and accordingly will not count for the purposes of determining whether there is a quorum.
- (b) The restrictions contained in this rule may at any time or times be suspended or relaxed to any extent and either prospectively or retrospectively by motion of the Board, if that is permitted by the Corporations Act.
- (c) The Director may be counted in the quorum present at any Directors' meeting at which the contract, proposed contract or arrangement or other matter is considered if the Director is permitted by the Corporations Act to be present during the consideration.

27.6 Directors' and Officers' insurance

A Director does not have an interest in a matter relating to an existing or proposed contract of insurance merely because the contract insures, or would insure, the Director against a liability incurred by the Director as an officer of the Company or of a related body corporate. This Rule does not apply if the Company is the insurer.

27.7 Director may execute documents despite interest

A Director may, notwithstanding the Director's interest, and whether or not the Director is entitled to vote, or does vote, participate in the execution of any instrument by or on behalf of the Company and whether through signing or sealing the same or otherwise.

28 Appointment of Secretary

- (a) The Company must have at least one Secretary. The Board has the power to appoint a natural person to act as secretary on the terms and for such period as the Board may determine.
- (b) Any Secretary appointed may be removed at any time by the Board.

29 Accounts & Financial records

29.1 Keeping accounts

The Directors must:

- (a) keep proper books of account;
- (b) distribute copies of financial statements and reports as required by the Corporations Act.

29.2 Member's access to financial records

No Member (not being a Director) has any right to inspect any account, book or paper of the Company except:

- (a) as conferred by the Corporations Act;
- (b) as authorised by the Directors; or
- (c) otherwise as authorised by the Company in general meeting.

29.3 Directors' access to financial records

Any Director may at any time access and inspect any financial record of the Company.

29.4 Access to financial records after ceasing to be a Director

The Board may determine that any person who is to cease or has ceased to be a Director may continue to have access to and inspect any financial record of the Company relating to the time during which the person was a Director.

30 Notices

30.1 General

Any notice, statement or other communication under this Constitution must be in writing.

30.2 How to give a communication

- (a) In addition to any other way allowed by the Corporations Act, a notice or other communication may be given by being:
 - (i) personally delivered;
 - (ii) left at the person's current address as recorded in the Register of Members;
 - (iii) sent to the person's address as recorded in the Register of Members by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail;
 - (iv) sent by fax to the person's current fax number for notices; or
 - (v) sent by email to the person's current email address for notices.

30.3 Communications by post

A communication is given if posted:

- (a) within Australia to an Australian address, five Business Days after posting;
- (b) outside Australia to an address outside Australia, ten Business Days after posting.

30.4 Communications by fax

A communication is given if sent by fax, when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.

30.5 Communications by email

A communication is given if sent by email immediately unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the information system of the recipient.

30.6 After hours communications

If a communication is given:

- (a) after 5:00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9:00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

31 Indemnity and Insurance

31.1 General Indemnity

Each Officer is, to the maximum extent permitted by law, indemnified out of the property of the Company against any liability (other than a liability for costs and expenses) the Officer may incur to another person (other than the Company or a related body corporate of the Company) as such an Officer unless:

- (a) the liability arises out of conduct involving a lack of good faith; or
- (b) the liability is for a pecuniary penalty order under section 1317G or a compensation order under section 1317H of the Corporations Act.

31.2 Indemnity for cost incurred in defending proceedings

Each Officer is, to the maximum extent permitted by law, indemnified out of the property of the Company against any liability for costs and expenses incurred by the Officer as such an Officer:

- (a) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the Officer or in which the Officer is acquitted; or
- (b) in connection with an application, in relation to such proceedings, in which the Court grants relief to the Officer under the Corporations Act.

31.3 Documenting indemnity

- (a) Where an Officer becomes liable to pay any amount in respect of which the Officer is indemnified under this Rule 30, the Company must indemnify the Officer by paying that amount to the person to whom that amount is due within 30 days from the date that the Officer provides satisfactory evidence to the Company that the Officer is liable to pay that amount.
- (b) Nothing in this Rule requires the Company to pay an amount, whether by way of indemnity or as an advance greater than the amount for which the Officer is liable.

31.4 Notice to the Company

An Officer must:

- (a) give notice to the Company promptly upon becoming aware of any Claim against the Officer that may give rise to a right to be indemnified or a right to be advanced an amount by the Company; and
- (b) take such action as the Company reasonably requests to avoid, dispute, resist, appeal against, compromise or defend any Claim or any adjudication of a Claim; and
- (c) not make any admission of liability in respect of or settle any Claim without the prior written consent of the Company; and
- (d) allow the Company or its insurers to assume the conduct, negotiation or defence of any Claim and, upon request by the Company, render all reasonable assistance and cooperation to the Company or its insurers in the conduct of any Claim, including, without limitation, providing the Company or its insurers with any documents, authorities and directions that the Company or its insurers may reasonably require for the prosecution or advancement of any counterclaim or cross-claim; and

- (e) upon request by the Company or its insurers, do everything necessary or desirable which the Company reasonably requests to enable the Company or its insurers (so far as it is possible) to be subrogated to and enjoy the benefits of the Officer's rights in relation to any counterclaims or cross-claims or any claims against any third party and render such assistance as may be reasonably requested by the Company or its insurers for that purpose; and
- (f) notify any Claim to an insurer or any other person who may be liable to indemnify the Officer in respect of that Claim and promptly take all reasonable steps to enforce all the Officer's rights against the insurer or other person.

31.5 Where indemnity not available

- (a) If, in relation to a Claim, it is established to the satisfaction of the Company that:
 - (i) an Officer is not entitled to be indemnified under this Rule 30;
 - (ii) an Officer has failed to perform an obligation referred to in Rule 30.4 and that failure has materially prejudiced the Company in relation to that Claim

then the Company is relieved from each and every obligation to indemnify the Officer and the Officer must refund to the Company all amounts paid by the Company within 30 days of the Company providing to the Officer details of such amounts.

- (b) If the Company has pursuant to this Rule 30 paid an amount for costs and expenses incurred by an Officer and judgment is not subsequently given in favour of the Officer, the Officer is not subsequently acquitted or the Court does not grant relief to the Officer under the Corporations Act, the Officer must pay the Company an amount equal to the amount so paid by the Company, the payment by the Officer to be made within 30 days of the Company providing to the Officer details of the amount and its payment by the Company.
- (c) If an Officer becomes liable to pay any amount in respect of any liability, cost or expense for which:
 - (i) the Officer would, but for Rule 30.5(d), be indemnified under this Rule 30; and
 - (ii) the Officer is insured or has rights against another person (not being the Company or a person indemnified by the Company) in respect of that liability, cost or expense,

then the Company must advance to the Officer that amount within 30 days from the date that the Officer provides satisfactory evidence to the Company that the Officer is liable to pay that amount. The advance is repayable in full if and when and to the extent that payment in respect of that liability, cost or expense is received by the Officer from that insurer or other person.

- (d) If an Officer receives payment in respect of any liability, cost or expense from any insurer of the Officer or from a person (other than the Company) legally obliged to make that payment, the Company is not required to indemnify the Officer in respect of that liability, cost or expense to the extent of that payment.

31.6 Insurance

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company may pay any premium in respect of a contract of insurance between an insurer and an Officer or any person who has been an Officer of the Company in respect of the liability suffered or incurred in or arising out of the conduct of any activity of the Company and the proper performance by the Officer of any duty.
- (b) If the Board determines, the Company may execute a document containing rules under which the Company agrees to pay any premium in relation to such a contract of insurance.

31.7 Severing unlawful provisions

If any provision of this Rule 30 is unlawful or unenforceable, the unlawfulness or unenforceability of that provision does not affect the lawfulness, enforceability, operation, construction or interpretation of any other provision of this Rule 30, with the intent that the unlawful or unenforceable provision shall be treated for all purposes as severable from this Rule 30.

32 Transitional arrangements

This Constitution contains a number of transitional provisions to allow for the seamless transition from the old constitution last amended on 5 October 2011. Those provisions are:

- (a) The six existing Directors at the 2018 SGM shall be the six directors for the purpose of Rule 20.1.
- (b) At the first meeting of the Board subsequent to the 2018 SGM, the following matters are to be decided:
 - (i) The identity of the three (3) directors due for election in 2018 for the purposes of clause 20.3(b);
 - (ii) The identity of up to three (3) persons, if any, to be appointed as Governors;
 - (iii) The method used to select the retiring Directors and the Governors under this clause will be at the sole discretion of the Board
- (c) A person who is a member at the time of the 2018 SGM will be a general member, or if a Director, a Voting member, without the need to submit an application for membership and such membership will continue on payment of the annual subscription fee.