

# CONSTITUTION OF NATIONAL DISABILITY SERVICES LIMITED

**ABN 52 008 445 485**

The Constitution was adopted by special resolution passed on 19 May 2004

**Table of contents**

- 1..... Preliminary ..... 1**
  - 1.1 Definitions and interpretation ..... 1
  - 1.2 Nature of the Company ..... 1
  - 1.3 Replaceable rules ..... 1
  - 1.4 Objects ..... 1
  - 1.5 Income and assets ..... 2
  - 1.6 Gift fund ..... 2
- 2..... Members ..... 2**
  - 2.1 Exercise of powers ..... 2
  - 2.2 Categories of Membership ..... 2
  - 2.3 Organisational Members ..... 3
  - 2.4 Life Members ..... 3
  - 2.5 Applications ..... 3
  - 2.6 No transfers ..... 4
  - 2.7 Ceasing to be a Member ..... 4
  - 2.8 Resignation ..... 4
  - 2.9 Suspension and Expulsion ..... 4
- 3..... Fees and other payments ..... 5**
  - 3.1 Exercise of powers ..... 5
  - 3.2 Payment of Fees ..... 5
- 4..... Proceedings of Members ..... 6**
  - 4.1 Who can call meetings of Members ..... 6
  - 4.2 Annual General Meeting ..... 6
  - 4.3 How to call meetings of Members ..... 6
  - 4.4 Right to attend meetings ..... 7
  - 4.5 Meeting at more than one place ..... 7
  - 4.6 Quorum ..... 7
  - 4.7 Chairperson ..... 8
  - 4.8 General conduct of meetings ..... 9
  - 4.9 Resolutions of Members ..... 9
  - 4.10 Polls ..... 10
  - 4.11 Adjourned, cancelled and postponed meetings ..... 10
  - 4.12 Number of votes ..... 11
  - 4.13 Objections to qualification to vote ..... 11
  - 4.14 Proxies, attorneys and representatives ..... 12
- 5..... Directors ..... 14**
  - 5.1 Number of Directors ..... 14
  - 5.2 Appointment of Directors ..... 14
  - 5.3 Vacation of office ..... 15
  - 5.4 Alternate Directors ..... 16
  - 5.5 Remuneration of Directors ..... 16
  - 5.6 Interests of Directors ..... 17
- 6..... Officers ..... 18**
  - 6.1 Chief Executive Officer ..... 18
  - 6.2 Secretary ..... 18
  - 6.3 Indemnity and insurance ..... 18

<b>7.....</b>	<b>Powers and Obligations of the Company and Directors .....</b>	<b>19</b>
7.1	General powers .....	19
7.2	Execution of documents .....	19
7.3	Divisions .....	20
7.4	Committees.....	20
7.5	Attorney or agent .....	20
7.6	Accounts .....	20
7.7	Auditor .....	21
7.8	Investments .....	21
<b>8.....</b>	<b>Proceedings of Directors.....</b>	<b>21</b>
8.1	Written resolutions of Directors.....	21
8.2	Meetings of Directors.....	22
8.3	Who can call meetings of Directors .....	22
8.4	How to call meetings of Directors .....	22
8.5	Quorum.....	23
8.6	President.....	23
8.7	Resolutions of Directors.....	24
8.8	Minutes .....	24
<b>9.....</b>	<b>Notices.....</b>	<b>25</b>
9.1	Notice to Members.....	25
9.2	Notice to Directors .....	25
9.3	Notice to the Company .....	25
9.4	Time of service .....	26
9.5	Signatures.....	26
<b>10.....</b>	<b>Company distributions .....</b>	<b>26</b>
10.1	No distributions to Members .....	26
10.2	Winding up.....	27
	<b>Schedule 1 Definitions and interpretation .....</b>	<b>28</b>

# National Disability Services Limited

## Constitution

---

### **1. Preliminary**

#### **1.1 Definitions and interpretation**

Schedule 1 applies and forms part of this Constitution.

#### **1.2 Nature of the Company**

- (a) The Company is a public company limited by guarantee.
- (b) Each Member undertakes to contribute an amount not exceeding \$5 to the property of the Company if the Company is wound up:
  - (i) at a time when that person is a Member; or
  - (ii) within one year of the time that person ceased to be a Member,for:
  - (iii) payment of the debts and liabilities of the Company contracted before that person ceased to be a Member;
  - (iv) payment of the costs, charges and expenses of winding up the Company; and
  - (v) adjustment of the rights of the contributories among themselves.

#### **1.3 Replaceable rules**

The replaceable rules in the Corporations Act do not apply to the Company.

#### **1.4 Objects**

The objects of the Company are to:

- (a) act as the national advisory and co-ordinating body in relation to the provision of services to people with disabilities throughout the Commonwealth;
- (b) provide direct support and assistance to people with disabilities via its Member organisations;
- (c) promote and protect the interests of providers of services to people with disabilities;
- (d) represent the views of providers of services to people with disabilities to government;
- (e) investigate and carry out research into disability service provision and disseminate findings;
- (f) promote and facilitate the dissemination and discussion of information relating to people with disabilities;

- (g) encourage continuous quality improvement in the delivery of services to people with disabilities;
- (h) assist and co-operate with such other organisations as shall be approved by the Directors from time to time;
- (i) establish and maintain affiliations and information exchange with organisations anywhere in the world having similar objects;
- (j) do all such other lawful things as are conducive or incidental to attainment of any of the above objects.

## **1.5 Income and assets**

The assets and income of the Company shall be applied solely in furtherance of its abovementioned objects and no portion shall be distributed directly or indirectly to its Members except as bona fide compensation for services rendered or expenses incurred on behalf of the Company.

## **1.6 Gift Fund**

- (a) The Company shall establish and maintain for the objects of the Company, a fund (gift fund):
  - (i) to which gifts of money or property for those objects are to be made; and
  - (ii) to which any money received by the Company because of such gifts is to be credited; and
  - (iii) that does not receive any other money or property.
- (b) The Company shall use any gifts made to the gift fund and any money received because of such gifts for the objects of the Company.
- (c) In the event of the gift fund being wound up, or the Company ceasing to be entitled to receive income tax deductible gifts in accordance with any Commonwealth Taxation Act, the balance remaining in the gift fund shall be transferred to a fund, authority or institution to which income tax deductible gifts may be made in accordance with any Commonwealth Taxation Act.

---

## **2. Members**

### **2.1 Exercise of powers**

Unless specified that the Company is acting in general meeting, the powers of the Company under this Article 2.1 may only be exercised by the Directors.

### **2.2 Categories of Membership**

There are two categories of Members, namely:

- (a) Organisational Members; and

- (b) Life Members.

## **2.3 Organisational Members**

- (a) Any organisation that satisfies the Company that:
  - (i) its objects, aims or activities are similar to those of the Company;
  - (ii) it is sufficiently interested or concerned in the activities of the Company;  
and
  - (iii) it is a not-for-profit organisation;may apply, in accordance with Article 2.5, to become an Organisational Member of the Company.
- (b) An Organisational Member is entitled to attend, participate and vote in Company proceedings.

## **2.4 Life Members**

- (a) Upon recommendation of the Directors, the Company may, in general meeting, elect as a Life Member, any individual who in its opinion, has rendered outstanding service to the Company or its objects. That person must consent to their election as a Life Member within 28 days of being so elected, otherwise the election is of no force.
- (b) A Life Member is entitled to attend, participate and vote in Company proceedings.
- (c) A Life Member is not liable to pay any Fee to the Company but may be liable to make a contribution in accordance with Article 1.2(b).

## **2.5 Applications**

- (a) Each applicant for Organisational Membership must sign and deliver to the Company an application in the form which the Directors determine, and pay any initial fee which the Directors determine.
- (b) The Company may admit an applicant as an Organisational Member if the Company considers that the applicant's experience or associations are beneficial to the Company.
- (c) The Company is not required to give any reason for the rejection of any application to become an Organisational Member.
- (d) If an application to become an Organisational Member is accepted:
  - (i) the Company must:
    - A. give written notice of the acceptance to the applicant; and
    - B. enter the applicant's name in the Register; and
  - (ii) the applicant is deemed to have agreed to be bound by this Constitution.
- (e) If an application to become an Organisational Member is rejected, the Company

must:

- (i) give written notice of the rejection to the applicant; and
  - (ii) refund in full any initial fee paid by the applicant.
- (f) A determination about an application to become a Member is not invalid if the Company does not comply with Article 2.5(d)(i) or 2.5(e)(i).

## **2.6 No transfers**

The rights of being a Member are not transferable whether by operation of law or otherwise.

## **2.7 Ceasing to be a Member**

- (a) A person will cease to be a Member if:
- (i) the Member resigns in accordance with Article 2.8;
  - (ii) the Member is expelled under Article 2.9;
  - (iii) a Cessation Event occurs in respect of the Member; or
  - (iv) the person is an Organisational Member who has not paid a Fee within four (4) months of the date that Fee became due and payable.
- (b) The estate of a deceased Member is not released from any liability in respect of that person being a Member.
- (c) Where a person ceases to be a Member that person shall cease to be entitled to rights attaching to that Membership but shall remain liable to pay the Company all amounts owing to the Company at the date of ceasing to be a Member in accordance with Article 1.2. Any such amounts may be recovered by the Company as a debt due and payable to the Company.

## **2.8 Resignation**

- (a) A Member may resign as a Member by giving the Company notice in writing.
- (b) Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Company.

## **2.9 Suspension and Expulsion**

- (a) Subject to Article 2.9(b), the Company may suspend or expel a Member by a resolution of the Directors if:
- (i) an Expulsion Event occurs in respect of the Member; and
  - (ii) the Company gives that Member at least 28 Business Days notice in writing:
    - A. stating the Expulsion Event and that the Member is liable to be suspended or expelled; and
    - B. informing the Member of its right under Article 2.9(b).

- (b) Before the passing of any resolution under Article 2.9(a), a Member is entitled to give the Directors, either orally or in writing, any explanation or defence for the Expulsion Event the Member may think fit.
- (c) If a resolution is passed under Article 2.9(a) the Company must give that Member notice in writing of the suspension or expulsion within 7 Business Days of the resolution.
- (d) A Member may by notice in writing to the Company within 14 Business Days of receipt of the notice referred to in Article 2.9(c), request that a resolution under Article 2.9(a) be reviewed by the Company at the next general meeting.
- (e) If a request under Article 2.9(d) is made, the Company must propose at the next general meeting of the Company that a resolution be moved to confirm the suspension or expulsion of the Member concerned.
- (f) Until the general meeting referred to in Article 2.9(e) occurs, the Member is suspended.
- (g) At the general meeting referred to in Article 2.9(e):
  - (i) the Member has a personal right of audience but shall not be entitled to vote; and
  - (ii) the resolution specified in Article 2.9(e) must be passed by at least 50% of the votes cast by Members entitled to vote on the resolution.
- (h) A resolution under Article 2.9(a) takes effect:
  - (i) if the Member gives a notice under Article 2.9(d), on the date (if any) the resolution is confirmed by a general meeting of the Company; or
  - (ii) if the Member does not give a notice under Article 2.9(d), on the date of the resolution.
- (i) The Company may reinstate a Member on any terms and at any time as the Directors resolve, including a requirement that all amounts due but unpaid by the Member are paid.

---

### **3. Fees and other payments**

#### **3.1 Exercise of powers**

The powers of the Company under this Article 3 may only be exercised by the Directors.

#### **3.2 Payment of Fees**

- (a) The Company may require the payment of Fees by Organisational Members in the amounts and at the times as the Directors resolve. Unless the Company determines otherwise, all annual subscriptions shall be due and payable on 1 July each year.
- (b) The Company may determine the annual subscriptions payable by Organisational Members and such subscriptions may differ as between Members.
- (c) The Company may revoke or postpone Fees or extend the time for payment of Fees.



- (d) In addition to annual subscriptions the Company may once each financial year impose a levy upon Organisational Members. Such a levy must not exceed (20) twenty per cent of that Member's annual subscription for that year. Any levy imposed by the Company shall be due and payable on the date specified in the notice of the Company's resolution to impose the levy.
- (e) A Fee is not invalid if a Member does not receive notice of the Fee or the Company accidentally does not give notice of the Fee to a Member.
- (f) An Organisational Member is not entitled to vote unless it has paid its annual subscription, and any levy that has been imposed, for the financial year in question.

---

## **4. Proceedings of Members**

### **4.1 Who can call meetings of Members**

- (a) Subject to the Corporations Act, the Directors may call a meeting of Members at a time and place as the Directors resolve.
- (b) The Directors must call and arrange to hold a general meeting of the Company on the request of either:
  - (i) five (5) per cent of all Organisational Members who meet the voting requirements in Article 3.2(f); or
  - (ii) twenty (20) Organisational Members;(whichever is less) and the Directors must call and hold that meeting in accordance with the Corporations Act and this Constitution within two (2) months of the Company receiving the request.
- (c) The Members may call and arrange to hold a general meeting of the Company as provided by the Corporations Act.

### **4.2 Annual General Meeting**

- (a) The Company must hold an annual general meeting if required by, and in accordance with, the Corporations Act.
- (b) The business of an annual general meeting may include any of the following, even if not referred to in the notice of the meeting:
  - (i) the consideration of the annual financial report, directors' report and auditor's report for the Company;
  - (ii) the election of Directors; and
  - (iii) the appointment of the auditor of the Company.

### **4.3 How to call meetings of Members**

- (a) The Company must give not less than the Prescribed Notice of a meeting of Members.
- (b) Notice of a meeting of Members must be given to each Member, each Director,

each Alternate Director and any auditor of the Company.

- (c) Subject to Article 4.11(h) (and provisions of the Corporations Act and this Constitution allowing Members to agree to a shorter notice period), a notice of a meeting of Members must:
  - (i) set out the place, date and time for the meeting (and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
  - (ii) state the general nature of the business of the meeting; and
  - (iii) set out or include any other information or documents specified by the Corporations Act.
- (d) A person may waive notice of any meeting of Members by notice in writing to the Company to that effect.
- (e) Subject to the Corporations Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid because either or both a person does not receive notice of the meeting or the Company accidentally does not give notice of the meeting to a person.

#### **4.4 Right to attend meetings**

- (a) Each Member and any auditor of the Company is entitled to attend any meeting of Members.
- (b) Subject to this Constitution, each Director is entitled to attend and speak at all meetings of Members.

#### **4.5 Meeting at more than one place**

- (a) A meeting of Members may be held in 2 or more places linked together by any technology that:
  - (i) gives the Members as a whole in those places a reasonable opportunity to participate in proceedings;
  - (ii) enables the chairperson of that meeting to be aware of proceedings in each place; and
  - (iii) enables the Members in each place to vote on a show of hands and on a poll.
- (b) If a meeting of Members is held in 2 or more places under Article 4.5(a):
  - (i) a Member present at one of the places is taken to be present at the meeting; and
  - (ii) the chairperson of that meeting may determine at which place the meeting is taken to have been held.

#### **4.6 Quorum**

- (a) A quorum for a meeting of Members is the lesser of five per cent (5%) of the

Organisational Members or twenty (20) Organisational Members who are entitled to vote at that meeting.

- (b) In determining whether a quorum for a meeting of Members is present:
  - (i) where more than one proxy, attorney or representative of an Organisational Member is present, only one of those persons is counted;
  - (ii) subject to (i) above, where a person is present as an Organisational Member and as a proxy, attorney or representative of another Organisational Member, that person is counted separately for each appointment provided that there is at least one other Organisational Member present.
  - (iii) subject to (i) above, where a person is present as a proxy, attorney or representative for more than one Organisational Member, that person is counted separately for each appointment provided that there is at least one other Organisational Member present.
- (c) A quorum for a meeting of Members must be present for the duration of the meeting, unless the chairperson of that meeting determines otherwise.
- (d) If a quorum is not present within thirty (30) minutes after the time appointed for a meeting of Members:
  - (i) if the meeting was called under Article 4.1(b) or Article 4.1(c), the meeting is dissolved; and
  - (ii) any other meeting is adjourned to the date, time and place as the Directors may by notice to the Members appoint, or failing any appointment, to the same day in the next week at the same time and place as the meeting adjourned.
- (e) If a quorum is not present within 30 minutes after the time appointed for an adjourned meeting of Members, the Organisational Members present shall constitute a quorum.

#### **4.7 Chairperson**

- (a) The President of Directors must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of Members.
- (b) If at a meeting of Members:
  - (i) there is no President;
  - (ii) the President is not present within 15 minutes after the time appointed for the holding of a meeting of Members; or
  - (iii) the President is present within that time but is not willing to chair all or part of that meeting;

then the Vice-President of Directors must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair all or part of

that meeting.

- (c) Subject to Articles 4.7(a) and 4.7(b), if at a meeting of Members:
- (i) there is no Vice-President of Directors; or
  - (ii) the Vice-President of Directors is not present within 15 minutes after time appointed for holding of a meeting of Members; or
  - (iii) the Vice-President of Directors is present within that time but is not willing to chair all or part of that meeting;

the Directors present may, by majority vote, elect a person present to chair all or part of the meeting of Members.

- (d) Subject to Articles 4.7(a), 4.7(b) and 4.7(c), if at a meeting of Members:
- (i) a chairperson of that meeting has not been elected by the Directors;
  - (ii) the chairperson elected by the Directors is not willing to chair all or part of a meeting of Members;

the Members present must elect another person present and willing to act to chair all or part of that meeting.

#### **4.8 General conduct of meetings**

- (a) Subject to the Corporations Act, the chairperson of a meeting of Members is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting.
- (b) The chairperson of a meeting of Members may delegate any power conferred by this Article to any person.
- (c) The powers conferred on the chairperson of a meeting of Members under this Article 4.8 do not limit the powers conferred by law.
- (d) All business that is conducted at a general meeting shall be special business, other than the consideration of financial statements and the reports of the Directors and the Auditor.
- (e) For the purposes of securing the widest participation in the activities of the Company and the carrying out of its objects, the Directors may from time to time resolve to invite representatives of any organisations or any person to attend a general meeting. Any such representative or person so invited shall have the right to attend that general meeting, and with the leave of the chairman of that meeting, take part in discussions at the general meeting.

#### **4.9 Resolutions of Members**

- (a) Subject to the Corporations Act, a resolution at a meeting of Members is passed if the number of votes cast in favour of the resolution by Members entitled to vote on the resolution exceeds the number of votes cast against the resolution by Members entitled to vote on the resolution.

- (b) Unless a poll is requested in accordance with Article 4.10, a resolution put to the vote at a meeting of Members must be decided on a show of hands.
- (c) A declaration by the chairperson of a meeting of Members that a resolution on a show of hands is passed, passed by a particular majority, or not passed, and an entry to that effect in the minutes of the meeting, are sufficient evidence of that fact, unless proved incorrect.

#### **4.10 Polls**

- (a) A poll may be demanded on any resolution at a meeting of Members by:
  - (i) at least 3 Organisational Members present (including by proxy) and entitled to vote on that resolution; or
  - (ii) the chairperson of that meeting.
- (b) A poll on a resolution at a meeting of Members may be demanded:
  - (i) before a vote on that resolution is taken; or
  - (ii) before or immediately after the results of the vote on that resolution on a show of hands are declared.
- (c) A demand for a poll may be withdrawn.
- (d) A poll demanded on a resolution at a meeting of Members (other than for the election of a chairperson of that meeting or the adjournment of that meeting) must be taken in the manner and at the time and place as directed by the chairperson of that meeting.
- (e) A poll demanded on a resolution at a meeting of Members for the election of a chairperson of that meeting or the adjournment of that meeting must be taken immediately.
- (f) The result of a poll demanded on a resolution of a meeting of Members is a resolution of that meeting.
- (g) A demand for a poll on a resolution of a meeting of Members does not prevent the continuance of that meeting or that meeting dealing with any other business.

#### **4.11 Adjourned, cancelled and postponed meetings**

- (a) Subject to the Corporations Act, the chairperson of a meeting of Members:
  - (i) may adjourn a meeting of Members to any day, time and place; and
  - (ii) must adjourn a meeting of Members if the Members present with a majority of votes that may be cast at that meeting agree or direct the chairperson to do so. The chairperson may adjourn that meeting to any day, time and place.
- (b) No person other than the chairperson of a meeting of Members may adjourn that meeting.
- (c) The Company is only required to give notice of a meeting of Members resumed

from an adjourned meeting if the period of adjournment exceeds 10 days.

- (d) Only business left unfinished is to be transacted at a meeting of Members resumed after an adjournment.
- (e) Subject to the Corporations Act and this Article 4.11, the Directors may at any time postpone or cancel a meeting of Members by giving notice not less than 5 Business Days before the time at which the meeting was to be held to each person who is, at the date of the notice:
  - (i) a Member;
  - (ii) a Director or Alternate Director; or
  - (iii) auditor of the Company.
- (f) A general meeting called under Article 4.1(b) must not be cancelled by the Directors without the consent of the Members who requested the meeting.
- (g) A general meeting called under Article 4.1(c) must not be cancelled or postponed by the Directors without the consent of the Members who called the meeting.
- (h) A notice under Article 4.11(c) of a meeting of Members resumed from an adjourned meeting and a notice postponing a meeting of Members must set out the place, date and time for the revised meeting (and if the revised meeting is to be held in 2 or more places, the technology that will be used to facilitate this).

#### **4.12 Number of votes**

- (a) Subject to this Constitution, on a show of hands or on a poll at a meeting of Members each Life Member and Organisational Member has one vote.
- (b) In the case of an equality of votes on a resolution at a meeting of Members, the chairperson of that meeting has a casting vote on that resolution both on a show of hands and on a poll, in addition to any vote the chairperson of that meeting has in respect of that resolution.
- (c) A Member present at a meeting of Members is not entitled to vote on a resolution at that meeting where that vote is prohibited by the Corporations Act or an order of a court of competent jurisdiction.
- (d) The Company must disregard any vote on a resolution purported to be cast by a Member present at a meeting of Members where that person is not entitled to vote on that resolution.
- (e) The authority of a proxy or attorney for a Member to speak or vote at a meeting of Members is suspended while the Member is present in person at that meeting.

#### **4.13 Objections to qualification to vote**

- (a) An objection to the qualification of any person to vote at a meeting of Members may only be made at that meeting (or any resumed meeting if that meeting is adjourned) to the chairperson of that meeting.
- (b) Any objection under Article 4.13(a) must be decided by the chairperson of the

meeting of Members, whose decision, made in good faith, is final and conclusive.

#### **4.14 Proxies, attorneys and representatives**

- (a) An Organisational Member, who is entitled to attend and cast a vote at a meeting of Members, may vote on a show of hands and on a poll:
  - (i) by its representative appointed in accordance with the Corporations Act; or
  - (ii) by a proxy; or
  - (iii) by an attorney.
- (b) A Life Member, who is entitled to attend and cast a vote at a meeting of Members, may vote on a show of hands and on a poll:
  - (i) in person;
  - (ii) by a proxy;
  - (iii) by an attorney.
- (c) A proxy, attorney or representative of a Member need not be a Member.
- (d) Subject to Articles 4.1.4(a) and (b), a Member may appoint a proxy, attorney or representative as a standing appointment or for:
  - (i) a specific number of meetings of Members; or
  - (ii) a particular meeting of Members.
- (e) An instrument appointing a proxy is valid if it is signed by the Member making the appointment and contains:
  - (i) the name and address of that Member;
  - (ii) the name of the Company;
  - (iii) the name of the proxy(s) or the name of the office of the proxy(s); and
  - (iv) the meeting(s) of Members at which the proxy may be used.
- (f) The chairperson of a meeting of Members may determine that an instrument appointing a proxy is valid even if it contains only some of the information specified in Article 4.14(e).
- (g) An instrument appointing an attorney or representative must be in a form as the Directors may prescribe or the chairperson of a meeting of Members may accept.
- (h) Subject to the Corporations Act, the decision of the chairperson of a meeting of Members as to the validity of an instrument appointing a proxy, attorney or representative is final and conclusive.
- (i) Unless otherwise provided in the Corporations Act or in the instrument appointing a proxy or attorney, a proxy or attorney may:

- (i) agree to a meeting of Members being called by shorter notice than is required by the Corporations Act or this Constitution;
  - (ii) agree to a resolution being either or both proposed and passed at a meeting of Members of which Notice of less than 28 days is given;
  - (iii) speak on any resolution at a meeting of Members on which the proxy or attorney may vote;
  - (iv) vote at a meeting of Members (but only to the extent allowed by the appointment);
  - (v) demand or join in demanding a poll on any resolution at a meeting of Members on which the proxy or attorney may vote; and
  - (vi) attend and vote at any meeting of Members which is rescheduled or adjourned.
- (j) Unless otherwise provided in the Corporations Act or in the instrument appointing a proxy or attorney, a proxy or attorney may vote on:
- (i) any amendment to a resolution on which the proxy or attorney may vote;
  - (ii) any motion not to put that resolution or any similar motion; and
  - (iii) any procedural motion relating to that resolution, including a motion to elect the chairperson of a meeting of Members, vacate the chair or adjourn that meeting,
- even if the appointment directs the proxy or attorney how to vote on that resolution.
- (k) If the name of the proxy, or the name of the office of the proxy, in a proxy form of a Member is not filled in, the proxy of that Member is:
- (i) a person specified by the Company in the form of proxy for such purposes; or
  - (ii) if no person is so specified, the chairperson of that meeting.
- (l) A Member may specify the manner in which a proxy or attorney is to vote on a particular resolution at a meeting of Members.
- (m) An appointment of proxy or attorney for a meeting of Members is effective only if the Company receives the appointment (and any authority under which the appointment was signed or a certified copy of that authority) not less than:
- (i) 48 hours before the time scheduled for commencement of that meeting; or
  - (ii) in the case of a meeting which has been adjourned, 48 hours before the time scheduled for resumption of the meeting.
- (n) Despite Article 4.12(d), unless the Company has received notice in writing of the matter not less than 48 hours before the time scheduled for the commencement of a meeting of Members, a vote cast at that meeting by a person appointed by a Member as a proxy, attorney or representative is, subject to this Constitution, valid



even if, before the person votes:

- (i) a Cessation Event occurs in respect of that Member;
- (ii) that Member revokes the appointment of that person; or
- (iii) that Member revokes the authority under which the person was appointed by a third party.

---

## **5. Directors**

### **5.1 Number of Directors**

- (a) The Company must have between twelve (12) and seventeen (17) Directors.
- (b) The Company in general meeting may by ordinary resolution alter the maximum or minimum number of Directors, provided that the minimum is not less than 3.
- (c) If the number of Directors is below the minimum fixed by this Constitution, the Directors must not act, except in emergencies, other than to appoint one or more directors in order to make up a quorum for a meeting of Directors or to call and arrange to hold a meeting of Members to elect one or more Directors.
- (d) Notwithstanding anything else in this Constitution, until the annual general meeting is held in 2004, the Directors will comprise the Company's directors and office bearers existing immediately prior to the adoption of this Constitution, subject to any changes occurring after that time and prior to the 2004 annual general meeting ("Existing Directors"). For the purpose of Article 5.2(d), the term of elected Existing Directors shall be taken to have commenced on the date he or she was most recently elected as a Director of the Company.

### **5.2 Appointment of Directors**

- (a) The board of Directors shall comprise:
  - (i) the current Chairperson of each Division of the Company (who is entitled to be appointed as a Director of the Company solely by virtue of their position as a Divisional Chairperson); and
  - (ii) subject to Article 5.1, between six and nine Directors elected in accordance with this Article 5.2.
- (b) Subject to Article 5.1 and this Article 5.2, the Directors may annually determine the number of directors to be elected by the Company in general meeting. In accordance with Article 5.2(a)(ii), the Company in general meeting may by ordinary resolution elect as a Director:
  - (i) a Life Member; or
  - (ii) a person in respect of whom the Company has received a written endorsement from an Organisational Member.
- (c) If the Company's by-laws provide for a secret postal ballot to be conducted for the election of such Directors, the counting of votes cast upon such a ballot, and the subsequent declaration of the chairperson of the annual general meeting as to the

result of the ballot, shall be deemed for the purposes of this Article 5.2 to be an election at that meeting.

- (d) Each person elected as a Director under this Article 5.2 shall be elected a Director for a period of three (3) years, after which that person shall be eligible for re-election.
- (e) The Directors shall have the power at any time and from time to time to appoint a Life Member or a person nominated by an Organisational Member as a Director in order to fill a casual vacancy occurring amongst the Directors elected in accordance with this Article 5.2, and any such person shall be a Director until the person in whose stead the person was appointed would have retired as a Director, at which time the appointed person shall be eligible for re-election.
- (f) An employee of the Company is not eligible to be a Director.
- (g) A person cannot be a Director by virtue of Article 5.2(a)(i) and Article 5.2(a)(ii) at the same time.

### **5.3 Vacation of office**

- (a) A Director may resign from office by giving the Company notice in writing.
- (b) Subject to the Corporations Act, the Company may by ordinary resolution passed at a general meeting remove any Director, and:
  - (i) if the removed Director was elected under Article 5.2, appoint another person in place of that Director. Any person so appointed shall hold office for the period until the removed Director would have retired, at which time the person appointed shall be eligible for re-election; or
  - (ii) if the removed Director is the Chairperson of a Division of the Company, that person will be deemed to have vacated office as Chairperson of that Division and the Division shall as soon as practicable elect a new Chairperson for the Division who will then become a Director by virtue of Article 5.2(a)(i).
- (c) A Director ceases to be a Director if:
  - (i) the Director becomes of unsound mind or a person whose property is liable to be dealt with under a law about mental health;
  - (ii) the Director is absent without the consent of the Directors from 3 consecutive meetings of the Directors;
  - (iii) the Director resigns or is removed under this Constitution;
  - (iv) the Director ceases to be a Life Member or endorsed by an Organisational Member;
  - (v) the Director ceases to be the Chairperson of a Division of the Company;
  - (vi) the Director becomes an employee of the Company;
  - (vii) the Director has a direct or indirect interest in a contract or proposed

contract with the Company and fails to declare that interest in the manner required by the Corporations Act;

- (viii) the Director becomes an insolvent under administration; or
- (ix) the Corporations Act so provides.

#### **5.4 Alternate Directors**

- (a) A Director who is the Chairperson of a Division of the Company, may appoint a person as his or her Alternate Director. The Alternate Director must be a member of the same Divisional Committee as the appointing Director.
- (b) An elected Director may appoint an Alternate Director provided the other Directors approve the appointment of the Alternate Director. In giving their approval, the other Directors may impose any such conditions as they see fit.
- (c) The appointing Director may terminate the appointment of his or her Alternate Director at any time.
- (d) A notice of appointment, or termination of appointment, of an Alternate Director is effective only if:
  - (i) the notice is in writing;
  - (ii) the notice is signed by the Director who appointed that Alternate Director; and
  - (iii) the Company is given a copy of the notice.
- (e) Subject to this Constitution and the Corporations Act, an Alternate Director may:
  - (i) attend, count in the quorum of, speak at, and vote at a meeting of Directors in place of his or her appointing Director if that Director is not present at a meeting; and
  - (ii) exercise any other powers (except the power of appointment under Article 5.4(a) or (b) that his or her appointing Director may exercise.
- (f) An Alternate Director cannot exercise any powers of his or her appointing Director if that appointing Director ceases to be a Director.
- (g) A person does not cease to be a Director under Article 5.4(f) if that person retires as a Director at a meeting of Members and is re-elected as a Director at that meeting.
- (h) Subject to Article 5.5(c), the Company is not required to pay any remuneration to an Alternate Director.
- (i) An Alternate Director is an officer of the Company and not an agent of his or her appointing Director.

#### **5.5 Remuneration of Directors**

- (a) The Company must not pay any fees to a Director for performing that person's duties and responsibilities as a Director.

- (b) Subject to Article 5.5(a), the Company must not pay any amount to a Director unless that payment has been approved by the Directors.
- (c) The Company may pay all reasonable travelling, accommodation and other expenses that a Director or Alternate Director properly incurs:
  - (i) in attending meetings of Directors or any meetings of committees of Directors;
  - (ii) in attending any meetings of Members; and
  - (iii) in connection with the business of the Company.

## **5.6 Interests of Directors**

- (a) A Director may:
  - (i) enter into a commercial arrangement with the Company (other than as the auditor of Company) provided the arrangement is approved by the Directors. (In giving their approval, the Directors may impose any such conditions as they see fit);
  - (ii) have an interest in any related body corporate of the Company or other body corporate in which the Company is interested; or
  - (iii) act, or the Director's firm or organisation may act, in any professional capacity for the Company (except as auditor) or any related body corporate of the Company or other body corporate in which the Company is interested,

and retain the benefits of doing so if the Director discloses in accordance with the Corporations Act the interest giving rise to those benefits.

- (b) If a Director discloses the interest of the Director in accordance with the Corporations Act:
  - (i) the Director may contract or make an arrangement with the Company, or a related body corporate of the Company or a body corporate in which the Company is interested, in any matter in any capacity;
  - (ii) the Director may, subject to the Corporations Act, be counted in a quorum for a meeting of Directors considering the contract or arrangement;
  - (iii) the Director may, subject to the Corporations Act, vote on whether the Company enters into the contract or arrangement, and on any matter that relates to the contract or arrangement;
  - (iv) the Director may sign on behalf of the Company, or witness the affixing of the common seal of the Company to, any document in respect of the contract or arrangement;
  - (v) the Director may retain the benefits under the contract or arrangement; and

- (vi) the Company cannot avoid the contract or arrangement merely because of the existence of the Director's interest.

---

## **6. Officers**

### **6.1 Chief Executive Officer**

- (a) The Directors shall appoint a Chief Executive Officer of the Company for such term, at such remuneration and upon such conditions as they think fit.
- (b) Subject to any agreement between the Company and the Chief Executive Officer, the Directors may suspend or remove the Chief Executive Officer at any time, with or without cause.
- (c) The Directors may vest in the Chief Executive Officer such powers and authorities as they may from time to time determine and the Chief Executive Officer shall exercise all such powers and authorities subject at all times to the control of the Directors.
- (d) Unless the Directors determine otherwise, the Chief Executive Officer shall also be the Secretary of the Company.

### **6.2 Secretary**

- (a) The Directors may appoint one or more Secretaries, for any period and on any terms (including as to remuneration) as the Directors resolve.
- (b) Subject to any agreement between the Company and a Secretary, the Directors may remove or dismiss a Secretary at any time, with or without cause.
- (c) The Directors may revoke or vary the appointment of a Secretary.

### **6.3 Indemnity and insurance**

- (a) To the extent permitted by law, the Company may indemnify each Relevant Officer against:
  - (i) a Liability of that person; and
  - (ii) Legal Costs of that person.
- (b) To the extent permitted by law, the Company may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- (c) To the extent permitted by law, the Company may pay, or agree to pay, a premium for a contract insuring a Relevant Officer against:
  - (i) a Liability of that person; and
  - (ii) Legal Costs of that person.
- (d) To the extent permitted by law, the Company may enter into an agreement or deed with a Relevant Officer under which the Company must do all or any of the following:

- (i) keep books of the Company and allow either or both that person and that person's advisers access to those books on the terms agreed;
- (ii) indemnify that person against any Liability of that person;
- (iii) make a payment (whether by way of advance, loan or otherwise) to that person in respect of Legal Costs of that person; and
- (iv) keep that person insured in respect of any act or omission by that person while a Relevant Officer on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

---

## **7. Powers and Obligations of the Company and Directors**

### **7.1 General powers**

- (a) The Company may exercise in any manner permitted by the Corporations Act any power which a public company limited by guarantee may exercise under the Corporations Act.
- (b) The business of the Company is managed by or under the direction of the Directors.
- (c) The Directors may exercise all the powers of the Company except any powers that the Corporations Act or this Constitution requires the Company to exercise in general meeting.
- (d) The Directors have the power from time to time to make such by-laws as are in their opinion necessary and desirable for the proper control, administration and management of the Company's affairs. Such by-laws shall be subject to and consistent with this Constitution and shall be binding on Members.

### **7.2 Execution of documents**

- (a) The common seal shall not be affixed to an instrument except by the authority of a resolution of the Directors.
- (b) The Company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by:
  - (i) 2 Directors;
  - (ii) a Director and a Secretary; or
  - (iii) a Director and another person appointed by the Directors for that purpose.
- (c) The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with Article 7.2(a).
- (d) The Directors may resolve, generally or in a particular case, that any signature on certificates for Members may be affixed by mechanical or other means.
- (e) Negotiable instruments may be signed, drawn, accepted, endorsed or otherwise executed by or on behalf of the Company in the manner and by the persons as the Directors resolve.

### **7.3 Divisions**

- (a) The Company may establish such Divisions in such places in the Commonwealth as it may from time to time determine necessary or desirable.
- (b) Each Division shall have a Divisional Committee and such powers and duties and conform to such regulations as may from time to time be promulgated by the Directors.

### **7.4 Committees**

- (a) The Directors may delegate any of their powers (including this power to delegate) to a committee.
- (b) The President and the Chief Executive Officer shall be ex-officio members of any committee established in accordance with Article 7.4(a).
- (c) Each member of a committee established in accordance with Article 7.4(a) shall have one (1) vote in meetings of that committee and in the event of an equality of votes the motion shall be declared lost.
- (d) The Directors may revoke or vary any power delegated under Article 7.4(a), and the Directors will review delegations made under Article 7.4(a) at least once every two years.
- (e) A committee must exercise the powers delegated in accordance with any directions of the Directors, including the appointment of the committee chairperson and the fixing of a quorum for meetings of the committee.
- (f) The exercise of a delegated power by the committee or delegate is as effective as if the Directors exercised the power.
- (g) Article 8 applies, with the necessary changes, to committee meetings.

### **7.5 Attorney or agent**

- (a) The Directors may appoint any person to be attorney or agent of the Company for any purpose, for any period and on any terms as the Directors resolve.
- (b) The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent.
- (c) The Directors may revoke or vary:
  - (i) an appointment under Article 7.5(a); or
  - (ii) any power delegated to an attorney or agent.

### **7.6 Accounts**

- (a) The Directors shall cause proper accounts to be kept with respect to:
  - (i) all sums of money received and expended by the Company and the matters in respect of which the receipt and expenditure takes place;
  - (ii) all sales and purchases of real and personal property by the Company;

and

- (iii) the assets and liabilities of the Company.
- (b) Such accounts shall be kept at the registered office of the Company or at such other place or places as the Directors think fit, and shall always be available for inspection by Directors.
- (c) The Directors shall from time to time determine at what times and places and under what conditions and regulations the accounts and books of the Company shall be kept and whether any of them shall be open to inspection by Members.
- (d) The Directors shall from time to time in accordance with the provisions of the Corporations Act and this Constitution cause to be prepared and laid before the Company in general meeting the statement of the Company's financial performance and the statement of its financial position.

## **7.7 Auditor**

In accordance with the Act and this Constitution, the Directors shall appoint an auditor of the Company.

## **7.8 Investments**

The Directors may, on behalf of the Company:

- (a) invest and deal with any of the Company's money or other assets that are not immediately required by the Company;
- (b) invest and deal in real estate and hold property for the purposes of furthering the Company's objects;
- (c) purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property or any rights or privileges which the Company may think necessary or convenient for the furtherance of the Company's objects; and
- (d) borrow or raise money in such manner as the Company may think fit for any of its objects, including by mortgage or other securities over any Company property.

---

# **8. Proceedings of Directors**

## **8.1 Written resolutions of Directors**

- (a) The Directors may pass a resolution, without a meeting of the Directors being held, if a majority of all the Directors present in the Commonwealth and entitled to vote on the resolution assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of the document referred to in Article 8.1(a) may be used for assenting to by Directors if the wording of the resolution and the statement is identical in each copy.
- (c) A Director may signify assent to a document under this Article 8.1 by signing the document or by notifying the Company of the assent of the Director:



- (i) in a manner permitted by Article 9.3; or
- (ii) by any technology including telephone.
- (d) Where a Director signifies assent to a document under Article 8.1(c) other than by signing the document, the Director must by way of confirmation sign the document before or at the next meeting of Directors attended by that Director.
- (e) The resolution that is the subject of a document under Article 8.1(b) is not invalid if a Director does not comply with Article 8.1(d).

## **8.2 Meetings of Directors**

- (a) The Directors may meet, adjourn and otherwise regulate their meetings as they determine from time to time.
- (b) A meeting of Directors may be held:
  - (i) by assembling the Directors who are present in the Commonwealth in person on the same day at the same time and place; or
  - (ii) using any technology by which they are able to simultaneously participate in discussion whether or not they are physically present in the same place.
- (c) If a meeting of Directors is held in 2 or more places linked together by any technology:
  - (i) a Director present at one of the places is taken to be present at the meeting unless and until the Director states to the chairperson of the meeting that the Director is discontinuing her or her participation in the meeting; and
  - (ii) the chairperson of that meeting may determine at which place the meeting will be taken to have been held.

## **8.3 Who can call meetings of Directors**

- (a) The Chief Executive Officer, on the instructions of the President or the requisition of four (4) Directors, shall notify the Directors of a meeting of Directors.

## **8.4 How to call meetings of Directors**

- (a) Notice of a meeting of Directors must be given to each Director and Alternate Director. However, a Director who is absent from the Commonwealth is not entitled to receive notice pursuant to this Article 8.4.
- (b) A notice of meeting of Directors must:
  - (i) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this); and
  - (ii) state the general nature of the business of the meeting.
- (c) The Company must give not less than 28 days notice of a meeting of Directors,

unless:

- (i) all Directors agree otherwise; or
  - (ii) the President exercises his or her absolute discretion to call an emergency meeting.
- (d) A Director or Alternate Director may waive Notice of a meeting of Directors by notice in writing to the Company to that effect.

## **8.5 Quorum**

- (a) Subject to the Corporations Act, a quorum for a meeting of Directors is eight (8) Directors. In determining whether a quorum for a meeting of Directors is present:
- (i) where a Director has appointed an Alternate Director, that Alternate Director is counted if the appointing Director is not present;
  - (ii) where a person is present as Director and an Alternate Director for another Director, that person is counted separately provided that there is at least one other Director or Alternate Director present; and
  - (iii) where a person is present as an Alternate Director for more than one Director, that person is counted separately for each appointment provided that there is at least one other Director or Alternate Director present.
- (b) A quorum for a meeting of Directors must be present at all times during the meeting.
- (c) If there are not enough persons to form a quorum for a meeting of Directors, one or more of the Directors (including those who have an interest in a matter being considered at that meeting) may call a general meeting of the Company and the general meeting may pass a resolution to deal with the matter.

## **8.6 President**

- (a) At the first meeting of Directors occurring after an annual general meeting, the Directors shall elect from among the Directors:
- (i) a President; and
  - (ii) a Vice-President.
- (b) The Directors may remove the President or Vice-President of Directors at any time.
- (c) The President must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of Directors.
- (d) If:
- (i) there is no President; or
  - (ii) the President is not present within 15 minutes after the time appointed for the holding of a meeting of Directors; or

- (iii) the President is present within that time but is not willing to chair all or part of that meeting,

then the Vice-President of Directors must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair all or part of the meeting of Directors.

- (e) Subject to Articles 8.6(c) and 8.6(d), if:
  - (i) there is no Vice-President of Directors; or
  - (ii) the Vice-President of Directors is not present within 15 minutes after the time appointed for the holding of a meeting of Directors; or
  - (iii) the Vice-President of Directors is present within that time but is not willing to chair all or part of that meeting,

the Directors present must elect one of themselves to chair all or part of that meeting of Directors.

## **8.7 Resolutions of Directors**

- (a) A resolution of Directors is passed if more votes are cast in favour of the resolution than against it.
- (b) Subject to Article 5.6 and this Article 8.7, each Director has one vote on a matter arising at a meeting of the Directors.
- (c) In determining the number of votes a Director has on a matter arising at a meeting of Directors:
  - (i) where a person is present as Director and an Alternate Director for another Director, that person has one vote as a Director and, subject to Article 5.4(e), one vote as an Alternate Director; and
  - (ii) where a person is present as an Alternate Director for more than one Director, that person has, subject to Article 5.4(e), one vote for each appointment.
- (d) Subject to the Corporations Act, in case of an equality of votes on a resolution at a meeting of Directors, the chairperson of that meeting has a casting vote on that resolution in addition to any vote the chairperson has in his or her capacity as a Director in respect of that resolution. In the event that the chairperson cannot vote, an equality of votes will result in the motion declared lost.
- (e) All acts done by any meeting of Directors or by any person acting as a Director thereof shall, notwithstanding that some defect in the appointment of any such Director or person acting as Director or that they or any of them were disqualified is later discovered, be as valid as if every such person had been duly appointed and was qualified to be a Director.

## **8.8 Minutes**

- (a) The Directors shall cause minutes to be made of the names of Directors present at, and the proceedings of, all Directors' meetings.

- (b) The minutes shall be signed by the chairperson of the meeting at which the proceedings were held or by the chairperson of the next succeeding meeting.

---

## **9. Notices**

### **9.1 Notice to Members**

- (a) The Company may give Notice to a Member:
  - (i) in person;
  - (ii) by sending it by post to the address of the Member in the Register or the alternative address (if any) nominated by that Member; or
  - (iii) by sending it to the fax number or electronic address (if any) nominated by that Member.
- (b) If the address of a Member in the Register is not within Australia, the Company must send all documents to that Member by air-mail, air courier or by fax.
- (c) Subject to the Corporations Act, a Notice to a Member is sufficient, even if:
  - (i) a Cessation Event occurs in respect of that Member; or
  - (ii) that Member is an externally administered body corporate,and regardless of whether or not the Company has notice of that event.
- (d) Any Notice required or allowed to be given by the Company to one or more Members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

### **9.2 Notice to Directors**

The Company may give Notice to a Director or Alternate Director:

- (a) in person;
- (b) by sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person;
- (c) by sending it to the fax number or electronic address (if any) nominated by that person; or
- (d) by any other means agreed between the Company and that person.

### **9.3 Notice to the Company**

A person may give Notice to the Company:

- (a) by leaving it at the registered office of the Company;
- (b) by sending it by post to the registered office of the Company;
- (c) by sending it to the fax number at the registered office of the Company nominated

by the Company for that purpose;

- (d) by sending it to the electronic address (if any) nominated by the Company for that purpose; or
- (e) by any other means permitted by the Corporations Act.

#### **9.4 Time of service**

- (a) A Notice sent by post to an address within Australia is taken to be given:
  - (i) in the case of a notice of meeting, one Business Day after it is posted; or
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (b) A notice sent by post or air-mail to an address outside Australia is taken to be given:
  - (i) in the case of a notice of meeting, 5 Business Days after it is posted; or
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (c) A Notice sent by air courier to a place outside Australia is taken to be given 3 Business Days after delivery to the air courier.
- (d) A Notice sent by fax is taken to be given on the Business Day it is sent, provided that the sender's transmission report shows that the whole notice was sent to the correct fax number.
- (e) The giving of a Notice by post, air-mail or air courier is sufficiently proved by evidence that the notice:
  - (i) was addressed to the correct address of the recipient; and
  - (ii) was placed in the post or delivered to the air courier.
- (f) A certificate by a Director or Secretary of a matter referred to in Article 9.4(e) is sufficient evidence of the matter, unless it is proved to the contrary.

#### **9.5 Signatures**

The Directors may decide, generally or in a particular case, that a notice given by the Company be signed by mechanical or other means.

---

### **10. Company distributions**

#### **10.1 No distributions to Members**

- (a) Subject to Article 10.1(b), the Company must not make any distributions to any Members, whether by way of dividend or surplus, on winding up or otherwise.
- (b) Subject to Article 5.5, the Company may make the following payments to a Member:

- (i) reasonable remuneration to any Member in consideration for services rendered or goods supplied by that Member to the Company in the ordinary course of business;
- (ii) interest at a reasonable rate on money borrowed by the Company from any Member;
- (iii) reasonable rent for premises leased to the Company by any Member; or
- (iv) any other reasonable amount of a similar character to those described in this Article 10.1(b).

## **10.2 Winding up**

On a winding up of the Company, any surplus assets remaining after the payment of the Company's liabilities shall be transferred to another like organisation in Australia which is a public benevolent institution for the purposes of any Commonwealth Taxation Act.

## Schedule 1 Definitions and interpretation

---

### 1. Definitions

In this Constitution:

**"Alternate Director"** means a person for the time being holding office as an alternate director of the Company under Article 5.4.

**"Business Day"** means a day except a Saturday, Sunday or public holiday in the Australian Capital Territory.

**"Cessation Event"** means:

- (a) if a Member is an individual:
  - (i) death or bankruptcy of that Member; or
  - (ii) that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health;
- (b) in all other cases-the Member:
  - (i) has a receiver or manager of its property appointed;
  - (ii) resolves to call a meeting of its creditors for the purposes of placing it under official management and appoints an official manager;
  - (iii) is ordered to be wound up under an order of any court; or
  - (iv) resolves by special resolution to be wound up.

**"Chief Executive Officer"** means the employee of the Company specified in Article 6.1.

**"Code of Conduct"** means the Company's rules of conduct, as amended from time to time.

**"Commonwealth Taxation Act"** means taxation legislation passed by the Commonwealth Parliament.

**"Company"** means National Disability Services Limited.

**"Corporations Act"** means the *Corporations Act 2001* (Commonwealth), except to the extent of any exemption, modification, declaration or order made in respect of that legislation which applies to the Company.

**"Directors"** means the directors of the Company for the time being.

**"Division"** means the State and Territory divisions of the Company established in accordance with Article 7.3.

**"Expulsion Event"** means, where in the opinion of the Directors a Member has intentionally, recklessly or negligently breached a provision of this Constitution, the Company's by-laws or the Company's Code of Conduct.

**"Fee"** means the annual subscription or levy payable under Article 3.

**"Legal Costs"** of a person means legal costs incurred by that person in defending an action for a Liability of that person.

**"Liability"** of a person means any liability incurred by that person as an officer of the Company or a subsidiary of the Company.

**"Life Member"** means a person who is a Member of the Company in accordance with Article 2.4.

**"Member"** means a person whose name is entered in the Register as either an Organisational Member or a Life Member.

**"Notice"** means a notice given pursuant to, or for the purposes of, this Constitution or the Corporations Act.

**"Organisational Member"** means a person who is a Member of the Company in accordance with Article 2.3.

**"Prescribed Notice"** means 28 days or any shorter period of notice for a meeting allowed under the Corporations Act.

**"Register"** means the register of Members kept under the Corporations Act and, where appropriate, includes any branch register.

**"Relevant Officer"** means a person who is, or has been, a Director, the Chief Executive Officer, Secretary, Company committee member or Company employee.

**"Secretary"** means a company secretary of the Company for the time being.

---

## 2. Interpretation

- (a) In this Constitution:
- (i) a reference to a meeting of Members includes a meeting of any class of Members and includes Life Members and Organisational Members;
  - (ii) a Member is taken to be present at a meeting of Members if the Member is present in person or by proxy, attorney or representative; and
  - (iii) a reference to a notice or document in writing includes a notice or document given by fax or another form of written communication.
- (b) In this Constitution, headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:
- (i) words importing the singular include the plural (and vice versa);
  - (ii) words indicating a gender include every other gender;
  - (iii) the word "**person**" includes an individual, the estate of an individual, a corporation, an authority or other association;
  - (iv) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and



- (v) the word "**includes**" in any form is not a word of limitation.
- (c) Unless the context indicates a contrary intention, in this Constitution:
  - (i) a reference to an Article or a schedule is to an article or a schedule of this Constitution;
  - (ii) a reference in a schedule to a clause is to a clause of that schedule;
  - (iii) a schedule is part of this Constitution; and
  - (iv) a reference to this Constitution is to this Constitution (and where applicable any of its provisions) as modified or repealed from time to time.
- (d) Unless the context indicates a contrary intention, in this Constitution, a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it.
- (e) Unless the context indicates a contrary intention, an expression in a provision of this Constitution that is defined in section 9 of the Corporations Act has the same meaning as in that section.

---

### **3. Exercise of powers**

Where this Constitution confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.

---

### **4. Severing invalid provisions**

If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that does not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.