

**CORPORATIONS ACT 2001
A PUBLIC COMPANY LIMITED BY GUARANTEE
AND NOT HAVING SHARE CAPITAL**

**CONSTITUTION OF
BNE ENTERPRISE LIMITED**

**Amended on 7 September
2021**

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Contact
Brisbane
Phil Vickery/Trent Taylor
12870000

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CORPORATIONS ACT 2001**A PUBLIC COMPANY LIMITED BY GUARANTEE
AND NOT HAVING SHARE CAPITAL****CONSTITUTION OF
BNE ENTERPRISE LIMITED****1 INTERPRETATION****1.1 This Constitution**

- (a) This Constitution contains clauses setting out the manner in which the Members of the Company have agreed to conduct the internal administration of the Company.
- (b) This Constitution takes the place of the Replaceable Rules contained in the Act.

1.2 Definitions

In this Constitution, unless the context otherwise requires:

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

Accounting Standards means:

- (a) the accounting standards required under the Act; and
- (b) if no accounting standard applies under the Act or other mandatory professional reporting requirements, the principles set out in the Australian Statement of Accounting Concepts;

AGM means an annual general meeting of the Company held in accordance with section 250N of the Act;

Annual Subscription Fee has the meaning given in clause 8.10;

ASIC means the Australian Securities and Investments Commission;

Associate Member means an Entity admitted to membership of the Company as an associate member in accordance with clause 8;

Auditor means the auditor for the time being of the Company (if any);

Board means the Directors for the time being of the Company;

Brisbane Airport means the land leased by the Founding Member from the Commonwealth of Australia including:

- (a) the Brisbane Domestic Airport located at Airport Drive, Brisbane QLD 4009;
- (b) the Brisbane International Airport located at Airport Drive, Brisbane QLD 4009; and
- (c) the general aviation area, industrial area, commercial and retail areas and hotel facilities in and around those airports;

Business Day means a day on which banks are open for business excluding Saturdays, Sundays or public holidays in Queensland;

Chair means the person appointed to be the Chair of meetings of Directors or the Chair of meetings of Members (as applicable);

Company means BNE Enterprise Limited;

Constitution means this Constitution and any supplementary, substituted or amended Constitution in force from time to time;

Director means any person formally and lawfully appointed as a director of the Company, including an alternate Director and a person duly appointed and for the time being acting as an attorney for a Director;

Directors means all or any number of the Directors for the time being;

Entity means any type of corporation, partnership, trust, Federal, State, Territory or local government or association (whether incorporated or unincorporated);

Financial Member has the meaning given in clause 8.13;

First Directors has the meaning given in clause 4.1;

Founding Member means Brisbane Airport Corporation Pty Ltd (ACN 076 870 650);

Founding Member Representative Director has the meaning given in clause 4.3(a)(i);

Guarantee means the maximum amount each Member agrees to pay to the Company in accordance with clause 2.3;

Joining Fee has the meaning given in clause 8.9;

Managing Director means a Director or Directors appointed as managing director in accordance with clause 5.7;

Member means a person admitted as a Member under clause 8;

Non-Voting Member means any Member that is not entitled to vote at a general meeting and includes any Associate Members, Affiliate Members and Honorary Members and any Member which is not a Financial Member;

Objects has the meaning given in clause 2.4;

Officer means an officer of the Company within the meaning of the Act;

Ordinary Member means an Entity admitted to membership of the Company as an ordinary member under clause 8;

Ordinary Gold Member means an Entity admitted to membership of the Company as an ordinary gold member in accordance with clause 8;

Ordinary Silver Member means an Entity admitted to membership of the Company as an ordinary silver member in accordance with clause 8;

Proposer has the meaning given in clause 8.15(a);

Register of Members means the Register of Members to be kept pursuant to section 169 of the Act;

Representative has the meaning given in clause 10(a)(i);

Secretary means any person formally and lawfully appointed as a secretary of the Company including any assistant or acting Secretary or any substitute for the time being for the Secretary;

Secunder has the meaning given in clause 8.15(a);

Special Levies means any levy required to be paid by a Member to the Company pursuant to clause 8.12; and

Voting Member means:

- (a) any Founding Member;
- (b) any Ordinary Member, including:
 - (i) any Ordinary Gold Member; or
 - (ii) any Ordinary Silver Member;
- (c) any Associate Member; or
- (d) any member who is entitled to vote at a general meeting of the Company, provided that such Member is also a Financial Member.

1.3 Interpretation

In this Constitution, unless the context otherwise requires:

- (a) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (b) a reference to a **body** or **authority** which ceases to exist is a reference to a body or authority having substantially the same object as the named body or authority;
- (c) a reference to a **clause** is a reference to a clause of this Constitution;
- (d) **clause headings** and the **table of contents** are inserted for convenience only and do not form part of this Constitution;
- (e) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (f) **related** or **subsidiary** in respect of a corporation has the same meaning given to that term in the Act;
- (g) **including** and **includes** are not words of limitation;
- (h) the words **at any time** mean at any time and from time to time;
- (i) a word that is derived from a defined word has a corresponding meaning;
- (j) **monetary amounts** are expressed in Australian dollars;
- (k) the singular includes the plural and vice-versa; and
- (l) words importing one gender include all other genders.

1.4 Application of Legislation

- (a) Division 8 of Part 1.2 (other than section 109X) of the Act applies in relation to this Constitution, so far as it is capable of application.
- (b) Section 4.29 and 46(1), Parts III, IV, V, VII, and VIII of the *Acts Interpretation Act 1901* (Cth) apply in relation to this Constitution so far as they are capable of application.
- (c) Unless the context otherwise requires, an expression used in this Constitution that has a particular meaning in the Act has the same meaning as in the Constitution.

- (d) Subject to the Act, the Replaceable Rules contained in the Act do not apply to the Company.
- (e) This Constitution is subject to the Act and where there is any inconsistency between a clause of this Constitution and the Act, the Act prevails to the extent of the inconsistency.

2 NATURE OF THE COMPANY

2.1 Public Company limited by Guarantee

The Company is a public company limited by guarantee.

2.2 Limitation of Company

- (a) The Company must not be carried on for the purpose of the profit or gain of any Member.
- (b) The Company does not have the power to:
 - (i) issue shares of any kind; or
 - (ii) apply, pay or transfer, whether directly or indirectly, any portion of the income and property of the Company for the benefit of, or to, a Member.

2.3 Guarantee of Members

- (a) This clause 2.3 will apply if the Company is wound up:
 - (i) while the Member is a Member; or
 - (ii) within one year after the Member ceases to be a Member.
- (b) Each Member undertakes to contribute a maximum of \$20 to the Company for payment of:
 - (i) the debts and liabilities of the Company;
 - (ii) the costs, charges and expenses of any winding up; and
 - (iii) the adjustment of the rights of Members among themselves,

2.4 Object of the Company

The objects for which the Company is established are to be a non-profit organisation to:

- (a) promote Brisbane Airport as an economic hub where enterprise is encouraged and welcomed;

- (b) promote awareness of the type and diversity of business activity within Brisbane Airport to interested parties, suppliers and consumers in South East Queensland;
- (c) promote and encourage sustainable business practices by Members;
- (d) promote the development of the Brisbane Airport economy for the benefit of Members;
- (e) encourage exchange between Members for the purposes of business development, skills enhancement, co-operation and dissemination of information for the benefit of Members;
- (f) promote the best interests of the Brisbane Airport and the Members of the Company;
- (g) encourage interaction, co-operation, mutual support and dissemination of information at a senior level between persons with a substantial commercial interest in the Brisbane Airport to achieve the objectives set out in clauses 2.4(a) to 2.4(f).

(each an **Object** and together the **Objects**)

2.5 Scope of powers of the Company

- (a) Subject to clause 2.6, the Company may only exercise the powers in section 124(1) of the Corporations Act to:
 - (i) carry out the Objects; and
 - (ii) do all things incidental or convenient in relation to the exercise of power under clause 2.4.
- (b) Without in any way limiting the operation of clause 2.5(a), the Company has power to:
 - (i) purchase, take on lease or exchange, hire or otherwise acquire and hold any real or personal property including any rights and privileges;
 - (ii) erect buildings and to renovate, repair, reconstruct, alter, improve, add to and demolish any buildings or structures now or hereafter vested in the Company;
 - (iii) sell, exchange, lease, let, mortgage, pledge hire, dispose of, turn to account or otherwise deal with all or any part of the real or personal property of the Company;

- (iv) raise or borrow money and secure the repayment thereof in such a manner as the Company thinks fit, with the power to issue debentures, grant mortgages, charges or securities upon all or any of the property real or personal both present and future of the Company and to redeem or pay off either wholly or in part any existing or future security and to give any guarantee or indemnity for the payment of money or the performance of any contract or obligation by any person;
- (v) invest in securities or otherwise and to deal with the moneys and property of the Company not immediately required for the purposes of the Company in such a manner as may from time to time be determined by the Board;
- (vi) accept money on deposit and to hold and administer such money on trust provided such money is only accepted or administered in connection with the furtherance of the Objects;
- (vii) hold and administer property on trust provided such property is only held or administered in connection with the furtherance of the Objects;
- (viii) employ and remunerate officers, agents and servants in pursuance of the work of the Company;
- (ix) affiliate with or grant affiliation or provisional affiliation to or collaborate with any association or body, the object of which are consistent with those of the Company on such terms and conditions as the Company determines;
- (x) develop and pursue policies consistent with the promotion of the Objects of the Company; and
- (xi) develop and adopt practices consistent with the Objects of the Company.

2.6 Matters requiring unanimous approval of Board

Unless the unanimous approval of the Board has been given, the Company must:

- (a) not invest in securities or otherwise; or
- (b) hold moneys of the Company on hand, in a bank account or in a term deposit account.

3 INCOME AND PROPERTY OF COMPANY

- (a) The assets and income of the organisation shall be applied solely in furtherance of its Objects and no portion shall be distributed directly or

indirectly to the Members of the organization except as bona fide compensation for services rendered or expenses incurred on behalf of the organization.

- (b) No income or property will be paid or transferred directly or indirectly to any Member of the Company except for payments to a Member:
 - (i) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
 - (ii) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.

4 DIRECTORS

4.1 First Directors

- (a) The first Directors of the Company shall be:
 - (i) Renaye Peters,
 - (ii) Cory Heathwood,
 - (iii) Robert Hunter,
 - (iv) William Horrocks,
 - (v) James Cooper,
 - (vi) Joanna Jordan; and
 - (vii) Richard Holy.
- (b) The first Founding Member Representative Directors are Renaye Peters and Cory Heathwood.

4.2 Number of Directors

The Company must have at least 5 and not more than 10 Directors, and each of them must reside in Australia.

4.3 Proportion of representation on the Board

- (a) Subject to clause 4.3(b) and 4.6, the proportion of membership represented on the Board shall be up to:
 - (i) 2 nominees of the Founding Member (**Founding Member Representative Directors**);
 - (ii) 5 nominees of Ordinary Gold Members; and

- (iii) 3 nominees of Ordinary Silver Members.
- (b) If there are insufficient nominations of persons to be appointed to the Board under clause 4.3(a), then the Company may accept nominations of representatives of any class of Members to be appointed to the Board for any available positions.

4.4 Nomination of Board

- (a) The Founding Member will have the power to appoint and remove 2 Directors at any time by written notice to the Company.
- (b) Otherwise, the election of the other Board members shall take place in the following manner:
 - (i) as for Ordinary Gold Members nominees:
 - (A) an Ordinary Gold Member shall be at liberty to nominate any person as a candidate to serve as a Director in accordance with this clause 4.4(b)(i) (**Gold Member Candidate**), provided that no Ordinary Gold Member may nominate more than 1 Gold Member Candidate;
 - (B) the nomination, which must be in writing and duly signed by the Ordinary Gold Member (**Gold Member Proposer**) and another Ordinary Gold Member (**Gold Member Secunder**), must be lodged with the Secretary at least 42 days before the general meeting or AGM at which the election is to take place, together with a duly signed consent of the Gold Member Candidate to serve as a director of the Company if elected; and
 - (C) a list of the names of Gold Member Candidates in alphabetical order, with the names of the Gold Member Proposers and Gold Member Seconders, shall be included in the notice of AGM; and
 - (ii) as for Ordinary Silver Members nominees:
 - (A) an Ordinary Silver Member shall be at liberty to nominate any person as a candidate to serve as a Director in accordance with this clause 4.4(b)(ii) (**Silver Member Candidate**), provided that no Ordinary Silver Member may nominate more than 1 Silver Member Candidate;
 - (B) the nomination, which must be in writing and duly signed by the Ordinary Silver Member (**Silver Member Proposer**) and another Ordinary Silver Member (**Silver**

Member Seconder), must be lodged with the Secretary at least 42 days before the general meeting or AGM at which the election is to take place, together with a duly signed consent of the Silver Member Candidate to serve as a director of the Company if elected; and

- (C) a list of the names of Silver Member Candidates in alphabetical order, with the names of the Silver Member Proposers and Silver Member Seconders, shall be included in the notice of AGM.

4.5 Company may appoint a Director

Subject to section 201E of the Act, the Company may appoint a person as a Director by resolution passed in a general meeting (including at the AGM).

4.6 Directors may appoint other Directors

- (a) This clause 4.6 applies where there is a casual vacancy on the Board other than a vacancy where the Founding Member has not appointed a Founding Member Representative Director.
- (b) The Directors may appoint a person as a Director.
- (c) A person may be appointed as a Director in order to make up a quorum for a Directors' meeting even if the total number of Directors otherwise present is not enough to make up that quorum.
- (d) If a person is appointed under this clause 4.6 as a Director, the Company must confirm the appointment by resolution at the Company's next AGM.
- (e) If the appointment is not confirmed, the person ceases to be a Director at the end of the AGM.

4.7 Non-eligibility of Auditor

The Auditor (if any) is ineligible to be elected or appointed as a Director or alternate Director.

4.8 Appointment of Directors

Each Director must be appointed in accordance with this clause 4 and will hold office until they resign in accordance with clause 4.12, vacate the office in accordance with clause 4.14, are removed in accordance with clause 4.13, or until the term for which they are appointed or elected expires.

4.9 Alternate Directors

- (a) With the approval of the other Directors, a Director may appoint an alternate Director to exercise some or all of the Director's powers for a specified period.
- (b) If the appointing Director requests the Company to give the alternate Director notice of Directors' meetings, the Company must do so.
- (c) When an alternate Director exercises the Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Director.
- (d) The appointing Director may terminate the alternate Director's appointment at any time.
- (e) An appointment or termination of an alternate Director must be in writing and a copy must be given to the Company.

4.10 Attorneys of Directors

- (a) Subject to the Act, any Director may appoint an attorney under power who need not be a Member to do specific acts or execute specific documents on behalf of the Director.
- (b) Every power of attorney authorising an attorney to act for a Director must be deposited at the office of the Company, together with such evidence of due execution as the Directors may require, not less than one day before the attorney becomes entitled to act under it.
- (c) Every duly appointed attorney will cease to be capable of acting if and when the Director who appointed the attorney vacates office as a Director or revokes the appointment.
- (d) Every duly appointed attorney will, so long as that appointment continues, be entitled to exercise all the powers and discretions of the Director who appointed that attorney.

4.11 No remuneration

A Director is not entitled to be paid any amounts by the Company including for fees and/or remuneration for services as a Director, except:

- (a) with prior approval of the Directors, all travelling and other expenses properly incurred by the Director in attending meetings of the directors or any committee of the Company or general meetings of the Company or otherwise in connection with the business of the Company will be reimbursed to any Director who incurs such expenses; and

- (b) any Director being a person engaged in any profession or business shall be entitled to be paid all usual professional charges for business transacted and acts done by the Director or any partner of the Director in connection with the Company, including acts which a Director not being in any profession or business could have done personally, provided that:
 - (i) the provision of the services has the prior approval of the Directors (excluding the interested Director);
 - (ii) the amount payable is approved by the Directors (excluding the interested Director); and
 - (iii) the amount payable is not more than an amount for which commercially would be reasonable payment for the service.

4.12 Director may resign

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

4.13 Removal of Directors

- (a) Subject to section 203D of the Act, the Company may, by a resolution of Members in general meeting:
 - (i) remove a Director from office; and
 - (ii) appoint another person as a Director in the Director's place.
- (b) If a Director was appointed to represent the interests of particular Members, their removal under clause 4.13(a) has no effect until a replacement to represent the interests of those Members has been appointed.
- (c) A Director will not be removed by, or required to vacate their office because of, any resolution, request or notice of the Directors or any of them.

4.14 Vacation of office of Director

- (a) A Director must vacate office if the Director:
 - (i) ceases to be a Director or becomes prohibited from being a Director by virtue of any provision of the Act;
 - (ii) resigns their office by written notice to the Company;
 - (iii) for more than 3 months is absent without permission of the other Directors from meetings of the Directors held during that period;

- (iv) is directly or indirectly interested in any contract or proposed contract with the Company (other than as a Member) and fails to disclose details of that interest as required by clause 5.1; or
 - (v) is removed from the office of Director by a resolution of the Company in accordance with clause 4.13.
- (b) Subject to clause 4.13(a), where there are only 3 Directors, a Director must not vacate their office voluntarily unless they have appointed, prior to their vacation, another person to be a Director.

4.15 Rotation of Directors

- (a) Subject to clause 4.15(b), each Director other than a Founding Member Representative Director will hold office for a period of 3 years.
- (b) For the purposes of this clause 4 and subject to clause 4.15(d), at the first annual general meeting of the Company each Director other than the Founding Member Representative Directors will vacate office and:
 - (i) Robert Hunter and Joanna Jordan will be appointed for a term of one year;
 - (ii) James Cooper and Richard Holy will be appointed for a term of 2 years;
 - (iii) William Horrocks will be appointed for a term of 3 years; and
- (c) At the second annual general meeting of the Company:
 - (i) each of Robert Hunter, Joanna Jordan must vacate office but will be eligible for re-election;
 - (ii) each of James Cooper and Richard Holy will hold office for a further term of one year; and
 - (iii) William Horrocks will hold office for a further term of 2 years.
- (d) If for any reason, prior to the first annual general meeting one or more of the Directors set out in clause 4.15(b)(i), (ii) or (iii) have vacated office, then a casual vacancy will be created in that position and the Board may resolve to fill that vacancy in accordance with clause 4.6.
- (e) Subject to the Corporations Act and clause 4.16, a retiring Director will be eligible for re-appointment by the Voting Members.

4.16 Maximum Period of Office

A person will:

- (a) be eligible for re-appointment as a Director if that person is a Founding Member irrespective of the period of time they have served as a Director of the Company consecutively prior to the proposed reappointment;
- (b) be eligible for re-appointment as a Director if that person is a Gold Member irrespective of the period of time they have served as a Director of the Company consecutively prior to the proposed reappointment;
- (c) not be eligible for re-appointment as a Director if that person is a Silver Member and that person would immediately prior to the proposed reappointment have served as a Director of the Company consecutively throughout the immediately preceding 7 years; and
- (d) be eligible for re-appointment as a Director if that person is a Chairperson or Company Secretary irrespective of the period of time they have served as a Director of the Company consecutively prior to the proposed reappointment".

5 MANAGEMENT OF BUSINESS BY DIRECTORS**5.1 Material personal interest - Director's duty to disclose**

- (a) Unless an exception under section 191 of the Act applies, if a Director has a material personal interest in a matter that relates to the affairs of the Company, a Director must give the other Directors notice of the interest.
- (b) The notice required by clause 5.1(a) must:
 - (i) include details of:
 - (A) the nature and extent of the interest; and
 - (B) the relation of the interest to the affairs of the Company; and
 - (ii) be given at a Directors' meeting as soon as practicable after the Director becomes aware of their interest in the matter.

5.2 Director may give standing notice about an interest

A Director with a material personal interest in a matter that relates to the affairs of the Company may give standing notice of this ongoing interest in accordance with clause 5.1 and section 192 of the Act.

5.3 Voting and completion of transactions in which a Director has a material personal interest

A Director who has a material personal interest in a matter that is being considered at a Director's meeting must not:

- (a) be present while the matter is being considered at the meeting; or
 - (b) vote on the matter,
- unless:
- (c) the interest does not need to be disclosed under section 191 of the Act; or

- (d) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the Director, the nature of their interest in the matter and its relation to the affairs of the Company; and

states that the Directors are satisfied that the interest should not disqualify the Director from voting or being present.

5.4 Financial benefits to related parties

The Company must not give a financial benefit to a related party of the Company unless it is authorised in accordance with the Act.

5.5 Powers of Directors

- (a) Subject to the Act and to any provision of this Constitution, the business of the Company is to be managed by or under the direction of the Directors.
- (b) The Directors may exercise all of the powers of the Company except any powers that the Act or this Constitution requires the Company to exercise in general meeting.

5.6 Negotiable instruments

- (a) The Directors may authorise any 2 Directors or any one Director and the Company Secretary to sign, draw, accept, endorse or otherwise execute negotiable instruments or cheques for and on behalf of the Company.
- (b) Each negotiable instrument or cheque must be signed, drawn, accepted, endorsed or otherwise executed by 2 authorised Directors or any one authorised Director and the Company Secretary for and on behalf of the Company.
- (c) The Directors may determine that a negotiable instrument (except for cheques) may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

5.7 Managing Director

- (a) The Directors may appoint one or more of themselves to the office of Managing Director of the Company for a period and on the terms as the Directors see fit.
- (b) A person ceases to be Managing Director if they cease to be a Director.
- (c) The Directors may confer on a Managing Director any of the powers that the Directors can exercise.

- (d) The Directors may revoke or vary:
 - (i) the appointment of the Managing Director; or
 - (ii) any of the powers conferred on the Managing Director.

5.8 Committees

- (a) The Directors may establish either or both of the following:
 - (i) committees with powers delegated by the Directors (**Board Committees**); and
 - (ii) advisory committees, with no delegated powers, to advise the Directors on specified matters (**Advisory Committees**).
- (b) Board Committee members and Advisory Committee members will be appointed by the Directors.
- (c) At least one member of each Board Committee must be a Director.
- (d) Meetings of any Board Committee or Advisory Committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each Board Committee or Advisory Committee member was a Director.
- (e) Clause 6.1 regarding written resolutions applies to resolutions of Board Committees and Advisory Committees as if each Board Committee or Advisory Committee member was a Director.

5.9 Delegation

- (a) The Directors may, upon any terms and conditions or restrictions as they see fit, delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to:
 - (i) a Board Committee;
 - (ii) a Director;
 - (iii) an employee of the Company; or
 - (iv) any other person.
- (b) A Board Committee to which, or person to whom, any powers have been delegated must exercise their powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.

- (c) A Board Committee to which, or person to whom, any powers have been delegated may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- (d) The Directors may at any time revoke any delegation of power.

5.10 Appointment of attorney for Company

The Directors may, by power of attorney, appoint any company, firm, person or body of persons to be the attorney of the Company for:

- (a) any period; and
- (b) for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors under this Constitution.

5.11 Accounting for profit

Where a Director's interest is approved by a resolution of Directors in accordance with clause 5.3(d), no Director will be liable to account that interest to the Company for any profit arising from any office or place of profit or realised from any contract or arrangement by reason only of the Director holding that office or of the fiduciary relations so established.

6 DIRECTORS' MEETINGS

6.1 Circulating resolutions

- (a) The Directors may pass a resolution without a Directors' meeting being held if all of 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.
- (b) Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last Director signs.

6.2 Calling Directors' meetings

A Directors' meeting may be called:

- (a) by a Director giving reasonable notice (of not less than 21 days) of the Director's meeting to every other Director individually; or
- (b) at such time as all Directors agree in writing.

6.3 Use of technology

- (a) A Directors' meeting may be called or held using any technology consented to by the Directors.
- (b) Any consent may be a standing consent.
- (c) A Director may only withdraw their consent within a reasonable period before the meeting.

6.4 Chairing Directors' meetings

- (a) The Directors must elect a Director to act as the Chair for their meetings.
- (b) The Directors may determine the period for which the Director is to be the Chair.
- (c) The Directors must elect a Director present to chair a meeting, or part of it, if:
 - (i) a Director has not already been elected to chair the meeting; or
 - (ii) a previously elected Chair is not available or declines to act as Chair for the meeting or part of it.

6.5 Quorum at Directors' meetings

Unless the Directors determine otherwise, the quorum for a Directors' meeting is five Directors and the quorum must be present at all times during the meeting.

6.6 Passing of Directors' resolutions

- (a) A resolution of the Directors must be passed by a majority of the votes cast by Directors entitled to vote on the resolution.
- (b) The Chair does not have a casting vote in addition to any vote they have in their capacity as a Director.

7 OFFICERS

7.1 Chief Executive Officer

- (a) The Directors may appoint a Chief Executive Officer of the Company on the terms and conditions that the Directors think fit.
- (b) Subject to any agreement between the Company and the Chief Executive Officer, the Directors may suspend or terminate the appointment of the Chief Executive Officer at any time, with or without cause.

- (c) The Directors may vest in the Chief Executive Officer the powers and authority as the Directors may determine.

7.2 Secretary

- (a) The Directors must appoint a Secretary in accordance with the Act.
- (b) A Secretary holds office on the terms and conditions that the Directors think fit.
- (c) The first Secretary will be Cory Heathwood.

7.3 Other officers

The Directors may appoint other officers of the Company, on the terms and conditions that the Directors think fit.

8 MEMBERS

DIVISION 1 - MEMBERSHIP

8.1 Classes of Members

- (a) A person is qualified to be a member of the Company if, but only if the person is a person who is a Founding Member or:
 - (i) has been nominated for membership of the Company as provided by clause 8.8;
 - (ii) meets the requirements of a class of Members as specified in this Constitution; and
 - (iii) has been approved for membership of the Company by the Board.
- (b) The membership of the Company will consist of the following categories of Members:
 - (i) Ordinary Members including:
 - (A) the Founding Member;
 - (B) Ordinary Gold Members; and
 - (C) Ordinary Silver Members; and
 - (ii) Associate Members.
- (c) The Directors may from time to time and at any time:
 - (i) establish different classes of Members; and

- (ii) prescribe the qualifications, rights and privileges of Members of a class, subject to this clause 8.

8.2 Ordinary Members

An Ordinary Member of the Company:

- (a) must be an Entity;
- (b) must, in the opinion of the Board:
 - (i) have a lease, sub-lease or licence to occupy with a term of at least 3 years for premises located within the Brisbane Airport;
 - (ii) have a commercial interest in the Brisbane Airport or the areas adjacent to the Brisbane Airport; and
 - (iii) support the objectives of the Company;
 - (iv) have the ability to make a meaningful contribution to achieving the objectives of the Company; and
 - (v) otherwise, hold any qualifications deemed necessary by the Board from time to time of an Ordinary Member; and
- (c) is entitled to attend and vote at any meeting of Members of the Company in accordance with clause 11.

8.3 Ordinary Gold Member:

An Ordinary Gold Member:

- (a) must be an Ordinary Member;
- (b) must, in the opinion of the Board:
 - (i) have 20 or more employees or contractors engaged in work within the Brisbane Airport; or
 - (ii) otherwise, hold any qualifications deemed necessary by the Board from time to time of an Affiliate Member; and
- (c) is entitled to attend and vote at any meeting of Members of the Company in accordance with clause 11.

8.4 Ordinary Silver Member:

An Ordinary Silver Member:

- (a) must be an Ordinary Member;

- (b) must, in the opinion of the Board:
 - (i) have less than 20 employees or contractors engaged in work within the Brisbane Airport; or
 - (ii) otherwise, hold any qualifications deemed necessary by the Board from time to time of an Affiliate Member; and
- (c) is entitled to attend and vote at any meeting of Members of the Company in accordance with clause 11.

8.5 Associate Member

An Associate Member:

- (a) must be an Entity;
- (b) must, in the opinion of the Board:
 - (i) have no lease, sublease or licence to occupy for premises located within the Brisbane Airport;
 - (ii) support the objectives of the Company;
 - (iii) have the ability to make a meaningful contribution to achieving the objectives of the Company; and
 - (iv) otherwise, hold any qualifications deemed necessary by the Board from time to time of an Associate Member;
- (c) is entitled to attend and vote at any meeting of Members of the Company in accordance with clause 11.

8.6 Number of Members

- (a) There must be at least one Member.
- (b) The Directors may set a limit on the maximum number of Members.

8.7 Address of Member

- (a) Each Member must provide to the Secretary details of an address, including an email and postal address, in Australia where the Company can send notices.
- (b) If a Member fails to provide an address in accordance with clause 8.7(a), the address of the Member is deemed to be the registered office of the Company.

8.8 Nomination of members

- (a) A nomination of a person for membership of the Company:
- (i) shall be made by a member of the Company in writing in the form determined by the Board from time to time;
 - (ii) shall, if the applicant is a body corporate, nominate one person to represent it in the Company who complies with clause 10 and who consents to such appointment;
 - (iii) shall be accompanied by such documents or evidence as to qualification for membership as the Board may determine; and
 - (iv) shall be lodged with the Secretary.
- (b) As soon as practicable after receiving a nomination for membership, the Secretary shall refer the nomination to the Board which shall determine in its absolute discretion whether to approve or to reject the nomination. The Board need give no reasons for the rejection of a nomination.
- (c) Where the Board determines to approve a nomination for membership, the Secretary shall, as soon as practicable after that determination, notify the nominee of that approval and request the nominee to pay within the period of 28 days after receipt by the nominee of the notification the sum payable under this Constitution by an Ordinary Member, Associate Member or Affiliate Member as a Joining Fee and Annual Subscription Fee.
- (d) The Secretary shall, on payment by the nominee of the amounts referred to in clause 8.8(c) within the period referred to in that rule, enter the nominee's name in the register of Members, together with the name of the nominee's representative, if applicable, and, upon its name being so entered, the nominee becomes a Member of the Company.

8.9 Joining Fee

The joining fee for Members will be the amount decided by the Directors from time to time and payable upon application for membership (**Joining Fee**). In the event of a membership application being rejected by the Board, any Joining Fee already paid is refundable upon notification of the application rejection.

8.10 Annual Subscription Fee

The annual subscription fee and method of calculation for each Member will be the amount decided by the Directors from time to time (**Annual Subscription Fee**). A method of calculation of subscriptions that would result in each Member not paying the same total of subscription may be adopted by Directors provided that the same method of calculation is used for all Members within that membership class.

8.11 Payment of Annual Subscription Fee

Each Member shall pay annually on or before 1 July or such other date (the **due date**) determined by the Board from time to time the subscriptions determined in clause 8.10.

8.12 Special Levies

- (a) The Members may be required to pay special levies to the Company from time to time.
- (b) Special Levies and their method of calculation for each Member will be determined by the Members from time to time at a general meeting. A method of calculation of Special Levies that would result in each Member not paying the same total of Special Levy may be adopted by Members provided that the same method of calculation is used for all Members within that membership class
- (c) Each Member shall pay the Special Levies on such date (the **due date**) as may be determined by the Board time to time.

8.13 Classification as a Financial Member

A Member will be taken to be a financial member of the Company where that Member has paid all applicable Joining Fees, Annual Subscriptions and Special Levies to the Company at the relevant date.

8.14 Admission of Members

The Members of the Company are:

- (a) the persons who consented to become Members in the application for registration of the Company; and
- (b) any Member subsequently admitted to membership in accordance with this clause 8.

8.15 Applications for Membership

- (a) Applications for membership of the Company must be made in writing, be proposed by a Full Member of the Company (the **Proposer**) and seconded by another Full Member of the Company (the **Secunder**).
- (b) Applications for membership must be
 - (i) in writing;
 - (ii) signed by the applicant, Proposer and Secunder;

- (iii) in the form determined by the Board; and
- (iv) accompanied by the:
 - (A) appropriate Joining Fee;
 - (B) a pro rata Annual Subscription Fee based on the remaining part of the financial year; and
 - (C) any Special Levies
 as determined in this clause 8.
- (c) Applicants for membership of the Company must satisfy the membership Criteria as determined by the Board from time to time.
- (d) The Directors at their sole discretion will consider each application for membership at the next Directors' meeting after the correctly completed application is received.
- (e) As soon as practicable following acceptance or rejection of an application for membership, the Secretary will send the applicant written notice of such acceptance or rejection. An applicant for membership becomes a Member upon such acceptance.
- (f) The rights and privileges of every Member are personal to each Member and are not transferable by the Member's own act or by operation of law.
- (g) Each Member is bound by this Constitution.

DIVISION 2 - CESSATION OF MEMBERSHIP

8.16 Cessation of Membership

A Member's membership of the Company will cease:

- (a) if the Member gives the Secretary written notice of resignation, from the date of receipt of that notice by the Secretary;
- (b) if the Member fails to pay a subscription or special levy within 3 months of the due date for payment;
- (c) if the Member fails to meet the qualifications for membership specified in clause 8;
- (d) if a liquidator or trustee in bankruptcy is appointed in connection with the winding-up or bankruptcy of the Member;
- (e) if an order is made by a Court for the winding-up, deregistration or bankruptcy of the Member;

- (f) if the Member dies;
- (g) if the Member become of unsound mind or become liable to be dealt with in any way under the law relating to mental health; or
- (h) if the Member is convicted of an indictable offence.

8.17 Liability of Member

Any Member ceasing to be a Member will remain liable for:

- (a) and will pay to the Company any moneys which were due to the Company at the date of ceasing to be a Member;
- (b) all other moneys due by them to the Company; and
- (c) subject to clause 2.3, the Guarantee.

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

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

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

- (b) At least one week before the meeting of the Directors at which a resolution under clause 8.18(a) is passed, the Company must provide the Member with:
 - (i) notice of the meeting;
 - (ii) the allegations against them;
 - (iii) the intended resolution; and
 - (iv) advice that the Member will have an opportunity, at the meeting and before the passing of the resolution, to give, orally or in writing, any explanation or defence they may think fit.
- (c) Any Member referred to in clause 8.18(a) may, by notice in writing lodged with the Secretary at least 24 hours before the time for holding the meeting at which the resolution is to be considered by the Directors, elect to have the question dealt with by the Company in general meeting.

- (d) If an election is made under clause 8.18(c):
 - (i) a general meeting must be convened and the resolution considered; and
 - (ii) if the resolution is passed by a majority of two-thirds of those present and voting (such vote to be taken by ballot), the Member concerned will be dealt with accordingly.

9 POWERS OF ATTORNEY

9.1 Appointment of Attorneys

- (a) If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the Attorney to the Company for noting.
- (b) If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- (c) The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

10 REPRESENTATIVES

- (a) Any Member may by written notice to the Secretary:
 - (i) appoint a natural person who shall be a director or senior executive employed by the body corporate or its related bodies corporate to act as its Representative (**Representative**) in all matters connected with the Company as permitted by the Corporations Act; and
 - (ii) remove a Representative.
- (b) A Representative is entitled to:
 - (i) exercise at a general meeting all the powers which the Member that appointed him or her could exercise if it were a natural person;
 - (ii) stand for election as an office bearer or Director; and
 - (iii) be counted towards a quorum on the basis that the Member is to be considered personally present at a general meeting by its Representative.

- (iv) appoint a suitable alternative to act in his stead, by giving notice in writing to the Secretary of the nominated alternate.
- (c) A certificate executed in accordance with section 127 of the Corporations Act is rebuttable evidence of the appointment or of the removal of the appointment (as appropriate) of the Representative.
- (d) A Representative shall cease to be a representative of a Member if the person:
 - (i) dies;
 - (ii) ceases to be employed by the Member;
 - (iii) is replaced as the representative; or
 - (iv) notifies the secretary that he is unwilling to act as the representative.
- (e) Any alternative of a corporate representative shall cease to act as such when the representative for whom he is an alternate ceases to be the representative of the Member pursuant to clause 10(d).
- (f) The chairperson of a general meeting may allow a Representative to vote on the condition that he or she subsequently establishes his or her status as a Representative within a period prescribed by and to the satisfaction of the chairperson of the general meeting.
- (g) The appointment of a Representative may set out restrictions on the Representative's powers.

11 MEETINGS OF MEMBERS

DIVISION 1 - WHO MAY CALL MEETINGS OF MEMBERS

11.1 Calling of meetings of Members by Directors

A Director may call a meeting of Members.

11.2 Calling of meetings by Members

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

11.3 Calling of general meetings by Directors when requested by Members

The Directors must call and arrange to hold a general meeting in accordance with section 249D(1) of the Act, on the request of Voting Members with at least 5% of the votes that may be cast at a general meeting.

11.4 Failure of Directors to call general meeting

Members with more than 5% of the votes of all Members who make a request under section 249D of the Act may call and arrange to hold a general meeting if the Directors do not do so within 21 days after the request is given to the Company in accordance with section 249E of the Act.

11.5 Calling of meetings by the Court

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

DIVISION 2 - HOW TO CALL MEETINGS OF MEMBERS

11.6 Amount of notice of meetings

- (a) Subject to the Act, at least 21 days notice must be given of a meeting of Members.
- (b) Subject to clause 11.6(c), the Company may call on shorter notice:
 - (i) an AGM, if all of the Members entitled to attend and vote at the AGM agree beforehand; and
 - (ii) any other general meeting, if Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (c) At least 21 days notice must be given of a meeting of Members at which a resolution will be moved to:
 - (i) remove a Director under clause 4.13;
 - (ii) appoint a Director in place of a Director removed under clause 4.13; or
 - (iii) remove an Auditor (if any).

11.7 Notice of meetings of Members

- (a) Written notice of the meeting of Members must be given individually to each Member entitled to vote at the meeting and to each Director.
- (b) Notice to joint Members must be given to the joint Member first named in the register of Members.

- (c) The Company may give the notice of meeting to a Member:
- (i) personally;
 - (ii) by sending it by post to the address of the Member in the register of Members or the alternative address (if any) nominated by the Member;
 - (iii) by sending it to the fax number or electronic address (if any) nominated by the Member; or
 - (iv) by any other means authorised by the Act.
- (d) A notice of meeting sent by post is taken to be given three days after it is posted. A notice of meeting sent by fax or other electronic means is taken to be given on the Business Day after it is sent.

11.8 Auditor entitled to notice and other communication

The Company must give its Auditor (if any):

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

11.9 Contents of notice of meeting

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

11.10 Notice of adjourned meetings

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

DIVISION 3 - MEMBERS' RIGHTS TO PUT RESOLUTIONS AT THE GENERAL MEETING

11.11 Members' resolutions

The Members may propose a resolution to be moved at a general meeting only in accordance with the provisions of Division 4 of Part 2G.2 of the Act.

DIVISION 4 - HOLDING OF MEMBERS MEETINGS

11.12 Time and place for meetings of Members

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

11.13 Technology

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

11.14 Quorum

- (a) The quorum for a meeting of Members is three (3) Voting Members unless the Company has three (3) or less Voting Members, in which case a quorum requires all Voting Members to be in attendance. The quorum must be present at all times during the meeting.
- (b)
 - (i) In determining whether a quorum is present, individuals attending as proxies or body corporate representatives are to be counted.
 - (ii) If a Member has appointed more than one proxy or representative, only one of them is to be counted.
 - (iii) If an individual is attending both as a Member and as a proxy or representative, they are to be counted only once.
- (c) A meeting that does not have a quorum present within 30 minutes after the time for the meeting set out in the notice of meeting is to be adjourned to a date, time and place as the Directors specify.
- (d) When a quorum is not present the meeting shall be adjourned for one month.
- (e) If a quorum is not present at the resumed meeting, those present shall proceed with the business of the meeting in accordance with the notice of meeting.

11.15 Chairing meetings of Members

- (a) The Directors must elect an individual to act as the Chair of meetings of the Members.
- (b) The Directors at the meeting of Members must elect an individual present to chair the meeting (or part of it) if an individual has not already been elected by the Directors to chair it or, having been elected, is not available or declines to act for the meeting (or part of it).
- (c) The Members present at a meeting of the Members must elect a Member present to act as the Chair of the meeting (or part of it) if:
 - (i) a Chair has not previously been elected by the Directors to chair the meeting; or

- (ii) a previously elected Chair is not available or declines to act as Chair for the meeting (or part of the meeting).
- (d) The Chair must adjourn the meeting if the Members present with a majority of votes at the meeting agree or direct that the Chair must do so.

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

- (a) The Auditor (if any) is entitled to attend and be heard at meetings of Members.
- (b) The Auditor (if any) is entitled to be heard at the meeting on any part of the business of the meeting that concerns the Auditor (if any) in their capacity as auditor.
- (c) The Auditor (if any) is entitled to be heard even if:
 - (i) the Auditor retires at the meeting; or
 - (ii) the meeting passes a resolution to remove the Auditor from office.
- (d) The Auditor (if any) may authorise a person in writing as their representative for the purpose of attending and speaking at any general meeting.

DIVISION 5 - PROXIES AND BODY CORPORATE REPRESENTATIVES

11.17 Proxies and body corporate representatives

- (a) A Member who is entitled to attend and cast a vote at meetings of Members may appoint a proxy or, if the Member is a body corporate, a representative, to attend and cast a vote at that meeting.
- (b) Any proxy or representative appointed under clause 11.17(a) must be appointed and has the rights set out in Division 6 of Part 2G.2 of the Act and shall have the rights set out in that Division.

11.18 Lodgement of proxy

- (a) The written appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
 - (i) the time for holding the general meeting or adjourned general meeting at which the appointee is intended to vote; or
 - (ii) the taking of a poll on which the appointee is intended to vote.

- (b) The Company receives an appointment of a proxy or attorney and any power of attorney or other authority under which the appointment was executed when they are received at:
 - (i) its 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 meeting.

11.19 Validity

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became mentally incapacitated; or
- (c) revoked the proxy or power,

unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant general meeting or adjourned general meeting.

DIVISION 6 - VOTING AT MEETINGS OF MEMBERS

11.20 How many votes a Member has

- (a) Subject to any rights or restrictions attached to any class of membership, at a meeting of Members each Member that is:
 - (i) entitled to vote at a meeting of Members; and
 - (ii) who is a Financial Member under clause 8.13
 is entitled to one vote on a show of hands and on a poll.
- (b) The Chair does not have a casting vote.

11.21 Objections to right to vote

- (a) A challenge to a right to vote at a meeting of Members:
 - (i) may only be made at the meeting at which the voter tendered its vote; and
 - (ii) must be determined by the Chair whose decision is final.

- (b) A vote which the Chair does not disallow because of an objection is valid for all purposes.

11.22 How voting is carried out

- (a) A resolution put to the vote at a meeting of Members must be decided on a show of hands unless a poll is demanded.
- (b) On a show of hands, a declaration by the Chair is conclusive evidence of the result.
- (c) Neither the Chair nor the minutes need to state the number or proportion of the votes recorded in favour or against a resolution.

11.23 Matters on which a poll may be demanded

- (a) A poll may be demanded on any resolution other than resolutions concerning:
 - (i) the election of the Chair; or
 - (ii) the adjournment of the meeting.
- (b) A poll may be demanded in accordance with section 250L of the Act.

11.24 When and how polls must be taken

- (a) A poll demanded on a matter other than the election of a Chair or the question of an adjournment must be taken when and in the manner the Chair directs.
- (b) A poll on the election of a Chair or on the question of an adjournment must be taken immediately.

DIVISION 7 - AGMs

11.25 Holding of AGM

- (a) The Company must hold an AGM within 18 months after its registration.
- (b) The Company must hold an AGM at least once in each calendar year and within five months after the end of its financial year.
- (c) An AGM must be held in addition to any other meetings held by the Company in a year.
- (d) If the Company only has one Member, it is not required to hold an AGM.

11.26 Extension of time for AGM

The Company may lodge an application with ASIC to extend the period within which it is required to hold the AGM in accordance with section 250P of the Act.

11.27 Consideration of reports at AGM

The Directors must make the following available at an AGM:

- (a) the financial report;
- (b) the Director's report; and
- (c) the Auditor's report (if any),

for the last financial year that ended before the AGM completed in accordance with the requirements of Part 2M.3 of Chapter 2M of the Act.

11.28 Business of the AGM

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

- (a) the consideration of the annual financial report, Director's report and Auditor's report (if any);
- (b) the election of Directors;
- (c) the appointment of the Auditor (if required);
- (d) the fixing of the Auditor's remuneration (if any); and
- (e) any other business proposed by a Member subject to written notice of the proposed business being provided to the Secretary not less than 2 Business Days' before the AGM.

11.29 Questions by Members of the Company

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

11.30 Questions by Members to Auditors

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

12 DIRECTORS' AND MEMBERS' MINUTES

12.1 Minutes

- (a) The Company must keep minute books in which it records within one month:
 - (i) proceedings and resolutions of Members' meetings;
 - (ii) proceedings and resolutions of Directors' meetings, including committee meetings;
 - (iii) resolutions passed by Members without a meeting; and
 - (iv) resolutions passed by Directors without a meeting.
- (b) The Company must ensure that the minutes of a meeting are signed by the Chair of the meeting or the Chair of the next meeting within a reasonable time after the meeting.
- (c) The Company must ensure that the minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

12.2 Members' access to minutes

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

13 ACCOUNTS AND AUDIT

13.1 Accounting records

- (a) The Directors must ensure that accounting and other records are kept to correctly record and explain the transactions and financial position of the Company, to enable true and fair profit and loss accounts and balance sheets to be prepared and to permit preparation of any other documents required by the Act or this Constitution.
- (b) The records must be kept:
 - (i) in a manner that enables them to be conveniently and properly audited;
 - (ii) for 7 years after the completion of the transactions or operations to which they relate; and
 - (iii) at the Company's registered office or at such other place as the Directors think fit.

- (c) The records must at all times be open to inspection by the Directors.

13.2 Accounts

- (a) This clause applies if the Company is required to prepare a financial report and a Directors' report pursuant to the Act.
- (b) Each financial year, the Company must prepare a financial report and a Directors' report in accordance with the Act.
- (c) The financial report for each financial year must consist of:
 - (i) the financial statements for the year;
 - (ii) the notes to the financial statements; and
 - (iii) the Directors' declaration about the statement and the notes.
- (d) The financial statements for the year will consist of:
 - (i) a profit and loss statement for the previous financial year;
 - (ii) a balance sheet at the date to which the profit and loss statement is made up;
 - (iii) a statement of cash flows for the year; and
 - (iv) if required by the Accounting Standards, a consolidated profit and loss statement, balance sheet and statement of cash flows.
- (e) The notes to the financial statements must consist of:
 - (i) disclosures required by the *Corporations Regulations 2001* (Cth);
 - (ii) the notes required by the Accounting Standards (if any); and
 - (iii) if required, any other information necessary to give a true and fair view of the financial position and performance of the Company.
- (f) The Directors' declaration made pursuant to clause 13.2(c)(iii) is a declaration by the Directors:
 - (i) that the financial statement, and the notes required by the Accounting Standards comply with the Accounting Standards;
 - (ii) that the financial statements and the attached notes give a true and fair view of the financial position and performance of the Company;

- (iii) whether, in the Directors' opinion, there are reasonable grounds to believe that the Company will be able to pay its debts as and when they become due and payable; and
- (iv) whether, in the Directors' opinion, the financial statement and attached notes are in accordance with the Act.

13.3 Auditor

The Company must appoint an auditor to audit the Company's financial statements if required by the Act.

14 WINDING UP

14.1 Rights of Members on winding up

If the Company is wound up or dissolved, the Members have no right to participate in any distribution or payment of the assets or property of the Company.

14.2 Distribution of assets

- (a) If the Company is wound up or dissolved, the assets and property available for distribution after satisfaction of all debts and liabilities must be given or transferred to some other institution or institutions:
 - (i) whose objects are similar to the Objects of the Company;
 - (ii) whose constitution prohibits the distribution of its income and property to an extent at least as great as that imposed by clause 2.2(b); and
 - (iii) which is approved by the Commissioner of Taxation as an institution exempt from income tax.
- (b) The Directors must determine the identity of the institution or institutions for the purpose of clause 14.2(a) at the time of dissolution.
- (c) If the Directors fail to determine the identity of the institution or institutions under clause 14.2(b), the Supreme Court of Queensland may make that determination.

15 INDEMNITY

15.1 Indemnity

- (a) Subject to Part 2D.2 of the Act, a person who is an Officer or auditor of the company is indemnified by the Company against any liability to another person (other than the Company or a related body corporate of the

Company as defined in the Act) incurred in that person's capacity as an Officer unless the liability:

- (i) arises out of conduct involving a lack of good faith; or
 - (ii) is for a pecuniary penalty order or composition order under Part 9.4B of the Act.
- (b) The Company will indemnify any other employee of the Company at the Directors' discretion.
- (c) The Company will indemnify an Officer against a liability for costs and expenses (including, legal expenses on a full indemnity basis) incurred by the Officer:
- (i) in defending proceedings, whether civil or criminal, in which:
 - (A) judgment is given in favour of the Officer; or
 - (B) the Officer is acquitted; or
 - (ii) in connection with an application, in relation to proceedings under clause 15.1(c)(i), in which a court grants relief to the Officer under the Act,

SUBJECT only to an obligation on the Officer to repay to the Company the expenses advanced by the Company if:

- (i) judgment is not given in the Officer's favour;
 - (ii) the Officer is not acquitted;
 - (iii) a court subsequently determines that the indemnification is not permitted; or
 - (iv) the indemnification is not permitted by the Act.
- (d) For the purposes of this clause, the Company will have the burden of proving that the Officer to be indemnified is not entitled to the requested indemnification.
- (e) The indemnification rights in this clause constitute a contract between the relevant parties seeking indemnification and the Company and will continue to have effect following the rescission or restrictive modification of the clause with respect to events occurring prior to the rescission or modification of the clause.

15.2 Payment of Costs

The Directors must approve payment, out of the funds of the Company, all costs, losses and expenses which any Officer may incur or become liable to pay by reason of any contract entered into or act or thing done by them in their capacity as an Officer or in any way in discharge of their duties.

15.3 Limit of indemnity

- (a) Subject to the provisions of the Act, an Officer of the Company will not be liable for:
- (i) the acts, receipts, neglect or defaults of any other Officer;
 - (ii) joining in any receipt or other act of conformity or for any loss or expense happening to the Company through:
 - (A) the insufficiency or deficiency of title to any property acquired by order of the Officers for or on behalf of the Company; or
 - (B) the insufficiency or deficiency of any security in or upon which any of the moneys of the Company is invested at any time;
 - (iii) any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any moneys, securities or effects are deposited at any time;
 - (iv) any loss occasioned by any error of judgment or oversight on the Officer's part; or
 - (v) any other loss, damage or misfortune which occurs in the execution of the duties of the Officer's office,

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

16 CONTRACT OF INSURANCE

Except to the extent precluded by the Act, the Company may pay a premium for a contract insuring a person who is or has been an Officer, against:

- (a) any liability incurred by the Officer which does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Act; or

- (b) any liability for costs and expenses incurred by that person in defending proceedings relating to that person's position with the Company, whether civil or criminal and whatever their outcome.