

# **CONSTITUTION**

## **THE RUGBY CLUB FOUNDATION LIMITED**

**ACN 000 050 279**

**A Public Company Limited by Guarantee**

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## **1 Definitions and interpretation**

### **1.1 Definitions**

In this Constitution unless a contrary intention appears:

**Affiliated Bodies** means Sydney Rugby Union, New South Wales Country Rugby Union, New South Wales Suburban Rugby Union, Sydney Women's Rugby Union, New South Wales Rugby Union Referees Association, New South Wales Junior Rugby Union, New South Wales Schools Rugby Union, the New South Wales Premier Clubs, any bodies affiliated with any of the aforementioned unions and clubs and any other bodies which may become affiliated with the New South Wales Rugby Union.

**Annual General Meeting** has the same meaning as the term 'AGM' in the Corporations Act.

**ASIC** means the Australian Securities and Investments Commission.

**Board** means the Board of Directors of the Company.

**By-law** means a by-law made by the Directors in accordance with clause 15.

**Company** means The Rugby Club Foundation Limited being an Australian public company limited by guarantee established under the Corporations Act which bears the ACN 000 050 279.

**Constitution** means this constitution as amended from time to time.

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

**Director** means an individual holding office as a director of the Company.

**Directors** means some or all of the Directors acting as the Board.

**Financial Year** means the financial year of the Company which is determined by the Directors pursuant to clause 27(c) of the Constitution.

**General Meeting** means a meeting of the Members of the Company and includes an Annual General Meeting.

**grassroots level of Rugby** means the grassroots community levels of Rugby which are reasonably determined by the Board as being the appropriate beneficiaries of the Primary Object from time to time.

**Insolvency Event** occurs where:

- (a) an order is made or a resolution is passed by creditors for the winding up, dissolution or external administration of the Company;
- (b) the Company enters into any arrangement, compromise or composition with or assignment for the benefit of its creditors or any class of them; or
- (c) a controller, receiver, receiver and manager, official manager or other external administrator is appointed to the Company.

**Member** means a person entered on the Register of the Company as a member who is eligible to be admitted to one of the classes of membership referred to in clause 6.13 of the Constitution and who has declared that he or she comprehends and supports the Objects and, more particularly, the Primary Object of the Company and that he or she maintains and will continue to maintain an active and supportive interest or involvement in the sport of Rugby during their membership of the Company.

**New South Wales Rugby Union** means New South Wales Rugby Union Limited ACN 000 222 711 irrespective of any changes to its name.

**Objects** means the objects of the Company as set out in clause 2.

**Office Bearer** means a President, Vice President, Chairperson, Deputy Chairperson, Treasurer, Secretary, Director, Executive or Committee member or any person holding office in the governance or management of any body whether or not that body is incorporated.

**Primary Object** means the object described in clause 2(a).

**Register** means the register of members under the Corporations Act.

**Registered Office** means the registered office for the time being of the Company.

**Related Body Corporate** has the same meaning it has in the Corporations Act.

**Representative** means an individual appointed to represent a corporate Member at a General Meeting of the Company in accordance with the Corporations Act.

**Rugby** means the game of Rugby football as adopted by the New South Wales Rugby Union.

**Rugby Qualified** means a person who is or has been a life member (provided his or her life membership was not purchased) or an Office Bearer of the New South Wales Rugby Union or any of the Affiliated Bodies or any other bodies affiliated with the New South Wales Rugby Union or with any of the Affiliated Bodies or an Honorary Life Member or a Rugby Life Member of the Company.

**Schedule** means a schedule to this Constitution.

**Secretary** means an individual appointed as a secretary of the Company in accordance with clause 16.

**Special Resolution** takes the meaning given by Section 9 of the Corporations Act.<sup>1</sup>

## 1.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) words importing any gender include all other genders;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a law includes regulations and instruments made under the law;
- (d) a reference to a clause is a reference to a clause in this Constitution unless otherwise stated;
- (e) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;
- (f) a reference to a meeting includes a meeting by technology where all attendees have reasonable opportunity to participate;

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<sup>1</sup> At the time of registration of this Company, section 9 provides that a Special Resolution is a resolution:  
(a) of which notice has been given to the Members in accordance with clause 8.3; and  
(b) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

- (g) a reference to a person being present in person includes an individual participating in a meeting as described in clause 1.2(f);
- (h) a reference to a person being present includes an individual participating in a meeting in person or through a proxy, attorney or Representative;
- (i) a reference to a person includes a natural person, corporation or other body corporate;
- (j) "writing" and "written" includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and
- (k) Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia.

### **1.3 Computation of Time**

If in this Constitution a period of time dating from a given day, act or event is provided for any purpose, the time shall be reckoned exclusive of that day or the day of that act or event.

### **1.4 Signing**

Where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions, or in any other manner approved by the Directors.

### **1.5 Corporations Act**

In this Constitution unless the contrary intention appears:

- (a) expressions in this Constitution that deal with a matter dealt with by a particular provision of the Corporations Act have the same meaning as they have in the Corporations Act; and
- (b) "section" means a section of the Corporations Act.

### **1.6 Headings**

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

### **1.7 Replaceable rules do not apply**

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

## **2 Objects of the Company**

The Objects of the Company are to pursue the following purposes:

- (a) To encourage the sport of Rugby in the State of New South Wales and elsewhere at a grassroots level of Rugby.
- (b) To act as trustee and to perform and discharge the duties and functions incidental thereto where this is incidental or conducive to the attainment of the Objects and, more particularly, the Primary Object.
- (c) To do such other things as are incidental or conducive to the attainment of the Objects and, more particularly, the Primary Object.

### **3 Powers**

The Company has the legal capacity and powers of an individual and also has all the powers of a body corporate under the Corporations Act.

### **4 Application of income for Objects only**

#### **4.1 Application of income and property**

The income and the property of the Company, however derived:

- (a) must be applied solely towards the promotion of the Objects; and
- (b) may not be paid or transferred to the Members, in whole or in part, either directly or indirectly by way of dividend, bonus, benefit or otherwise.

#### **4.2 Payment in good faith**

Clause 4.1 does not prevent payment, directly or indirectly, in good faith to a Member:

- (a) of reasonable remuneration for services to the Company;
- (b) for goods supplied in the ordinary course of business;
- (c) of fair and reasonable interest on money borrowed from a Member at a rate not exceeding that fixed for the purposes of this clause 4.2(c) by the Company in a General Meeting;
- (d) of reasonable rent for premises let by a Member; or
- (e) in furtherance of the Objects.

### **5 Winding up**

#### **5.1 Guarantee by Members**

- (a) Each Member undertakes to contribute to the Company's property if the Company is wound up while they are a Member, or within 1 year after they cease to be a Member.
- (b) This contribution is for:
  - (i) payment of the Company's debts and liabilities contracted before they ceased to be a Member;
  - (ii) the costs of winding up; and
  - (iii) adjustment of the rights of the contributories among themselves.
- (c) The amount is not to exceed four dollars (\$4.00).

#### **5.2 Distribution of property on winding up**

- (a) If any property remains on the winding up or dissolution of the Company and after satisfaction of all its debts and liabilities, then, subject always to clause 4.1, that property may not be paid to or distributed among the Members but must be transferred to one or more funds or institutions:
  - (i) that have purposes similar to, or inclusive of, the Objects; and
  - (ii) are not-for-profit entities whose governing documents prohibit the distribution of its income and property among its members (if it has

members) to an extent at least as great as imposed on the Company under this Constitution.

- (b) The funds or institutions will be determined by the Members at or before the time of dissolution.

## **6 Membership**

### **6.1 Number of Members**

- (a) The minimum number of Members of the Company will be 3.
- (b) The Members at the date of the Special Resolution adopting this Constitution and any person the Directors admit to membership under clause 6.3 are the Members of the Company.

### **6.2 Categories of Membership**

A person shall not be admitted to membership of the Company except as a Member in one of the categories of membership described in clause 6.13, namely Honorary Life Member (as defined in clause 6.14), Rugby Life Member (as defined in clause 6.15), City Member, Country Member, Emeritus Member or Overseas Member.

### **6.3 Admission as a Member**

The Directors may admit any person as a Member if the person is eligible under clause 6.4 and makes an application in accordance with clause 6.5.

### **6.4 Membership criteria**

To be eligible to be a Member, a person must:

- (a) consent in writing to become a Member;
- (b) agree to be bound by this Constitution;
- (c) declare that he or she comprehends and supports the Objects and, more particularly, the Primary Object; and
- (d) declares that he or she maintains and will continue to maintain an active and supportive interest or involvement in the sport of Rugby during their membership of the Company.

### **6.5 Membership process**

- (a) The application for membership must be made:
  - (i) in writing, signed by the applicant;
  - (ii) in such form as the Directors may from time to time prescribe; and
  - (iii) accompanied by the membership fee, if any, determined by the Directors.
- (b) Each application for membership must be considered by the Directors within a reasonable time after the application is made.
- (c) When an applicant has been accepted or rejected for membership the Secretary must notify the applicant of the decision of the Directors within a reasonable period.

## **6.6 Directors' discretion to admit or refuse admission as a Member**

The Directors have the discretion to refuse any person's admission as a Member without giving any reason for that refusal.

## **6.7 Registration as Member**

If the Directors accept an application for membership, as soon as practicable, the Directors must cause the name of the person to be entered in the Register.

## **6.8 Membership rights and privileges**

- (a) The rights and privileges of each Member shall be personal to the Member and shall not be transferable by the Member's own act or by operation of law.
- (b) Subject to clause 6.12, only Honorary Life Members, Rugby Life Members, City Members, Country Members and Emeritus Members are eligible:
  - (i) to attend or vote at any meeting of the Company at which Members may attend and/or vote;
  - (ii) to propose or second another Member as a candidate for election to the Board;
  - (iii) to be nominated as a candidate for election to the Board; and
  - (iv) to vote on the election of the Board.
- (c) Subject to clause 6.12, Overseas Members are only eligible to attend at any meeting of the Company at which Members may attend.
- (d) A Member in any of the categories of membership referred to in paragraph (b) of this clause 6.8 who becomes a Member of the Company shall not be eligible:
  - (i) to exercise the rights referred to in sub-paragraphs (b)(i) and (b)(iv) until the Member has been a Member for a continuous period of not less than 1 year; or
  - (ii) to exercise the rights referred to in sub-paragraph (b)(ii) and (b)(iii) until the Member has been a Member for a continuous period of not less than 2 years.

## **6.9 Membership terms**

- (a) With the exception of Honorary Life Members and Rugby Life Members all other memberships of the Company will be renewable annually as from 1 July in each year. At the end of each 1-year period, each Member may renew their membership in accordance with the procedures prescribed by the Directors at the relevant time.
- (b) The Directors have the discretion to introduce multiple year memberships. If multiple year memberships are introduced the relevant membership will be renewable on the date of expiry of the membership. At the end of the period of membership the relevant Member may renew their membership in accordance with the procedures prescribed by the Directors at the relevant time.
- (c) Subject to Rule 6.11, only Honorary Life Members, Rugby Life Members, City Members, Country Members and Emeritus Members are eligible:
  - (i) to attend or vote at any meeting of the Company at which Members may attend and/or vote;



- (ii) to propose or second another Member as a candidate for election to the Board;
  - (iii) to be nominated as a candidate for election to the Board;
  - (iv) to vote on the election of the Board.
- (d) A Member in the classes of membership referred to in paragraph (c) of this Rule 6.8 who becomes a Member of the Company shall not be eligible:
  - (i) to exercise the rights referred to in sub-paragraphs (c)(i) and (c)(iv) until the Member has been a Member for a continuous period of not less than 1 year;
  - (ii) to exercise the rights referred to in sub-paragraphs (c)(ii) and (c)(iii) until the Member has been a Member for a continuous period of not less than 2 years.

#### **6.10 Membership fees**

The Members must pay such membership fees as prescribed from time to time by the Directors.

#### **6.11 Register**

- (a) The Company must establish and maintain a Register. The Register must be kept by the Secretary and must contain:
  - (i) for each current Member:
    - (A) name;
    - (B) address;
    - (C) any alternative address nominated by the Member for the service of notice; and
    - (D) date the Member was entered on to the Register.
  - (ii) for each person who stopped being a Member in the last 7 years:
    - (A) name;
    - (B) address;
    - (C) any alternative address nominated by the Member for the service of notices; and
    - (D) date the membership started and ended.
- (b) The Company must provide access to the Register in accordance with the Corporations Act.

#### **6.12 Non-Financial Members**

A Member shall be deemed to be a non-financial member:

- (a) If the Member's annual subscription or any part thereof remains unpaid at the expiration of 30 days from the due date for payment of the annual subscription; or
- (b) If any money (other than the annual subscription) owing by the Member to the Company remains unpaid at the expiration of 30 days from the date of service on the member of a notice from the Company requiring payment thereof.
- (c) And in either case the Member shall be deemed to remain non-financial until payment in full of the amount owing and for so long as that Member remains non-financial he/she shall be ineligible:

- (i) to attend or vote at any meeting of the Company at which only financial Members may attend or vote;
- (ii) to propose or second any person as a candidate for election as a Director;
- (iii) to be nominated as a candidate for election as a Director;
- (iv) to exercise any of the other rights and privileges of a Member of the Company.

#### **6.13 Eligibility for various categories of membership**

- (a) **Honorary Life Members** shall be those persons who at the date of the Special Resolution adopting this Constitution are recorded in the Register of Members of the Company as Honorary Life Members and those persons who are subsequently elected to Honorary Life Membership of the Company in accordance with this Constitution.
- (b) **Rugby Life Members** shall be those persons who at the date of the Special Resolution adopting this Constitution are recorded in the Register of Members of the Company as Rugby Life Members and those persons who are subsequently elected to Rugby Life Membership in accordance with this Constitution.
- (c) **City Members** shall be those persons who at the date of the Special Resolution adopting this Constitution are recorded in the Register of Members of the Company as City Members and persons who are subsequently elected to City Membership of the Company in accordance with this Constitution.
- (d) **Country Members** shall be those persons who at the date of the Special Resolution adopting this Constitution are recorded in the Register of Members of the Company as Country Members and those persons whose permanent place of residence is in Australia but is outside a radius of one hundred (100) kilometres from the Sydney General Post Office and who are subsequently elected to Country Membership in accordance with this Constitution.
- (e) **Emeritus Members** shall be those persons who at the date of the Special Resolution adopting this Constitution are recorded in the Register of Members of the Company as Emeritus Members and such other persons who:
  - (i) having attained the age of 60 years;
  - (ii) having been City Members or Country Members of the Company for at least 3 years;
  - (iii) having applied to the Board in writing to become Emeritus Members are admitted as Emeritus Members of the Company in accordance with this Constitution.
- (f) **Overseas Members** shall be those persons who at the date of the Special Resolution adopting this Constitution are recorded in the Register of Members of the Company as Overseas Members and those persons who reside outside Australia and who are subsequently elected as Overseas Members of the Company. Overseas Members shall pay such fee as is determined by the Directors from time to time. Overseas Members shall not be eligible to vote at any meeting of the Company.

#### **6.14 Honorary Life Members**

- (a) Any member who has rendered any exceptional or distinguished service to the Company may be elected as an Honorary Life Member of the Company at a

General Meeting of the Company provided that the Directors have first recommended such person for Honorary Life Membership of the Company to the Members and provided further that two thirds of those Members who being eligible to do so vote in favour of the election of that person as an Honorary Life Member.

- (b) An Honorary Life Member shall have the same privileges of membership as a City Member but shall not be liable for the payment of any annual subscription to the Company.
- (c) Any person who at the date of the Special Resolution adopting this Constitution is recorded in the Register of Members of the Company as an Honorary Life Member shall remain an Honorary Life Member for the purposes of this Constitution.

#### **6.15 Rugby Life Members**

- (a) Any person who has rendered any exceptional or distinguished service to Rugby may be elected by the Directors as a Rugby Life Member of the Company.
- (b) A Rugby Life Member shall have the same privileges of membership as a City Member but shall not be liable for the payment of any annual subscription to the Company.
- (c) Any person who at the date of the Special Resolution adopting this Constitution is recorded in the Register of Members of the Company as a Rugby Life Member shall remain a Rugby Life Member for the purposes of this Constitution.

#### **6.15. Patrons**

The Directors have the power to appoint any distinguished person or a person holding distinguished office to be a patron of the Company on such terms and conditions as the Directors may determine.

### **7 Ceasing to be a Member**

#### **7.1 Cessation of membership**

A Member ceases to be a Member on:

- (a) in the case of an individual, death or, in the case of a body corporate, its ceasing to exist;
- (b) resignation by written notice to the Company having immediate effect or with effect from a specified date occurring not more than 7 days after the service of the notice;
- (c) failing to pay any fee that may be prescribed by the Directors from time to time within 12 months after the fee was due and payable;
- (d) in the case of an individual, becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law related to mental health;
- (e) in the case of a body corporate, immediately before the Member becoming subject to an Insolvency Event;
- (f) in the case of an individual, becoming bankrupt or insolvent or making an arrangement or composition with creditors of a person's joint or separate estate generally;
- (g) the passing of a resolution by the Directors or by the Members in General Meeting in accordance with clause 7.2;

- (h) the expiry of the Member's term of membership, unless the Member had applied for and been readmitted as a Member for the following term as contemplated in clause 6.96.8.

## **7.2 Termination of membership**

- (a) Subject to this Constitution, the Directors may at any time terminate the membership of a Member if the Member:
  - (i) refuses or neglects to comply with this Constitution or any By-Laws made by the Directors;
  - (ii) engages in conduct which in the opinion of the Directors is unbecoming of the Member or prejudicial to the interests of the Company; or
  - (iii) fails to pay any debt due to the Company within a period of 3 months after the date for payment (such debt not including a fee referred to in clause 7.1(c)).
- (b) For a decision of the Directors or the Members in General Meeting under clause 7.2(a) to be effective, the general nature of the allegations made against the Member must be notified to the Member in writing and the Member must be given a reasonable opportunity to respond.
- (c) If a dispute arises regarding the termination of a Member's membership under this clause 7.2, the dispute resolution procedure contained in clause 25 must be followed and, for the purposes of clause 25.1, written notification under clause 7.2(b) will be the notice of the dispute (as defined in clause 25.1).

## **7.3 Limited liability**

The Members have no liability as Members except as set out in clause 5.1.

## **8 General Meetings**

### **8.1 Annual General Meetings**

Annual General Meetings of the Company are to be held in accordance with the Corporations Act.

### **8.2 Convening a General Meeting**

The Directors may convene and arrange to hold a General Meeting when they think fit and must do so if required to do so under the Corporations Act.

### **8.3 Notice of a General Meeting**

- (a) Notice of a General Meeting must be given in accordance with the Corporations Act and served in accordance with clause 31.
- (b) A Member is entitled to receive notice of and to attend all General Meetings and is entitled to speak at those meetings in accordance with such protocols as may be prescribed by the chairperson of the relevant meeting.

### **8.4 Calculation of period of notice**

In computing the period of notice under clause 8.3, both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

## **8.5 Cancellation or postponement of General Meeting**

- (a) Where a General Meeting is convened by the Directors they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them.
- (b) This clause 8.5 does not apply to a meeting convened in accordance with the Corporations Act by Members, by the Directors on the request of Members or to a meeting convened by a Court.

## **8.6 Notice of cancellation or postponement of a meeting**

Notice of cancellation, postponement or change of place of a General Meeting must state the reason for cancellation or postponement and be given:

- (a) to each Member individually; and
- (b) to each other person entitled to be given notice of a General Meeting under the Corporations Act.

## **8.7 Contents of notice of postponement of meeting**

A notice of postponement of a General Meeting must specify:

- (a) the postponed date and time for the holding of the meeting;
- (b) a place for the holding of the meeting which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

## **8.8 Number of clear days for postponement of meeting**

The number of clear days from the giving of a notice postponing the holding of a General Meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days' notice of the General Meeting required to be given under clause 8.3.

## **8.9 Business at postponed meeting**

The only business that may be transacted at a General Meeting the holding of which is postponed is the business specified in the original notice convening the meeting.

## **8.10 Non-receipt of notice**

The non-receipt of notice of a General Meeting or the convening, cancellation or postponement of a General Meeting by, or the accidental omission to give notice of a General Meeting or the convening, cancellation or postponement of a General Meeting to, a person entitled to receive notice does not invalidate any resolution passed at the General Meeting or at a postponed meeting or the convening, cancellation or postponement of a meeting.

# **9 Proceedings at General Meetings**

## **9.1 Number of a quorum**

15 Members present in person and eligible to vote constitute a quorum at a General Meeting.

## **9.2 Requirement for a quorum**

- (a) An item of business may not be transacted at a General Meeting unless a quorum is present when the meeting proceeds to consider it.
- (b) If a quorum is present at the time the first item of business is transacted, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the chairperson of the meeting (on the chairperson's own motion or at the request of a Member who is present) declares otherwise.

## **9.3 If quorum not present**

If within 15 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) if convened by a Director or at the request of Members, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

## **9.4 Adjourned meeting**

At a meeting adjourned under clause 9.3(b), five (5) Members present at the meeting are a quorum. If a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

## **9.5 Appointment and powers of chairperson of General Meeting**

If the Directors have elected one of their number as chairperson of their meetings under clause 20.1, that person is also entitled to preside as chairperson at a General Meeting.

## **9.6 Absence of chairperson at General Meeting**

If a General Meeting is held and:

- (a) a chairperson has not been elected by the Directors; or
- (b) the elected chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act

then the following persons may preside as chairperson of the meeting (in order of precedence):

- (c) the deputy chairperson if a Director has been so elected by the Directors under clause 20.1; or
- (d) a Director or Member elected by the Members present in person to preside as chairperson of the meeting.

## **9.7 Conduct of General Meetings**

- (a) The chairperson of a General Meeting:
  - (i) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
  - (ii) may require the adoption of any procedure which is, in the chairperson's opinion, necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the General Meeting; and

- (iii) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairperson considers it necessary or desirable for the proper conduct of the meeting.

- (b) A decision by the chairperson under this clause 9.7 is final.

#### **9.8 Adjournment of General Meeting**

- (a) The chairperson of a General Meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place, but:
  - (i) in exercising the discretion to do so, the chairperson may, but need not, seek the approval of the Members present; and
  - (ii) only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (b) Unless required by the chairperson, a vote may not be taken or demanded by the Members present in person in respect of any adjournment.

#### **9.9 Notice of adjourned meeting**

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for 1 month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

#### **9.10 Questions decided by majority**

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

#### **9.11 Equality of votes – no casting vote for chairperson**

If there is an equality of votes, either on a show of hands or on a poll, then the chairperson of the meeting is not entitled to a casting vote in addition to any votes to which the chairperson is entitled as a Member or Representative, and consequently the resolution fails.

#### **9.12 Voting on show of hands**

- (a) At any General Meeting a resolution put to the vote of the meeting must be decided on a show of hands (or, where the meeting is being conducted by technology, such other similar method as determined by the chairperson) unless a poll is properly demanded and the demand is not withdrawn.
- (b) A declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, is conclusive evidence of the fact.
- (c) Neither the chairperson nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

#### **9.13 Poll**

If a poll is demanded:

- (a) it must be taken in the manner and at the date and time directed by the chairperson and the result of the poll is the resolution of the meeting at which the poll was demanded;
- (b) on the election of a chairperson or on a question of adjournment, it must be taken immediately;
- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

#### **9.14 Votes of Members**

- (a) Every Member has one vote.
- (b) Subject to this Constitution:
  - (i) on a show of hands, each Member present in person (or in the event clause 9.18 takes effect, by proxy) has one vote; and
  - (ii) on a poll, each Member present in person (or in the event clause 9.18 takes effect, by proxy) has one vote.

#### **9.15 Validity of vote in certain circumstances**

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a person votes as a Representative, a vote cast by that person is valid even if, before the person votes:

- (a) the appointing Member is the subject of an Insolvency Event; or
- (b) the Member revokes the appointment or authority.

#### **9.16 Objection to voting qualification**

- (a) An objection to the right of a person to attend or vote at the meeting or adjourned meeting:
  - (i) may not be raised except at that meeting or adjourned meeting; and
  - (ii) must be referred to the chairperson of that meeting, whose decision is final.
- (b) A vote not disallowed under the objection is valid for all purposes.

**9.17** While the Company holds a club licence under the *Liquor Act 2007* a Member shall not be eligible to appoint a proxy to vote for that Member at any meeting.

**9.18** In the event that the Company ceases to hold a club licence under the *Liquor Act 2007* a Member who is entitled to attend and cast a vote at a meeting of the Company may appoint another Member of the Company (other than an Overseas Member) to be the appointing Member's proxy to attend and vote for that Member at the meeting.

**9.19** Subject to clause 9.17 the appointment of a proxy and the conduct of voting by proxy shall be in accordance with the Corporations Act.



## **10 Directors**

### **10.1 Number of Directors**

- (a) The business and affairs of the Company and the custody and control of its funds shall be managed by a Board of 9 Directors who shall be elected in accordance with these Rules.
- (b) The Directors holding office at the date of the Special Resolution adopting this Constitution shall hold office until the first Annual General Meeting after that date but subject to this Constitution are eligible for re-election.
- (c) The Directors may make By-Laws pursuant to clause 15 for the purpose of providing for the orderly and efficient conduct and administration of the election of the Directors including the appointment of a Returning Officer, the calling of nominations, the preparation of ballot papers and the conduct and counting of the ballot.

### **10.2 Directors elected at General Meeting**

The Company, at an Annual General Meeting at which:

- (a) a Director retires or otherwise vacates office; or
- (b) a Director vacancy exists by operation of clause 10.10 or otherwise,

may fill the vacated office by electing an individual to that office in accordance with this Constitution.

### **10.3 Qualification of Directors**

- (a) To be eligible for the office of Director but subject to clause 10.4 and clause 10.6 a person must:
  - (i) be a financial Member (other than an Overseas member) at the date of appointment or election as a Director;
  - (ii) remain a Member (other than an Overseas member) while holding office as a Director; and
  - (iii) consent in writing to act as a Director.
- (b) In the event that it is required under a law, regulation or guideline applicable to the Company, the Company must ensure that a majority of the Directors are persons who have the requisite level or degree of responsibility to the general public.

### **10.4 “Rugby Qualified” Directors**

Provided a sufficient number of “Rugby Qualified” candidates are nominated for election to the Board when Board elections are held then subject to this Constitution there shall be at least 5 “Rugby Qualified” Directors holding office as Directors at all material times.

### **10.5 Limitation on representatives of the Same Rugby Body:**

- (a) No more than 2 of the Rugby Qualified Directors shall be a current Office Bearer of:
  - (i) the New South Wales Rugby Union;
  - (ii) any of the Affiliated Bodies;

- (iii) Rugby Australia; or
- (iv) any body affiliated with Rugby Australia (**Rugby Australia Affiliate**)

(which bodies are herein collectively referred to as 'the Same Rugby Body').

- (b) If more than 2 persons who are current Office Bearers of the Same Rugby Body are nominated for election to the Board then provided there will otherwise be a sufficient number of 'Rugby Qualified' Directors elected to the Board so as to satisfy clause 10.4 the procedure referred to in sub-clause (c) will be undertaken prior to any ballot for the election of the Board or prior to a declaration as to the elected Directors being made.
- (c) The persons referred to in sub-clause (b) will be entered in a separate ballot in respect of which the Members present in person at the relevant Annual General Meeting will vote for one only of such persons so as to determine which of those persons will be eligible to be elected to the Board whether or not a ballot for the election of the Board is then required.
- (d) Sub-clauses (a), (b) and (c) will apply even if it means that less than the number of Directors who are to be elected at the relevant Annual General Meeting are elected at that meeting.

#### **10.6 Election of Directors**

- (a) Each candidate for election as a Director shall be nominated in writing not less than 14 clear days prior to the Annual General Meeting of the Company.
- (b) Subject to clause 6.8(d) each candidate for election as a Director must be a financial Member of the Company from any category of membership referred to in clause 6.13 except Overseas Members.
- (c) Subject to clause 6.8(d) each candidate for election as a Director shall be proposed by one and seconded by another financial Member from any category of membership referred to in clause 6.13 except Overseas Members.
- (d) The nomination form must contain the signed consent of the nominee who has been nominated for election as a Director.
- (e) Nominations will close at 5.00pm on the day which is 14 clear days prior to the Annual General Meeting.
- (f) If no nominations for election as Directors are received by the close of nominations:
  - (i) nominations cannot be submitted from the floor of the Annual General Meeting; and
  - (ii) the Directors holding office at the commencement of the Annual General Meeting shall continue to act as Directors until the next Annual General Meeting subject to this Constitution.
- (g) The Secretary shall cause the name of each candidate who is nominated for election as a Director to be exhibited on the webpage of the Company within 24 hours after nominations close and such name shall remain so exhibited until the conclusion of the Annual General Meeting at which the candidate is seeking election. The notice which exhibits the names of the candidates must also designate which of those candidates is "Rugby Qualified" for the purposes of clause 10.4 of this Constitution.

- (h) If the number of candidates who have been nominated for election as Directors is less than the number of Directors who are to be elected at the Annual General Meeting each nominated candidate shall be declared duly elected by the chairperson of the Annual General Meeting and the remaining vacancies can be filled in accordance with clause 10.7.
- (i) If the number of candidates who are nominated for election as Directors is more than the number of Directors who are to be elected at the Annual General Meeting a ballot for the election of those Directors shall be conducted at the Annual General Meeting in accordance with by-laws made pursuant to clause 15 which must not be inconsistent with this Constitution.
- (j) Notwithstanding any by-laws referred to in paragraph (i) of this clause 10.6 in the event that in the ballot for the election of Directors there is an equality of votes between two or more candidates the successful candidates will be determined by the chairperson of the Annual General Meeting drawing lots.
- (k) Notwithstanding any by-laws referred to in paragraph (i) of this clause 10.6 all ballots for the election of Directors shall be determined on the "first past the post" system.

#### **10.7 Vacancy on Board arising at Annual General Meeting**

- (a) If, at an Annual General Meeting, an insufficient number of Directors are elected so as to create an ongoing Board of 9 Directors, no nomination can be submitted from the floor of the meeting and, in order to fill any resulting vacancy on the Board, the Directors may at any time prior to the next Annual General Meeting of the Company appoint a Member of the Company to fill the vacancy.
- (b) Any Member of the Company who is appointed as a Director pursuant to clause 10.7 (a) must be qualified in accordance with this Constitution.
- (c) If any vacancy referred to in this clause 10.7 means that there will be less than 5 "Rugby Qualified" Directors, then it shall not be necessary for the Member who is appointed as a Director pursuant to clause 10.7 (a) to be "Rugby Qualified".
- (d) Any former Director of the Company shall not be eligible to be appointed as a Director pursuant to clause 10.7 (a) until a period of 3 years has expired since that person last held office as a Director.

#### **10.8 Terms of office and retirement of Directors**

- (a) The 9 Directors declared elected pursuant to clause 10.6 at the first Annual General Meeting held after the date of the Special Resolution adopting this Constitution shall be divided into 3 groups.
- (b) The groups referred to in sub-clause (a):
  - (i) shall be determined by agreement among the Directors and in the absence of agreement, shall be determined by drawing lots, and
  - (ii) shall be as nearly as practicable equal in number, and
  - (iii) shall be designated as group 1, group 2 and group 3.
- (c) Unless otherwise disqualified, the Directors:
  - (i) in group 1 shall hold office for 1 year, and
  - (ii) in group 2 shall hold office for 2 years, and

- (iii) in group 3 shall hold office for 3 years.
- (d) If less than 9 Directors are declared elected pursuant to clause 10.6 any person who is subsequently appointed pursuant to clause 10.7 shall automatically be included in the group with the least number of directors after lots have been drawn in accordance with paragraph (b) of this clause 10.8.
- (e)
  - (i) At each Annual General Meeting held while this clause 10.8 is in force (other than the first such Annual General Meeting) the number of Directors required to fill vacancies on the Board shall be elected and shall, unless otherwise disqualified, hold office for 3 years.
  - (ii) The reference to a 3-year term of office in sub-clause (e) (i) means the period commencing on the date of the Annual General Meeting at which the Director is elected and expiring at the conclusion of the third Annual General Meeting held thereafter.
- (f)
  - (i) A person who fills a casual vacancy in the office of Director elected in accordance with clause 10.7 shall, unless otherwise disqualified, hold office until the expiration of the term of office which would have been served by the Director who has ceased to hold office.
  - (ii) The vacancy caused at an Annual General Meeting by a person ceasing to hold office as a Director under paragraph (e) (i) shall be filled by election at the Annual General Meeting and the person elected shall, unless otherwise disqualified, hold office for the residue of the term of office of the person who caused the casual vacancy initially filled by the person who ceased to hold office at the Annual General Meeting.
- (g) Unless ineligible for re-election pursuant to clause 10.9 a person whose term of office as a Director under this clause 10.8 expires is not for that reason ineligible for election for a further term.
- (h) The members may in accordance with Section 203D of the Corporations Act remove from office any Director before the expiration of that Director's term of office, and may by ordinary resolution appoint another eligible person in the place of that Director.

#### **10.9 Reappointment of Directors**

- (a) Directors are entitled to seek reappointment or re-election as Directors on 2 occasions provided that a Director's period of continuous service to the Company does not exceed a period of 9 years.
- (b) Clause 10.9 (a) shall not apply to time served as a Director prior to the first Annual General Meeting held after the date of the Special Resolution adopting this Constitution.
- (c) A person who has served as a Director for a continuous period of 9 years pursuant to clause 10.9 (a) shall be entitled to seek to be elected as a Director following the expiration of 3 years.

#### **10.10 Casual vacancy or additional Director**

- (a) The Directors may at any time appoint any person meeting the requirements of clause 10.3 to be a Director, to fill a casual vacancy but subject to the composition of the Board complying with clause 10.4.

- (b) A Director appointed under clause 10.10 (a) holds office until the conclusion of the next Annual General Meeting of the Company but as provided in Rule 10.8(f) is eligible for election at that meeting.
- (c) Any former Director of the Company shall not be eligible to be appointed to fill a casual vacancy pursuant to clause 10.10 (a) until a period of 3 years has expired since that person last held office as a Director.

## **11 Remuneration of Directors**

The Directors may, with the prior approval of the Members, be paid reasonable remuneration for their services as Directors.

## **12 Expenses of Directors**

- (a) A Director is entitled to be reimbursed out of the funds of the Company for such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a committee of Directors or when otherwise engaged on the business of the Company.
- (b) Any payment to a Director must be approved by the Directors.

## **13 Vacation of office of Director**

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) ceases to be eligible under clause 10.3;
- (b) resigns from the office by notice in writing to the Company;
- (c) is not present at 3 successive meetings of the Directors without leave of absence from the Directors;
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (e) becomes insolvent or bankrupt, compounds with their creditors, or assigns their estate for the benefit of their creditors;
- (f) becomes prohibited, disqualified or removed from being a Director by reason of any order of any court of competent jurisdiction or regulator; or
- (g) dies.

## **14 Powers and duties of Directors**

### **14.1 Directors to manage the Company**

The Directors are to manage the business of the Company and may exercise all the powers of the Company that are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in General Meeting.

### **14.2 Specific powers of Directors**

- (a) Without limiting the generality of clause 14.1, and subject to any trusts relating to the assets of the Company, the Directors may exercise all the powers of the Company to:
  - (i) borrow or raise money;

- (ii) charge any property or business of the Company; and
  - (iii) give any security for a debt, liability or obligation of the Company or of any other person.
- (b) To sell, exchange or otherwise dispose of any furniture, fittings, equipment, plant or other goods or chattels and any land or buildings belonging to the Company and to lease any property of the Company and to exchange or sell all or any of the lands and buildings or other property or rights to which the Company may be entitled from time to time but subject to clause 14.2 (c).
- (c) The power to sell, exchange or otherwise dispose of any lands or buildings belonging to the Company or all or any of the lands and buildings to which the Company may be entitled from time to time shall not be exercised without the consent by Special Resolution of the Members of the Company in General Meeting first being obtained.

### **14.3 Delegation**

- (a) The Directors may resolve to delegate any of their powers to:
  - (i) a committee in accordance with clause 22;
  - (ii) a Director;
  - (iii) an employee of the Company; or
  - (iv) any other person.
- (b) The power may be delegated for such time as determined by the Directors and the Directors may at any time revoke or vary the delegation.
- (c) The delegate must exercise the powers delegated in accordance with any directions of the Directors, and the exercise of the power by the delegate is as effective as if the Directors had exercised it.
- (d) The Directors may continue to exercise any power they have delegated.

## **15 By-Laws**

Subject to this Constitution, the Directors may from time to time by resolution make and rescind or alter By-Laws which are binding on Members for the management and conduct of the business of the Company including the conduct of the ballots for the election of Directors.

## **16 Chief Executive Officer, Secretary and Public Officer**

### **16.1 Chief Executive Officer**

- (a) The Directors may appoint a Chief Executive Officer (or otherwise titled officer) (**Chief Executive Officer**) on such terms and conditions (including as to remuneration) as they think fit.
- (b) The Directors may delegate any of their powers to the Chief Executive Officer:
  - (i) on the terms and subject to any restrictions they decide; and
  - (ii) so as to be concurrent with, or to the exclusion of, the powers of the Board,

and may revoke the delegation at any time.

- (c) The Chief Executive Officer may be invited to attend all meetings of the Directors, but may not hold the office of a Director and is not entitled to vote.

## **16.2 Secretary**

- (a) There must be at least one Secretary who is to be appointed by the Directors.
- (b) A Director may be appointed as the Secretary.
- (c) The Directors may suspend or remove a Secretary from that office.
- (d) A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors. The exercise of those powers and authorities and the performance of those duties by a Secretary are subject at all times to the control of the Directors.

## **16.3 Public officer**

The Directors must appoint a person as Public Officer of the Company in accordance with the *Income Tax Act Assessment Act 1936* (Cth).

## **17 Appointment of attorney**

By power of attorney, the Directors may appoint any person to be an attorney of the Company, which such powers, authorities and discretions of the Directors as the Directors think fit and for such purposes, period and conditions as determined by the Directors.

## **18 Conflicts of interest**

### **18.1 Disclosure of conflict of interest**

A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):

- (a) to the Directors; or
- (b) if all of the Directors have the same conflict of interest, to the Members at the next General Meeting, or at an earlier time if reasonable to do so.

### **18.2 Disclosure recorded in minutes**

The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting at which the disclosure is made.

### **18.3 Material personal interest**

Each Director who has a material personal interest in a matter that is being considered at a meeting of the Directors (or that is proposed in a circular resolution) must not, except as provided under clause 18.4:

- (a) be present at the meeting while the matter is being discussed; or
- (b) vote on the matter.

### **18.4 Present and voting**

A Director with a material personal interest in a matter may still be present and vote if:

- (a) their interest arises because they are a Member of the Company and the other Members have the same interest;

- (b) their interest arises in relation to remuneration as a Director of the Company;
- (c) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company (see clause 32.2);
- (d) their interest relates to a payment by the Company under clause 32.1, or any contract relating to an indemnity that is allowed under the Corporations Act;
- (e) ASIC makes an order allowing the Director to vote on the matter; or
- (f) the Directors who do not have material personal interest in the matter pass a resolution that:
  - (i) identifies the Director, the nature and extent of the Director's interest in the matter and how it related to the affairs of the Company; and
  - (ii) states that those Directors are satisfied that the interest should not stop the Director from voting or being present.

## **19 Proceedings of Directors**

### **19.1 Directors' meetings**

- (a) The Directors shall meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit provided that such meetings shall occur on not less than 4 occasions during each Financial Year.
- (b) A Director may at any time, and the Secretary must, on the written request of a Director, convene a meeting of the Directors.

### **19.2 Questions decided by majority**

A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote, and that decision is for all purposes a decision of the Directors.

## **20 Chairperson and Deputy Chairperson of Directors and Treasurer**

### **20.1 Election of chairperson and deputy chairperson**

The Directors shall elect from their number a chairperson and a deputy chairperson of the Board and shall also determine the period for which the persons elected as chairperson and deputy chairperson respectively are to hold office.

### **20.2 Absence of chairperson at Directors' meeting**

If a Directors' meeting is held and:

- (a) a chairperson has not been elected under clause 20.1; or
- (b) the chairperson who has been elected under clause 20.1 is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act;

then the deputy chairperson, if elected under clause 20.1, must be the chairperson of the meeting or, if the deputy chairperson is not present, the Directors present must elect one of their number to be a chairperson of the meeting.



### **20.3 No casting vote for chairperson at Directors' meetings**

In the event of an equality of votes cast for and against a resolution, the chairperson of the Directors' meeting does not have a second or casting vote, and consequently the resolution will not be passed.

### **20.4 Treasurer**

The Directors shall elect from their number a treasurer and shall also determine the period for which the person elected as treasurer is to hold office.

### **20.5 Notice**

A Director is entitled to notice of all meetings of Directors.

## **21 Quorum for Directors' meeting**

- (a) At a meeting of Directors, the number of Directors whose presence in person or by telephonic or electronic means is necessary to constitute a quorum is as determined by the Directors, and, unless so determined, is a majority of Directors holding office or 5, whichever is the greater.
- (b) The Directors may act despite a vacancy in their number. If their number is reduced below the minimum fixed by clause 10.1, the Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or to convene a General Meeting.

## **22 Committees**

### **22.1 Delegation to committees**

- (a) The Directors may delegate any of their powers, to one or more committees consisting of such one or more of their number as they think fit.
- (b) A committee to which any powers have been delegated under clause 22.1(a) must exercise those powers in accordance with any directions of the Directors. A power so exercised is taken to have been exercised by the Directors.

### **22.2 Committee charter**

- (a) A committee shall formulate a charter for the purpose of regulating the objectives, conduct and administration of the committee and such charter shall be approved by the Board.
- (b) Any committee charter shall be reviewed annually following each Annual General Meeting.

### **22.3 Meetings of committees**

A committee may meet and adjourn its meetings in accordance with the charter of that committee.

### **22.4 Chairperson of a committee**

The members of a committee may elect one of their number as chairperson of their committee and such person shall act as chairperson of their committee meetings. If a meeting of a committee is held and:

- (a) a chairperson has not been elected; or

- (b) the chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act;

then the committee members involved may elect one of their number to be chairperson of the meeting.

## **22.5 Determination of questions**

- (a) Questions arising at a meeting of a committee are to be determined by a majority of votes of the committee members present and voting.
- (b) In the event of an equality of votes, the chairperson of the meeting does not have a casting vote.

## **23 Circular 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 (which can be in either hard copy or electronic form) 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.

## **24 Validity of acts of Directors**

All acts done at a meeting of the Directors or of a committee of Directors, or by a person acting as a Director, are taken as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote.

## **25 Dispute resolution**

### **25.1 Handling a dispute**

Where there is a dispute, grievance or other disagreement between a Member and the Company, whether arising out of the application of these rules or otherwise (**Dispute**), then either party must, prior to the commencement of any proceedings in a Court or Tribunal or before any authority or board, notify the other in writing of the nature of the Dispute, and the following must occur:

- (a) the Member and the Company must within the period of 14 days from the service of the notice of the Dispute (**Initial Period**) use their best endeavours to resolve the Dispute;
- (b) if the Company and the Member are unable to resolve the Dispute within the Initial Period, then the Dispute must be referred for mediation to a mediator agreed upon by the Member and the Company;

- (c) if the disputants are unable to agree on a mediator within 7 days of the expiration of the Initial Period, the Member or the Company may request the chairperson of Resolution Institute<sup>2</sup> to nominate a mediator to whom the Dispute will be referred;
- (d) the costs of the mediation must be shared equally between the Member and the Company; and
- (e) where:
  - (i) the party receiving the notice of the Dispute fails to attend the mediation required by clause 25.1(b);
  - (ii) the mediation has not occurred within 6 weeks of the date of the notice of the Dispute; or
  - (iii) the mediation fails to resolve the Dispute;
 then the party serving the notice of Dispute will be entitled to commence any proceedings in a Court or Tribunal or before any authority or board in respect of the Dispute.

## **25.2 Urgent interlocutory relief**

The procedure in clause 25.1 will not apply in respect of proceedings for urgent or interlocutory relief.

## **26 Execution of documents**

Documents executed for and on behalf of the Company must be executed by:

- (a) 2 Directors;
- (b) a Director and the Secretary; or
- (c) such other persons as the Directors by resolution appoint from time to time.

## **27 Accounts**

- (a) The Directors shall cause proper accounts and records to be kept with respect to the financial affairs of the Company in accordance with the Corporations Act.
- (b) The books of account shall be kept at the Office or at such other place as the Directors think fit.
- (c) The Financial Year of the Company shall be the period commencing on 1 July in each year and ending on 30 June in the following year or such other period as, having regard to the Corporations Act, the Directors may determine.
- (d) The Company shall at all reasonable times make its accounting records available in writing for inspection by a Director and any other person authorised or permitted by or under the Corporations Act to inspect such records.
- (e) The Directors shall not less than 21 days before each Annual General Meeting inform each Member that he or she may elect to receive a hard copy or an electronic copy of the following reports:
  - (i) the Financial Reports;

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<sup>2</sup> Resolution Institute is a not-for-profit organisation facilitating dispute resolution – further information can be found at [www.resolution.institute](http://www.resolution.institute).

- (ii) the Directors' Report; and
  - (iii) the Auditor's Report.
- (f) If a Member makes an election in a Financial Year, the election:
  - (i) is made by that Member for that Financial Year; and
  - (ii) is a standing election by the Member for each later Financial Year until the Member changes the election.
- (g) The Company must send a copy of the Auditor's Report, Directors' Report and Financial Report to each Member who has made an election to that Member:
  - (i) 21 days before the next Annual General Meeting after the end of the Financial Year; and
  - (ii) after the end of the Financial Year.
- (h) must lay before the Annual General Meeting:
  - (i) the Financial Report;
  - (ii) the Directors' Report; and
  - (iii) the Auditor's Report.

## **28 Seals**

### **28.1 Safe custody of common seals**

The Directors must provide for the safe custody of any seal of the Company.

### **28.2 Use of common seal**

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a committee authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

## **29 Auditor**

Auditors shall be appointed, and their duties regulated in accordance with the Corporations Act and their remuneration shall be fixed by the Directors.

## **30 Inspection of records**

### **30.1 Inspection by Members**

Subject to the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to inspection by the Members (other than Directors).

## **30.2 Right of a Member to inspect**

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors.

## **31 Service of documents**

### **31.1 Document includes notice**

In this clause 31, a reference to a document includes a notice.

### **31.2 Methods of service**

- (a) The Company may give a document to a Member:
  - (i) personally;
  - (ii) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member; or
  - (iii) by sending it to an electronic address nominated by the Member.
- (b) A document sent by post:
  - (i) if sent to an address in Australia, may be sent by ordinary post and is taken to have been received 2 business days after the date of its posting; and
  - (ii) if sent to an address outside Australia, must be sent by airmail and is taken to have been received on the 7th business day after the date of its posting.
- (c) If a document is sent by electronic transmission, delivery of the document is taken:
  - (i) to be effected by properly addressing and transmitting the electronic transmission; and
  - (ii) to have been delivered on the day following its transmission.

### **31.3 Evidence of service**

A certificate in writing signed by a Director or a Secretary stating that a document was sent to a Member by post or electronic transmission on a particular date is prima facie evidence that the document was so sent on that date.

## **32 Indemnity and insurance**

### **32.1 Indemnity**

- (a) The Company must indemnify any current or former Director, Secretary or Chief Executive Officer of the Company or of a Related Body Corporate of the Company out of the property of the Company against:
  - (i) every liability incurred by the person in that capacity; and
  - (ii) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity;

except to the extent that:

- (iii) the Company is forbidden by law (including the Corporations Act) to indemnify the person against the liability or legal costs;
  - (iv) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by any law; or
  - (v) the person is entitled to be, and is actually, indemnified by another person (including an insurer under any insurance policy).
- (b) The indemnity is a continuing obligation and is enforceable by a person even though they are no longer a Director, Secretary or Chief Executive Officer of the Company, or of a Related Body Corporate of the Company.

### **32.2 Insurance**

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director or Secretary or Chief Executive Officer of the Company or of a Related Body Corporate of the Company against liability arising out of conduct by the person in that capacity (**Relevant Conduct**), including a liability for legal costs, unless:

- (a) the Company is forbidden by law to pay or agree to pay the premium in respect of the Relevant Conduct (whether or not the law applies in the particular case); or
- (b) the contract would, if the Company paid the premium, be made void by any law (including the Corporations Act).

### **32.3 Contract**

The Company may enter into an agreement with a person referred to in clauses 32.1 and 32.2 with respect to the matters covered by these clauses. An agreement entered into in accordance with this clause 32 may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

## **33 Amendment to Constitution**

- (a) Subject to clause 33(b), this Constitution may only be amended by Special Resolution of the Members of the Company.
- (b) Any modification of this Constitution takes effect on the date the Special Resolution is passed, or any later date specified, or provided for, in the resolution.