

DRAFT 6 June 2019

Hills Basketball Association Ltd

CONSTITUTION

ACN

ABN 36 875 858 614

Public company limited by guarantee

First incorporated on 19/12/1989 as an incorporated association in NSW (Incorporation Number Y0929604)

Transferred to a company limited by guarantee on (insert date when known)

Adopted this constitution on (insert date when known) to apply from (insert date when known)

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I. GENERAL

1. Name of the Company

1.1 The name of the company is Hills Basketball Association Ltd.

2. Type of company

2.1 The Company is a not-for-profit public company limited by guarantee.

2.2 Subject to this Constitution, each Member and each person who was a Member within 1 year of them ceasing to be a Member undertakes to contribute on the winding up of the Company to the property of the Company for:

- a) payment of debts and liabilities of the Company provided that for each person who was a Member the debts and liabilities were contracted before they ceased to be a Member;
- b) payment of the costs, charges and expenses of winding up; and
- c) any adjustment of the rights of the contributors among themselves.

2.3 The amount to be contributed under rule 2.2 is such amount as may be required up to the amount owed, if any, by the Member or the person for any charges or fees related to membership up to a limit of \$1.00.

3. Replaceable rules and application of the Act

3.1 This Constitution is to be interpreted subject to the Act, however, the rules that apply as replaceable rules to companies under the Act are displaced by this Constitution and do not apply to the Company except to the extent they may be repeated in this Constitution.

4. Definitions and interpretation

4.1 In this Constitution unless it is inconsistent with the subject or context in which it is used:

AGM means an annual general meeting of the Company.

ASIC means the *Australian Securities & Investments Commission*.

Board means some or all of the Directors acting as the board of directors of the Company.

Business Day means a day not being Saturday, Sunday or a public holiday in New South Wales.

Company means Hills Basketball Association Ltd

Constitution means this constitution as amended or supplemented from time to time.

Act means the *Corporations Act 2001(Cth)*

Director means an individual elected or appointed from time to time to the office of director of the Company in accordance with this Constitution.

Electronic Contact Address means an electronic destination such as an email address to which notices and other material from the Company can be transmitted or made available with reasonable certainty that they will be delivered to or will be accessible by the intended recipient.

Member means a member of the Company in accordance with part II of this Constitution.

Objects means the purposes of the Company in rule 6

Officer has the same meaning as in the Act.

President means a Director elected or appointed from time to time to the office of President in accordance with rule 40.1 of this Constitution.

Register means the register of Members pursuant to the Act.

Secretary means any individual appointed by the Board in accordance with rule 45 to perform the duties of company secretary of the Company.

4.2A Member is taken to be present at a general meeting if the Member is present in person or by attorney or by proxy or, when applicable, by direct vote.

4.3A reference in a rule in general terms to a person holding or occupying a particular position or office includes a reference to any person who occupies or performs the duties of that position or office for the time being.

4.4 In this Constitution, the following rules of interpretation apply unless the context requires otherwise:

- a) a gender includes all genders;
- b) singular includes plural and vice versa;
- c) where a word or phrase is defined, its other grammatical forms or parts of speech have corresponding meaning;
- d) a reference to a rule or sub-rule is to a rule or sub-rule of this Constitution and includes any further embedded content;
- e) a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislation substituted for it and any regulations and statutory instruments issued under it; and
- f) the words 'writing' and 'written' include any mode of representing or reproducing words, figures, drawings or symbols in a visible or communicable form.

4.5 Cross references are for convenience only. A cross reference in a particular rule identifies another rule that impinges on the interpretation of the particular rule in a key way. Not all rules that may affect the interpretation of the particular rule are cross referenced.

4.6 Headings, bold type and italics are for convenience only and do not affect the interpretation of this Constitution.

5. Actions authorised under law

5.1 Where the Act authorises a company to do any matter or thing if so authorised by its constitution, the Company is taken by this rule to be so authorised or permitted to do that matter or thing.

6. Objects

6.1 The Objects for which the Company are established are to:

- a) conduct, encourage, promote, advance and administer basketball or associated activities throughout the local area;
- b) act at all times on behalf of and in the interests of the Members and basketball in the local area;
- c) affiliate and otherwise liaise with Basketball NSW and Basketball Australia to further these objects;
- d) liaise with other basketball and sporting groups to further these objects; and
- e) advance the operations and activities of the Company throughout the local area.

7. Powers

7.1 The Company has the legal capacity and powers of a company limited by guarantee set out under section 124(1) of the Act and may only exercise such powers to:

- a) pursue its Objects; and
- b) do all things incidental or convenient in relation to the exercise of power under sub-clause (a).

8. Income and property

8.1 The income and property of the Company must be applied only towards promoting the Objects.

8.2 Subject to rule 8.3, no income or property of the Company shall be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or other profit distribution, to any Member of the Company, any former Member of the Company, any Director or any former Director.

8.3 Rule 8.2 does not prohibit payment in good faith of:

- a) reasonable and proper remuneration to any employee of the Company;
- b) reasonable and proper amounts to any Member in return for any services they render to the Company;
- c) interest at a rate not exceeding interest at the rate for the time being payable to the Company's bankers for money lent or that would be lent to the Company;
- d) reasonable and proper rent for premises leased by any Member to the Company;

- e) reimbursement in good faith of out-of-pocket expenses incurred on behalf of the Company where such expenses have been appropriately authorised in accordance with processes as determined by the Board from time to time; and
- f) any other sums payable under this Constitution.

II. MEMBERSHIP

9. Members

9.1 The Members of the Company are:

- a) the individuals who were listed as Members on the application for registration of the Company and who were members of Hills District Basketball Association Inc incorporation number Y0929604, subject to rule 13; and
- b) individuals who support the Objects of the Company that agree to become Members and that the Board in its absolute discretion admits to membership in accordance with this Constitution.

9.2 There are 3 classes of membership – Full Members, Life Members and Social Members.

- a) Full Members open to individuals who are at least 18 years old and who in the opinion of the Board:
 - i) support the Objects; and
 - ii) satisfy any further criteria as prescribed in the by-laws.
- b) Social Members open to individuals participating in activities organised by the Company and who satisfy any further criteria as prescribed in the by-laws.
- c) Life Members are individuals who have:
 - i) rendered distinguished service to the Company and satisfy any further criteria as prescribed in the by-laws;
 - ii) been nominated by the Board for Life Membership;
 - iii) been approved for Life Membership by resolution at an annual general meeting of the Company; and
 - iv) accepted Life Membership and agreed to any terms and conditions of membership.

9.3 Subject to 9.2c)i) to 9.2c)iv), an individual becomes a Life Member and is entitled to exercise the rights and privileges of that membership when their name is entered in the Register.

9.4 The Board may provide for additional categories of membership within each class on such conditions as the Board determines provided that the rights of Members shall be in accordance with rule 10.

9.5 The number of Members is unlimited.

10. Rights of Members

- 10.1 Full Members and Life Members have a right:
- a) to receive notices of and to attend and to speak at general meetings;
 - b) to nominate or to be nominated and to be appointed a Director subject to rule 28; and
 - c) to vote at general meetings and on resolutions put to the membership and on the election of Elected Directors provided that the Member is financial (see rule 13.1h).
- 10.2 Social Members:
- a) are entitled to receive notices of and to attend general meetings but are not entitled to speak unless at the invitation of the chair of the meeting;
 - b) are not entitled to nominate or to be nominated as an Elected Director;
 - c) are not entitled to vote at a general meeting or on the election of Elected Directors.
- 10.3 For the purposes of clarity, the Board may extend privileges of membership, including privileges related to access to services provided, that may differ between classes and categories of membership and within classes and categories of membership but no such privilege shall affect the rights of Members in rule 10.
- 10.4 Unless otherwise provided by the terms of membership of a class of Members the processes for changing rights of a class of Members are as specified in the Act.
- 10.5 The rights of Members of a particular class are not to be taken as being varied by the admission of further Members to that class or the addition of further classes of membership or categories of membership within a class.

11. Application for membership

- 11.1 Any eligible individual may apply to become a Full Member or Social Member.
- 11.2 The application for membership must be submitted in writing in the form the Board prescribes from time to time.
- 11.3 Applications for Full Membership must be proposed by 1 Full Member and seconded by another Full Member.
- 11.4 The Board may delegate the consideration and determination of any membership application.
- 11.5 In no case shall the Directors be required to give a reason for the rejection of any application for membership.
- 11.6 Subject to rule 11.5, when a decision regarding an applicant for membership has been made written notice of that decision shall be sent to the applicant.

- 11.7 The acceptance of an applicant to be a Member is subject to payment of any fees in accordance with rule 15 and if such payment is not made then the Board may, in its discretion, cancel its acceptance of the applicant for membership of the Company.
- 11.8 If the applicant has not previously been a Member and is not admitted to membership in due course then any moneys paid by them for membership must be returned to them in full.
- 11.9 Subject to rule 11.7, an accepted applicant becomes a Member and is entitled to exercise the rights and privileges of that membership when their name is entered in the Register.

12. Membership not transferable

- 12.1 A right, privilege or obligation that an individual has by reason of being a Member of the Company:
- a) is personal to the Member and not capable of being transferred to another person by a Member's own act or by operation of law; and
 - b) terminates upon the cessation of membership whether by death, resignation or otherwise, subject to rule 2.2 & 2.3.

13. Ceasing to be a Member

- 13.1 A Member shall cease to be a Member:
- a) if the Member resigns by notice in writing;
 - b) if the Member ceases to be eligible for membership in accordance with rule 9.2 unless the Board resolves otherwise;
 - c) if the Member dies;
 - d) if the Member becomes an individual who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health that the Board considers to be prejudicial to the interests of the Company, on the date the Board resolves to cease the membership, unless the Board resolves otherwise;
 - e) if the Member is expelled under rule 14;
 - f) in any other circumstances prescribed in the terms of membership applicable to the Member or in the failure to satisfy any undertaking given by the Member upon them being admitted as a Member on the date that the Board resolves to cease the membership unless the Board resolves otherwise;
 - g) if the Member is convicted of an indictable offence, on the date that the Board resolves to cease the membership unless the Board resolves otherwise; or
 - h) if the Member has not paid moneys (including fees applicable under rule 15) due and payable to the Company within 3 months of a final request for payment of those moneys being sent to the Member and during that 3 months' period the Member is deemed to be not financial until the moneys are paid.

- 13.2 Any Member ceasing to be a Member:
- a) shall not be entitled to any refund, in full or part, of any fee paid in accordance with rule 15; and
 - b) shall not be readmitted as a Member until any unpaid moneys outstanding at the time they ceased to be a Member are paid including any interest or other charges levied on any outstanding moneys.

14. Disciplining of Members

14.1 The Board may resolve by a majority of at least 75% (rounded down when it is not a whole number) of Directors present and eligible to vote to expel any Member, or to suspend any Member from membership for a specified period, if the Member in the opinion of the Board:

- a) has failed to comply with this Constitution;
- b) has failed to comply with any code of behaviour or of conduct;
- c) has failed to comply with the terms of membership applicable to the Member; or
- d) has acted in a manner that renders it undesirable that the Member continues to be a Member where such action could include that the Member has acted in a manner prejudicial to the interests of the Company.

14.2 If the Board passes a resolution in accordance with rule 14.1 to expel or suspend a Member, then the Secretary must give the Member written notice:

- a) setting out the resolution and the grounds upon which it was based; and
- b) stating that the Member has 28 calendar days from the date of the notice to give written submissions to the Directors in response to the resolution.

14.3 If the Member gives written submissions in response to the resolution, then the Board must consider those submissions at its next meeting and the Secretary must then give the Member written notice:

- a) as to whether or not the Board still intends to proceed with the resolution; and
- b) if the Board does so intend, that the Member has 28 calendar days from the date of the notice to advise the Directors in writing that the Member requires the matter be referred to mediation.

14.4 If the Member does not give written submissions within the time specified in rule 14.2b) or does not give advice in writing within the time specified in rule 14.2b) & 14.3 in response to the resolution then the Board may proceed in accordance with rule 14.6.

14.5 If the matter is referred to mediation then the mediation must be conducted:

- a) in such manner as the Board reasonably determines; and
- b) in accordance with the rules of procedural fairness, as determined by the Board.

14.6 Once the mediation is concluded or if the Member gives no advice in writing under rule 14.3 or if the Member makes no written submissions in accordance with rule 14.2b) then the Board may decide whether or not to endorse the resolution under rule 14.1 at which time the Board may resolve to implement the resolution to expel the Member by removing the Member from the Register or to suspend the Member for a specified period.

14.7 The Secretary must give written notice to the Member of the decision of the Board arising from rule 14.6.

14.8 Each party must pay an equal share of the cost of mediation.

15. Payments by Members

15.1 The Board may determine from time to time to charge Members fees comprising joining fees, annual subscriptions and specific purpose levies and charges.

15.2 The Board may determine different fees for amounts charged to Members as between classes and categories of Members and as between Members within a class or category of Members. The Board may determine that no fee is payable by a Member or class or category of Members.

15.3 Any amounts charged to Members are payable in such manner and at such times as are determined by the Board.

15.4 No part of any fee paid shall be refunded to a Member who ceases to be a Member in accordance with rule 13.

III. GENERAL MEETINGS

16. Convening of a general meeting

16.1 The Board may, whenever it thinks fit, call and arrange to hold a general meeting of the Company. The Board must call and arrange to hold an AGM in accordance with the requirements of the Act.

16.2 Apart from as provided by rule 16.1, a general meeting of the Company may be ordered by the court or be called and arranged to be held by Members by following the process in section 249 of the Act provided that the Board may accept a request from fewer Members than required under the Act.

16.3 Without requesting a general meeting, Members with an entitlement to vote may give the Company notice of a valid resolution that they propose to move at a general meeting in accordance with the Act, except that the Board may accept such a notice that is given by fewer Members than would be required in accordance with the Act.

- a) If the Company has been given notice of a valid resolution in accordance with rule 16.3, notice of the resolution is to be given to Members and the resolution is to be considered at a general

meeting in accordance with this Constitution and the Act, except that, subject to rule 17, the resolution may be considered at a general meeting that is scheduled to occur within 2 months of notice of the Members' resolution being received by the Company.

16.4 The Board may change the venue for, postpone or cancel a general meeting of the Company unless the meeting is called and arranged to be held by the Members or the court under rule 16.2. If a general meeting is called and arranged to be held under rule 16.2, the Board may make changes or cancel the meeting by following the relevant procedures in section 249 of the Act.

16.5 A general meeting of the Company may be convened to occur at 2 or more venues using any technology that gives the Members in attendance a reasonable opportunity to participate in the meeting.

16.6 A general meeting convened in accordance with rule 16.5 is not invalidated due to a failure of the technology unless the failure arose out of conduct of an Officer which was not in good faith, or which involved wilful misconduct, gross negligence, reckless behaviour or fraud.

17. Notice of a general meeting

17.1 Subject to this Constitution, at least 21 days' notice (or such other minimum period as may be prescribed by the Act) of a general meeting must be given in the manner authorised by rule 50 to each person who is at the date of the notice:

- a) a Member;
- b) a Director; or
- c) an auditor of the Company.

17.2 A notice of a general meeting must specify:

- a) the place, date and time of the meeting;
- b) subject to rule 17.4, the general nature of any business to be conducted at the meeting;
- c) if a special resolution is to be proposed, the details of and intention to propose it; and
- d) if the meeting is to be held in 2 or more places then the technology that will be used to facilitate this.

17.3 Except as provided in rule 17.4, no business other than that specified in the notice convening a general meeting may be transacted at that general meeting.

17.4 It is not necessary for a notice of an AGM to state that the business to be transacted at the meeting includes the consideration of any annual financial report, Directors' report, any report from the auditor, the appointment of Directors, the appointment of the auditor when required or the fixing of the auditor's remuneration when required.

17.5 A Member may waive notice of a general meeting by notice in writing to the Company.

- 17.6 The accidental failure to give notice of any general meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice will not invalidate the proceedings at or any resolution passed at the meeting.
- 17.7 A person's attendance at a general meeting waives any objection that that Person may have to a failure to give notice, or the giving of a defective notice, of the meeting.
- 17.8 Despite rule 17.1, a shorter notice period is allowed for a general meeting but only by following the requirements of section 249H of the Act.

18. Cancellation or postponement of a general meeting

- 18.1 The Board may cancel a general meeting of the Company that:
- a) has been convened by the Board; or
 - b) has been convened at the requisition of a Member or Members pursuant to rule 16.2 upon receipt by the Company of written notice withdrawing the requisition signed by that Member or those Members with the consequence that there are less than half the requisitioning Members remaining who still wish for the meeting to be convened.
- 18.2 Subject to rule 16.4, the Board may postpone a general meeting or change the venue at which it is to be held. No business shall be transacted at any postponed meeting other than the business stated in the notice to the Members relating to the original meeting.
- 18.3 Where any general meeting is cancelled or postponed or the venue for the meeting is changed:
- a) the Board must make a reasonable attempt to notify in writing each person entitled to receive notice of the meeting of the cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution and in the case of the postponement of a meeting, the new place, date and time for the meeting; but
 - b) any failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

19. Quorum at a general meeting

- 19.1 No business may be transacted at any general meeting unless a quorum of Members entitled to vote is present at all times during the meeting.
- 19.2 A quorum shall be 5 Members present in person, all of whom must be either Full Members or Life Members that are entitled to vote at the general meeting.
- 19.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:
- a) the meeting, if convened upon the requisition of Members in accordance with rule 16.2, shall be dissolved; and

- b) in any other case:
 - i) the meeting stands adjourned to such day, and at such time and place as the Board determines; and
 - ii) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

20. Chair of a general meeting

20.1 The President shall preside as chair at each general meeting unless:

- a) there is no President;
- b) the President is not present within 15 minutes after the time appointed for the meeting or after the time at which a quorum is present, whichever is later; or
- c) the President is present within that time but is not willing to act as chair of the meeting.

20.2 When the President does not preside in accordance with rule 20.1 then:

- a) the Directors present must elect as chair of the meeting another Director who is present and willing to act; and
- b) if no other Director willing to act is present at the meeting, the Full and Life Members who are present in person at the meeting may elect as chair of the meeting a Full Member or Life Member who is present in person, entitled to vote at the meeting and willing to act as chair.

20.3 Despite anything in rules 20.1 & 20.2, if the President and/or any other Director or Directors later attend a general meeting or later are willing to act in the role of chair, the relevant President or Director/s (elected if necessary as outlined in rule 20.2a) must take over as chair of the general meeting.

20.4 Subject to rule 21, the chair of a general meeting:

- a) shall ensure that all items on the agenda are dealt with, and in the sequence set out, unless the Members who are present in person and have a right to vote consent to the order being changed or it is otherwise practical and not prejudicial to the Members interests to depart from such sequence;
- b) shall conduct the meeting in a manner designed to facilitate decision making and the transaction of business; and
- c) shall superintend and control the proceedings in accordance with the requirements of the relevant law, this Constitution and the broad conventions of debate.

21. Conduct of a general meeting

21.1 The chair of a general meeting may at any time they consider it necessary or desirable for the proper and orderly conduct of the meeting:

- a) impose a reasonable limit on the time that a person may speak on each motion or other item of business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present (see rule 4.2); and
 - b) adopt any procedures for casting or recording votes at the meeting whether on a show of hands, on the voices or a poll, including the appointment of scrutineers.
- 21.2 Any question arising at a general meeting relating to the order of business, subject to rules 20.4a) & 21.5, procedure or conduct of the meeting must be referred to the chair of the meeting whose decision is final.
- 21.3 The chair of a general meeting may take any action they consider appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting and may refuse admission to, or require to leave, and remain out of, the meeting any individual:
- a) who behaves or threatens to behave in a dangerous, offensive or disruptive way; or
 - b) who is not entitled to receive notice of the general meeting if they are not the proxy, attorney or representative of a person entitled to receive notice of the general meeting.
- 21.4 The chair of the meeting may delegate powers conferred by rule 21.3 to any person they think fit.
- 21.5 The chair of a general meeting may at any time during the course of a general meeting, and must if so directed by the meeting, adjourn from time to time and from place to place the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion either to a later time at the same meeting or to an adjourned meeting as determined by the chair of the meeting.
- 21.6 No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 21.7 A resolution passed at a general meeting resumed after an adjournment is passed on the day that it is passed.
- 21.8 Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.
- 21.9 Except as provided by rule 21.8, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting, subject to rule 18.3.
- 21.10 Where a meeting is adjourned, the Board may change the venue of, postpone or cancel the adjourned meeting unless the meeting was called and arranged to be held by the Members or the court in accordance with rule 16.2. If a meeting is called and arranged to be held in accordance with rule 16.2 then the Board may not postpone it beyond the date by which such a meeting would be required under the Act and may not cancel it without the consent of the requisitioning Members.

22. Decisions at a general meeting

- 22.1 Questions arising at a general meeting are to be decided by at least a majority of votes cast by the Members present (see rule 4.2) at the meeting who are eligible to vote and any such decision is for all purposes a decision of the Members, except in the case of any resolution which under this Constitution or as a matter of law requires a special majority.
- 22.2 At any time before a vote on a motion is taken at a general meeting, a summary of the proxy position and, if applicable, direct votes received in relation to the motion must be disclosed to the meeting.
- 22.3 In the case of an equality of votes upon any proposed resolution the chair of the meeting, in addition to any deliberative vote, does not have a casting vote and the proposed resolution is not passed.
- 22.4 A resolution put to the vote of a general meeting must be decided on a show of hands of the Members present in person and eligible to vote (see rule 23.3) unless a poll is demanded before the vote is taken or before or immediately after the declaration of the result of the show of hands.
- 22.5 Where a general meeting is called in accordance with rule 16.5 Members present in person via technology and who cannot be seen for a show of hands may cast their vote by voice or by electronic or other means approved by the chair of the meeting.
- 22.6 On a show of hands all Members present in person and eligible to vote have 1 vote. Any additional votes that any Member may be entitled to exercise shall not be exercisable on a show of hands but will be exercisable on a poll.
- 22.7 Under rule 22.4 a poll may be demanded:
- a) by the chair of the meeting; or
 - b) by the lesser of at least 3 Members present (see rule 4.2) and having the right to vote on the resolution or Members with at least 5% of the votes that may be cast on the resolution on a poll.
- 22.8 A demand for a poll does not prevent the continuation of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- 22.9 At any general meeting, unless a poll is demanded, a declaration by the chair of the meeting that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the minutes of the proceedings of the general meeting of the Company which has been signed by the chair of the relevant general meeting or of the next succeeding general meeting, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 22.10 If a poll is demanded at a general meeting, it will be taken in such manner and either at once or after an interval or adjournment or otherwise as the chair of the meeting directs, subject to rule 22.11, and the result of the poll will be the resolution of the meeting at which the poll was demanded, and an entry to that effect in the minutes of the proceedings of the general meeting of

the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- a) Where a general meeting is called in accordance with rule 16.5 and a poll is demanded, Members present via technology may cast their vote by informing the chair of the general meeting who must complete the poll for them in good faith on their instructions or by electronic or other means approved by the chair of the meeting.

22.11 A poll demanded at a general meeting on the election of a chair of the meeting pursuant to rule 20.2b) or on an adjournment pursuant to rule 21.5 must be taken immediately.

22.12 The demand for a poll may be withdrawn.

23. Voting rights at a general meeting

23.1 Subject to this Constitution, at a general meeting every Member who is entitled to vote and who is present in person has 1 vote on a show of hands.

23.2 An Appointed Director who is not a Member has a right to attend and to speak at a general meeting but has no right to a vote at a general meeting in their capacity of an Appointed Director.

23.3 At a general meeting a proxy is not entitled to a vote on a show of hands but is entitled to a vote if a poll is called.

23.4 An objection to the qualification of a person to vote at a general meeting:

- a) must be raised before or at the meeting at which the vote objected to is given or tendered; and
- b) must be referred to the chair of the meeting whose decision on the qualification to vote is final.

23.5 A vote not disallowed by the chair of the meeting under rule 23.4b) is valid for all purposes.

24. Representation at a general meeting

24.1 Subject to this Constitution, each Member entitled to vote at a general meeting may vote:

- a) in person including by attorney where proof of the power of attorney is provided to the Secretary at least 48 hours prior to the meeting;
- b) by direct vote using electronic and/or postal means where such an option is offered by the Board; or
- c) by proxy.

24.2 The general rights and procedures related to a proxy that apply in accordance with the Act apply to a proxy appointed under this Constitution.

24.3 A proxy may, but need not, be a Member or a Member who is entitled to vote.

24.4 A proxy may be appointed for all general meetings, or any number of general meetings, or for a particular general meeting.

- 24.5 Unless otherwise provided in the instrument, subject to rule 22.4, the instrument appointing a proxy will be taken:
- a) to confer authority to agree to a meeting being convened by shorter notice than is required by the Act or by this Constitution;
 - b) to confer authority to speak to any proposed resolution on which the proxy may vote;
 - c) to confer authority to demand, or join in demanding, a poll on any resolution on which the proxy may vote in a poll;
 - d) to appoint the chair of the general meeting as the proxy unless the Member clearly specifies another person as proxy and that person attends the general meeting;
 - e) even though the instrument may refer to specific resolutions and may direct the proxy how to vote on those resolutions:
 - i) to vote, in a way that is consistent with any direction given by the Member on the proxy form, on any amendment moved to any of the proposed resolutions and on any motion that any of the proposed resolutions not be put or any similar motion;
 - ii) to vote on a poll on any procedural motion, including any motion to elect the chair, to vacate (in the case of a Member chair elected under rule 20.2b) the chair or to adjourn the meeting (including by motion that the chair leave the chair); and
 - iii) to act generally at the meeting; and
 - f) even though the instrument may refer to a specific meeting, to be held at a specific time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the rescheduled or adjourned meeting or at the new venue.
- 24.6 An instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument so provides, the proxy is not entitled to vote on the proposed resolution except as directed in the instrument.
- a) Where the instrument so directs the proxy how to vote and the person appointed as proxy is not the chair of the meeting and the proxy does not exercise the vote when a poll is called then the chair of the meeting is taken, before voting on the resolution closes, to have been appointed as the proxy for the purposes of voting on the resolution at the meeting.
- 24.7 Subject to rule 24.10, an instrument appointing a proxy need not be in any particular form provided it is in writing, contains the Member's name and address, the Company's name, the proxy's name or the office held by the proxy, the meetings at which the appointment may be used and either:
- a) be signed by the appointer or the appointer's attorney; or
 - b) be authenticated in such manner as the Board may determine.

24.8 A proxy may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy, and the authority under which the instrument is signed or a certified copy of the authority, are received in or at a place or electronic address specified in the notice of meeting at least:

- a) 48 hours (or such other minimum period as may be prescribed by the Act); or
- b) such lesser period specified for this purpose in the notice calling the meeting.

24.9 For the purposes of rule 24.8:

- a) the place may be the Company's registered office or other place specified in the notice and an electronic address may be the electronic address at the Company's registered office or electronic address specified in the notice; and
- b) the lesser period may be any time set by the Board before the time for holding the meeting or adjourned meeting.

24.10 The Directors may waive all or any of the requirements of rules 24.7 & 24.8 and in particular may, upon the production of such other evidence as the Directors require to prove the validity of the appointment of a proxy, accept:

- a) an oral appointment of a proxy;
- b) an appointment of a proxy which is not signed and executed in the manner required by rule 24.7); and
- c) the deposit, tabling or production of a copy, including a copy sent by facsimile or by electronic transfer, of an instrument appointing a proxy or of the power of attorney or other authority under which the instrument is signed.

24.11 A later appointment of a proxy or attorney revokes an earlier one if both appointments could be validly exercised at the meeting.

24.12 A vote given in accordance with the terms of an instrument appointing a proxy is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no notice in writing of the revocation has been received by the Company by the time and at 1 of the places at which the instrument appointing the proxy is required to be received under rules 24.8 & 24.10.

24.13 The appointment of a proxy is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the proxy is not entitled to vote, and must not vote, as the appointer's proxy on the resolution.

24.14 The chair of a general meeting may require any person acting as a proxy to establish to the satisfaction of the chair of the meeting that the person is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person is unable to establish their identity, they may be excluded from voting in which case rule 24.6a) applies unless the form of proxy indicates otherwise.

25. Direct Voting

- 25.1 The Board may determine that at any general meeting, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A “direct vote” includes a vote delivered to the Company by post or any electronic means approved by the Board. The Board may prescribe by-laws in relation to direct voting, including specifying the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

IV. BOARD OF DIRECTORS

26. Number of Directors

- 26.1 The Board will have a maximum of 8 Directors consisting of:
- a) up to 7 Directors elected by the Members or appointed to fill casual vacancies in accordance with clause 29.1 and who shall be designated Elected Directors; and
 - b) up to 1 Director appointed by the Board and who shall be designated an Appointed Director.
- 26.2 There must be not less than 3 Directors.

27. Terms of Directors

- 27.1 Subject to rule 29.1, normal terms for Elected Directors shall commence at the conclusion of the AGM at which the Director was elected or appointed and terminate at the conclusion of the second following AGM. A retiring Director who is eligible may stand for re-election or re-appointment.
- 27.2 The term for an Appointed Director shall be such period as the Board determines at the time of appointment up to 24 months from the date of appointment. A Member who is no longer an Appointed Director who is otherwise eligible may nominate for election or be appointed as an Elected Director.

28. Eligibility of Directors

- 28.1 Elected Directors must be:
- a) Full Members or Life Members; and
 - b) at the time of nomination must have been a Full Member continuously for at least the previous 2 years or a Life Member.
- 28.2 An Appointed Director may be a Member but does not have to be a Member.
- 28.3 An Appointed Director must have the skills, experience, perspectives or capabilities that the Board determines from time to time are important for the Board.
- 28.4 To be eligible to stand for election or appointment as a Director, an individual, if a Full Member, must be financial and the Member must not be subject to any circumstance in accordance with rule 31.2 that would result in them ceasing to be a Director once elected or appointed.

29. Casual vacancies on the Board

- 29.1 If a casual vacancy in the position of an Elected Director occurs, the Board may appoint any Full Member or Life Member to that position. Any such appointee holds office for the remainder of the term and if nominated, may stand for election as an Elected Director at the next relevant election.
- 29.2 Subject to rule 28.3, if a vacancy in the position of an Appointed Director occurs, the Board may appoint any individual in accordance with rule 27.2 at any time.
- 29.3 The Board may act even if there are vacancies on the Board. If the number of Directors is reduced below the minimum of 3, however, the continuing Directors may act only:
- a) in an emergency; or
 - b) for the purposes of appointing additional eligible individuals as Directors up to the minimum number; or
 - c) to convene a general meeting.

30. Election of Directors

- 30.1 Subject to this clause 30, the Board may determine the procedures for the conduct of elections and the nomination process.
- 30.2 Members entitled to vote may, at an AGM at which an Elected Director retires or at which a vacancy in the position of Elected Director exists, determine an eligible Member to fill the vacated position by electing an individual to that office in accordance with procedures determined by the Board for the conduct of a ballot or by resolution.
- 30.3 Nominations of candidates for election as Directors will be called for at least 4 weeks before the date of the AGM unless the Board agrees to accept nominations after this time.
- 30.4 Any eligible Member who wishes to stand for election as a Director must be nominated by 2 other Full Members or Life Members.
- 30.5 The nomination form:
- a) will be in writing in the form determined by the Board from time to time;
 - b) will include any required information (such as the candidate's skills and experience) as determined by the Board from time to time;
 - c) will contain the signed consent of the candidate and be signed by the 2 nominating Members. For this purpose, signatures can be contained in more than 1 document containing identical information and can include electronically transmitted signatures.
- 30.6 If at the close of nominations there are the same number or fewer candidates for election than there are vacant Elected Director positions to be filled then all nominations shall be deemed to have been elected, subject to rule 30.7, and no ballot shall be held. Any resulting vacancies in the position of Elected Directors shall be casual vacancies to which rule 29.1 applies.

30.7 The result of the election process shall be declared prior to the close of the AGM and, if a ballot has not been completed, shall be subject to endorsement by ordinary resolution for each candidate.

31. Vacation of office of Director

31.1 Any Director may resign by giving one month's written notice to the Company through the Secretary of their intention to resign and the resignation will take effect one month from receipt of the notice or a later time expressed in the notice. The Board may at its discretion waive the one month notice period.

31.2 The office of a Director becomes vacant if the Director:

- a) is subject to any of the circumstances prescribed by the Act;
- b) becomes an individual who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- c) dies;
- d) becomes bankrupt or makes any arrangement or composition with their creditors generally;
- e) is convicted on indictment of an offence and the Board does not within 2 months after that conviction resolve to confirm the Director's appointment to the office of Director;
- f) is absent from all meetings of the Board during a 6 months' period, with or without the consent of the Board, unless at the next meeting of the Board, the Board resolves otherwise;
- g) fails to attend face-to-face at least 2 meetings of the Board during a 12 months' period, unless at the next meeting of the Board, the Board resolves otherwise;
- h) has failed to disclose a material personal interest that would be required to be disclosed under the Act unless at the next meeting of the Board, the Board resolves otherwise;
- i) is an Elected Director and ceases to be a Full Member or Life Member;
- j) is an Elected Director and ceases to be a financial Member;
- k) is removed as a Director by an ordinary resolution of the Company in general meeting, subject to the Act; or
- l) is or becomes a paid employee of the Company.

32. No alternate Directors

32.1 Directors are not entitled to appoint alternate Directors.

33. Directors' interests

33.1 A Director must disclose the nature and extent of any conflict of interest in a matter that is being considered at a Board meeting (or that is proposed in a resolution made outside of a Board meeting):

- a) to the other 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.

33.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.

33.3 Each Director who has a material personal interest in a matter that is being considered at a Board meeting (or that is in a proposed resolution made outside of a Board meeting) must not, except as provided under clause 33.4:

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

33.4 A Director 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 relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company;
- c) their interest relates to a payment by the Company under clause 53, or any contract relating to an indemnity or other matter that is allowed under the Act;
- d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the Director to vote on the matter; or
- e) the Directors who do not have a 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 relates to the affairs of the Company; and
 - ii) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

33.5 The Board may make by-laws requiring the disclosure of interests that a Director, and any person deemed by the Board to be related to or associated with the Director, may have in any matter concerning the Company or a related body corporate and any by laws made under this Constitution shall bind all Directors.

34. Payments to Directors

34.1 Directors shall not be entitled to payment of fees as a Director.

34.2 Having regard to rule 8.2, payments may be made to any Director for out-of-pocket expenses incurred by the Director in the performance of any duty as a Director and for hobby payments where the amount payable does not exceed an amount previously agreed by the Board.

35. Powers and duties of Directors

- 35.1 The Directors are responsible for the control, ultimate management and conduct of the Company. The Board may exercise to the exclusion of the Company in general meeting all the powers of a company that are not required by the Act or by this Constitution to be exercised by the Company in general meeting.
- 35.2 The Board may determine how money and other assets of the Company are managed and how payments are made by or on behalf of the Company.
- 35.3 The Board may from time to time confer upon any Director for the time being or any other person or office or operational committee as they may select such of the powers exercisable under this Constitution by the Board as it may think fit from time to time and to be exercised for such purposes and on such terms and conditions and with such restrictions as it may think expedient.
- a) Powers conferred under rule 35.3 may be exercised concurrently with the powers of the Board in that regard and the Board may from time to time withdraw, revoke or vary all or any such powers with or without cause subject to any applicable contract between the Company and the relevant person and subject to any applicable industrial law.
- 35.4 In exercising any power, the Directors must do so in accordance with any duties and obligations imposed on them by the Act.
- 35.5 The Board may by resolution make, amend or revoke by-laws for the purposes of giving effect to any provision of this Constitution or to govern the procedures and activities of the Company. These by-laws are binding on the Board and the Members.
- 35.6 Subject to rule 21.2 any question or dispute relating to or arising from this Constitution shall be referred to the Board for determination provided that nothing in this Constitution reduces any rights a Member may have at law.

36. Proceedings of Directors

- 36.1 The Board may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- 36.2 The planned contemporaneous linking together of Directors by technologies, such as telephone or other electronic means, that are consented to by all Directors at least annually and that allow reasonable interaction between all participating Directors, constitutes a Board meeting provided the number of Directors participating is sufficient to constitute a quorum.
- a) All provisions of this Constitution relating to meetings of the Directors apply, so far as they can and with such changes as are necessary, to meetings of Directors by such technologies.
- 36.3 A Director participating in a meeting by technology in accordance with rule 36.2 is taken to be present in person at the meeting.

36.4 A meeting by means of technology is to be taken to be held at the place determined by the chair of the meeting provided that at least 1 of the Directors involved was at that place for the duration of the meeting.

37. Convening of a Board meeting

37.1 The President or any 2 or more Directors may, whenever they think fit, convene a Board meeting.

37.2 A Secretary must, when requested by the President or on the written requisition of any 2 or more Directors, convene a Board meeting.

38. Notice of a Board meeting

38.1 Subject to this Constitution, notice of a Board meeting must be given to each individual who is at the time of giving the notice a Director, other than a Director on leave of absence approved by the Board.

38.2 Only Directors have a right to notice of a meeting of the Directors and to attend a meeting of the Board. Any other person in attendance is in attendance at the invitation of the Board and must leave if directed to by the chair of the meeting.

38.3 A notice of a Board meeting:

- a) must specify the time and place of the meeting;
- b) should where practicable state the nature of the business to be transacted at the meeting;
- c) may be given immediately before the meeting;
- d) may be given in person or by post or by telephone, email or other electronic means; and
- e) if technological connection of Directors is to be involved, must identify how that connection is to be made.

38.4 Unless special circumstances apply, at least 7 days' notice of a meeting of the Directors should be given.

38.5 A Director may waive notice of any Board meeting by notifying the Secretary to that effect in person or by post or by telephone, email or other electronic means.

38.6 The non-receipt of notice of a Board meeting by, or failure to give notice of a meeting to, a Director does not invalidate any act, matter or thing done or resolution passed at the meeting:

- a) if the non-receipt or failure occurred by accident or error;
- b) if before or after the meeting, the Director;
 - i) has waived or waives notice of that meeting under rule 38.5; or
 - ii) has notified or notifies the Secretary of their agreement to that act, matter, thing or resolution personally or by post or by telephone, email or other electronic means; or
 - iii) the Director attended the meeting.

38.7 Attendance by a Director at a Board meeting waives any objection that the Director may have to a failure to give notice of the meeting.

39. Quorum at a Board meeting

39.1 No business may be transacted at a Board meeting unless a quorum of Directors is present during the time the business is dealt with, subject to rule 39.3.

39.2 A quorum at a Board meeting is a majority of Directors in office which is 50% plus one of the Directors currently serving, rounded down if not a whole number.

39.3 A Director who is present and is disqualified from voting on a matter pursuant to rule 33 shall be counted in the quorum despite that disqualification, even if they do not participate in that part of the meeting from which they are disqualified from voting.

40. President and Vice President

40.1 The Board must elect, from amongst their number, 1 Director to the position of President and 1 Director to the position of Vice President at least annually and in any event at the first meeting of the Board following the AGM. Subject to this rule, the Board may determine the period for which a Director is to be President or Vice President.

40.2 The President and Vice President has such powers and duties as specified in this Constitution, as required by law and as determined by the Board.

40.3 The President must if present within 15 minutes after the time appointed for the holding of the meeting, and if willing to act, preside as chair of each Board meeting.

- a) If the President is absent or is unable or unwilling to act, then the Vice President shall preside and if the Vice President is not present or is unable or is unwilling to act, the remaining Directors shall choose another Director who is able and willing to act to preside as chair at the meeting or for part of the meeting.

40.4 Despite anything in rule 40.3a) if the President later attends a Board meeting or is later willing to act then they must take the role of chair of the meeting.

41. Decisions of Directors

41.1 A Board meeting at which a quorum is present is a meeting of the Board and is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Directors under this Constitution.

41.2 Subject to rule 14.1, questions arising at a meeting of the Board are to be decided by at least a simple majority of votes cast by the Directors present and entitled to vote and any such decision is for all purposes a determination of the Board.

41.3 In the case of an equality of votes upon any proposed resolution the chair of the meeting, in addition to any deliberative vote, does not have a casting vote and the resolution is not passed.

42. Circulating resolutions

42.1 The Directors may pass a resolution without a Board meeting if the Directors entitled to vote on the resolution sign a document containing a statement of the resolution set out in the document. For this purpose, signatures can be contained in more than 1 document and can include electronically transmitted signatures.

42.2 A resolution under rule 42.1 shall be deemed to have been passed if the Directors who have responded have signed a document containing a statement that they are in favour of the resolution set out in the document provided that the number of Directors in favour is sufficient for a quorum at a Board meeting in accordance with rule 39.2.

42.3 Resolutions passed in accordance with rule 42.2 are to be taken to have been passed on the date that is the later of:

- a) the date 1 week after the resolution was distributed to Directors or such other date as may be specified in the document accompanying the proposed resolution; or
- b) on the date the resolution was assented to by the final Director whose support resulted in the number of Directors in favour of the resolution equalling the number that is a quorum in favour.

42.4 For rule 42.1 a Director may signify assent to a document by signing the document or by notifying the Secretary of the Director's assent in person or by post or by telephone, email or other electronic means.

42.5 Where a Director signifies assent to a document other than by signing the document, the Director must by way of confirmation sign the document at the next Board meeting attended by that Director, but failure to do so does not invalidate the resolution to which the document relates.

43. Committees of the Board

43.1 The Board may form and delegate any of its powers to a committee of the Board consisting of such Directors and other individuals as the Board thinks fit and may from time to time revoke such delegation.

43.2 A committee of the Board must, in exercise of the powers delegated to it, conform to any directions and restrictions that may be imposed on it by the Board. A power so exercised will be taken to be exercised by the Board.

43.3 Subject to rule 43.2 the meetings and proceedings of any committee of the Board will be governed, so far as they can and with such changes as are necessary, by the provisions for regulating the meetings and proceedings of the Board contained in this Constitution.

43.4 A minute of all the proceedings and resolutions of every committee of the Board shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Act and

this Constitution to be made, entered and signed. A copy of these Committee minutes shall be tabled at the next practicable Board meeting.

- 43.5 The Board may delegate any of its powers to a Director or an Officer. A Director or Officer to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Board.

44. Validity of acts of Directors

- 44.1 All acts done at any meeting of the Board or a committee of the Board attended by an individual acting as a Director shall be valid even if it is later discovered that there was a defect in the appointment of the individual as a Director or the individual being disqualified to be a Director or having vacated office or the Director or individual not being entitled to vote, provided the circumstance was not known by the Director or individual or committee of the Board when the act was done.

V. ADMINISTRATION

45. Secretary

- 45.1 The Board must appoint at least 1 Secretary who may, but need not, be a Director or a Member or an employee.
- 45.2 The Secretary holds office on such terms and conditions as to remuneration and otherwise as the Board determines.
- 45.3 The Board may remove any Secretary so appointed, subject to the terms of any contract and the law.

46. Chief Executive Officer

- 46.1 The Board may appoint a Chief Executive Officer.
- 46.2 The Chief Executive Officer holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated to them by the Board.
- 46.3 The exercise of those powers and authorities, and the performance of those duties, by the Chief Executive Officer are subject at all times to the control of the Board.
- 46.4 The Chief Executive Officer cannot be a Director.
- 46.5 Subject to the terms and conditions of the appointment, the Board may suspend or terminate in accordance with the executed contract of employment the Chief Executive Officer from that office.

47. Minutes

- 47.1 The Board must ensure that minutes of proceedings and resolutions of general meetings of the Company and of Board meetings (including committees of the Board) are recorded in books kept for that purpose within 1 month following the relevant meeting.

- 47.2 The Board must ensure that minutes of resolutions passed by the Board and committees of the Board without a meeting are recorded in books kept for the purpose within 1 month after the resolution is passed.
- 47.3 The minutes of a meeting must be signed within a reasonable time after the meeting by the chair of the meeting or the chair of the following meeting.
- 47.4 The minutes of a passing of a resolution without a meeting must be signed by a Director within a reasonable time after the resolution is passed.
- 47.5 A minute that is recorded and signed in accordance with this rule is evidence of the proceeding or resolution to which it relates unless the contrary is proved.

48. Inspection of records

- 48.1 The Board must ensure that the minute books for general meetings are open for inspection by Members free of charge.
- 48.2 Subject to rule 48.1, the Board may determine whether and to what extent, and at what times and places and under what conditions, the minute books, financial records and other documents of the Company or any of them, will be open to inspection by Members other than Directors.
- 48.3 A Member other than a Director does not have the right to inspect any books, records or documents of the Company except as provided by law or authorised by the Board.
- 48.4 Notwithstanding rule 48.2, a previous Director has a right to inspect minute books and related papers for meetings of the Directors and committees of the Board for the period covering when they were a Director.

49. Accounts and audit

- 49.1 The Company must prepare and deal with such accounts as are required by the Act.
- 49.2 If required by the Act, the Board must cause the financial records of the Company to be audited in accordance with the requirements of the Act.
- 49.3 The financial year shall be the period of 12 months ending on 31 December, unless the Board determines a different end date.

50. Notices

- 50.1 A notice may be given by the Company to a Member:
- a) by serving it on the Member personally;
 - b) by sending it by prepaid post to the Member's address as shown in the Register;
 - c) by sending it to the Electronic Contact Address or such other address the Member has supplied to the Company for the giving of notices;

- d) by making a copy of it accessible electronically on a website of, or related to, the Company and advising the Member of its availability via the Electronic Contact Address; or
- e) by publishing it in a regular newsletter publication of the Company to Members which publication may be printed or be electronic or internet based.

50.2 The fact that a Member has supplied an email or other electronic address for the giving of notices:

- a) does not require the Company to give any notice to that person by email or other electronic means; or
- b) does not prevent the Company from giving notice to that person in the manner envisaged by rule 50.1.

50.3 Any Member who has not provided to the Company a place of address or Electronic Contact Address for inclusion in the Register as the place at or via which notices may be given to the Member shall not be entitled to receive any notice, subject to rule 50.6.

50.4 Subject to this Constitution, a notice may be given by the Company to any Director either by serving it personally at, or by sending it by prepaid post to, the Director's usual residential or business address, or by sending it to the Electronic Contact Address, or such other address as the Director has supplied to the Company for the giving of notices.

50.5 Subject to this Constitution, a notice may be given by a Member or a Director to the Company by serving it on the Company at, or by sending it by prepaid post to, the registered office or principal place of business if any of the Company or by sending it to the principal electronic address of the Company at its registered office or principal place of business, if any.

50.6 Where a Member does not have a registered address or Electronic Contact Address or where the Company has bona fide reason to believe that a Member is not known at the Member's registered address or Electronic Contact Address, all future notices are deemed to be given to the Member if the notice is exhibited in the Registered Office, if any, for a period of 48 hours (and is deemed to be duly served at the commencement of that period) unless and until the Member informs the Company of a registered address or Electronic Contact Address.

51. Time of service of notices

51.1 Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:

- a) in the case of a notice of a general meeting – on the Business Day after the date of its posting; or
- b) in any other case – 3 Business Days after it is posted.

51.2 Where a notice is sent by email or other electronic means, service of the notice is to be taken to be effected on the Business Day after the date it is sent.

- 51.3 Where the Company gives a notice under rule 50.1d), service of the notice is to be taken to be effected when the notice was first so made accessible.
- 51.4 When the Company gives notice under rule 50.1e), service of the notice is to be taken to be effected on the Business Day after the day on which the notice was first published.
- 51.5 Rules 50 & 51 apply, so far as they can and with such changes as are necessary as determined by the Board, to the service of any other communication or document.

52. Execution of documents

- 52.1 The Company may execute a document only if authorised:
- a) by the Board; or
 - b) in accordance with any delegation made by the Board.
- 52.2 Without limiting the manner in which the Company may execute any approved contract, including as permitted under the Act, the Company may execute any agreement, deed or other document by:
- a) 2 Directors signing the same; or
 - b) 1 Director and 1 Secretary signing the same.
- 52.3 Nothing in this Constitution requires the Company to execute any agreement, deed or other document under common seal for the same to be executed effectively by the Company.
- 52.4 The Board may at any time determine that the Company shall have a common seal and if so:
- a) the Board must provide for its safe custody; and
 - b) it may only be used as authorised by the Directors.

53. Indemnity and insurance

- 53.1 Subject to rule 53.2, the Company must indemnify each individual who is a Director or a Secretary on a full indemnity basis and to the full extent permitted by law against all liabilities, including a loss, liability, cost, charge or expense, incurred by the Director or Secretary, including without limitation:
- a) a liability for negligence; and
 - b) a liability for reasonable legal costs.
- 53.2 The indemnity in rule 53.1 does not operate in relation to any liability which:
- a) is a liability of the Company or any of its related bodies corporate;
 - b) is a liability for a pecuniary penalty order under the Act or a compensation order under the Act; or
 - c) arises out of conduct of the Director or Secretary which was not in good faith, or which involved wilful misconduct, gross negligence, reckless misbehaviour or fraud.

- 53.3 The indemnity in rule 53.1:
- a) does not extend to and is not an indemnity against any amount in respect of which the indemnity would otherwise be illegal, void, unenforceable or not permitted by law; and
 - b) does not operate in respect of any liability of the Director or Secretary to the extent that that liability is covered by insurance.

53.4 For each Director and Secretary against any liability incurred by them as a Director or Secretary including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal, and whatever their outcome the Company may, to the extent permitted by law:

- a) purchase and maintain insurance; or
- b) pay or agree to pay a premium for insurance.

54. Winding up

54.1 If any property remains following the winding up or dissolution of the Company after satisfaction of all its debts and liabilities, this property will not be paid to or distributed amongst Members, but will be given or transferred to another institution or body corporate that has:

- a) purposes that are similar to the Objects;
- b) a constitution that requires its income and property to be applied to promoting its purposes; and
- c) a constitution that prohibits it from paying or distributing its income and property amongst its members to an extent at least as great as imposed on the Company by rule 8.1.

54.2 The identity of the institution or body corporate is to be determined by the eligible voting Members at or before the time of dissolution and failing such determination being made, by the Board at or before the time of dissolution and failing such determination by application to the court for determination.

55. Changes to this Constitution

55.1 This Constitution may only be amended in accordance with the Act.

56. Transitional provisions

56.1 In this rule 56, **HDBA Inc** means Hills District Basketball Association Inc (incorporation number Y0929604).

56.2 On registration of the Company all Members listed in the register of members of HDBA Inc shall become Members of the Company in the following classes:

- a) full members will continue as Full Members in accordance with this Constitution;
- b) life members will continue as Life Members in accordance with this Constitution;

- c) social members will continue as Social Members in accordance with this Constitution.
- 56.3 On registration of the Company, honorary members of HDBA Inc will cease as Members under this Constitution.
- 56.4 On registration of the Company, the committee of HDBA Inc shall cease but the members, except for the general manager, shall continue as Elected Directors in accordance with this Constitution and for the purposes of these transitional rules will be referred to as the **Initial Board**.
- 56.5 In order to implement staggered rotational elections, at the first AGM following registration of the Company 3 Elected Director positions will be up for election. The Elected Directors to retire will be determined by agreement among themselves. If the Directors cannot agree then the drawing of lots will determine which Directors are to retire. The Directors to retire may stand for re-election if eligible under this Constitution.
- 56.6 At the second AGM following registration of the Company, the remaining Elected Directors from the Initial Board will retire and 4 Elected Director positions will be up for election. The Directors to retire may stand for re-election if eligible under this Constitution.
- 56.7 Appointed Directors – there are no Appointed Directors in office when this Constitution becomes effective. The Board from when this Constitution becomes effective may appoint an Appointed Director in accordance with rules 26.1b)& 27.2.
- 56.8 President - the President in office when this Constitution becomes effective becomes the President in accordance with rule 40.1 until they are replaced as President in accordance with this Constitution.
- 56.9 Vice President – the Vice President in office when this Constitution becomes effective becomes the Vice President in accordance with rule 40.1 until they are replaced as Vice President in accordance with this Constitution.
- 56.10 The remaining office bearers under the constitution that is replaced by this constitution (secretary and treasurer) cease to be office bearers in those roles when this Constitution becomes effective but remain Directors.
- 56.11 Immediately there are no Directors in office from the Initial Board to which this rule 56 applies then it shall cease to have a purpose and shall be removed from the Constitution and be replaced with the word 'deleted (date)'.

END OF CONSTITUTION