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**CONSTITUTION
OF
ROZETTA INSTITUTE**

November 2022

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CORPORATIONS ACT
COMPANY LIMITED BY GUARANTEE
CONSTITUTION
OF
ROZETTA INSTITUTE LIMITED

PRELIMINARY

1. MEANING OF WORDS AND INTERPRETATION

1.1 In this Constitution:

Alternate Director means a person appointed as an alternate director under **clause 38**.

Auditor means the Company's auditor.

Business Day means, in relation to the doing of any action in a place, a weekday other than a public holiday or bank holiday in that place.

Chairperson means the Chairperson of the Board of Directors.

Chief Executive Officer means the Chief Executive Officer of the Company from time to time.

Company means Rozetta Institute Ltd.

Constitution means the constitution of the Company as amended from time to time.

Corporations Act means the Corporations Act 2001 (*Cth*) as modified or amended from time to time.

Director includes any person occupying the position of director of the Company and, where appropriate, includes an Alternate Director.

Directors means all or some of the Directors acting as a board.

Field means the field of scientific research into both regulated and unregulated markets including financial, energy, health and other markets.

Member means a member under **clause 5**. **Office** means the Company's registered office.

Register means the register of Members of the Company.

Registered Address means the last known address of a Member as noted in the Register.

Representative means a person appointed as such under **clause 9**.

Seal means the Company's common seal (if any).

Secretary means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of those joint secretaries.

Special Majority Members Issues means the following issues:

- (a) **(Winding up)** Take a step to dissolve or wind up the Company.
- (b) **(Change in nature of Business)** Carrying on activities that are inconsistent with **clause 2** (Objects).
- (c) **(Overseas presence)** The registration or recognition as a body corporate in any place outside Australia.
- (d) **(Company type)** Change the type of the Company.
- (e) **(Joint Ventures and Partnerships)** Entering into a partnership or joint venture agreement other than in the ordinary business of the activities of the Company.

1.2 In this Constitution:

- (a) the singular includes the plural and vice versa and words importing a gender include other genders.
- (b) words importing natural persons include corporations.
- (c) words and expressions defined in the *Corporations Act* have the same meaning in this Constitution.
- (d) headings are for ease of reference only and do not affect the construction of this Constitution.
- (e) a reference to the *Corporations Act* is a reference to the *Corporations Act* as modified or amended from time to time.

1.3 Unless the contrary intention appears in this Constitution, an expression in a clause of this Constitution has the same meaning as in a provision of the *Corporations Act* that deals with the same thing as the clause.

1.4 To the extent permitted by law, the replaceable rules in the *Corporations Act* do not apply to the Company.

2. OBJECTS

2.1 The primary object, for which the Company is established, is to operate as a not-for-profit scientific institution in Australia:

- (a) operating a centre of excellence in the Field; and
- (b) undertaking world class research, education and training in the Field.

2.2 In support of the primary object set out in **clause 2.1**:

- (a) to enable Members, with their differing disciplines and backgrounds, to work together so that the performance of the Company will be greater than that of each Member performing independently;
- (b) to acquire and make available data in, and/or relevant to, the Field to all Members on equitable terms;
- (c) to undertake professional development activities in the Field for persons working in the Field to assist them to continue to be innovative and productive in the Field;

- (d) to undertake education activities in the Field for new postgraduate students to equip them with skills and attributes to be innovative and productive in the Field;
- (e) to provide, where appropriate:
 - (i) scholarships to assist candidates enrolled in a research degree in the Field; and
 - (ii) financial support for persons conducting post-doctoral research in the Field;
- (f) through its research, education and training, to:
 - (i) assist the development of both Australian and global financial, energy, health and other markets;
 - (ii) improve the regional and international competitiveness of Australian services in the Field; and
 - (iii) ensure the efficacy of regulatory change on the regional and international competitiveness of Australian services in the Field;
- (g) to promote a managed and co-operative approach to research and education in the Field to maximise the benefits from that research and education;
- (h) to commercialise intellectual property for the purpose of:
 - (i) sustaining the activities of the Company; and (as an ancillary purpose)
 - (ii) benefiting Australia, including Australian industry and the Australian economy;
- (i) to establish, throughout the world, links with:
 - (i) other centres of excellence;
 - (ii) universities and research organisations; and
 - (iii) appropriate business, professional and government organisations, in respect of research, education and/or training in the Field; and
- (j) to develop opportunities for, and encourage, academics and other persons of outstanding achievement to visit Australia to facilitate knowledge exchange, collaboration and innovation in the Field.

2.3 The Company may only exercise the powers in section 124(1) of the *Corporations Act* to:

- (a) carry out the objects in this **clause 2**; and
- (b) do all things incidental or convenient in relation to the exercise of power under **clause 2.2**.

3. INCOME AND PROPERTY OF COMPANY

3.1 The income and property of the Company will be applied only towards the promotion of the objects of the Company set out in **clause 2**.

3.2 No income or property will be paid or transferred directly or indirectly to any Member of the Company by way of dividend, distribution upon winding up or otherwise except for payments in good faith of:

- (a) a payment to a Member in return for any services rendered or goods supplied in the

ordinary and usual course of business. For the avoidance of doubt, this may include the granting of research scholarships and grants to a Member which is a university; or

- (b) remuneration to Officers in accordance with **clause 4** [Remuneration of Directors]; or
- (c) remuneration to employees; or
- (d) interest on monies lent to the Company by a Member at a rate not exceeding the rate the Company would have been charged by its bankers on a comparable loan; or
- (e) rent for premises leased or hired by a Member to the Company.

4. REMUNERATION OF DIRECTORS

4.1 No payment will be made to any Director of the Company except:

- (a) for out of pocket expenses incurred by the Director in performing any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the Directors of the Company have first approved the provision of the service and the amount payable, which is not more than an amount which commercially would be reasonable payment for the service;
- (c) for any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Directors of the Company;
- (d) relating to an indemnity in favour of the Director and permitted by section 199A of the *Corporations Act* or a contract of insurance permitted by section 199B; and
- (e) otherwise in accordance with **clause 4.2**.

4.2 Non-executive Directors may be paid or provided remuneration for their services as Directors, as approved by the Board, provided that remuneration is based on industry median rates and, if applicable, the remuneration to all such Directors is within the aggregate maximum remuneration that has been determined by the Members in general meeting.

5. ADMISSION AS A MEMBER

5.1 The number of Members with which the Company proposes to be registered is unlimited.

5.2 The Members of the Company will be:

- (a) the persons who consented to become Members in the Company's application for registration; and
- (b) any other persons, corporations or organisations whom or which the Directors or Members admit to membership in accordance with this Constitution.

5.3 Applications for membership of the Company must be in writing, signed by the applicant, in a form approved by the Directors in their absolute discretion.

5.4 The Members will consider an application for membership at the next meeting of Members after the application is received. The Members will decide:

- (a) whether to admit or reject the applicant; or

- (b) to ask the applicant to supply any evidence of eligibility that they consider reasonably necessary.

5.5 If the Members:

- (a) require further evidence under **clause 5.4**, a decision about the application will be deferred until this evidence has been supplied;
- (b) reject an application for membership, they will not be required to give reasons for the rejection.

5.6 The quorum for a meeting of Members at which a resolution is to be considered to admit a new Member, other than a Member admitted pursuant to **clause 5.5**, shall be all Members less one Member. To be carried, such a resolution requires a majority of all Members at the meeting.

- 5.7**
- (a) As soon as practicable following acceptance of an application, the Secretary will send the applicant written notice of the acceptance and request payment of the applicant's entrance fee and first annual subscription.
 - (b) Subject to **clause 5.8**, an applicant will become a Member of the Company on payment of the amount due under **clause 5.7(a)**.

5.8 If an amount due under **clause 5.7** is not paid within 30 days after the date the applicant is notified of acceptance, the Directors may cancel their acceptance of the applicant for membership of the Company.

5.9 The rights and privileges of every Member will be personal to each Member and will not be transferable by the Member or by operation of law.

6. SUBSCRIPTIONS

6.1 The Directors may decide on the entrance fee and annual subscription payable by each Member. Until otherwise determined by the Directors the entrance fee and the annual subscription will be nil. If the Directors determine that an entrance fee or annual subscription will become payable, the entrance fee or annual subscription for each Member will be identical.

- 6.2**
- (a) The annual subscription period will start on 1 July of each year, and the annual subscription will be due in advance within 30 days of this date.
 - (b) The first subscription payable by persons who consented to become Members in the application for the Company's registration will be payable within 30 days of the date from which subscriptions are determined by the Directors.

6.3 The Directors may determine that any Member admitted to membership between 1 January and 30 June will pay only one-half of the annual subscription until that Member's next annual subscription falls due.

6.4 If a Member does not pay a subscription within 30 days after it becomes due the Directors:

- (a) will give the Member notice of that fact; and
- (b) if the subscription remains unpaid 21 days from the date of that notice, may declare that Member's membership forfeited.

7. CEASING TO BE A MEMBER

7.1 A Member's membership of the Company will cease:

- (a) the Member gives the Secretary written notice of resignation, effective from the date of receipt of that notice by the Secretary;
- (b) if a majority of three-quarters of the Directors present and voting at a meeting of Directors by resolution terminate the membership of a Member:
 - (i) whose conduct in their reasonable opinion reached after reasonable consideration renders it undesirable that that Member continue to be a Member of the Company;
 - (ii) only after the Member has been given at least 21 days' notice of the resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed;
- (c) if membership is forfeited under **clause 6.4(b)**;
- (d) where the Member is an individual, if the Member:
 - (i) dies;
 - (ii) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health; or
 - (iii) is convicted of an indictable offence;
- (e) where the Member is not an individual, if:
 - (i) a liquidator is appointed in connection with the winding-up of the Member; or
 - (ii) an order is made by a Court for the winding-up or deregistration of the Member.

7.2 Any Member ceasing to be a Member:

- (a) will not be entitled to any refund (or part refund) of a subscription; and
- (b) will remain liable for and will pay to the Company all subscriptions and moneys which were due at the date of ceasing to be a Member.

8. POWERS OF ATTORNEY

8.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or that Member's membership in the Company, that Member must deliver the instrument appointing the Attorney to the Company for notation.

8.2 If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.

8.3 The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

9. REPRESENTATIVES

9.1 Any corporation or organisation which is a Member may by written notice to the Secretary:

- (a) appoint a natural person to act as its Representative in all matters connected with the Company as permitted by the *Corporations Act*; and
- (b) remove a Representative.

- 9.2** A Representative is entitled to:
- (a) exercise at a general meeting all the powers which the corporation or organisation which appointed him or her could exercise if it were a natural person;
 - (b) stand for election as an office bearer or Director; and
 - (c) be counted towards a quorum on the basis that the Member corporation or organisation is to be considered personally present at a general meeting by its Representative.
- 9.3** A certificate executed in accordance with section 127 of the *Corporations Act* is rebuttable evidence of the appointment or of the removal of the appointment (as appropriate) of the Representative.
- 9.4** The chairperson of a general meeting may allow a Representative to vote on the condition that he or she subsequently establishes his or her status as a Representative within a period prescribed by and to the satisfaction of the chairperson of the general meeting.
- 9.5** A Representative's appointment may set out restrictions on the Representative's powers.
- 10. CALLING A GENERAL MEETING**
- 10.1** Any Director may, at any time, call a general meeting.
- 10.2** A Member may:
- (a) only request the Directors to call a general meeting in accordance with section 249D of the *Corporations Act*; and
 - (b) not request or call and arrange to hold a general meeting except under section 249E or 249F of the *Corporations Act*.
- 11. NOTICE OF GENERAL MEETING**
- 11.1** Subject to the provisions of the *Corporations Act* allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) of any general meeting must be given to all Members and other persons referred to in **clause 53.1**.
- 11.2** A notice calling a general meeting:
- (a) must specify the place/s, date and time of the meeting and if the meeting is to be held entirely virtually or as a hybrid meeting (virtually and in-person) or in two or more places, the technology that will be used to facilitate this;
 - (b) must state the general nature of the business to be conducted at the meeting; and
 - (c) may specify a place and/or electronic address and/or other appropriate technology for the purposes of appointing a proxy.
- 11.3** The business to be transacted at an annual general meeting may, regardless of whether stated in the notice, include:
- (a) consideration of the annual financial report, Directors' report and the Auditor's report;
 - (b) the election of directors; and
 - (c) the appointment and fixing of the remuneration of the Auditor.

- 11.4** (a) The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under **clause 10.2**).
- (b) The Directors must give notice of the postponement or cancellation to all persons entitled to receive notices from the Company.

11.5 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

12. MEMBER

In **clauses 13, 14, 16 and 20**, 'Member' includes a Member present in person or by proxy, attorney or Representative.

13. QUORUM

13.1 No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.

13.2 Unless otherwise specified, a quorum of Members is at least half of the number of Members eligible to attend.

13.3 If a quorum is not present within 30 minutes after the time appointed for a meeting:

- (a) if the meeting was called on the requisition of Members, it is automatically dissolved; or
- (b) in any other case:
- (i) the meeting will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
- (ii) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is automatically dissolved.

14. CHAIRPERSON

14.1 The Chairperson, or in the Chairperson's absence the deputy chairperson, will be the chairperson at every meeting of Members.

14.2 If:

- (a) there is no Chairperson or deputy chairperson; or
- (b) neither the Chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the meeting; or
- (c) the Chairperson and deputy chairperson are unwilling to act as chairperson of the meeting,

the Directors present may elect a chairperson.

14.3 If no election is made under **clause 14.2**, then:

- (a) the Members may elect one of the Directors present as chairperson; or
- (b) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.

14.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

15. ADJOURNMENT

15.1 The chairperson of a meeting at which a quorum is present:

- (a) in his or her discretion may adjourn a meeting with the meeting's consent; and
- (b) must adjourn a meeting if the meeting directs him or her to do so.

15.2 An adjourned meeting may take place at a different venue to the initial meeting.

15.3 The only business that can be transacted at an adjourned meeting is the unfinished business of the initial meeting.

15.4 Notice of an adjourned meeting need only be given in accordance with **clause 11.1** if a general meeting has been adjourned for more than 21 days.

16. DECISION ON QUESTIONS

16.1 Subject to the *Corporations Act* in relation to special resolutions, and to any other clause of this Constitution, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

16.2 Resolutions as to Special Majority Members Issues must be referred to a meeting of Members and, in order to be carried, require a 75% majority of votes cast by Members present in person or by proxy to be in favour.

16.3 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the *Corporations Act*.

16.4 Unless a poll is demanded:

- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
- (b) an entry to that effect in the minutes of the meeting,

are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

16.5 The demand for a poll may be withdrawn.

16.6 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the meeting was not entitled to do so.

17. TAKING A POLL

17.1 A poll will be taken when and in the manner that the chairperson directs.

17.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.

17.3 The chairperson may determine any dispute about the admission or rejection of a vote.

17.4 The chairperson's determination, if made in good faith, will be final and conclusive.

17.5 A poll demanded on the election of the chairperson or the adjournment of a meeting must be taken immediately.

17.6 After a poll has been demanded at a meeting, the meeting may continue for the transaction of business other than the question on which the poll was demanded.

18. CASTING VOTE OF CHAIRPERSON

The chairperson of a meeting of members does not have a casting vote in addition to the chairperson's votes as a Member, proxy, attorney or Representative.

19. OFFENSIVE MATERIAL

A person may be refused admission to, or required to leave and not return to, a meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
 - (i) electronic or recording device;
 - (ii) placard or banner; or
 - (iii) other article,which the chairperson considers to be dangerous, offensive or liable to cause disruption.

20. ENTITLEMENT TO VOTE

20.1 A Member is not entitled to vote at a general meeting if the member's annual subscription is more than one month in arrears at the date of the meeting.

20.2 A Member entitled to vote has one vote.

21. OBJECTIONS

21.1 An objection to the qualification of a voter may only be raised at the meeting or adjourned meeting at which the voter tendered its vote.

21.2 An objection must be referred to the chairperson of the meeting, whose decision is final.

21.3 A vote that the chairperson does not disallow because of an objection is valid for all purposes.

22. VOTES BY PROXY OR ATTORNEY

22.1 If a Member appoints a proxy, proxies or an attorney, the proxy, proxies or attorney may not vote on a show of hands.

22.2 A proxy or attorney may demand or join in demanding a poll and may vote on a poll.

23. APPOINTING A PROXY

23.1 An appointment of a proxy is valid if the Member making the appointment signs it and contains the information required by subsection 250A(1) of the *Corporations Act*. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required by section 250A(1) of the *Corporations Act*.

23.2 For the purposes of **clause 23.1**, an appointment received at an electronic address will be taken to be signed by the Member if:

- (a) a personal identification code allocated by the Company to the Member has been included in the appointment; or

(b) the appointment has been verified in another manner approved by the Directors.

23.3 A proxy need not be a Member.

23.4 A proxy may vote or abstain as he or she chooses except where an appointment of the proxy directs the way the proxy is to vote on a particular resolution. Unless otherwise indicated when voting, if a proxy votes at all, the proxy will be deemed to have voted all directed proxies in the manner directed.

23.5 A proxy's appointment is valid at an adjourned meeting.

23.6 A proxy or attorney may be appointed for all meetings or for any number of meetings or for a particular purpose.

23.7 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:

(a) to vote on:

(i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and

(ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting,

even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and

(b) to vote on any motion before the meeting whether or not the motion is referred to in the appointment.

23.8 If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either cast as proxy or complete the appointment by inserting the name or names of one or more directors or the Secretary.

24. LODGMENT OF PROXY

24.1 The Company must receive the written appointment of a proxy or attorney at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:

(a) the time for holding the meeting or adjourned meeting at which the appointee proposes to vote; or

(b) the taking of a poll on which the appointee proposes to vote.

24.2 The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:

(a) the Office;

(b) a place or electronic address specified for that purpose in the notice of meeting.

25. VALIDITY

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

(a) died;

(b) became mentally incapacitated; or

(c) revoked the proxy or power,

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

26. COMMITTEES

26.1 The Directors may establish either or both of the following:

- (a) Board committees with powers delegated by the Directors (**Board Committees**); and
- (b) advisory committees, with no delegated powers, to advise the Directors on specified matters (**Advisory Committees**).

26.2 Committee members will be appointed by or in accordance with a process approved by the Directors and may include members other than Directors.

26.3 At least one member of each Board Committee must be a Director.

26.4 Unless otherwise agreed by the Directors, meetings of any Board Committee or Advisory Committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each Board Committee or Advisory Committee member was a Director.

26.5 The Directors will establish, as a minimum, the following Board Committees:

- (a) Audit and Risk Committee; and
- (b) Nominations and Remuneration Committee.

26.6 The Directors may also establish additional Board Committees and/or Advisory Committees including but not limited to:

- (a) Investment Committee;
- (b) Research and Education Committee.

27. NUMBER OF DIRECTORS

27.1 The Board shall be comprised of a minimum of five (5) and up to eight (8) Directors.

27.2 The majority of Directors will be independent of the Members. At all times at least one third (1/3), and not less than two (2) Directors, will represent the Members.

27.3 The Chairperson of the Board must be independent of:

- (a) each Member; and
- (b) the management of the Company,

and must be free of any business or other relationship that could materially interfere or could reasonably be perceived to materially interfere with the exercise of his or her unfettered and independent judgement.

27.4 The Board will appoint an Executive Leadership role to execute on strategy and operations, with the form and function agreed to from time to time by the Board.

28. APPOINTMENT AND REMOVAL OF DIRECTORS

28.1 The Board shall establish a Nominating Committee comprising the Chairperson, the Chief Executive Officer (whether or not a member of the Board) and another director determined by Board to consider and nominate qualified candidates for appointment or election to the Board. In nominating candidates for appointment or election to the Board, the Nominating Committee shall act at all times in accordance with policies from time to time adopted by the

Board.

28.2 In considering nominations for election to the Board of Directors, the Nominating Committee will refrain from nominating any person who may have a present conflict of interest or may be likely in the future to have such a conflict, the Nominating Committee shall at all times act in accordance with accepted principles of good corporate governance.

28.3 Each person who is to be appointed as a Director must be able to demonstrate to the Board's satisfaction that he or she has required skills and experiences sought by the Board.

28.4 The Board may by resolution:

- (a) appoint any second and subsequent Chairperson; and
- (b) remove the Chairperson as Chairperson before the end of the Chairperson's period of office (but may not require the Chairperson to resign as a Director).

28.5 If the conduct or position of any Director is such that continuing in office appears to the majority of the Directors to be prejudicial to the interests of the Company, that majority of Directors may request a general meeting be called for the purpose of asking the Members to remove that Director.

28.6 The Members may elect, remove or replace a Director by resolution passed in general meeting.

29. ADDITIONAL AND CASUAL DIRECTORS

29.1 Subject to receiving a recommendation from the Nominating Committee pursuant to **clause 28.1**, the Directors may appoint any person as a Director to fill a casual vacancy.

29.2 A Director appointed under **clause 29.1** will hold office until the next general meeting of the Company when the Director must retire but may be re-elected.

30. RETIREMENT

30.1 Subject to and in accordance with this **clause 30**, each Director (not including the Chairperson and the Chief Executive Officer (if a Director)) will generally be appointed for a three year term and will be eligible to nominate for re-appointment at the end of that term up to a maximum of three terms.

30.2 Subject to **clause 30.3**, at the close of every annual general meeting (not including the Company's first annual general meeting), one-third of the Directors (not including the Chairperson and the Chief Executive Officer (if a Director)) or, if their number is not a multiple of three, then the number nearest to but not more than one-third of the Directors (not including the Chief Executive Officer as a Director), must retire.

30.3 Each Director (other than the Chairperson and the Chief Executive Officer if either of them is a Director) must retire from office on the third anniversary after the annual general meeting at which the Director was elected. The Directors to retire by rotation at an annual general meeting are those Directors who have been longest in office (not including the Chairperson and the Chief Executive Officer if either of them is a director). Directors appointed on the same day may agree among themselves or determine by lot which of them must retire.

30.4 The Chairperson shall hold office for 4 years and be eligible for appointment for a further 4 year term.

30.5 A retiring Director will be eligible for re-election.

31. NOT USED

32. NOT USED

33. VACATION OF OFFICE

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

- (a) is prohibited by the *Corporations Act* from holding office or continuing as a Director;
- (b) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
- (c) resigns by notice in writing to the Company;
- (d) is removed by a resolution of the Company;
- (e) is absent from 3 consecutive Directors' meetings without leave of absence from the Directors;
- (f) holds any office of profit under the Company except as contemplated by **clause 4** or **clause 37.4**.

A Director must notify the Board as soon as that Director becomes aware that he or she is directly or indirectly interested in any contract or proposed contract with the Company and must take any action required by the other members of the Board to remedy the conflict within 7 days after being requested to do so.

34. POWERS AND DUTIES OF DIRECTORS

34.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the *Corporations Act* do not require to be exercised by the Company in general meeting.

34.2 Without limiting the generality of **clause 34.1**, the Directors may exercise all the powers of the Company to:

- (a) borrow money;
- (b) charge any property or business of the Company;
- (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
- (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

35. DIRECTORS' MEETINGS

35.1 (a) A Director may at any time, and the Secretary must on the request of a Director, call a Directors' meeting.

(b) A Directors' meeting must be called on at least 48 hours written notice of a meeting to each Director and each Director's alternate.

35.2 It is not necessary to give notice of a meeting of the Directors to a Director whom the Secretary, when giving notice to the other Directors, reasonably believes to be outside Australia.

35.3 (a) Subject to the *Corporations Act*, the Directors may hold a Directors' meeting by communicating with each other by any technological means by which they are able

simultaneously to hear each other and to participate in discussion.

- (b) The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- (c) Subject to **clause 37**, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.

35.4 **Clause 35.3** applies to meetings of Directors' committees as if all committee members were Directors.

35.5 The Directors may meet together, adjourn and regulate their meetings as they think fit.

35.6 A quorum is at least 50% of the Directors for the time being.

35.7 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

36. DECISION ON QUESTIONS

36.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to **clause 37**, each Director has one vote.

36.2 The following questions must be decided by a majority of two thirds of the votes of Directors present and voting:

- (a) appointment or dismissal of the Chief Executive Officer as Chief Executive Officer;
- (b) appointment or dismissal of any other officers forming part of the management structure of the Company from time to time
- (c) a recommendation to a meeting of members for the election or dismissal of Directors other than the Chairperson which shall be by majority vote;
- (d) determining roles and authorities of Committees.

36.3 The chairperson of a meeting has a casting vote in addition to his or her deliberative vote.

36.4 (a) An Alternate Director has one vote for each Director for whom he or she is an alternate.

- (b) If the Alternate Director is a Director, he or she also has a vote as a Director.

37. DIRECTORS' INTERESTS

37.1 No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is voided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.

37.2 No Director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realized by or under any such contract or arrangement merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.

37.3 A Director is not disqualified merely because of being a Director from contracting with the Company in any respect.

- 37.4** A Director or a body or entity in which a Director has a direct or indirect interest may:
- (a) enter into any agreement or arrangement with the Company;
 - (b) hold any office or place of profit other than as auditor in the Company; and
 - (c) act in a professional capacity other than as auditor for the Company,
- and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.
- 37.5** A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
- (a) be present while the matter is being considered at the meeting; or
 - (b) vote on the matter,
- unless permitted by the *Corporations Act* to do so, in which case the Director may:
- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
 - (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
 - (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- 37.6** A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.
- 37.7** Without limiting his or her other obligations, a Director who is an employee, board member or contractor of a Member that has a material financial interest in a matter that is being considered at a Directors' meeting must not:
- (a) be present while the matter is being considered at the meeting; or
 - (b) vote on the matter,
- unless the other Directors resolve otherwise.
- 37.8** A Director who is an employee or board member of a Member may disclose to that Member any information (confidential or otherwise) about the affairs, finances and accounts of the Company that comes into the Director's possession from time to time, subject to requiring the Member to maintain the confidentiality of any confidential information. This right will not apply if:
- (a) the exercise of such a right is inconsistent with this Constitution or the Director's fiduciary or other legal duties; and
 - (b) the Board has directed that such information not be disclosed to the relevant Member but only if:
 - 1. the Board reasonably considers that disclosure would be seriously detrimental to the interests of the Company; and
 - 2. the information is not information to which a Member may have access either

under this Constitution or by operation of law.

38. ALTERNATE DIRECTORS

- 38.1** A Director may, with the prior approval of the Directors, appoint one or more persons, including another or other Directors, as his or her alternate or alternates, as the case may be, for a period determined by that Director.
- 38.2** An Alternate Director may be appointed and act as alternate for more than one Director and will, subject to **clause 38.3**, have a vote for the Director for whom he or she is acting as alternate.
- 38.3** An Alternate Director is entitled to notice of Directors' meetings, including all relevant minutes and other material distributed with such notices, and, if the appointor is not present at a meeting, is entitled to attend, be counted in a quorum and vote as a Director. If a Director has nominated more than one alternate, only one is entitled to attend, be counted in a quorum and vote as a Director at any meeting.
- 38.4** An Alternate Director is an officer of the Company and is not an agent of the appointor.
- 38.5** The provisions of this Constitution that apply to Directors also apply to Alternate Directors.
- 38.6** (a) The appointor or the other Directors may revoke the appointment of an Alternate Director at any time.
- (b) An Alternate Director's appointment ends automatically when his or her appointor ceases to be a Director.
- 38.7** Any appointment or revocation under this clause must be effected by written notice delivered to the Secretary.

39. REMAINING DIRECTORS

- 39.1** The Directors may act even if there are vacancies on the board.
- 39.2** If the number of Directors falls below a number which results in a breach of **clause 27.3** or **27.2**, the remaining Directors may act only to:
- (a) appoint a Director or Directors; or
- (b) call a general meeting.

40. CHAIRPERSON

- 40.1** The Chairperson will be chairperson of Directors' meetings.
- 40.2** The Chairperson will be elected by the Directors from their number by ordinary majority resolution, provided that the Chairperson meets any criteria specified in this Constitution.
- 40.3** If the Chairperson or any deputy chairperson elected pursuant to **clause 40.4** is not present at any Directors' meeting within ten minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.
- 40.4** The Directors may elect a Director as deputy chairperson to act as chairperson in the Chairperson's absence.

41. DELEGATION

- 41.1** (a) The Directors may delegate any of their powers, other than those which by law or by any provision of this Constitution must be dealt with by the Directors as a board, to a Board Committee.
- (b) The Directors may at any time revoke any delegation of power to a Board Committee.

41.2 A Board Committee to which any powers have been delegated must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.

41.3 A Board Committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.

42. WRITTEN RESOLUTIONS

42.1 The Directors may pass a resolution without a Director's meeting being held if 75% of the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.

42.2 For the purposes of **clause 42.1**, 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.

42.3 Any document referred to in this clause may be in the form of an electronic transmission.

42.4 The minutes of Directors' meetings must record that a meeting was held in accordance with this **clause 42**.

42.5 This clause applies to meetings of Board Committees and Advisory Committees, as if all members of the committee were Directors.

43. VALIDITY OF ACTS OF DIRECTORS

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director, Alternate Director or member of a Board Committee; or
- (b) a person appointed to one of those positions was disqualified,

all acts of the Directors or the Board Committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

44. MINUTES AND REGISTERS

44.1 The Directors must ensure minutes are made of:

- (a) the names of the Directors present at all general meetings, Directors' meetings and meetings of Board Committee;
- (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Board Committee;
- (c) all resolutions passed by Directors in accordance with **clause 42**;
- (d) all appointments of officers;
- (e) all orders made by the Directors and Board Committee; and
- (f) all disclosures of interests made under **clause 37**.

44.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.

44.3 The Company must keep all registers required by this Constitution and the *Corporations Act*.

45. LOCAL MANAGEMENT

45.1 The Directors may provide for the management and transaction of the affairs of the Company in any places and in such manner as they think fit.

45.2 Without limiting **clause 45.1** the Directors may:

- (a) establish local boards or agencies for managing any of the affairs of the Company in a specified place and appoint any persons to be members of those local boards or agencies; and
- (b) delegate to any person appointed under **clause 45.2(a)** any of the powers, authorities and discretions which may be exercised by the Directors under this Constitution,

on any terms and subject to any conditions determined by the Directors.

45.3 The Directors may at any time revoke or vary any delegation under this **clause 45**.

46. APPOINTMENT OF ATTORNEYS AND AGENTS

46.1 The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the *Corporations Act* appoint any person to be the attorney or agent of the Company:

- (a) for the purposes;
- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
- (c) for the period; and
- (d) subject to the conditions,

determined by the Directors.

46.2 An appointment by the Directors of an attorney or agent of the Company may be made in favour of:

- (a) any member of any local board established under this Constitution;
- (b) any company;
- (c) the members, directors, nominees or managers of any company or firm; or
- (d) any fluctuating body of persons whether nominated directly or indirectly by the Directors.

46.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.

46.4 The Directors may appoint attorneys or agents by electronic communication, telegraph or cable to act for and on behalf of the Company.

46.5 An attorney or agent appointed under this **clause 46** may be authorized by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

47. SECRETARY

47.1 If required by the *Corporations Act*, there must be at least one secretary of the Company appointed by the Directors for a term and at remuneration and on conditions determined by them.

47.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.

47.3 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

48. COMMON SEAL

48.1 If the Company has a Seal:

- (a) the Directors must provide for the safe custody of the Seal;
- (b) the Seal must not be used without the authority of the Directors or a Board Committee authorised to use the Seal;
- (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign the document.

49. DUPLICATE SEAL

49.1 If the Company has a Seal, the Company may have one or more duplicate Seals of the Seal each of which:

- (a) must be a facsimile of the Seal with the addition on its face of the words 'Duplicate Seal'; and
- (b) must not be used except with the authority of the Directors.

50. INSPECTION OF RECORDS

50.1 Except as otherwise required by the *Corporations Act*, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.

50.2 A Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

51. SERVICE OF NOTICES

51.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution:

- (a) by serving it on the person; or
- (b) by sending it by post, or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.

51.2 A notice sent by post is taken to be served:

- (a) by properly addressing, prepaying and posting a letter containing the notice; and
- (b) on the next Business Day after the day on which it was posted.

- 51.3** A notice sent by electronic notification is taken to be served:
- (a) by properly addressing the electronic notification and transmitting it; and
 - (b) on the next Business Day after its dispatch.
- 51.4** If a Member has no Registered Address a notice will be taken to be served on that Member on the next Business Day after it was posted on a notice board at the Office.
- 51.5** A Member whose Registered Address is not in Australia may specify in writing an address in Australia to be taken to be the Member's Registered Address within the meaning of this clause.
- 51.6** A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 51.7** Subject to the *Corporations Act* the signature to a written notice given by the Company may be written or printed.
- 51.8** All notices sent by post outside Australia must be sent by prepaid airmail post.

52. PERSONS ENTITLED TO NOTICE

- 52.1** Notice of every general meeting must be given to:
- (a) every Member;
 - (b) every Director and Alternate Director; and
 - (c) any Auditor.
- 52.2** No other person is entitled to receive notice of a general meeting.

53. AUDIT AND ACCOUNTS

- 53.1** The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the *Corporations Act*.
- 53.2** The Directors must cause the financial records of the Company to be audited in accordance with the requirements of the *Corporations Act*.

54. WINDING UP

- 54.1** If the Company is wound up each Member undertakes to contribute to the property of the Company for the:
- (a) payment of debts and liabilities of the Company and payment of costs, charges and expenses of winding up; and
 - (b) adjustment of the rights of the contributories amongst themselves,
- such amount as may be required, not exceeding \$10.
- 54.2** If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another organisation, whether incorporated or unincorporated, having similar objectives to the Company and which is exempt from tax:
- (a) which, the Members have decided as a Special Majority Members Issue; or

- (b) if the Members are unable to pass a special resolution, which is determined by the Supreme Court of New South Wales on the application of the Company or a Member.

55. INDEMNITY AND INSURANCE

- 55.1** To the extent permitted by law and subject to the restrictions in sections 199A and 199B of the *Corporations Act* the Company indemnifies every person who is or has been an officer of the Company against any liability (other than for legal costs) incurred by that person as such an officer of the Company (including liabilities incurred by the officer as a director of a subsidiary of the Company where the Company requested the officer to accept appointment as director).
- 55.2** To the extent permitted by law and subject to the restrictions in sections 199A and 199B of the *Corporations Act*, the Company indemnifies every person who is or has been an officer of the Company against reasonable legal costs incurred in defending an action for a liability incurred by that person as such an officer of the Company (including such legal costs incurred by the officer as a director of a subsidiary of the Company where the Company requested the officer to accept appointment as director).
- 55.3** The amount of any indemnity payable under **clauses 55.1** and **55.2** will include an additional amount (**GST Amount**) equal to any Goods and Services Tax, Value Added Tax or any comparable tax payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax or other appropriate invoice for the GST Amount.
- 55.4** To the extent permitted by law, the Company may:
- (a) purchase and maintain insurance; and
 - (b) pay or agree to pay a premium for insurance,
- for any officer of the Company against any liability incurred by the person as an officer of the Company where the Directors consider it appropriate to do so.
- 55.5** For the purposes of this **clause 55**, 'officer' has the same meaning as in the *Corporations Act*.
-