

Corporations Law
A Company Limited by Guarantee and not having a Share Capital

CONSTITUTION
OF
YOUTH OFF THE STREETS LIMITED

1. INTERPRETATION AND PRELIMINARY

1.1 Definitions

In this Constitution:

- (a) **Benefactor** is a person or entity appointed a Benefactor pursuant to clause 5;
- (b) **Board** means the board of directors of the Company;
- (c) **business day** is a day other than a Saturday, Sunday or public holiday in New South Wales;
- (d) **chair** means the person chairing a meeting of members, or the Board, or a committee;
- (e) **Company** means Youth Off The Streets Limited;
- (f) **Founder** means the person named as Founder in clause 3;
- (g) **Patron** means the person appointed Patron of the Company pursuant to clause 4;
- (h) **secretary** means any person appointed to perform the duties of a secretary of the Company for the time being;
- (i) **Youth Off the Streets Inc.** means the association by that name incorporated under the Associations Incorporation Act 1984 (NSW); and
- (j) **YOTS** means the Company.

1.2 Provision in the Corporations Law

Other than where a contrary intention appears, an expression in this Constitution which also occurs in the Corporations Law has the same meaning as in the Corporations Law.

1.3 Headings, sub-headings and notes

Headings, sub-headings and notes are for convenience only and do not affect the interpretation of this Constitution.

1.4 Replaceable rules negated

The provisions of the Corporations Law which would apply as replaceable rules are displaced, to the extent permitted by that law, and will not apply to the Company.

1.5 Public company

The Company is a public company limited by guarantee.

1.6 Form of the Constitution

This Constitution is comprised of parts, each with a heading, and each part is comprised of clauses each with a sub-heading.

2. MEMBERSHIP

2.1 Number of members

The number of members is limited to 100.

2.2 No categories of membership

Membership of the Company will comprise one class of members.

2.3 Criteria for membership

- (a) An applicant for membership must be a natural person over the age of 18 years of age.
- (b) A copy of all applications for membership received within 2 years of the date of registration of the Company must be made available to the Founder. Such applicant will not be eligible to be admitted to membership if within 14 days of receipt of the copy of the application the Founder informs the secretary or chair (orally or in writing) that he does not approve the application.
- (c) An application for membership must not be approved unless the Board or other person or body authorised to approve applications under clause 2.4 considers the applicant to be suitable to be a member. Without limiting a discretion in determining suitability, regard may be had to all or any of the following:
 - (i) the perceived ability of the applicant to assist in promoting the charitable objects of the Company as expressed in clause 10.3;
 - (ii) the applicant's association with a community group that has contributed significantly to YOTS either financially or in providing volunteer services;
 - (iii) the applicant having been a member of a local area YOTS committee;
 - (iv) the applicant having provided volunteer services to YOTS on a long term basis;
 - (v) the applicant being, or having been a community leader or high profile person such as a politician, media figure or business leader; or
 - (vi) suitability in general of the applicant to be a member.

2.4 Application for membership

An application for membership must be in a form acceptable to the Board and approved by:

- (a) the Board; or
- (b) an officer of the Company or a Committee authorised by the Board to approve applications.

No reason need be given where an application is declined.

2.5 Cessation of membership

A member will cease to be a member:

- (a) if the member resigns by notice received by the secretary or at the registered office of the Company;
- (b) on death;

- (c) except in the case of the Founder, if the Board by a two-thirds majority of the total number of directors resolves that the criteria under clause 2.3 which qualified the member for membership no longer exists, or facts or circumstances have arisen or come to the notice of the Board as results in the Board passing the resolution. No reason need be given by the Board for terminating a membership.

2.6 No amount payable from members

Members are not required to pay an annual subscription or donation as a condition of membership.

2.7 Register of Members [sections 168 and 169 Corporations Law]

A register of members must be kept as required by the Corporations Law. The Founder will become a member on registration of the Company. In any other case membership will commence when the requirements for membership under this constitution have been satisfied and the name of the applicant is entered in the register of members.

3. FOUNDER

Father Christopher Keith Riley is the Founder of the Company and will hold such office for life or until he resigns in writing. If the Founder is a subscriber to the Constitution or applies for membership, he will be also a member.

4. PATRON

The Board may elect one or more distinguished persons as a Patron. A person will cease to be a Patron on resigning from that office or by unanimous resolution of the Board electing another person to that office. A Patron need not be a member.

5. BENEFACTORS

A person, a group of persons or a Corporate Body or other entity who donates to the Company the minimum amount determined by the Board, may formally be recognised as a benefactor and be issued with such certificate or other acknowledgment as the Board may decide. A Benefactor can only be appointed by a resolution of the Board and will cease to be a Benefactor by a resolution passed by 75% in number of the directors. Acknowledgment as a Benefactor creates no rights of membership.

6. GENERAL MEETINGS

6.1 Convening a general meeting [Section 249F of the Corporations Law]

A general meeting may be convened by:

- (a) resolution of the Board; or
- (b) at least 15% in number of members entitled to vote at the meeting.

6.2 Notice of general meeting [Sections 249H, 249K and 249L of the Corporations Law]

Subject to any contrary provision in the Corporations Law or this Constitution:

- (a) notice of a general meeting need only be given to members entitled to vote at the meeting;

- (b) notice of a general meeting must be given to the Company's auditor;
- (c) 21 days' notice must be given to convene a general meeting of members; and
- (d) a notice must specify the place, day and hour of the meeting and the general nature of the business to be transacted at the meeting.

6.3 Failure to give notice

Failure to give notice of a general meeting or a proxy form to a member entitled to receive a notice does not invalidate any act, matter, thing done or resolution passed at the general meeting if:

- (a) the failure occurred by accident or error; or
- (b) before or after the meeting, the person:
 - (i) has waived or waives notice of that meeting under the next succeeding clause; or
 - (ii) has notified or notifies the Company in writing of the person's agreement to that act, matter, thing done or resolution passed.

6.4 Waiver of notice

Attendance at a general meeting by a member in person or by proxy:

- (a) waives any objection the member may have to a failure to give notice or a proxy form, or the giving of a defective notice, of the meeting; and
- (b) waives any objection the member may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the member objects to considering the matter when it is presented.

6.5 Postponement of general meeting by the Board

The Board has power to postpone a general meeting once only. The postponed meeting must be held not earlier than 7 and not later than 21 days after the date the meeting was originally called. No business may be transacted at the postponed meeting which was not referred to in the notice convening the original meeting. Except in the case of an annual general meeting postponed for 7 days, at least 7 days' notice must be given of the postponed meeting. It is not necessary to specify in the notice the nature of the business to be transacted at the postponed meeting.

7. PROCEEDINGS AT GENERAL MEETINGS

7.1 When notice by post or fax or e-mail is given (based on the replaceable rule in section 249J(4))

A notice of meeting sent by post is taken to be given on the business day after it is posted. A notice of meeting sent by fax, or other electronic means, is taken to be given on the business day after it is sent.

7.2 Adjourned meetings (based on the replaceable rules in sections 249M and 249W(2))

- (a) The chair may with the consent of a meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at an adjourned meeting other

than the business left unfinished at the meeting from which the adjournment took place.

- (b) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (c) Except as provided by paragraph (b), it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

7.3 Quorum (based on the replaceable rule in section 249T)

- (a) The quorum for a meeting of members is 5 members and a quorum must be present at all times during the meeting.
- (b) Individuals attending as proxies will be counted in determining whether a quorum is present. However, if a member has appointed more than 1 proxy, only one of them is counted. An individual attending both as a member and as a proxy will be counted only once.
- (c) A meeting of members at which a quorum is not present within 30 minutes after the time for the meeting set out in the notice of meeting is adjourned to the date, time and place the directors specify. If the directors do not specify one or more of those things, the meeting is adjourned to:
 - (i) if the date is not specified - the same day in the next week; and
 - (ii) if the time is not specified - the same time; and
 - (iii) if the place is not specified - the same place.
- (d) If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

7.4 Chairing meetings of members (based on the replaceable rule in section 249U)

- (a) The directors may elect a person to chair meetings of members.
- (b) If directors, or only one director, are present at a meeting of members they or that director must elect a person present to chair the meeting (or part of it) if an individual has not already been elected by the directors to chair it or, having been elected, is not available to chair it, or declines to act, for the meeting (or part of the meeting).
- (c) If a chair is not appointed under paragraph (a) or (b) the members at a meeting of members must elect a member present to chair the meeting (or part of it).
- (d) The chair must adjourn a meeting of members if the members present with a majority of votes at the meeting agree or direct that the chair must do so.
- (e) A chair need not be a director.

7.5 Who can appoint a proxy (see section 249X)

The Company must comply with the provisions of the Corporations Law with respect to proxies.

7.6 Validity if proxy cannot vote (based on the replaceable rule in section 250C(2))

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:

- (a) the appointing member dies;

- (b) the member is mentally incapacitated;
- (c) the member revokes the proxy's appointment; or
- (d) the member revokes the authority under which the proxy was appointed by a third party.

An appointment of a proxy is valid if the proxy contains only some of the information required by section 250A of the Corporations Law and the chair accepts the proxy as valid.

7.7 Votes and equality of votes (based on the replaceable rule in section 250E)

- (a) At meetings of members, each member entitled to vote may vote in person, or by proxy.
- (b) On a show of hands and on a poll every member present has one vote. In addition, on a poll, a member or proxy who is present has one vote for each proxy held.
- (c) If there is an equality of votes, whether on a show of hands or on a poll, the chair does not have a second or casting vote and the proposed resolution will be lost.

7.8 Objections to right to vote (same as the replaceable rule in section 250G)

A challenge to a right to vote at a meeting of members:

- (a) may only be made at the meeting; and
- (b) must be determined by the chair, whose decision is final.

7.9 How voting is carried out (same as the replaceable rule in section 250J)

- (a) A resolution put to the vote at a meeting of members must be decided on a show of hands unless a poll is demanded.
- (b) Before a vote is taken the chair must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) On a show of hands, a declaration by the chair is conclusive evidence of the result. Neither the chair nor the minutes need state the number or proportion of the votes recorded in favour or against.

7.10 When and how polls must be taken (same as the replaceable rule in section 250M)

- (a) A poll demanded on a matter other than the election of the chair or the question of an adjournment must be taken when and in the manner the chair directs.
- (b) A poll on the election of the chair or on the question of an adjournment must be taken immediately.
- (c) A poll cannot be demanded on any resolution concerning:
 - (i) the election of the chair of a meeting; or
 - (ii) the adjournment of a meeting.
- (d) At a meeting of the members, a poll may be demanded by:
 - (i) at least 2 members entitled to vote on the resolution;
 - (ii) members with at least 2% of the votes that may be cast on the resolution on a poll; or
 - (iii) the chair.

8. BOARD OF DIRECTORS AND SECRETARY

8.1 Number and qualification of directors [Section 201A of the Corporations Law]

The maximum number of directors is 15. A director need not be a member.

8.2 First directors

The first directors of the Company will be appointed by the applicant for registration of the Company. If the Founder is the applicant for registration and consents to be a director he will by reason of that fact be appointed a director.

8.3 Cessation and suspension of office of director

- (a) A person ceases to be a director where he or she:
 - (i) resigns by notice to the Company;
 - (ii) ceases to be a director by virtue of the Corporations Law;
 - (iii) is of unsound mind or whose person or estate is liable to be dealt with under the law relating to mental health;
 - (iv) other than in the case of the Founder is absent from meetings of the Board for a continuous period of 3 months without permission of the Board and the Board resolves that the person will cease to be a director; or
 - (v) is removed by the members as permitted by the Corporations Act.
- (b)
 - (i) The directors by resolution passed by a three-fourths majority of the total number of directors at a meeting of the Board specially convened for such purpose may suspend a director from holding such office for a maximum period of one year on the ground that the conduct or position of the director is such that the interests or charitable objects of the Company could be prejudiced by the director continuing in office.
 - (ii) If not less than 14 days before the period of suspension expires, the directors by a three-quarters majority of their total number resolve that the suspended director be removed from office, the Board must not later than the commencement of the 14 day period call a general meeting at which the members may either confirm the suspension and remove the director from office, or, annul the suspension and reinstate the director.
 - (iii) A person may be suspended a second or subsequent time where the grounds for suspension differ from those which applied on the previous occasion.

8.4 Directors may appoint other directors (based on the replaceable rule in section 201H)

- (a) The directors may appoint a person as a director. A person can be appointed as a director in order to make up a quorum for a directors' meeting even if the total number of directors is not enough to make up that quorum.
- (b) If a person is appointed under this clause as a director, the Company must confirm the appointment by resolution at the company's next annual general meeting. If the appointment is not confirmed, the person ceases to be a director at the end of that annual general meeting.
- (c) A director cannot appoint an alternate director.

8.5 Period of office

- (a) One half of the first directors, excluding the Founder, will retire at the second annual general meeting of the Company and the other half, excluding the Founder, at the following annual general meeting. If the Board cannot agree among themselves as to the half to retire at the second annual general meeting they will be determined by drawing names out of a container. Whenever there is an uneven number of directors excluding the Founder, the number of directors to retire at the second annual general meeting will be the even number below one half and the others will retire at the next annual general meeting.
- (b) Subject to clause 8.3(a), a person who is elected a director by the members at an annual general meeting will hold office until the conclusion of the second annual general meeting following his or her appointment or, in the case of a director appointed pursuant to clause 8.4, the second annual general meeting following the annual general meeting where his or her appointment is confirmed.
 - (i) The Founder is entitled to be a director during such time as he consents to hold office and is not precluded from being a director by reason of clause 8.3(a).
- (c) A retiring director who is not precluded from being a director under clause 8.3(a) is entitled to be re-elected a director any number of times.

8.6 No fees for directors

A director is not entitled to be paid a fee for holding office as a director.

8.7 Directors' expenses (based on the replaceable rule in section 202A(2))

The directors are entitled to be paid such travelling, hotel and other expenses properly incurred by them:

- (a) in attending and returning from meetings of the directors or any committee of the directors or general meetings of the Company; or
 - (b) in connection with pursuing the charitable purposes of the Company,
- which are approved by the directors.

8.8 Nomination for election

A person seeking to be elected to the Board at an annual general meeting, must be proposed and seconded by members and consent to be nominated and to be a director. Signed and dated nominations and consents must be received by the secretary at least 2 business days before the date of the meeting. A consent to be a director must comply with any provision in that regard in the Corporations Law. A list of nominations must be available at the registered office of the Company for inspection by all directors and members. A consent to be nominated a director may be withdrawn at any time prior to such person being appointed.

8.9 Election procedure [Section 201E of the Corporations Law]

- (a) If at an annual general meeting the number of persons eligible to be appointed directors (**eligible persons**) exceeds the number of vacancies, a ballot must be conducted to determine the appointments. The ballot must be conducted in the manner determined by the Board and if no such determination is made and conveyed to the chair, the ballot may be conducted as determined by the chair.

- (b) If the number of eligible persons does not exceed the number of vacancies, no election need take place at the meeting and the nominees must be declared elected.
- (c) If the election of directors does not result in the minimum number required by law being appointed to the Board, nominations from persons present and who consent to be a director may be taken from the floor to result in no more than the minimum number of directors.

8.10 Powers of directors (based on the replaceable rule in section 198A)

- (a) The charitable work and administration of the Company is to be managed by or under the direction of the directors.
- (b) The directors may exercise all the powers of the Company (including appointing an attorney) except any powers the Corporation Law or this Constitution requires the Company to exercise in general meeting.

8.11 Negotiable instruments (based on the replaceable rule in section 198B(2))

The Board may determine that a cheque or other negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in such manner as they decide.

8.12 Delegation to committees (see section 198D)

- (a) The directors may delegate any of their powers exercisable by a majority resolution of the Board to a committee to which at least one director is appointed. Such delegation may include but is not limited to:
 - (i) a fundraising committee;
 - (ii) a services committee; and
 - (iii) a finance and administration committee.
- (b) A committee must exercise the powers delegated to it in accordance with any directions of the Board. The effect of a committee exercising a power delegated to it under this provision will be as effective as if the power had been exercised by the Board.

8.13 Removal of directors by members (sections 203D and 203E)

The members in general meeting may, by resolution, remove a director before the end of the director's period of office in accordance with the provisions of the Corporations Law.

8.14 Resignation as a director (same as the replaceable rule in section 203A)

A director may resign as a director by giving a written notice of resignation to the Company at its registered office or handing the notice to the chair at a meeting of the Board.

8.15 Contracts with directors (sections 191, 192, 193 and 195)

- (a) A director may hold any other office or position of profit (other than auditor) in the Company in conjunction with the office of director and on such terms as to remuneration and otherwise as the directors determine.
- (b) A director may be, or become, a director or other officer of, or otherwise interested in, any corporation in which the Company may be interested as a 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 other corporation.

- (c) Subject to the Corporations Law, a director may contract with the Company or any company in which the Company is a shareholder or otherwise interested as a vendor, purchaser, underwriter or otherwise and any such contract, and any contract entered into by the Company or any company in which the Company is a shareholder or otherwise interested, in which a director is in any way, directly or indirectly, interested will not be avoided nor will a director, by reason of holding a place of profit or office as a director, be liable to account to the Company or such other company for any profit arising from such a contract by reason only of the director holding that office or of the fiduciary relations thereby established.
- (d) A director who has a material personal interest in a matter that relates to the affairs of the Company must give the other directors notice of the interest where required to do so under the Corporations Law. The notice must:
- (i) give details of the nature and extent of the interest and the relation of the interest to the affairs of the Company; and
 - (ii) be given at a directors' meeting as soon as practicable after the director becomes aware of their interest in the matter.
- A contravention of this clause 8.15(d) does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing.
- (e) A director may not without the approval of all other directors sign or countersign any contract or other document, including any contract or document to which the company is a party, in which the director has a material personal interest.
- (f) This constitution does not affect the duty of a director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company, or who has a material personal interest in a matter, to comply with the Corporations Law or declare the nature of the director's interest at a meeting of the directors, nor does it affect the duty of a director who holds any office or possesses any property whereby, whether directly or indirectly, duties or interests might be created in conflict with the director's duties or interests as director, to declare at a meeting of the directors the fact and the nature, character and extent of the conflict. The secretary must record in the minutes any disclosure given by the director in pursuance of this Constitution or the Corporations Law.

8.16 Secretary's terms of office (same as the replaceable rule in section 204F)

A secretary of the Company holds office on the terms and conditions (including as to remuneration) that the directors determine.

9. DIRECTORS' MEETINGS

9.1 Resolutions without a meeting (same as the replaceable rule in section 248A)

- (a) The directors may pass a resolution without a directors' meeting being held if two thirds of the directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by directors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last director signs.

9.2 Calling directors' meetings (based on the replaceable rule in section 248C)

A directors' meeting may be called by a director. Reasonable notice must be given by the director or the secretary or other officer of the Company individually to every other director. Notice calling a directors' meeting may be given verbally in person or by telephone, or by leaving a message with a person over 18 years of age at a telephone number provided to the company for such purpose. A notice of a directors' meeting may also be given by facsimile, e-mail or post to a number or address provided by the director to whom notice is to be given, or known to the secretary or other person conveying the notice as being a number or address at which the director can be contacted.

9.3 Chairing directors' meetings (same as the replaceable rule in section 248E)

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

9.4 Quorum at directors' meetings (based on the replaceable rule in section 248F)

Unless the directors determine otherwise, the quorum for a directors' meeting is 4 directors and the quorum must be present at all times during the meeting.

9.5 Use of Technology (section 248D)

- (a) A director will be taken to be present at a meeting of directors where he or she is in simultaneous communication with all other persons attending the meeting by telephone, video conference facility or any other means which allows the director to hear and communicate with each other attendee.
- (b) The provisions of this part are in addition to, and not in substitution for, the provisions of section 248D of the Corporations Law or any other provision of that law which facilitates the holding of a directors' meeting.

9.6 Passing of directors' resolutions (based on the replaceable rule in section 248G)

- (a) A resolution of a meeting of the directors must be passed by a majority of the votes cast by directors entitled to vote on the resolution.
- (b) If there is an equality of votes, the chair does not have a second or casting vote and the proposed resolution is to be taken as having been lost.

10. COMPANY LIMITED BY GUARANTEE

10.1 Non-profit organisation (Reg 2A Corporations (Fees) Regulations)

The Company cannot at any time either prior to or on its winding up distribute to its members by way of dividend or otherwise any of the assets or income of the Company.

10.2 Guarantee (sections 117(M), 517 and 601BC)

Every member of the Company undertakes to contribute an amount not exceeding \$10 to the assets of the Company in the event that the Company is wound up during the time he or she is a member or within 1 year afterwards, for payment of the debts and liabilities of

the Company contracted before the time the member ceased to be a member and for the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories among themselves.

10.3 Charitable objects

- (a) The Company is established solely for public charitable purposes. As its principal objects, all income, assets and other resources of the Company must be wholly or predominantly applied in the relief in Australia of poverty, sickness, suffering or distress, or in the promotion in Australia of education primarily of disadvantaged youths.
- (b) The principal objects of the Company stated in paragraph (a) may be undertaken by the Company:
 - (i) taking over the role of Youth Off The Streets Inc. and to promote and develop the work carried on by Youth Off The Streets Inc. prior to incorporation of this Company insofar as such work is consistent with the principal objects of the Company;
 - (ii) assisting disadvantaged, homeless, poor and troubled youth by providing accommodation, counselling, training and other support as may be needed in a compassionate manner and without reference to denomination or any other distinction;
 - (iii) making contact with young people at risk both before and after they become caught in a destructive web of drugs, alcohol abuse and prostitution;
 - (iv) providing accommodation, care and counselling for young people in crises;
 - (v) providing a long term programme of character building for young persons by teaching life and work skills, including but not limited to skills leading towards self reliance and responsibility and the opportunity of obtaining employment utilising such skills;
 - (vi) providing centres for homeless youth;
 - (vii) acquiring by purchase, lease, hiring, gift or otherwise any real and or personal property or any interest therein for the purpose of achieving these objects;
 - (viii) raising funds by any legal and appropriate means for the purpose of achieving these objects; and
 - (ix) exercising all the powers of a natural person and doing all such lawful things as are incidental or conducive to the attainment of the objects of the Company or any of them.

10.4 Winding Up

- (a) In this clause:
 - (i) “**Eligible Charity**” means a fund, authority or institution which is charitable at law and gifts to which are deductible under items 1 or 2 of the table in section 30-15 of ITAA 1997;
 - (ii) “**ITAA 1997**” means the Income Tax Assessment Act 1997 (Cth) and any Act replacing or in addition to the ITAA 1997; and

- (iii) reference to a section or provision in the ITAA 1997 is to be taken as a reference to any section or provision of any Act replacing or in addition to the section or provision of the ITAA 1997.
- (b) At the first occurrence of:
 - (i) the winding up of the Company;
 - (ii) the dissolution of the Company; or
 - (iii) the Company ceasing to be endorsed as a deductible gift recipient under subdivision 30-BA of ITTAA 1997,there remains after the satisfaction of all its debts and liabilities any property or funds, the assets remaining cannot be paid to or distributed among the members but must be given or transferred to one or more Eligible Charities having similar rules and objects to those of the Company as the directors may determine.
- (c) Where gifts to an Eligible Charity are deductible only if, among other things, the conditions set out in the relevant table item in subdivision 30-B of ITTAA 1997 are satisfied, a transfer under this subclause must be made in accordance with those conditions.

11. EXECUTION OF DOCUMENTS

11.1 Execution without using a seal (section 127(1))

A document will be properly executed and binding on the Company without using a common seal if the document is signed by:

- (a) 2 directors of the Company; or
- (b) a director and a secretary.

11.2 Execution by use of common seal (section 127(2))

If the Company has adopted a common seal, it may as an alternative method to that provided in the preceding rule, execute a document by fixing the seal to the document and having the fixing of the seal witnessed by:

- (a) 2 directors of the Company; or
- (b) a director and a secretary.

11.3 Execution recognised by law (section 127(4))

In addition to a method previously provided in this part, a document may be executed in any other manner recognised by law as binding the Company to that document.

11.4 Execution under Power of Attorney

Nothing in this part limits the effectiveness of execution of a document by an attorney acting under a Power of Attorney given by the Company provided the Power of Attorney is not given or exercised in respect of any matter requiring a unanimous resolution of the directors or a special resolution of members unless such resolutions have been passed.

12. INSPECTION OF BOOKS

12.1 Persons entitled to inspect

Each director is entitled at reasonable times to have access to and inspect the books and records of the Company. A member is entitled to have access to and inspect the books and records of the Company when authorised by a resolution of the directors.

12.2 Requirement for confidentiality

Each director and other person obtaining access under the preceding rule must maintain as confidential such of the information disclosed as is proprietary, of a confidential nature or a trade secret of the Company, and which is not public knowledge.

13. GIVING OF NOTICES AND SERVICE OF DOCUMENTS

13.1 Notices by members or directors to the company

A member or director may give a notice or other document to the Company by:

- (a) leaving it at the registered office of the Company;
- (b) posting it by prepaid ordinary or registered post to the registered office of the Company;
- (c) giving the notice or document personally to the secretary;
- (d) transmitting the notice or document by facsimile or e-mail to a number or address supplied by the Company to members for such purpose; or
- (e) any other method permitted by law.

13.2 Notices by the Company to members and directors

The Company may give a member and director any notice or document including a notice of a meeting by:

- (a) giving the notice or document personally to the member or to the director;
- (b) sending the notice or document by prepaid ordinary or registered post to, or leaving it at, the address of the member shown in the register of members or to any address given by the member or director to the company for such purpose;
- (c) transmitting the notice or document by facsimile or e-mail to a number or address supplied to the Company by the member or director for such purpose; or
- (d) any other method permitted by law.

13.3 Address in Australia

Where the postal address of a member appearing in the register of members is outside Australia, the member must give the Company an address in Australia at which notices or documents to be given by the Company to the member may be left or sent.

13.4 Where Liquidator or Administrator is appointed

A notice or document may be given to or served on the Company while a Liquidator, Provisional Liquidator or Administrator is appointed as provided in the Corporations Law.

13.5 Time of service where notice is delivered

A notice or document will be taken to have been given and received at the time it is given to a person authorised to receive the notice or document, or is delivered at an address at which the notice or document may be left.

13.6 Time of service by post

A notice or document sent by post is taken to have been given and received:

- (a) where posted in Australia to an address in Australia - on the second business day after posting; and
- (b) where posted in one country to another country - on the seventh business day after posting.

13.7 Time of service by fax or e-mail

A notice or document sent by fax or e-mail will be taken to have been given and received on the business day after it is transmitted.

14. OFFICERS: INDEMNITIES AND INSURANCE

14.1 Definitions

In this part:

- (a) **ASIC** means the Australian Securities & Investments Commission or the body which replaces that entity;
- (b) **Excluded Legal Costs** means, in relation to a person, legal costs incurred:
 - (i) in defending or resisting proceedings which the person is found to have an Excluded Liability;
 - (ii) in defending or resisting criminal proceedings in which the person is found guilty;
 - (iii) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established, other than costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for that court order; or
 - (iv) in connection with proceedings for relief to the person under the Corporations Law in which the court denies relief,and for the purposes of this definition, the outcome of the proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.
- (c) **Excluded Liability** means:
 - (i) a liability owed to the Company or a related body corporate of the Company;
 - (ii) a liability for a pecuniary penalty order under section 1317G of the Corporations Law;
 - (iii) a liability for a compensation order under section 1317H of the Corporations Law; or
 - (iv) a liability that:

- A. is not owed to the Company or a related body corporate of the Company; and
 - B. did not arise out of conduct in good faith.
- (d) **Proceedings** means, in relation to a person, any proceedings (whether civil or criminal) in which it is alleged that the person has done or omitted to do some act, matter or thing:
 - (i) in his or her capacity as an officer;
 - (ii) in the course of acting in connection with the affairs of the Company or a related body corporate; or
 - (iii) otherwise arising out of the person holding office as an officer of the Company or a related body corporate,including all proceedings alleging that he or she was guilty of negligence, default, breach of trust or breach of duty in relation to the Company or a related body corporate.
- (e) **related body corporate** has the meaning given to that term by the Corporations Law; and
- (f) **officer** means a person who is, or has been, a director, secretary or executive officer of the Company or a related body corporate of the Company.

14.2 Indemnity against liabilities

To the extent permitted by law, the Company:

- (a) indemnifies every person who is, or has been, a director or secretary of the company; and
- (b) may by deed indemnify, or agree to indemnify, a person who otherwise is, or has been, an officer,

against a liability incurred by that person in his or her capacity as an officer to another person provided that the liability is not an Excluded Liability or a liability for legal costs and expenses.

14.3 Indemnity for legal costs

To the extent permitted by law, the Company:

- (a) indemnifies every person who is, or has been, a director or secretary of the company; and
- (b) may by deed indemnify, or agree to indemnify, a person who otherwise is, or has been, an officer,

against legal costs and expenses (other than Excluded Legal Costs) incurred by that person in defending proceedings for a liability incurred by that person in his or her capacity as such an officer.

14.4 Payment for legal costs

To the extent permitted by law the company may make a payment (either by way of advance, loan or otherwise) to a person who is an officer for the legal costs and expenses incurred by that person in defending proceedings for a liability incurred by that person in his or her capacity as an officer provided that:

- (a) the legal costs and expenses are not Excluded Legal Costs at the time the payment is made; and
- (b) the person is obliged to repay the legal costs and expenses to the extent that they become Excluded Legal Costs.

14.5 Insurance

To the extent permitted by law the Company may pay, or agree to pay, a premium for a contract insuring a person who is, or has been, an officer against a liability:

- (a) incurred by that person:
 - (i) in his or her capacity as such an officer;
 - (ii) in the course of acting in connection with the affairs of the company or a related body corporate; or
 - (iii) otherwise arising out of the person holding office as such an officer, provided the liability does not arise out of:
 - (iv) conduct involving a wilful breach of duty in relation to the company or a related body corporate; or
 - (v) a contravention of sections 182 or 183 of the Corporations Law; or
- (b) for legal costs and expenses incurred by that person in defending or resisting proceedings, whatever their outcome.

This and the preceding 16 pages comprises the Constitution and Annexure “A” to the form of Consent and Agreement by the undersigned executed prior to and in anticipation of the application being lodged for registration of the company.

DATED this day of April 2002

Signed by Christopher Keith Riley being the Founder under the Company and initial member.

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Signature of Christopher Keith Riley