

CORPORATIONS ACT 2001

CONSTITUTION

OF

COLORECTAL SURGICAL SOCIETY OF

AUSTRALIA AND NEW ZEALAND

ACN 055 544 664

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PART 1 - PRELIMINARY

1. NAME

The name of the Company is Colorectal Surgical Society of Australia and New Zealand hereinafter referred to as "the Company".

2. TYPE OF COMPANY

2.1 The Company is a public company limited by guarantee.

2.2 Liability of the Members is Limited.

2.3 By virtue of the Licence that was in force immediately before 1 July 1998 and the commencement of section 151(1) of the Act the Company is permitted to omit the word 'Limited' from its name.

3. OBJECTS OF COMPANY

3.1 The Company is established for the following objects

3.1.1 To educate colorectal Surgeons, the Medical Profession in general and the Public in all areas of colorectal surgery and allied matters with a view, inter alia, to maintain and improve the quality of care of patients with diseases of the colon and rectum.

3.1.2 To foster and promote the development and maintenance of standards of practice of colorectal surgery in Australia and New Zealand.

3.1.3 To facilitate and promote training, certification and accreditation of colorectal surgeons.

3.1.4 To arrange, promote, foster, develop and assist research into and the study application of knowledge and information concerning colorectal surgery in all its aspects.

3.2 In furtherance of these objects the Company may:

3.2.1 Hold scientific meetings;

3.2.2 Develop and foster research programs;

3.2.3 Where required, act in an advisory capacity for any or all of Government, Medico- Legal matters, peer review advice, matters regarding hospital and work and practices in colorectal surgery;

3.2.4 Be involved in economic matters relating to fees, advice to the Australian Medical Association and similar bodies, wording and structure of medical benefit schedules and pharmaceutical, instrument and allied trades industry liaison provided that the Company will not act as principal in union or arbitration matters;

3.2.5 Foster the international exchange of all matters important to the development of colorectal surgery and to set down the history of colorectal surgery in Australia and New Zealand;

3.2.6 Encourage, stimulate and foster interest in colorectal surgery amongst other interested persons including regional and international bodies;

- 3.2.7 Encourage, assist and arrange for scientists and practitioners and others to visit Australia and New Zealand in order to promote scientific communication in the field of colorectal surgery and allied disciplines;
- 3.2.8 Encourage, assist and arrange for scientists, practitioners and others to travel abroad and promote scientific communication in the field of colorectal surgery and allied disciplines.

4. **POWERS**

- 4.1 Solely for the purpose of carrying out the objects stated above the Company has the power to do all such other things as set out in this Constitution or the Corporations Act. In particular:
 - 4.1.1 appoint, employ and pay officers and servants and to dismiss or suspend any officer or servant;
 - 4.1.2 purchase, hire, maintain, sell or otherwise dispose of all kinds of furniture, equipment, machines, stationery, books, manuscripts, periodicals, newspapers and other things required for the proper administration of the Company and the furtherance of its objects;
 - 4.1.3 acquire by purchase, lease or otherwise any lands, buildings, or premises which may be of benefit to the Company;
 - 4.1.4 invest and deal with the monies of the Company not immediately required upon such securities and in such manner as may from time to time be determined;
 - 4.1.5 raise funds by subscription or donation or sponsorship or loans or borrow or give security for the money upon bond debentures debenture stock bills of exchange promissory notes or other obligations or securities of the Company or by mortgage or charge upon all or any part of the property of the Company or without security and upon such terms as to the priority or otherwise as the Company shall think fit;
 - 4.1.6 let, lease or to hire the whole or any part or parts of the real and personal property of the Company on such terms and for such purpose as the Company shall determine;
 - 4.1.7 draw, accept and make and to endorse, discount and negotiable bills of exchange, promissory notes and other negotiable instruments;
 - 4.1.8 advance and lend money upon such security as may be thought proper or without taking any security therefore;
 - 4.1.9 take and defend all legal proceedings by or on behalf of the Company and to appoint all necessary attorneys for any such purpose;
 - 4.1.10 make, alter and repeal by-laws not inconsistent with the objects regulating the conduct generally; and
 - 4.1.11 do all such other lawful things as are conducive or incidental to the attainment of the above objects or any of them

- 4.2 The Company may only exercise the powers in section 124(1) of the Act to carry out the Objects of the Company.
- 4.3 The property and income of the Company shall be applied solely in furtherance of the above- mentioned objects and no portion shall be distributed directly or indirectly to Members of the Company except as bona fide compensation for services rendered or expenses incurred on behalf of the Company.
- 4.4 No payment shall be made to any director other than payment:
- 4.4.1 of out of pocket expenses incurred by the Director in the performance of any duty of a Director;
- 4.4.2 for any service rendered to the Company by a Director in a professional or technical capacity provided that any amount payable is approved by the Directors and is not more than commercially reasonable for the service rendered

5. DEFINITIONS AND INTERPRETATION

5.1 In this document:

- 5.1.1 "**Act**" means the Corporations Act 2001 as it applies to the Company;
- 5.1.2 "**Company**" means Colorectal Surgical Society of Australia and New Zealand ACN 055 544 664;
- 5.1.3 "**Council**" means all or some of the directors acting as a board;
- 5.1.4 "**Council Member**" means a director of the Company and includes an alternate director;
- 5.1.5 "**Financial Year**" means the period from 1 July in one year to 30 June in the next or such other period of 12 calendar months as the Directors may from time to time determine;
- 5.1.6 "**Licence**" means the licence granted to the Company by the Australian Securities and Investments Commission on 18 March 1992 permitting the omission of the word 'Limited' from the name of the Company.
- 5.1.7 "**Member**" has the same meaning as in section 231 of the Act;
- 5.1.8 "**Replaceable Rule**" means any provision of those sections and sub-sections of the Act which are designated under section 141 of the Act as "replaceable rules" and so capable of being displaced or modified by a company's constitution;
- 5.1.9 "**Secretary**" means a person appointed by the Council to perform the duties of a secretary of the Company;
- 5.1.10 "**Special Resolution**" means a resolution of members requiring at least 75% of the votes cast by Members entitled to vote on the resolution.

5.2 In this document:

- 5.2.1 the singular includes the plural and vice versa and words importing a gender include other genders;

- 5.2.2 words importing natural persons include corporations;
- 5.2.3 reference to a section is to a section of the Act and includes any section that substantially replaces that section and deals with the same matter;
- 5.2.4 headings are for ease of reference only and do not affect the interpretation of this document;
- 5.2.5 subject to clause 5.1, words and expressions in this document have the same meaning as in a provision of the Act which deals with the same matter; and
- 5.2.6 a reference in this document to a request or action that is to be made in writing permits the communication being issued in electronic form to the intended recipient.

6. **REPLACEABLE RULES**

Subject to the Act, all the Replaceable Rules are displaced by this document.

7. **ACT**

Despite any other provision in this document:

- 7.1 if the Act prohibits a thing being done, the thing may not be done;
- 7.2 if the Act requires a thing to be done, authority is given for that thing; and
- 7.3 if a provision of this document is or becomes inconsistent with the Act, that provision must be read down or failing that severed from this document to the extent of the inconsistency.

PART 2 – MEMBERSHIP

8. **MEMBERSHIP**

- 8.1 The Company requires Members (excluding Honorary Members) to have or to have satisfied or be in the process of satisfying the following criteria:
 - 8.1.1 a commitment to colorectal surgery and support of colorectal surgery as a speciality; and
 - 8.1.2 a majority practice in colorectal surgery after a minimum of 3 years beyond advanced training; and
 - 8.1.3 a recognised period of training in colorectal surgery (not less than 2 full years) and a hospital appointment in colorectal surgery.
- 8.2 An application for membership must be in a form approved by the Company and accompanied by recommendation from two current members of the Company and if accepted is to be ratified by the membership at the Annual General Meeting.
- 8.3 Upon the acceptance of an application membership will be granted under one of the following categories, Provisional, Ordinary, Foundation, Retired, Honorary, Life and Fellowship.

9. QUALIFICATION OF PROVISIONAL MEMBERS

Provisional membership is available to applicants who:

- 9.1 Are accepted by the Training Board in Colon and Rectal Surgery (TBCRS) with the intent of completing the post fellowship training requirements as set out by TBCRS and membership shall commence upon beginning of such training; or
- 9.2 Persons that in the opinion of Council have undertaken a suitable period of training and undertake to demonstrate their commitment to colorectal surgery by way of means that Council may deem appropriate and membership shall commence upon Council's approval of Provisional Membership.

10. QUALIFICATION OF ORDINARY MEMBERS

Ordinary membership is available to applicants who:

- 10.1 Have within 5 years of commencement of TBCRS training completed all TBCRS requirements and are recommended to Council by TBCRS for ordinary membership; or
- 10.2 If presenting for membership under clause 9.2, have demonstrated to Council their commitment to the specialty within three years of acceptance as a provisional member.

11. QUALIFICATION OF FOUNDATION MEMBERS

Foundation membership applies to those persons that were present at (or tendered their apologies to) the initial meeting of the Company held in Sydney Australia on 11 November 1988 and applied thereafter for Foundation membership. The names of those members can be found in the minutes of the Annual General Meeting of the Company dated 18 October 1989.

12. QUALIFICATION OF RETIRED MEMBERS

Upon his or her retirement from active practice a Member may apply in writing to the Council for retired membership status.

13. QUALIFICATION OF HONORARY MEMBERS

The Council may offer Honorary membership to any person (that is not already an Member) for reasons of international goodwill or other services to the Company.

14. QUALIFICATION OF LIFE MEMBERS

The Council may at its discretion offer Life membership to persons that hold Ordinary or Foundation Membership and have been deemed by the Council to have made a particularly meritorious contribution to the Company and/or the practice of colorectal surgery in Australia or New Zealand.

15. QUALIFICATION OF FELLOWS

The Council may declare Ordinary members, Life members and Foundation members who have met the criteria for fellowship of the Company as set out by the Council from time to time as Fellows of the Company.

16. MEMBERSHIP FEE

- 16.1 The Council shall determine the annual membership fee for each category of membership.

- 16.2 The annual membership fee is to be payable by all Members with the exception of Retired Members, Honorary Members and Life Members who are exempt from payment of a membership fee.
- 16.3 The Membership fee becomes due and payable on 1 July annually and a Member must attend to payment no later than 31 December in the same calendar year.
- 16.4 The Council may in its absolute discretion elect to waive the requirement of a Member to pay his or her membership fee in exceptional circumstances.

17. REGISTER OF MEMBERS

The Company shall keep a register of Members containing the following details:

- 17.1 the name and address of the Member;
- 17.2 the class of membership held by the Member;
- 17.3 date of commencement of membership; and
- 17.4 such other particulars as are required to be entered under the Act.

18. TERMINATION OF MEMBERSHIP

- 18.1 Every Member shall remain a Member until the membership of that Member is terminated in one of the following ways:
- 18.1.1 by the death of a Member or by written resignation from the Member addressed to the Secretary;
- 18.1.2 by resolution of the Council when a Member has defaulted on payment of annual subscription fee not having been paid by 31 December;
- 18.1.3 where a Member ceases to be an eligible Member under the terms of his or her membership class;
- 18.1.4 If a Member wilfully commits a breach of this Constitution or is guilty of conduct which in the opinion of the Council is unbecoming of a member or prejudicial to the interests of the Company the Council may have the power by resolution to terminate the membership of the defaulting Member.
- 18.2 The following applies to the proposed termination of a Member by the Council permitted by clause 18.1.4:
- 18.2.1 no less than one week before a meeting at which the Council proposes to pass a resolution to terminate a Member's membership it must give the Member notice of the details of the matter alleged and the proposed resolution;
- 18.2.2 the Member then has the opportunity to address the Council (either orally or in writing) for the purpose of defending or explaining the allegation against him or her;
- 18.2.3 the Member can elect (no less than 24 hours before the meeting of the Council) to have the question dealt with by the Company in General Meeting at which time the resolution regarding termination can be

passed by a 2/3 majority of those Members present at the meeting and entitled to vote.

- 18.3 Upon the termination of membership for any reason that person shall not be eligible for reinstatement as a member for a period of at least 12 months from the date on which the person ceased to be a member.

19. RIGHTS AND OBLIGATIONS OF MEMBERS

Rights and obligations of members shall be those rights and obligations that are conferred by this Constitution and the By-Laws and shall include:

- 19.1 to submit abstracts of papers to the Committee Members for consideration of their presentation at Company meetings
- 19.2 to receive a copy of the Company's publications;
- 19.3 to attend General and extraordinary meetings of the Company;
- 19.4 permission to vote at General and extraordinary meetings of the company provided that the Member holds one of the following categories of membership:
- 19.4.1 Ordinary member;
 - 19.4.2 Foundation member;
 - 19.4.3 Life member; and
 - 19.4.4 Fellowship.
- 19.5 to introduce guests who may submit papers for the meetings of the Company.

20. LEVY

The Council may make an emergency levy on the members from time to time provided that the total of any levy imposed does not exceed the sum of the membership fee in that year.

PART 3 – MEMBERS MEETINGS

21. CALLING OF MEETINGS

- 21.1 The Company shall hold an Annual General Meeting in accordance with the provisions of the Act.
- 21.2 Unless otherwise decided by the Members the Annual General Meeting is to be held no later than 30 November each year.
- 21.3 All general meetings other than the Annual General Meeting shall be called General Meetings.
- 21.4 A Council Member may whenever that Council Member sees fit convene a General Meeting of Members.
- 21.5 The Council shall upon requisition as is provided for under section 249D of the Act, convene a General Meeting of the Company.

22. NOTICE OF MEETINGS OF MEMBERS

- 22.1 Subject to the provisions of the Act as to shorter notice, at least 14 days-notice, or in the case of a special resolution at least 21 days-notice shall be given in writing to each Member entitled to attend General Meetings.
- 22.2 The notice of meeting must include the place, day and time of the meeting and in the case of any special business that is to be addressed the general nature of that business provided that it is not necessary for a notice of an Annual General Meeting to state that the business to be transacted at that meeting is to include the matters set out in clause 23.
- 22.3 When a meeting of the Company's Members is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.
- 22.4 The accidental omission to give notice of any meeting to or the non-receipt of notice of a meeting by any Member shall not invalidate the meeting or any resolution passed at that meeting.

23. PROCEEDINGS ANNUAL GENERAL MEETING

The business of an Annual General Meeting includes:

- 23.1 receiving and considering the accounts, the balance sheets and the reports of the Council Members, Treasurer and auditor of the Company;
- 23.2 appointing an auditor of the Company;
- 23.3 approving the election or appointment of Members;
- 23.4 receiving the President, Vice President, Secretary and Treasurer as elected by the Council;
- 23.5 attending to any other business that ought to be transacted at an Annual General Meeting.

24. POSTPONEMENT OR CANCELLATION

- 24.1 A meeting of the Company's Members may be postponed or cancelled at any time before the day of the meeting:
- 24.1.1 if called by the Council members on the request of a Member or Members under section 249D of the Act, by that Member or those Members so notifying the Company;
 - 24.1.2 if called by a Member or Members under section 249E of the Act, by that Member or those Members so notifying the Company;
 - 24.1.3 if called by a Member or Members under section 249F of the Act, by that Member or those Members so notifying the Company; or
 - 24.1.4 if called by the Council members of their own volition, by the Council members as they may determine.
- 24.2 The Council must give notice of the postponement or cancellation to all persons entitled to receive notices of that meeting.
- 24.3 Any Members postponing or cancelling a meeting must pay the expenses of the postponement or cancellation unless the Council determines otherwise.

25. QUORUM OF MEETINGS OF MEMBERS

- 25.1 The quorum for a meeting of the Company's Members is 10 Members entitled to vote at the meeting and the quorum must be present at all times during the meeting.
- 25.2 In determining whether a quorum is present, count individuals attending as proxies or body corporate representatives. However, if a Member has appointed more than 1 proxy or representative, count only 1 of them. If an individual is attending both as a Member and as a proxy or body corporate representative, count them only once.
- 25.3 A meeting of the Company's Members that does not have a quorum present within 30 minutes after the time for the meeting set out in the notice of meeting:
- 25.3.1 is dissolved if the meeting was called:
- (a) on the request of Members under section 249D of the Act;
- (b) by Members under section 249E of the Act; or
- (c) by Members under section 249F of the Act; otherwise
- 25.3.2 is adjourned to the date, time and place the Council members specify. If the Council members do not specify 1 or more of those things, the meeting is adjourned to:
- (a) if the date is not specified—the same day in the next week; and
- (b) if the time is not specified—the same time; and
- (c) if the place is not specified—the same place.
- 25.4 If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

26. CHAIRING MEETINGS OF MEMBERS

- 26.1 The President shall chair meetings of the Company's Members, and if the President is not able to chair the meeting the Vice President shall take the position of chair.
- 26.2 If neither the President nor the Vice President are able to act as chair, the remaining Council Members present must elect a Council Member present to chair the meeting.

27. GENERAL CONDUCT

The chair of a meeting of Members has general conduct of the meeting and may determine the procedures to be followed, subject to the general law and the requirements of the Act. Without limiting those powers, the chair may refuse a person admission to, or require the person to leave and not return to, a meeting if the person:

- 27.1 refuses to permit reasonable examination of any article in his or her possession; or
- 27.2 is in possession of any:
- 27.2.1 electronic or recording device;

27.2.2 placard or banner; or

27.2.3 other article,

which the chair considers to be dangerous, offensive or liable to cause disruption.

Subject to the above, a Council member (including an alternate Council member) is entitled to attend and be heard at any meeting of the Members.

28. ADJOURNMENT

- 28.1 The chair must adjourn a meeting of the Company's Members if the Members present with a majority of votes at the meeting agree or direct that the chair must do so. The chair may adjourn a meeting with the meeting's consent on a show of hands.
- 28.2 A poll cannot be demanded on a resolution concerning the adjournment of a meeting except by the chair.
- 28.3 Only unfinished business is to be transacted at a meeting of Members resumed after an adjournment.

29. VOTING

- 29.1 Subject to this document, the Act and to any rights or restrictions attaching to any class of Membership a resolution put to the vote at a meeting of the Company's Members must be decided on a show of hands unless a poll is demanded by at least two-thirds of the members present in person.
- 29.2 A poll cannot be demanded on any resolution concerning the election of a Chair at a meeting or the adjournment of a meeting.
- 29.3 If a poll is demanded it will be taken when and in the manner the Chair directs.
- 29.4 A Member is not entitled to vote at any General Meeting if his or her annual membership fee is in arrears at the date of the meeting.
- 29.5 A vote that the Act requires the Company to disregard must not be counted.
- 29.6 The validity of a resolution is not affected by the failure of a proxy, attorney or other representative of a Member to vote in accordance with the instructions of the Member.
- 29.7 The chair at a meeting of the Company's Members has a casting vote, and also, if they are a Member, any vote they have in their capacity as a Member.
- 29.8 A challenge to a right to vote at a meeting of the Company's Members:
- 29.8.1 may only be made at the meeting; and
 - 29.8.2 must be determined by the chair, whose decision is final.
- 29.9 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.
- 29.10 On a show of hands, a declaration by the chair is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the Chair nor the minutes need to state the number or proportion of the votes recorded in favour or against.

29.11 If the Chair in his or her sole discretion considers that doubt exists as to the exact numbers resulting from a show of hands so as a result cannot be determined the Chair may order a formal count.

30. PROXY VOTING AT A MEETING OF MEMBERS

30.1 A Member who is entitled to attend and cast a vote at a meeting of the Company's Members may appoint a person (who need not be a Member) as the Member's proxy to attend and vote for the Member at the meeting.

30.2 Each Member may appoint a proxy.

30.3 The chair of a meeting of the Company's Members may in any particular case allow an appointment of a proxy as valid even if it contains only some of the information required by section 250A(1). An appointment that does not contain the proxy's name or the name of the office held by the proxy is valid and deemed to be in favour of the chair of the meeting.

30.4 A proxy entitled to vote must vote in any way specified in the appointment. If a Member appoints 1 proxy, that proxy may vote on a show of hands. If a Member appoints 2 proxies, neither proxy is entitled to vote on a show of hands.

30.5 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:

30.5.1 the appointing Member dies;

30.5.2 the Member is mentally incapacitated;

30.5.3 the Member revokes the proxy's appointment;

30.5.4 the Member revokes the authority under which the proxy was appointed by a third party; or

30.5.5 the Member transfers the Share in respect of which the proxy was given.

30.6 Subject to sections 249Y(1)(b) and 250A(4) of the Act and any contrary express terms of an appointment, a proxy may vote:

30.6.1 on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion; and

30.6.2 on any procedural motion put to the meeting.

PART 4 - COUNCIL

31. COMPOSITION OF COUNCIL

The Council shall consist of up to 8 Council Members and comprise of a President, a Vice President, a Treasurer and a Secretary and subject to clause 37 a maximum of 4 other general Councillors.

32. PRESIDENT

32.1 The President shall preside at all meetings of the Company and shall be chair of all meetings of the Council subject to the provisions of this document.

32.2 The President shall hold office for a period of 2 years.

33. VICE PRESIDENT

33.1 The Vice-President shall assist the President in the performance of his or her duties and shall preside at any meeting at which the President is unable to do so.

33.2 The Vice President shall hold office for 2 years.

34. TREASURER

34.1 The Treasurer shall be elected by the Council and hold office for 2 years.

34.2 A Treasurer is eligible for re-election at the end of his or her term at the discretion of the Council.

35. SECRETARY

35.1 The Secretary shall be elected by the Council and hold office for 2 years.

35.2 A Secretary is eligible for re-election at the end of his or her term at the discretion of the Council.

36. GENERAL COUNCILLORS

36.1 The general Councillors form the remainder of the Council and shall hold office for a period of 2 years.

36.2 Councillors are eligible to serve a maximum of a total of 5 terms in office.

37. NATIONAL REPRESENTATION

In the event that all Council Members elected are from one country (for example, all from Australia), the Council may resolve to nominate a Member from the unrepresented country to act as a supernumerary Council Member with full voting rights to ensure appropriate national representation.

38. ELIGIBILITY AND APPOINTMENT

38.1 Any Member shall be eligible to nominate to become a Council Member of the Company provided at the time of nomination and any subsequent election the Member is an Ordinary member, Foundation member, Life member or Fellow of the Company.

38.2 The Council Members shall be elected by ballot held before an Annual General Meeting in the following manner:

38.2.1 Not less than 90 days before the Annual General Meeting the Secretary shall forward nomination notices to the Members calling for nominations to the Council;

38.2.2 All prospective candidates must be nominated in writing by not less than 2 Members and such nomination must be accepted by the nominee and delivered to the Secretary no less than 65 days before the Annual General Meeting;

38.2.3 In the event that there are more nominees than positions available not less than 60 days before the Annual General Meeting the Secretary will forward to all Members ballot papers listing the

names of the nominees with instructions on how to complete the ballot papers;

38.2.4 A Member must return his or her ballot paper to the Secretary not less than 45 days before the Annual General Meeting to cast a valid vote;

38.2.5 After all ballot papers are received the President shall nominate 2 Council Members to count the ballots and then provide to the President the list of nominees that received the largest number of votes and the President shall declare the nominees as elected to the Council.

38.2.6 In the case of there being less candidates nominated than there are vacancies to fill, the Council may at its next meeting fill the vacancy or vacancies.

38.2.7 A person can be appointed as a Council member pursuant to clause 38.2.6 in order to make up a quorum for a Council meeting even if the total number of Council members is not enough to make up that quorum.

38.3 Following an election the incoming Council will meet immediately before the Annual General Meeting to appoint the following officers who shall take office with effect from the conclusion of the Annual General Meeting:

38.3.1 President;

38.3.2 Vice President;

38.3.3 Secretary; and

38.3.4 Treasurer.

38.4 Nominations and ballot papers described in this clause may be forwarded to members and/or submitted to the Company electronically via email or any other electronic means allowed by the Company. The notice provisions contained in clause 56 apply to these documents.

39. CASUAL VACANCY

39.1 In the event of a casual vacancy arising in the office of an elected Council Member the Council may appoint another person who is eligible to be elected as a Council Member to fill the vacancy;

39.2 The person appointed to fill the casual vacancy shall hold office of Council Member pursuant to clause 40.1 only for the period in which the predecessor would have held office if the vacancy had not occurred.

40. REMOVAL

40.1 The Company may by Special Resolution remove a Council Member from office. This provision is in addition to the power of removal in section 203D of the Act.

40.2 If a person is appointed to replace a Council Member is removed by the Members under this clause, the time at which:

40.2.1 the replacement Council Member; or

40.2.2 any other Council Member,

is to retire is to be worked out as if the replacement Council Member had become Council member on the day on which the replaced director was last appointed a Council Member.

41. RETIREMENT

41.1 A Council Member appointed to fill a casual vacancy or as an addition to the Council must retire from office at the next annual general meeting.

41.2 At every Annual General Meeting the elected Council Members whose term of office has expired will retire from office but be eligible for re-election subject to the maximum time limits in office imposed on Councillors in clause 36.2 of this document.

41.3 If a Council Member retires at a general meeting, the Company may by resolution elect a person to fill the vacated office. If the vacated office is not filled and the retiring Council Member has offered himself or herself for re-election, the retiring Council Member is re-elected unless, at the meeting at which he or she retires:

41.3.1 it is resolved not to fill the vacated office; or

41.3.2 a resolution for the re-election of the Council Member is put and lost.

42. RESIGNATION

A Council Member may resign by giving no less than seven (7) days written notice of resignation to the Company at its registered office unless such resignation would result in the Company contravening section 201A(2) of the Act.

43. DISQUALIFICATION

A person ceases to be a Council Member:

43.1 if and when the Act or this document otherwise requires or permits;

43.2 if he or she becomes bankrupt;

43.3 becomes of unsound mind;

43.4 is absent from Council meetings for 3 consecutive meetings without leave of absence from the Council;

43.5 ceases to be a Member of the Company;

Subject to the Act, that person is eligible for reappointment or re-election as a Council member

44. EXPENSES

The Company may pay the Council Members travelling and other expenses that they properly incur:

44.1 in attending Council meetings or any meetings of committees of Council Members;

44.2 in attending any general meetings of the Company; and

44.3 in connection with the Company's business.

45. **COUNCIL MEETINGS**

45.1 Subject to the Act (particularly section 195) and this document, the Council may meet together, adjourn and regulate their meetings as they think fit including by telephone conference or by any other electronic means of instantaneous communication device.

45.2 A Council Member may call a Council meeting. The Secretary must, at the request in writing of a Council Member, call a Council meeting.

45.3 Unless all Council Member's entitled to vote at the meeting agree otherwise, a person calling a Council meeting must give to each Council Member individually a notice of meeting that:

45.3.1 sets out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);

45.3.2 states the general nature of the meeting's business and particularly any proposal to make a special decision;

45.3.3 is accompanied by relevant information so far as reasonably available (if not already given to the Council Member); and

45.3.4 is given at least 2 clear days before the meeting (or such other period as all the Council Members in office may as a matter of general policy determine otherwise).

45.4 The President shall chair meetings of the Council, and if the President is not able to chair the meeting the Vice President shall take the position of chair.

45.5 If neither the President nor the Vice President are able to act as chair, the remaining Council Members present must elect a Council Member present to chair the meeting.

45.6 Unless the Council determines otherwise, the quorum for a Council meeting is 3 Council Members and the quorum must be present at all times during the meeting.

45.7 A resolution of the Council must be passed by a majority of the votes cast by Council Members entitled to vote on the resolution.

45.8 The chair has a casting vote if necessary in addition to any vote they have in their capacity as a Council Member.

46. **ALTERNATE COUNCILLORS**

46.1 At the request of a Council Member the Council may appoint an alternate to exercise some or all of the requesting Council Member's powers for a specified period.

46.2 When an alternate exercises a Council Member's powers, the exercise of the powers is just as effective as if the powers were exercised by the Council Member that the alternate is acting for.

46.3 The Council may terminate the alternate's appointment at any time.

46.4 An appointment or termination must be in writing.

- 46.5 The alternate's appointment ceases when the Council Member that the alternate is standing in the place of ceases to be a Council Member.
- 46.6 An alternate Council Member has one vote for each Council Member for whom he or she is an alternate. If an alternate Council Member is also a Council Member, he or she also has a vote as a Council Member.
- 46.7 The provisions of this document that apply to the Council Member also apply to alternate Council Member's.

47. DIRECTOR'S INTERESTS

Subject to the Act (particularly section 208 of the Act), a Council Member and an entity in which a Council Member has a direct or indirect interest may in any capacity:

- 47.1 enter into any contract or arrangement with the Company;
- 47.2 be appointed to and hold any office or place of profit under the Company, other than the office of auditor; and
- 47.3 act in a professional capacity, other than as auditor, for the Company,

and may receive and retain for their own benefit any remuneration, profits or benefits as if he or she were not a Council Member.

48. CIRCULATING RESOLUTIONS

- 48.1 The Council may pass a resolution without a Council meeting being held if a majority of the Council Members entitled to vote on the resolution (and being not less than the number required for a quorum at a meeting of Council Member's) sign a document containing a statement that they are in favour of the resolution set out in the document.
- 48.2 The resolution is passed when the last Council Member required to make up a majority signs.
- 48.3 Separate copies of a document may be used for signing by Council Member's if the wording of the resolution and statement is identical in each copy.
- 48.4 A document referred to in this clause must be sent to every Council Member who is entitled to vote on the resolution (whether or not the Council Member signs the document).
- 48.5 A document referred to in this clause may be circulated by email or other such electronic means as approved by the Council from time to time.

49. POWERS OF THE COUNCIL

- 49.1 The business of the Company is to be managed by or under the direction of the Council.
- 49.2 The Council may exercise all the powers of the Company except any powers that the Act or this document requires the Company to exercise in general meeting.
- 49.3 The Council may from time to time appoint persons (including but not limited to committee chairs and trainee members) as ex-officio members to report to and advise the Council. Upon appointment ex-officio members are not eligible to vote at council meetings and may be removed by resolution of the Council.

- 49.4 The Council may appoint such sub-committees in accordance with clause 50 as they deem fit with such powers and for such purposes as they determine.
- 49.5 The Council shall define the powers, authorities, discretions and duties of the Secretary, Treasurer and any other officer of the Company.

50. COMMITTEES

- 50.1 All Committees formed by the Council or the Members at general meetings shall be committees of the Council and subject to control of the Council and shall report to the Council.
- 50.2 The Council may delegate any of its powers to committees or sub-committees consisting of existing Council Members, other persons who are not Council Members (whether Members or not) and others as it thinks fit and may at any time revoke that delegation.
- 50.3 A committee or sub-committee to which any powers have been delegated by the Council shall exercise the powers delegated in accordance with any directions of the Council.
- 50.4 Unless the Council resolve otherwise, the President and Treasurer shall be ex-officio members of all committees or sub-committees appointed by the Council.
- 50.5 Minutes of all committee and sub-committee meetings must be taken and if requested a committee activity report should be forwarded to the Council at least ten days prior to a Council meeting.

51. BY-LAWS RULES AND REGULATIONS

- 51.1 The Council shall have the power to make such by-laws, rules and regulations in relation to:
- 51.1.1 the constitution and mode of governance of the Company;
 - 51.1.2 the establishment, constitution, duties, powers, membership and mode of governance of separate bodies or categories of Members
 - 51.1.3 the nomination, election, admission, appointment and or reclassification of Members
 - 51.1.4 all matters which by this Constitution may be or are required to be dealt within or by the By-Laws; or
 - 51.1.5 any other matters whatsoever relating to the affairs of the Company or any other matter for the purpose of or incidental to carrying out or promoting the objects of the Company.
- 51.2 The By-Laws shall not conflict with the Corporations Law, this Constitution and where there is any conflict or inconsistency between the Constitution and the By-Laws the Constitution shall prevail over the By-Laws to the extent of the inconsistency.
- 51.3 By-Laws made by the Council may from time to time be made, added to, amended or repealed by the Council by way of a majority of three quarters of those present in person or by proxy and voting and all By-Laws so made and for the time being in force shall be binding on Members, as if they formed part of this Constitution and shall have full effect accordingly.

PART 5 – OTHER MATTERS

52. AUDITORS

- 52.1 Auditors shall be appointed and their duties regulated in accordance with the Corporations Law;
- 52.2 No Member or Council Member shall be capable of acting as an auditor of the Company;
- 52.3 The auditor of the Company shall have the right of access at all times to the books, accounts and vouchers of the Company and shall be entitled to require from the Council Members, Members and other officers of the Company, such information and explanation as may be necessary for the performance of the duties of the auditor.

53. ACCOUNTS AND MINUTES

- 53.1 The Council shall ensure that the Company complies with the requirements of the Corporations Law as to accounts and audit.
- 53.2 The Treasurer shall keep or cause to be kept a record of all monies received and expended by the Company and other relevant financial records and accounts as are necessary to enable the financial position of the Company to be ascertained from time to time.
- 53.3 The auditor of the Company or the agent of the auditor authorised by the auditor in writing for the purpose, is entitled to attend general meetings, to receive all notices of and other communications relating to general meetings which a Member is entitled to receive and to be heard at any general meeting which the auditor or agent attends on any part of the business of the meeting which concerns the auditor in that capacity, but the auditor does not have the right to vote at general meetings;
- 53.4 Subject to the provisions of the Corporations Law and this Constitution, the Council shall determine whether and to what extent and at what times and places and under what conditions the accounting records and other documents of the Company or any of them will be open to inspection by the Members and other persons.
- 53.5 A Member or other person (not being a Council Member);
 - 53.5.1 has no right to inspect any documents of the Company, except as conferred by the Corporations Law or any other statute or except as authorised by the Society; and
 - 53.5.2 is not entitled to require or receive any information concerning the business, trading or other Members of the Company.
- 53.6 The Council Members shall, in accordance with the Corporations Law, cause minutes of all proceedings of general meetings and of meetings of the Council to be entered, within two months after the relevant meeting is held, in books or electronic records kept for that purpose and signed or verified by the Chair.

54. NEGOTIABLE INSTRUMENTS

Any 2 Council Members may sign, draw, accept, endorse or otherwise execute a negotiable instrument. The Council Members may determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

55. SEAL

- 55.1 If the Company decides, the Company may have a common seal and the Council shall provide for the safe custody of the seal;
- 55.2 The seal shall only be used with the authority of the Council and every document to which the seal is affixed shall be signed by a Council Member and countersigned by either the Secretary or a second Council Member.

56. NOTICES

- 56.1 A notice or any other document may be served by the Company on a member or other persons either personally or by sending it by post to him or her at his or her last known nominated address or by facsimile to the telephone number last notified for that purpose by that person or by email to the email address last notified by that person. A notice or document so sent is to be deemed served in the case of:
- 56.1.1 personal service, at the time and date when it is served;
 - 56.1.2 post, on the second day following that on which it is posted;
 - 56.1.3 facsimile, on the day following report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the person's facsimile number; and
 - 56.1.4 email, on the day following report by the computer from which the email was sent which indicates that the email was sent in its entirety to the person's email address.
- 56.1 A certificate in writing signed by a Council Member that a notice or document was duly served, posted, transmitted by facsimile, or transmitted by email is conclusive evidence of that fact.

57. INDEMNITY

- 57.1 To the extent permitted by law and that the officer is not indemnified by another person (including an insurer under an insurance policy any part of the premium of which is contributed by the Company), the Company indemnifies every person who is or has been an officer of the Company against any liability incurred by that person:
- 57.1.1 as such an officer of the Company; and
 - 57.1.2 to a person other than the Company or a related body corporate of the Company,
- unless the liability arises out of conduct on the part of the officer which:
- 57.1.3 involves a lack of good faith; or
 - 57.1.4 is contrary to the Company's express instructions.
- 57.2 To the extent permitted by law and that the officer is not indemnified by another person (including an insurer under an insurance policy any part of the premium of which is contributed by the Company), the Company indemnifies every officer of the Company against any liability for costs and expenses incurred by the person in his or her capacity as officer of the Company:

- 57.2.1 in defending any proceedings, whether civil or criminal, in which judgment is given favour of the person or in which the person is acquitted; or
 - 57.2.2 in connection with an application, in relation to such proceedings, in which the court grants relief to the person under the Act.
- 57.3 Unless the Council Members otherwise determine, this clause ceases to apply if favour of a person who does not to the satisfaction of the Directors cooperate with the Company in investigating, defending or resolving the matter to which this clause would otherwise apply.
- 57.4 The Company may execute a documentary indemnity (not inconsistent with applicable law or this clause) in any form in favour of a person who is or has been an officer of the Company.
- 57.5 In this clause, '**officer**' includes:
- 57.5.1 a Council Member and a Secretary;
 - 57.5.2 an executive officer as defined by the Act; and
 - 57.5.3 employees of the Company as determined by the Council Members.

58. **WINDING UP**

- 58.1 If the Company is wound up each Member; and each person who ceased to be a Member in the preceding year undertakes to contribute to the property of the Company for the payment of the debts and liabilities of the Company and payment of the costs, charges and expenses of winding up; and adjustment of the rights of the contributories amongst themselves, such amount as may be required but not exceeding \$100.00.
- 58.2 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 institution or corporation which has:
- 58.2.1 objects which are similar to the objects of the Company as set out in clause 3 of this document.
 - 58.2.2 a constitution which requires its income and property to be applied in promoting its objects; and
 - 58.2.3 a constitution which prohibits it from paying or distributing its income and property amongst its Members to an extent at least as great as imposed on the Company by clause 4.3.

59. **AMENDMENTS TO CONSTITUTION**

The Members may by Special Resolution and subject to the Act amend any of the provisions of the Constitution provided that any such amendment is provided to and approved by the Australian Securities and Investments Commission prior to the amendment in accordance with the terms of the Licence.