

**THREDBO ALPINE CLUB LIMITED**

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CONSTITUTION

Adopted on 17 May 2013

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## 1. DEFINITIONS AND INTERPRETATION

(a) The meanings of the terms used in this Constitution are set out below.

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

"**AGM**" means an annual general meeting of the Company that the Act requires to be held.

"**Annual Subscription**" means an amount determined by the Board each year calculated to cover the anticipated annual fixed costs of the Company for the relevant year, taking into account any other subscriptions payable by Members who are not Ordinary Members, or who are Foundation Members or Life Members.

"**Board**" means the board of Directors of the Company from time to time.

"**Business Day**" means any day that banks are open for business in Sydney, New South Wales, Australia.

"**Chairperson**" means the chairperson for the time being of the Board, elected in the manner provided under this Constitution.

"**Company**" means Thredbo Alpine Club Limited (ACN 000 420 048). In this Constitution the word "Club" is interchangeable with "Company".

"**Constitution**" means this Constitution (as amended from time to time).

"**Directors**" means the Directors of the Company elected in the manner permitted under this Constitution.

"**Entrance Fee**" means an amount determined by the Board from time to time that is payable up front or by instalments by a Member as a result of their election to Membership, and is non-refundable.

"**Foundation Member**" or "**Life Member**" is any Member who continues to be a Member after 18 May 2007, and who the Board determines from time to time to be a Foundation Member or Life Member because:

- (i) in 1957 or 1958 that Member contributed not less than £30 to the establishment and construction of the lodge erected at 8 Banjo Drive, Thredbo; or
- (ii) in the Board's reasonable opinion, that Member contributed to the establishment and construction of the lodge erected at 8 Banjo Drive, Thredbo in some significant way; or
- (iii) in the Board's reasonable opinion, that Member has rendered exceptional service to the Club over a significant period of time.

"**Lodge**" means any lodge and related facilities owned, operated and / or used by the Company in furthering the objects of the Company.

"**Member**" means a person duly elected under this Constitution as a Member of the Company, and whose name is entered in the Register as a Member.

"**Month**" means calendar month.

"**Notice**" includes all written communications to Members.

"**Office**" means the Registered Office for the time being of the Company.

"**Ordinary Member**" has the meaning given to it in this Constitution.

"**Register**" means the register of Members maintained under this Constitution and as required to be kept under the Act.

"**Seal**" means any common seal, duplicate seal or certificate seal of the Company.

"**Secretary**" means the person appointed (or persons if more than one is appointed) as the secretary by the Directors from time to time.

"**Special Resolution**" means (as relevant):

- (i) a resolution made in a general meeting by at least three quarters of the Members present (in person or by proxy) and entitled to vote at the general meeting; or
  - (ii) a resolution made in a meeting of the Board by at least three quarters of the Directors present (in person or by proxy) and entitled to vote at a meeting of the Board.
- (b) A reference in this Constitution to a Member present at a general meeting is a reference to a Member present in person or by proxy.
- (c) A Chairperson or deputy Chairperson appointed under this Constitution may be referred to as chairman or chairwoman, or deputy chairman or chairwoman, or as chair, if applicable.
- (d) A reference in this Constitution to a person holding or occupying a particular office or position is a reference to any person who occupies or performs the duties of that office or position.
- (e) Unless the contrary intention appears, in this Constitution:
- (i) the singular includes the plural and the plural includes the singular;
  - (ii) words that refer to any gender include all genders;
  - (iii) words used to refer to persons generally or to refer to a natural person include a body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);

- (iv) a reference to a person includes that person's successors and legal personal representatives;
  - (v) a reference to a statute or regulation, or a provision of any of them includes all statutes, regulations or provisions amending, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
  - (vi) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
  - (vii) the monetary amounts referred to in clauses 14(a) and 19.4(b)(i) of this Constitution will be increased by 3% on 1 January of every calendar year after the date of adoption of this Constitution.
- (f) Specifying anything in this Constitution after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included unless there is express wording to the contrary.
- (g) In this Constitution, headings and bold type are only for convenience and do not affect the meaning of this Constitution.

## **2. APPLICATION OF THE ACT**

- (a) The rules that apply as replaceable rules to companies under the Act do not apply to the Company except so far as they are repeated in this Constitution.
- (b) Unless the contrary intention appears:
- (i) an expression in a clause that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision; and
  - (ii) subject to clause 2(b)(i), an expression in a clause that is used in the Act has the same meaning in this Constitution as in the Act.

## **3. COMPANY**

The Company is a company limited by guarantee and the liability of its Members is limited in the manner set out in this Constitution.

## **4. OBJECTS**

The objects of the Company are:

- (a) To promote and encourage the sport of skiing.
- (b) To promote and encourage other alpine sports.
- (c) To do all things incidental to the objects, in particular all things necessary to facilitate the promotion of the objects.

The Company will only use its income and assets for the purpose of promoting the objects.

The Company was incorporated to promote the objects stated in the Articles of Association originally attested to in 1963. The Members regard Membership of the Company as Membership of Thredbo Alpine Club.

## 5. EXERCISING POWERS

- (a) The Company may, in any way the Act permits:
  - (i) exercise any power;
  - (ii) take any action; or
  - (iii) engage in any conduct or procedure,which, under the Act a Company limited by guarantee may exercise, take or engage in.
- (b) Where this Constitution provides that a person 'may' do a particular act or thing, the act or thing may be done at the person's discretion.
- (c) Where this Constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the same way and subject to the same conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this Constitution confers a power to do a particular act or thing, the power may be exercised from time to time and may be exercised subject to conditions.
- (e) Where this Constitution confers a power to do a particular act or thing concerning particular matters, unless the contrary intention appears, the power is to be taken to include a power to do that act or thing as to only some of those matters or as to a particular class of those matters, and to make different provision concerning different matters or different classes of matters.
- (f) Where this Constitution confers a power to make appointments to an office or position (except the power to appoint a Director under clause 19.1(c)), the power is, unless the contrary intention appears, to be taken to include a power:
  - (i) to appoint a person to act in the office or position until a person is appointed to the office or position;
  - (ii) to remove or suspend any person appointed (without prejudice to any rights or obligations under any contract between the person and the Company); and
  - (iii) to appoint another person temporarily in the place of any person removed or suspended or in the place of any sick or absent holder of the office or position.



- (g) Where this Constitution gives power to a person to delegate a function or power:
  - (i) the delegation may be concurrent with, or (except in the case of a delegation by the Directors) to the exclusion of, the performance or exercise of that function or power by the person;
  - (ii) the delegation may be either general or limited in any way provided in the terms of delegation;
  - (iii) the delegation need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position;
  - (iv) the delegation may include the power to delegate; and
  - (v) where performing or exercising that function or power depends on that person's opinion, belief or state of mind about a matter, that function or power may be performed or exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.

## 6. **TRANSITIONAL PROVISIONS**

This Constitution must be interpreted in such a way that:

- (a) every Director and Secretary in office in that capacity immediately before this Constitution is adopted continues in office subject to, and is taken to have been appointed or elected under, this Constitution;
- (b) any register maintained by the Company immediately before this Constitution is adopted is taken to be a register maintained under this Constitution;
- (c) any Seal adopted by the Company as a Seal immediately before this Constitution is adopted is taken to be a Seal which the Company has under a relevant authority given by this Constitution;
- (d) any action approved before this Constitution continues to be an approved action, including any cheques issued, funds invested and money held; and
- (e) unless a contrary intention appears in this Constitution, all persons, things, agreements and circumstances appointed, approved or created by or under the Constitution of the Company in force before this Constitution is adopted continue to have the same status, operation and effect after this Constitution is adopted.

## 7. **LIABILITY LIMITED**

- (a) The liability of the Members is limited.
- (b) Each Member undertakes to contribute to the assets of the Company if it is wound up while the Member is a Member, or within one year after the Member ceases to be a Member, for payments of the debts and liabilities of the

Company incurred before the Member ceases to be a Member and of the costs, charges and expenses of winding up and for adjustment of the rights of contributions between themselves, any amount required but not exceeding \$20.00.

8. **DIRECTOR NOT ENTITLED TO DIRECTORS FEES OR TO BE AN EMPLOYEE**

A Director is not entitled to

- (a) be employed by the Company; or
- (b) be paid any fees for being a Director.

The Company may pay the costs and expenses reasonably and necessarily incurred by a Director for the Company (but not personal costs) in carrying out his or her duties as a Director.

9. **MEMBERS**

- (a) The maximum number of Members will be such number of ordinary and other Members as the Board determines from time to time.
- (b) The Members recorded on the Register at the date of the adoption of this Constitution continue as Members subject to this Constitution.
- (c) At the date of adoption of this Constitution all Members are Ordinary Members for the purpose of this Constitution. All Members elected to Membership after the date of this Constitution will be Ordinary Members unless elected to a class of non-voting Membership created in accordance with this clause 9.
- (d) The Board may from time to time determine to create other classes of non-voting Members (only). In the event the Board determines to create any other class of non-voting Member, the Board will also determine the rights and privileges that attach to that class of Membership, including:
  - (i) the right to attend and be heard at a general meeting of Members (but not vote);
  - (ii) the right to use the Club's facilities, including the Lodge; and
  - (iii) the right to propose candidates for Membership.
- (e) The Board must notify the Members of any class of Membership created under clause 9(d), including details of the rights and privileges, and terms of Membership, to apply to the class of Membership created.
- (f) The rights and privileges attaching to any class of Membership created by the Board under clause 9(d) must be more restrictive than those enjoyed by Ordinary Members, and any classes so created must not (in the aggregate) comprise more than 50 such members.

- (g) The Ordinary Members may resolve at any general meeting to modify the rights and privileges attaching to a class of Membership created by the Board in accordance with clause 9(d), or they may resolve to cancel any class of Membership created by the Board under clause 9(d) on the condition that any Member of the relevant class who was previously an Ordinary Member may elect to take up Ordinary Membership in accordance with clause 9(h) (subject to paying the Annual Subscription for the relevant year).
- (h) A Member may not transfer Membership to another person. If applicable, a Member may elect to change between classes of Membership, at the reasonable times and subject to the other reasonable requirements of the Board.
- (i) Any Member elected as a Member of a class created by the Board under clause 9(d) who was not previously an Ordinary Member, must only be elected to Ordinary Membership in accordance with the requirements of this Constitution, including under clause 10(a) and any rules made under this Constitution.
- (j) Subject to the requirements of this Constitution and the law, Ordinary Members have all rights that an ordinary member is entitled to exercise from time to time, including voting rights and rights to use the Lodge.

**10. MEMBERSHIP – ADMISSION REQUIREMENTS, RESIGNATION AND REMOVAL**

- (a) No person will be admitted to Membership unless they meet the requirements for eligibility set by the Board from time to time, including that:
  - (i) any applicant for Ordinary Membership must be at least 18 years of age;
  - (ii) the applicant agrees to be bound by the Constitution and has signed the application form (as prescribed by the Board from time to time);
  - (iii) the applicant agrees to pay the entrance fees; and
  - (iv) a proposer, seconder and not less than two referees must have supported the application by written reference that meets the requirements of the Board (as determined by the Board from time to time).
- (b) Any Member may resign from the Membership by giving notice to the Secretary.
- (c) Any Member may be removed from the Membership by a Special Resolution of the Board so long as the Member was given not less than twenty-one days' written notice specifying the intention of the Board to propose such a resolution, together with reasons and an invitation for the Member to appear before the Board at the relevant meeting to explain why the Member should not be removed as a Member.

**11. ELECTION TO MEMBERSHIP**

- (a) A Special Resolution of the Board in favour of the election of a person to Membership is required for an applicant to be elected to Membership.
- (b) The Board may take into account such matters as it determines from time to time are relevant to the election of an applicant.

**12. ENTRANCE FEE**

- (a) Unless the Board in its discretion determines otherwise, any person elected to Membership must pay the Entrance Fee.
- (b) The Board may issue to every Member a certificate evidencing their Membership. The certificate is personal and is not transferrable. Membership is not transferrable.

**13. ANNUAL SUBSCRIPTION**

- (a) Subject to this clause, Ordinary Members must pay the Annual Subscription in advance at such times as the Board may determine.
- (b) In the event that the Board determines in accordance with clause 9(d) to create any other class of non-voting Members, it will also determine the applicable annual subscription rate payable in advance for that class of non-voting Members.
- (c) The Board may make rules in respect of the subscription rate payable by Members residing overseas, including that the Annual Subscription need not be paid in full by a Member residing overseas.
- (d) To the extent permitted by law, each year the Board may waive or reduce the Annual Subscription payable by a Foundation Member or Life Member.
- (e) In the case of hardship or other special circumstances the Board may in its discretion reduce or waive the annual subscription of a Member.

**14. CALLS**

- (a) The Board may, without the approval of the Members, require that Members pay calls not exceeding \$1,000.00 in any one calendar year. A call is due and payable at such time as may be fixed by the Board.
- (b) Any person who resigns from or otherwise ceases to be a Member remains liable to pay any call determined by the Board during the period of their Membership notwithstanding that the call may not become due and payable until after the date of the Member's resignation or cessation of Membership, provided that the Board may if it thinks fit in any case waive the provisions of this Clause.

**15. UNFINANCIAL MEMBERS – FORFEITURE AND SUSPENSION OF MEMBERSHIP**

- (a) If any Member has failed to pay the annual subscription or any other amount due to be paid by the Member by the due date for such payment, the Board may notify that Member of such default and may remove the Member in accordance with clause 10(c).
- (b) At any time a Member has failed to pay the annual subscription or any other amount due to be paid by the Member by the due date for such payment, the Board may take any other action the Board thinks appropriate in respect of that Member, including by suspending that Member's voting rights or other rights as a Member.

**16. LODGE RULES AND CONDUCT OF MEMBERS**

- (a) The Board may make rules from time to time about the use of the Lodge, the conduct of Members and the conduct of guests.
- (b) Where the Board is of the opinion that a Member has engaged in conduct in breach of the rules or has engaged in conduct that is inappropriate and / or damaging to other Members, the Lodge or the objects of the Company (whether by an act or omission) the Board may discipline or fine a Member in any manner set out in the rules from time to time, or the Board may by Special Resolution suspend a Member from exercising their rights, or remove the Member in accordance with clause 10(c).

**17. ELECTION OF CHAIRPERSON**

- (a) The chairperson will be the Director elected by the Board to be the Chairperson at the first meeting of the Board held after the AGM. The Chairperson will hold that position until such time as the Chairperson resigns from the position or is replaced at the subsequent first meeting of the Board after the AGM held in the following year. The Chairperson may also be replaced by the Directors at a meeting of the Directors by a Special Resolution of the members of the Board.
- (b) If the Chairperson resigns from the position the Board must elect another Director to be the Chairperson at the next meeting of the Board.
- (c) The chairperson at any general meeting will be the Chairperson unless the Chairperson is not present at the general meeting in which case the Chairperson will be the person elected to chair the general meeting by the Ordinary Members present at the general meeting.
- (d) The chairperson at any meeting of the Board will be the Chairperson or if the Chairperson cannot attend the meeting of the Board then the Chairperson's nominee or if there is no nominee then such Director as those present at the meeting of the Board may elect to serve as chairperson for that meeting.
- (e) The Chairperson may not hold the position of chairperson for more than three consecutive years.

## 18. MEETINGS OF MEMBERS

### 18.1 Annual General Meeting

The Company must hold an AGM. The AGM must be held within 5 months of the end of the financial year of the Company. At the AGM the Directors must present a report of the Directors, including a report on the Company's accounts for the past financial year, and otherwise do such other things at the AGM that are required to be done under the Act.

### 18.2 Calling general meetings

A general meeting may only be called:

- (a) by a Directors' resolution; or
- (b) by the Chairman on receipt of a written request signed by at least 10 Ordinary Members stating the purpose of the meeting; or
- (c) as otherwise provided in the Act.

Except where a meeting has been called under the Act, the Directors may, by notice to Members, change the venue for, postpone or cancel a general meeting, if they consider that the meeting has become unnecessary, or the venue would be unreasonable or impractical or a change is necessary in the interests of conducting the meeting efficiently.

### 18.3 Notice of general meetings

- (a) Notice of a general meeting must be given to each person who at the time of giving the notice is a Member, Director or auditor of the Company.
- (b) The content of a notice of a general meeting called by the Directors is to be decided by the Directors, but it must state the general nature of the business to be transacted at the meeting and any other matters required by the Act.
- (c) Unless the Act provides otherwise:
  - (i) no business may be transacted at a general meeting unless the general nature of the business is stated in the notice calling the meeting; and
  - (ii) except with the approval of the Directors or the Chairperson, no person may move any amendment to a proposed resolution the terms of which are set out in the notice calling the meeting or to a document which relates to such a resolution and a copy of which has been made available to Members to inspect or obtain.
- (d) A person may waive notice of any general meeting by written notice to the Company.

- (e) Failure to give a Member or any other person notice of a general meeting or a proxy form, does not invalidate anything done or resolution passed at the general meeting if:
  - (i) the failure occurred by accident or inadvertent error; or
  - (ii) before or after the meeting, the person notifies the Company of the person's agreement to that thing or resolution.
- (f) A person's attendance at a general meeting waives any objection that person may have to:
  - (i) a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
  - (ii) 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 person objects to considering the matter when it is presented.

#### **18.4 Conduct of and admission to general meetings**

- (a) Subject to the Act, the Chairperson of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting and may take any action he or she considers appropriate for the conduct of the general meeting.
- (b) Subject to clause 18.4(c), only Members are entitled to be present at a general meeting.
- (c) A person, whether a Member or not, requested by the Directors or the Chairperson to attend a general meeting is entitled to be present and, at the request of the Chairperson, to speak at the meeting.
- (d) The Chairperson may, at any time the Chairperson considers it necessary or desirable for the proper and orderly conduct of the meeting:
  - (i) impose a limit on the time that a person may speak on each motion or other item of business and terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Ordinary Members present; and
  - (ii) adopt any procedures for casting or recording votes at the meeting whether on a show of hands or on a poll, including the appointment of scrutineers.
- (e) A decision by a Chairperson under clause 18.4(d) is final.
- (f) The Chairperson may postpone the meeting before it has started, whether or not a quorum is present, if, at the time and place appointed for the meeting, he or she considers that a postponement is necessary in light of the behaviour of

persons present or for any other reason so that the business of the meeting can be properly carried out.

- (g) A postponement under clause 18.4(f) will be to another time, which may be on the same day as the meeting, and may be to another place (and the new time and place will be taken to be the time and place for the meeting as if specified in the notice which called the meeting originally).
- (h) The Chairperson may at any time during the course of the meeting:
  - (i) adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting; and
  - (ii) for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for such period/s as he or she decides without effecting an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the Chairperson otherwise allows.
- (i) The Chairperson's rights under clauses 18.4(f) and 18.4(h) are exclusive and, unless the Chairperson requires otherwise, no vote may be taken or demanded by the Ordinary Members present concerning any postponement, adjournment or suspension of proceedings.
- (j) Only unfinished business may be transacted at a meeting resumed after an adjournment.
- (k) Nothing in this Constitution is to be taken to limit the powers conferred on the Chairperson by law.

#### **18.5 Quorum at general meetings**

- (a) No business may be transacted at a general meeting, except the election of a Chairperson and the adjournment of the meeting, unless a quorum of Ordinary Members is present when the meeting proceeds to business.
- (b) A quorum is 10 or more Ordinary Members present at the meeting and entitled to vote on a resolution at the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for the general meeting:
  - (i) where the meeting was called at the request of Ordinary Members, the meeting must be dissolved; or
  - (ii) in any other case, the meeting stands adjourned to the day, and at the time and place, the Directors present decide or, if they do not make a decision, to the same day in the next week at the same time and place and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.



## 18.6 Decisions at general meetings

- (a) Except where a matter requires a Special Resolution, questions arising at a general meeting must be decided by a majority of votes cast by the Ordinary Members present at the meeting. A decision made in this way is for all purposes, a decision of the voting Members.
- (b) If the votes are equal on a proposed resolution, the Chairperson of the meeting has a casting vote, in addition to any deliberative vote.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded:
  - (i) before the show of hands is taken;
  - (ii) before the result of the show of hands is declared; or
  - (iii) immediately after the result of the show of hands is declared.
- (d) A poll may be demanded by:
  - (i) the Chairperson of the meeting; or
  - (ii) at least 5 Ordinary Members entitled to vote on the resolution.
- (e) A demand for a poll does not prevent a general meeting continuing to transact any business except the question on which the poll is demanded.
- (f) Unless a poll is duly demanded, a declaration by the Chairperson of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company is conclusive evidence of the fact without proof of the number or proportion of the votes recorded for or against the resolution.
- (g) If a poll is duly demanded at a general meeting, it must be taken in the way and either at once or after an interval or adjournment as the Chairperson of the meeting directs. The result of the poll as declared by the Chairperson is the resolution of the meeting at which the poll was demanded.
- (h) The demand for a poll may be withdrawn with the Chairperson's consent.
- (i) Despite anything to the contrary in this Constitution, the Directors may decide that, at any general meeting, an Ordinary Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A 'direct vote' includes a vote delivered to the Company by post, fax or other electronic means approved by the Directors. The Directors may prescribe regulations, rules and procedures in relation to direct voting, including specifying the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

## 18.7 Voting rights

- (a) Subject to this Constitution and to any rights or restrictions imposed under it, at a general meeting:
  - (i) on a show of hands, every Ordinary Member present (or by their proxy who must be present) has one vote; and
  - (ii) on a poll, every Ordinary Member present (or by their proxy who must be present) has one vote.
- (b) If a Member who is prohibited from voting (whether in person or by their proxy), does tender a vote on a resolution, their vote must not be counted.
- (c) An objection to the validity of a vote tendered at a general meeting must be:
  - (i) raised before or immediately after the result of the vote is declared; and
  - (ii) referred to the Chairperson of the meeting, whose decision is final.

## 18.8 Representation at general meetings

- (a) Subject to this Constitution, each Member entitled to vote at a general meeting may vote:
  - (i) in person; or
  - (ii) by proxy.
- (b) A proxy must be an Ordinary Member of the Company.
- (c) An instrument appointing a proxy is valid if it is in accordance with the Act or in any form approved by the Directors.
- (d) For the purposes of this clause 18.8 a proxy appointment received at an electronic address specified in the notice of general meeting for the receipt of proxy appointment or otherwise received by the Company in accordance with the Act is taken to have been signed or executed if the appointment:
  - (i) includes or is accompanied by a personal identification code allocated by the Company to the Member making the appointment;
  - (ii) has been authorised by the Member in another manner approved by the Directors and specified in or with the notice of meeting; or
  - (iii) is otherwise authenticated in accordance with the Act.
- (e) Unless otherwise provided in the appointment of a proxy, attorney or Representative, an appointment will be taken to confer authority:
  - (i) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions, to do any of the acts specified in clause 18.8(f); and

- (ii) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the rescheduled or adjourned meeting or at the new venue.
- (f) The acts referred to in clause 18.8(e)(i) are:
  - (i) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
  - (ii) to vote on any procedural motion, including any motion to elect the Chairperson, to vacate the chair or to adjourn the meeting; and
  - (iii) to act generally at the meeting.
- (g) The appointment of a proxy is deemed to be revoked by the appointor if the appointor attends and takes part in the general meeting.
- (h) An appointment of a proxy may be revoked by written notice received by the Company before the general meeting.

## 19. DIRECTORS

### 19.1 Appointment and retirement of Directors

- (a) The election of Directors will take place annually at the AGM.
- (b) The minimum number of Directors is 5. The maximum number of Directors is 10 unless the Company in general meeting resolves otherwise.
- (c) The Directors may appoint any individual to be a Director, either as an addition to the existing Directors or to fill a casual vacancy, but so that the total number of Directors does not exceed the maximum number fixed under this Constitution.
- (d) A Director appointed by the Directors under clause 19.1(c) holds office until the conclusion of the next AGM following his or her appointment.
- (e) No Director may hold office without re-election at the following AGM.
- (f) A person is eligible for election to the office of a Director only if:
  - (i) where the person is to be elected at an AGM, the person has been nominated by at least two Directors or two Ordinary Members for election at that meeting at least 20 Business Days before the date for the general meeting;

and at any time (including at an AGM) only if:

- (ii) the person is an Ordinary Member;

- (iii) the person is not a member of a class of Membership created under clause 9(d) or a member paying the subscription rate determined by the Board for Members residing overseas; and
  - (iv) the person is not in breach of the requirement to pay the annual subscription or any other amount due to be paid by the Member by the due date for such payment.
- (g) The Ordinary Members may by ordinary resolution made at a general meeting remove any Director before the expiration of the term of his or her period of office, and if thought fit may by ordinary resolution appoint another person as a Director to fill the vacancy until the next AGM.

## 19.2 **Vacating office**

In addition to the circumstances prescribed by the Act and this Constitution, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (b) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors generally;
- (c) is convicted on indictment of an offence and the Directors do not within one month after that conviction resolve to confirm the Director's appointment or election (as the case may be) to the office of Director;
- (d) fails to attend meetings of the Directors for more than 3 consecutive months without leave of absence from the Directors;
- (e) resigns by written notice to the Company; or
- (f) dies whilst in office.

## 19.3 **Directors conflicts of interest**

The Directors may make regulations requiring the disclosure of interests that a Director, and any person deemed by the Directors to be related to or associated with the Director, may have in any matter concerning the Company and such regulations bind the Directors.

## 19.4 **Powers and duties of Directors**

- (a) The Directors are responsible for managing the business of the Company and may exercise all powers and do all things that are within the Company's power that are not expressly required by the Act or this Constitution to be exercised by the Company in a general meeting.

- (b) The Directors may exercise all the powers of the Company:
  - (i) to borrow or raise money, provided that an ordinary resolution of the Ordinary Members is required to borrow in excess of \$10,000;
  - (ii) to charge any of the Company's property or business;
  - (iii) to issue debentures or give any security for a debt, liability or obligation of the Company or of any other person; or
  - (iv) to invest the Club's funds.
- (c) Debentures or other securities may be issued on the terms and at prices decided by the Directors, including bearing interest or not or with special privileges.
- (d) The Directors may decide how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as applicable, by or on behalf of the Company.
- (e) The Directors may:
  - (i) appoint or employ any person as an officer, agent or attorney of the Company for the purposes, with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Directors), for any period and on any other conditions they decide;
  - (ii) authorise an officer, agent or attorney to delegate any of the powers, discretions and duties vested in the officer, agent or attorney; and
  - (iii) remove or dismiss any officer, agent or attorney of the Company at any time, with or without cause.
- (f) A power of attorney may contain any provisions for the protection and convenience of the attorney or persons dealing with the attorney that the Directors decide.
- (g) The Directors may determine the time for payment of any amounts due to be paid to the Club by Members.
- (h) Except as provided under clause 19.4(b)(i), nothing in this clause 19.4 limits the general nature of clause 19.4(a).

## 19.5 Proceedings of Directors

- (a) The Directors may meet together to attend to business and adjourn and otherwise regulate their meetings as they decide.
- (b) The contemporaneous linking together by telephone or other electronic means of a sufficient number of Directors to constitute a quorum, constitutes a meeting of the Directors. All the provisions in this Constitution relating to meetings of the Directors apply, as far as they can and with any necessary changes, to meetings of the Directors by telephone or other electronic means.

- (c) A meeting by telephone or other electronic means is to be taken to be held at the place where the Chairperson of the meeting is or at such other place the Chairperson of the meeting decides on, as long as at least one of the Directors involved was at that place for the duration of the meeting.
- (d) A Director taking part in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.
- (e) If, before or during the meeting, any technical difficulty occurs where one or more Directors cease to participate, the Chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of Directors remains present, continue with the meeting.

#### **19.6 Calling meetings of Directors**

- (a) A Director may, whenever the Director thinks fit, call a meeting of the Directors.
- (b) A Secretary must, if requested by a Director, call a meeting of the Directors.

#### **19.7 Notice of meetings of Directors**

- (a) Notice of a meeting of Directors must be given to each person who is, at the time the notice is given:
  - (i) a Director, except a Director on leave of absence approved by the Directors; or
  - (ii) an alternate Director appointed under clause 19.11 by a Director on leave of absence approved by the Directors.
- (b) A notice of a meeting of Directors:
  - (i) must specify the time and place of the meeting;
  - (ii) need not state the nature of the business to be transacted at the meeting; and
  - (iii) may be given in person or by post or by telephone, fax or other electronic means.
- (c) A Director or alternate Director may waive notice of a meeting of Directors by giving notice to that effect in person or by post or by telephone, fax or other electronic means.
- (d) Failure to give a Director or alternate Director notice of a meeting of Directors does not invalidate anything done or any resolution passed at the meeting if:
  - (i) the failure occurred by accident or inadvertent error; or
  - (ii) the Director or alternate Director attended the meeting or waived notice of the meeting (whether before or after the meeting).

- (e) A person who attends a meeting of Directors waives any objection that person may have to a failure to give notice of the meeting.

#### **19.8 Quorum at meetings of Directors**

- (a) No business may be transacted at a meeting of Directors unless a quorum of Directors is present at the time the business is dealt with.
- (b) Unless the Directors decide differently, 5 Directors constitute a quorum.
- (c) If there is a vacancy in the office of a Director, the remaining Directors may act but, if their number is not sufficient to constitute a quorum, they may act only in an emergency or to increase the number of Directors to a number sufficient to constitute a quorum or to call a general meeting of the Company.

#### **19.9 Decisions of Directors**

- (a) The Directors, at a meeting at which a quorum is present, may exercise any authorities, powers and discretions vested in or exercisable by the Directors under this Constitution.
- (b) Matters arising at a meeting of Directors must be decided by a majority of votes cast by the Directors present entitled to vote on the matter unless this Constitution requires that the resolution be a Special Resolution.
- (c) Subject to clause 19.9(d), each Director has one vote on a matter arising at a meeting of Directors.
- (d) If the votes are equal on a proposed resolution, the Chairperson of the meeting has a casting vote, in addition to his or her deliberative vote.

#### **19.10 Written resolutions**

- (a) If:
  - (i) all of the Directors (other than any Director on leave of absence approved by the Directors, any Director who disqualifies himself or herself from considering the resolution in question and any Director who would be prohibited by the Act from voting on the resolution in question) sign or consent to a written resolution; and
  - (ii) the Directors who sign or consent to the resolution would have constituted a quorum at a meeting of Directors held to consider that resolution,then the resolution is taken to have been passed by a meeting of the Directors.
- (b) A Director may consent to a resolution by:
  - (i) signing the document containing the resolution (or a copy of that document);

- (ii) giving to the Company at its registered office a written notice (including by fax or other electronic means) addressed to the Secretary or to the Chairperson of Directors signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
- (iii) telephoning the Secretary or the Chairperson of Directors and signifying assent to the resolution and clearly identifying its terms.

#### 19.11 Alternate Directors

- (a) A Director may, with the approval of a majority of the other Directors, appoint a person to be the Director's alternate Director for such period as the Director decides.
- (b) An alternate Director must be an Ordinary Member or another Director.
- (c) One person may act as alternate Director to more than one Director.
- (d) In the absence of the appointor, an alternate Director may exercise any powers (except the power to appoint an alternate Director) that the appointor may exercise.
- (e) An alternate Director is entitled, if the appointor does not attend a meeting of Directors, to attend and vote in place of and on behalf of the appointor.
- (f) An alternate Director is entitled to a separate vote for each Director the alternate Director represents in addition to any vote the alternate Director may have as a Director in his or her own right.
- (g) An alternate Director, when acting as a Director, is responsible to the Company for his or her own acts and defaults and is not to be taken to be the agent of the Director by whom he or she was appointed.
- (h) The office of an alternate Director is vacated if and when the appointor vacates office as a Director.
- (i) The appointment of an alternate Director may be terminated or suspended at any time by the appointor or by a majority of the other Directors.
- (j) An appointment, or the termination or suspension of an appointment of an alternate Director, must be in writing and signed and takes effect only when the Company has received notice in writing of the appointment, termination or suspension.
- (k) An alternate Director is not to be taken into account in determining the minimum or maximum number of Directors allowed or the rotation of Directors under this Constitution.
- (l) In determining whether a quorum is present at a meeting of Directors, an alternate Director who attends the meeting is to be counted as a Director for each Director on whose behalf the alternate Director is attending the meeting.



### **19.12 Committees of Directors**

- (a) The Directors may delegate any powers to a committee of Directors.
- (b) A committee to which any powers have been delegated must exercise the powers delegated in accordance with any directions of the Directors.
- (c) The provisions of this Constitution applying to meetings and resolutions of Directors apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee of Directors, except to the extent they are contrary to any direction given under clause 19.12(b).

### **19.13 Delegation to a Director**

- (a) The Directors may delegate any of their powers to one Director.
- (b) A Director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.
- (c) A Director must notify the Secretary or the Chairperson of any delegation under this clause.

### **19.14 Validity of acts**

An act done by a meeting of Directors, a committee of Directors or a person acting as a Director is not invalidated by:

- (a) a defect in the appointment of a person as a Director or a member of a committee; or
- (b) a person so appointed being disqualified or not being entitled to vote, if that circumstance was not known by the Directors, committee or person when the act was done.

### **19.15 Secretary**

The Directors must appoint at least one Secretary and may appoint additional secretaries.

### **19.16 Interpretation of Constitution**

The decision of the Directors about the interpretation of the Constitution or the rules made under it will be final and binding on all Members.

## **20. RECORDS, MINUTES OF MEETINGS, ACCOUNTS AND AUDITOR**

- (a) The Directors will cause minutes of all meetings of Members and Directors to be kept in accordance with the Act.
- (b) The Directors will cause proper accounts to be prepared and maintained, and audited in accordance with the Act.

- (c) The Directors will cause appropriate records of transactions, business and other dealings by the Company to be kept.
- (d) The Secretary must ensure that each year a copy of the statements of account, the Directors' report, the auditor's report and any other document required by the Act is made available to Members entitled to receive them, together with the notice of the Annual General Meeting within the time required under this Constitution and the Act.
- (e) A properly qualified auditor is to be appointed by the Company in a general meeting and may be removed and replaced in a general meeting.

**21. REGISTER OF MEMBERS**

- (a) The Secretary must ensure that the Register be maintained in accordance with the requirements of the Act.
- (b) Each Member will notify the Secretary of any change of name or address.

**22. USE OF THE LODGE**

A Member is not entitled to use the Lodge or any of the Club's facilities if the Member has failed to pay within the time required any amounts due by the Member.

**23. INTEREST ON ACCOUNTS**

Where any amounts due have not been paid by the time required, in addition to an administration fee (reasonably determined by the Board from time to time) the Company may charge the Member interest at such rate as the Board may from time to time determine but not exceeding 5% per annum more than the published variable mortgage rate of any Australian bank at the relevant time.

**24. AMENDING THE CONSTITUTION**

The Constitution may only be amended by a Special Resolution of Ordinary Members.

**25. INDEMNITY**

**25.1 Indemnity**

Every person who is or has been a Director or Secretary of the Company or its subsidiaries is entitled to be indemnified out of the property of the Company against:

- (a) every liability incurred by that person in that capacity (except a liability for legal costs); and
- (b) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings whether civil or criminal or of an administrative nature, in which that person becomes involved because of that capacity;

unless:

- (c) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (d) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

## 25.2 **Insurance**

The Company may pay or agree to pay a premium for a contract insuring a person who is or has been a Director or Secretary of the Company and its subsidiaries against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

## 26. **WINDING UP**

If upon the winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property, that property will not be paid to or distributed among the members but will be given or transferred to some other institution or institutions:

- (a) having objects similar to the objects of the Company; and
- (b) whose constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as imposed under this Constitution,

such institution or institutions to be determined by the Ordinary Members, at or before the time of winding up or dissolution.

## 27. **INSPECTION OF AND ACCESS TO RECORDS**

- (a) A person who is not a Director does not have the right to inspect any of the board papers, books, records or documents of the Company, except as provided by law, or this Constitution, or as authorised by the Directors, or by resolution of the Ordinary Members.
- (b) The Company must provide access to board papers, books, records and documents of the Company to any Director or former Director which relate to the period during which the Director or former Director served as a Director.
- (c) This clause 27 does not limit any right the Directors or former Directors otherwise have.

## 28. SEALS

### 28.1 Manner of execution

The Company may execute a document in any manner permitted by this Constitution or the Act, including by executing a document signed by:

- (a) 2 Directors; or
- (b) a Director and a Secretary; or
- (c) a Director and another person authorised by the Directors for that purpose.

### 28.2 Common seal

The Company may have a common seal. If the Company has a common seal, clauses 28.3 to 28.7 apply.

### 28.3 Safe custody of Seal

The Directors must provide for the safe custody of the Seal.

### 28.4 Using the Seal

Subject to clause 28.7 and unless a different procedure is decided by the Directors, if the Company has a common seal any document to which it is affixed must be signed by:

- (a) 2 Directors;
- (b) by a Director and a Secretary; or
- (c) a Director and another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

### 28.5 Seal register

- (a) The Company may keep a Seal register and, on affixing the Seal to any document (other than a certificate for securities of the Company) may enter in the register particulars of the document, including a short description of the document.
- (b) The register, or any details from it that the Directors require, may be produced at meetings of Directors for noting the use of the Seal since the previous meeting of Directors.

### 28.6 Duplicate seals and certificate seals

- (a) The Company may have one or more duplicate seals for use in place of its common seal outside the state or territory where its common seal is kept. Each duplicate seal must be a facsimile of the common seal of the Company with the addition on its face of the words 'duplicate seal' and the name of the place where it is to be used.

- (b) A document sealed with a duplicate seal, or a certificate seal as provided in clause 28.7, is to be taken to have been sealed with the common seal of the Company.

## **28.7 Sealing and signing certificates**

The Directors may decide either generally or in a particular case that the Seal and the signature of any Director, Secretary or other person is to be printed on or affixed to any certificate issued by the Company by some mechanical or other means.

## **29. NOTICES**

### **29.1 Notices by the Company to Members**

- (a) Without limiting any other way in which notice may be given to a Member under this Constitution or the Act, the Company may give a notice to a Member by:
  - (i) delivering it personally to the Member;
  - (ii) sending it by prepaid post to the Member's address in the Register or any other address the Member supplies to the Company for giving notices; or
  - (iii) sending it by fax or other electronic means (including providing a URL link to any document or attachment) to the fax number or electronic address the Member has supplied to the Company for giving notices.
- (b) A signature to any notice given by the Company to a Member under this clause 29.1 may be printed or affixed by some mechanical or other means.
- (c) Where a Member does not have a registered address or where the Company believes that Member is not known at the Member's registered address, all notices are taken to be given to the Member if the notice is exhibited in the Company's registered office and / or exhibited on the Company's website for a reasonable period.

### **29.2 Notices by the Company to Directors**

The Company may give a notice to a Director or alternate Director by:

- (a) delivering it personally to him or her;
- (b) sending it by prepaid post to his or her usual residential or business address, or any other address he or she has supplied to the Company for giving notices; or
- (c) sending it by fax or other electronic means to the fax number or electronic address he or she has supplied to the Company for giving notices.

### 29.3 Notices by Directors to the Company

A Director or alternate Director may give a notice to the Company by:

- (a) delivering it to the Company's registered office;
- (b) sending it by prepaid post to the Company's registered office; or
- (c) sending it by fax or other electronic means to the principal fax number or electronic address at the Company's registered office or nominated for the Secretary.

### 29.4 Time of service

- (a) A notice from the Company properly addressed and posted is taken to be served:
  - (i) if it is a notice concerning a general meeting, at 10.00am on the day after the date it is posted; or
  - (ii) in any other case, at the time the letter would be delivered in the ordinary course of post.
- (b) A certificate signed by a Secretary or officer of the Company to the effect that a notice was duly posted under this Constitution is conclusive evidence of that fact.
- (c) Where the Company sends a notice by fax, the notice is taken as served at the time the fax is sent if the correct fax number appears on the facsimile transmission report produced by the sender's fax machine.
- (d) Where the Company sends a notice by electronic transmission, the notice is taken as served at the time the electronic transmission is sent.
- (e) Where the Company gives a notice to a Member by any other means permitted by the Act relating to the giving of notices and electronic means of access to them, the notice is taken as given at 10.00am on the day after the date on which the Member is notified that the notice is available.
- (f) Where a given number of days' notice or notice extending over any other period must be given, the day of service is not to be counted in the number of days or other period.

### 29.5 Other communications and documents

Clauses 29.1 to 29.4 (inclusive) apply, so far as they can and with any necessary changes, to serving any communication or document.

### 29.6 Written notices

A reference in this Constitution to a written notice includes a notice given by fax or other electronic means. A signature to a written notice need not be handwritten.

30. **GENERAL**

30.1 **Submission to jurisdiction**

Each Member submits to the non-exclusive jurisdiction of the Supreme Court of the state or territory in which the Company is taken to be registered for the purposes of the Act, the Federal Court of Australia and the courts which may hear appeals from those courts.

30.2 **Prohibition and enforceability**

- (a) Any provision of, or the application of any provision of, this Constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.