

Good Environmental Choice Australia

OUR VISION

Our vision is for a sustainable future for people and planet.

OUR PURPOSE

Our purpose is to create solutions for sustainable consumption and production.



CONSTITUTION

21 June 2022

A public company limited by guarantee, registered in New South Wales.

Contents

1.	MEANING OF WORDS AND INTERPRETATION	4
2.	OBJECTS AND POWERS	5
3.	INCOME AND PROPERTY OF THE COMPANY	6
4.	PAYMENTS TO DIRECTORS	6
5.	ADMISSION AS A MEMBER	7
6.	CEASING TO BE A MEMBER	7
7.	POWERS OF ATTORNEY	7
8.	CALLING A GENERAL MEETING	7
9.	NOTICE OF GENERAL MEETING	7
10.	QUORUM	8
11.	CHAIR	9
12.	ADJOURNMENT	9
13.	DECISION ON QUESTIONS	9
14.	TAKING A POLL	10
15.	CASTING VOTE OF CHAIR	10
16.	ENTITLEMENT TO VOTE	10
17.	OBJECTIONS	10
18.	VOTES BY PROXY OR ATTORNEY	10
19.	APPOINTING A PROXY	11
20.	LODGMET OF PROXY	12
21.	VALIDITY	12
22.	BOARD OF DIRECTORS	12
23.	NUMBER OF DIRECTORS	12

24.	APPOINTMENT AND REMOVAL OF DIRECTORS.....	13
25.	ADDITIONAL AND CASUAL DIRECTORS.....	13
26.	NOMINATION OF DIRECTOR.....	13
27.	VACATION OF OFFICE	13
28.	DIRECTORS' MEETINGS.....	14
29.	DECISION ON QUESTIONS	14
30.	DIRECTORS' INTERESTS	15
31.	REMAINING DIRECTORS.....	15
32.	CHAIR	15
33.	DELEGATION AND MANAGEMENT	16
34.	WRITTEN RESOLUTIONS	16
35.	VALIDITY OF ACTS OF DIRECTORS.....	17
36.	MINUTES, REGISTERS	17
37.	SECRETARY	17
38.	COMMON SEAL	17
39.	INSPECTION OF RECORDS.....	18
40.	SERVICE OF NOTICES.....	18
41.	PERSONS ENTITLED TO NOTICE	19
42.	AUDIT AND ACCOUNTS.....	19
43.	WINDING UP AND LIABILITY.....	19
44.	INDEMNITY AND INSURANCE.....	20

CORPORATIONS ACT 2001

PUBLIC SPECIAL PURPOSE COMPANY LIMITED BY GUARANTEE
CONSTITUTION

OF

GOOD ENVIRONMENTAL CHOICE – AUSTRALIA
ACN 118 766 153

PRELIMINARY

1. MEANING OF WORDS AND INTERPRETATION

1.1 In this Constitution:

'Act' means the *Corporations Act 2001* (Cth).

'Auditor' means the Company's auditor.

'Company' means Good Environmental Choice Australia. ACN 118 766 153.

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

'Director' includes any person occupying the position of director of the Company.

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

'Member' has the same meaning given to that term in clause 5.

'Office' means the Company's registered office.

A 'Representative' in relation to a body corporate, means an individual appointed by that body corporate under section 250D of the Corporations Act to act as a representative of that body corporate to exercise its powers.

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

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

1.2 In this Constitution:

- (a) the singular includes the plural and vice versa and words importing a gender include other genders.

- (b) words importing natural persons include corporations.
- (c) words and expressions defined in the Act have the same meaning in this Constitution.
- (d) headings are for ease of reference only and do not affect the construction of this Constitution.

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

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

2. OBJECTS AND POWERS

2.1 The Company is to be a not-for-profit entity that is not carried on for the profit or gain of its owners or members, neither while it is operating nor upon winding up.

2.2 The objects for which the Company is established are:

- (a) to promote and procure the sustainability of production and consumption in Australia;
- (b) to deliver to the Australian market a national environmental labelling and declaration program in conformance to international best practice and international standards recognising environmentally innovative products and services to be known as the "Australian Ecolabel Program";
- (c) to develop and deliver solutions, products and services to enhance the sustainability of production and consumption in Australia.

2.3 The goals of the Australian Ecolabel Program are to:

- (a) deliver a national full product life cycle environmental and social labelling program in general conformance to ISO 14024 as a Third Party Independent Program.
- (b) improve the quality of the environment and human impacts by promoting sustainable consumption in Australia.
- (c) provide market incentives to reduce the environmental and human impacts of products sold in Australia principally by certifying products that have environmental and social credentials on a life cycle assessment basis;
- (d) provide a clear, credible and independent guide to consumers wishing to take account of Environmental and human impacts in their purchasing decisions;
- (e) encourage consumers to purchase products which have lower environmental and human impacts;
- (f) recognise and reward activities by organisations to reduce the adverse environmental and human impacts of the life cycle of their products and services; and
- (g) provide guidance to organisations seeking to reduce their environmental and human impacts.

- (h) to deliver programs to the broad Australian community promoting lifestyles, consumption behaviours and the establishment of community attitudes that preserve and enhance the natural environment.
- (i) to promote and develop information on the environmental and social impacts of market activity and with the objective of increasing market efficiency, raising awareness of market externalities, promoting good market practice by organizations in Australia or that trade with Australia.
- (j) to act as a representative office for overseas ISO 14024 based environmental labelling programs.
- (a) to deliver and regularly review other environmental standard setting and verification activities where these will help to effectively reduce the environmental and human impact by Australians to the biosphere.

2.4 The assets and income of the Company shall be applied solely in furtherance of its above mentioned objects and no portion shall be distributed directly or indirectly to the Members of the Company except as bona fide compensation for services rendered or expenses incurred on behalf of the Company.

2.5 The Company may only exercise the powers in section 124(1) of the Act to: carry out the objects in this clause 2 and do all things incidental or convenient to achieve this.

3. INCOME AND PROPERTY OF THE COMPANY

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

3.2 No income or property will be paid or transferred directly or indirectly to any Member of the Company except for payments to a Member:

- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
- (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.

3.3 True accounts shall be kept of all monies received and expended by the Company and the matters in respect of which such receipt and expenditure takes place, and of the property, credits and liabilities of the Company.

4. PAYMENTS TO DIRECTORS

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

- (a) for out of pocket expenses incurred by the Director in performing any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- (b) relating to an indemnity in favour of a Director and permitted by section 199A of the Act or a contract of insurance permitted by section 199B;
- (c) as allowed by section 150, 199A or 199B of the Act;

- (d) by way of an amount for Directors fees determined by the Board from time to time with the limitation that Directors fees must in aggregate be no more than an amount specified by the Members in general meeting or in the absence of any specification by Members no more than 10% of the Company's total revenue for the preceding financial year; or
- (e) payment to a Director serving in an executive role in the Company for such time as she or he is appointed to that role by the Board at a rate determined by the Board to be reasonable having regard to general market conditions and the salary of the CEO and other senior staff of the organisation.

5. ADMISSION AS A MEMBER

- 5.1 Each Director will become a Member on their appointment as Director.

6. CEASING TO BE A MEMBER

- 6.1 Membership of the Company will cease upon resignation or other vacation of the office of the Director

7. POWERS OF ATTORNEY

- 7.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the Attorney to the Company for notation.
- 7.2 If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- 7.3 The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

8. CALLING A GENERAL MEETING

- 8.1 Any Director may, at any time, call a general meeting.
- 8.2 A general meeting may also be called in accordance with sections 249E, 249F and 249G of the Act.

9. NOTICE OF GENERAL MEETING

- 9.1 Subject to the provisions of the Act allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) of any general meeting must be given to all Members.
- 9.2 A notice calling a general meeting:
 - (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
 - (b) must state the general nature of the business to be conducted at the meeting (and if the business includes a special resolution, the terms of that resolution);

- (c) give the names of the candidates for election, in the case of an election of Directors; and
- (d) must contain a statement that:
 - (i) a Member has the right to appoint a proxy; and
 - (ii) that a proxy does not need to be a Member.

9.3 A notice of an annual general meeting need not state that the business to be conducted at the meeting includes:

- (a) consideration of the annual financial report, Directors' report and the Auditor's report;
- (b) the election of Directors; or
- (c) the appointment and fixing of the remuneration of the Auditor.

9.4 The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 8.2).

9.5 The Directors must give notice of the postponement or cancellation to all Members who are entitled to attend the general meeting.

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

9.7 If applicable, the auditor or an agent authorised by the auditor in writing for the purpose of attending the general meeting is entitled to attend any general meeting, to receive all notices of and other communications relating to any general meeting which a Member is entitled to receive and to be heard at any general meeting on any part of the business of the meeting which concerns the auditor in that capacity.

10. QUORUM

10.1 No business may be transacted at a general meeting unless a quorum of Members is present in person, by proxy or attorney when the meeting proceeds to business.

10.2 A quorum of Members is the same as for a quorum of Directors.

10.3 If a Member attending a general meeting is also a proxy for another Member, he or she is to be counted twice in determining whether a quorum is present.

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

- (a) if the meeting was called on the requisition of Members, it is automatically dissolved; or
- (b) in any other case:
 - (i) the meeting will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and

- (ii) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is automatically dissolved.

11. CHAIR

- 11.1 The Chair of the Board of Directors, or in the Chair's absence the deputy Chair, will be the Chair at every meeting of Members.
- 11.2 The Directors present may elect a Chair for a meeting of Members if:
 - (a) there is no Chair or deputy Chair; or
 - (b) neither the Chair nor deputy Chair is present within 15 minutes after the time appointed for holding the meeting; or
 - (c) the Chair and deputy Chair are unwilling to act as Chair of the meeting,
- 11.3 If no election is made under clause 11.2, then :
 - (a) the Members may elect one of the Directors present as Chair.; or
 - (b) if no Director is present or is willing to take the chair, the meeting will be adjourned to a day, time and place that the Directors determine.
- 11.4 If there is a dispute at a general meeting about a question of procedure, the Chair may determine the question.

12. ADJOURNMENT

- 12.1 The Chair of a meeting at which a quorum is present:
 - (a) in his or her discretion may adjourn a meeting with the meeting's consent; and
 - (b) must adjourn a meeting if the meeting directs him or her to do so.
- 12.2 An adjourned meeting may take place at a different venue to the initial meeting.
- 12.3 The only business that can be transacted at an adjourned meeting is the unfinished business of the initial meeting.
- 12.4 Notice of an adjourned meeting need only be given in accordance with clause 9 if a general meeting has been adjourned for more than 21 days.

13. DECISION ON QUESTIONS

- 13.1 Subject to the Act in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- 13.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the Act.

13.3 Unless a poll is demanded:

- (a) a declaration by the Chair that a resolution has been carried, carried by a specified majority, or lost; and
- (b) an entry to that effect in the minutes of the meeting, are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

13.4 The demand for a poll may be withdrawn.

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

14. TAKING A POLL

14.1 A poll will be taken when and in the manner that the Chair directs.

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

14.3 The Chair may determine any dispute about the admission or rejection of a vote.

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

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

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

15. CASTING VOTE OF CHAIR

The Chair does not have a casting vote in addition to the Chair's votes as a Member, proxy, attorney or Representative. If the votes are even, then the Chair's vote is counted as null and the votes recounted.

16. ENTITLEMENT TO VOTE

Each Member has one vote.

17. OBJECTIONS

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

17.2 An objection must be referred to the Chair of the meeting, whose decision is final.

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

18. VOTES BY PROXY OR ATTORNEY

18.1 If a Member appoints a proxy or an attorney, the proxy or attorney may not vote on a show of hands if that proxy or attorney:

- (a) has two or more appointments that specify different ways to vote on the resolution; or
- (b) the proxy is the chair of the meeting.

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

19. APPOINTING A PROXY

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

19.2 For the purposes of clause 19.1, an appointment received at an electronic address will be taken to be signed by the Member if:

- (a) a personal identification code allocated by the Company to the Member has been included in the appointment; or
- (b) the appointment has been verified in another manner approved by the Directors.

19.3 A proxy need not be a Member.

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

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

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

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

- (a) to vote on:
 - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
 - (ii) any procedural motion, including any motion to elect the Chair, to vacate the chair or to adjourn the meeting, even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
- (b) to vote on any motion before the meeting whether or not the motion is referred to in the appointment.

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

20. LODGMENT OF PROXY

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

- (a) the time for holding the meeting or adjourned meeting at which the appointee proposes to vote; or
- (b) the taking of a poll on which the appointee proposes to vote.

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

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

21. VALIDITY

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

- (a) died;
- (b) became mentally incapacitated; or
- (c) revoked the proxy or power,

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

22. BOARD OF DIRECTORS

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

22.2 Without limiting the generality of clause 22.1, the Directors may exercise all the powers of the Company to:

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

23. NUMBER OF DIRECTORS

23.1 There will not be less than three, nor more than seven Directors, unless the Company in a general meeting by resolution changes the minimum or maximum number.

23.2 No more than two Directors at any one time may be employees or significant shareholders in a company that manufactures, distributes or markets in Australia a product that is licensed to bear the GECA ecolabel.

24. APPOINTMENT AND REMOVAL OF DIRECTORS

24.1 The Company may by resolution passed in general meeting:

- (a) appoint new Directors;
- (b) subject to clause 23 increase or reduce the number of Directors;
- (c) remove any Director before the end of the Director's period of office; and
- (d) appoint another person in the Director's place.

24.2 A person appointed under clause 24.1(d) will hold office for the period for which the Director replaced would have held office if the Director had not been removed.

25. ADDITIONAL AND CASUAL DIRECTORS

25.1 The Directors may:

- (a) appoint any person as a Director to fill a casual vacancy to hold office until the next annual general meeting of the Company; and
- (b) appoint any person as an additional Director if in the opinion of the Directors it is in the interests of the Company to do so. A maximum of four persons may be so appointed.

26. NOMINATION OF DIRECTOR

26.1 A person other than a retiring Director is not eligible for election as a Director at a general meeting unless the person, or a Member who intends to propose the person, has left at the Office a written notice signed by him or her:

- (a) giving the person's consent to the nomination; and
- (b) stating either that the person is a candidate for the office of Director or that the Member intends to propose the person for election.

26.2 A notice given in accordance with clause 26.1 must be left at the Office at least 15 days before the relevant general meeting.

26.3 A written notice referring to all Director vacancies and each candidate for election, must be sent to all Members at least seven days before every general meeting at which an election of a Director will take place.

27. VACATION OF OFFICE

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

- (a) is prohibited by the Act from holding office or continuing as a Director;

- (b) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs;
- (c) dies;
- (d) resigns by notice in writing to the Company;
- (e) is removed in accordance with clause 24.1(c);
- (f) is absent from 3 consecutive Directors' meetings without leave of absence from the Directors; or
- (g) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Act.

28. DIRECTORS' MEETINGS

- 28.1 The Directors shall meet a minimum of four times per year.
- 28.2 A Director may at any time, and the Secretary must on the request of a Director, call a Directors' meeting by notifying all Directors via any communication means and confirming the next suitable date for such a meeting.
- (a) A Directors' meeting must be called on at least 48 hours written notice of a meeting to each Director.
 - (b) A quorum for a meeting of the Board is 3 or 50% of the Directors then in office whichever is the larger at the time.
- 28.3 Subject to the Act the Directors may hold a Directors' meeting by communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- (a) The Directors need not all be physically present in the same place for a Directors' meeting to be held.
 - (b) A Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 28.4 The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 28.5 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

29. DECISION ON QUESTIONS

- 29.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to this clause, each Director has one vote.
- 29.2 The Chair of a meeting does not have a casting vote in addition to his or her deliberative vote.

30. DIRECTORS' INTERESTS

30.1 A Director or a body or entity in which a Director has a material personal interest may not:

- (a) enter into any agreement or arrangement with the Company except as permitted by clause 3 of this Constitution; or
- (b) act in a professional capacity for the Company.

30.2 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter, unless permitted by the Act (including ss 195 and 196 of the Act) to do so, in which case the Director may:
 - (i) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
 - (ii) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
 - (iii) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

30.3 A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise, but is accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate unless the Members by ordinary resolution determine otherwise.

31. REMAINING DIRECTORS

31.1 The Directors may act even if there are vacancies on the board.

31.2 If the number of Directors in office at any time is not sufficient to constitute a quorum at a Directors' meeting, the remaining Director or Directors may act only to:

- (a) in an emergency;
- (b) to appoint that number of Directors to constitute a quorum; or
- (c) call a general meeting.

32. CHAIR

32.1 The Directors may elect a Director as Chair of Directors' meetings and may determine the period for which the Chair will hold office.

32.2 If no Chair is elected or if the Chair is not present at any Directors' meeting within 10 minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be Chair of the meeting.

32.3 The Directors may elect a Director as deputy Chair to act as Chair in the Chair's absence.

33. DELEGATION AND MANAGEMENT

33.1 The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees. The Directors may at any time revoke any delegation of power to a committee.

33.2 The Directors may by special resolution appoint and (subject to the terms of any employment agreement) remove a person as the chief executive officer of the Company. Appointment and supervision of all of the staff of the Company will be the responsibility of the chief executive officer. The chief executive officer will be responsible to the Directors for the management and operations of the Company, subject to any direction given by the Directors.

33.3 The provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors, will govern meetings of any committee of Directors. The provisions apply as if each member was a Director.

34. WRITTEN RESOLUTIONS

34.1 Subject to applicable law, any resolution that is capable of being voted on at a meeting of the Directors may be passed without such meeting of the Directors being held, provided:

(a) all of the Directors who would be entitled to receive notice of a meeting of the board and to vote on a resolution are given a document setting out that resolution;

(b) a majority of the Directors other than:

(i) a Director on leave of absence approved by the Directors;

(ii) a Director who disqualifies himself or herself from considering the resolution in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; and

(iii) a Director who the directors reasonably believe is not entitled to vote on the resolution in question,

assent to that resolution; and

(c) the directors who assent to that resolution would have constituted a quorum at a meeting of the board held to consider that resolution.

34.2 For the purposes of this clause separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.

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

- 34.4 The document must state that it is a circulating resolution in accordance with this clause.
- 34.5 This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

35. VALIDITY OF ACTS OF DIRECTORS

If it is discovered that:

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

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

36. MINUTES, REGISTERS

36.1 The Directors must ensure minutes or written resolutions under clause 34 are made of:

- (a) the names of the Directors present at all general meetings, Directors' meetings and meetings of Directors' committees;
- (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
- (c) all appointments of officers;
- (d) all orders made by the Directors and Directors' committees; and
- (e) all disclosures of interests made under clause 30.

36.2 Minutes must be signed by the Chair of the meeting or by the Chair of the next meeting of the relevant body.

36.3 The Company must keep all registers required by this Constitution and the Act.

37. SECRETARY

37.1 There must be at least one secretary of the Company appointed by the Directors for a term and at remuneration and on conditions determined by them.

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

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

38. COMMON SEAL

38.1 If the Company has a Seal:

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

39. INSPECTION OF RECORDS

- 39.1 Except as otherwise required by the Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.
- 39.2 A Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

40. SERVICE OF NOTICES

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

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

- 40.2 A notice sent by post is taken to be served:

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

- 40.3 A notice sent by electronic notification is taken to be served:

- (a) by properly addressing the electronic notification and transmitting it; and
- (b) on the day after its dispatch.

- 40.4 If a Member has not supplied an address to the Company for the service of notices a notice will be taken to be served on that Member 24 hours after it was posted on a notice board at the Office.

- 40.5 A Member whose address is not in Australia may specify in writing an address in Australia to be taken to be the Member's address for the purposes of this clause.

- 40.6 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.

- 40.7 Subject to the Act the signature to a written notice given by the Company may be written or printed.

40.8 All notices sent by post outside Australia must be sent by prepaid airmail post.

41. PERSONS ENTITLED TO NOTICE

41.1 Notice of every general meeting must be given to:

- (a) every Member;
- (b) every Director; and
- (c) any Auditor.

41.2 No other person is entitled to receive notice of a general meeting.

41.3 Service of a notice to a Director will satisfy the obligation of service to the Member where the Member is a Director.

42. AUDIT AND ACCOUNTS

42.1 The Directors must cause the Company to keep written financial records in accordance with Part 2M.2 of the Act in relation to the business of the Company.

42.2 If required under the Act, the Company must appoint and retain a properly qualified auditor (who cannot be a Member) in accordance with the Act.

43. WINDING UP AND LIABILITY

43.1 The liability of the Members is limited.

43.2 If the Company is wound up:

- (a) each Member; and
- (b) each person who has ceased to be a Member in the preceding year, undertakes to contribute to the property of the Company for the:
 - (iv) payment of debts and liabilities of the Company (in relation to clause 2.5, contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
 - (v) adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding \$2.00.

43.3 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 corporation which, by its constitution, is:

- (a) required to pursue objects similar to the objectives of the Company;
- (b) required to apply its profits (if any) or other income in promoting its objects;

- (c) prohibited from making any distribution of its income and property among its members to an extent at least as great as is imposed on the Company under this constitution,

such corporation to be determined by the Members at or before the winding up and in default, by application to the Supreme Court for determination.

44. INDEMNITY AND INSURANCE

44.1 Except to the extent that it is prohibited from doing so by the Act, the Company:

- (a) indemnifies every officer and past officer (with the exception of any auditor) of the Company to the fullest extent permitted by law against a liability incurred by that person as an officer of the Company or a subsidiary of the Company, including without limitation reasonable legal costs and expenses incurred in participating or being involved in or in defending an action for a liability incurred by that person as such an officer of the Company;
- (b) may pay or agree to pay a premium in respect of a contract insuring any such person against any such liability; and
- (c) every employee who is not a Director, secretary or executive officer of the company may be indemnified out of the property of the company against a liability:
 - (i) incurred by the employee acting in that capacity; and
 - (ii) for the costs and expenses incurred by an employee:
 - (A) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which the person is acquitted; or
 - (B) in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under the Act.

44.2 For the purposes of this clause 44, 'officer' means:

- (a) a Director;
- (b) a Secretary; and
- (c) an executive officer of the Company as defined by the Act.