Constitution

Clean Energy Council Limited

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CLEAN ENERGY COUNCIL

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Clean Energy Council Limited

A company limited by guarantee

1. Company's name

The name of the company is Clean Energy Council Limited.

2. Company's purposes

The company's principal purpose is to increase the deployment of clean energy technology and solutions in Australia by, without limitation;

(a) advocating for appropriate policies from governments and other stakeholders;

(b) educating, promoting and informing stakeholders and the community about clean energy technologies and solutions;

(c) encouraging members to adopt best practice in the clean energy industry; and

(d) advancing the development and interests of clean energy industry members.

3. Company's powers

Solely for carrying out the company's purposes, the company may exercise all powers of a natural person under the Corporations Act.

4. Not for Profit

4.1 Application of the company's income and property

(a) The company's income and property must be applied solely towards promoting the company's purposes.

(b) No part of the company's income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, or other profit distribution, to any member or director.

(c) This rule 4 does not prohibit indemnification of, or payment of premiums on contracts of insurance for, any director to the extent permitted by law and this constitution.

4.2 Other payments to directors

All payments to directors must be approved by the directors including, but not limited to:

(a) out-of-pocket expenses incurred by a director in performing a duty as a director of the company; or

(b) a service rendered to the company by a director in a professional or technical capacity or as an employee, other than in the capacity as a director of the company, where:

(i) the provision of the service has the prior approval of the directors; and

(ii) the amount payable is not more than an amount that commercially would be reasonable payment for the service.

5. Membership

5.1 Application

(a) The members of the company are the members under the existing constitution at the date of the adoption of this constitution and any other persons the directors admit to membership.

(b) Every applicant for membership of the company must apply in the form and manner decided by the directors.

(c) The directors may create eligibility criteria and categories of membership with the same or differing rights or privileges and set those out in a membership policy.

(d) After receipt of an application for membership, the directors (or a delegate approved by the directors) must consider the application and decide whether to admit or reject the admission of the applicant. The directors need not give any reason for rejecting an application.

(e) Every member agrees to comply with this constitution and supports the purposes of the company set out in rule 2.

5.2 Becoming a Member

In order to be eligible to become a member of the company any corporate entity or individual applicant must satisfy the following:

(a) have a commitment to and (in the case of an individual) have an understanding of the purposes set out in rule 2;

(b) in the case of an individual be:

(i) aged 18 years or older; and

(ii) not be ineligible to be a director under the Corporations Act.

5.3 Membership categories

(a) Subject to rule 10.6, the company consists of the following categories of members with weighted voting rights as follows:

(i) sponsor- 20 votes;

(ii) corporate- 6 votes;

(iii) professional services - 3 votes;

(iv) associate- 2 votes;

(v) emerging technology-1 vote;

(vi) network - 1 vote;

(vii) international - 1 vote;

(viii) supporter - not eligible to vote, but may attend and speak at a general meeting;

(ix) individual - not eligible to vote, but may attend and speak at a general meeting;

(b) Other than in relation to voting rights, but subject to rule 5.6 the rights and liabilities attaching to membership categories are the same.

(c) The directors can, at their absolute discretion, determine and amend from time to time the criteria for any relevant membership category and determine whether any applicant for membership satisfies those criteria.

5.4 Subscription fee

(a) A subscription fee may be decided by the directors, and notified to the members.

(b) The directors must notify all persons entered on the register of members of the amount and time for payment of any subscription fee and of any alteration to the subscription fee. Varying amounts may be applied as decided by the directors and made available to the members in a notice or a membership policy.

(c) Where the subscription fee is not received:

(i) after one day of the due date, the directors may issue a written reminder notice to the member; and

(ii) after 14 calendar days of the written reminder notice, the member's rights and privileges associated with that membership will be suspended, including the right to receive notices of general meetings and the right to attend and vote at general meetings.

(d) If a member who was suspended pursuant to rule 5.4(c) has not paid a subscription fee for more than 28 calendar days after the written reminder notice, the person ceases to be a member.

5.5 Register

The company must maintain a register of members setting out the name, address, applicable membership category, alternative electronic or other address (if any) for receipt of notices and date membership starts and ceases.

5.6 Member benefits

Members shall be entitled to receive all benefits of membership of the company relevant to their membership categories as provided in this constitution and as otherwise determined by the directors from time to time.

5.7 Transferability

The rights and privileges of a member cannot be transferred to any person.

6. When membership ceases

6.1 Death, resignation and other events

A person immediately ceases to be a member if the person:

(a) dies;

(b) resigns as a member by giving written notice to the company;

(c) becomes bankrupt or insolvent or makes any arrangement or composition with its creditors;

(d) is expelled under rule 6.2;

(e) becomes, if the directors so decide in their absolute discretion, an untraceable member because the person has ceased to respond or otherwise communicate with its Registered Address; or

(f) ceases to be a member under rule 5.4(d).

6.2 Expulsion

(a) The directors may by special resolution of the directors expel a member from the company if, in their absolute discretion, they decide it is not in the interests of the company for the person to remain a member.

(b) If the directors intend to consider a resolution under rule 6.2(a), they must, at least one week before the date on which the resolution is to be considered, give the member written notice:

(i) setting out the intended resolution and the grounds on which it is based; and

(ii) if a meeting is to be held, stating the date, place and time of the meeting and informing the member that they may attend the meeting and may give an oral or written explanation or submission of no more than 1,000 words before the resolution is put to the vote; or

(iii) if a written resolution is to be put to a vote under rule 10.17, stating the date by which the resolution is to be put to a vote and informing the member that they may give a written explanation or submission of no more than 1,000 words before the resolution is to put to the vote.

7. Liability and guarantee of member

(a) The liability of the members is limited to the amount of the guarantee given in rule 7(b).

(b) Every member must contribute an amount not more than $10 to the property of the company if it is wound up while the person is a member or within one year after the person ceases to be a member, for:

(i) payment of the company's debts and liabilities contracted before the time he or she ceased to be a member; and

(ii) costs, charges and expenses of winding up.

8. Winding up

(a) If, on the winding up or dissolution of the company, any property remains after satisfaction of all its debts and liabilities, the same will not be paid to or distributed among the members, and must only be given or transferred to an organisation having objects similar to the objects of the company, and whose constitution prohibits distributions and payments to its members and directors to an extent at least as great as in rule 4.

(b) The entity referred to in rule 8(a) must be decided by the directors, or if the directors do not wish to decide or do not decide, it must be decided by the members by ordinary resolution at or before the time of winding up of the company and, if the members do not decide, by the Supreme Court of Victoria.

9. General meetings

9.1 Annual General Meetings

An annual general meeting of the company must be held in each financial year. All general meetings, other than annual general meetings, shall be called extraordinary general meetings.

9.2 Calling general meetings

A general meeting may only be called:

(a) by a directors' resolution; or

(b) as provided or required under any applicable law or under any policy adopted by the directors,

or as otherwise expressly provided for in this constitution.

9.3 Notice of general meetings

(a) At least 21 days' notice of every general meeting must be given in any manner authorised by rule 13 to each person who is at the date of the notice:

(i) a member;

(ii) a director;

(iii) the auditor of the company, if applicable.

(b) A notice of a general meeting must:

(i) specify the date, time and place of the meeting;

(ii) If there are 2 or more physical locations, the notice must specify the date, time and place for the meeting at each location, and the main location for the meeting;

(iii) If virtual meeting technology is to be used in holding the meeting, the notice must provide sufficient information to allow the members to participate in the meeting by means of technology;

(iv) state the general nature of the business to be transacted at the meeting and if a special resolution is proposed, state the full terms of the special resolution; and

(v) specify any details of voting such as proxies, direct voting or other methods, if any, as decided by the directors.

(c) A person may waive notice of a general meeting or consent to shorter notice by written notice to the company.

(d) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting does not invalidate anything done or resolution passed at the general meeting if:

(i) the non-receipt or failure occurred by accident or error; or

(ii) before or after the meeting, the person has notified or notifies the company of that person's agreement to that thing or resolution.

(e) 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, at the beginning of the meeting, the person 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

9.4 Changing or postponing general meetings

(a) Except in the case of a general meeting convened on the requisition of members, the directors may at any time cancel or postpone a general meeting before the time for

holding the meeting.

(b) Subject to rule 9.4(a), the directors may change the venue for, postpone, adjourn or cancel a general meeting if:

(i) they reasonably consider that the meeting has become unnecessary;

(ii) the venue would be unreasonable or impractical;

(iii) a change is necessary in the interests of conducting the meeting efficiently;

(iv) a quorum is not present under rule 9.8; or

(v) the members resolve to adjourn the meeting under rule 9.11.

9.5 Business of Annual General Meeting

The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:

(a) to receive and consider the annual financial report, the report of the directors and the audit/financial review report as applicable;

(b) the election of directors; and

(c) the appointment of auditors, if necessary.

9.6 Special Business

All other business transacted at an annual general meeting and all business transacted at any extraordinary general meeting is special business.

9.7 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 members is present when the meeting proceeds to business.

(b) A quorum consists of at least 10 members entitled to vote and be present at the meeting. A person may only be counted once even if a person is a representative or proxy of more than one member.

(c) If a quorum is not present within 30 minutes after the time appointed for a general meeting the meeting stands adjourned to the day, and at the time and place, that the directors decide.

(d) If the directors do not specify one or more of the things mentioned in rule 9.7(c), the meeting is adjourned to the same day, time and location(s) the following week.

(e) If virtual meeting technology was used in holding the meeting, and sufficient information allowing members to participate in the resumed meeting is not specified, participation in the resumed meeting by means of technology must be provided in the same manner as specified in the notice for the original meeting.

(f) If at the adjourned meeting under rule 9.7(c), a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

9.8 General meetings by technology

(a) A general meeting may be held using virtual meeting technology that gives members a reasonable opportunity to participate.

(b) A general meeting may be held at one or more physical venues and using technology that gives members a reasonable opportunity to participate.

(c) The simultaneous linking together by telephone or other electronic means of a sufficient number of the members in person, to constitute a quorum constitutes a general meeting of the members, provided each member has a reasonable opportunity to participate at the meeting.

(d) All the provisions in this constitution relating to general meetings of the members apply, as far as they can, with any necessary changes, to meetings of the members by telephone or other electronic means.

(e) A general member who takes part in a general meeting by telephone or other electronic means is taken to be present in person at the meeting.

(f) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the members involved was at that place for the duration of the meeting.

(g) If a technical difficulty arises out of using technology, whether before or during the general meeting, which results in a member or group of members not being able to participate in the meeting, the chairperson may, subject to the Corporations Act and rule 9.8 being satisfied:

(i) allow the meeting to continue (provided the meeting would be quorate); or

(ii) adjourn the meeting, either for a reasonable period of time required to fix the technical difficulty or to such other date, time and location the chairperson deems appropriate, subject to this constitution.

(h) For the avoidance of doubt, in the event the chairperson makes a determination allowing the general meeting to continue in accordance with rule 9.8(g)(i), any resolution passed at that meeting is valid.

(i) Subject to the Corporations Act and this constitution, the directors may make policies and procedures relating to the process for using technology to hold general meetings from time to time as the directors deem fit.

9.9 Chairperson of general meetings

(a) The chairperson of directors must preside as chairperson at a general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.

(b) If there is no chairperson of directors or both the conditions in rule 9.9(a) have not been met, the members present must elect another chairperson of the general meeting.

(c) A chairperson elected under rule 9.9(b) must be:

(i) another director who is present and willing to act; or

(ii) if no other director present at the general meeting is willing to act, a member who is present and willing to act.

9.10 Conducting and adjourning general meetings

(a) A question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.

(b) The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting except the business left unfinished at the meeting from which the adjournment took place.

(c) Where a general meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.

(d) Except as provided by rule 9.10(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned general meeting.

9.11 Decisions of the members

(a) At any general meeting, a resolution put to the vote of the meeting will be decided either on a show of hands or on a poll in accordance with rule 9.11(d)-(i).

(b) Except where by law a resolution requires a special majority, resolutions must be decided by a majority of the votes cast by the members. Such a decision is for all purposes a decision of the members.

(c) Where the votes on a proposed resolution are equal:

(i) the chairperson does not have a second or casting vote; and

(ii) the proposed resolution is taken as lost.

(d) The directors may conduct a vote by a show of hands unless, before the vote is taken or before or immediately after the declaration of the result of the show of hands, a poll is demanded by:

(i) the chairperson of the meeting;

(ii) at least 5 members present and with the right to vote on the resolution; or

(iii) members present with at least 5% of the votes that may be cast on the resolution on a poll.

(e) A demand for a poll does not prevent a general meeting continuing to transact any business except the question on which the poll has been 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:

(i) carried;

(ii) carried unanimously;

(iii) carried by a particular majority; or

(iv) lost,

and an entry to that effect in the book containing the minutes of the company's proceedings, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(g) If a poll is duly demanded at a general meeting, it must be taken in such manner, and either at once or after an interval or adjournment or otherwise, as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded.

(h) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.

(i) The demand for a poll may be withdrawn.

(j) If the company has only one member, the company may pass a resolution by the member recording it and signing the record.

(k) A members' resolution may be passed without a general meeting (unless a meeting is required under this constitution or the Corporations Act, such as a resolution to remove an auditor or a director or for passing a special resolution, all of which require a meeting to be held). Such a resolution is passed if all the members entitled to vote sign or agree in writing to the resolution. The resolution is taken to be passed on the date the last member signs or agrees to the resolution.

9.12 Voting rights

(a) Subject to this constitution, each member entitled to vote at a general meeting of members may vote as decided by the directors:

(i) in person or, where a member is a body corporate, by its representative;

(ii) by one proxy (if permitted); or

(iii) by direct vote (if permitted).

(b) A proxy (if any) or representative is entitled to a separate vote or votes (as applicable) for each member the person represents, in addition to any vote or votes the person may have as a member in his, her or its own right.

(c) If the directors decide, direct voting may be permitted in addition to or instead of proxy voting. The directors must decide the manner direct votes are to be given.

(d) An objection to the qualification of a person to vote must be:

(i) raised before the vote objected to is counted; and

(ii) referred to the chairperson, whose decision is final.

(e) A vote not disallowed by the chairperson under rule 9.12(d) is valid for all purposes.

9.13 Appointment of a proxy or representative

(a) A member may appoint a proxy, and an incorporated member (a body corporate) may appoint a proxy or a representative, to attend general meetings and vote on behalf of the member. The proxy must be a member or representative of a member of the company.

(b) Unless the directors otherwise agree, the appointment of a proxy or representative must be in writing and state:

(i) the name of the member;

(ii) the name of the proxy and be signed by the member. An appointment of a representative may be for one or more general meetings and includes any written resolutions.

(c) Unless otherwise provided in the written appointment, the appointment of a representative will give the proxy or representative the power:

(i) to agree to a general meeting being convened by shorter notice than is required by law or by this constitution;

(ii) to vote on any amendment to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;

(iii) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting; and

(iv) to ask questions and other customary actions at a meeting.

(d) The written appointment of a proxy or representative may direct the proxy or representative how to vote in respect of a particular resolution and, where this is provided, the proxy or representative is not entitled to vote on the proposed resolution except as directed in the appointment.

(e) A proxy must not vote on a show of hands where that proxy has 2 or more appointments specifying different ways to vote on the resolution.

(f) Unless the directors otherwise agree, a proxy or representative may not vote at a general meeting or adjourned meeting or on a poll unless a written appointment is:

(i) received in the manner specified for that purpose in the notice convening the meeting before the time specified in the notice;

(ii) in the case of an adjourned meeting, provided to the secretary at the adjourned meeting.

(g) The appointment of a proxy is not revoked by the individual member appointer attending and taking part in the general meeting but, if the appointer votes on a resolution, the person acting as proxy for the appointer is not entitled to vote as the appointer's proxy on the resolution.

9.14 Direct votes

(a) Despite anything to the contrary in this constitution, the directors may decide that, at any general meeting, a 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 or other electronic means approved by the directors.

(b) The directors may decide the procedures in relation to direct voting, including specifying the form, method and timing of giving a direct vote at a general meeting in order for the vote to be valid.

(c) A person who has cast a direct vote is entitled to attend a general meeting. However, they are not able to vote on a poll or on a show of hands on resolutions the subject of the direct vote at that meeting. If a member attempts to cast more than one vote on a particular resolution the order of priority is:

(i) direct vote;

(ii) a vote by a member present on a show of hands.

10. Directors

10.1 Board Composition

(a) The minimum number of directors is three. The maximum number of directors is to be fixed by the directors, but may not be more than twelve. The directors must not fix a maximum which is less than the number of directors in office at the time.

(b) Up to nine directors will be elected in accordance with rule 10.6, and up to three directors will be additional directors appointed by the directors in accordance with rule 10.3.

(c) The directors may also appoint an individual as a director to fill a casual vacancy.

(d) Before consenting to act as a director, that individual must apply for, and subsequently obtain, a Director Identification Number.

(e) Each director is to remain a director for the whole of that director's term, or until that person resigns or the office as director becomes vacant in accordance with rule 10.7.

(f) Directors will be elected and appointed having regard to achieving on a continuous basis a diversity of representation across a range of factors including gender,

geographic, technology type, experience / skill set, scale of operations including behind the meter and utility-scale and scale of business of the member they work for (if they are an employee of a member).

10.2 Eligibility

(a) In order to be eligible for election the individual must be a member, an employee of a member, or a non-executive director of a member.

(b) In relation to directors who are members, or employees or non-executive directors of members:

(i) Individual members cannot appoint a representative.

(ii) Each member that is not an individual may have only one employee or non-executive director holding office as director.

(iii) A director who ceases employment or a non-executive director role with one member (First Member) and commences employment or a non-executive director role with another member (Second Member) within 60 days of ceasing employment or a non-executive director role with the First Member may only continue to hold office as a director if the Second Member has been a member for a minimum of 12 months prior to the date of the commencement of the employment or non-executive director role.

(c) In order to be eligible for appointment or election:

(i) the number of directors must not exceed the maximum number fixed under rule 10.1(a);

(ii) the individual must be 18 years of age or older;

(iii) the individual must sign a consent to act as a director;

(iv) the individual cannot be disqualified from managing a corporation under the Corporations Act; and

(v) if the vacancy exists in the directors who are members, or employees or non-executive directors of members, then the individual must be a member, or employee or non-executive director of a member, and if the vacancy exists in the additional directors, then the individual must be appointed in accordance with rule 10.3.

10.3 Additional Directors (casual vacancies)

(a) The directors may appoint up to three additional directors.

(b) The appointment of additional directors is not subject to rules 10.2, 10.2(b),10.4, or 10.6.

10.4 Nomination of directors

(a) Nominations of candidates for election as directors will be called for at least 45 days

prior to the annual general meeting of the company at which elections will be held. The notice calling for nominations must list those directors ceasing to be directors at the annual general meeting and whether they are standing for re-election, and the date the nominations must be received by the secretary.

(b) The nominations must be:

(i) made in writing, signed by one member or employee of a member other than the candidate;

(ii) accompanied by a short biographical statement and the written consent of the candidate (which may be endorsed on the form of nomination);

(iii) delivered to the secretary before the date notified.

10.5 Retirement and re-election

(a) A director appointed by the directors as a casual vacancy under rule 10.1(c) holds office for the remainder of the term of the director she or he is replacing, subject to approval by the members at the next annual general meeting.

(b) No elected director may hold office without re-election beyond the third annual general meeting following the meeting at which the director was last elected or re-elected.

(c) An elected director retiring from office is, subject to rule 10.7, eligible for re-election.

(d) The retirement of a director from office and the re-election of the director or the election of another person to that office (as the case may be) takes effect at the conclusion of the meeting at which the retirement and re-election or election occur.

10.6 Election process

(a) Each member may vote for up to two candidates, with voting allocated as follows:

(i) sponsor - 20 votes if voting for one candidate, and if voting for two candidates, 20 votes for each candidate;

(ii) corporate - 6 votes if voting for one candidate, and if voting for two candidates, 6 votes for each candidate;

(iii) professional services - 3 votes if voting for one candidate and if voting for two candidates, 3 votes for each candidate;

(iv) associate - 2 votes if voting for one candidate, and if voting for two candidates, 2 votes for each candidate;

(v) emerging technology- 1 vote if voting for one candidate, and if voting for two candidates, 1 vote for each candidate;

(vi) network - 1 vote if voting for one candidate, and if voting for two candidates, 1 vote for each candidate; and

(vii) international - 1 vote if voting for one candidate, and if voting for two candidates, 1 vote for each candidate.

(b) For the avoidance of doubt, members cannot apportion their votes other than in accordance with the allocations in rule 10.6(a).

(c) The candidates with the most number of votes will be elected as directors until all vacant positions are filled.

10.7 Directors' Term of Office

(a) The term of office of a director commences on the date that person is appointed or elected as a director and continues for a period of time as determined by this rule 10.7.

(b) The term of office of directors elected in accordance with rule 10.6 is three years (expiring at the relevant annual general meeting).

(c) If an elected director has served for continuous terms of or exceeding 9 years, that director shall not be eligible for re-election and cannot be nominated for election or be appointed for a period of 2 years from the director's date of retirement.

(d) The term of office of appointed directors pursuant to rule 10.3 is for a period of up to 3 years as determined by the directors.

(e) Each appointed director may be re-appointed under rule 10.3(a) for up to a maximum of 9 consecutive years.

(f) The maximum term of elected and appointed directors applies at the end of their respective terms.

(g) Each director remains a director until that person's term of office expires or until that person resigns or is otherwise removed as a director in accordance with the Corporations Act and this constitution.

10.8 Vacation of office

The office of a director becomes vacant:

(a) in the circumstances outlined in the Corporations Act;

(b) if the director becomes of unsound mind or a director is, or their estate is, liable to be dealt with in any way under the law relating to mental health;

(c) if the director is removed from office by resolution of the members;

(d) if the director is disqualified from managing a corporation under the Corporations Act;

(e) except to the extent of a leave of absence granted by the directors, if the director fails to attend at least 3 consecutive meetings of the directors or at least 4 meetings over a period of 365 days;

(f) with the exception of an Additional Director, and where the director is appointed as an employee or a non-executive director of a member, and the person ceases to be an employee or a non-executive director of that member and does not within 60 days either:

(i) join a Second Member pursuant to 10.2(b)(iii); or

(ii) be (re)appointed as a director pursuant to 10.1(c);

(g) with the exception of an Additional Director, if the director is appointed as an employee or non-executive director of a member and the membership of that body corporate ceases; or

(h) if the director resigns by written notice to the company.

10.9 Director Resignation

The resignation of a director from office pursuant to rule 10.8(h) takes effect on:

(a) if ASIC is notified within 28 days after the person stopped acting as a director, the day the person stopped being a director of the company; or

(b) in any other case, the day written notice is lodged informing ASIC the person has stopped acting as a director of the company.

10.10 Directors cannot remove another Director

A director cannot be removed from office by the other directors.

10.11 Directors conflict of interest

(a) A director must disclose a material personal conflict of interest to the other directors.

(b) Unless the directors otherwise decide and where permitted by law, a director who has a material personal interest in a matter that is being considered at a directors' meeting must not:

(i) be present while the matter is being considered at the meeting; or

(ii) vote on the matter.

(c) The directors may make a policy or rules relating to disclosure of interests and subsequent requirements of the directors. Any policy or rules will bind all directors but no act, transaction, agreement, instrument, resolution or other thing with a third party is invalid or voidable only because a director fails to comply with the policy or rules.

(d) A director is not disqualified from contracting or entering into an arrangement with the company as vendor, purchaser or in another capacity, merely because the director holds office as a director or because of the fiduciary obligations arising from that office.

(e) A contract or arrangement entered into by or on behalf of the company in which a director is in any way interested is not invalid or voidable merely because the director holds office as a director or because of the fiduciary obligations arising from that office.

(f) A director who is interested in an arrangement involving the company is not liable to account to the company for any profit realised under the arrangement merely because the director holds office as a director or because of the fiduciary obligations arising from that office, provided that the director complies with applicable disclosure requirements under this constitution, any policy or rules adopted by the directors, and

under the Corporations Act regarding that interest.

(g) A director may hold any other office or position (except auditor) in the company or related body corporate in conjunction with his or her directorship and may be appointed to that office or position on terms (including remuneration and tenure) that the directors decide.

10.12 Powers and duties of directors

(a) The directors are responsible for carrying out the company's purposes set out in rule 2 and for managing the company's affairs to further the purposes.

(b) The directors may exercise all the company's powers which are not required, by the Corporations Act or by this constitution, to be exercised by the members in a general meeting.

(c) The directors must ensure they are aware of, and comply with their duties as directors.

(d) The directors must ensure the company's financial affairs are managed in a responsible manner, including:

(i) maintaining financial records that correctly record and explain its transactions and financial performance, and enable true and fair financial statements to be prepared annually;

(ii) deciding how payments are to be approved or executed by or on behalf of the company; and

(iii) ensuring the company does not continue to operate while insolvent.

(e) The directors may delegate any of their powers and functions to one or more of the directors, a committee, an employee, or agent or other person as the directors decide.

10.13 Meetings of directors

(a) The directors may meet together and adjourn and otherwise regulate their meetings as they think fit.

(b) The directors must meet as often as required for the proper discharge of their directors' duties and in any event no less than four (4) times per year.

(c) A director may call a meeting of the directors by giving reasonable notice to the other directors, or by the secretary giving notice of the meeting to all directors.

(d) 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;

(iii) may be given immediately before the meeting; and

(iv) may be given in person or by post, telephone, email or other electronic

means.

(e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any thing done or resolution passed at the meeting if:

(i) the non-receipt or failure occurred by accident or error;

(ii) the director has waived or waives notice of that meeting before or after the meeting;

(iii) the director has notified or notifies the company of his or her agreement to that thing or resolution personally or by post, telephone, email or other electronic means before or after the meeting; or

(iv) the director attended the meeting.

10.14 Directors' meetings using technology

(a) A directors' meeting may be called or held using any technology consented to by all the directors.

(b) The simultaneous linking together by telephone or other electronic means of a sufficient number of the 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 director who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.

(d) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the directors involved was at that place for the duration of the meeting.

(e) If, before or during the meeting, a technical difficulty occurs which means that one or more directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, if a quorum of directors remains present, continue with the meeting.

10.15 Quorum at meetings of directors

(a) No business may be transacted at a meeting of directors unless a quorum is present at the time the business is dealt with.

(b) A quorum consists of a majority of the directors.

(c) If the number of directors in office at any time is less than three, the remaining directors must act as soon as possible to appoint additional directors, as required, and, until that has happened, may only act if and to the extent that there is an emergency requiring them to act.

10.16 Chairperson of directors

(a) The directors may elect one of the directors as chairperson of directors and may decide the period for which that director is to be the chairperson.

(b) The chairperson of directors must preside as chairperson at each meeting of directors if present within 10 minutes after the time appointed for the meeting and willing to act.

(c) If there is no chairperson of directors or the conditions in rule 10.16(b) have not been met, the directors present must elect one of the directors as chairperson of the meeting.

10.17 Decisions of directors

(a) A directors' resolution at a directors' meeting must be decided by a majority of votes cast by the directors present. Such a decision is for all purposes a decision of the directors.

(b) Where the votes on a proposed resolution are equal:

(i) the chairperson of the meeting does not have a second or casting vote; and

(ii) the proposed resolution is taken as lost.

10.18 Written resolutions of directors

(a) A written resolution is taken to have been passed by a meeting of directors if:

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

(ii) at least 75% of the directors sign or consent to the resolution; and

(iii) the directors who sign or consent to the resolution would have constituted a quorum at a meeting held to consider that resolution.

(b) A director may consent to a written resolution by:

(i) signing the document containing the resolution (or a copy of that document);

(ii) giving to the company written notice (including by email or other electronic means) addressed to the secretary or to the chairperson agreeing 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.

(c) The written resolution is taken as passed when the last director required to constitute at least 75% of the directors signs or consents to that resolution.

10.19 Minutes of meetings and minutes of resolutions

(a) The directors must ensure:

(i) minutes of general meetings, directors' meetings and committee meetings

(including all resolutions proposed); and

(ii) records of resolutions passed by members, directors and committees, without a meeting,

are recorded and kept as part of the company's records. The records must be made within one month after the relevant meeting is held or written resolution passed

(b) The minutes of a meeting must be signed within a reasonable time by the chairperson of the meeting or the chairperson of the next meeting.

10.20 Committees

(a) The directors may delegate any of their powers to one or more committees consisting of the number of directors and others as they think fit.

(b) A committee to which powers have been delegated must exercise those powers delegated in accordance with directions given by the directors.

(c) Provisions of this constitution that apply to meetings and resolutions of directors apply, as far as they can, with any necessary changes, to meetings and resolutions of a committee of directors.

10.21 Validity of acts

An act done by a person acting as a director, a meeting of directors, or a committee of directors attended by a person acting as a director, is not invalidated merely because of one of the following circumstances, if that circumstance was not known by that person, the directors or the committee (as applicable) when the act was done:

(a) a defect in the appointment of the person as a director;

(b) the person being disqualified as a director or having vacated office; or

(c) the person not being entitled to vote.

11. Secretary

(a) The directors must appoint at least one secretary, who may also be a director.

(b) The secretary must provide written consent to the appointment.

(c) The secretary can be removed by the directors, and another person appointed as secretary, at any time.

(d) The duties of the secretary include:

(i) establishing the necessary registers as required by law;

(ii) ensuring the necessary registers are properly maintained;

(iii) ensuring any required annual returns and reports are lodged with the appropriate regulator in a timely manner; and

(iv) organising, and ensuring attendance at members' and directors' meetings, including sending out relevant notices, preparing agendas and compiling minutes.

(e) An act performed by a secretary is not invalid due to a defect in the person's appointment as secretary, or due to that person being disqualified from acting as a secretary, if that circumstance was not known by that person or the directors of the company.

12. Indemnity and insurance

12.1 Persons to whom the indemnity and insurance apply

The indemnity and insurance referred to in this rule 12 apply to Indemnified Officers.

12.2 Indemnity

Subject to the Corporations Act and to the extent permitted by law, the company must indemnify each Indemnified Officer against a liability:

(a) incurred by any such person acting in that capacity to a person other than the company or a related body corporate where the liability does not arise out of a lack of good faith;

(b) for the costs and expenses incurred by any such person acting in that capacity:

(i) in defending proceedings, whether civil or criminal, in which judgment is given in their favour or in which they are acquitted; or

(ii) in connection with an application, in relation to such proceedings, in which the court grants relief to them under the Corporations Act.

12.3 Insurance

The company may, to the extent permitted by law:

(a) purchase and maintain insurance; or

(b) pay or agree to pay a premium for insurance,

for any Indemnified Officer against any liability incurred by the person as an officer of the company where the directors consider it appropriate to do so.

12.4 Savings

Nothing in this rule 12:

(a) affects any other right or remedy that an Indemnified Officer may have in respect of any loss or liability referred to in this indemnity or insurance; or

(b) limits the capacity of the company to indemnify or provide or pay for insurance for any person to whom this rule 12 does not apply.

13. Notices

13.1 Notices by the company to members

The company may give notices and any communication, including a notice of general meeting to a member:

(a) personally;

(b) by sending it by post to the Registered Address for the member or the alternative address (if any) nominated by the member; or

(c) by sending it to the email or other electronic address (if any) nominated by the member; or

(d) by notifying the member by email or other electronic means, that the notice or communication or publication is available at a specified electronic address.

13.2 Notices by the company to directors

Subject to this constitution, a notice may be given by the company to any director by:

(a) serving it personally at the director's usual residential or business address;

(b) sending it by post in a prepaid envelope to the director's usual residential or

(c) business address; or

(d) sending it to the email or other electronic address supplied by the director to the company for giving notices.

13.3 Notices by member or directors to the company

Subject to this constitution, a notice may be given by a member or director to the company by:

(a) serving it on the company at the registered office of the company;

(b) sending it by post in a prepaid envelope to the registered office of the company; or

(c) sending it to the principal electronic address of the company at its registered office, or if there is no principal electronic address, to the email or other electronic address of the secretary.

13.4 Time of service

(a) A notice properly addressed and posted is taken to be served at 10.00am on the day that is five Business Days after the date it was posted.

(b) Where the company sends a notice by an electronic transmission, the notice is taken as served at the time the electronic transmission is sent.

(c) If service under rule 13.4(b) is on a day which is not a Business Day or is after 4.00pm (addressee's time), the notice is regarded as having been received at 9.00am on the next following Business Day.

13.5 Other communications and documents

Rules 13.1 to 13.4 (inclusive) apply, as far as they can, with any necessary changes, to the service of any communication or document.

13.6 Notices in writing

A reference in this constitution to a written notice includes a notice given by electronic transmission or any other form of written communication. A signature to a written notice need not be handwritten.

14. Transitional Provisions

For the avoidance of doubt:

(a) A person holding the office of director immediately prior to 2 October 2023 will, subject to rule 10.7, continue to hold that position;

(b) any term served by a director immediately prior to 2 October 2023 will be counted in determining the term limits as provided by rule 10.7;

(c) in the absence of any contrary intention in this constitution, all appointments and actions taken under the constitution in force preceding 2 October 2023 will continue to have the same status, operation and validity after 2 October 2023;

(d) at the first Annual General Meeting after 2 October 2023, the 3 directors elected in accordance with rule 10.6 who receive the most votes will be elected for a term of 3 years, with the remaining 2 elected directors to serve a term of 2 years, unless agreed otherwise between the elected directors; and

(e) at the second Annual General Meeting after 2 October 2023, the 3 directors elected in accordance with rule 10.6 who receive the most votes will be elected for a term of 3 years, with the remaining 1 elected director to serve a term of 1 year, unless agreed otherwise between the elected directors.

(f) Notwithstanding any other provision of this Constitution, the current terms of appointed or elected directors as at 2 October 2023 are not affected by these amendments

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15. Alteration of this constitution

A resolution altering or repealing any part of this Constitution must be passed by special resolution of members.

16. Definitions and interpretation

16.1 Definitions

The meanings of the terms used in this constitution are set out below.

Term	Meaning
Additional Director	The meaning given by clause 10.3
Business Day	Monday to Friday inclusive, excluding New Years' Day, Australia Day, Good Friday, Easter Monday, ANZAC Day, Christmas Day and Boxing Day.
Corporations Act	the *Corporations Act 2001* (Cth).
First Member	The meaning given by clause 10.2(b)(iii)
Indemnified Officer	1. each person who is or has been a director or executive officer of the company; and 2. any other officers or former officers of the company as the directors in each case decide.
Registered Address	Level 20, 180 Lonsdale Street, Melbourne, VIC 3000
Second Member	The meaning given by clause 10.2(b)(iii)

special resolution of directors	A resolution of the Board passed by not less than 75% of the directors present and entitled to vote on the resolution at a duly convened meeting of the Board.

16.2 Interpretation

In this constitution:

(a) references to notices include formal notices of meeting, all documents and other communications from the company to its members;

(b) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;

(c) a word or expression defined or used in the Corporations Act, covering the same subject, has the same meaning in this constitution;

(d) a reference to a person includes a body corporate;

(e) a reference to a member present at a general meeting is a reference to a member present in person or by proxy, attorney or representative;

(f) a reference to writing and written includes printing, lithography, electronic means of writing (eg fax, email) and other ways of representing or reproducing words in a visible form;

(g) the singular includes the plural and the plural includes the singular; and

(h) headings and bold type are used for convenience only and do not affect the interpretation of this constitution.

17. Corporations Act

The replaceable rules set out in the Corporations Act do not apply to the company.