

**Constitution  
of  
MALLEE DISTRICT  
ABORIGINAL  
SERVICES LIMITED**

ACN 607 331 144

Workplace Legal Pty Ltd  
Suite 101, 88 Albert Road  
**SOUTH MELBOURNE VIC 3205**  
Telephone: 9972 4947  
Fax: 9923 6441

**Ref: GW**

---

## Contents

1.	PRELIMINARY .....	1
1.1	Company limited by Guarantee .....	1
1.2	Purpose.....	1
1.3	Replaceable rules .....	1
1.4	Definitions.....	1
1.5	Interpretation of this document.....	2
2.	MEMBERS .....	3
2.1	Number of Members .....	3
2.2	Eligibility .....	3
2.3	Application for membership .....	3
2.4	Consideration of application .....	3
2.5	New Membership.....	3
2.6	Exercise of rights by new member.....	3
2.7	Cessation of membership .....	3
2.8	Expulsion from membership.....	4
3.	DIRECTORS .....	4
3.1	Number of Directors .....	4
3.2	Appointment of Directors .....	4
3.3	Initial Appointment of Directors.....	5
3.4	Qualification of Directors .....	5
3.5	Cessation of Director's appointment.....	5
3.6	Removal from office .....	6
3.7	Rotation of Directors.....	6
3.8	Too few Directors .....	6
4.	POWERS OF THE BOARD .....	6
4.1	Powers generally.....	6
4.2	Exercise of powers .....	6
5.	EXECUTING NEGOTIABLE INSTRUMENTS .....	7
6.	DELEGATION OF BOARD POWERS.....	7
6.1	Power to delegate .....	7
6.2	Power to revoke delegation.....	7
6.3	Terms of delegation .....	7
6.4	Proceedings of committees .....	7
7.	DIRECTORS' DUTIES AND INTERESTS.....	7
7.1	Compliance with duties under the Act.....	7
7.2	Director can hold other offices etc.....	7
7.3	Disclosure of interests.....	7
7.4	Director interested in a matter.....	8
7.5	Agreements with third parties.....	8
8.	DIRECTORS' REMUNERATION.....	8
8.1	Remuneration of Directors.....	8
8.2	Expenses of Directors .....	8
8.3	Approval of payments.....	8
9.	OFFICERS' INDEMNITY AND INSURANCE.....	8
9.1	Indemnity .....	8
9.2	Insurance .....	9
9.3	Former officers.....	9
9.4	Deeds.....	9
10.	BOARD MEETINGS .....	9

---

10.1	Convening Board meetings .....	9
10.2	Notice of Board meeting .....	9
10.3	Use of technology .....	9
10.4	Chairing Board meetings .....	10
10.5	Quorum .....	10
10.6	Majority decisions.....	10
10.7	Procedural rules .....	10
10.8	Written resolution .....	10
10.9	Additional provisions concerning written resolutions .....	10
10.10	Valid proceedings .....	10
11.	<b>MEETINGS OF MEMBERS</b> .....	10
11.1	Calling meetings of members .....	10
11.2	Notice of meeting.....	11
11.3	Short notice .....	11
11.4	Postponement or cancellation .....	11
11.5	Fresh notice .....	11
11.6	Technology .....	11
11.7	Accidental omission.....	11
12.	<b>PROCEEDINGS AT MEETINGS OF MEMBERS</b> .....	11
12.1	Member present at meeting.....	11
12.2	Quorum .....	11
12.3	Quorum not present.....	11
12.4	Chairing meetings of members .....	12
12.5	Attendance by auditor and Directors .....	12
12.6	Adjournment .....	12
12.7	Business at adjourned meetings .....	12
13.	<b>PROXIES, ATTORNEYS AND REPRESENTATIVES</b> .....	12
13.1	Appointment of proxies .....	12
13.2	Member's attorney.....	12
13.3	Deposit of proxy appointment forms and powers of attorney .....	12
13.4	Appointment for particular meeting, standing appointment and revocation	13
13.5	Suspension of proxy or attorney's powers if member present .....	13
13.6	Priority of conflicting appointments of attorney.....	13
13.7	More than two current proxy appointments.....	13
13.8	Continuing authority .....	13
14.	<b>ENTITLEMENT TO VOTE</b> .....	13
14.1	Right to vote.....	13
14.2	Number of votes.....	14
14.3	Decision on right to vote.....	14
14.4	Voting on appointment of Mildura Directors .....	14
15.	<b>HOW VOTING IS CARRIED OUT</b> .....	14
15.1	Method of voting.....	14
15.2	Demand for a poll .....	14
15.3	When and how polls must be taken .....	14
16.	<b>SECRETARY</b> .....	15
16.1	Appointment of Secretary .....	15
16.2	Terms and conditions of office .....	15
16.3	Expenses of Secretary .....	15
16.4	Approval of payments.....	15
16.5	Cessation of Secretary's appointment .....	15

---

---

16.6	Removal from office .....	15
17.	MINUTES.....	15
17.1	Minutes must be kept.....	15
17.2	Minutes as evidence .....	16
17.3	Inspection of minute books.....	16
18.	COMPANY SEALS .....	16
18.1	Common seal .....	16
18.2	Use of seals .....	16
18.3	Fixing seals to documents.....	16
19.	FINANCIAL REPORTS AND AUDIT .....	16
19.1	Company to keep financial records.....	16
19.2	Financial reporting .....	16
19.3	Audit .....	16
19.4	Inspection of financial records and books .....	17
20.	REGISTER OF MEMBERS.....	17
21.	DISTRIBUTIONS .....	17
21.1	No Distributions.....	17
22.	WINDING UP .....	17
22.1	Distribution of surplus property.....	17
23.	NOTICES.....	17
23.1	Notices by Company.....	17
23.2	When notice is given.....	18
23.3	Business days.....	18
23.4	Counting days .....	18

---

**CONSTITUTION OF**  
**MALLEE DISTRICT ABORIGINAL SERVICES LIMITED**  
**ACN 607 331 144**

**1. PRELIMINARY**

**1.1 Company limited by Guarantee**

The Company is a company limited by guarantee. The amount for which each Member of the Company is liable under the guarantee is \$1.00.

**1.2 Purpose**

The Company is to pursue charitable purposes only and to apply its income promoting such charitable purposes in accordance with the following:

- (a) Establish, maintain and expand a centre which will provide social and recreational activities for Aboriginal peoples of the Mallee district;
- (b) Receive funds, donations and titles to properties;
- (c) Promote Aboriginal culture and heritage;
- (d) Develop, establish and strengthen collaborative relationships or partnerships for the benefit of the members with:
  - (i) Other Aboriginal Organisations;
  - (ii) Local, State and Commonwealth Governments;
  - (iii) Specialist health providers;
  - (iv) Education providers;
  - (v) Or other providers that enhance Aboriginal people;
- (e) Establish, maintain and expand medical, health, family and community services;
- (f) Implement policy for future planning and program development for members;
- (g) Develop policy and strategies which improve health, physical, economic, spiritual and emotional wellbeing of the Aboriginal people across the Mallee district;
- (h) Hold shares in any Corporation incorporated with the object of encouraging the employment Aboriginal people.
  - (i) To provide affordable and appropriate rental housing to Aboriginal people on low incomes in communities serviced by Eligible Entities;
  - (j) To manage and maintain existing housing to meet the social, cultural and economic aspirations of communities serviced by the Eligible Entities;
  - (k) To promote any other purpose beneficial to the community through the provision of any other housing or associated service as may be determined by the Board from time to time.

**1.3 Replaceable rules**

The replaceable rules referred to in section 141 do not apply to the Company and are replaced by the rules set out in this document.

**1.4 Definitions**

The following definitions apply in this document.

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

**Board** means the Directors acting collectively under this document.

---

**Company** means the company named at the beginning of this document, whatever its name is for the time being.

**Director** means a person who is, for the time being, a director of the Company.

**Immediate Family Member** means a person who is a husband, wife, father, mother, grandfather, grandmother, or sibling of the person in question.

**Listed Corporation** means a corporation that is admitted to the official list of ASX Limited.

**Listing Rules** means the official listing rules of ASX Limited.

**member** means a person whose name is entered in the Register as a member of the Company.

**ordinary resolution** means a resolution passed at a meeting of members by a majority of the votes cast by members entitled to vote on the resolution.

**Register** means the register of members kept as required by sections 168 and 169 of the Act.

**Secretary** means, during the term of that appointment, a person appointed as a secretary of the Company in accordance with this document.

**special resolution** has the meaning given by section 9.

**Voting Member** in relation to a general meeting means a member who has the right to be present and to vote on at least one item of business to be considered at that meeting.

## 1.5 Interpretation of this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) legislation (including subordinate legislation) is to that legislation as amended, modified in relation to the Company, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (iv) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The word agreement includes an undertaking or other binding arrangement or understanding whether or not in writing.
- (g) A reference to something being written or in writing includes that thing being represented or reproduced in any mode in a visible form.

- 
- (h) A word (other than a word defined in rule 1.4) which is defined by the Act has the same meaning in this document where it relates to the same matters as the matters for which it is defined in the Act.
  - (i) A reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Act.

## 2. MEMBERS

### 2.1 Number of Members

The Company must have at least five members.

### 2.2 Eligibility

The only people eligible to be a member of the Company are Aboriginal persons 18 and over who are ordinarily resident within the Mallee Region being the shire of Mildura Rural City Council, Swan Hill Rural City Council, Gannawarra Shire Council and Buloke Shire Council.

### 2.3 Application for membership

To apply to become a member of the Association, a person must submit a written application to the Company, signed by the applicant and accompanied by the joining fee as determined from time to time by the Board and a Certificate of Aboriginality in a form acceptable to the Board, stating that the person:

- (a) wishes to become a member of the Company; and
- (b) supports the purposes of the Company; and
- (c) agrees to comply with this Constitution.

### 2.4 Consideration of application

- (a) As soon as practicable after an application for membership is received, the Board must decide by resolution whether to accept or reject the application.
- (b) The Board must notify the applicant in writing of its decision as soon as practicable after the decision is made.
- (c) If the Board rejects the application, it must return any money accompanying the application to the applicant.
- (d) No reason need be given for the rejection of an application.

### 2.5 New Membership

If an application for membership is approved by the Board:

- (a) the resolution to accept the membership must be recorded in the minutes of the Board meeting; and
- (b) the Secretary must, as soon as practicable, enter the name and address of the new member, and the date of becoming a member, in the register of members.

### 2.6 Exercise of rights by new member

A person becomes a member of the Company and is entitled to exercise his or her rights of membership from the date, whichever is the later, on which:

- (a) the Committee approves the person's membership; or
- (b) the person pays the joining fee.

### 2.7 Cessation of membership

- (a) A member may resign from membership by giving written notice to the

---

Secretary.

- (b) The membership of a member ceases if:
  - (i) the member ceases to fulfil the eligibility criteria of membership;
  - (ii) the member's annual subscription is more than three months in arrears;
  - (iii) where no annual subscription is payable, the Secretary has written to the member requesting the member to confirm that he or she wishes to continue as a member of the Company and the member has not responded to the Secretary in writing, within three months of the request being sent, to confirm that he or she wishes to remain a member;
  - (iv) the member dies or becomes bankrupt; or
  - (v) the member is expelled from membership.

## 2.8 **Expulsion from membership**

- (a) If any member wilfully refuses or neglects to comply with the provisions of this Constitution or acts in a manner which in the opinion of a majority of the Directors is prejudicial to the interest of the Company, the Directors may, by resolution passed at a Board meeting, expel the member from the Company.
- 2.8(ab) Any Member who is or has been convicted of, or has or had a charge found proven relating to, a criminal offence which in the opinion of a majority of the Directors is or was a serious offence involving:
  - (i) domestic violence;
  - (ii) serious violence;
  - (iii) sexual offences; or
  - (iv) theft, fraud or deceptionmay, by resolution passed at a Board meeting, be expelled as a Member of the Company.
- (b) If the Directors intend to consider a resolution under clause 2.8(a) or 2.8(ab), at least two weeks before the meeting at which the resolution is to be considered, they must give the member written notice:
  - (i) stating the date, place and time of the meeting;
  - (ii) setting out the intended resolution and the grounds on which it is based; and
  - (iii) informing the member that he or she may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.
- (c) The member ceases to be a member with effect from the end of the Directors' meeting at which a resolution to expel the member is passed

## 3. **DIRECTORS**

### 3.1 **Number of Directors**

The Company must have at least three Directors and one Secretary and, until otherwise decided by special resolution, not more than 9 Directors.

### 3.2 **Appointment of Directors**

- (a) Subject to the maximum number of Directors for the time being fixed under rule 3.1 not being exceeded the Company by special resolution passed in accordance with this clause may appoint a person to be a



- 
- Director, either to fill a casual vacancy or as an addition to the Board.
- (b) Except for casual vacancies, Directors are to be appointed by ordinary resolution passed at an annual general meeting.
  - (c) All nominations to be candidates for appointment as a Director must be:
    - (i) made in writing, signed by a member of the Company and accompanied by the written consent of the candidate (which must be endorsed on the form of nomination);
    - (ii) delivered to the Secretary not less than seven days before the date fixed for the annual general meeting; and
    - (iii) accompanied by a resume of the candidate outlining the candidate's skills and abilities that he or she is able to offer to the Committee in ensuring effective governance to provide quality service to the community.
  - (d) each candidate will address the members at the annual general meeting giving a short presentation on the skills and input he or she has to offer if they are elected as Director.

### 3.3 **Initial Appointment of Directors**

The Directors to be appointed upon the incorporation of the Company will be the Committee Members holding office in the Incorporated Association known as the Mildura Aboriginal Corporation as at the date of incorporation of the Company.

### 3.4 **Qualification of Directors**

Directors must fulfil the following criteria:

- (a) They must be a member of the Company;
- (b) They must be over the age of 18 at time of appointment;
- (c) No more than two immediate family members from any one family are entitled to serve as Directors at any one time. If a **third** immediate family member is purported to be appointed that appointment is invalid and the earlier appointed immediate family member is or continues to be a Director;
- (d) The majority of Directors must be non-employees of the Company. If a member is purported to be appointed as a Director and that appointment would result in there being a majority of Directors being employees of the Company then the member appointed must either resign as an employee or the appointment is invalid. If as a result of a Director ceasing to be a Director the majority of Directors are employees of the Company then either one or more of the remaining Directors must resign as an employee of the Company or the provisions of rule 3.7 apply;
- (e) At least one Director must be a member who is ordinarily resident in Swan Hill.
- (f) At least one Director must be a member who is ordinarily resident in Kerang.

### 3.5 **Cessation of Director's appointment**

A person automatically ceases to be a Director if the person:

- (a) is not permitted by the Act (or an order made under the Act) to be a director;
- (b) becomes disqualified from managing corporations under Part 2D.6 and

---

is not given permission or leave to manage the Company under section 206F or 206G;

- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) fails to attend 3 consecutive Board meetings (not including meetings of a committee of the Board) without leave of absence from the Board;
- (e) has held office as a Director for a period of three years, or three Annual General Meetings, whichever is the longer, and is not re-elected at their third Annual General Meeting in accordance with the provisions of this Constitution to serve another term as Director;
- (f) resigns by notice in writing to the Company; or
- (g) is removed from office under rule 3.6; or
- (h) was appointed to the office for a specified period and that period expires.

### 3.6 **Removal from office**

Whether or not a Director's appointment was expressed to be for a specified period, the Company by special resolution may remove a Director from office.

### 3.7 **Rotation of Directors**

At each Annual General Meeting of the Company at least one third (rounded down) of the current Directors must resign unless they are re-elected at that annual general meeting. The Directors required to resign are (in order of priority):

- (a) those Directors who wish to retire and not offer themselves for re-election
- (b) those Directors required to retire under clause 3.5(e) and;
- (c) so far as is necessary to obtain the number required, those who have been longest in office since their last election or re-election. As between Directors who were last elected or re-elected on the same day, those to retire must, unless they can agree among themselves, be decided by lot. Any Director required to retire by operation of this clause 3.7(c) is eligible to stand for re-election notwithstanding that they have not had time to comply with the requirements of clause 3.2(c).

### 3.8 **Too few Directors**

If the number of Directors is reduced below the minimum required by rule 3.1 or 3.3, the continuing Directors may act as the Board only:

- (a) to convene a meeting of members to appoint Directors up to that minimum number; and
- (b) in emergencies.

## 4. **POWERS OF THE BOARD**

### 4.1 **Powers generally**

Except as otherwise required by the Act, any other applicable law, or this document, the Board:

- (a) has power to manage the business of the Company; and
- (b) may exercise every right, power or capacity of the Company to the exclusion of the Company in general meeting and the members.

### 4.2 **Exercise of powers**

A power of the Board can be exercised only:

- 
- (a) by resolution passed at a meeting of the Board or otherwise in accordance with rule 10; or
  - (b) in accordance with a delegation of the power under rule 6.

## **5. EXECUTING NEGOTIABLE INSTRUMENTS**

The Board must decide the manner (including the use of facsimile signatures if thought appropriate) in which negotiable instruments can be executed, accepted or endorsed for and on behalf of the Company. The Company may execute, accept, or endorse negotiable instruments only in the manner for the time being decided by the Board.

## **6. DELEGATION OF BOARD POWERS**

### **6.1 Power to delegate**

The Board may delegate any of its powers as permitted by section 198D.

### **6.2 Power to revoke delegation**

The Board may revoke a delegation previously made, whether or not the delegation is expressed to be for a specified period.

### **6.3 Terms of delegation**

A delegation of powers under rule 6.1 may be made:

- (a) for a specified period or without specifying a period; and
- (b) on the terms (including power to further delegate) and subject to any restrictions the Board decides.

A document of delegation may contain the provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

### **6.4 Proceedings of committees**

Subject to the terms on which a power of the Board is delegated to a committee, the meetings and proceedings of committees are, to the greatest extent practical, governed by the rules of this document which regulate the meetings and proceedings of the Board.

## **7. DIRECTORS' DUTIES AND INTERESTS**

### **7.1 Compliance with duties under the Act**

Each Director must comply with sections 180 to 183.

### **7.2 Director can hold other offices etc**

A Director may:

- (a) hold any office or employment other than that of the Company's auditor or any director or employee of the auditor;
- (b) be a member of any corporation (including the Company) or partnership other than the Company's auditor;
- (c) be a creditor of any corporation (including the Company) or partnership; or
- (d) enter into any agreement with the Company.

### **7.3 Disclosure of interests**

Each Director must comply with section 191.

---

#### 7.4 **Director interested in a matter**

If a Director has an interest in a matter that relates to the affairs of the Company and either the Director discloses the interest under section 191 or it is not required to be disclosed under section 191:

- (a) the Director may be counted in a quorum at a Board meeting that considers, and may vote on, any matter that relates to the interest;
- (b) the Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) the Director may retain benefits under the transaction even though the Director has the interest; and
- (d) the Company cannot avoid the transaction merely because of the existence of the interest.

If the interest is required to be disclosed under section 191, paragraph (c) applies only if it is disclosed before the transaction is entered into.

#### 7.5 **Agreements with third parties**

The Company cannot avoid an agreement with a third party merely because a Director:

- (a) fails to make a disclosure of an interest; or
- (b) is present at, or counted in the quorum for, a Board meeting that considers, votes on, or participates in the execution of, that agreement.

### 8. **DIRECTORS' REMUNERATION**

#### 8.1 **Remuneration of Directors**

Directors are not entitled to receive any remuneration from the Company except in accordance with rule 8.2.

#### 8.2 **Expenses of Directors**

The Company may pay a Director all reasonable expenses (including travelling and accommodation expenses) incurred by the Director:

- (a) in attending meetings of the Company, the Board, or a committee of the Board;
- (b) on the business of the Company; or
- (c) in carrying out duties as a Director.

#### 8.3 **Approval of payments**

All expenses to be paid or reimbursed, or any other payments, to a Director by the Company in accordance with rule 8.2 or otherwise shall be approved by the Board.

### 9. **OFFICERS' INDEMNITY AND INSURANCE**

#### 9.1 **Indemnity**

Subject to and so far as permitted by the Act and any other applicable law:

- (a) the Company must, to the extent the person is not otherwise indemnified, indemnify every officer of the Company and may indemnify its auditor against a Liability incurred as such an officer or auditor to a person (other than the Company or a related body corporate) including a Liability incurred as a result of appointment or nomination by the Company as a trustee or as an officer of another corporation,

---

unless the Liability arises out of conduct involving a lack of good faith;  
and

- (b) the Company may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer or employee or auditor in defending an action for a Liability incurred as such an officer, employee or auditor or in resisting or responding to actions taken by a government agency or a liquidator.

In this rule, **Liability** means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by a government agency or a liquidator.

## 9.2 **Insurance**

Subject to the Act and any other applicable law, the Company may enter into, and pay premiums on, a contract of insurance in respect of any person.

## 9.3 **Former officers**

The indemnity in favour of officers under rule 9.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the Company even though the person is not an officer at the time the claim is made.

## 9.4 **Deeds**

Subject to the Act and any other applicable law, the Company may, without limiting a person's rights under this rule 9, enter into an agreement with a person who is or has been an officer of the Company or any of the Company's subsidiaries, to give effect to the rights of the person under this rule 9 on any terms and conditions that the Board thinks fit.

# 10. **BOARD MEETINGS**

## 10.1 **Convening Board meetings**

A Director may at any time, and a Secretary must on request from a Director, convene a Board meeting.

## 10.2 **Notice of Board meeting**

The convenor of each Board meeting:

- (a) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to each Director; and
- (b) may give that notice orally (including by telephone) or in writing, but failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

## 10.3 **Use of technology**

A Board meeting may be held using any means of audio or audio-visual communication by which each Director participating can hear and be heard by each other Director participating or in any other way permitted by section 248D. A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located in each of two or more places, at the place where the chairman of the meeting is located.

---

#### 10.4 **Chairing Board meetings**

The Board may elect a Director to chair its meetings and decide the period for which that Director holds that office. If there is no chairman of Directors or the chairman is not present at the time for which a Board meeting is called or is unwilling to act, the Directors present must elect a Director present to chair the meeting.

#### 10.5 **Quorum**

Unless the Board decides otherwise, the quorum for a Board meeting is three Directors and a quorum must be present for the whole meeting. A Director is treated as present at a meeting held by audio or audio-visual communication if the Director is able to hear and be heard by all others attending. If a meeting is held in another way permitted by section 248D, the Board must resolve the basis on which Directors are treated as present.

#### 10.6 **Majority decisions**

A resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution. If an equal number of votes is cast for and against a resolution the chairman of a Board meeting has a second or casting vote.

#### 10.7 **Procedural rules**

The Board may adjourn and, subject to this document, otherwise regulate its meetings as it decides.

#### 10.8 **Written resolution**

If all the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document, a Board resolution in those terms is passed at the time when the last Director signs.

#### 10.9 **Additional provisions concerning written resolutions**

For the purpose of rule 10.8:

- (a) two or more separate documents in identical terms, each of which is signed by one or more Directors, are treated as one document; and
- (b) a facsimile or electronic message containing the text of the document expressed to have been signed by a Director that is sent to the Company is a document signed by that Director at the time of its receipt by the Company.

#### 10.10 **Valid proceedings**

Each resolution passed or thing done by, or with the participation of, a person acting as a Director or member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.

### 11. **MEETINGS OF MEMBERS**

#### 11.1 **Calling meetings of members**

A meeting of members:

- (a) may be convened at any time by the Board; and

- 
- (b) must be convened by the Board when required by section 249D or by order made under section 249G.

**11.2 Notice of meeting**

Subject to rules 11.3, at least 21 days' written notice of a meeting of members must be given individually to each member entitled to vote at the meeting, to each Director and to the auditor (if any). Subject to any regulation made under section 249LA, the notice of meeting must comply with section 249L and may be given in any manner permitted by section 249J(3).

**11.3 Short notice**

Subject to section 249H(4):

- (a) if the Company has elected to convene a meeting of members as the annual general meeting, if all the members entitled to attend and vote agree; or
  - (b) otherwise, if members who together have power to cast at least 95% of the votes that may be cast at the meeting agree,
- a resolution may be proposed and passed at a meeting of which less than 21 days' notice has been given.

**11.4 Postponement or cancellation**

Subject to section 249D(5), the Board may postpone or cancel a meeting of members by written notice given individually to each person entitled to be given notice of the meeting.

**11.5 Fresh notice**

If a meeting of members is postponed or adjourned for one month or more, the Company must give new notice of the resumed meeting.

**11.6 Technology**

There shall be no use of technology for meetings of members.

**11.7 Accidental omission**

The accidental omission to give notice to, or the non-receipt of notice by, any of those entitled to it does not invalidate any resolution passed at a meeting of members.

**12. PROCEEDINGS AT MEETINGS OF MEMBERS**

**12.1 Member present at meeting**

If a member has appointed a proxy or attorney to act at a meeting of members, that member is taken to be present at a meeting at which the proxy or attorney is present.

**12.2 Quorum**

The quorum for a meeting of members is 15 Voting Members. Each individual present may only be counted once toward a quorum.

**12.3 Quorum not present**

If a quorum is not present within 30 minutes after the time for which a meeting of members is called:

- (a) if called as a result of a request of members under section 249D, the meeting is dissolved; and
- (b) in any other case:

- 
- (i) the meeting is adjourned to the day, time and place that the Board decides and notifies to members, or if no decision is notified before then, to the same time on the same day in the next week at the same place; and
  - (ii) if a quorum is not present at the adjourned meeting, the meeting is dissolved.

#### 12.4 **Chairing meetings of members**

If the Board has appointed a Director to chair Board meetings, that Director also chairs meetings of members. If:

- (a) there is no Director who the Board has appointed to chair Board meetings for the time being; or
- (b) the Director appointed to chair Board meetings is not present at the time for which a meeting of members is called or is not willing to chair the meeting,

the Voting Members present must elect a Director present to chair the meeting, or if no Director is present they may elect a Voting Member.

#### 12.5 **Attendance by auditor and Directors**

Every Director and the auditor (if any) has the right to attend and speak at all meetings of members whether or not a member.

#### 12.6 **Adjournment**

Subject to rule 11.5, the chairman of a meeting of members at which a quorum is present:

- (a) may, with the consent of the meeting; and
- (b) must, if directed by ordinary resolution of the meeting, adjourn it to another time and place.

#### 12.7 **Business at adjourned meetings**

The only business that may be transacted at a meeting resumed after an adjournment is the business left unfinished immediately before the adjournment.

### 13. **PROXIES, ATTORNEYS AND REPRESENTATIVES**

#### 13.1 **Appointment of proxies**

A member may appoint not more than one member as a proxy in accordance with section 249X to attend and act for the member at a meeting of members. An appointment of proxy must be made by written notice to the Company that complies with section 250A(1) or in any other form and mode that is, and is signed or otherwise authenticated by the member in a manner, satisfactory to the Board.

#### 13.2 **Member's attorney**

A member may appoint a member as an attorney to act, or to appoint a proxy to act, at a meeting of members. Any such power of attorney must be signed in the presence of at least one witness.

#### 13.3 **Deposit of proxy appointment forms and powers of attorney**

An appointment of a proxy or an attorney is not effective for a particular meeting of members unless:

- (a) in the case of a proxy, the proxy appointment form and, if it is executed



---

by an attorney, the relevant power of attorney or a certified copy of it;  
and

(b) in the case of an attorney, the power of attorney or a certified copy of it, are received by the Company at its registered office or a fax number at that office (or another address specified for the purpose in the relevant notice of meeting) at least 48 hours before the time for which the meeting was called or, if the meeting has been adjourned, before the resumption of the meeting.

**13.4 Appointment for particular meeting, standing appointment and revocation**

A member may appoint a proxy or attorney to act at a particular meeting of members or make a standing appointment and may revoke any appointment. A proxy or attorney must be a member.

**13.5 Suspension of proxy or attorney's powers if member present**

A proxy or attorney has no power to act for a member at a meeting at which the member is present in person. A proxy has no power to act for a member at a meeting at which the member is present by attorney.

**13.6 Priority of conflicting appointments of attorney**

If more than one attorney appointed by a member is present at a meeting of members and the Company has not received notice of revocation of any of the appointments:

- (a) an attorney appointed to act at that particular meeting may act to the exclusion of an attorney appointed under a standing appointment; and
- (b) subject to rule 13.6(a), an attorney appointed under a more recent appointment may act to the exclusion of an attorney appointed earlier in time.

**13.7 More than two current proxy appointments**

An appointment of proxy by a member is revoked (or, in the case of a standing appointment, suspended for that particular meeting) if the Company receives a further appointment of proxy from that member.

**13.8 Continuing authority**

An act done at a meeting of members by a proxy or attorney is valid even if, before the act is done, the appointing member:

- (a) dies or becomes mentally incapacitated;
- (b) becomes bankrupt or an insolvent under administration or is wound up;  
or
- (c) revokes the appointment or revokes the authority under which the appointment was made by a third party;

unless the Company has received written notice of the matter referred to in (a), (b) or (c) before the start or resumption of the meeting at which the vote is cast.

**14. ENTITLEMENT TO VOTE**

**14.1 Right to vote**

A member is entitled to vote if:

- (a) more than 10 business days have passed since he or she became a member of the Company; and
- (b) the member's membership rights are not suspended for any reason.

---

## 14.2 **Number of votes**

Subject to rule 13:

- (a) on a show of hands:
  - (i) if a member has appointed a proxy, that proxy may not vote;
  - (ii) a member who is present and entitled to vote and is also a proxy or attorney of another member has one vote; and
  - (iii) subject to paragraphs (a)(i) and (a)(ii), every individual present who is a member, or a proxy or attorney of a member, entitled to vote has one vote; and
- (b) on a poll, each member has one vote.

If an equal number of votes is cast for and against an ordinary resolution the chairman of the meeting of members has a second or casting vote.

## 14.3 **Decision on right to vote**

A Voting Member or Director may challenge a person's right to vote at a meeting of members. A challenge may only be made at the meeting. A challenge, or any other doubt as to the validity of a vote, must be decided by the chairman, whose decision is final.

## 14.4 **Voting on appointment of Mildura Directors**

Only Voting Members who are ordinarily resident in the shire of Mildura Rural City Council shall be eligible to vote on the appointment by ordinary resolution of a Director who is not to be appointed under clause 3.4 (e) or 3.4 (f).

## 15. **HOW VOTING IS CARRIED OUT**

### 15.1 **Method of voting**

A resolution put to the vote at a meeting of members must be decided on a show of hands unless a poll is demanded under rule 15.2 either before or on declaration of the result of the vote on a show of hands. Unless a poll is demanded, the chairman's declaration of a decision on a show of hands is final.

### 15.2 **Demand for a poll**

A poll may be demanded on any resolution (except a resolution concerning the election of the chairman of a meeting) by:

- (a) members entitled to cast at least 5% of the votes that may be cast on the resolution on a poll (worked out as at the midnight before the poll is demanded); or
- (b) the chairman.

The demand for a poll does not affect the continuation of the meeting for the transaction of other business and may be withdrawn.

### 15.3 **When and how polls must be taken**

If a poll is demanded:

- (a) if the resolution is for the adjournment of the meeting, the poll must be taken immediately and in the manner that the chairman of the meeting directs;
- (b) in all other cases, the poll must be taken at the time and place and in the manner that the chairman of the meeting directs;
- (c) a person voting who has the right to cast two or more votes need not cast all those votes and may cast those votes in different ways; and
- (d) the result of the poll is the resolution of the meeting at which the poll

---

was demanded.

**16. SECRETARY**

**16.1 Appointment of Secretary**

The Board may appoint one of the Directors to be a Secretary either for a specified term or without specifying a term.

**16.2 Terms and conditions of office**

A Secretary holds office on the terms that the Board decides. The Board may vary any decision previously made by it in respect of a Secretary. A Secretary is not permitted to receive any remuneration from the Company except in accordance with rule 16.3.

**16.3 Expenses of Secretary**

The Company may pay a Secretary all reasonable expenses (including travelling and accommodation expenses) incurred by the Secretary:

- (a) in attending meetings of the Company, the Board, or a committee of the Board;
- (b) on the business of the Company; or
- (c) in carrying out duties as Secretary.

**16.4 Approval of payments**

All expenses to be paid or reimbursed, or any other payments, to a Secretary by the Company in accordance with rule 16.3 or otherwise shall be approved by the Board.

**16.5 Cessation of Secretary's appointment**

A person automatically ceases to be a Secretary if the person:

- (a) is not permitted by the Act (or an order made under the Act) to be a secretary of a company;
- (b) becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) resigns by notice in writing to the Company; or
- (e) is removed from office under rule 16.6.

**16.6 Removal from office**

The Board may remove a Secretary from that office whether or not the appointment was expressed to be for a specified term.

**17. MINUTES**

**17.1 Minutes must be kept**

The Board must cause minutes of:

- (a) proceedings and resolutions of meetings of the Company's members;
- (b) the names of Directors present at each Board meeting or committee meeting;
- (c) proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under rule 6);
- (d) resolutions passed by Directors without a meeting; and

---

(e) disclosures and notices of Directors' interests, to be kept in accordance with sections 191, 192 and 251A.

**17.2 Minutes as evidence**

A minute recorded and signed in accordance with section 251A is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

**17.3 Inspection of minute books**

The Company must allow members to inspect, and provide copies of, the minute books for the meetings of members and for resolutions of members passed without meetings in accordance with section 251B.

**18. COMPANY SEALS**

**18.1 Common seal**

The Board:

- (a) may decide whether or not the Company has a common seal; and
- (b) is responsible for the safe custody of that seal (if any) and any duplicate seal it decides to adopt under section 123(2).

**18.2 Use of seals**

The common seal and duplicate seal (if any) may only be used with the authority of the Board. The Board must not authorise the use of a seal that does not comply with section 123.

**18.3 Fixing seals to documents**

The fixing of the common seal, or any duplicate seal, to a document must be witnessed:

- (a) by two Directors or one Director and one Secretary; or
- (b) by any other signatories or in any other way (including the use of facsimile signatures) authorised by the Board.

**19. FINANCIAL REPORTS AND AUDIT**

**19.1 Company to keep financial records**

The Board must cause the Company to keep written financial records that:

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited,

and must allow a Director to inspect those records at all reasonable times.

**19.2 Financial reporting**

If required by Part 2M.3, the Board must cause the Company to prepare a financial report and a directors' report that comply with that Part and must report to members in accordance with section 314 no later than the deadline set by section 315.

**19.3 Audit**

Unless section 301(2) applies, the Board must cause the Company's financial report (if any) for each financial year to be audited and obtain an auditor's report. The eligibility, appointment, removal, remuneration, rights and duties of the

---

auditor (if any) are regulated by Division 3 of Part 2M.3, Divisions 1 to 6 of Part 2M.4 and sections 1280, 1289, 1299B and 1299C.

19.4 **Inspection of financial records and books**

Subject to rule 17.3 and section 247A, a member who is not a Director does not have any right to inspect any document of the Company except as authorised by the Board or by a resolution of members.

20. **REGISTER OF MEMBERS**

The Secretary must maintain a Register of Members in accordance with s169 of the Act.

21. **DISTRIBUTIONS**

21.1 **No Distributions**

The Association must not distribute any surplus, income or assets directly or indirectly to its members. This does not prevent the Association from paying a member:

- (a) reimbursement for expenses properly incurred by the member; or
- (b) for goods or services provided by the member

if this is done in good faith on terms no more favourable than if the member was not a member.

22. **WINDING UP**

22.1 **Distribution of surplus property**

If, on the winding up or dissolution of the Company, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to a fund, authority or institution:

- (a) that is charitable at law;
- (b) whose constitution prohibits distributions or payments to its members and Directors (if any) to an extent at least as great as is outlined in this Constitution;
- (c) whose purposes are as closely aligned as possible to the purposes of the Company; and
- (d) where possible, operates in or provides services in the geographic locations set out in clause 2.2.

23. **NOTICES**

23.1 **Notices by Company**

A notice is properly given by the Company to a person if it is:

- (a) in writing signed on behalf of the Company (by original or printed signature);
- (b) addressed to the person to whom it is to be given; and
- (c) either:
  - (i) delivered personally;
  - (ii) sent by prepaid mail to that person's address;
  - (iii) sent by fax to the fax number (if any) nominated by that person;or
- (iv) sent by electronic message to the electronic address (if any) nominated by that person.

---

**23.2 When notice is given**

A notice to a person by the Company is regarded as given and received:

- (a) if it is delivered personally or sent by fax or electronic message:
  - (i) by 5 pm (local time in the place of receipt) on a business day — on that day; or
  - (ii) after 5 pm (local time in the place of receipt) on a business day, or on a day that is not a business day — on the next business day; and
- (b) if it is sent by mail:
  - (i) within Australia — 1 business day after posting; or
  - (ii) to a place outside Australia — 3 business days after posting.

A certificate in writing signed by a Director or Secretary stating that a notice was sent is conclusive evidence of service.

**23.3 Business days**

For the purposes of rule 23.2, a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

**23.4 Counting days**

If a specified period must pass after a notice is given before an action may be taken, neither the day on which the notice is given nor the day on which the action is to be taken may be counted in reckoning the period.

**SIGNED** by each person who consents to become a member of the Company with effect from registration as evidence of that person's agreement to the terms of this constitution.

signature of person who consents to be a member	signature and address of witness

---

|

---

---