



CONSTITUTION

CBD Sydney Chamber of Commerce Limited

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1. THE COMPANY

Name of the company

1.1 The name of the company is CBD Sydney Chamber of Commerce Limited.

Nature of the company

1.2 The company is a public company limited by guarantee.

Replaceable rules displaced

1.3 The provisions of the Corporations Act which operate as replaceable rules do not apply to the company.

2. DEFINITIONS + INTERPRETATION

Definitions

2.1 In this constitution, unless the context suggests otherwise, the following definitions apply:

AGM	the annual general meeting held each year as required by the <i>Corporations Act</i> and this constitution;
ASIC	Australian Securities and Investments Commission;
auditor	an auditor of the <i>company</i> appointed in accordance with clause 25;
board	the board of <i>directors</i> of the <i>company</i> elected or appointed in accordance with this constitution;
business address	a bona fide place of business or a trading address reasonably satisfactory to the <i>board</i> ;
business day	any day on which trading banks are open for business in New South Wales, except Saturday, Sunday and public holidays;
business member	a person admitted as a <i>business member</i> by the <i>board</i> under clause 0;
by-law	any <i>by-law</i> made in accordance with clause 15.2.1;
CBD Sydney region	the area identified in Schedule 2;
CEO	means the person appointed from time otherwise, by the <i>board</i> ;
chairperson	the <i>president</i> or other natural person appointed pursuant to clauses 18.9-18.11 and 26.1 - 26.3;
claim	any action, claim, suit, demand, proceedings, damages or statutory procedure for the recovery of money;
community member	a person appointed as a <i>community member</i> by the Company under clause 5.9;
Company	CBD Sydney Chamber of Commerce Limited (ABN 20 611 091 331)

Corporations Act	the <i>Corporations Act 2001</i> (Cth) as amended from time to time and any regulations made under that act;
director	a director of the <i>company</i> elected or appointed in accordance with this constitution;
elected director	a director of the <i>company</i> elected by the <i>members</i> under clause 14 or appointed to fill a casual vacancy in such a position;
employee	any person who is engaged by the <i>company</i> for the provision of personal services for remuneration including a person specifically engaged for the provision of personal services for remuneration via an interposed entity;
entrance fee	the one-time fee payable by a <i>member</i> upon having their application for membership accepted, the quantum being the amount determined by the board from time to time;
founding director	the <i>director</i> of the <i>board</i> appointed by the <i>founding member</i> from time to time;
founding member	is a <i>business member</i> legally described as NSW Business Chamber Limited (ACN 000 014 504);
financial year	the year commencing on the first day of July in each year and ending on the last day of June in the following calendar year;
honorary member	a person admitted as an honorary member by the <i>board</i> under clause 5.5;
interim board	the <i>board of directors</i> of the <i>company</i> appointed pursuant to clause 20.1 (as the case may be);
Member	any person registered as a member of the <i>company</i> pursuant to this constitution, including the <i>business members</i> , <i>community members</i> and <i>honorary members</i> ;
membership fee	the annual fee payable by a <i>member</i> for the membership of the <i>company</i> , the quantum being the amount determined by the <i>board</i> from time to time;
month	a calendar <i>month</i> ;
nomination form	a nomination form for membership of the <i>company</i> which must be in writing and may be in any form as the <i>board</i> may from time to time decide;
officer	has the meaning given to it in the <i>Corporations Act</i> ;
president	the <i>chairperson</i> of the <i>company</i> elected by the <i>members</i> under clause 14.6. The <i>president</i> is a <i>director</i> ;

<i>proceedings</i>	any proceedings, whether civil or criminal, where it is alleged that the person has done or omitted to do something in their capacity as an officer and includes actions and investigations of ASIC;
<i>register</i>	those registers maintained by the <i>company</i> in accordance with the <i>Corporations Act</i> and this constitution;
<i>registered office</i>	the registered office of the <i>company</i> pursuant to a current ASIC search;
<i>representative</i>	any person from time to time appointed to represent any <i>member</i> pursuant to clause 6.1;
<i>seal</i>	the common seal of the <i>company</i> ;
<i>secretary</i>	the person appointed as secretary of the <i>company</i> as required by the <i>Corporations Act</i> and this constitution;
<i>special resolution</i>	a resolution: <ul style="list-style-type: none"> • of which notice as set out in s249L of the <i>Corporations Act</i> has been given; and • that has been passed by at least 75% of the votes cast by <i>members</i> present in person or by proxy as are entitled to vote on the resolution;
<i>state</i>	New South Wales;
<i>term</i>	has the meaning in clause 13.3;

Interpretation

- 2.2 In this constitution, unless the context requires otherwise:
- 2.2.1 the singular includes the plural and vice versa;
- 2.2.2 where an expression is defined in the constitution, any other grammatical form of the expression has a corresponding meaning;
- 2.2.3 words and expressions defined in the Corporations Act have the same meaning in this constitution;
- 2.2.4 headings are for purposes of convenience only and do not affect the interpretation of this constitution;
- 2.2.5 a reference to a statute or regulation includes all amendments, consolidations or replacements of the statute or regulation;
- 2.2.6 a reference to a clause is a reference to a clause of this constitution;
- 2.2.7 a reference to a person includes an individual, partnership, a body corporate, joint venture, association (whether incorporated or not, a government or government authority or agency);
- 2.2.8 a reference to this constitution or another instrument includes all amendments or replacements of this constitution or the other instrument;
- 2.2.9 "include" and other forms of the word are not words of limitation;

2.2.10 a reference to a statutory or other body that ceases to exist or the powers and functions of which are transferred to another body includes a reference to the body:

- (a) that replaces it; or
- (b) to which substantially all the powers and functions relevant to the constitution are transferred,

the notes to this constitution:

- (a) are for purposes of convenience only and do not affect the interpretation of this constitution; and
- (b) do not form part of this constitution and may be removed or modified without the company complying with this constitution or the Corporations Act's requirements that apply to removal or modification of constitutional provisions;

2.2.11 this constitution shall be read and constructed subject to the provisions of the Corporations Act and to the extent that any of the provisions in this constitution are inconsistent with the compulsory provisions of the Corporations Act such provisions of this constitution shall be deemed inoperative and of no effect to the extent of the conflict.

Replaceable rules

2.3 The replaceable rules referred to in the Corporations Act are modified as set out in this constitution.

Corporations Act Commentary

For details of the operation of replaceable rules: see s135(2).

Notices

2.4 This clause applies to all notices and documents that this constitution or the Corporations Act requires a party to this constitution to send to another party to this constitution or to an auditor (notice).

Corporations Act Commentary

The parties to the constitution are the *company* and its *members, directors* and *secretary*: s140(1).

2.5 A person sending a notice must do so in writing and must address it to the recipient at the following respective addresses:

- 2.5.1 if to the company - at the registered office of the company; and
- 2.5.2 if to a member, director or secretary - at the member, director or secretary's address appearing on the register from time to time.

2.6 A person may send a notice to another person in any of the ways set out in column 2 of the table below. The other person is deemed to have received the notice at the time set out in the column titled "Time Person Receives Notice" of the table, unless proven otherwise.

	Delivery Method	Time Person Receives Notice
1.	Hand delivering the <i>notice</i> personally.	<p>The other person receives the <i>notice</i>:</p> <ul style="list-style-type: none"> • if hand delivered before 4:00pm on a <i>business day</i> - on that <i>business day</i>; • if hand delivered after 4:00pm on a <i>business day</i> - on the next <i>business day</i>; or • if hand delivered on a day other than a <i>business day</i> - on the next <i>business day</i>.
2.	Sending the <i>notice</i> by pre-paid post	The other person receives the <i>notice</i> on the third <i>business day</i> after posting unless there is evidence that it is actually delivered earlier.
3.	Sending the <i>notice</i> by facsimile transmission.	<p>The other person receives the <i>notice</i>:</p> <ul style="list-style-type: none"> (i) if sent before 4:00pm on a <i>business day</i> - on that <i>business day</i>; (ii) if sent after 4:00pm on a <i>business day</i> - on the next <i>business day</i>; or (iii) if sent on a <i>day</i> other than a <i>business day</i> - on the next <i>business day</i>. <p>This rule does not apply where the person sending the facsimile has evidence that the transmission was unsuccessful.</p>
4.	Sending the <i>notice</i> by electronic means.	<p>The other person receives the <i>notice</i>:</p> <ul style="list-style-type: none"> (i) if sent before 4:00pm on a <i>business day</i> - on that <i>business day</i>; (ii) if sent after 4:00pm on a <i>business day</i> - on the next <i>business day</i>; or (iii) if sent on a <i>day</i> other than a <i>business day</i> - on the next <i>business day</i>. <p>This rule does not apply where the person sending the <i>notice</i> by electronic means has evidence that the <i>notice</i> did not reach the other person's electronic address.</p>

3. OBJECTS AND POWERS

Objects of the company

- 3.1 The objects of the company are:
- 3.1.1 to promote, encourage, maintain, support and assist businesses in the CBD Sydney region on a not-for-profit basis;
 - 3.1.2 to engage in other business activities as opportunities present themselves, as decided by the Board;
 - 3.1.3 to lobby on behalf of businesses in the CBD Sydney region;
 - 3.1.4 to foster knowledge of the CBD Sydney region nationally and internationally;
 - 3.1.5 to develop policies and strategies for the benefit of members;
 - 3.1.6 to offer and provide unified representation for business in the CBD Sydney region;
 - 3.1.7 to promote and maintain co-operation, collaboration and close relations with other like-minded organisations;
 - 3.1.8 to affiliate and promote liaison and co-operation with other groups representing business interests within the CBD Sydney region;
 - 3.1.9 to create opportunities for members to share knowledge, expertise and resources, and to develop productive business relationships to achieve the objects;
 - 3.1.10 to grow industry trade and commerce and the development of new business and industry for the CBD Sydney region;
 - 3.1.11 to undertake such other measures for the assistance and advancement of business in the CBD Sydney region as the management committee may determine from time to time.

Powers of the company

- 3.2 The company has the capacity and all of the powers of a natural person.
- 3.3 The company may do all things incidental and act in any manner consistent with furthering the objects described in clause 3.1.

4. PROPERTY AND INCOME OF THE COMPANY

Application of income and property

- 4.1 The income and property of the company:
- 4.1.1 must be applied solely towards the promotion of the objects of the company set out in this constitution; and
 - 4.1.2 shall not be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the members.

Benefits and advantages

- 4.2 A member, whether or not they are a member of the board or any committee of the company, shall not be entitled to derive directly or indirectly, any profit, benefit or advantage from the company.

Payments to directors

- 4.3 A director shall not:
- 4.3.1 hold or be appointed or elected to an office of the company paid by salary or wages or a similar basis of remuneration; or
 - 4.3.2 receive from the company remuneration or other benefit in money.

Exceptions

- 4.4 Subject to clause 4.3, nothing in this constitution shall prevent the payment:
- 4.4.1 in good faith of reasonable and proper remuneration to any member in return for services actually rendered to the company;
 - 4.4.2 of remuneration to any employee of the company;
 - 4.4.3 for goods supplied to the company in the ordinary course of business;
 - 4.4.4 of reasonable out of pocket expenses incurred by a director while undertaking their functions as a director; or
 - 4.4.5 of reasonable and proper rent for premises leased or licensed by any member to the company,
- provided that:
- 4.4.6 no member is paid as an employee; and
 - 4.4.7 all payments made in accordance with this clause 4.4 are approved by the board.

5. MEMBERSHIP

Criteria for membership

- 5.1 A person cannot be a member unless they are:
- 5.1.1 a founding member;
 - 5.1.2 a business member;
 - 5.1.3 a community member; or
 - 5.1.4 an honorary member.

Business members - nomination for membership

- 5.2 Every applicant for membership that is not an honorary member or community member (applicant) must:
- 5.2.1 conduct, or be involved in, business operations in Australia;
 - 5.2.2 submit a nomination form to the company; and
 - 5.2.3 provide such other information or do such other things necessary in support of their application as required by the board from time to time.

Application for membership

- 5.3 If the board approves the application, the applicant will be admitted as a business member on payment of the membership fee.
- 5.4 The board may reject any application for membership without providing any reasons for that rejection.

Honorary members

- 5.5 The board may by majority resolution appoint any person as an honorary member for such term as determined by the board.
- 5.6 Honorary members do not have any voting rights.
- 5.7 Honorary members are exempt from paying membership fees for the period of their appointment.
- 5.8 The board may revoke the appointment of an honorary member at any time including prior to the expiry of term specified under clause 5.5 without providing reasons for revocation.

Community members

- 5.9 Any person may apply to be a community member of the company in the form nominated by the board from time to time.
- 5.10 The board may reject any application to be a community member without providing any reasons for that rejection.
- 5.11 If the board has approved an application to be a community member, the applicant will become a community member on payment of the applicable membership fees (if any) that are relevant to their class of membership.
- 5.12 The board may revoke the appointment of a community member without providing reasons for revocation.
- 5.13 Community members have voting rights and they or their representatives may propose a nominee or fill the office of director of the company.

Rights and obligations of members

- 5.14 Every person who has been elected or appointed pursuant to this clause 5 shall:
- 5.14.1 become a member and will be bound by this constitution and the by-laws of the company in force from time to time; and
- 5.14.2 have all the rights granted to them under this constitution and the Corporations Act.
- 5.15 A member's rights and obligations are personal and are not transferable.

6. REPRESENTATIVES OF MEMBERS

Appointment of representative

- 6.1 If a member is not a natural person, they must appoint a natural person (being a partner, director or officer of the member or such other person approved by the member) to represent the member and otherwise enable the member to carry out its powers under this constitution, including voting at general meetings and the AGM.

Notice and revocation of appointment

- 6.2 The member:
- 6.2.1 must give written notice to the secretary of the appointment of a representative under this clause 6.1; and
- 6.2.2 may revoke the appointment of a representative by giving written notice to the secretary.

Bound by actions of representative

- 6.3 A member shall be bound by its representative appointed under this clause 6.1 and the board's opinion of the scope of the representative's authority to bind the member shall be final and conclusive.

7. ENTRANCE FEES, MEMBERSHIP FEES AND LEVIES

Membership fee to be determined by the board

- 7.1 For the purpose of incorporation of the Company the entrance fee for the founding member will be \$10.00.
- 7.2 At all other times the entrance fees, membership fees and other payments payable by members shall be as the board may from time to time prescribe.

Payment of annual membership fees

- 7.3 All membership fees will be due and payable annually on each anniversary of commencement of current membership, or at such other time or times as the board may determine.
- 7.4 If any fee remains unpaid for 3 months after it is due, the company will serve notice of the default on the defaulting member and if payment is not received within 14 days after the date of service of the notice, the board may resolve to:
- 7.4.1 suspend the defaulting member from all privileges of membership granted to members by this constitution or otherwise; and
 - 7.4.2 remove the defaulting member name from the register,
- provided that the board may reinstate the member and restore his or her name on the register upon payment of all membership fees in arrears if the board thinks fit to do so.
- 7.5 Nothing in clause 7.4 prevents the board from granting an extension for the payment of membership fees in an individual case if the board sees fit to do so.

Suspension of liability for fees

- 7.6 The board:
- 7.6.1 may at any time suspend the payment of an entrance fee or membership fee either generally or in an individual case; and
 - 7.6.2 have the discretionary power to fix, determine or waive the entrance fee payable by any person.

8. VOTES OF MEMBERS

Entitlement to vote at general meetings

- 8.1 Subject to clause 8.10, every business member is entitled to 1 vote at any general meeting of the company:
- 8.1.1 in person; or
 - 8.1.2 by proxy.
- 8.2 No resolution of members is passed unless it is supported by the founding member.

Voting by proxy

- 8.3 A member or their attorney may appoint a proxy.
- 8.4 A proxy must be appointed in writing in the form attached at Schedule 1 or in another common form or in a form approved by the board and included in any notice of meeting.
- 8.5 The document appointing a proxy shall be deemed to confer power to demand or join in on demanding a poll in accordance with clause 26.10.
- 8.6 A member shall be entitled to instruct a proxy to vote in favour of or against any proposed resolutions, but if the proxy is not so instructed, the proxy may vote as they see fit.
- 8.7 The document appointing a proxy, power of attorney or representative for a member must be lodged at the registered office or at a place specified in the notice of the meeting concerned at least:
- 8.7.1 48 hours before the time of the meeting; or
 - 8.7.2 24 hours before a poll in the case of a poll, otherwise the document of proxy shall be deemed invalid.
- 8.8 Unless the board specifies otherwise, a document appointing the proxy:

- 8.8.1 shall be only for a single meeting and any adjournment of the meeting; and
- 8.8.2 shall be deemed to confer authority to demand or join in demanding a poll.
- 8.9 A vote given by a proxy shall be valid even if the member who appointed the proxy:
- 8.9.1 dies;
- 8.9.2 becomes of an unsound mind; or
- 8.9.3 revokes the instrument appointing the proxy,
- unless written notice of that event happening is lodged at the registered office before the commencement of the meeting concerned. The chairperson's decision as to whether a proxy has been revoked shall be final and conclusive.

Unfinancial

- 8.10 No member is entitled to vote at any general meeting if their entrance fees is unpaid or membership fees are more than 3 months in arrears at the date of the meeting.

Method of voting at general meetings

- 8.11 Each member (including their proxy or attorney) if eligible to vote shall be entitled to vote both on a show of hands and by poll.

9. REGISTER OF MEMBERS

Register of members

- 9.1 The company must keep an up-to-date register.

Change of member address

- 9.2 Members must advise the secretary in writing of any change in their address within 7 days of changing their address as recorded in the register.

10. MEMBERSHIP DISCIPLINARY PROCEEDINGS

Power to reprimand, suspend or expel

- 10.1 Subject to this clause 10, the board may reprimand, suspend, expel or accept the resignation of any member if that member, in the reasonable opinion of the board:
- 10.1.1 has wilfully refused or neglected to comply with any of the provisions of this constitution;
- 10.1.2 is guilty of any conduct prejudicial to the interests of the company; or
- 10.1.3 is guilty of conduct which is unbecoming of a member.

Notification of conduct

- 10.2 The secretary must give 7 days' written notice to a member of:
- 10.2.1 any charge against the member pursuant to clause 10.1;
- 10.2.2 the substance and circumstances of the charge (including the date of the conduct the subject of the charge); and
- 10.2.3 the date, time and place of the hearing of the charge, and the hearing must take place within 1 month of the date of the alleged offence or the date on which the charge is laid, whichever is the latest.

Right of appearance at conduct meeting

- 10.3 The member charged will be entitled to:
- 10.3.1 attend the hearing and make oral submissions for the purpose of answering the charge;

10.3.2 be in attendance at the hearing to hear any evidence of others in relation to the charge; and

10.3.3 submit to the meeting written representations for the purpose of answering the charge, and the board must make a decision based on any written, visual or oral evidence put before it.

Suspension pending conduct hearing

10.4 If a notice of charge is issued to a member pursuant to clause 10.2, the board may, by resolution, suspend that member from all rights and privileges as a member of the company:

10.4.1 until the charge is heard and determined; or

10.4.2 for 5 weeks,

whichever is the earlier, and the secretary must promptly notify the member of the suspension.

Failure by member to appear at conduct meeting

10.5 If the member fails to attend the conduct meeting:

10.5.1 the charge may be heard and dealt with by the board; and

10.5.2 the board may make a decision based on the evidence before it, having regard to any representations which may have been made to it in writing by the member charged.

Procedure for determination by the board

10.6 After the board has considered the written, visual or oral evidence (as the case may be) put before it, the board must come to a decision as to whether the member is guilty or not of the charge:

10.6.1 if the member charged is at the meeting, the board must inform the member whether or not they have been found guilty of the charge;

10.6.2 if the member charged has been found guilty and is at the meeting, the member must be given a further opportunity at the meeting to address the board in relation to the appropriate penalty for the charge of which the member has been found guilty; and

10.6.3 if the member charged has been found guilty and is not at the meeting, the board may determine an appropriate penalty for the charge in the absence of the member, and the secretary must promptly inform the member in writing of the board's decision.

Decision of the board

10.7 No motion by the board to reprimand, suspend or expel a member shall be passed unless a majority of the directors present in person vote in favour of such motion.

10.8 The decision by the board will be final and the board shall not be required to give any reason for its decision.

Election to conduct hearing at general meeting

10.9 The member charged may elect to have the hearing dealt with by the company in general meeting, provided that member gives written notice to the secretary of his or her election at least 24 hours before the scheduled hearing.

10.10 If the member charged makes the election in clause 10.9:

10.10.1 a general meeting shall be called for the purpose of hearing the charge;

10.10.2 the members present at the general meeting must vote 'yes' or 'no' on the expulsion; and

10.10.3 if two thirds of the members present at the general meeting vote for the expulsion, the member charged shall be expelled and have his or her name removed from the register.

Effect of suspension

- 10.11 If a member is suspended pursuant to this clause 10, then during the period of such suspension they will not be entitled to:
- 10.11.1 attend at the registered office for any purpose without the permission of the board;
 - 10.11.2 attend or vote at any meeting of the company;
 - 10.11.3 vote in the election of the board;
 - 10.11.4 nominate, be elected or appointed to or hold a position on the board;
 - 10.11.5 propose, second or nominate any eligible member for any office of the company;
 - 10.11.6 participate in the management of the company.

Liabilities will remain

- 10.12 Any member who has had their membership terminated pursuant to this clause 10 will:
- 10.12.1 remain liable for any unpaid membership fees or other amounts which are due and unpaid as at the date of termination; and
 - 10.12.2 not be entitled to any refund of any membership fees unless the board considers that there are circumstances warranting the payment of the unexpired portion of the member's membership fees from the date of termination.

11. RESIGNATION AND TERMINATION OF MEMBERSHIP

Written notice of resignation

- 11.1 Any member may at any time, by giving notice in writing to the secretary, resign from their membership of the company and the resignation will take effect from the date on which the notice is received by the secretary.

Liability for membership fees

- 11.2 Any member who has resigned or has had their membership terminated pursuant to this clause 11 will not be entitled to any refund of any membership fees unless the board considers that there are circumstances warranting the payment of the unexpired portion of the member's membership fees from the date of resignation.

Termination upon loss of contact

- 11.3 The board may terminate a member's membership, if it is of the opinion that the company has lost contact with that member and no current valid address is available for that member.

Termination upon non-payment of fees

- 11.4 See clause 7.4.

Non-compliance

- 11.5 See clause 10.1.

12. APPLICATION OF PROPERTY ON DISSOLUTION

Member's liability

- 12.1 The liability of the members is limited as set out in this clause 12.

Member's guarantee

- 12.2 Each member undertakes to contribute an amount not exceeding \$10 if the company is wound up:
- 12.2.1 while they are a member; or

12.2.2 within one year of the date that they cease to be a member.

Application of contribution

12.3 The contribution referred to in clause 12.2 shall be for the:

12.3.1 payment of the debts and liabilities of the company contracted before the member ceased to be a member; and

12.3.2 costs, charges and expenses of winding up.

Surplus on winding up

12.4 If the company is wound up or dissolved and after the satisfaction of all the company's debts and liabilities and any property of the company remains, that property shall:

12.4.1 not be transferred, paid to or distributed among the members; and

12.4.2 be transferred to an institution or institutions having objects similar to the objects of the company and which prohibit the distribution of its or their income and property amongst its or their members to an extent at least as great as is imposed on the company, and such institution may include the New South Wales Business Chamber Limited (ACN 000 014 504).

Transfer to institutions

12.5 The institution or institutions referred to in clause 12.4.2 shall be determined by:

12.5.1 the members in general meeting (by special resolution) at or before the time of dissolution; or

12.5.2 the Supreme Court of New South Wales after the time of dissolution.

13. BOARD OF DIRECTORS

Eligibility Criteria

13.1 Any member who is an individual or any employee, director or office holder of a founding, business member or community member is entitled to stand for and be elected to the board as an elected member provided that the member is not currently under suspension pursuant to clause 10.

Composition of the board

13.2 The board will comprise of not less than 7 directors and not more than 9 directors, made up as follows:

13.2.1 there can be no more than 4 directors on the board at any time who are business members without a business address in the CBD Sydney region;

13.2.2 there can be no more than 4 directors on the board at any time who are community members; and

13.2.3 there must be 1 director on the board who is a founding director.

Corporations Act Commentary

s201P requires that an ordinary resolution of *members* be passed before the *board* is entitled to declare no vacancies before the *board* limit is reached.

Term

13.3 The elected directors:

- 13.3.1 shall hold their respective offices from the date on which they were elected for a period not exceeding 2 years (term), after which they must retire;
- 13.3.2 after retiring are eligible for re-election at the next AGM, unless they will have served for 6 consecutive years or are the transitional vice president or president; and
- 13.3.3 the board must confirm appointments of an elected director by resolution at the next AGM.

Retirement at AGM

- 13.4 Despite clause 13.2 and subject to clauses **Error! Reference source not found.** and 14.7, 4 of the directors on the board must retire at each AGM commencing with the company's 2016 AGM. In the event that the number of directors is uneven, the number to retire will be the nearest whole number greater than the fraction equalling one half. By way of example if there are 9 directors, the number to retire will be 5.
- 13.5 In determining who are to retire from office:
 - 13.5.1 a director whose term as president will not complete at the relevant AGM will not be required to retire;
 - 13.5.2 a director who has been appointed to fill a casual vacancy shall be the first persons counted;
 - 13.5.3 board members who have been longest in office since their last election shall be the second persons counted.
- 13.6 If the board cannot in accordance with clause 13.5 decide upon who shall retire at the AGM, then the names of all directors will be placed in a hat and the identities of those who will retire shall be randomly selected by an adult who is not a director. The selection of the retiring directors is binding on the individual directors selected.
- 13.7 Any director who retires under this clause 13.4 shall be eligible for re-election to any position on the board, subject to the limitation in clause 13.3.

Founding director

- 13.8 The founding director is a director of the board appointed by the founding member and is exempt from the rotational elections and terms that apply to directors as outlined above.

14. ELECTION OF THE BOARD

Procedure for election

- 14.1 Nominations for the election to the board (board nominations) will close on the day that is 21 days prior to the date fixed for the AGM and board nominations must be delivered to the secretary on or before that day.
- 14.2 Board nominations must be in writing in the form prescribed by the board from time to time and signed by at least 2 members.
- 14.3 Notice of the date and time of the last day for receiving board nominations shall be posted on the company's website in a conspicuous place at least 28 days prior to the date fixed for the AGM and shall remain posted at that place until nominations close.
- 14.4 If:
 - 14.4.1 there are less board nominations than corresponding available positions on the board:
 - (a) those candidates who are nominated shall be declared elected and the chairperson of the AGM shall at the AGM declare the candidates nominated duly elected; and
 - (b) all unfilled positions will be casual vacancies on the board; or

- (c) there is an equal amount of board nominations to corresponding available positions on the board, then those candidates who are nominated shall be elected and the chairperson of the AGM shall at the AGM declare the candidates nominated duly elected; or
 - (d) if there are more board nominations than corresponding available positions on the board, then the election shall be by ballot of members.
- 14.5 If the election of the board shall be by ballot of members, the election shall take place in the following manner:
- 14.5.1 a list of the candidates' names in alphabetical order, with the proposers' and seconders' names, shall be posted on the company's website in a conspicuous place for a least 14 days immediately preceding the AGM;
 - 14.5.2 any such ballot shall be conducted under the sole control and supervision of committee, of 3 members, comprising 2 honorary members (or if there are none, such persons who may be appointed by the board) and a member of the company auditors or accountants, none of whom may be a director or a candidate for election to that office (election committee);
 - 14.5.3 the election committee shall be appointed by the board, which shall also appoint one of the members of such committee preside over the committee (presiding officer);
 - 14.5.4 balloting lists shall be prepared (if necessary) containing the names of the candidates only in alphabetical order. Each member eligible to vote shall be entitled to vote for any number of such candidates not exceeding the number of vacancies. If directed by the board all continuing candidates' attendance records at board and committee meetings shall be circulated to members;
 - 14.5.5 each candidate shall be entitled to provide a business profile not exceeding 100 words which may be edited by the presiding officer;
 - 14.5.6 the election committee shall as soon as practicable issue by post, electronic means or otherwise to each business member whose membership fee for the then current financial year of the company shall have been paid, 1 ballot paper (and candidate's information) initialled by the presiding officer, together with an envelope (if required) addressed to the election committee;
 - 14.5.7 a member shall vote by placing a mark in the square opposite the names of the candidates for whom the member desires to vote, and shall vote for no more or less than the number of candidates required to fill the vacancies, otherwise the vote shall be informal and shall be rejected;
 - 14.5.8 the ballot paper so marked shall be enclosed in the envelope so issued, sealed, and deposited with or posted to the election committee in time to be placed in a sealed ballot box. In the case of an electronic ballot (or for those voting electronically), the election committee will provide a specific, confidential and secure email address to which completed electronic ballot papers can be sent and retained under the control of the election committee (or its nominee);
 - 14.5.9 the ballot shall close 12 midday 2 days preceding the day of the AGM;
 - 14.5.10 the election committee, together with such other scrutineers as may be appointed by the board shall thereupon proceed to count the votes and shall report the result to the president who shall at the AGM declare the candidates who have received the largest number of votes duly elected directors of the company, such candidates so declared as elected not to exceed in number the directors to be elected at such general meeting; and

14.5.11 as between candidates who receive an equal number of votes the returning officer shall determine which candidate is elected by lot; and

14.5.12 the relevant appointed returning officer's decision on the validity of any ballot papers shall be final.

President and vice president

14.6 The board shall elect a president and vice president from the elected directors at the first meeting of the board after election at the AGM.

14.7 The president and vice president can hold office in each of these positions for a maximum term ending at the earlier of:

14.7.1 the date that they cease to be a director; and

14.7.2 in respect of the president, the end of the second AGM after election to the position under clause 14.6; and

14.7.3 in respect of the vice president, the second AGM after election to the position under clause 14.6.

14.8 For every year that the vice president and president are in office their term as director is extended by a year.

14.9 If the office of president or vice president becomes vacant for any reason, the board must elect a new president or vice president.

14.10 A casual vacancy in the office of president shall be filled by the vice president and a casual vacancy in the office of vice president shall be filled by a director determined by the board, with such casual vacancy position held until the election of president and vice president by the directors at the first board meeting after the next occurring AGM.

14.11 The board will determine the procedure for election of the positions of president and vice president under this clause 14.6.

Casual board members

14.12 The board may, from time to time, appoint any member who is an individual or any employee, director or office holder of a business member or community member as a director to fill a casual vacancy of an elected director position on the board, provided that the number of directors does not exceed the total prescribed in 13.2.

14.13 Any director appointed in accordance with this clause 14.12 shall hold office only until the next AGM.

Corporations Act Commentary

Section 201K of the *Corporations Act* is a replaceable rule allowing and setting out the requirements under which *directors* may appoint another *director*. The *company* must confirm the appointment by resolution at the next *AGM*, failing which the *director* will cease to hold office at the end of the *AGM*.

15. POWERS OF THE BOARD

General powers

15.1 The *board* shall:

- 15.1.1 manage the business and affairs of the *company* and the custody and control of its property and funds; and
- 15.1.2 exercise its powers and do all such things that the *company* is by this constitution or otherwise authorised to exercise and do and which is not required to be exercised by the *company* in a general meeting.

Corporations Act Commentary

A number of matters cannot be determined by the *board* and must be approved by the members in a general meeting, including:

- changes to the company's constitution s136
- changes to the company's name s157
- changes of company type s162(1)(a)
- variation or cancellation of the rights of members s246B
- removal of directors s203D
- appointment and removal of auditors s327 and s329
- the giving of a financial benefit by the company to a related party s208
- winding up of the company s461(1)(a)

Specific powers

- 15.2 Without limiting the general powers in clause 15.1, the *board* will have the following powers from time to time:
- 15.2.1 to make, amend and repeal any *by-laws* not inconsistent with this constitution as, in the opinion of the *board*, are necessary or desirable for the proper conduct and management of the *company*;
- 15.2.2 to enforce or procure the enforcement of all *by-laws* by suspension from enjoyment of the *company* privileges or any of them or otherwise as the *board* thinks fit;
- 15.2.3 to purchase or otherwise acquire for the *company* any property rights or privileges which the *company* is authorised to acquire at such price and generally on such terms and conditions as it shall think fit;
- 15.2.4 to secure the fulfilment of any contract or arrangement entered into by the *company* by mortgaging or charging all or any of the property of the *company* as it shall think fit;
- 15.2.5 to institute, conduct, defend, compound or abandon any legal proceedings by or against the *company* or its *officers* or otherwise concerning the affairs of the *company* and also to compound or allow time for payment and satisfaction of any debts due to any *claims* by or against the *company* and to refer any *claims* by or against the *company* to mediation or arbitration and to observe and perform the determination or judgment;
- 15.2.6 to determine who is entitled to sign, draw, accept or endorse on the *company's* behalf contracts, receipts, acceptances, cheques, bills of exchange, promissory notes and other documents or instruments;
- 15.2.7 to invest and deal with any of the moneys of the *company* not immediately required for the purposes of the *company* upon such securities and in such manner as the *board* may think fit and from time to time to vary or realise such investments;

- 15.2.8 from time to time at its discretion to borrow or secure the payment of any sum of money for the purposes of the *company* and raise or secure the payment of such sum in such manner and upon such terms and conditions in all respects as it shall think fit and to give security including by way of mortgage and/or charge on or over all or any part of the *company's* property, both present and future;
- 15.2.9 to sell, lease, exchange or otherwise dispose of any furniture, fittings, equipment, plant, goods, land, buildings or other property rights belonging to the *company* or to which the *company* may be entitled from time to time, to appoint, discharge and arrange the duties and powers of the *secretary*, to determine the remuneration and terms of employment of the *secretary*, and to specify and define the duties of the *secretary*;
- 15.2.10 to set the *entrance fees* and *membership fees* payable by all *members*;
- 15.2.11 to fix the maximum number of persons who may be admitted as *members* of the *company* in accordance with this constitution;
- 15.2.12 to engage, appoint, control, remove, suspend and dismiss such managers, *officers*, *representatives*, agents and *employees* as it may from time to time think fit and determine the duties, pay remuneration or other entitlements;
- 15.2.13 to impose any restriction or limitation on the rights and privileges of a *member*;
- 15.2.14 to repay reasonably incurred actual out of pocket expenses incurred by any member of the *board*; and
- 15.2.15 to fix a charge for the use of the property or services of the *company* by its *members* and may at any time amend or remove such charges.

Acts of the board

- 15.3 All acts done by any meeting of the *board* shall, even if it is subsequently discovered that there was some defect in the appointment of the *board* or a member of the *board*, be valid as if every such person had been duly appointed and was qualified to be a member of the *board*.

Member submissions

- 15.4 Any *member* shall, by written submission addressed to the *president* through the *secretary*, be permitted to submit advice, counsel, comments, feedback and express concerns regarding any governance control and strategic direction policy matters dealt with by the board.

Delegations

- 15.5 The *board* may delegate any of its powers or functions to the extent permitted by the *Corporations Act* and to impose such rules and conditions of the delegation as the *board* sees fit.

Corporations Act Commentary

s198D of the Corporations Act permits the board to delegate their powers to committees, another director, an employee or any other person. The delegation must be recorded in the company's minute book.

16. CHIEF EXECUTIVE OFFICER

Chief executive officer

- 16.1 The board may from time to time appoint a chief executive officer (CEO) of the company for such a period and on such terms as they think fit.

Remuneration of the CEO

16.2 The board will determine such remuneration and benefits to be received by the CEO.

Role of the CEO

16.3 The CEO:

16.3.1 shall be responsible for the general management of the company; and

16.3.2 must not be a director.

17. COMMITTEES AND ADVISORY COMMITTEES

Committees

17.1 In addition to the powers in clause 15.1 and 15.2, the board shall have power from time to time to delegate any of its powers to one or more:

17.1.1 committees; and

17.1.2 advisory committees consisting of any combination of:

17.1.3 directors;

17.1.4 members;

17.1.5 employees; and

17.1.6 any other person who is not a member but who has a particular skill or expertise which they will contribute to a committee.

Advisory committees

17.2 Any advisory committee established in accordance with clause 17.1 shall act in an advisory capacity only.

Revocation of committees

17.3 The board shall have the power from time to time to revoke any delegation to committees established in clause 17.1.

Operation of committees

17.4 Any committee formed under clause 17.1 shall, in the exercise of the powers so delegated, conform to any regulation or restriction that the board may from time to time impose.

President a member of all committees

17.5 The president shall be ex officio a member of all such committees and may nominate a director to represent them on such committees.

Meetings of committees

17.6 Any committee may meet and adjourn as it thinks proper.

17.7 Questions arising at any meeting of a committee shall be determined by a majority of votes of the members of the committee present and in the case of an equality of votes the chairperson of the meeting shall have a second and casting vote.

Minutes of meetings of committees

17.8 Any committee shall make minutes of its meetings and will submit those minutes to the board and the board will retain those minutes as if they were minutes of the board.

Acts of committees

- 17.9 All acts done by any meeting of a committee shall, even if it is subsequently discovered that there was some defect in the appointment of any such committee or a committee member, be valid as if every such person had been duly appointed and was qualified to be a committee member.

18. BOARD MEETINGS

Calling of board meetings

- 18.1 The board may organise, adjourn and otherwise regulate its meetings as it sees fit for the transaction of business of the company, provided that all board meetings in any financial year are held in the CBD Sydney region.
- 18.2 Subject to clause 18.1, the board may conduct their meetings by telephone or other form of electronic communication without a director being in the physical presence of another director provided all directors agree and may hear and be heard by each other.
- 18.3 A director may at any time, and the secretary shall, on the requisition of a director, convene a meeting of the board by giving reasonable notice to every other director.
- 18.4 A director may call a meeting by giving reasonable notice individually to every other director, which may include by telephone.
- 18.5 The board may (but are not obliged to) invite any person to attend a meeting of the board to speak on an item by permission of the president and to provide reports, advice, counsel and other information on matters requested by directors.

Quorum

- 18.6 The quorum for board meetings shall be a majority plus one of the total number of directors of the company at the time of the meeting or such greater number as may be fixed by the directors.
- 18.7 The quorum for board meetings must include the founding director.

Continuing directors

- 18.8 The board may act despite any vacancy in the board, so long as the number of directors is not reduced below 4 directors, however, directors may act where the quorum is not met for the purposes of:
- 18.8.1 increasing the number of directors to the quorum of the board; or
- 18.8.2 convening a general meeting of the company, but for no other purpose.

Chairperson at board meetings

- 18.9 The president shall chair every meeting of the board.
- 18.10 If the president is not present or is unwilling or unable to act, then a vice president shall chair the board meeting.
- 18.11 If a vice president is not present or is unwilling or unable to act, then the directors present shall elect a director to chair the board meeting.

Voting at board meetings

- 18.12 Subject to clause 18.4, questions arising at any board meeting shall be decided by a majority of votes and a determination by a majority of the board shall for all purposes be deemed a determination of the board.
- 18.13 If there is an equality of votes, the chairman of the meeting shall have a second and casting vote.
- 18.14 No resolution of directors is passed unless it is supported by the founding director.

Minutes

- 18.15 A record of all directors present at each board meeting and minutes of all resolutions and proceedings of the board shall be entered and maintained in records kept in accordance with clause 27.

Written resolutions of the board

- 18.16 A resolution in writing signed by all of the directors shall be as valid and effectual as if it had been passed at a board meeting duly convened and held.
- 18.17 Any such resolution may consist of several documents in like form each signed by one or more directors and the resolution shall be passed when the last director signs the document containing the resolution.

Rescission motion

- 18.18 Any director shall be entitled to move a rescission motion on any previously adopted resolution provided that:
- 18.18.1 a notice of intent to move that rescission motion is given to the secretary at least 7 days in advance;
 - 18.18.2 the notice of intent in clause 18.18.1 is seconded by another director;
 - 18.18.3 the rescission motion is in writing explaining in detail the reasons for the motion; and
 - 18.18.4 the matter of the rescission motion is listed on the agenda for the business of the board meeting following the date of expiry of the 7 day notice period or at a specially convened meeting as called by the chairperson.

19. INTERESTS BY DIRECTORS

Declarations of interests

- 19.1 In accordance with s195 of the Corporations Act, any director who has a material personal or financial interest in a matter that relates to the affairs of the company, or receives any gift from an affiliated body of the company (interested director) cannot:
- 19.1.1 vote on that matter;
 - 19.1.2 be counted towards any quorum for that vote; or
 - 19.1.3 be present while the matter is being considered by the meeting, unless:
 - (a) the director is not required to give notice of the interest pursuant to s191(2) of the Corporations Act; or
 - (b) the board, excluding the interested director, has passed a resolution stating that the interested director should not be disqualified; or
 - (c) ASIC has declared that s195 of the Corporations Act should not apply in the particular case.

Corporations Act Commentary

The same prohibition and exceptions are contained in the s195 of the Corporations Act.

20. REMOVAL OF DIRECTORS FROM OFFICE

Removal by members in general meeting

- 20.1 The members in general meeting may by ordinary resolution:
- 20.1.1 remove from office any director, directors or the whole of the board before the expiration of their term of office; and
 - 20.1.2 such resulting vacancy in the office will be a casual vacancy; and
 - 20.1.3 the board may fill the casual vacancy in accordance with clause 14.12.
 - 20.1.4 Any person appointed pursuant to this clause 20.1 shall hold office only until the next AGM.

Notice requirements

- 20.2 Notice of the intention to move a resolution to remove a director of the board from office must be given to the company at least 2 months before the meeting at which the resolution is to be considered and voted on.

Corporations Act Commentary

s203D sets out the procedure required in relation to a meeting contemplated by this clause.

Powers of interim board

- 20.3 An interim board has the same powers, rights and obligations as the board of the company until such time as a new board is elected in accordance with this constitution.

21. VACANCIES ON BOARD

Automatic vacancy of office

- 21.1 The office of a director of the board shall automatically be vacated if the person holding that office:
- 21.1.1 becomes bankrupt or insolvent;
 - 21.1.2 becomes disqualified from holding office as a director under the Corporations Act;

Corporations Act Commentary

The requirement that an AGM will be held within these time frames is consistent with s250N.

- 21.1.3 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- 21.1.4 is absent from meetings of the board for a continuous period of 3 months without leave of absence from the board and the board resolves that the office be vacated;
- 21.1.5 by notice in writing given to the secretary resigns from office as a director;

Corporations Act Commentary

S203A is a replaceable rule allowing a director to resign by giving written notice.

- 21.1.6 in the case of a director that is a member as a natural person, they cease to be a member
- 21.1.7 in the case of a director that is a member as a natural person, they are suspended from being a member;
- 21.1.8 in the case of an elected director, that director ceases to be a member or an employee, director or office holder of a member;
- 21.1.9 becomes an employee of the company; or
- 21.1.10 engages in conduct that is prejudicial to the interests of the company and a majority resolution of members has been passed removing that director in accordance with clause 20.1.

Suspension and removal

- 21.2 If the conduct or position of a director is such that continuance in office appears to the majority of directors to be prejudicial to the interests of the company, a majority of directors at a meeting of directors specifically called for that purpose may suspend the director.
- 21.3 Within 14 days of suspension under clause 21.2, the directors must call a general meeting, at which the members may either confirm the suspension and remove the director from office or annul the suspension and reinstate the director.
- 21.4 The board must provide the director against whom the allegation has been made, with at least thirty 30 days written notice of the meeting at which the allegation will be considered including:
 - 21.4.1 the time and place of the board meeting or general meeting;
 - 21.4.2 details of the allegation;
 - 21.4.3 details of the proposed resolution;
 - 21.4.4 advice that any resolution of the board or members (as the case may be) will be final and binding.
- 21.5 The board must provide the director against whom the allegation has been made with a reasonable opportunity to respond to the allegations at the meeting.

22. GENERAL MEETINGS

General meetings

- 22.1 A general meeting called the AGM shall be held at least once in every calendar year at such time and place as may be determined by the board but within 5 months of the close of the financial year.

Corporations Act Commentary

- 22.2 The requirement that an AGM be held within these time frames is consistent with s250N.
- 22.3 All meetings other than AGMs shall be called general meetings.

Business of general meetings

- 22.4 All business transacted at a general meeting including AGMs shall be special with the exception of:
 - 22.4.1 the consideration of accounts, balance sheets and directors' and auditors' reports;
 - 22.4.2 the appointment of auditors, where necessary.

Calling of general meetings

- 22.5 The board or any director may whenever they consider fit call and arrange to hold a general meeting of the company; and

22.6 The board must call and arrange to hold a general meeting of the company on a request that complies with clause 22.7 of:

22.6.1 members with at least 5% of the votes that may be cast at the general meeting;

22.6.2 at least 100 members who are entitled to vote at the general meeting (request).

Request for general meeting

22.7 A request must:

22.7.1 be in writing;

(a) state any resolution to be proposed at the general meeting;

(b) be signed by the members making the request; and

(c) be given to the secretary.

22.8 Separate copies of a document setting out the request may be used for signing by the members if the wording of the request is identical in each copy.

Board must call general meeting

22.9 The board must call the general meeting within 21 days after the request is given to the secretary.

22.10 The general meeting is to be held not later than 2 months after the request is given to the secretary.

Members may call general meeting

22.11 Members with more than 50% of the votes of all the members who made the request, may call and arrange to hold a general meeting if the board do not do so within 21 days after the request is given to the secretary.

22.12 A meeting called by the members under clause 22.11 must be called in the same way, so far as is possible, in which general meetings of the company are to be called and must be held not later than 3 months after the request is given to the secretary.

Obligations of company when general meeting called by members

22.13 If the members propose to call a general meeting under clause 22.11, the company must:

22.13.1 promptly provide a copy of the register without charge; and

22.13.2 pay the reasonable costs and expenses of the members incurred as a result of the board's failure to call and arrange the general meeting.

Recovery from directors

22.14 The company:

22.14.1 may recover the amounts paid under clause 22.13.2 from the board and the directors are jointly and severally liable for these amounts; and

22.14.2 cannot recover any amount paid under clause 22.13.2 from a director if that director proves that they took all reasonable steps to cause the board to comply with clause 22.9.

Notice of general meetings

22.15 At least 21 days' notice in writing of an AGM or a general meeting must be given to:

22.15.1 all members who are entitled to attend and vote at that meeting and have a valid and current mailing address on the register; and

22.15.2 the auditor,

and not any other person.

Requirements for notice of general meetings

22.16 A notice of a general meeting of the company's members must comply with the Corporations Act.

Corporations Act Commentary

s249L(1) requires that a notice of general meeting must:

- (a) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
- (b) state the general nature of the meeting's business; and
- (c) if a special resolution is to be proposed at the meeting –set out an intention to propose the special resolution and state the resolution.

Effect of failure to give notice

22.17 The:

22.17.1 accidental omission to give notice of a general meeting; or

22.17.2 the non-receipt by any person of notice of a meeting,

shall not invalidate any proceedings at a general meeting unless such proceedings are declared void pursuant to the Corporations Act.

Corporations Act Commentary

The Court may declare that proceedings at the meeting are void on the application of the person concerned, a person entitled to attend the meeting or ASIC - s1322.

Cancellation or postponement

22.18 The board shall have the power to cancel or postpone the holding of any general meeting of members other than one convened under clause 22.9 or 22.10.

22.19 Where a general meeting is postponed for 30 days or more then not less than 5 day's notice shall be sent to members of such postponed meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at such postponed meeting.

23. AGM

Business of the AGM

23.1 The business of the AGM shall be as follows:

23.1.1 to confirm the minutes of the previous AGM;

23.1.2 to receive and consider the reports referred to in clause 28.4;

23.1.3 to declare the result of the election of the board to members;

23.1.4 to appoint an auditor or auditors in the event that there is a vacancy in the office of auditor;

23.1.5 to approve the reimbursement of directors' expenses and the payment of honorariums (if any); and

23.1.6 to deal with any other business of which due notice has been given to the members.

Corporations Act Commentary

s250R allows the business of the AGM to include the matters referred to in clauses 23.1.2 to 23.1.6 even if such matters are not referred to in the notice of meeting.

Member participation in AGM

- 23.2 The chairperson of the AGM must allow a reasonable opportunity for the members as a whole at the meeting:
- 23.2.1 to ask questions about or make comments on the management of the company; and
 - 23.2.2 if the company's auditor or a representative of the company's auditor is at the meeting, to ask the auditor or the auditor's representative questions relevant to the conduct of the audit and the preparation and conduct of the auditor's report.

Holding an AGM

- 23.3 The company must hold an AGM by 30 November of each year.

24. MEMBERS' RESOLUTIONS

Members may submit items of business for AGM

- 24.1 Members may submit items of business and notices of motion which they wish to have included in the business of the AGM.
- 24.2 All such items of business and notices of motion must be in writing and received by the secretary at least 42 days prior to the date fixed for the AGM.

Notice of items of business for AGM

- 24.3 The secretary shall forward all items of business and notices of motion referred to in clause 24.1 to the board and the board shall have absolute discretion as to whether to include those items of business and/or notices of motion in the notice of the AGM.

Corporations Act Commentary

Part 2G.2 regulates meetings of members of the company.

s 249D — 249G allows members to request or call general meetings under certain circumstances.

s249N allows members to put resolutions to a general meeting in certain circumstances. s249O and s249P regulate how such resolutions should be dealt with by the company.

25. AUDITOR

Auditors

- 25.1 Auditors shall be appointed and their duties regulated in accordance with the Corporations Act and their remuneration shall be fixed by the board.

Corporations Act Commentary

Part 2M.4 regulates the appointment and removal of auditors.

Meetings

- 25.2 The company's auditor:
- 25.2.1 shall be given notice of all general meetings at the same time as such notice is given to the members and is entitled to attend any general meeting of the company;
 - 25.2.2 is entitled to be heard at the meeting on any part of the business of the meeting that concerns the auditor in their capacity as auditor;
 - 25.2.3 may authorise a person in writing as their representative for the purpose of attending and speaking at any general meeting; and
 - 25.2.4 is entitled to be heard even if:
 - (a) the auditor retires at the meeting; or
 - (b) the meeting passes a resolution to remove the auditor from office.

26. PROCEDURE AT GENERAL MEETINGS

President

- 26.1 The president shall, if present, chair all general meetings of the company.
- 26.2 If the president is not present within 15 minutes after the time appointed for holding the meeting or is unwilling or unable to act then the vice president shall chair the general meeting.
- 26.3 If the vice president is not present within 15 minutes after the time appointed for holding the meeting or is unwilling or unable to act, then the members of the company present shall elect a member of the board to chair the general meeting, or if no member of the board is present, then the members of the company present shall elect one of their number to chair the meeting.
- 26.4 For the purposes of clause 26.3, member includes a person attending as a proxy or representing a member who is not a natural person.

Quorum

- 26.5 No business shall be transacted at any general meeting of members unless a quorum of members is present at the commencement of business.
- 26.6 Notwithstanding any other provision of this constitution, a quorum of members shall be constituted by the attendance and presence at any meeting, including an AGM, of ten (10) business members and the founding member.
- 26.7 For the purposes of this clause 26, member includes a person attending as a proxy or representing a member who is not a natural person.

Quorum not present

- 26.8 If a quorum is not present within 15 minutes after the time appointed for the commencement of the meeting, the meeting shall:
- 26.8.1 be dissolved if it was convened at the request of members pursuant to clause 22.11; or
 - 26.8.2 stand adjourned to the same day in the next week at the same time and place.

Quorum at adjourned meeting

- 26.9 If a meeting is adjourned pursuant to clause 26.8.2 and subsequently held, and at the subsequent meeting a quorum is not present, the members who are present (either in person or by proxy) shall be considered a quorum, and may transact any business for which the meeting was called.

Voting at general meeting

- 26.10 Every question submitted to a meeting other than a special resolution shall be decided by a simple majority of votes from those members who are entitled to vote, present and voting and counted on a show of hands unless a poll:

26.10.1 is demanded by the chairperson of the meeting;

26.10.2 is demanded by at least 5 members present at the general meeting in person or by proxy;
or

26.10.3 is otherwise required by this constitution.

- 26.11 Each question submitted to a meeting to be decided by special resolution of members shall be decided by a poll.

Conduct of polls

- 26.12 A poll duly demanded or required in accordance with clause 26.10 on a matter other than the election of a chairperson or the question of an adjournment must be taken when and in the manner the chair directs.

- 26.13 A poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.

- 26.14 Every member except each honorary member or community member is entitled to 1 vote in a poll save as provided by this constitution in case of any equality of votes.

Effect of polls

- 26.15 The result of a poll shall be the resolution of the meeting at which the poll is held.

Chairperson's casting vote

- 26.16 In the case of an equality of votes whether on a show of hands or on a poll, the chairperson of the meeting has a second or casting vote.

Declaration by chairperson

- 26.17 At any general meeting, a declaration by the chairperson that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority and an entry to that effect in the records containing the minutes of the proceedings of the company shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.

Adjournment of general meeting

- 26.18 The chairperson of a meeting may with the consent of the meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place.

No business to be transacted at adjourned meeting

- 26.19 No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

Notice of adjourned meeting

- 26.20 Where a meeting has been adjourned for thirty days or more, fresh notice of the meeting must be given to all members.
- 26.21 If the meeting is adjourned to a time less than 30 days after the originally scheduled meeting, notice need not be given.

Effect of resolutions

- 26.22 A resolution passed at a meeting resumed after an adjournment shall for all purposes be treated as having been passed on the date when it was in fact passed and shall not be deemed to have been passed on any earlier date.

27. MINUTES

Record of minutes

- 27.1 The company must maintain a record of:
- 27.1.1 proceedings and resolutions of general meetings of the company;
 - 27.1.2 proceedings and resolutions of meetings of the board (including meetings of a committee of directors); and
 - 27.1.3 resolutions passed by directors without a meeting.

Minutes to be signed

- 27.2 The company must ensure that:
- 27.2.1 minutes of a meeting of the company or the board are signed within a reasonable time after the meeting by the chairperson of the meeting or the chairperson of the next meeting; and
 - 27.2.2 minutes of the passing of a resolution without a meeting are signed by a director within a reasonable time of the date on which the resolution is passed.

True record

- 27.3 A minute that is recorded and signed under this clause is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

Corporations Act Commentary

s251A contains the provisions that require the keeping of minutes.

s251B minute books of company meetings (not board meetings) and resolutions of the company passed without a meeting must be open for inspection by members free of charge.

28. ACCOUNTS

Accounts and records

- 28.1 The board must cause proper accounts and records to be kept with respect to the financial affairs of the company in accordance with the Corporations Act.

Location of books of account

- 28.2 The books of account shall be kept at the registered office or at such other place as the board thinks fit.

Inspection of the books

- 28.3 The company shall at all reasonable times make its accounting records available in writing for the inspection of members of the board and any other persons authorised or permitted by or under the Corporations Act to inspect such records.

Corporations Act Commentary

Members do not have an automatic statutory right to inspect the books.

However, a member may apply to the Court for an order to inspect the records: s247A.

s247D is a replaceable rule allowing the directors of the company, or the company by a resolution passed at a general meeting, to authorise a member to inspect books of the company.

Annual financial records

- 28.4 The board must, at least 21 days before each AGM and in any event within 5 months of the end of the financial year make available to all members a copy of all reports required by the Corporations Act using the methods permitted by the Corporations Act.

Corporations Act Commentary

The board is required to provide members with either a full or concise report of the following for the year:

- (a) the financial report;
- (b) the director's report; and
- (c) the auditor's report.

(These terms having the meaning given to them in the Corporations Act s314 - s315).

29. EXECUTION OF DOCUMENTS

Company seal

- 29.1 The company may have a seal and the board must provide for the safe custody of the seal.

Execution of documents

- 29.2 The company may execute any document with the seal by affixing the seal to the document and having the fixing of the seal witnessed by:
- 29.2.1 2 directors of the board; or
 - 29.2.2 a director of the board and the secretary; or
 - 29.2.3 2 persons specifically authorised to sign documents on behalf of the company.
- 29.3 29.2.2 The company may execute any document without the seal by having the document signed by:
- 29.3.1 2 directors of the board; or
 - 29.3.2 a director of the board and the secretary; or
 - 29.3.3 2 persons specifically authorised to sign documents on behalf of the company.

Corporations Act Commentary

s127(1) provides that a public company may execute a document without a common seal if the document is signed by:

- (a) 2 directors of the company; or
- (b) a director and a company secretary of the company.

s127(2) provides that a public company with a common seal may execute a document if the seal is fixed to the documents and the fixing of the seal is witnessed by:

- (a) 2 directors of the company; or
- (b) a director and a company secretary of the company.

If a company executes a document in either of these ways, people will be able to rely on the assumptions in s129(5) for dealings in relation to the company.

30. INDEMNITY TO DIRECTORS

Indemnity

- 30.1 Every officer and former officer of the company shall be indemnified to the fullest extent permitted by the Corporations Act out of the property of the company against any liability incurred by them in their capacity as officer in defending any proceedings in which judgment is given in that person's favour, in which the person is acquitted, where the Court grants relief to the person under the Corporations Act or in the case of an ASIC proceeding, where there is no adverse finding.

Officer's insurance

- 30.2 The company may pay a premium for a contract insuring a person who is an officer or a former officer of the company against a liability incurred by that person as an officer of the company provided that the liability is not one in respect to which a premium cannot be paid under the Corporations Act or a liability which contravenes s199A or s199B of the Corporations Act.

Corporations Act Commentary

The company must not indemnify an officer in respect of a liability:

- (a) owed to the company by the officer;
- (b) for pecuniary penalty order under the Corporations Act;
- (c) owed to someone other than the company and did not arise out of conduct in good faith – s199A.

The company must not pay a premium for a contract for an officer in respect of:

- (a) conduct involving a wilful breach of duty in relation to the company; or
- (b) contravention of ss182 or 183 (improper use of position or improper use of information) – s199B.

31. THE CONSTITUTION

Copy of constitution to be made available on request

- 31.1 The company must provide a copy of this constitution to a member within 14 days if the member:
- 31.1.1 asks the company, in writing, for the copy; and

31.1.2 pays the fee required by the company, up to the amount prescribed by the Corporations Act or the Corporations Regulations (Cth) 2001.

Amendment to constitution

31.2 This constitution may only be amended by way of special resolution validly passed at a general meeting of the members and submitted to ASIC.

SCHEDULE 1 - CBD SYDNEY CHAMBER OF COMMERCE LIMITED PROXY FORM

I _____ of _____, being a

member of CBD Sydney Chamber of Commerce Limited

appoint _____ of

as my proxy to vote for me on my behalf at the *annual general meeting / *general meeting of the company to be held on the _____ and at any adjournment of that meeting.

[Date of meeting]

My proxy is authorised to vote *in favour of / *against / *at his or her discretion in regards to the resolution(s).

Signed:

Dated:

* Strike out where not required.

SCHEDULE 2 - CBD SYDNEY REGION