

# UFS HEALTHCARE LIMITED

## CONSTITUTION

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## 1. NAME AND NATURE OF COMPANY

- 1.1 The name of the Company shall be UFS Healthcare Ltd ('Company').
- 1.2 The Company intends to operate as a "mutual entity" (as that term is defined in the Corporations Act) for the benefit of its Members.
- 1.3 The Company intends to be an "MCI mutual entity" for the purposes of the Corporations Act, pursuant to section 167 AC(d) of the Corporations Act, as amended or replaced from time to time.

## 2. OBJECTS OF COMPANY

- 2.1 The objects for which the Company is established are:
  - (a) to sell or supply medical requisites and therapeutic goods and dispense or sell medicines to members of the public generally, whether Members or not, in the same manner and to the same extent as a pharmacist registered under the Victorian *Pharmacy Act 1974* may so sell, supply or dispense, provided the practice of pharmacy is under the actual personal supervision of a pharmacist registered under the Victorian *Pharmacy Act 1974*;
  - (b) to act as agent for commercial organisations for the receiving of monies and the deriving of commissions for such services;
  - (c) to provide health and welfare benefits, services, facilities, benefits and products for Members or their Dependants and members of the general public, including but not limited to hospital, medical, dental, pharmaceutical, nursing, optical, physiotherapy and speech therapy benefits, services and facilities;
  - (d) to provide benefits, services and facilities for the relief and maintenance of Members or their Dependants and members of the general public in the case of birth, death, sickness, disability, accident, retirement, old age and unemployment;
  - (e) to provide benefits, services and facilities for the education of Members or their Dependents and members of the general public;
  - (f) to establish, maintain and operate such hospital, medical, pharmaceutical and dental facilities or services of a similar nature;
  - (g) to encourage and provide lectures, study and research into health care generally;
  - (h) to provide educational and informative facilities for all persons, who without discrimination and from all sections of the public are eligible and seeking the benefit of such facilities;
  - (i) to disseminate knowledge and promote scholarship;
  - (j) to aid, by research, publication, seminars, and other appropriate means the advancement and development of knowledge useful to the community;
  - (k) to prepare, publish or distribute literary works, audio or audio-visual material or computer software in relation to health care;
  - (l) to seek or encourage gifts, donations, endowments or bequests to the Company; and

- (m) to do all such things as are, in the opinion of the Board of the Company, ancillary or conducive to the attainment of all or any of the above objects.

2.2 Each of the above objects constitutes a separate object of the Company, and no such object shall be construed by reference to any other such object.

### 3. POWERS OF COMPANY

3.1 The powers of the Company are:

- (a) the powers of an individual;
- (b) all the powers of a company;
- (c) in furtherance of the objects of the Company, to buy, sell and deal in all kinds of commodities and provisions, both liquid and solid, for or to the Members or persons entering, visiting or using the Company's premises;
- (d) to fairly impose and collect Membership fees and affiliation fees from Members and fees from Members and other persons for use of the Company's premises, property and assets and for entering or visiting the Company's premises;
- (e) to:
  - (i) subscribe to, become a member of and co-operate with or amalgamate with any other company, club, association or organisation, whether incorporated or not, whose objects are altogether or in part similar to those of the Company;
  - (ii) purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, clubs, associations or organisations with which the Company is authorised to amalgamate; and
  - (iii) transfer all or any part of the property, assets, liabilities and engagements of the Company to any one or more of the companies, clubs, associations or organisations with which the Company is authorised to amalgamate,

but the Company shall only subscribe to and support with its funds or amalgamate with any company, club, association or organisation which prohibits the distribution of its income and property amongst its Members to an extent at least as great as that imposed on the Company under or by virtue of rule 6 of this Constitution;

- (f) to co-ordinate, initiate and undertake efforts for the raising of funds for its objects including, without limitation, take such steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purpose of procuring contributions to the Company by way of donations, sponsorships, annual subscriptions, levies or otherwise;
- (g) to appoint such honorary staff, paid administrators and professional advisers as may be appropriate from time to time;
- (h) to appoint, employ, remove or suspend such managers, clerks, secretaries, servants, workers and other persons as may be necessary or convenient for the purpose of the Company;
- (i) to remunerate any person or body corporate for services rendered or to be rendered, and whether by way of brokerage or otherwise in placing or assisting to place or guaranteeing the placing of any unsecured notes, debentures or other securities of the Company or promotion of the Company or in furtherance of its objects;

- (j) to promote and hold either alone or together with any other company, club, association or organisation meetings and displays and, without limitation, take any action considered necessary to further the objects and be in the interests of the company;
- (k) to make rules and by-laws for the better carrying out of its objects and to equitably enforce such rules;
- (l) to suspend, terminate, disqualify or otherwise cause to be dealt with any Member who has committed a breach of the Constitution of the Company, or of any of its rules and by-laws or for any action considered to be unfair, unbecoming or contrary to the interests, ideals or objects of the Company;
- (m) to form subcommittees or organisational sections or units to assist in the execution of its objects;
- (n) to purchase, take on lease, or in exchange, hire and otherwise acquire any land, buildings, easements or property, real and personal, and any rights or privileges which may be requisite for the purpose of, or capable of being conveniently used in connection with, any of the objects of the Company and where the Company takes or holds any property subject to a trust, to only deal with it in such manner as is allowed by law having regard to the trust;
- (o) to enter into any arrangements with any government or authority that are incidental or conducive to the attainment of the objects and any rights, privileges and concessions which the Company may think it desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (p) to construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which seem calculated directly or indirectly to advance the Company's interests and to contribute to subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control of them;
- (q) to invest and deal with the money of the Company not immediately required in such manner as the Company thinks fit;
- (r) to take or otherwise acquire and hold shares, debentures or other securities in such manner as the Company thinks fit;
- (s) to lend and advance money or give credit to any person or body corporate, to guarantee and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or body corporate and otherwise to assist any person or body corporate in furtherance of the objects of the Company;
- (t) to borrow or raise money either alone or jointly with any other person or legal entity in such manner as the Company thinks fit and to secure the same or the repayment of performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Company in any way and in particular by the issue of debenture perpetual or otherwise charged upon all or any of the Company's property (both present and future), and to purchase, redeem and pay off such securities;
- (u) to make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (v) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Company in furtherance of the objects of the Company;

- (w) to take or hold mortgages, liens or charges, to secure payment of the purchase price, or any unpaid balance of the purchase price of any kind of the Company's property of whatever kind sold by the Company or any money due to the Company from purchasers and others;
- (x) to take any gift of property whether subject to any special trust or not, for any one or more of the objects of the Company;
- (y) to insure against all risks, liabilities and eventualities as may seem advisable and to apply the proceeds of any claim under any insurance in such manner and for such purpose or purposes as may be thought fit;
- (z) to print and publish any articles, releases, newspapers, periodicals, books or leaflets that the Company may think desirable for the promotion of its objects;
- (aa) to give or contribute towards the giving of gifts, prizes, medals, awards or trophies and make donations for patriotic, charitable or community purposes; and
- (bb) to do all such things as are incidental and conducive to the attainment of the objects and the exercise of the powers of the Company including conducting business by e-commerce or any other means determined by the Board.

#### 4. NOT FOR PROFIT

- 4.1 The income and property of the Company, wherever derived, shall be applied solely towards the promotion of the objects of the Company as set out in this Constitution, except in so far as this Constitution expressly permits.
- 4.2 No portion of the income and property of the Company shall be paid or transferred, directly, indirectly, by way of dividend, bonus or otherwise by way of profit, to the Members, except as provided in this Constitution.
- 4.3 Nothing in this Constitution shall prevent:
  - (a) the payment, in good faith, of reasonable and proper remuneration to any officer or servant of the Company, or to any Member or Director, in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;
  - (b) the payment of interest at a rate not exceeding interest at the rate for the time being charged by the Company's bankers for overdrawn accounts on money borrowed from a Member;
  - (c) reasonable and proper rent for premises demised or let by any Member; or
  - (d) the payment of dividends or a return of paid-up capital in respect of MCIs provided such payment of dividend is in accordance with **rule 8** and the Law.
- 4.4 The liability of the members is limited.
- 4.5 Each Member undertakes to contribute to the assets of the Company in the event of its being wound up while they are a Member or within one year after they cease to be a Member for the payment of the debts and liabilities of the Company contracted before they ceased to be a Member and of the costs charges and expenses of winding up and for adjustment of the rights of the contributors among themselves such amount as may be required not exceeding \$0.50.
- 4.6 The Company shall not carry on business for the purpose of profit or gain to its individual Members and is prohibited from making a distribution whether in money, property or

otherwise to its Members or to relatives of its Members, except as provided in this Constitution.

- 4.7 Where property remains after the winding-up or dissolution of the Company and satisfaction of all its debts and liabilities, it shall not be paid to or distributed among the Members but shall be given to or transferred to another fund, authority or institution having objects similar to the objects of the Company, and whose Constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of this Constitution, which fund, authority or institution is to be determined by the Members at or before the time of the dissolution.
- 4.8 The Company does not have the power to issue or allot fully or partly paid shares to any person or corporation, except as expressly provided in **rule 8**.
- 4.9 Nothing in this Constitution shall prohibit the Company from providing its Members with Benefits.

## 5. DEFINITIONS AND INTERPRETATION

- 5.1 In this Constitution except to the extent that the context otherwise requires:
- (a) **'Benefits'** includes the provision of services and products to Members at a discount or at a price less than that charged to other persons (non-Members) but shall not include the payment or distribution of cash;
  - (b) **'Board'** means the Directors for the time being of the Company;
  - (c) **'Business day'** means a day other than a Saturday, Sunday or a public holiday;
  - (d) **'Constitution'** means the Constitution for the time being of the Company;
  - (e) **'Company'** means UFS Healthcare Ltd;
  - (f) **'Corporate Member'** is a person admitted as a Member in accordance with **rule 6.2(f)**;
  - (g) **'Dependant(s)'** include:
    - (i) Spouse and de-facto Spouse;
    - (ii) Dependent Children up to the age of 18 years;
    - (iii) Full Time Students up to the age of 25 years;
    - (iv) Dependants with a disability; and
    - (v) Full time care recipients living in the same household
  - (h) **'Director'** means a person appointed or elected from time to time to the office of director to the Company in accordance with these rules and includes any alternate director duly acting as a director;
  - (i) **'Executive Director'** means the Directors appointed by the Board in accordance with **rule 27.2**;
  - (j) **'Family Member'** is a person or persons admitted as Members in accordance with **rule 6.2(c)**;

- (k) **'General Member'** is a person admitted as a Member in accordance with **rule 6.2(b)**;
- (l) **'in writing'** and **'written'** includes printing, typing, lithography and other modes of representing or reproducing words in a visible form;
- (m) **'Law'** means the Corporations Law and the Corporations Regulations (as defined in the *Corporations Act 2001*), as amended or replaced from time to time;
- (n) **'MCI'** means a mutual capital instrument as defined by s 167AD of the Law;
- (o) **'MCI Mutual Entity'** means an entity as defined by s 167AC of the Law;
- (p) **'MCI Share'** means a share issued which has the rights outlined in **rule 8.1**;
- (q) **'MCI Shareholder'** means a registered holder of an MCI Share;
- (r) **'Member'** means any person who becomes a Member in accordance with this Constitution;
- (s) **'Membership'** means Membership of the Company;
- (t) **'Minor Member'** is a person admitted as a Member in accordance with **rule 6.2(d)**;
- (u) **'Pre 64 Member'** is a person admitted as a Member in accordance with **rule 6.2(e)**;
- (v) **'Register'** means the Register of Members to be kept pursuant to the Law;
- (w) **'Seal'** means the common seal of the Company;
- (x) **'Special Resolution'** has the meaning assigned to it under the Law; and
- (y) **'Spouse'** includes any person who in the opinion of the Board is:
  - (i) the lawfully married husband or wife of a Member;
  - (ii) the common law (de facto) husband or wife of a Member; or
  - (iii) the same sex partner of a Member who, if they had been of opposite gender, would be considered a common law defacto as set out in (ii).
- (z) **'Staff Member'** is a person admitted as a Member in accordance with **rule 6.2(f)**;

5.2 In this Constitution except to the extent that the context otherwise requires:

- (a) words importing persons include partnerships, associations and corporations, unincorporated and incorporated;
- (b) words of the plural number include the singular and vice-versa; and
- (c) words importing a gender include each other gender.

5.3 The headings do not affect the construction of this Constitution.

5.4 Replaceable Rules do not apply to the Company.

## 6. MEMBERSHIP

- 6.1 Subject to **rules 6.2 to 6.16**, the subscribers of the Company, those persons who were Members as at the date of adoption of this Constitution and such other persons as the Board admits to Membership in accordance with this Constitution shall be Members.
- 6.2 Membership of the Company shall consist of:
- (a) MCI Shareholders;
  - (b) General Members, being individuals, whose Membership shall pay an annual membership fee;
  - (c) Family Members, being General Members who are entitled to register Dependants under their Membership registration, to receive the benefits of Membership through the General Member's Membership. Dependants of General Members have no entitlement to vote and upon no longer being a Dependant of the General Member are no longer entitled to receive the benefits of Membership through the General Member's Membership; and
  - (d) Minor Members, being individuals under the age of 18 years and are entitled to the benefits of Membership except:
    - (i) the ability to attend and vote at any general meeting of the Company;
    - (ii) to receive notices of general meetings and accounts; and
    - (iii) to hold office in the Company.
  - (e) Pre 64 Members – being Members who have a different entitlement to Membership benefits as a result of the operations of *National Health Act* amendments at 23<sup>rd</sup> April 1964;
  - (f) Staff Members, being individuals whose membership is conditional upon the individual –
    - (i) being employed on a full-time, part-time or casual basis with the Company; and
    - (ii) paying the annual membership fee as required by the Company; and
  - (g) Corporate Members being incorporated companies, clubs, associations and organisations whose Membership shall be subject to annual renewal.
- 6.3 Each application for Membership shall be made to the Company in such form as the Board may from time to time determine. The Board may in its absolute discretion admit or refuse admission of any applicant to Membership.
- 6.4 Each person applying for General Membership shall, in conjunction with the application for Membership, pay to the Secretary a Membership application fee which is at least the amount determined by the Board for the class of Membership applied for, together with the applicable annual Membership fee. If the Membership applied for is not granted then all money so paid by the applicant shall be refunded to them by the Company.
- 6.5 Membership of the Company is not transferable, the rights, privileges or benefits of Membership of the Company being personal to the Member.
- 6.6 The Board shall cause a Register of Members to be kept in accordance with the requirements of the Law and such Register shall contain the following particulars:

- (a) the name and address of each Member and a description of the type of Membership held;
  - (b) the date on which the name of each Member was entered in the Register;
  - (c) the date on which a Member ceased to be a Member.
- 6.7 Unless the Member has Family Memberships, Membership will terminate upon the death of the Member or as otherwise provided in this Constitution.
- 6.8 A Member may terminate their Membership by giving notice in writing to the Secretary and that termination will be effective on the date of receipt of the notice by the Secretary.
- 6.9 The Board may censure, fine, suspend or expel from the Company a Member on the grounds that:
- (a) the Member wilfully refuses or neglects to comply with the provisions of the Constitution; or
  - (b) the Member is guilty of conduct which, in the opinion of the Board or the CEO, is unbecoming of a Member or prejudicial to the interests of the Company.
- 6.10 Where a Member's Membership rights are to be terminated, the Company must give that Member:
- (a) at least one week's notice of a meeting with the Company CEO, the substance of the allegations against them and the intended resolution;
  - (b) an opportunity of lodging a written explanation or defence with the Secretary at least 24 hours before the meeting to consider their expulsion; and
  - (c) the opportunity to be present at the meeting with or without a legal adviser to make submissions to the meeting.
- 6.11 If the full amount of the annual subscription fee for a Member is not received by the Secretary within 90 days after the due date for payment, the Membership of the Member shall, without any further action, lapse. The renewal date for all Members other than pre-64 Members will be deemed to be 12 months from the date of payment.
- 6.12 A Member who, for whatever cause, ceases to be a Member shall not have any claim, monetary or otherwise, on the Company's funds or property.
- 6.13 Upon ceasing to be a Member the Member shall remain liable for any monies due to the Company and unpaid at the date of their ceasing to be a Member.
- 6.14 Notwithstanding anything else contained in this Constitution, where a Member's Membership has been terminated or lapsed, the Board may at its total and unfettered discretion reinstate that Member's Membership subject to such conditions (if any) the Board considers appropriate.
- 6.15 Each Corporate member must appoint a delegate to attend meetings of the Company and to exercise the voting power of that Member in addition to the exercise by such appointee of any other voting power which they may also hold. Any delegate may be removed or replaced by the Corporate Member who appointed the delegate. All appointments, removals and replacements of delegates must be notified in writing to the Company, either under seal or under the hand of an officer or attorney duly authorised, and shall take effect upon receipt by the Company.

- 6.16 On the death of the primary Family Member, Membership shall vest in either the Spouse if surviving, or the oldest Dependant.

## **7. SUBSCRIPTIONS AND DONATIONS**

- 7.1 The Membership application fees and the annual Membership fees for the various classes of Membership shall be such amounts and due at such times as the Board may from time to time determine. The Board in setting the annual Membership fees may discriminate between classes of members and between subsets of Members within a class.
- 7.2 Members are entitled to make donations to the Company as a Member may determine from time to time and which will be applied consistent with **rule 4.1**.

## **8. ISSUE OF MCIS**

- 8.1 MCI Shares have the following limitations, rights and entitlements:
- (a) the Company may only issue an MCI Share as a fully paid share;
  - (b) An MCI Share confers on the registered holder one vote at general meetings of the Company, but a registered holder shall only have one such vote no matter how many MCI Shares the Member is registered as having;
  - (c) An MCI Share confers on the registered holder a right to participate in dividends (if any) declared on the MCI Shares which dividends shall be:
    - (i) non-cumulative;
    - (ii) declared by the Board if payment of the dividend is fair and reasonable to Members as a whole;
  - (d) on a winding up, an MCI Share is entitled to a return of its paid-up capital;
  - (e) all MCI Shares will be of one class, all ranking equally and shall have an issue price as determined by the Board; and
  - (f) any other limitations, rights or entitlements the Board may choose, provided that such limitations, rights or entitlement are otherwise consistent with:
    - (i) this **rule 8.1**; and
    - (ii) the Company remaining an MCI Mutual Entity.

## **9. VARIATION AND CANCELLATION OF MCI SHARES**

- 9.1 MCIs can only be varied or cancelled by special resolution of the Company and either:
- (a) by special resolution passed at a meeting of all MCI Shareholders holding the same class of MCIs; or
  - (b) with the written consent of at least 75% of the holders of the class of MCI.

## **10. CESSATION OF MCI MUTUAL ENTITY**

- 10.1 Pursuant to s 167AG of the Law, a resolution of the Company that would result in the Company ceasing to be an MCI mutual entity can only take effect if:
- (a) there are no MCI Shares in the Company; or

- (b) the resolution provides for each MCI Share to be cancelled at or before the time the Company ceases to be an MCI mutual entity (whether or not the holders of the MCIs to be cancelled are to receive other securities in respect of those MCI Shares).

## **11. INCOME AND PROPERTY**

- 11.1 The Company is to be a non-profit organisation and none of its income, property, profits or financial surplus shall be paid to or distributed amongst the Members or Board except as provided in this Constitution.
- 11.2 The income and property of the Company shall be applied in promotion of its objects unless otherwise expressly provided for in this Constitution.
- 11.3 All the monies of the Company shall be banked in the name of the Company in an account at such financial institution as the Board may from time to time direct.

## **12. GENERAL ACCOUNTS**

- 12.1 The financial year of the Company shall commence on the first day of July and end on the thirtieth day of June in the following calendar year.
- 12.2 Proper books and accounts shall be kept and maintained showing correctly the financial affairs of the Company. The Company shall ensure the relevant accounting and auditing requirements of the Law are duly complied with.
- 12.3 The Company shall appoint and retain a properly qualified auditor whose duties shall be determined in accordance with the Law. No Member shall be capable of acting as an auditor of the Company.
- 12.4 Where required by the Law, the Board shall distribute to all Members at the end of each financial year copies of every profit and loss account and balance sheet accompanied by a copy of the auditor's report.
- 12.5 The Board shall cause to be made out and laid before each annual general meeting a balance sheet and profit and loss account made up to date not more than six months before the date of the meeting.

## **13. INSPECTION OF RECORDS**

- 13.1 The Board shall determine whether and to what extent, and at what time and place and under what conditions the accounting records and other documents of the Company or any of them will be open to the inspection of Members other than the Board, and a Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Board or by the Company in general meeting.

## **14. GENERAL MEETINGS**

- 14.1 General Meetings of the Company may be called and held at the times and places and in the manner determined by the Board. Except as permitted by the Law, the Members may not convene a meeting of the Company. By resolution of the Board any general meeting (other than a general meeting which has been requisitioned by Members in accordance with the Law) may be cancelled or postponed prior to the date on which it is to be held.
- 14.2 The Chairman of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:
  - (a) in possession of a pictorial-recording or sound-recording device;

- (b) in possession of a placard or banner;
- (c) in possession of an object considered by the Chairman to be dangerous, offensive or
- (d) who refuses to produce or permit examination of any object, or the contents of any object or container, in the person's possession;
- (e) who behaves or threatens to behave in a dangerous, offensive or disruptive manner;  
or
- (f) who is not:
  - (i) a Member or a proxy, attorney or representative of a Member;
  - (ii) a Director; or
  - (iii) an auditor of the Company.

## **15. NOTICE OF GENERAL MEETING**

- 15.1 Subject to the Law, not less than 21 days notice of a general meeting may be given by the Board in the form and in the manner the Board thinks fit including notice of any general meeting at which the Board proposes or these rules require that an election of Directors be held. Notice of meetings shall be given to the Members and to such persons as are entitled under these rules or the Law to receive notice. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice does not invalidate any resolution passed at that meeting.
- 15.2 If the meeting is to be held at 2 or more places the notice is to set out details of the technology that will be used to facilitate such a meeting and any other matters required to be stated by the Law in relation to the use of such technology.

## **16. PROCEEDINGS AT GENERAL MEETING**

- 16.1 No business shall be transacted at any meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- 16.2 The quorum required for a general meeting requested or requisitioned by the Members shall be:
- (a) 5% of the total Membership of the Company present either in person or by proxy with a minimum of at least 5 Members personally present; or
  - (b) 100 Members present in person and entitled to vote;
  - (c) whichever is the greater.
- 16.3 The quorum required for an annual general meeting, or general meeting requested or requisitioned by the Directors shall be six (6) Members present in person and entitled to vote.
- 16.4 For the purpose of determining whether a quorum is present, a person attending as a proxy or an attorney, shall be deemed to be a Member.

## **17. FAILURE TO ACHIEVE QUORUM**

- 17.1 If a quorum is not present within half an hour from the time appointed for the meeting:

- (a) where the meeting was convened upon the requisition of Members – the meeting shall be dissolved; or
- (b) in any other case:
  - (i) the meeting stands adjourned to such day, and at such time and place, as the Board determines or, if no determination is made by the Board, to the same day in the next week at the same time and place; and
  - (ii) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall be dissolved.

## **18. APPOINTMENT AND POWERS OF CHAIRMAN OF GENERAL MEETING**

18.1 The Chairman shall preside as chairman at every general meeting of the Company.

18.2 If at any general meeting:

- (a) there is no Chairman; or
- (b) the Chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Deputy Chairman shall be chairman of the meeting.

18.3 If at any general meeting:

- (a) there is no Chairman or Deputy Chairman; or
- (b) the Chairman and Deputy Chairman are not present within 15 minutes after the time appointed for the holding of the meeting or are unable or unwilling to act,

the Members present shall choose a Director to be Chairman of the meeting and if no Director is present or if each of the Directors present is unable or unwilling to act as Chairman of the meeting then the Members present shall choose one of their number to be Chairman of the meeting.

18.4 The general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined by the Chairman of the meeting. The Chairman may at any time the Chairman considers it necessary or desirable for the proper and orderly conduct of the meeting demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present and entitled to vote. The Chairman may require the adoption of any procedure which in the Chairman's opinion are necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.

## **19. ADJOURNMENT OF GENERAL MEETING**

19.1 The Chairman may, with the consent of any 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, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

19.2 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

19.3 Except as provided by **rule 19.2**, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

## **20. VOTING AT GENERAL MEETING**

- 20.1 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- (a) by the Chairman; or
  - (b) by at least 5 Members entitled to vote on the resolution present in person or by proxy;  
or
  - (c) members with at least 5% of the votes that may cast on the resolution on a poll.
- 20.2 Unless a poll is so demanded, a declaration by the Chairman that a resolution has on a show of hands been carried, carried unanimously or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceeding of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 20.3 The demand for a poll may be withdrawn.

## **21. POLL**

- 21.1 If a poll is duly demanded, it shall be taken in such manner, and subject to **rule 21.2**, either at once or after an interval or adjournment or otherwise as the Chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded.
- 21.2 A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith.

## **22. EQUALITY OF VOTES**

- 22.1 In the case of an equality of votes, whether on a show of hands or on a poll, the resolution shall not be passed and is considered to have failed.

## **23. ENTITLEMENT TO VOTE**

- 23.1 The entitlement of Members to vote on a show of hands and on a poll shall be as follows:
- (a) every MCI Shareholder shall have one vote no matter how many MCI Shares the Member is registered as holding;
  - (b) every General Member shall have one vote;
  - (c) the person named first in the Register of Members for a Family Member only may have one vote;
  - (d) every Corporate Member shall have one vote;
  - (e) every Pre 64 Member shall have one vote; and
  - (f) no Minor Member may vote.
- 23.2 Only Members who have been Members for at least one month before the meeting are entitled to attend and vote at that meeting.
- 23.3 If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, their committee or trustee or such other person as properly has the management of their estate may exercise any rights of the

Member in relation to a general meeting as if the committee, trustee or other person were the Member.

#### **24. APPOINTMENT OF PROXY**

- 24.1 Any Member who has the right to vote at a general meeting may appoint a proxy to vote at a general meeting on that Member's behalf. A proxy need not be a Member who is entitled in their own right to vote at a general meeting.
- 24.2 An instrument appointing a proxy shall be in writing in a form issued by the Board..
- 24.3 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.
- 24.4 An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- 24.5

#### **25. DEPOSIT OF PROXY AND OTHER INSTRUMENTS**

- 25.1 An instrument appointing a proxy shall not be treated as valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are received by the Company, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, at the registered office of the Company or at such other place as is specified for that purpose in the notice convening the meeting.

#### **26. VALIDITY OF VOTE IN CERTAIN CIRCUMSTANCES**

- 26.1 A vote given in accordance with the terms of an instrument of proxy or a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal or the revocation of the instrument of proxy (or of the authority under which the instrument was executed) or of the power of attorney, if no intimation in writing of the death, unsoundness of mind or revocation has been received by the Company at its registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

#### **27. THE BOARD**

- 27.1 The number of Directors including Executive Directors (not including alternate Directors) is required to be a number, not being less than 3 or more than 10, which the Board may from time to time determine, provided that the Board does not reduce the number below the number of Directors in office at the time of the reduction. All Directors are required to be natural persons.
- 27.2 The Board may from time to time appoint up to 2 persons to be Executive Directors (who may bear that title or any other title determined by the Board) for a period ending in the happening of events (if any) stipulated by the Board, at a remuneration which may be by way of salary or commission or by any or all of these methods (but not by a commission or a percentage on operating revenue) and otherwise in terms as determined by the Board from time to time. The Board may confer upon the Executive Directors any of the powers exercisable under these rules by the Board as it thinks fit and upon any conditions it thinks expedient but the conferring of powers by the Board upon the Executive Directors does not exclude the exercise of those powers by the Board.

- 27.3 The Executive Directors are not subject to retirement as Directors by rotation while continuing to hold the office of Directors and are not taken into account in determining the rotation or retirement of Directors or the number of Directors to retire, but are subject to the same provisions as to resignation and removal as the other Directors. An Executive Director ceases to be an Executive Director if they are dismissed by the Board.
- 27.4 The Board has the power at any time and from time to time to appoint a qualified person as a Director either to fill a casual vacancy among the Board or as an addition to the existing Directors but so that the total number of Directors shall not at any time exceed the number fixed in accordance with this Constitution. Any person appointed under this rule shall hold office until the next general meeting when an election will be held to fill the vacancy but is not to be taken into account in determining the number of directors who are to retire by rotation at the meeting. Any person appointed under this rule shall be eligible for election at that general meeting.
- 27.5 The Members in general meeting may by ordinary resolution appoint a qualified person as a Director but so that the total number of Directors shall not at any time exceed the number fixed in accordance with this Constitution.
- 27.6 Unless nominated by the Board only persons who have been Members for at least 24 consecutive months are entitled to be elected as a Director.
- 27.7 No Member (other than a retiring Director) is eligible for election to the office on the Board at any general meeting unless the Member intending to nominate the Member candidate has given notice in writing signed by the nominee giving consent to the nomination and signifying either candidature for the office or the intention of the Member to nominate the Member nominee. To be valid, the notice is required to be left at the registered office of the Company between 1<sup>st</sup> July and 1<sup>st</sup> August preceding the next general meeting unless the nominee has been nominated by the Board for election, in which case the notice is required to be left at the registered office of the Company at least 10 business days before the notice of meeting is dispatched.
- 27.8 Subject to **rule 27.9** the Directors are to be paid out of the funds of the Company as remuneration for their services as Directors, such sum accruing from day to day as the Company in general meeting determines to be divided among them in such proportion and manner as they agree or in default of agreement, equally.
- 27.9 The Directors' remuneration for their services as Directors is by fixed sum and not a commission on or percentage of profits or operating revenue and may not be increased except at a general meeting where particulars of the proposed increase have been given to the Members in the notice of convening the meeting.
- 27.10 Any Director who serves on a subcommittee, or who devotes special attention to the business of the Company, or who otherwise performs services which in the opinion of the Board are outside the scope of the ordinary duties of a Director, or who at the request of the Board engages in any journey on the business of the Company, may be paid extra remuneration as determined by the Board.
- 27.11 Every Director is, in addition to any other remuneration provided for in these rules, entitled to be paid from Company funds all reasonable travel, accommodation and other expenses incurred by the Directors in attending meetings of the Company or of the Board or of any subcommittees or while engaged on the business of the Company.
- 27.12 Any director may be paid a retirement benefit, as determined by the Board, in accordance with the Law. The Board is authorised to make arrangements with any Director with respect to the payment of retirement benefits in accordance with this rule.

## 28. RESIGNATION AND REMOVAL OF A DIRECTOR

- 28.1 Any Director or Executive Director may resign at any time from the Board by notice in writing delivered to the Secretary but such resignation shall only take effect at the time when such notice is received by the Secretary unless some later date is specified in the notice when it shall take effect on the later date.
- 28.2 A Director may be removed from office by ordinary resolution by the Members at a general meeting of the Company convened for that purpose, provided that at least 28 days notice of intention to move for the removal of the Director has been given to each Member. At any such general meeting the Director shall be given the opportunity to fully present their case either orally or in writing or partly by either of these means.
- 28.3 A Director who ceases to be a Director under **rule 28.2** retains office until the dissolution or adjournment of the meeting at which the Director is removed.

## 29. DISQUALIFICATION

- 29.1 In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Law, the office of a Director becomes vacant if that Director:
- (a) 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;
  - (b) dies;
  - (c) ceases to be a Member who has the right to vote at a general meeting;
  - (d) in the case of an Executive Director, that person's employment contract is terminated, or expires and is not renewed;
  - (e) is absent from meetings of the Board during a period of 3 consecutive meetings without leave of absence from the Board where the Board has not, within 14 days of having been served by the Secretary with a notice giving particulars of the absence, resolved that leave of absence be granted;
  - (f) becomes an insolvent under administration, suspending payment generally to creditors or compounding with or assigning the Director's estate for the benefit of creditors; or
  - (g) is prohibited for being a Director by reason of the operation of the Law.
- 29.2 A Director who vacates office pursuant to **rules 28.1, 28.2** or **29.1** is not to be taken into account in determining the number of Directors who are to retire by rotation at any annual general meeting.

## 30. RETIREMENT OF DIRECTORS

- 30.1 At every annual general meeting, one third of the Directors or, if their number is not a multiple of three, then the number nearest to one third must retire from office. A Director must retire from office at the conclusion of the third annual general meeting after the Director was elected or re-elected. A Director who is required to retire under the rule retains office until the dissolution or adjournment of the meeting at which the retiring Director retires.
- 30.2 The Directors to retire pursuant to **rule 30.1** are the Directors or Director longest in office since last being elected. As between Directors who were elected on the same day the Directors to retire are (in default of agreement between them) determined by ballot. The length of time a Director has been in office is calculated from the Director's last election or appointment. A retiring Director is eligible for re-election.

### **31. CHAIRMAN AND DEPUTY CHAIRMAN**

- 31.1 Subject to **rule 31.2** the Chairman and Deputy Chairman shall be chosen by the Board from its members.
- 31.2 The Board has the sole power at any time and from time to time to appoint any one of its members as Chairman and Deputy Chairman and to remove any Director appointed under this Constitution to any of those offices.
- 31.3 Any Chairman and Deputy Chairman may resign at any time from such office by notice in writing delivered to the Secretary but such resignation shall only take effect at the time when such notice is received by the Secretary unless some later date is specified in the notice when it shall take effect on the later date.

### **32. POWERS OF THE BOARD**

- 32.1 The Board shall manage the business and affairs of the Company and in doing so may:
- (a) pay all expenses incurred in promoting and registering the Company; and
  - (b) exercise all powers of the Company as are not required by this Constitution or by law to be exercised by the Company in general meeting.
- 32.2 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, all receipts for money or electronic fund transfers paid by the Company shall be signed, drawn, accepted, endorsed or otherwise executed or transmitted as the case may be, by the Chairman or other Director, and countersigned by the Secretary, or in such other manner as the Board from time to time determines.
- 32.3 The Board may exercise all of the powers of the Company to:
- (a) raise or borrow money;
  - (b) guarantee the debts, liabilities or obligations of any person;
  - (c) enter into any financing arrangement;
  - (d) mortgage or charge any property or business of the Company;
  - (e) issue MCI Shares and debentures; and
  - (f) give any other security for a debt, liability or obligation of the Company or of any other person,
- in the manner and on such terms as the Board thinks fit.
- 32.4 If the funds of the Company are not sufficient to pay its expenses, the Board may recommend that a levy be imposed, in addition to any annual subscription, on each Member, but no levy shall be imposed unless it is first approved by a majority of votes at a general meeting.

### **33. MEETINGS OF THE BOARD**

- 33.1 The Board shall meet regularly for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- 33.2 At least 48 hours prior notice of any meeting shall be given but with the approval of all Directors a meeting may be held on less notice. Except in the case of a meeting called

upon less than 48 hours' notice an agenda shall accompany every notice of a Board meeting.

- 33.3 The Chairman may convene meetings of the Board. The Secretary shall, on the request of two Directors, convene a meeting.
- 33.4 At any meeting of the Board, not less than half the current Directors shall constitute a quorum.
- 33.5 The Directors may continue to act notwithstanding any vacancy in their body but if and so long as their number is reduced below the number fixed by or pursuant to the Constitution as being necessary for a quorum of the Board, the continuing Directors may only act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company but for no other purpose.
- 33.6 The Chairman shall if present, able and willing to side as Chairman at all meetings of the Board and if:
- (a) there is no such Chairman;
  - (b) the Chairman is not present within 15 minutes after the time appointed for the meeting; or
  - (c) the Chairman is unable or unwilling to preside,

then the Deputy Chairman if present at the meeting, able and willing or in the absence of unwillingness of both of them, a Director appointed by the meeting, shall act as Chairman of the meeting.

- 33.7 Subject to this Constitution questions arising at any meeting of the Board shall be decided by a majority of votes and a determination by a majority of Directors shall for all purposes be deemed a determination of the Board. The Chairman of the meeting of the Board shall, in addition to their deliberative vote, have a second or casting vote in the event of an equality of votes.
- 33.8 The Board may meet either in person or by telephone or by other means of communication by which all persons participating in the meeting are able to hear and be heard by all other participants. A meeting conducted by telephone or other means of communication is deemed to be held at the place agreed upon by the Directors attending the meeting, provided that at least one of the Directors present at the meeting was at that place for the duration of the meeting.
- 33.9 A resolution in writing of which notice has been given to all the Directors and which is signed by all of the Directors entitled to vote on the resolution shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more Directors. A telex, facsimile transmission or other document produced by mechanical or electronic means under the name of the Director with that Director's authority is deemed to be a document in writing signed by that Director.

#### **34. PROCEEDINGS OF THE BOARD**

- 34.1 The Board may make such rules, regulations and by-laws not inconsistent with the Constitution, as in the opinion of the Board are necessary or desirable for the proper control, administration and management of the Company's finances, affairs and property or are necessary for the convenience, comfort and well-being of the Members (including the terms of entry of Members to the Company's premises and any event or function sponsored, promoted, facilitated or conducted by the Company) and amend or rescind from time to time any such rules, regulations and by-laws.

- 34.2 A rule, regulation or by-law of the Company made by the Board may be disallowed by the Members in a later general meeting.
- 34.3 A resolution or regulation made by the Members in a general meeting shall not invalidate prior acts of the Board which would have been valid if that resolution or regulation had not been passed or made.
- 34.4 The Board may from time to time appoint such subcommittees whether of Directors or not and with such powers as the Board shall think fit with power to revoke the appointment of any such subcommittee.
- 34.5 A subcommittee in the exercise of the duties delegated or assigned to it shall conform to any regulations, directions or instructions that may be imposed or given by the Board.
- 34.6 A subcommittee appointed by the Board shall be under the control and direction of the Board and shall have no direct part or power in the management of the Company.
- 34.7 Neither the holding of office as a Director nor the fiduciary relationship resulting from holding that office shall:
- (a) disqualify any director from holding any office or place of profit (other than that of auditor) in the Company;
  - (b) disqualify any Director from entering into any arrangement, contract or dealing with the Company in any capacity;
  - (c) avoid or vitiate any arrangement, contract or dealing entered into by or on behalf of the Company in which a Director is any way interested; or
  - (d) render any Director or any corporation of which a Director is an officer or member or in any way interested or any partnership of which a Director is a member or in any way interested liable to account for any profit arising out of the holding of any such office or place of profit or any such arrangement, contract or dealing.
- 34.8 The nature of the interest of a member of Board shall be disclosed by them at the meeting of the Board at which the arrangement, contract or dealing is determined by the Board, if their interest then exists, or, in any other case, at the meeting of Board next following the acquisition of their interest.
- 34.9 Subject to the approval of a majority of the Board, a Director who is any way interested in any arrangement, contract or dealing as referred to in **rule 34.7** (whether existing or proposed) may vote in respect of the arrangement, contract or dealing at a meeting of the Board and shall be counted in a quorum present at such meeting.
- 34.10 A Director may affix or attest the affixation of the seal to any instrument notwithstanding any interest which such Director has in the subject matter of that instrument or any other office or place of profit held by such Director.
- 34.11 All acts done by any meeting of the Directors or of any subcommittee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such member or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director or subcommittee member.

## **35. OTHER SALARIED OFFICERS**

- 35.1 The Board may appoint such officers and employees at such salaries for such periods and on such terms as it shall think fit and may subject to conditions of the employment of such officers and employees dispense with their services and re-appoint them or appoint other officers and employees as it thinks fit.

### **36. MINUTES**

- 36.1 The Board is to ensure that minutes are duly recorded in any manner it thinks fit:
- (a) of the names of the Directors present at each meeting of the Company, the Board and of any subcommittee; and
  - (b) of all resolutions and proceedings of general meetings of the Company and of meetings of the Board and any subcommittee,
- and the minutes of any meeting of the Board or of any subcommittee or of the Company, if purporting to be signed by the Chairman of the meeting or by the Chairman of the next succeeding meeting, are prima facie evidence of the matters stated in the minutes.

### **37. REGISTERED OFFICE**

- 37.1 The registered office of the Company shall be at such place as the Board may from time to time determine.

### **38. SECRETARY**

- 38.1 The Secretary of the Company holds office on such terms and conditions as to remuneration and otherwise, as the Board determines.

### **39. SEAL**

- 39.1 The Company may have a Seal.
- 39.2 If the Company has a Seal, the Board is to provide for its safe custody and it should only be used by the authority of the Board. Every instrument to which the Seal is affixed is to be signed by a Director and countersigned by a second Director or by another person appointed by the Board for the purpose. The Board may determine either generally or in any particular case that a signature may be affixed by a mechanical means specified in the determination.
- 39.3 The Company may execute a document, including a deed, by having the document signed by:
- (a) 2 Directors;
  - (b) a Director and the Secretary;
  - (c) Director and Chief Executive Officer.
- 39.4 Notwithstanding the provisions of **rule 39.3** any document including a deed, may also be executed by the Company in any other manner permitted by law.

### **40. NOTICES**

- 40.1 A notice may be given by the Company to any Member by serving it on them personally or by leaving it or sending it by prepaid post, email or facsimile transmission to them at their address as shown in the Register or the address supplied by them to the Company for the giving of notices to them.
- 40.2 Any notice sent by prepaid post is deemed to have been served at the expiration of 48 hours after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a Member personally or left at the Member's address is deemed to have been served when delivered. Any notice on a Member by email is deemed to have been

served when the email was sent. Any notice served on a Member by facsimile transmission is deemed to have been served when the transmission is sent.

#### **41. PERSONS ENTITLED TO NOTICE OF GENERAL MEETING**

41.1 Notice of every general meeting shall be given in any manner permitted by the Law or in the manner authorised by **rule 40.1** and **40.2** to:

- (a) every Member as required by the Law (excluding Minor Members);
- (b) every Director; and
- (c) the auditor for the time being of the Company.

41.2 No other person shall be entitled to receive notices of general meetings.

#### **42. INDEMNITY AND INSURANCE**

42.1 Subject to the Law, the Company shall indemnify any person who is or has been a Director, Secretary or officer of the Company against a liability:

- (a) incurred by the person acting in their capacity as a Director, Secretary or executive officer to a person other than the Company or a related body corporate where the liability does not arise out of a lack of good faith; and
- (b) for the costs and expenses incurred by the person:
  - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; and
  - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the person under the Law.

42.2 Every employee who is not a Director, Secretary or officer of the Company may be indemnified by the Company against a liability:

- (a) incurred by the employee acting in that capacity where the liability does not arise out of a lack of good faith; and
- (b) for the costs and expenses incurred by an employee:
  - (i) in defending proceedings, whether civil or criminal, in which judgement is given in favour of the employee or in which the person is acquitted; and
  - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under the Law.

42.3 Subject to the Law, the Company may pay insurance premiums in respect of insurance for the benefit of a Director, Secretary or officer acting in that capacity against:

- (a) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; and
- (b) a liability arising from negligence or other conduct not being a liability incurred by the person acting in that capacity and arising out of conduct involving a wilful breach of duty in relation to the Company or a breach of the provisions of the Law dealing with improper use of inside information or position.

42.4 The Company may pay insurance premiums in respect of insurance for the benefit of the auditor or an employee of the Company who is not a Director, Secretary or executive officer concerned in the management of the Company.

### **43. WINDING UP**

43.1 The Company may be wound up in the manner provided in the Law. In the event of the Company being dissolved, the amount which remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to any organisation which has similar objects and which:

- (a) has rules prohibiting the distribution of its assets to its members; or
- (b) is approved by the Commissioner of Taxation as a public benevolent institution for the purposes of any Commonwealth Taxation Act; or
- (c) is an MCI Mutual Entity.