

## **Constitution**

# TABLE OF CONTENTS

Page no.

<b>1</b>	<b>Definitions and interpretation .....</b>	<b>1</b>
1.1	Definitions.....	1
1.2	Words and expressions .....	3
1.3	Replaceable rules.....	4
1.4	Chazakah .....	4
1.5	Company type .....	4
1.6	Rights of NSW JBOD and COS NSW .....	4
<b>2</b>	<b>Objects.....</b>	<b>5</b>
2.1	Principal objects .....	5
2.2	Ancillary objects.....	5
2.3	Not for profit.....	6
<b>3</b>	<b>Powers of the Company .....</b>	<b>6</b>
<b>4</b>	<b>Gift Fund.....</b>	<b>7</b>
<b>5</b>	<b>Membership.....</b>	<b>8</b>
5.1	Number and classes of Membership .....	8
5.2	Nominee .....	8
5.3	Undertaking .....	8
<b>6</b>	<b>Rights of members .....</b>	<b>8</b>
6.1	Rights and privileges .....	8
6.2	Variation of Rights .....	8
6.3	Effect of new class of Membership .....	8
6.4	Resignation of Member .....	9
<b>7</b>	<b>Register of members.....</b>	<b>9</b>
<b>8</b>	<b>General meetings .....</b>	<b>9</b>
8.1	Annual General Meeting.....	9
8.2	Calling .....	9
8.3	Notice .....	9
8.4	Content of notice .....	10
8.5	Failure to give notice .....	10
8.6	Postponement or cancellation or change of general meeting.....	10
8.7	Resolutions without general meetings.....	10
<b>9</b>	<b>Proceedings at general meetings.....</b>	<b>10</b>
9.1	Quorum .....	10
9.2	Determining quorum.....	11
9.3	Quorum not present.....	11
9.4	Chairperson of meeting .....	11
9.5	Function of Chairperson of general meeting.....	11
9.6	Adjournment by Chairperson.....	11
9.7	Adjourned meeting .....	11
9.8	Show of hands.....	11
9.9	Decisions by Special Resolution.....	12
9.10	Demanding a poll.....	12
9.11	When and how polls must be taken.....	12
9.12	Equal number of votes.....	12
<b>10</b>	<b>Voting at general meetings .....</b>	<b>12</b>
10.1	Number of votes .....	12
10.2	Objections.....	12
<b>11</b>	<b>Proxies, attorneys and representatives .....</b>	<b>13</b>
11.1	Proxies .....	13
11.2	Number of proxies .....	13
11.3	Proportion of votes exercisable by proxies .....	13
11.4	Rights of proxies.....	13
11.5	Voting rights of proxies .....	13
11.6	Attorneys and representatives.....	13
11.7	Rights of attorneys and representatives .....	13
11.8	No membership requirement .....	13

11.9	Standing appointments.....	13
11.10	Instrument of appointment of proxies .....	13
11.11	Instrument of appointment of attorneys and representatives .....	14
11.12	Alternative method of appointment.....	14
11.13	Company must receive appointments .....	14
11.14	Definition of receipt.....	14
11.15	Additional documents .....	14
11.16	Chairperson may declare appointment valid .....	14
11.17	Adjourned meetings.....	15
11.18	Rights of proxies and attorneys if Member present .....	15
11.19	Priority of conflicting appointments .....	15
11.20	Continuing authority.....	15
<b>12</b>	<b>Class meetings .....</b>	<b>15</b>
<b>13</b>	<b>Directors .....</b>	<b>15</b>
13.1	Minimum and maximum number .....	15
13.2	Other positions .....	16
13.3	Meetings of Members .....	16
13.4	Appointment and removal by Members .....	16
13.5	Casual vacancy or addition to Board.....	16
13.6	Term of office - Board and Executive Officers .....	16
13.7	Cessation of appointment.....	17
<b>14</b>	<b>Appointment of Directors and the Executive Officers .....</b>	<b>17</b>
14.1	Appointment of Directors .....	17
14.2	Appointment of Executive Officers.....	17
<b>15</b>	<b>Alternates .....</b>	<b>17</b>
15.1	Appointment .....	17
15.2	Powers and duties .....	18
15.3	Cessation of appointment.....	18
15.4	Written notice.....	18
<b>16</b>	<b>Remuneration of Directors .....</b>	<b>18</b>
16.1	Honorary.....	18
16.2	Expenses.....	18
16.3	Board approval for payments.....	18
<b>17</b>	<b>Powers and duties of Directors .....</b>	<b>18</b>
17.1	Management of the Company .....	18
17.2	Specific powers .....	18
17.3	Duties under the Corporations Act.....	19
17.4	No disqualification .....	19
17.5	Disclosure of interests .....	19
17.6	Voting if Director has an interest.....	19
17.7	Obligation of secrecy .....	20
<b>18</b>	<b>Delegation of Directors' powers .....</b>	<b>20</b>
18.1	Power to delegate.....	20
18.2	Terms of delegation.....	20
18.3	Delegate to comply with directions .....	20
18.4	Board may revoke delegation .....	20
<b>19</b>	<b>Board meetings .....</b>	<b>21</b>
19.1	Procedure .....	21
19.2	Calling .....	21
19.3	Notice .....	21
19.4	Use of technology.....	21
19.5	Consent .....	21
19.6	Quorum .....	21
19.7	When a Director is treated as present .....	21
19.8	Chairperson.....	22
19.9	Number of votes .....	22
19.10	Decisions .....	22
19.11	Too few Directors .....	22
19.12	Written resolutions passed by multiple Directors .....	22
19.13	Signing written resolutions.....	22
19.14	Valid proceedings .....	22

<b>20</b>	<b>Secretary .....</b>	<b>23</b>
	20.1 Appointment .....	23
	20.2 Terms .....	23
	20.3 Cessation of appointment.....	23
<b>21</b>	<b>Minutes .....</b>	<b>23</b>
	21.1 Board must keep minutes.....	23
	21.2 Minutes must be signed.....	23
	21.3 Minutes as evidence.....	24
	21.4 Access to minutes .....	24
<b>22</b>	<b>Vaad HaRabbonim.....</b>	<b>24</b>
	22.1 Appointment of Vaad HaRabbonim Members .....	24
	22.2 Term of office of Vaad HaRabbonim Members.....	24
	22.3 Halachic matters.....	24
	22.4 Meetings of the Vaad HaRabbonim.....	25
	22.5 Remuneration of Vaad HaRabbonim Members.....	25
	22.6 Removal of Vaad HaRabbonim Members .....	25
	22.7 Appointment of Rabbinical Administrator.....	26
	22.8 Disclosure of interests .....	27
	22.9 Confidentiality .....	27
	22.10 Meetings of the Board and the Vaad HaRabbonim .....	27
<b>23</b>	<b>Jurisdiction Dispute .....</b>	<b>27</b>
	23.1 No arbitration or court proceedings .....	27
	23.2 Notice .....	28
	23.3 Initial Period.....	28
	23.4 Appointment of Foreign Beth Din.....	28
	23.5 Role of Foreign Beth Din .....	28
	23.6 Timeframe .....	28
	23.7 Confidentiality .....	28
	23.8 Costs .....	28
	23.9 Breach of this clause .....	28
<b>24</b>	<b>Seal and execution of documents .....</b>	<b>29</b>
	24.1 Common seal .....	29
	24.2 Use of seals.....	29
	24.3 Executing documents .....	29
<b>25</b>	<b>Accounts and records.....</b>	<b>29</b>
	25.1 Obligations.....	29
	25.2 Inspection .....	29
<b>26</b>	<b>Audit.....</b>	<b>29</b>
<b>27</b>	<b>Amending the Constitution .....</b>	<b>29</b>
<b>28</b>	<b>Notices.....</b>	<b>29</b>
	28.1 Method .....	29
	28.2 Receipt .....	30
	28.3 Evidence of service .....	30
<b>29</b>	<b>Winding up.....</b>	<b>30</b>
<b>30</b>	<b>Indemnity and insurance .....</b>	<b>31</b>
	30.1 Indemnity and insurance .....	31
	30.2 Survival of indemnity .....	31
	30.3 Indemnity and insurance subject to law.....	31

# Constitution

## Community Kashrut Limited

### ("Company")

## 1 Definitions and interpretation

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### 1.1 Definitions

In this Constitution, unless the context requires otherwise:

**"Alternate"** means a person appointed as an alternate Director under clause 15.

**"Board"** means the board of Directors of the Company from time to time.

**"Chairperson"** means the person appointed as the chair of a general meeting pursuant to clause 9.4 or a Board meeting pursuant to clause 19.8 (as applicable).

**"Chazakah"** means permanent tenure conferred by Halacha.

**"Company"** means the company defined at the beginning of this Constitution.

**"Constitution"** means this Constitution as supplemented, substituted or amended from time to time and includes any rules, regulations and by-laws of the Company for the time being in force.

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

**"COS NSW"** means Council of Orthodox Synagogues of NSW Incorporated (INC 9889392).

**"Director"** means a person occupying the position of director of the Company and includes any person acting as an Alternate.

**"Disputant"** has the meaning given to that term in clause 23.1.

**"Eligible Charity"** means a fund, authority or institution:

- (a) which is charitable at law; and
- (b) if required under the Tax Act, which has objects and purposes similar to the objects and purposes of the Company and which is not carried on for the profit or gain of its members.

**"Executive Offices"** means the following positions of the Board held by the Directors appointed to those positions from time to time pursuant to clause 14.2:

- (a) President;
- (b) Vice-President
- (c) Treasurer; and
- (d) Honorary Secretary.

**"Final Period"** has the meaning given to that term in clause 23.4.

**“Foreign Beth Din”** means either:

- (a) the London Beth Din (official title - ‘D’Kehila Kedosha London Bet Din Vehamedina’) of 305 Ballards Lane, North Finchley London N12 8GB;
- (b) the Beth Din Of Johannesburg of 58 Oaklands Road, Orchards 2192, Johannesburg, South Africa; or
- (c) the Montreal Vaad Hair of 6825 Decarie Blvd, Montreal, Quebec H3W3E4, Canada.

**“Further Period”** has the meaning given to that term in clause 23.4.

**“Gift Fund”** means the Community Kashrut Gift Fund established or to be established for the purposes of the Tax Act in accordance with clause 4.

**“Halacha”** or **“Halachic”** means orthodox Jewish law.

**“Honorary Secretary”** means the Director appointed to the Executive Office of Honorary Secretary of the Board from time to time pursuant to clause 14.2.

**“Initial Period”** has the meaning given to that term in clause 23.3.

**“Jurisdiction Dispute”** has the meaning given to those term in clause 22.3.

**“Mashgiach”** means a person who supervises the kashrut status of any business, manufacturer, producer, establishment, premises, Simcha, function or event or as otherwise required by Halacha, and **“Mashgichim”** means more than one Mashgiach.

**“Member”** means a person who is entered in the Register as a member of the Company.

**“Membership”** means the contractual rights of a person to membership of the Company, being the rights attaching to the class of membership conferred on that person.

**“Month”** means calendar month.

**“Nominee”** means, in respect of a Member who is not a natural person, the natural person nominated in writing to the Company and authorised by that Member to exercise all the rights of that Member under this Constitution.

**“NSW JBOD”** means NSWJBD Projects Limited (ACN 120 301 564).

**“Office”** means the Company’s registered office.

**“Ordinary Resolution”** means in the case of a vote or resolution of the Board, Directors entitled to vote who together hold more than 50% of the votes.

**“Present”** means, when used in relation to a Member at a meeting, present in person or by proxy, attorney, or representative.

**“President”** means the Director appointed to the Executive Office of President of the Board from time to time pursuant to clause 14.2.

**“Rabbinical Administrator”** means the person appointed as the Rabbinical Administrator from time to time pursuant to clause 22.7.

**“Register”** means the register of members of the Company.

**“Secretary”** means the person appointed as company secretary from time to time pursuant to clause 20.1.

**“Security Interest”** means any mortgage, lien, hypothecation, charge (whether fixed or floating), bill of sale, caveat, pledge, claim, trust arrangement, preferential right, right of set-off, title retention or other form of encumbrance and includes any “security interest” within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth).

**“Shechita”** means the slaughtering of mammals and birds for food.

**“Simcha”** means a private party or celebration, and **“Smachot”** means more than one private party or celebration.

**“Special Resolution”** means a vote or resolution passed by (as relevant):

- (a) in the case of a vote or resolution of Members, at least two-thirds of Members entitled to vote;
- (b) in the case of a vote or resolution of the Board, at least 75% of Directors entitled to vote.

**“Tax Act”** means the *Income Tax Assessment Act 1997* (Cth).

**“Treasurer”** means the Director appointed to the Executive Office of Treasurer of the Board from time to time pursuant to clause 14.2.

**“Vaad HaRabbonim”** means the council of Vaad HaRabbonim of the Company from time to time.

**“Vaad HaRabbonim Member”** means a person appointed from time to time pursuant to clause 22.1 as a member of the Vaad HaRabbonim.

**“Vice-President”** means the Director appointed to the Executive Office of Vice-President of the Board from time to time pursuant to clause 14.2.

## 1.2 Words and expressions

In this Constitution, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) words denoting any gender include all genders;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this Constitution;
- (e) a reference to this Constitution includes any schedules or annexures;
- (f) headings are for convenience and do not affect interpretation;
- (g) a reference to any document or agreement includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (h) a reference to “\$”, “A\$” or “dollar” is a reference to Australian currency;
- (i) a reference to a time is a reference to Australian Eastern Standard Time or Australian Eastern Daylight Time, whichever is appropriate;
- (j) a reference to a party includes its executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;

- (k) a reference to writing includes any method of representing words, figures or symbols in a permanent and visible form;
- (l) words and expressions denoting natural persons include bodies corporate, partnerships, associations, firms, governments and governmental authorities and agencies and vice versa;
- (m) a reference to any legislation or to any provision of any legislation includes:
  - (i) any modification or re-enactment of the legislation;
  - (ii) any legislative provision substituted for, and all legislation, statutory instruments and regulations issued under, the legislation or provision; and
  - (iii) where relevant, corresponding legislation in any Australian State or Territory;
- (n) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Constitution or any part of it;
- (o) the words “including”, “for example”, “such as” or other similar expressions (in any form) are not words of limitation;
- (p) words or expressions defined in the Corporations Act but not in this Constitution have the same meaning in this Constitution; and
- (q) if the doing of any act, matter or thing requires the consent, approval or agreement of any party, that consent, approval or agreement may be given conditionally or unconditionally or withheld in that party’s absolute discretion.

### **1.3 Replaceable rules**

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

### **1.4 Chazakah**

- (a) Notwithstanding any provision of this Constitution or rules made pursuant to this Constitution, the principles of Chazakah do not apply at any time to any person appointed to any office or position of the Company or to any person that is otherwise employed or engaged by the Company (including to any Director, Executive Officer, Vaad HaRabbonim Member or Rabbinical Administrator).
- (b) The Company and each Director is permitted to take all necessary action to give full effect to the provisions of clause 1.4(a).

### **1.5 Company type**

The Company is a company limited by guarantee.

### **1.6 Rights of NSW JBOD and COS NSW**

- (a) Any rights granted to either the NSW JBOD or the COS NSW under this Constitution are only granted to that party whilst it is a Member of the Company.
- (b) Notwithstanding any other provision of this Constitution, in the event that either the NSW JBOD or the COS NSW cease to be a Member of the Company (for any reason), any rights granted to that party under this Constitution will vest in the other party (including, without limitation, the right to appoint any Directors and Vaad HaRabbonim Members).



## 2 Objects

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### 2.1 Principal objects

The principal objects of the Company are to advance and promote the continuity of the Jewish religion by (without limitation):

- (a) establishing and operating a kashrut licensing and advisory organisation to provide certain kashrut services, including (among other services as may be required from time to time):
  - (i) the certification and supervision of food and products as being kosher;
  - (ii) the granting of kashrut licenses to Jewish communal organisations, businesses and persons, and the supervision, regulation and enforcement of such licenses;
  - (iii) engaging in the koshering, certification and/or supervision of any Smachot, functions, events, premises or establishments within the Jewish community;
  - (iv) establishing and operating a Shechita system in accordance with strict standards of kosher slaughter;
  - (v) providing or procuring appropriate Mashgiach courses for the training of Mashgichim;
  - (vi) promoting kashrut through education; and
  - (vii) generally organising and managing kashrut for the benefit of the Jewish community and promoting kashrut within the community;
- (b) doing its utmost to ensure that kosher food, products and services are as readily available and as affordable as possible; and
- (c) encouraging and increasing the number of members of the Jewish community and Jewish communal organisations purchasing and using kosher products and having kosher Smachot and functions by, to the extent possible, reducing the cost of purchasing kosher products and holding such Smachot and functions.

### 2.2 Ancillary objects

For the purpose of achieving the principal objects set out in clause 2.1, the Company has and will continue to:

- (a) administer one or more funds into which all gifts, contributions, donations and bequests to the Company for the purposes of the Company will be credited;
- (b) organise communal seminars, lectures and educational programmes;
- (c) establish close communications with entities, organisations and groups that may have related interests to the Company, including kashrut authorities located elsewhere in Australia and overseas as the Company deems appropriate;
- (d) seek and co-ordinate funding from Federal, State and Local Government and the private sector (as may be relevant) in the form of grants, gifts, donations, sponsorship and bequests committed to the objects of the Company;
- (e) encourage and promote and generally to create greater community awareness regarding the principal objects of the Company;
- (f) provide or attract funds for the facilitation of any of the objects of the Company;
- (g) disseminate information and literary matters that the Company considers necessary or desirable for the promotion of the objects of the Company; and
- (h) do all such other things as are incidental or conducive to the attainment of the objects and aims of the Company and its Members.

The objects of the Company will be pursued principally in Australia.

### **2.3 Not for profit**

- (a) The objects of the Company will not be carried on for the purpose of profit or gain to its Members and the income and property of the Company, from whatever sources derived, will be applied solely towards the promotion of the objects of the Company and to otherwise reduce the costs of the provision of kashrut services by the Company in the Jewish community. No income or property of the Company will be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit to the Members of the Company.
- (b) Notwithstanding anything contained in clause 2.3(a), nothing contained in that clause will prevent the payment, in good faith, of remuneration to any officers or servants of the Company (including any Director, Executive Officer, Vaad HaRabbonim Member or Rabbinical Administrator) or to any Member in return for any services actually rendered to the Company or for goods supplied in the ordinary or usual course of business, or prevent the payment of interest at a rate not exceeding the commercial rate fixed for the purposes of this clause 2.3(b) by the Board on money borrowed from any Member or the payment of reasonable and proper rent for premises demised or let by any Member to the Company.

## **3 Powers of the Company**

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- 3.1 The Company has, subject to the Corporations Act, power to do all things necessary or convenient to be done for, or in connection with, the performance of its objects.
- 3.2 Without limiting the generality of clause 3.1 and clause 17.2, the Company has all the rights, powers and privileges and the legal capacity of a natural person including, but not limited to, the powers to:
  - (a) accept gifts, devises, bequests or assignments made to the Company, whether on trust or otherwise, and whether unconditionally or subject to a condition and, if a gift, devise, bequest or assignment is accepted by the Company for the Company on trust or subject to a condition, to act as trustee or to comply with the condition, as the case may be;
  - (b) make available (whether in writing or in any other form) information relating to the Company and its functions;
  - (c) occupy, use and control any land or building owned or held under lease or licence by any other person made available to the Company;
  - (d) acquire, hold and dispose of real and personal property and any other assets;
  - (e) lease the whole or any part of any land or building for the purpose of the Company;
  - (f) enter into contracts;
  - (g) borrow money and provide guarantees, mortgages, charges and other Security Interests in respect of its own indebtedness;
  - (h) erect buildings;
  - (i) employ or engage consultants, advisers, managers and employees to implement the objects of the Company and pay such fees, salaries and expenses as the Board considers reasonable to such persons;
  - (j) employ or engage professional service providers including lawyers, accountants and other persons and pay such fees and expenses as the Board considers reasonable to such persons;

- (k) purchase or take on hire, or to accept as a gift or on deposit or loan, and to dispose of or otherwise deal with furnishings, equipment and other goods;
  - (l) act as trustee of moneys or other property vested in the Company on trust; and
  - (m) do anything incidental to any of the Company's objects.
- 3.3 Notwithstanding anything contained in this Constitution, any money or other property held by the Company on trust or accepted by the Company subject to a condition, will not be dealt with except in accordance with the obligations of the Company as trustee or as the person who has accepted the money or other property subject to the condition, as the case may be.
- 3.4 It is intended that the public will contribute to the Gift Fund (if established or to be established for the purposes of the Tax Act in accordance with clause 4) and the Company will invite the general public to make gifts to the Gift Fund for the purpose of carrying out the objects of the Company.

## **4 Gift Fund**

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- (a) The Company may (and will, if required under the Tax Act) establish and maintain, for the specific purposes set out in clause 1.6, the Gift Fund:
  - (i) to which gifts of money, contributions or property for those purposes must be made;
  - (ii) to which any money received by the Company because of those gifts, contributions or property must be credited; and
  - (iii) that does not receive any other money, contributions or property.
- (b) The Gift Fund will not be maintained for the purpose of profit or gain to the Members of the Company.
- (c) All gifts or contributions made to the Gift Fund and any money received because of those gifts or contributions will be applied solely towards the promotion of the objects of the Company set out in clause 1.6, and no portion of the Gift Fund will be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit to the Members of the Company.
- (d) The Company will maintain a separate bank account for the Gift Fund and must comply with subdivision 30-BA of the Tax Act with respect to the administration of the Gift Fund.
- (e) The Gift Fund will be administered by a committee of not less than three persons appointed by the Board. The Gift Fund committee will have the sole responsibility for decisions regarding the use and application of all gifts or contributions made to the Gift Fund and any money received because of those gifts or contributions for the purposes set out in clause 1.6.
- (f) In accordance with the Tax Act, receipts issued for gifts must state:
  - (i) the name of the Company and Gift Fund;
  - (ii) the ABN applicable to the Company; and
  - (iii) the fact that the receipt is for a gift or contribution.
- (g) Clauses 4(b) to 4(f) (both inclusive) apply only if the Company is required to establish a Gift Fund by the Tax Act or if determined by the Board.

## **5 Membership**

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### **5.1 Number and classes of Membership**

- (a) Subject to the provisions of this Constitution and the Corporations Act, there must be at least one Member.
- (b) The Board may, from time to time, prescribe a maximum number of Members.
- (c) The initial Members shall be:
  - (i) the NSW JBOD; and
  - (ii) the COS NSW.
- (d) The Board may, from time to time, but subject to clauses 6.2 and 6.3, establish different classes of Membership and may prescribe the qualifications, rights and privileges of persons admitted to Membership in, or transferred into, such classes of Membership.
- (e) In the event that there is only one Member of the Company, that Member will assume all rights of Members set out in this Constitution (including, without limitation, the right to appoint any Directors and Vaad HaRabbonim Members).

### **5.2 Nominee**

A Nominee may be removed or replaced by written notice to the Company, signed or executed by the Member which that Nominee represents.

### **5.3 Undertaking**

Every Member undertakes to contribute to the property of the Company if the Company is wound up while it is a Member, or within one year after it ceases to be a Member, for payment of the debts and liabilities of the Company (contracted before it ceases to be a Member) and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributors among themselves such amount as may be required, not exceeding, in any event, \$50.00 per Member.

## **6 Rights of members**

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### **6.1 Rights and privileges**

- (a) Subject to this Constitution, the Members are entitled to all the rights and privileges of Membership of the Company.
- (b) A right, privilege, or obligation of a person by reason of their Membership:
  - (i) is not capable of being transferred or transmitted to another person; and
  - (ii) terminates on cessation of Membership whether by death, winding-up, insolvency, bankruptcy or resignation.

### **6.2 Variation of Rights**

If at any time the Directors exercise the powers under clause 5.1(d), the rights, restrictions or obligations of Members or any class of Members may only be varied with the written consent of the existing Members.

### **6.3 Effect of new class of Membership**

If the Board establishes a new class of Membership that has the same rights, restrictions or obligations as an existing class of Membership, the establishment of that new class of Membership is not treated as a variation of the rights attaching to that class.

## **6.4 Resignation of Member**

- (a) A Member who has paid all amounts due and payable by it to the Company may resign from the Company by first giving one Month's notice in writing to the Secretary of their intention to resign and on the expiration of that period of notice, the Member will cease to be a Member.
- (b) If a Member resigns its Membership, it continues to be liable for all amounts due and unpaid by it at the date of its resignation and for all other moneys due by it to the Company and for any sum not exceeding the aggregate amount of \$50.00 for which it may become liable as a Member under clause 5.3.

## **7 Register of members**

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The Secretary must keep and maintain a Register as required by the Corporations Act.

## **8 General meetings**

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### **8.1 Annual General Meeting**

- (a) If the Company is required by the Corporations Act to hold an annual general meeting, it will be held within five months after the end of the Company's financial year in accordance with this Constitution and the Corporations Act.
- (b) To the extent applicable to the Company, the business of the annual general meeting may include:
  - (i) the consideration of the financial reports of the Company, the Directors' report and the auditor's report;
  - (ii) any special business of which notice has been given in accordance with this Constitution; and
  - (iii) such other business as may be properly transacted at the annual general meeting.

### **8.2 Calling**

- (a) The Board may call a general meeting at any time, other than the annual general meeting which must be held pursuant to clause 8.1(a).
- (b) The ability of Members to:
  - (i) request that the Board call a general meeting; and
  - (ii) call and arrange to hold a general meeting themselves,is limited to the powers set out in the Corporations Act.

### **8.3 Notice**

Subject to the provisions of the Corporations Act allowing general meetings to be held on shorter notice, at least 21 days written notice of a general meeting must be given to:

- (a) each Member;
- (b) each Director;
- (c) any auditor of the Company; and
- (d) any other person required by law.

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

## **8.4 Content of notice**

A notice of a general meeting must:

- (a) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
- (b) state the general nature of the meeting's business;
- (c) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and the special resolution itself; and
- (d) contain a statement specifying that:
  - (i) the Member has a right to appoint a proxy;
  - (ii) the proxy does not need to be a Member; and
  - (iii) a Member entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise.

## **8.5 Failure to give notice**

The failure or accidental omission to send notice of a general meeting to, or the non-receipt of a notice by, any person entitled to notice does not invalidate the proceedings or any resolution passed at the meeting.

## **8.6 Postponement or cancellation or change of general meeting**

Subject to the Corporations Act, the Board may at any time prior to the time at which a general meeting is to be held, postpone or cancel any general meeting or change the place of any general meeting. Any such postponement, cancellation or change must be communicated to each Member of the Company and each other person to whom notice was given, in any manner permitted under clause 28.

## **8.7 Resolutions without general meetings**

- (a) Subject to the Corporations Act, the Company may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by Members if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Member signs.

# **9 Proceedings at general meetings**

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## **9.1 Quorum**

- (a) No business may be transacted at an annual general meeting or any other general meeting unless a quorum is Present at the time when the meeting proceeds to business.
- (b) Subject to clause 9.1(c), a quorum consists of more than 65% of Members entitled to vote at the meeting, unless otherwise agreed to by all Members in writing.
- (c) In the event that there is only one Member of the Company, a quorum consists of that Member.
- (d) A quorum must be present for the entire meeting.

## **9.2 Determining quorum**

Each individual present at a general meeting may only be counted once toward a quorum. If a Member has appointed more than one proxy, attorney or representative, only one of them may be counted towards a quorum.

## **9.3 Quorum not present**

If a quorum is not present within 15 minutes after the time appointed for a general meeting:

- (a) if the meeting was convened at the request of Members, it is automatically dissolved; and
- (b) in any other case:
  - (i) it will stand adjourned to the same time and place on the fifth business day after the meeting; and
  - (ii) if a quorum is not present within 15 minutes from the time appointed for the adjourned meeting, the Members Present will comprise a quorum.

## **9.4 Chairperson of meeting**

The President (or, in the President's absence, the Vice-President) will chair every meeting of the Members as the Chairperson. If:

- (a) there is no President or Vice-President;
- (b) neither the President nor the Vice-President is present within 15 minutes after the time appointed for holding the meeting; or
- (c) both the President and the Vice-President are unwilling to act as chair of the meeting,

the Members Present and entitled to vote will elect a Member or Director to act as Chairperson to chair the meeting.

## **9.5 Function of Chairperson of general meeting**

The Chairperson of a general meeting is responsible for the general conduct and procedures to be adopted at the meeting.

## **9.6 Adjournment by Chairperson**

The Chairperson of a general meeting at which a quorum is present:

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

## **9.7 Adjourned meeting**

The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting. Notice of the adjourned general meeting must be given if the general meeting is adjourned for one Month or longer.

## **9.8 Show of hands**

Unless a poll is demanded under clause 9.10:

- (a) a resolution put to a vote at a general meeting must be decided on a show of hands; and
- (b) a declaration by the Chairperson of the general meeting that a resolution has been carried, carried by a particular majority or lost and an entry to that effect in

the minutes of the meeting will be conclusive evidence of that fact without proof of the number or proportion of votes recorded in favour or against the resolution.

### **9.9 Decisions by Special Resolution**

A vote or resolution of Members must be passed by a Special Resolution of Members entitled to vote on the resolution unless otherwise required by this Constitution.

### **9.10 Demanding a poll**

Either before or on declaration of the result of a show of hands, a poll may be demanded by:

- (a) the Chairperson of the general meeting;
- (b) any Member entitled to vote on the resolution; or
- (c) Members with at least 5% of the votes that may be cast on the resolution on a poll.

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

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

A poll will be taken when and in the manner the Chairperson directs, except for:

- (a) a poll demanded on the election of a Chairperson; or
- (b) a poll demanded on the adjournment of a general meeting,

which must be taken immediately. The result of the poll will be the resolution of the meeting at which the poll was demanded.

### **9.12 Equal number of votes**

If an equal number of votes is cast for and against a resolution:

- (a) the Chairperson does not have a casting vote in addition to the Chairperson's vote as a Member, proxy, attorney or representative; and
- (b) the resolution is not passed.

## **10 Voting at general meetings**

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### **10.1 Number of votes**

Subject to this Constitution and any rights or restrictions imposed on or attached to a class of Membership, every Member who is Present at a general meeting and entitled to vote on a show of hands and on a poll, has one vote.

### **10.2 Objections**

An objection to the qualification of any voter:

- (a) may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote; and
- (b) must be determined by the Chairperson, whose decision, if made in good faith, will be final and conclusive.

A vote that the Chairperson does not disallow pursuant to an objection is valid for all purposes.



## **11 Proxies, attorneys and representatives**

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### **11.1 Proxies**

A Member entitled to attend and vote at a general meeting may appoint a proxy to attend and vote for the Member at the meeting. A proxy may be an individual or a body corporate.

### **11.2 Number of proxies**

A Member entitled to one vote at a general meeting may appoint one proxy. A Member entitled to more than one vote may appoint no more than two proxies.

### **11.3 Proportion of votes exercisable by proxies**

If a Member appoints two proxies, the appointment may specify the proportion or number of the Member's votes each proxy may exercise. If the appointment does not specify this, each proxy may exercise half of the votes and any fractions of votes will be disregarded.

### **11.4 Rights of proxies**

Subject to this Constitution and the proxy's terms of appointment, a proxy has the same rights as the appointing Member to speak at a general meeting, to vote and to join in and demand a poll.

### **11.5 Voting rights of proxies**

A proxy may vote either on a show of hands or a poll, unless a Member has appointed two proxies at a meeting, in which case neither may vote on a show of hands. If a proxy's appointment specifies the way in which the proxy must vote, the proxy must follow those instructions in accordance with the Corporations Act.

### **11.6 Attorneys and representatives**

A Member may:

- (a) appoint an attorney; or
- (b) if the Member is a body corporate, appoint a representative,

to act for the Member at general meetings or to appoint a proxy to act for the Member at general meetings.

### **11.7 Rights of attorneys and representatives**

Unless restricted by the terms of appointment or the Corporations Act, an attorney or representative may exercise the same powers on the Member's behalf that the Member could exercise at a general meeting or in voting on a resolution.

### **11.8 No membership requirement**

A proxy, attorney or representative may, but need not be, a Member.

### **11.9 Standing appointments**

A Member may appoint a proxy, attorney or representative to act at a particular general meeting or make a standing appointment. A Member may revoke any appointment.

### **11.10 Instrument of appointment of proxies**

Subject to clause 11.12, the instrument of appointment of a proxy must be in a written form approved by the Board and must be signed or executed:

- (a) if the appointing Member is an individual, by the appointing Member or that Member's attorney; and

- (b) if the appointing Member is a body corporate, by the body corporate in accordance with the Corporations Act or by the body corporate's duly authorised attorney or representative or Nominee.

#### **11.11 Instrument of appointment of attorneys and representatives**

Subject to clause 11.12, the instrument of appointment of an attorney or a representative must be in a written form and must:

- (a) if an individual Member appoints an attorney, consist of a valid power of attorney signed by the appointing Member in the presence of at least one witness; and
- (b) if a body corporate appoints an attorney or representative, consist of a valid power of attorney or, in the case of a representative, valid certificate of appointment executed by the appointing Member in accordance with the Corporations Act.

#### **11.12 Alternative method of appointment**

Notwithstanding clauses 11.10 and 11.11, the instrument of appointment of a proxy, attorney or representative will be valid if it is in a form and is authenticated in any manner prescribed by the Corporations Act.

#### **11.13 Company must receive appointments**

The appointment of a proxy, attorney or representative is only effective in relation to a general meeting if the Company receives the instrument effecting the appointment and any additional documents required by clause 11.15:

- (a) in the case of a proxy or attorney, at least 48 hours before the time for holding the meeting or adjourned meeting (unless the notice of meeting specifies a shorter time period); and
- (b) in the case of a representative, before the commencement of the meeting or adjourned meeting.

#### **11.14 Definition of receipt**

The Company receives the documents referred to in clause 11.13 when they are received:

- (a) at the Office;
- (b) at a fax number at the Office;
- (c) at a place, fax number or e-mail address specified in the notice of meeting; or
- (d) if the notice of meeting specifies other means by which a Member may give the documents, by those means in accordance with the Corporations Act.

#### **11.15 Additional documents**

If an appointment purports to be executed under a power of attorney or other authority, the original power or authority or a certified copy of it must be received by the Company along with the appointment.

#### **11.16 Chairperson may declare appointment valid**

If:

- (a) the instrument of appointment of a proxy, attorney or representative does not comply with the terms of this Constitution; or
- (b) the appointment and any additional documents are not received by the Company in accordance with the terms of this Constitution,

the appointment will be treated as invalid unless the Chairperson declares otherwise.

### **11.17 Adjourned meetings**

An appointment of a proxy, attorney or representative for a particular general meeting is valid at the adjourned meeting.

### **11.18 Rights of proxies and attorneys if Member present**

A proxy or attorney has no power to act for a Member at a general meeting at which the Member is present in person or, in the case of a body corporate, by representative. A proxy has no power to act for a Member at a general meeting at which the Member is present by attorney.

### **11.19 Priority of conflicting appointments**

The following rules govern conflicting appointments:

- (a) an appointment of a proxy is revoked (or suspended for the particular general meeting if a standing appointment) if the Company receives a further proxy appointment that would result in the Member having more proxies than the Member is entitled to under clause 11.2;
- (b) the proxy appointment made first in time under clause 11.19(a) is the first to be treated as revoked or suspended under that clause; and
- (c) if more than one attorney or representative appointed by a Member is present at a general meeting and the Company has not received notice of revocation of any of the appointments:
  - (i) an attorney or representative appointed to act at that particular meeting may act to the exclusion of an attorney or representative appointed under a standing appointment; and
  - (ii) subject to clause 11.19(c)(i), the more recently appointed attorney or representative may act to the exclusion of an attorney or representative appointed earlier in time.

### **11.20 Continuing authority**

A vote cast by a proxy, attorney or representative at a general meeting will be valid even if, before the vote, the appointing Member:

- (a) dies or becomes mentally incapacitated; or
- (b) revokes the appointment or the authority under which the appointment was made by a third party,

unless the Company has received written notification of the matter before the start or resumption of the meeting.

## **12 Class meetings**

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The provisions of this Constitution relating to general meetings apply, with any necessary modifications, to separate meetings of a class of Members.

## **13 Directors**

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### **13.1 Minimum and maximum number**

The Company will have at least 3 Directors and a maximum of 9 Directors, unless otherwise provided by the Corporations Act or approved by Members by a Special Resolution. Each Director will be appointed in accordance with clause 14.1(a).

### **13.2 Other positions**

A Director may simultaneously hold any other office or position in the Company on terms determined by the Board.

### **13.3 Meetings of Members**

A Director is entitled to notice of, and to attend, all general meetings and class meetings.

### **13.4 Appointment and removal by Members**

- (a) Subject to clause 13.1 and clause 13.4(b), the Company may by resolution passed in general meeting:
  - (i) appoint a person to be a Director;
  - (ii) remove a Director from office; and
  - (iii) appoint another person in a Director's place.
- (b) Any resolution of the Company pursuant to clause 13.4(a) involving the removal of a Director from office that was appointed by a Member pursuant to clause 14.1(a) does not take effect until a replacement person to represent the Member has been appointed as a Director in accordance with clause 14.1(a).

### **13.5 Casual vacancy or addition to Board**

In the event of a casual vacancy on the Board:

- (a) if an Executive Office becomes vacant, the Board may by a Special Resolution appoint another Director to the vacant office; and
- (b) if the vacancy is in relation to a Director appointed by a Member pursuant to clause 14.1, the Board must, subject to clause 14.1(b), appoint the new person nominated by the relevant Member to fill the vacant position,

and the person appointed will hold office for the remainder of the term of office of the Director whose office has become vacant and will, subject to clause 13.6, be eligible for re-appointment.

### **13.6 Term of office - Board and Executive Officers**

- (a) Subject to clauses 13.7, 14.1(c) and 14.2(d), a Director holds office for a fixed term ending at the second annual general meeting of the Company following their appointment or re-appointment as a Director (unless a shorter term is provided for in the terms of their appointment as a Director). Each Director must retire (and will be deemed to have so retired) from office at the second annual general meeting of the Company following their initial appointment or re-appointment as a Director. For the avoidance of doubt, a Director may be re-appointed as a Director in accordance with clause 14.1(a), subject to the limitations in clause 13.6(b).
- (b) Subject to clause 13.7, unless otherwise approved by Members by a Special Resolution:
  - (i) a person may only hold office as a Director for an aggregate maximum period of up to 12 years;
  - (ii) a person may only hold an Executive Office for an aggregate maximum period of up to 6 years; and
  - (iii) if a person has already held an Executive Office for the aggregate maximum period set out in clause 13.6(b)(ii), then that Director may only hold a different Executive Office for an additional aggregate period of up to 3 years.

### **13.7 Cessation of appointment**

A person automatically ceases to be a Director and to hold any Executive Office if:

- (a) the person is not permitted by the Corporations Act (or an order made under the Corporations Act) to be a Director;
- (b) the person becomes bankrupt or enters into or becomes subject to any arrangement or composition with creditors;
- (c) the person becomes mentally incapable or a person whose estate or property is liable to be dealt with in any way under any law relating to mental health;
- (d) the person resigns by notice in writing to the Company;
- (e) the person is removed from office under this Constitution;
- (f) the person is absent without permission of the Board from 3 consecutive meetings of the Board; or
- (g) the term for which the person was appointed expires.

## **14 Appointment of Directors and the Executive Officers**

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### **14.1 Appointment of Directors**

- (a) Subject to clause 14.1(b), the Members have the following Board appointment rights:
  - (i) the NSW JBOD is entitled to appoint up to 5 Directors; and
  - (ii) the COS NSW is entitled to appoint up to 4 Directors.
- (b) A person appointed by a Member as a Director must be a person of good repute and communal standing.
- (c) Subject to the provisions of this Constitution, each Member may remove and replace a Director appointed by it by written notice to the Company.
- (d) Each Member must give the Company notice of each appointment or removal of a Director together with any relevant consents to act. An appointment or removal takes effect at the time notice is given to the Company.

### **14.2 Appointment of Executive Officers**

- (a) A person holding any Executive Office must be a Director.
- (b) A person may only hold one Executive Office at any time, unless otherwise approved by a Special Resolution of the Board.
- (c) A Director may only be elected to an Executive Office by a Special Resolution of the Board.
- (d) Subject to clause 13.6 and clause 13.7, each Director elected to an Executive Office will hold that office until that Director is removed from that office by a Special Resolution of the Board.

## **15 Alternates**

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### **15.1 Appointment**

With the approval of the Board, a Director may appoint an Alternate to act in the appointing Director's place for a specified period and may terminate that appointment at any time.

## **15.2 Powers and duties**

An Alternate is entitled to the same rights and powers as a Director while acting in that capacity (including the right to receive notice of and to attend and vote at Directors' meetings) and is subject to the same duties.

## **15.3 Cessation of appointment**

An Alternate's appointment ceases if:

- (a) the appointing Director terminates it;
- (b) the appointing Director ceases to be a Director; or
- (c) an event occurs that would cause the Alternate to cease to be a Director under clause 13.7 if the Alternate were a Director.

## **15.4 Written notice**

The appointment of an Alternate or its termination by the appointing Director is only effective when it is in writing signed by the appointing Director and a copy is given to the Company.

# **16 Remuneration of Directors**

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## **16.1 Honorary**

The Directors (excluding those who are salaried employees or consultants of the Company) will be honorary. Subject to clauses 16.2 and 16.3, the Company is prohibited from paying any fees to Directors.

## **16.2 Expenses**

Subject to clause 16.3, the Company may pay Directors all reasonable travelling and other expenses properly incurred:

- (a) in attending Board meetings or any meetings of committees of Directors;
- (b) in attending any general meetings of the Company; and
- (c) in connection with the Company's business.

## **16.3 Board approval for payments**

All payments to Directors under clause 16.2 must be approved by the Board by a unanimous resolution.

# **17 Powers and duties of Directors**

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## **17.1 Management of the Company**

The business of the Company will be managed by the Board. The Board may exercise all the powers of the Company except any powers that are required by this Constitution or the Corporations Act to be exercised by the Company in general meeting.

## **17.2 Specific powers**

Without limiting the generality of clause 17.1, the Board may exercise all the powers of the Company to:

- (a) borrow money;
- (b) grant Security Interests in relation to any of the Company's property or business to secure any debt, liability or obligation of the Company or any other person;

- (c) guarantee, indemnify or otherwise become liable for the payment of money or the performance of any obligation by or of any other person;
- (d) pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of the assets acquired by the Company;
- (e) in respect of the activities of the Company regarding matters of kashrut:
  - (i) set the strategic direction and parameters within which the Company may act and take decisions, and monitor the implementation and review of such strategy and parameters;
  - (ii) operate the administration of the Company, including monitoring the performance of its employees and other personnel; and
  - (iii) determine all fees and charges payable for the services of and provided by the Company;
- (f) establish corporate governance policies and procedures (including in respect of the activities of the Company regarding matters of kashrut), and manage the compliance of such policies and procedures;
- (g) determine or modify annual budgets and otherwise manage all finances of the Company (including in respect of the activities of the Company regarding matters of kashrut), including the implementation and review of an approved budget;
- (h) open, close and otherwise operate and maintain all bank accounts of the Company; and
- (i) acquire, hold and dispose of real and personal property and any other assets, and otherwise encumber or alienate such property and assets,

on any terms determined by the Board.

### **17.3 Duties under the Corporations Act**

A Director must comply with the Corporations Act and fulfil any duties prescribed in it or otherwise required by law.

### **17.4 No disqualification**

A Director is not disqualified by reason only of being a Director from:

- (a) holding any office, place of profit or position of employment with the Company;
- (b) acting in a professional capacity for the Company;
- (c) being a member or creditor of any corporation (including the Company) or partnership; or
- (d) entering into any agreement or arrangement with the Company.

### **17.5 Disclosure of interests**

If required by the Corporations Act, a Director must disclose to the Board any material personal interest the Director has in a matter relating to the affairs of the Company. The Secretary must record details of any such disclosures in the minutes of the relevant Board meeting and in the register of disclosures of interest to be maintained by the Company.

### **17.6 Voting if Director has an interest**

If a Director discloses a material personal interest in a matter being considered at a Board meeting or the interest is not one requiring disclosure under the Corporations Act:

- (a) subject to obtaining the prior approval of the Board by Ordinary Resolution, the Director may vote on matters that relate to the interest and may be counted towards a quorum;

- (b) any transactions that relate to the interest may proceed and the Director may participate in the execution of any relevant document, both subject to the transactions being approved by the Board by Ordinary Resolution; and
- (c) if disclosure is made before the transaction is entered into and the transaction is approved by the Board by Ordinary Resolution:
  - (i) the Director may retain benefits under the transaction; and
  - (ii) the Company cannot avoid the transaction merely because of the existence of the interest.

### **17.7 Obligation of secrecy**

Every Director and other agent or officer of the Company must:

- (a) keep the transactions and affairs of the Company confidential, except:
  - (i) to the extent necessary to enable the person to perform his or her duties to the Company (which, for the avoidance of doubt, permits the person to disclose such information to the Company's employees, agents or advisers who have a need to know the information, but only to the extent they have a need to know);
  - (ii) as required by the Board or the Company in general meeting; and
  - (iii) as required by law; and
- (b) if requested by the Board, sign a confidentiality undertaking consistent with this clause 17.7.

## **18 Delegation of Directors' powers**

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### **18.1 Power to delegate**

The Board may delegate any of its powers to:

- (a) a committee of Directors;
- (b) a Director;
- (c) an employee or adviser of the Company (including, without limitation, any committee of employees or any committee or counsel of advisers); or
- (d) an attorney.

### **18.2 Terms of delegation**

A delegation of powers under clause 18.1 may be made:

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

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

### **18.3 Delegate to comply with directions**

A delegate under clause 18.1 must exercise its powers subject to any direction from the Board.

### **18.4 Board may revoke delegation**

The Board may revoke a delegation of its powers at any time.



## **19 Board meetings**

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### **19.1 Procedure**

- (a) Subject to this Constitution and the Corporations Act, the Board may meet, adjourn and otherwise regulate its meetings as it determines.
- (b) The Board may invite any other person it considers necessary or appropriate to attend and speak at any meeting but that person is not entitled to vote.
- (c) Vaad HaRabbonim Members are only entitled to attend and speak at meetings and proceedings of the Board with the prior written invitation of the Board.

### **19.2 Calling**

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

### **19.3 Notice**

Each Director must be given reasonable notice of a Board meeting or the resumption of an adjourned Board meeting. Notice may be given in any manner determined or adopted by the Board from time to time.

### **19.4 Use of technology**

A Board meeting may be held using any audio, audio-visual or other technology:

- (a) that enables the participating Directors to simultaneously hear each other and participate in discussion; or
- (b) to which all Directors have consented.

A minute certified by the chairperson of such a meeting will be conclusive evidence of the proceedings at that meeting and the observance of all necessary formalities.

### **19.5 Consent**

A Director's consent under clauses 19.3 and 19.4 may be a standing one and may only be withdrawn within a reasonable period before the meeting.

### **19.6 Quorum**

- (a) Subject to clause 19.6(b), the quorum necessary for the transaction of business at a Board meeting is 3 Directors, which must include at least one Director appointed by each of the NSW JBOD and the COS NSW, unless the Board determines a greater number by Special Resolution.
- (b) In the event that there is only one Member of the Company, a quorum consists of at least one Director appointed by that Member.
- (c) A quorum must be present for the entire meeting.

### **19.7 When a Director is treated as present**

If a Board meeting is held by audio or audio-visual technology:

- (a) a Director is treated as present if the Director is able to hear and be heard by all others attending; and
- (b) unless the Chairperson is notified that a Director is leaving the meeting, the Director will be assumed to have been present for the duration of the meeting.

If a meeting is held using any other technology consented to by all Directors, the Board must determine the basis on which Directors are treated as present.

## **19.8 Chairperson**

The President (or, in the President's absence, the Vice-President) will chair every meeting of the Board. If:

- (a) there is no President or Vice-President;
- (b) neither the President nor the Vice-President is present within 15 minutes after the time appointed for holding the meeting; or
- (c) both the President and the Vice-President are unwilling to act as chair of the meeting,

the Directors present and entitled to vote will elect a Director to act as Chairperson to chair the meeting.

## **19.9 Number of votes**

Subject to this Constitution, each Director is entitled to one vote in respect of a resolution or decision of the Board.

## **19.10 Decisions**

Unless otherwise provided in this Constitution, a resolution of the Board must be passed by a majority of votes cast by Directors entitled to vote on the resolution. If an equal number of votes is cast for and against a resolution:

- (a) the Chairperson does not have a casting vote in addition to the Chairperson's vote as a Director; and
- (b) the resolution is not passed.

## **19.11 Too few Directors**

The Directors may continue to act even if there are vacancies on the Board. If the number of Directors is reduced below the minimum required under clause 13.1, the continuing Directors may act as a Board only:

- (a) to convene a general meeting of Members; or
- (b) in emergencies.

## **19.12 Written resolutions passed by multiple Directors**

The Directors may pass a resolution without holding a Board meeting if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs.

## **19.13 Signing written resolutions**

For the purposes of clause 19.12, the Company may accept a copy of a signed document sent by facsimile or electronic means.

## **19.14 Valid proceedings**

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

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

## **20 Secretary**

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### **20.1 Appointment**

- (a) Subject to the Corporations Act, the Board must appoint a Secretary who may (but need not) be a Director. The appointment may be made for a specified period or without specifying a period and the Board may remove the Secretary from office at any time.
- (b) Notwithstanding clause 20.1(a), for the avoidance of doubt the Secretary may (but need not) be the person appointed as Honorary Secretary. In the event that the Secretary is the person appointed as Honorary Secretary, the appointment of the Secretary must be made in accordance with clause 14.2 and the provisions of that clause 14.2 and clause 13.6 regarding the term of office of the Secretary will apply in relation to the Secretary as if the term Honorary Secretary refers to the Secretary.

### **20.2 Terms**

Subject to clause 20.1(b), the appointment of a Secretary will be on the terms that the Board determines.

### **20.3 Cessation of appointment**

A person automatically ceases to be a Secretary if:

- (a) the person is not permitted by the Corporations Act (or an order made under the Corporations Act) to be a Secretary;
- (b) the person becomes bankrupt or enters into or becomes subject to any arrangement or composition with one or more of its creditors;
- (c) the person becomes mentally incapable or a person whose estate or property is liable to be dealt with in any way under any law relating to mental health;
- (d) the person resigns by notice in writing to the Company;
- (e) the person is removed from office under this Constitution;
- (f) the person is absent without permission of the Board from 3 consecutive meetings of the Board; or
- (g) the term for which the person was appointed expires.

## **21 Minutes**

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### **21.1 Board must keep minutes**

The Board must cause minutes to be kept of:

- (a) the proceedings and resolutions of meetings of Members, Directors and committees of Directors;
- (b) the names of Directors present at each meeting of Directors or committees of Directors;
- (c) any resolutions passed by Members or Directors without a meeting;
- (d) any disclosures or notices of Directors' interests; and
- (e) any other matters for which the Corporations Act requires minutes to be kept.

### **21.2 Minutes must be signed**

Minutes must be signed in accordance with the Corporations Act. Minutes of a meeting must be signed within a reasonable time after the meeting by:

- (a) the person acting as Chairperson of that meeting; or
- (b) the person acting as Chairperson of the next meeting.

### **21.3 Minutes as evidence**

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

### **21.4 Access to minutes**

The Company must ensure that the minute books for meetings of Members and for resolutions passed by Members without meetings are open for inspection by Members free of charge.

## **22 Vaad HaRabbonim**

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### **22.1 Appointment of Vaad HaRabbonim Members**

- (a) The Vaad HaRabbonim will have at least 5 Vaad HaRabbonim Members and a maximum of 11 Vaad HaRabbonim Members, unless otherwise approved by Members by a Special Resolution. Each Vaad HaRabbonim Member will be appointed in accordance with clause 22.1(b).
- (b) Subject to clause 22.1(c), each of the COS NSW and the Vaad HaRabbonim have the following rights to appoint Vaad HaRabbonim Members:
  - (i) the COS NSW is entitled to initially appoint up to 5 Vaad HaRabbonim Members; and
  - (ii) the Vaad HaRabbonim (once established) is then entitled to appoint up to 6 Vaad HaRabbonim Members.
- (c) A person appointed as a Vaad HaRabbonim Member must be:
  - (i) ordained as an orthodox Rabbi; and
  - (ii) of good repute and communal standing who will act in good faith in the best interests of the Company.
- (d) Subject to the provisions of this Constitution, each of the COS NSW and the Vaad HaRabbonim may at any time remove and replace a Vaad HaRabbonim Member appointed by it by prior written notice to the Company.
- (e) Each of the COS NSW and the Vaad HaRabbonim must give the Company and each other notice of each appointment, re-appointment or removal of a Vaad HaRabbonim Member. An appointment or removal takes effect at the time notice is given to the Company.

### **22.2 Term of office of Vaad HaRabbonim Members**

- (a) Subject to clauses 22.1(d), 22.2(b) and 22.6, a Vaad HaRabbonim Member holds office for a term of 2 years (unless a shorter term is provided for in the terms of their appointment (if any) as a Vaad HaRabbonim Member).
- (b) Each Vaad HaRabbonim Member must retire (and will be deemed to have so retired) from office no later than 2 years following their initial appointment or last appointment as a Vaad HaRabbonim Member, but may be re-appointed as a Vaad HaRabbonim Member in accordance with clause 22.1(b).

### **22.3 Halachic matters**

- (a) Notwithstanding any other provision of this Constitution (except for clause 22.3(b)), but at all times subject to any applicable law or any obligations at law:

- (i) subject to clause 22.3(a)(ii), the Vaad HaRabbonim shall be solely responsible for all matters of Halacha relating to the activities of the Company; and
  - (ii) the Directors shall be responsible for the day to day administration and operation of the Company and its related activities, finances and operational requirements (and all other matters set out in this Constitution and as otherwise required by law).
- (b) In the event of any dispute (“**Jurisdiction Dispute**”) as to whether a particular matter is the responsibility and jurisdiction of the Board or the Vaad HaRabbonim under clause 22.3(a):
- (i) the provisions of clause 23 will apply; and
  - (ii) the Board and the Vaad HaRabbonim (and each individual Board Member and Vaad HaRabbonim Member) must comply with and shall be bound by the provisions of clause 23.

#### **22.4 Meetings of the Vaad HaRabbonim**

- (a) Subject to clause 22.4(b), the Vaad HaRabbonim is free to determine the rules that regulate its meetings and proceedings.
- (b) The Vaad HaRabbonim must cause minutes to be kept of:
- (i) the proceedings and resolutions of its meetings;
  - (ii) the names of Vaad HaRabbonim Members present at each of its meetings; and
  - (iii) any resolutions passed by Vaad HaRabbonim Members without a meeting.
- (c) Members and Directors are only entitled to attend and speak at meetings and proceedings of the Vaad HaRabbonim with the prior written invitation of the Vaad HaRabbonim.
- (d) The Board is entitled to receive a copy of any and all minutes of the proceedings and resolutions of the meetings of the Vaad HaRabbonim upon its written request.

#### **22.5 Remuneration of Vaad HaRabbonim Members**

- (a) Unless approved by the Board by a Special Resolution, each Vaad HaRabbonim Member (excluding those who are salaried employees of the Company) will be honorary.
- (b) Subject to clause 22.5(c), the Company may pay Vaad HaRabbonim Members all reasonable travelling and other expenses properly incurred:
- (i) in attending Vaad HaRabbonim meetings; and
  - (ii) in connection with the Company’s business.
- (c) All payments to Vaad HaRabbonim Members under clause 22.5(b) or otherwise must be approved by the Board by a Special Resolution.

#### **22.6 Removal of Vaad HaRabbonim Members**

A person automatically ceases to be a Vaad HaRabbonim Member if:

- (a) the person would not be permitted by the Corporations Act (or an order made under the Corporations Act) to be a director of a company;
- (b) the person becomes bankrupt or enters into or becomes subject to any arrangement or composition with creditors;

- (c) the person becomes mentally incapable or a person whose estate or property is liable to be dealt with in any way under any law relating to mental health;
- (d) the person consistently fails to attend to their duties;
- (e) the person fails to comply with any of the material rules, regulations or by-laws of the Company (including the terms of this Constitution);
- (f) the person engages in serious misconduct or is guilty of any conduct which is unbecoming of a person appointed as a Vaad HaRabbonim Member or prejudicial to the interests of the Company or its Members;
- (g) the person is no longer considered to be:
  - (i) a person of good repute and communal standing; and/or
  - (ii) acting in good faith in the best interests of the Company, as determined by the Board by Ordinary Resolution;
- (h) mental or physical incapacity renders the person unable to perform their duties for a period in excess of 3 Months;
- (i) the person is removed from office under this Constitution;
- (j) the person resigns by notice in writing to the Company and the Vaad HaRabbonim; or
- (k) the term for which the person was appointed expires.

## **22.7 Appointment of Rabbinical Administrator**

- (a) If the Board decides to employ or engage a person on a full or part time basis to undertake the position of Rabbinical Administrator, the Board must appoint such person as recommended by the Vaad HaRabbonim to the Board by notice in writing.
- (b) The appointment of the Rabbinical Administrator will be on such terms as the Board determines together with the Vaad HaRabbonim.
- (c) Subject to clause 22.6, the Board may only remove a person appointed as Rabbinical Administrator from their position by:
  - (i) a Special Resolution of the Board; and
  - (ii) with the prior written consent of the Vaad HaRabbonim,
 unless:
  - (iii) the right exists pursuant to the Rabbinical Administrator's employment contract or other similar agreement; or
  - (iv) the Board or Company is entitled to do so in accordance with any law; or
  - (v) the Rabbinical Administrator materially breaches a term of their appointment or otherwise engages in serious misconduct or is guilty of any conduct which is unbecoming of a person appointed as Rabbinical Administrator or prejudicial to the interests of the Company or its Members.
- (d) A person appointed as the Rabbinical Administrator, will, from their date of appointment, also be appointed as a Vaad HaRabbonim Member. Such appointment will be deemed to have been made by the Vaad HaRabbonim in accordance with its Vaad HaRabbonim appointment rights under clause 22.1(b) (and the Vaad HaRabbonim must do all things necessary, including if required, removing an existing representative of theirs, to give full effect to this clause).

## 22.8 Disclosure of interests

- (a) During the term of their appointment, each Vaad HaRabbonim Member must disclose to the Vaad HaRabbonim and the Company any material personal interest the person has in a matter relating to the affairs of the Company. The Secretary must record details of any such disclosures in the register of disclosures of interest to be maintained by the Company.
- (b) If a Vaad HaRabbonim Member has or is perceived to have a conflict of interest in a matter relating to the affairs of the Company, that person must not be involved in the relevant matter unless permitted to do so by Halacha and all of the parties affected by the relevant matter have consented in writing to that person's involvement.

## 22.9 Confidentiality

- (a) Each Vaad HaRabbonim Member must:
- (b) keep the transactions and affairs of the Company confidential, except:
  - (i) to the extent necessary to enable the person to perform his or her duties to the Company;
  - (ii) as required by the Board or the Company in general meeting; and
  - (iii) as required by law; and
- (c) if requested by the Board, sign a confidentiality undertaking consistent with this clause 22.9.

## 22.10 Meetings of the Board and the Vaad HaRabbonim

- (a) The Board will, on an annual basis, convene a meeting, inviting all Vaad HaRabbonim Members and Directors to attend, at which meeting the persons present shall provide their views on:
  - (i) the effectiveness of the Company in meeting its objectives;
  - (ii) the possible ways to improve the operations of the Company; and
  - (iii) any other matter of concern to any Vaad HaRabbonim Member or Director regarding the Company and its administration or activities.
- (b) Both the Board and the Vaad HaRabbonim may at any time, by giving each Director or Vaad HaRabbonim Member (as applicable) reasonable notice, convene a meeting requiring all Vaad HaRabbonim Members and Directors to attend to discuss any matter of the Company that is of material concern to the Board or the Vaad HaRabbonim (as applicable).

## 23 Jurisdiction Dispute

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### 23.1 No arbitration or court proceedings

- (a) The provisions of this clause 23 will only apply to a Jurisdiction Dispute.
- (b) If a Jurisdiction Dispute arises, each party to the Jurisdiction Dispute ("**Disputant**"):
  - (i) must comply with this clause 23; and
  - (ii) is prohibited from starting arbitration or court proceedings (except proceedings seeking interlocutory relief) unless it has first complied with this clause 23.

### **23.2 Notice**

A party claiming that a Jurisdiction Dispute has arisen must promptly notify each other Disputant in writing giving details of the Jurisdiction Dispute and its proposal for a resolution.

### **23.3 Initial Period**

For a 14 day period after a notice is given ("**Initial Period**") each Disputant must use all reasonable endeavours to resolve the Jurisdiction Dispute and an authorised representative of each Disputant will meet within the first 7 days of that period with that aim.

### **23.4 Appointment of Foreign Beth Din**

If the Jurisdiction Dispute remains unresolved at the end of the Initial Period, each Disputant must within 5 Business Days after the end of the Initial Period refer the Jurisdiction Dispute for determination to:

- (a) the Foreign Beth Din approved by the Disputants; or
- (b) if the Disputants have not agreed on which Foreign Beth Din will determine the Jurisdiction Dispute within 5 Business Days after the end of the Initial Period, the Foreign Beth Din approved by the Board.

### **23.5 Role of Foreign Beth Din**

- (a) The Foreign Beth Din will act as an expert and not as an arbitrator. The rules of evidence will not apply to the determination process, unless the Foreign Beth Din's usual procedures require otherwise. The Foreign Beth Din may use such procedures and rules as it deems necessary or desirable to sufficiently determine the Jurisdiction Dispute.
- (b) Unless the Foreign Beth Din's usual procedures require otherwise, the Foreign Beth Din must, by a majority decision, make a determination in respect of the Dispute as soon as practicable and in any event within 30 days after the Jurisdiction Dispute is referred to the Foreign Beth Din in accordance with clause 23.4.
- (c) The decision of the Foreign Beth Din in accordance with this clause 23 will be final and binding on all Disputants in the absence of manifest error.

### **23.6 Timeframe**

Each Disputant must use its best endeavours to ensure that the Foreign Beth Din makes a determination as soon as practicable and in any event within the time period set out in clause 23.5(b), including, but not limited to, providing the Foreign Beth Din with all relevant information relevant to the Jurisdiction Dispute as requested.

### **23.7 Confidentiality**

Any information or documents disclosed by a Disputant under this clause must be kept confidential and may not be used except to attempt to resolve the Jurisdiction Dispute.

### **23.8 Costs**

The Company must bear the reasonable costs incurred by each Disputant in complying with this clause 23 (including any costs of the Foreign Beth Din), unless the decision of the Foreign Beth Din states otherwise.

### **23.9 Breach of this clause**

If, in relation to a Jurisdiction Dispute, a Disputant breaches any provision of clauses 23.1 to 23.8, each other Disputant need not comply with those clauses in relation to that Jurisdiction Dispute.



## **24 Seal and execution of documents**

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### **24.1 Common seal**

The Board may decide whether or not the Company has a common seal. The Board is responsible for the safe custody of a common seal and any duplicate seals.

### **24.2 Use of seals**

A common seal or duplicate seal may only be used with the authority of the Board.

### **24.3 Executing documents**

Every document to which a common seal or duplicate seal is affixed must be signed by:

- (a) two Directors or a Director and a Secretary; or
- (b) any other person or combination of persons appointed by the Board to attest to the fixing of the seal.

If a document is not required at law to be executed under seal, it will be binding on the Company if signed by two Directors or a Director and a Secretary or some other person or combination of persons appointed by the Board for that purpose.

## **25 Accounts and records**

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### **25.1 Obligations**

The Company must keep written financial records in accordance with the Corporations Act and prepare any reports required by the Corporations Act.

### **25.2 Inspection**

A constituent member of a Member may, free of charge, inspect the following records of the Company during normal business hours:

- (a) the Company's financial records and audited financial statements; and
- (b) the register of disclosure of interests to be maintained by the Company.

## **26 Audit**

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The Board must appoint an auditor unless the Members at a general meeting have appointed an auditor or unless otherwise required or permitted by the Corporations Act.

## **27 Amending the Constitution**

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The Constitution of the Company may only be amended by Members by a Special Resolution.

## **28 Notices**

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### **28.1 Method**

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

- (a) in writing;
- (b) signed by a person duly authorised by the Company (by original or printed signature) or, where transmitted by e-mail, sent by a person duly authorised by the Company;

- (c) directed to the intended recipient's registered address (or an alternative address nominated by the intended recipient); and
- (d) either:
  - (i) hand delivered;
  - (ii) sent by prepaid post; or
  - (iii) transmitted by e-mail or facsimile to an e-mail address or fax number nominated by the intended recipient.

## **28.2 Receipt**

A notice given in accordance with clause 28.1 is taken as having been given and received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post:
  - (i) within Australia, on the second business day after the date of posting;
  - (ii) to or from a place outside Australia, on the seventh business day after the date of posting;
- (c) if transmitted by e-mail, on transmission; or
- (d) if transmitted by facsimile, at the time recorded on the transmission report indicating successful transmission of the entire notice,

but if the delivery or transmission is not on a business day or is after 5.00pm (recipient's time) on a business day, the notice is taken to be received at 9.00am (recipient's time) on the next business day.

## **28.3 Evidence of service**

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

## **29 Winding up**

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### **29.1 Distribution of Company's assets**

On the winding up or deregistration of the Company, any surplus assets of the Company after satisfaction of all debts and liabilities of the Company must be paid, distributed or transferred to:

- (a) one or more Eligible Charities; or
- (b) to the extent required or permitted by the Tax Act, funds, charitable at law, which comply with the requirements of item 2 of the table in section 30-15 of the Tax Act.

### **29.2 Distribution of Gift Fund assets**

If clause 4 applies, on the winding up or dissolution of the Gift Fund, the remaining money or property (if any) forming part of the Gift Fund must be transferred to one or more Eligible Charities.

### **29.3 Conditions of distribution to Eligible Charities**

Where gifts to an Eligible Charity are deductible only if, among other things, the conditions set out in the relevant table item in subdivision 30-B of the Tax Act are satisfied, a transfer under this clause 29 must be made in accordance with those conditions.

#### **29.4 Identity of Eligible Charities**

The identity of an Eligible Charity for the purposes of this clause 29 will be determined by the Board at or before the time of winding up or deregistration of the Company or the Company ceasing to be a fund under item 1 of the table contained in section 30-15 of the Tax Act and (where applicable) approved by a Commissioner and, in default, will be determined by the Supreme Court of New South Wales.

### **30 Indemnity and insurance**

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#### **30.1 Indemnity and insurance**

Subject to and to the maximum extent permitted under the law, the Company:

- (a) indemnifies each of its officers; and
- (b) may enter into and pay premiums on a contract insuring any of its officers, against any liability incurred by an officer in that capacity, including any legal costs incurred in defending an action for such a liability.

#### **30.2 Survival of indemnity**

The indemnity in clause 30.1 will continue notwithstanding that an officer ceases to be an officer of the Company.

#### **30.3 Indemnity and insurance subject to law**

For the avoidance of doubt:

- (a) the indemnity in clause 30.1 does not apply so as to indemnify an officer from any liability for which the Company is prohibited from indemnifying the officer under the Corporations Act; and
- (b) the Company may not insure an officer against any liability for which the Company is prohibited from indemnifying the officer under the Corporations Act.