

NEW COMPANY CONSTITUTION PTY LTD

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CONSTITUTION

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GENERAL OVERVIEW

- A. The name of the Company is NEW COMPANY CONSTITUTION PTY LTD.
- B. The liability of the members of NEW COMPANY CONSTITUTION PTY LTD is limited to any amount owing on their shares.
- C. NEW COMPANY CONSTITUTION PTY LTD must have at least 1 member at all times.
- D. The maximum number of members NEW COMPANY CONSTITUTION PTY LTD can have is 50.
- E. NEW COMPANY CONSTITUTION PTY LTD is prohibited from engaging in any activity that would require a disclosure document to be lodged under Chapter 6D of the Corporations Act.
- F. This Constitution replaces the Replaceable Rules in the Corporations Act.
- G. If a word used in this Constitution is defined in the Corporations Act, this Constitution adopts the definition of that word in the Corporations Act.
- H. In the event of any inconsistencies, the Corporations Act is to prevail over this Constitution.

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1.1 Powers of directors

The business of a company is to be managed by or under the direction of the directors.

The directors may exercise all the powers of the company, except those that requires the company to exercise in general meeting.

Powers of directors include but are not limited to:

- borrow money;
- issue shares;
- issue debentures.

1.2 Negotiable instruments

Any 2 directors of a company, or the director of a company (in the case where there is only one director in the company) may sign, draw, accept, endorse or otherwise execute a bill of exchange, promissory note, letter of credit, cheque of any other negotiable instrument.

The directors may determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

1.3 Appointment of managing director

The directors of a company may appoint 1 or more of themselves to the office of managing director of the company for the period, and on the terms (including as to remuneration), as the directors see fit.

1.4 Powers of managing director

The directors of a company may confer on a managing director any of the powers that the directors can exercise.

The directors may revoke or vary a conferral of powers on the managing director.

1.5 Appointment of director

A company may appoint a person as a director by resolution passed in general meeting.

1.6 Directors may appoint other directors

Subject to the majority of the directors' approval, the directors of a company may appoint a person as a director. A person can be appointed as a director in order to make up a quorum for a directors' meeting even if the total number of directors of the company is not enough to make up that quorum.

If a person is appointed under this section as a director of a proprietary company, the company must confirm the appointment by resolution within 2 months after the appointment is made. If the appointment is not confirmed, the person ceases to be a director of the company at the end of those 2 months.

1.7 Appointment of alternate directors

Subject to the majority of the directors' approval, a director may appoint an alternate to exercise some or all of the director's powers for a specified period.

The appointment of an alternate director has to be made in writing, with a copy provided to the company.

The termination of an appointment must also be made in writing, with a copy provided to the company.

1.8 Powers of alternate director

An alternate director has all the powers and rights as the appointing director. When an alternate exercises the director's powers, the exercise of the powers is just as effective as if the powers were exercised by the appointing director.

1.9 Remuneration of directors

The directors of a company are to be paid the remuneration that the company determines by resolution. In addition, the directors can be paid or reimbursed:

- travelling expenses
- other expenses that they properly incur in attending directors' meetings or any meetings of committees of directors
- other expenses that they properly incur in attending any general meetings of the company
- other expenses that they properly incurred in connection with the company's business.

1.10 Resignation of a director

A director of a company may resign as a director of the company by giving a written notice of resignation to the company at its registered office.

1.11 Removal of a director

A director can be removed by the passing of a resolution by the Company.

1.12 Termination of appointment of managing director

A managing director ceases to hold office when he ceases to be a director.

The directors may revoke or vary an appointment of a managing director.

1.13 Disclosure of an interest

As required by the Corporations Act, a director of a company who has a material personal interest in a matter that relates to the affairs of the company must give the other directors notice of the interest.

2.1 Directors to appoint company secretary

The directors may appoint a company secretary on the terms and conditions determined by the directors.

The directors determine the company secretary's remuneration.

2.2 Removal and resignation of auditors

If an auditor of a company has been appointed, the auditor may only be removed from office by resolution of the company at a general meeting.

For the purposes of this clause, the notice of intention to move the resolution must be given to the company at least 2 months before the meeting is to be held.

If the company calls a meeting after the notice of intention is given, the meeting may pass the resolution even though the meeting is held less than 2 months after the notice of intention is given.

Despite other clauses in this Constitution, short notice of the meeting cannot be given for this resolution.

Where notice of intention to move the resolution to remove an auditor is received by a company, the company must send a copy of the notice to the auditor and lodge a copy of the notice with ASIC as soon as possible.

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3.1 Member may inspect books

The directors of a company, or the company by a resolution passed at a general meeting, may authorise a member to inspect books of the company.

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4.1 Minutes of meetings

The company must keep minute books in which it records within 1 month:

- proceedings and resolutions of meetings of the company's members
- proceedings and resolutions of directors' meetings (including meetings of a committee of directors)
- resolutions passed by members without a meeting
- resolutions passed by directors without a meeting
- if the company is a proprietary company with only 1 director--the making of declarations by the director.

The company must ensure that minutes of a meeting are signed within a reasonable time after the meeting by either the chair of the meeting or the chair of the next meeting.

The company must ensure that minutes of the passing of a resolution without a meeting are signed by a director within a reasonable time after the resolution is passed.

If the company only has 1 director, the director of the company must sign the minutes of the making of a declaration by him within a reasonable time after the declaration is made.

Minute books must be kept at one of the following venues:

- its registered office
- its principal place of business in this jurisdiction
- another place in this jurisdiction approved by ASIC

4.2 Circulating resolutions

If there is more than 1 director in the company, the directors may pass a resolution without a directors' meeting being held 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.

Passage of a resolution by circular must be recorded in the company's minute books in accordance with clause 4.1 and the Corporations Act.

Resolution by circular cannot be made for the removal of an auditor pursuant to s 329 of the Corporations Act.

4.3 Restrictions of resolutions by circular

Circulating resolutions cannot be used for a resolution to remove a director or to appoint a director to replace a director who has been removed.

4.4 Calling director's meetings

A directors' meeting may be called by a director giving reasonable notice individually to every other director.

A director who has appointed an alternate director may ask for the notice to be sent to the alternate director.

4.5 Chairing director's meetings

The directors may elect a director to chair their meetings. The directors may determine the period for which the director is to be the chair.

The directors must elect a director present to chair a meeting, or part of it, if:

- a director has not already been elected to chair the meeting; or
- a previously elected chair is not available or declines to act, for the meeting or the part of the meeting.

4.6 Quorum

Unless the directors determine otherwise, the quorum for a directors' meeting is 2 directors and the quorum must be present at all times during the meeting. No resolutions must be passed unless a quorum is present.

If the company only has 1 director, the director may pass a resolution by recording it and signing the record.

If the company only has 1 director, the director may make a declaration by recording it and signing the record.

The passage of a resolution or the making of a declaration must be recorded in the company's minutes book in accordance with clause 4.1 and the Corporations Act.

4.7 Passing of directors' resolutions

A resolution of the directors must be passed by a majority of the votes cast by directors entitled to vote on the resolution.

The chair has a casting vote if necessary in addition to any vote they have in their capacity as a director.

The chair may be precluded from voting, for example, by a conflict of interest.

4.8 Director may vote despite interest

If the Director has complied with clause 1.13 and the Corporations Act in relation to disclosing his material personal interest, he may vote on matters that relate to the interest, and any transactions that relate to the interest may proceed.

If a disclosure is given after the transaction has been entered into, the director may retain benefits under the transaction even though the director has the interest, and the company cannot avoid the transaction merely because of the existence of the interest.

5.1 Calling of meetings of members by a director

A director may call a meeting of the company's members.

5.2 Notice of meetings of members

Written notice of a meeting of a company's members must be given individually to each member entitled to vote at the meeting and to each director.

Notice need only be given to 1 member of a joint membership.

Notice to joint members must be given to the joint member named first in the register of members.

Notice may be given in the following ways:

- personally
- by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member
- by sending it to the fax number or electronic address (if any) nominated by the member
- by sending it to the member by other electronic means (if any) nominated by the member; or

5.3 Notice by post or fax

A notice of meeting sent by post is taken to be given 3 days after it is posted.

A notice of meeting sent by fax, or other electronic means, is taken to be given on the business day after it is sent.

5.4 Amount of notice of meetings

At least 21 days notice must be given of a meeting of a company's members, unless consent is given for shorter notice in accordance with the Corporations Act.

5.5 Contents of notice of meetings

A notice of a meeting of a company's members must contain each of the following:

- the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this)
- the general nature of the meeting's business
- if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution
- if a member is entitled to appoint a proxy, contain a statement setting out:
 1. that the member has a right to appoint a proxy
 2. whether or not the proxy needs to be a member of the company
 3. that a member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise

5.6 Notice of adjourned meetings

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.

5.7 Quorum

The quorum for a meeting of the company's members is 2 members and the quorum must be present at all times during the meeting. No resolutions must be passed unless a quorum is present.

In determining whether a quorum is present, individuals attending as proxies or body corporate representatives are counted. However, if a member has appointed more than 1 proxy or representative, only 1 of them is counted. If an individual is attending both as a member and as a proxy or body corporate representative, he is only counted once.

If the company only has 1 member, the member may pass a resolution by recording it and signing the record. Passage of such resolution must be recorded in the company's minute books.

If a meeting of the company's members is convened by a member or members, and a quorum is not present within 30 minutes after the specified time for the general meeting, the meeting is automatically abandoned.

If a meeting of the company's members is convened by a director or directors, and a quorum is not present within 30 minutes after the specified time for the general meeting, the meeting is automatically adjourned to the date, time and place the directors specify. If the directors do not specify:

- the date, the date is adjourned to the same day in the next week
- the time, the time is the same time
- the place, the place is the same place

If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

5.8 Chairing meetings of members

The directors may elect an individual to chair meetings of the company's members. The directors at a meeting of the company's members must elect an individual present to chair the meeting (or part of it) if an individual has not already been elected by the directors to chair it or, having been elected, is not available to chair it, or declines to act, for the meeting (or part of the meeting).

The members at a meeting of the company's members must elect a member present to chair the meeting (or part of it) if:

- a chair has not previously been elected by the directors to chair the meeting; or
- a previously elected chair is not available, or declines to act, for the meeting (or part of the meeting).

5.9 Adjourned meetings

The chair must adjourn a meeting of the company's members if the members present with a majority of votes at the meeting agree or direct that the chair must do so.

A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

Only unfinished business is to be transacted at a meeting resumed after an adjournment

6.1 Appointment of proxy

A member of a company who is entitled to attend and cast a vote at a meeting of the company's members may appoint a person as the member's proxy to attend and vote for the member at the meeting.

The person appointed as the member's proxy may be an individual or a body corporate.

The appointment may specify the proportion or number of votes that the proxy may exercise.

Each member may appoint a proxy. If the member is entitled to cast 2 or more votes at the meeting, they may appoint 2 proxies. If the member appoints 2 proxies and the appointment does not specify the proportion or number of the member's votes each proxy may exercise, each proxy may exercise half of the votes.

Any fractions of votes resulting from an application of the above is to be disregarded.

6.2 Rights of proxies

A proxy appointed to attend and vote for a member has the same rights as the member:

- to speak at the meeting
- to vote (but only to the extent allowed by the appointment)
- join in a demand for a poll.

A proxy's authority to vote is suspended while the member is present at the meeting

6.3 Validity of proxy vote

A proxy who is not entitled to vote on a resolution as a member may vote as a proxy for another member who can vote if their appointment specifies the way they are to vote on the resolution and they vote that way.

Unless the company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if any of the following occurs before the proxy votes:

- the appointing member dies
- the member is mentally incapacitated
- the member revokes the proxy's appointment
- the member revokes the authority under which the proxy was appointed by a third party
- the member transfers the share in respect of which the proxy was given

6.4 How many votes a member has

Subject to any rights or restrictions attached to any class of shares, at a meeting of members of a company with a share capital:

- on a show of hands, each member has 1 vote
- on a poll, each member has 1 vote for each share they hold

The chair has a casting vote, in addition to any vote they may have if they are a member, in their capacity as a member.

6.5 Jointly held shares

If a share is held jointly and more than 1 member votes in respect of that share, only the vote of the member whose name appears first in the register of members counts.

6.6 Objections to right to vote

A challenge to a right to vote at a meeting of a company's members may only be made at the meeting.

Such challenge must be determined by the chair, whose decision is final.

6.7 How voting is carried out

Before a vote is taken, the chair must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.

A resolution put to the vote at a meeting of a company's members must be decided on a show of hands unless a poll is demanded.

On a show of hands, a declaration by the chair is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against.

Even though the chair's declaration is conclusive of the voting results, the members present may demand a poll.

6.8 Polls must be taken in certain situation

At a meeting of a company's members, a poll may be demanded by:

- at least 5 members entitled to vote on the resolution
- members with at least 5% of the votes that may be cast on the resolution on a poll
- the chair

The percentage of votes that members have is to be worked out as at the midnight before the poll is demanded.

The poll may be demanded:

- before a vote is taken
- before the voting results on a show of hands are declared
- immediately after the voting results on a show of hands are declared

6.9 Polls must be taken in a certain way

A poll demanded on a matter other than the election of a chair or the question of an adjournment must be taken when and in the manner the chair directs.

A poll on the election of a chair or on the question of an adjournment must be taken immediately.

7.1 Power to issue shares

The directors may issue shares in the company at any time, on any conditions they think fit subject to the Corporations Act. In doing so, they must preserve special rights conferred on shareholders of existing shares.

The shares issued by the directors must be of a class described in Schedule A of this Constitution.

7.2 Power to issue redeemable or non-redeemable preference shares

Subject to the Corporations Act, and without limiting clause 7.1, the directors have power to issue redeemable and/or non-redeemable preference shares.

7.3 Issue price

The directors may determine the price of any shares they issue.

7.4 Preference shares

A preference shareholder has a right to a fixed cumulative dividend at a rate determined by the directors at the date of issue.

A preference shareholder's right to a fixed cumulative dividend is in preference to ordinary shareholders.

If the company is wound up, a preference shareholder cannot participate in the distribution of the company's surplus assets beyond their entitled dividends in arrears (if any).

7.5 Redemption of redeemable preference shares

Redeemable preference shares can only be redeemed in accordance with the Corporations Act.

7.6 Pre-emptive rights

Before issuing shares of a particular class, the directors of a proprietary company must offer them to the existing holders of shares of that class. As far as practicable, the number of shares offered to each shareholder must be in proportion to the number of shares of that class that they already hold.

To make the offer, the directors must give the shareholders a statement setting out the terms of the offer, including:

- the number of shares offered; and
- the period for which it will remain open.

The directors may issue shares not taken up under the offer above as they deem fit.

The company may by resolution passed at a general meeting authorise the directors to make a particular issue of shares without first offering the shares to the existing holders of shares of that class.

7.7 Dividend rights

Subject to the terms on which shares in a proprietary company are on issue, the directors may pay dividends as they see fit.

7.8 Payment of dividends

The directors may determine that a dividend is payable.

If the directors so decide, they can fix:

- the amount
- the time for payment
- the method of payment

Without limiting the above, the methods of payment may include the payment of cash, the issue of shares, the grant of options and the transfer of assets.

Interest is not payable on a dividend.

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8.1 Member to offer to the company prior to selling existing shares

A shareholder who wishes to dispose of his existing shares must first offer to sell the shares to the company in writing.

On notification, the company must circulate the offer to sell the shares to the directors and existing shareholders at market price.

The offer must specify:

- the number of shares available
- the market price
- the period for which the offer will remain open

After the specified period, the shareholder may sell any shares not taken up under the offer as he deems fit.

The company may by resolution passed at a general meeting authorise the shareholder to sell the shares without first offering the shares to the company.

8.2 Transmission of shares on death

Shares not held jointly

If a shareholder who does not own shares jointly dies, the company will recognise only the personal representative of the deceased shareholder as being entitled to the deceased shareholder's interest in the shares.

If the personal representative gives the directors the information they reasonably require to establish the representative's entitlement to be registered as holder of the shares, the personal representative may do either of the following:

- by giving a written and signed notice to the company, elect to be registered as the holder of the shares
- by giving a completed transfer form to the company, transfer the shares to another person

In addition to the above, the personal representative is entitled, whether or not registered as the holder of the shares, to the same rights as the deceased shareholder.

Once an election above is received, the company must register the personal representative as the holder of the shares.

A transfer above is subject to the same rules that apply to other transfers

generally. Shares held jointly

If a shareholder who owns shares jointly dies, the company will recognise only the survivor as being entitled to the deceased shareholder's interest in the shares. The estate of the deceased shareholder is not released from any liability in respect of the shares.

8.3 Transmission of shares on bankruptcy

If a person entitled to shares because of the bankruptcy of a shareholder gives the directors the information they reasonably require to establish the person's entitlement to be registered as holder of the shares, the person may do either of the following:

- by giving a written and signed notice to the company, elect to be registered as the holder of the shares
- by giving a completed transfer form to the company, transfer the shares to another person

Once an election above is received, the company must register the person as the holder of the shares.

A transfer above is subject to the same rules that apply to other transfers generally.

This clause has effect subject to the Bankruptcy Act.

8.4 Transmission of shares on mental incapacity

If a person entitled to shares because of the mental incapacity of a shareholder gives the directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares, the person may do either of the following:

- by giving a written and signed notice to the company, elect to be registered as the holder of the shares
- by giving a completed transfer form to the company, transfer the shares to another person

In addition to the above, the person is entitled, whether or not registered as the holder of the shares, to the same rights as the shareholder.

Once an election above is received, the company must register the person as the holder of the shares.

A transfer above is subject to the same rules that apply to other transfers generally.

8.5 Registration of transfers

A person transferring shares remains the holder of the shares until the transfer is registered and the name of the person to whom they are being transferred is entered in the register of members in respect of the shares.

The directors are not required to register a transfer of shares in the company unless:

- the transfer and any share certificate have been lodged at the company's registered office; and
- any fee payable on registration of the transfer has been paid; and
- the directors have been given any further information they reasonably require to establish the right of the person transferring the shares to make the transfer.

The directors may refuse to register a transfer of shares in the company if the shares are not fully-paid, or the company has a lien on the shares.

The directors may suspend registration of transfers of shares in the company at the times and for the periods they determine. The periods of suspension must not exceed 30 days in any one calendar year.

8.6 Directors' discretion to register transfers

The directors of a proprietary company may refuse to register a transfer of shares in the company for any reason.

The company may make one or more loans to a member pursuant to Division 7A of the Income Assessment Act 1936.

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SCHEDULE A - SHARE CLASS

Share Class	Right to receive notice & attend meetings	Exercise voting power at meetings	Receive dividends	Upon winding up - repayment of capital	Upon winding up - distribution of surplus assets
Ordinary	✓	✓	✓	✓	✓
A	✓	✓	✓	✓	✓
B	✓	✓	✓	✓	✓
C	✓				
D	✓	✓			
E	✓	✓	✓		
F	✓	✓	✓	✓	
G			✓	✓	✓
H				✓	✓
I			✓		✓
J			✓	✓	
K			✓		
L				✓	
M					✓
Redeemable Preference	✓*	✓*	✓*	✓*	✓*

✓* - Rights are only available in one or more of the following circumstances:

- When there is a proposal that affects rights attached to the shares.
- When there is a proposal for a reduction in capital.
- During a period in which a dividend (or part of a dividend) in respect of the shares is in arrears.
- When a resolution is to be made to approve the terms of a buy back agreement.
- When there is a proposal to wind up the company.
- When there is a proposal to dispose of all the company's property, business and undertaking.

SCHEDULE B - PROXY FORM

PROXY FORM

NEW COMPANY CONSTITUTION PTY LTD

ACN ????????

PLACE OF MEETING:

DATE OF MEETING:

TIME OF MEETING:

I, _____, am a member of NEW COMPANY CONSTITUTION PTY LTD, A.C.N. ????????. I appoint the following person/persons to be my proxy/proxies to vote on my behalf at the above meeting (and any adjournments).

NAME OF PROXY:

ADDRESS:

In the event that the above person is unable to act, I appoint the following alternate person/persons to vote on my behalf at the above meeting (and

NAME OF ALTERNATE

ADDRESS:

Dated:

Name of member

Witnessed by:

(Name of Witness)