



Club Constitution

Date Adopted:

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A company limited by guarantee

Constitution of Caloundra Power Boat Club Ltd

1 General

1.1 Name of Company

The name of the Company is Caloundra Power Boat Club Ltd.

1.2 Replaceable Rules

The Replaceable Rules do not apply to the Company.

2 Definitions and interpretation

In this document:

Term	Definition
Approved Manager	means a person approved as a manger under Part 5C of the <i>Liquor Act 1992</i> (Qld).
ASIC	means the Australian Securities and Investments Commission.
Board	means the Directors for the time being of the Company.
Business Day	means a day on which banks (as that term is defined in the <i>Banking Act 1959</i>) are open for business in the Sunshine Coast Regional Council area.
Charter	has the meaning set out in rule 24.1(a)(ii).
Club Rules	means those rules by which all Members must abide whilst on the Premises, as adopted by the Board from time to time.
Committee	means a committee to which powers have been delegated by the Board pursuant to rule 15.7.
Company	means Caloundra Power Boat Club Ltd.
Constitution	means the Constitution of the Company, as amended from time to time.
Director	means a person appointed or elected to the office of director of the Company in accordance with this Constitution and includes any alternate director duly appointed as a member of the Board.
Executive	means those officers described in rule 11.1(b).
Facilities	means the Premises and other property occupied by the Company and the assets of the Company utilised for the purposes of delivering services to the Members.

Term	Definition
Honorary Life Member	means any person that holds honorary life membership at the date of this Constitution and any other Member admitted to honorary life membership under rule 5.4(a).
Interest Group	has the meaning set out in rule 24.1(a)(i).
Law	means the <i>Corporations Act 2001</i> and regulations pursuant to that legislation.
Life Member	means any person admitted to life membership by the Board before the adoption of this Constitution.
Member	means any person who becomes a member of the Company in accordance with the Law and this Constitution.
Members Present	means Voting Members present at a general meeting of the Company in person or, if applicable, by duly appointed representative, proxy or attorney.
Notice Board	a display area maintained in some public place upon the Premises for the purpose of giving notice to the Members.
Office	means the registered office of the Company.
Ordinary Member	means any person that holds ordinary membership under this Constitution.
person	and words importing persons include partnerships, associations and corporations unincorporated and incorporated by ordinance, act of parliament or registration as well as individuals.
Premises	means the premises occupied by the Company for the purposes of delivering services to the Members.
Register	means the register of Members of the Company established pursuant to the Law.
Registered Address	means the address of a Member specified in the Register (which is to be the address of which the Member notifies the Company as a place at which the Member will accept service of notices).
Replaceable Rules	means all or any of the replaceable rules contained in the Law from time to time and includes any replaceable rule that was or may become, a provision of the Law.
rules	means the rules of this Constitution as altered or added to from time to time.
Seal	means the common seal of the Company.
Secretary	means a person appointed as secretary of the Company and includes any person appointed to perform the duties of the secretary.
Social Member	means any person that holds social membership under this Constitution.
Voting Members	are those Members with the right to vote, in accordance with rule 5.6(c).

Term	Definition
writing	'writing' and 'written' includes printing, typing, lithography and other modes of reproducing words in a visible form.

2.1 Interpretation

- (a) Words and phrases which are given a special meaning by the Law have the same meaning in these rules, unless the contrary intention appears.
- (b) Words in the singular include the plural and vice versa.
- (c) Words importing a gender include each other gender.
- (d) A reference to the Law or any other statute or regulations is to be read as though the words as modified or substituted from time to time were added to the reference.
- (e) The headings and sidenotes do not affect the construction of these rules.
- (f) An expression used in a particular Part, Division, Schedule or regulation of the Law that is given by that Part, Division, Schedule or regulation a special meaning for the purpose of that Part, Division Schedule or regulation has, in any of these rules that deals with a matter dealt with by that Part, Division, Schedule or regulation, unless the contrary intention appears, the same meaning as in that Part, Division, Schedule or regulation.

3 Objects and powers

3.1 Objects of Company

The objects for which the Company is established include:

- (a) to encourage and provide sporting recreation and social activities and facilities for the benefit of Members;
- (b) to foster friendship and goodwill among Members;
- (c) to develop and foster relations with other kindred associations;
- (d) to make donations to patriotic, charitable and community purposes; and
- (e) to do all such other things as may be deemed incidental or conducive to the attainment of the objects of the Company or any of them.

3.2 Separate objects

Each of the above objects constitutes a separate object of the Company, and will not be construed by reference to any other such object.

3.3 Powers of the Company

The Company has all the powers of an individual and a body corporate, subject to rule 3.4.

3.4 No power to issue shares

The Company has no power to issue or allot shares.

4 Non-profit nature of the company

4.1 Non-profit

- (a) The income, property, profits and financial surplus of the Company must be applied solely towards the promotion of the objects of the Company as set out in this Constitution.
- (b) The Company is a non-profit organisation and will not carry on business for the purpose of profit or gain to its individual Members and no portion of its income, property, profits and financial surplus may be paid, distributed to or transferred, directly or indirectly, by way of dividend, property, bonus or otherwise by way of profit, to the Members, (or including to any Member of the Board), or their relatives, except as provided by this Constitution.
- (c) Nothing will prevent the payment in good faith, in return for any goods or services rendered to the Company, or prevent the payment of interest on money lent at a rate not exceeding the rate for the time being charged by the Company's principal banker for overdrawn accounts or reasonable rent for Premises let from any Member to the Company.
- (d) No Director will hold any salaried office of the Company.
- (e) Subject to rule 4.1(f), no remuneration or other benefit in money or moneys worth will be given by the Company to any Director for the holding of a position on the Board.
- (f) The Board may at its discretion from time to time approve:
 - (i) reimbursement for out of pocket expenses incurred by a Director in performing a duty as a Director;
 - (ii) payment for a service rendered to the Company by a Director in a professional or technical capacity, other than in the capacity as a Director where:
 - (A) the provision of the service has the prior approval of the Board; and
 - (B) the amount payable is not more than an amount which commercially would be reasonable payment for the service; and
 - (iii) the provision of food and beverages to Directors free of charge in circumstances where the Directors are not patronising the Facilities in a personal capacity.

4.2 No distribution of profits to Members on winding-up

Where property remains after the winding-up or dissolution of the Company and satisfaction of all its debts and liabilities, it may not be paid to or distributed among the Members but must be given to or transferred to another organisation having objects similar to the objects of the Company, and whose Constitution prohibits the distribution of its income and property among its Members to an extent at least as great as is imposed on the Company under or by virtue of this Constitution, which organisation is to be determined by resolution of the Voting Members at or before the time of the dissolution.

4.3 Limited liability on winding-up

Each Member undertakes to contribute to the assets of the Company in the event of its being wound-up while they are a Member or within one year after they cease to be a Member for the payment of the debts and liabilities of the Company contracted before they ceased to be a Member and of the costs charges and expenses of winding-up and for adjustment of the rights of the contributors among themselves, such amount as may be required, not exceeding \$20.

5 Membership

5.1 Types of membership

Until otherwise determined by the Members in general meeting, there will be the following classes of Members:

- (a) Ordinary Members;
- (b) Social Members;
- (c) Honorary Life Members; and
- (d) Life Members.

A person under the age of 18 years will not be admitted to membership.

5.2 Ordinary Members

- (a) The Board may admit to ordinary membership of the Company any individual person who has attained the age of 18.
- (b) The Board may not consider any application for ordinary membership unless the fees payable in respect of the application have been received by the Company.
- (c) In addition to any other rights under this Constitution, Ordinary Members are entitled to social benefits determined by the Board from time to time.

5.3 Social Members

- (a) The Board may admit to social membership of the Company any individual person who has attained the age of 18.
- (b) The Board may not consider any application for social membership unless the fees payable in respect of the application have been received by the Company.
- (c) In addition to any other rights under this Constitution, Social Members are entitled to social benefits determined by the Board from time to time.

5.4 Honorary Life Members

- (a) The Board will have power in consideration of special services rendered to the Company by a Member to award any Member as an Honorary Life Member.
- (b) An Honorary Life Member is entitled to all the rights of a Life Member without payment of any further membership subscriptions.

5.5 Life Members

- (a) Any Member who holds life membership prior to the adoption of this Constitution is a Life Member.
- (b) No new Life Members will be admitted to membership of the Company by the Board after the date of adoption of this Constitution.
- (c) A Life Member is entitled for life, unless he or she ceases to be a Member (for any reason), to all the privileges of ordinary membership without the payment of any further subscriptions.

5.6 Transfer of membership

- (a) Members hold membership of the Company on the date this Constitution is adopted as follows:
 - (i) those Members who were subject to rule 5.5(a) of the previous constitution are Ordinary Members;
 - (ii) those Members who were subject to rule 5.5(b) of the previous constitution are Social Members;
 - (iii) Honorary Life Members and Life Members remain unchanged.
- (b) For the purposes of rule 5.6(a):
 - (i) membership must be held at midnight of the day prior to this Constitution being adopted;
 - (ii) the expiry date of each Members membership remains the same; and
 - (iii) all outstanding fees are waived.
- (c) Under no other circumstances is membership transferable.

5.7 Voting rights of Members

The entitlement of Members to vote on a show of hands and on a poll is as follows:

- (a) an Ordinary Member has one vote;
- (b) an Honorary Life Member has one vote;
- (c) a Life Member has one vote; and
- (d) a Social Member has no right to vote.

5.8 Number

The Board may set or limit the number of Members or Members of any particular class and may refuse to grant admission as a Member of that class to a applicant where the number of Members of that class is equal to or exceeds that limit.

5.9 Application

- (a) No person will be admitted as a Member unless that person makes written application for membership, in such form as the Board determines, and subject to rule 5.9(c), the application is approved at a meeting of the Board.
- (b) An application for membership must be accompanied by the membership subscription fee payable and any other fee the Board determines.
- (c) The Approved Manager may give provisional approval to an applicant, who may enjoy the social benefits of membership as set out in rule 5.2(c) until such time as the Board approves or rejects the application.
- (d) If an applicant for any class of membership receives a majority vote of the Board, present at the meeting at which such application is considered, that applicant will be admitted to that class of membership for the term of the membership.
- (e) If an application for membership is rejected, all money paid by the applicant will be refunded. The Board need not provide a reason for rejection to the applicant.
- (f) Upon rejection of an application for any class of membership, the Secretary will, as soon as practicable, give the applicant notice in writing of such rejection. The Board's decision is final.
- (g) Where an application for membership has been previously rejected, the Secretary will not refer another application from that person to the Board for consideration for a period of at least three months after the date of the original application.
- (h) No application for life membership will be accepted after the date of adoption of this Constitution.

5.10 Removal from membership

- (a) A person will cease to be a Member:
 - (i) upon their resignation;
 - (ii) upon their death;
 - (iii) upon their expulsion as a Member under rule 5.10(d); or
 - (iv) upon the termination of their membership for the non payment of membership subscription fees or other money owing as a Member.
- (b) A Member may resign from the Company at any time by giving notice in writing to the Secretary but the Member remains liable to pay all amounts owing to the Company.
- (c) Such resignation will take effect at the time such notice is received by the Secretary unless a later date is specified in the notice, in which case it will take effect on that date.
- (d) The Board may in its absolute discretion terminate any membership if in the opinion of the Board that Member has breached the Club Rules.

5.11 Suspension

The Approved Manager or other employee of the Company authorised by the Board for this purpose may suspend a Member's membership if he or she suspects on reasonable grounds that the Member has breached the Club Rules. A Member's rights, suspended in those circumstances, remain suspended until the disciplinary processes of the Company, as determined by the Board from time to time, have been resolved.

6 Rights and obligations

6.1 Becoming a Member evidence of agreement to Constitution

The fact of a person being or becoming a Member is conclusive evidence that the person agrees to be bound by this Constitution and any rules, regulations or by-laws which may be made under this Constitution.

6.2 Amount of fees and membership subscriptions payable

- (a) The membership subscription fees and any other fees determined by the Board, for the various classes of membership and other levies and charges payable by Members are such amounts and are due at such times as the Board determines.
- (b) The Board will have power to determine a payment, which may be made by any Member to compound payment of membership subscription fees for a number of years.
- (c) Any person who has been a Member and who has resigned in accordance with this Constitution may, at the discretion of the Board, be re-admitted to membership.
- (d) Unless the Board otherwise determines, all membership subscription fees will become due and payable in advance on the first day of July in the relevant year.

6.3 Specific liabilities on ceasing membership

In addition to any continuing liability pursuant to other contracts or rule 4.3 of this Constitution, a Member, who ceases to be a Member, remains liable for all membership fees, levies and other monies payable by the Member for the whole of the financial year in which the cessation of membership takes place.

6.4 Variation of rights of Members

Whilst the membership is divided into different classes, the rights attached to any class of membership may, whether or not the Company is being wound up, be varied by special resolution of the Members of that class.

6.5 Additional rules, by-laws or regulations

In addition to the Club Rules, the Board may at any time impose rules, by-laws or regulations on Members (not inconsistent with the provisions of this Constitution) relating to their conduct or to the use of the Facilities and the Board may repeal, replace or amend any such rules, by-laws or regulations.

7 Financial records

7.1 Keeping of financial records

- (a) The financial year of the Company commences on the first day of July and ends on 30 June in the following calendar year.
- (b) Proper books and financial records must be kept and maintained showing the financial affairs of the Company. The Company must ensure the relevant accounting and auditing requirements of the Law are duly complied with.
- (c) The Board must distribute to all Members, after the end of each financial year, copies of the financial report including a copy of the auditor's report and any other documentation, in the form required or permitted under the Law.
- (d) The Board must cause to be made out and laid before each annual general meeting a balance sheet, profit and loss statement and cash flow statement made up to the previous 30 June.

7.2 Banking of money

All money of the Company will be banked in the name of the Company in a bank account at such bank as the Board determines.

7.3 Appointment of auditor

The Company must appoint and retain properly qualified auditors. A Member may not act as auditor of the Company.

7.4 Inspection of records of the Company

- (a) The Board may determine whether and to what extent, and at what time and place and under what conditions the financial records and other documents of the Company or any of them will be open to the inspection of Members.
- (b) No Member has the right due to their membership to inspect any document of the Company except as provided by law or as authorised by the Board but written requests for inspection may not be unreasonably refused by the Board.

7.5 Finance committee

The Board will establish and delegate to a Finance Committee such powers and responsibilities as it sees fit for the proper supervision and management of the financial affairs of the Company.

8 General meetings

8.1 General meetings

- (a) An annual general meeting of the Company will be held in accordance with the Law and will be convened within five months of the end of each financial year.
- (b) The Board must call a general meeting on the written request of at least 10% of the Voting Members and the following provisions apply in the case of such a request:

- (i) the written request must state the objects of the meeting, set out any proposed resolutions to be considered at the meeting and must be signed by the required number of Voting Members;
 - (ii) the written request may consist of several similar documents (such as a petition) but the objects of the meeting on the different signed documents must be substantially the same;
 - (iii) if the Board fails to call a meeting within 21 days from the date of receipt of the written request, the Voting Members who made the request (or any of them) may call the requested general meeting which must be held within three months of the date the Company received the written request; and
 - (iv) any meeting called by the Voting Members must be called in as similar as possible a manner to those meetings called by the Board.
- (c) Except as permitted by the Law and rule 8.1(b), the Members may not convene a general meeting of the Company.
- (d) By resolution of the Board, any general meeting (other than a general meeting which has been requisitioned or called by Members in accordance with this Constitution and the Law) may be cancelled or postponed prior to the date on which it is to be held.
- (e) The chair of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:
- (i) in possession of a pictorial-recording or sound-recording device;
 - (ii) in possession of a placard or banner;
 - (iii) in possession of an object considered by the chair of the meeting to be dangerous, offensive or liable to cause disruption to the meeting;
 - (iv) who refuses to produce or to permit examination of any object, or the contents of any object or container, in the person's possession;
 - (v) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
 - (vi) who is not:
 - (A) a Member or a proxy, attorney or, if applicable, a representative of a Member;
 - (B) a Director; or
 - (C) the auditors of the Company.
- (f) A person, whether or not a Member, who is invited or requested by the Board or the chair of the meeting to attend a general meeting, is entitled to be present at that general meeting for the purposes of the invitation or request.

8.2 Notice of general meeting

- (a) Not less than 21 days' notice of a general meeting must be given by the Board in the form and in the manner the Board thinks fit.

- (b) Notice of meetings will be given to Voting Members and to such other persons as are entitled under these rules or the Law to receive notice. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice does not invalidate any resolution passed at that meeting.
- (c) If the meeting is to be held at two or more places, the notice is to set out details of the technology that will be used to facilitate such a meeting and any other matters required by the Law to be stated in relation to the use of such technology.

9 Proceedings of meetings

9.1 Business of general meetings

- (a) The business of an annual general meeting will include:
 - (i) to receive and consider the financial statements of the Company and the reports by the Directors and auditors;
 - (ii) to receive nominations and to elect Directors; and
 - (iii) to appoint the auditors for the ensuing year if necessary.
- (b) All other business transacted at an annual general meeting and all business transacted at other general meetings is deemed to be special. Except with the approval of the Board, or pursuant to the Law, a person may not move at any meeting either:
 - (i) in regard to any special business of which notice has been given under rule 8.2, any resolution or any amendment of a resolution; or
 - (ii) any other resolution which does not constitute part of special business of which notice has been given under rule 8.2.
- (c) The auditors and their representative are entitled to attend and be heard on any part of the business of a meeting which concerns the auditors. The auditors or their representative, if present at the meeting, may be questioned by the Members, as a whole, about the audit.

9.2 Quorum

- (a) No business will be transacted at any general meeting unless a quorum of Voting Members is present at the time when the meeting proceeds to business.
- (b) A quorum will consist of 10 Voting Members present either in person or by proxy.
- (c) Subject to rule 9.3, no business may be transacted at any general meeting except the election of a chair of the meeting and the adjournment of the meeting unless the requisite quorum is present at the commencement of the business.

9.3 Adjournment in absence of quorum

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

- (a) where the meeting was convened upon the requisition of Voting Members – the meeting will be dissolved; or

- (b) in any other case:
 - (i) the meeting stands adjourned to the same day in the next week at the same time and place; and
 - (ii) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting:
 - (A) two Voting Members constitute a quorum; or
 - (B) where two Voting Members are not present – the meeting will be dissolved.

9.4 Chair of the meeting

- (a) The President is entitled to chair each general meeting.
- (b) If at any general meeting:
 - (i) the President is not present at the specified time for holding the meeting; or
 - (ii) the President is present but is unwilling to chair the meeting,
 the Vice President is entitled to take the chair at the meeting.
- (c) If at any general meeting:
 - (i) there is no President or Vice President;
 - (ii) neither the President nor Vice President is present at the specified time for holding the meeting; or
 - (iii) the President or Vice President is present but neither is willing to chair the meeting,
 the Junior Vice President is entitled to take the chair at the meeting.
- (d) If at any general meeting:
 - (i) there is no President, Vice President or Junior Vice President; or
 - (ii) the President, Vice President or Junior Vice President are present but none are willing to chair the meeting,
 the Directors present may choose another Director to chair the meeting and if no Director is present or if each of the Directors present is unwilling to act as chair of the meeting, a Voting Member chosen by the Members Present is entitled to chair the meeting.

9.5 Acting chair of the meeting

If during any general meeting the chair of the meeting is unwilling to take the chair for any part of the proceedings, the chair of the meeting may withdraw from the chair during the relevant part of the proceedings and may nominate any person who immediately before the general meeting was a Director or who has been nominated for election as a Director at the meeting to be acting chair of the meeting during the relevant part of the proceedings. Upon the conclusion

of the relevant part of the proceedings, the acting chair of the meeting is to withdraw and the chair of the meeting is to retake the chair.

9.6 General conduct of meeting

- (a) Except as provided by the Law, the general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are to be determined by the chair of the meeting.
- (b) The chair of the meeting may at any time the chair of the meeting considers it necessary or desirable for the proper and orderly conduct of the meeting demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members Present.
- (c) The chair of the meeting may require the adoption of any procedure which is in the chair of the meeting's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll or otherwise.

9.7 Adjournment

- (a) The chair of the meeting may, with the consent of any meeting at which a quorum is present, and will if so directed by the meeting, at any time during the course of the meeting adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question, resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting.
- (b) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting will be given as in the case of an original meeting.
- (d) Except provided by paragraph (c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

9.8 Voting

- (a) Each question submitted to a general meeting is to be decided in the first instance by a show of hands of the Members Present. Subject to rule 9.8(b), in the case of an equality of votes, the chair of the meeting has, both on a show of hands and at a poll, a casting vote in addition to the vote or votes to which the chair of the meeting may be entitled as a Voting Member or as a proxy, attorney or, if applicable, a duly appointed representative of a Voting Member.
- (b) On a show of hands, where a proxy has two or more appointments that specify different ways to vote on a resolution, the proxy must not vote as a proxy but may vote as a Voting Member if entitled to.

9.9 Declaration of vote on a show of hands - when poll demanded

- (a) At any meeting, unless a poll is demanded, a declaration by the chair of the meeting that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the book to be kept of the proceedings of the Company signed by

the chair of the meeting of that or the next succeeding meeting, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution. A poll may be demanded:

- (i) before a vote is taken;
 - (ii) before the voting results on a show of hands are declared; or
 - (iii) immediately after the voting results on a show of hands are declared.
- (b) A poll may be demanded by:
- (i) the chair of the meeting; or
 - (ii) at least three Members Present and entitled to vote on the resolution.

9.10 Taking a poll

If a poll is demanded as provided in rule 9.9, it is to be taken in the manner and at the time and place as the chair of the meeting directs, and the result of the poll is deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn. In the case of any dispute as to the admission or rejection of a vote, the chair of the meeting's determination in respect of the dispute made in good faith is final.

9.11 Continuation of business

A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting immediately and without adjournment.

9.12 Special meetings

These rules as to general meetings apply to any meeting of any class of membership which may be held pursuant to these rules or the Law.

10 Votes of Members

10.1 Voting rights

- (a) If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the committee or trustee or such other person as properly has the management of that Member's estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.
- (b) Subject to rule 9.8(b), where a person is entitled to vote in more than one capacity, that person is entitled only to one vote on a show of hands.
- (c) Subject to the Law, only Voting Members are entitled to vote at any general meeting.
- (d) Any objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- (e) Any such objection will be referred to the chair of the meeting, whose decision is final.

- (f) A vote not disallowed pursuant to such an objection is valid for all purposes.

10.2 Appointment of proxies

- (a) A Voting Member may appoint one proxy to vote at a general meeting.
- (b) A proxy must be a Voting Member of the Company.
- (c) A Voting Member may appoint a proxy for all or any stipulated meetings of the Company until the appointment is revoked and, unless the contrary is stated, the appointment is valid for any adjournment of a meeting or meetings to which it relates.

10.3 Form and execution of instrument of proxy

- (a) An instrument appointing a proxy is to be in writing in the form which the Board may prescribe to accept signed by the appointor (or the attorney of the appointor).
- (b) The instrument appointing a proxy (and the power of attorney, if any, under which it is signed or proof of the grant and currency of the power of attorney to the satisfaction of the Board) must be:
 - (i) deposited at the Office; or
 - (ii) deposited or sent by electronic mail to any other place specified in the notice of meeting,

at least 48 hours (or a lesser period as the Board may determine and stipulate in the notice of meeting) before the time for holding the meeting or adjourned meeting or poll at which the person named in the instrument proposes to vote.
- (c) The instrument of proxy is deemed to include the right to demand or join in demanding a poll and (except to the extent to which the proxy is specifically directed to vote for or against any proposal) the power to act generally at the meeting for the person giving the proxy.
- (d) Any duly signed proxy which is incomplete may be completed by the Secretary on authority from the Board and as permitted by the Law and the Board may authorise completion of the proxy by the insertion of the name of any Director as the person in whose favour the proxy is given.

10.4 Validity of vote

- (a) A vote given in accordance with an instrument of proxy or power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument of proxy or power of attorney in respect of which the vote is given, provided no notice in writing of the death, unsoundness of mind or revocation has been received at the Office before the meeting or adjourned meeting.
- (b) A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes at the meeting on the resolution for which the proxy is proposed to be used.

10.5 Board may issue forms of proxy

The Board may issue with any notice of general meeting of the Members or any class of Members forms of proxy for use by the Members. Each form is to make provision for the Member to write

in the name of the person to be appointed as proxy and may provide that, if the Member does not write in a name, the proxy is to be a person named on the form. The form may include the names of any of the Directors or of any other person as a suggested proxy. The forms are to be worded so that a proxy may be directed to vote either for or against each or any of the resolutions to be proposed.

10.6 Attorneys of Members

Any Member may, by duly executed power of attorney, appoint an attorney to act on the Member's behalf at all or certain specified meetings of the Company. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the grant and currency of the power of attorney to the satisfaction of the Board must be produced for inspection at the Office or any other place the Board may determine together, in each case, with evidence of the due execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the Member granting the power of attorney.

11 The Board

11.1 Directors

- (a) The Board is to be composed of seven Directors including the Executive.
- (b) The Executive is to be composed of the following:
 - (i) President (who has the power and authority of the chair of the Board);
 - (ii) Vice President (who, in the absence of the President or at the President's direction, has the power and authority of the chair of the Board); and
 - (iii) Junior Vice President.

11.2 Election of Directors

- (a) The Directors are elected each year at the annual general meeting of the Company.
- (b) Subject to rule 11.5, a retiring Director will be eligible for re-election.

11.3 Other election to fill vacancy

Directors may also be elected at any general meeting (for which notice of the election has been given in accordance with the Law) in order to fill a vacancy on the Board.

11.4 Process of election

An election of Directors will take place in the following manner:

- (a) All nominations for Directors must be received in writing, by the Secretary at least seven days before the date of the annual general meeting.
- (b) Each nomination for a Director must be signed by a Voting Member and contain the signature of the nominee indicating their consent to act.
- (c) In the event of there being insufficient candidates nominated for any position but only in that event, nominations for the vacancies may be made at the annual general meeting.

- (d) Each Voting Member present at the general meeting may vote for any number of such candidates not exceeding the number of vacancies.

11.5 Qualifications for membership of the Board

To be eligible, a Director must be a Voting Member and not be prevented from holding the office of director by the Law.

11.6 Casual vacancies

- (a) The Board may appoint a person who satisfies the Director qualifications as a Director to fill a casual vacancy on the Board.
- (b) Any person appointed as Director under this rule holds office until the next general meeting when an election will be held to fill the vacancy. Any Director appointed under this rule is eligible for election at that general meeting.
- (c) However, the total number of Directors may not at any time exceed the number fixed in accordance with this Constitution.

12 Vacation of Office

12.1 Resignation

A Director may resign at any time from membership of the Board by notice in writing delivered to the Secretary but such resignation only takes effect at the time when such notice is received by the Secretary unless some later date is specified in the notice when it will take effect on the later date.

12.2 Retirement of Directors

- (a) Each Director, other than a Director appointed under rule 11.6, must retire from office at the conclusion of the third annual general meeting following the Director's election and, if eligible and nominated, may be re-elected for a further term.
- (b) To facilitate rule 12.2(a), at least one third of the Board must retire at each annual general meeting. The Board may determine which of the Directors are to retire from time to time, otherwise the Directors to retire will be determined by lot.
- (c) A retiring Director retains office until the dissolution or adjournment of the meeting at which the retiring Director retires.

12.3 Removal

- (a) A Director may be removed from office by special resolution of the Voting Members at a general meeting of the Company convened for that purpose. At that general meeting, the Director must be given the opportunity to fully present their case either orally or in writing or partly by either or both of these means.
- (b) By simple majority at the same meeting or any other meeting, the Voting Members may appoint another person to the position of Director to serve instead of the removed Director.
- (c) The person so appointed will be subject to retirement at the same time as if they had become a Director on the same day as the Director in whose place they were appointed.

12.4 Disqualification

A Director ceases to be a Director:

- (a) upon a Director becoming insolvent under administration, suspending payment generally to creditors or compounding with or assigning the Director's estate for the benefit of creditors;
- (b) upon a Director becoming a person of unsound mind or a person who is a patient under laws relating to mental health or whose estate is administered under laws relating to mental health;
- (c) upon a Director being absent from three consecutive meetings of the Board without leave of absence from the Board where the Board has not, within 14 days of having been provided by the Secretary with a notice giving particulars of the absence, resolved that leave of absence be granted;
- (d) upon a Director resigning office under rule 12.1;
- (e) upon a Director being removed from office under rule 12.2(c) pursuant to the Law;
- (f) upon a Director failing to satisfy the Director qualifications; or
- (g) upon a Director being prohibited from being a Director by reason of the operation of law.

13 Executive

13.1 Appointment to office

- (a) At the first meeting of the Board immediately following an annual general meeting, the Directors must elect:
 - (i) one to be the President;
 - (ii) one to be the Vice President; and
 - (iii) one to be Junior Vice President.
- (b) The Executive continue to hold office until the earlier of:
 - (i) the next such meeting required under rule 13.1(a) when each member of the Executive is eligible for re-election;
 - (ii) their resignation from that office in accordance with rule 13.3;
 - (iii) their removal from that office in accordance with rule 13.2; and
 - (iv) their office as Director becomes vacant in accordance with this Constitution or they resign or are removed from that office.

13.2 Removal from Office

The Board may, by resolution, remove any Director from their Executive position but not as a Director.

13.3 Resignation

The holder of any Executive position may resign at any time from such office by notice in writing delivered to the Secretary but such resignation only takes effect at the time when such notice is received by the Secretary unless some later date is specified in the notice when it will take effect on and from that later date.

13.4 Duties of Executive

The duties of the Executive will be set out in a charter determined by the Board from time to time.

14 Alternate Directors

14.1 Director may appoint an alternate

- (a) Subject to these rules, each Director may appoint a person who satisfies the Director qualifications to act as their alternate in the place of that Director, whether for a stated period or until the happening of a specified event or whenever by absence or illness or otherwise the Director is unable to attend to their duties.
- (b) The Director must first seek and obtain the consent of the Board to the appointment of that person as an alternate, which consent is not to be unreasonably withheld or delayed.
- (c) The appointment is to be in writing in the form determined by the Board (if any) and signed by the Director and by the appointed alternate and delivered to the Office.
- (d) The appointment takes effect immediately upon receipt of the notice of appointment (referred to in paragraph (c) above) at the Office and the consent of the Board (referred to in paragraph (b) above).

14.2 Conditions of office of alternate

The following provisions apply to an alternate Director:

- (a) an alternate will be removed or suspended from office by written notice from the Director by whom the alternate was appointed being delivered to the Company;
- (b) the alternate is entitled to receive notice of meetings of the Board and to attend and vote at the meetings of the Board if the Director by whom the alternate was appointed is not present at the meeting;
- (c) the alternate is entitled to exercise all the powers (except the power to appoint an alternate) and perform all duties of a Director, in so far as the Director by whom the alternate was appointed had not exercised or performed them but may not exercise any power held by the Director holding an Executive position;
- (d) the office of the alternate is vacated upon the Director, by whom the alternate was appointed, ceasing to be a Director; and
- (e) the alternate is, while acting as a Director, responsible to the Company for the alternate's own acts and omission and is not, simply by virtue of the appointment, to be deemed to be the agent of the Director by whom the alternate was appointed.

15 Proceedings of the Board

15.1 Procedures relating to Board meetings

- (a) Subject to this Constitution the Directors may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as they think fit. The President or any two Directors may at any time and the Secretary will on requisition of such person or persons, summon a meeting of the Board.
- (b) Until otherwise determined by the Board, the Board will meet together at least monthly.
- (c) The right to preside as chair at meetings of the Board will be determined in the same manner as is provided for general meetings of the Company.
- (d) Until otherwise determined by the Board, four Directors form a quorum. If there is no quorum at the meeting within half an hour of the appointment time for the meeting, that meeting will be re-called within seven days, and if there is again no quorum within half an hour of the appointment time for the meeting, the Directors present will constitute a quorum for the dispatch of business for which the meeting was called.
- (e) Notice is deemed to have been given to a Director, if notice is sent by mail, personal delivery or by electronic mail to the usual place of residence or electronic address of the Director (if any electronic address is notified to the Company) or at any other address given to the Secretary by the Director - refer rule 22.

15.2 Meetings by telephone, videoconference or other means of communication

The Board may meet either in person or by telephone or videoconference or by other means of communication consented to by all Directors subject to the right of a Director to withdraw their consent within a reasonable period before a meeting. All persons participating in the meeting must be able to hear and be heard by all other participants. A meeting conducted by telephone or other means of communication is deemed to be held at the place agreed upon by the Directors attending the meeting, provided that at least one of the Directors present at the meeting is at that place for the duration of the meeting.

15.3 Votes at meetings

Questions arising at any meeting of the Board are decided by a majority of votes. The chair of the meeting of the Board will, in addition to their deliberative vote, have a second or casting vote in the event of an equality of votes.

15.4 Chair

If at any meeting the chair is not present within 15 minutes after the time specified for the commencement of the meeting (or, if being present, the relevant Directors refuse to act as chair), the Directors present may choose one of their number to be chair of the meeting.

15.5 Powers of meetings

A meeting of the Board (including any adjournment of a meeting) at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

15.6 Material personal interest

- (a) A Director who has a material personal interest in an issue to be considered at a meeting of the Board or any of its committees:
 - (i) must disclose the interest to the meeting; and
 - (ii) must not be present at or take part in the meeting while the issue is being considered or voted on.
- (b) If a Director does vote in contravention of paragraph (a) their vote will not be counted but the determination of the Board will not be invalidated.
- (c) A Director will not contravene paragraph (a) if their only interest in the matter is that of a Member of the Company or of any particular class of membership.

15.7 Delegation of powers to a Committee

- (a) The Board may, subject to the constraints imposed by law, delegate any of its powers to a Committee consisting of one or more Directors or any other person as the Board thinks fit.
- (b) Any Committee formed or person or persons appointed to the Committee must, in the exercise of the powers delegated, conform to any regulations that may be imposed by the Board.
- (c) A delegate of the Board may be authorised to sub-delegate any of the powers for the time being vested in the delegate.

15.8 Proceedings of Committees

- (a) Subject to rule 24, the meetings and proceedings of any Committee are to be governed by these rules for regulating the meetings and proceedings of the Board so far as they are applicable and are not superseded by any regulations made by the Board under rule 15.6.
- (b) A Committee in the exercise of the duties delegated or assigned to it will conform to any regulations, directions or instructions that may be imposed or given by the Board.
- (c) A Committee appointed by the Board will be under the control and direction of the Board and has no direct part or power in the management of the Company.

15.9 Validity of acts

- (a) All acts done at any meeting of the Board or by a Committee or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the Committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a Director or a Member of the Committee (as the case may be).
- (b) If the number of Directors is reduced below the minimum number fixed pursuant to these rules for a quorum of the Board, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of calling a general meeting of the Company but for no other purpose.

15.10 Resolution in writing

- (a) A resolution in writing of which notice has been given to all Directors and which is signed by all such Directors entitled to vote on the resolution is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted and may consist of several documents in the same form each signed by one or more of the Directors.
- (b) For the purposes of this rule, the references to 'Director' include any duly appointed alternate for the time being present in Australia who is appointed by a Director who is not for the time being present in Australia but does not include any other alternate Director.
- (c) A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with their authority is deemed to be a document in writing signed by that Director.

16 Powers of the Board

16.1 General powers of the Board

- (a) The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred upon them by these rules) may exercise all powers and do all things as are within the power of the Company and are not by these rules or by law directed or required to be exercised or done by the Company in general meeting.
- (b) The Board may make such regulations and by-laws not inconsistent with the Constitution, as in the opinion of the Board are necessary or desirable for the proper control, administration and management of the Company's finances, affairs and property or are necessary for the convenience, comfort and wellbeing of the Members (including the terms of entry of Members to the Premises and any event or function sponsored, promoted, facilitated or conducted by the Company) and amend or rescind any such regulations and by-laws.
- (c) A regulation or by-law of the Company made by the Board may be disallowed by the Company in a later general meeting.
- (d) A resolution of the Company in general meeting cannot invalidate prior acts of the Board which would have been valid if that resolution had not been passed.
- (e) Without prejudice to the general powers conferred on the Board by this Constitution the Board will have power to appoint and at its discretion, remove or suspend a manager and other employees and to fix the powers, duties and remuneration of same, or, at its discretion to delegate such powers of appointment, suspension, removal and fixing of duties and remuneration.

16.2 By-laws

- (a) Any by-law made, varied or revoked by a resolution passed by a simple majority of the Directors present and entitled to vote at the meeting at which such resolution is proposed provided that each Director will be given at least five business days notice of the resolution proposed to make, vary or revoke a by-law.

- (b) Each by-law made, varied or revoked will take effect on a date to be specified by the Board which date will not be less than 14 days after the date on which the resolution is passed unless:
 - (i) the Board specifies by resolution an earlier date; and
 - (ii) sets out in that resolution the reasons why it has determined that earlier date should apply.
- (c) The Secretary will cause notice of any making, revocation or variation of a by-law to be posted upon the Notice Board together with notice of the date upon which it takes effect.

16.3 Borrowing powers of the Board

The Board will be empowered to borrow, for the purpose of the Company, such amount of money either at one time or from time to time and at such rate of interest and in such form and manner and upon such security as will be specified in such resolution and thereupon the Board will make all such dispositions of the Company Property or any part thereof and enter into such agreement in relation thereto as the Board may deem proper for giving security for such loan and interest.

16.4 Directors may contract with Company

- (a) A Director is not disqualified by the office of Director from contracting or entering into any arrangement with the Company or any other person either as vendor, purchaser or otherwise and no contract or arrangement entered into with the Company or any other person by a Director or any contract or arrangement entered into by or on behalf of the Company or any other person in which a Director is in any way interested may be avoided for that reason. A Director is not liable to account to the Company for any profit realised by any contract or arrangement, by reason of holding the office of or of the fiduciary relationship established by the office.
- (b) No Director may as a Director vote in respect of any contract or arrangement in which the Director has directly or indirectly any material personal interest if to do so would be contrary to the Law and if the Director does vote their vote may not be counted nor will the Director be counted in the quorum present at the meeting but either or both of these prohibitions may at any time be relaxed or suspended to any extent by ordinary resolution passed at a general meeting, if permitted by the Law.
- (c) A Director who is interested in any contract or arrangement may, notwithstanding the interest, attest the affixing of the Seal to, or otherwise execute any document evidencing or otherwise connected with the contract or arrangement.

17 Company Secretary

The Secretary holds office on such terms and conditions as to remuneration and otherwise as the Board determines.

18 Other officers

- (a) The Board may appoint officers and employees on salaries, for periods and on terms as it thinks fit and may, subject to conditions of the employment of those officers and employees, dispense with their services and re-appoint or appoint other officers and employees as it thinks fit.

- (b) No officer, Director or employee of the Company will be paid any amount by way of commission or allowance calculated by reference to liquor sold by the Company or the receipts of the Company for such liquor.

19 The Seal

19.1 Affixing the Seal

If the Company has a Seal, the Board is to provide for its safe custody and it should only be used by the authority of the Board. Every instrument to which the Seal is affixed is to be signed by a Director and countersigned by the Secretary or by a second Director or by another person appointed by the Board for the purpose. The Board may determine either generally or in any particular case that a signature may be affixed by a mechanical means specified in the determination.

19.2 Execution of documents without a Seal

The Company may execute a document, including a deed, by having the document signed by one Member of the Executive and either another Director or the Secretary.

19.3 Execution of a deed

If the Company is to execute a deed, the document is to be expressed to be executed as a deed and be executed in accordance with the appropriate procedures set out in rule 19.1 or rule 19.2.

19.4 Other ways of executing documents

Notwithstanding rules 19.1, 19.2 and 19.3, any document, including a deed, may also be executed by the Company in any other manner permitted by law.

20 Minutes

20.1 Contents of minutes

- (a) The Board must ensure that minutes are duly recorded in the manner it thinks fit and include:
 - (i) the names of the Directors present at each meeting of the Company, the Board and of any Committees; and
 - (ii) details of all resolutions and proceedings of general meetings of the Company and of meetings of the Board and any Committees.
- (b) No Member is entitled to inspect those minutes due to their membership.

20.2 Signing of minutes

The minutes of any meeting of the Board or of any Committee or of the Company, if signed by the chair of the meeting or by the chair of the next succeeding meeting, are prima facie evidence of the matters stated in the minutes.

21 Registers of Members

21.1 Members

A Register must be kept by the Company showing the full name and address of each Member and the date on which each Member last paid a subscription for membership of the Company (if applicable).

21.2 Authorised use of information

- (a) The Company may use personal information of a Member in carrying out its functions.
- (b) The Members will not use the personal information collected by the Company except for the purposes of enabling the Company to carry out its functions.

22 Notices

22.1 Service of notices

A notice may be given to a Member:

- (a) personally;
- (b) by leaving it at the Member's Registered Address;
- (c) by sending it by pre-paid post to the Member's Registered Address; or
- (d) by sending it to the electronic address (if any) nominated by the Member.

22.2 When notice deemed to be served

- (a) A notice sent by post is deemed to have been served at the expiration of two Business Days after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted.
- (b) A notice to be served on a Member personally or left at the Member's Registered Address is deemed to have been served when delivered.
- (c) A notice to be served on a Member by facsimile transmission is deemed to have been served when the transmission is sent. A facsimile is deemed to be sent when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the notice (without any error) to the intended addressee.
- (d) A notice to be served on a Member by electronic means is deemed to have been served when the electronic message is sent and the sender's computer system generates a message confirming successful sending of the whole of the message (without any error) to the intended addressee.

22.3 Member not known at Registered Address

Where:

- (a) a Member does not have a Registered Address; or

- (b) the Company has a legitimate reason to believe that a Member is not known at the Member's Registered Address,

all future notices are deemed to be given to the Member if the notice is displayed in the Office for a period of two Business Days (and is deemed to be duly served at the expiry of that period) unless and until the Member informs the Company of a Registered Address.

22.4 Signature to notice

The signature to any notice from the Company, which is required to be signed, may be written or printed.

22.5 Reckoning of period of notice

Where a given number of days' notice or notice extending over any other period is required to be given, the day of service is not to be reckoned in the number of days or other period.

22.6 Service on deceased Members

A notice, deemed to be served, delivered or sent by post to the Registered Address of a Member pursuant to these rules is (notwithstanding that the Member is then dead and whether or not the Company has notice of the Member's death) deemed to have been duly served on that Member and the service is for all purposes deemed to be sufficient service of the notice on the Member's heirs, executors or administrators.

22.7 Persons entitled to notice of general meeting

- (a) Notice of every general meeting is to be given to:
- (i) each Voting Member;
 - (ii) each Director; and
 - (iii) the auditors of the Company.
- (b) No other person is entitled to receive notice of a general meeting.

22.8 Notification of change of address

Every Member must notify the Company of any change of their address and any such new address must be entered in the Register as required to be kept by the Law and upon being so entered, becomes the Member's Registered Address.

22.9 Form of notice

In this Constitution, notice includes any form of communication.

23 Guests

23.1 Guests

- (a) Each Member may cause to be admitted to the Premises as their guests persons who are not Members.

- (b) The Board may make, vary and revoke Club Rules or other by-laws which regulate or restrict the admission of guests.
- (c) A Member who causes a person to be admitted as their guest will be responsible for the behaviour of that person and their compliance with the Club rules, regulations or by-laws and any lawful directions of the Board, a Director or management.
- (d) Any person admitted as a guest must leave the Premises no later than the time at which the Member who has introduced that person as a guest has left the Premises unless that guest is again admitted as a guest of another Member.

24 Interest Groups

24.1 Interest Groups

- (a) The Board may in its discretion:
 - (i) authorise the formation of any number of interest groups as Committees under rule 15.7 within the Company with such recreational, sporting or other objectives as it sees fit (**Interest Groups**);
 - (ii) approve the charter under which any Interest Group will be managed, administered and operated (**Charter**);
 - (iii) approve an Interest Group to open its own bank account;
 - (iv) to the extent the Board determines necessary, regulate the activities of any Interest Group by rule, regulation or by-law or by direction of the Board; and
 - (v) disband any Interest Group.
- (b) The name of each Interest Group will be 'Caloundra Power Boat Club (insert activity) Club'.
- (c) A Member will not form or participate in the activities of any group which:
 - (i) uses the name or Facilities of the Company; or
 - (ii) conducts its activities or the management of its affairs within the Premises, which has not been authorised by the Board as an Interest Group.
- (d) Membership of any Interest Group will be restricted to Members.
- (e) A Member engaged in an activity of an Interest Group is bound by the Constitution and by-laws of the Company including those relating to conduct.
- (f) Subject to this Constitution, all money or other property acquired by an Interest Group will vest in the Company but will during the continued existence of the group be applied for the purposes of that group.
- (g) The Company may act as banker to each Interest Group and unless otherwise determined by the Board, no accounts or investments will be held otherwise by an Interest Group.

- (h) Each Interest Group may elect its own officers and conduct its own affairs (including setting of its own membership and other fees) subject to its Charter and this Constitution and any rules, regulations or by-laws or directions of the Board.
- (i) Each Interest Group will provide such information, reports and minutes of its meetings as may be required by the Board from time to time.

25 Indemnity and insurance

25.1 Indemnity in favour of Directors, Secretaries and executive officers

Subject to the Law and rule 25.2, the Company will indemnify each Director, Secretary and executive officer to the maximum extent permitted by law, against any Liability incurred by them by virtue of their holding office as, and acting in the capacity of, Director, Secretary or executive officer of the Company, other than:

- (a) a Liability owed to the Company or a related body corporate of the Company;
- (b) a Liability for a pecuniary penalty order under section 1317G of the Law or a compensation order under section 1317H of the Law; or
- (c) a Liability owed to a person other than the Company that did not arise out of conduct in good faith.

25.2 Indemnity for legal costs

The Company will indemnify each Director, Secretary and executive officer to the maximum extent permitted by law, against any Liability for legal costs incurred by them in respect of a Liability incurred by them by virtue of their holding office as, and acting in the capacity of, Director, Secretary or executive officer of the Company other than for legal costs incurred:

- (a) in defending or resisting proceedings, in which the Director, Secretary or executive officer is found to have a Liability for which they could not be indemnified under rule 25.1;
- (b) in defending or resisting criminal proceedings in which the Director, Secretary or executive officer is found guilty;
- (c) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established (but rule 25.2(c) does not apply to costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order); or
- (d) in connection with proceedings for relief to the Director, Secretary or executive officer under the Law in which the court denies the relief.

25.3 Indemnity for employees

Subject to the Law and rule 25.4, the Company may indemnify an employee, who is not a Director, Secretary or executive officer of the Company, to the maximum extent permitted by law, against any Liability incurred by them by virtue of their holding office as, and acting in the capacity of, an officer of the Company, other than:

- (a) a Liability owed to the Company or a related body corporate of the Company;

- (b) a Liability for a pecuniary penalty order under section 1317G of the Law or a compensation order under section 1317H of the Law; or
- (c) a Liability owed to a person other than the Company that did not arise out of conduct in good faith.

25.4 Indemnity for legal costs of employees

The Company may indemnify an employee other than a Director, Secretary or executive officer to the maximum extent permitted by law, against any Liability for legal costs incurred in respect of a Liability as, or by virtue of their holding office as, and acting in the capacity of, an officer of the Company other than for legal costs incurred:

- (a) in defending or resisting proceedings, in which the officer is found to have a Liability for which they could not be indemnified under rule 25.3;
- (b) in defending or resisting criminal proceedings in which the officer is found guilty;
- (c) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established (but rule 25.4 does not apply to costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order); or
- (d) in connection with proceedings for relief to the officer under the Law in which the court denies the relief.

25.5 Proceedings

For the purposes of rules 25.2 and 25.4, '**proceedings**' includes the outcomes of the proceedings and any appeal in relation to the proceedings.

25.6 Insurance for the benefit of Directors, Secretaries and executive officers

- (a) Subject to the Law, the Company may pay a premium for a contract insuring a person who is or has been a Director, Secretary or executive officer of the Company acting in that capacity against:
 - (i) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
 - (ii) a Liability arising from negligence or other conduct.

25.7 Insurance for other officers

Subject to the Law, the Company may pay a premium for a contract insuring a person who is or has been an employee and also an officer of the Company, acting in that capacity, but who is not a Director, Secretary or executive officer of the Company against:

- (a) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
- (b) a Liability arising from negligence or other conduct.

25.8 When insurance may not be provided by the Company

The Company will not pay, nor agree to pay, a premium for a contract insuring a person who is or has been a Director, Secretary or executive officer or an employee who is also an officer of the Company, against a Liability (other than one for legal costs) arising out of:

- (a) conduct involving a wilful breach of duty in relation to the Company; or
- (b) a contravention of section 182 or section 183 of the Law.

25.9 Definitions for the purposes of rule 25

In rule 25, except to the extent the context otherwise requires:

'**Liability**' includes any claim, action, suit, proceeding, investigation, inquiry, damage, loss, cost or expense;

'**executive officer**' means a person who is concerned, or takes part in, the management of the Company (regardless of the person's designation and whether or not the person is a Director of the Company);

'**officer**' means:

- (a) a Director or Secretary of the Company;
- (b) a person:
 - (i) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the Company;
 - (ii) who has the capacity to affect significantly the Company's financial standing; or
 - (iii) in accordance with whose instructions or wishes the Board is accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the Board or the Company).