

SUNNYFIELD

ABN 72 000 415 127

CONSTITUTION

Incorporating all amendments to 25 October 2018

CONSTITUTION OF SUNNYFIELD ABN 72 000 415 127

A PUBLIC COMPANY LIMITED BY GUARANTEE

1. INTRODUCTION

- 1.1 The name of the company is Sunnyfield.
- 1.2 Sunnyfield is a public company limited by guarantee.
- 1.3 In this Constitution:

Act means the Corporations Act 2001;

Alternate Director means a person appointed in accordance with clause 17.12;

Annual Subscription means the annual subscription payable by a Member pursuant to clause 11;

ASIC means the Australian Securities and Investments Commission;

Auditor means the auditor for the time being of Sunnyfield;

Board means the Board of Directors of Sunnyfield;

Chair means the person appointed to be the chair of meetings of the Board or the chair of meetings of Members (as applicable);

Chief Executive Officer means any person appointed by the Board to perform the duties of Chief Executive Officer;

Competing Nomination means a nomination by a Relative in a form approved by the Board from time to time lodged in accordance with clause 7.5 in circumstances where another Relative of the same Person Sunnyfield Supports has lodged such a nomination;

Constitution means this Constitution of Sunnyfield as amended from time to time;

Director means a member for the time being of the Board who is formally and lawfully appointed and includes an alternate Director;

disability has its ordinary meaning and includes intellectual disability;

Dispute Notice means a written notice served on the Company Secretary having the effect of disputing the admission to or continuing enrolment of a Relative in the class of Family Member;

Family Member means a person recorded in the Company's Register of Members as a Family Member pursuant to the provisions of clause 7.5;

General Member means a person recorded in the Company's Register of Members as a General Member pursuant to the provisions of clause 7.4;

Member means a person admitted to membership of Sunnyfield as a Family Member or a General Member;

Officer means an officer of Sunnyfield within the meaning of section 9 of the Act;

Person Sunnyfield Supports means a person with a disability who receives services from Sunnyfield in any capacity;

Registered Office means the registered office for the time being of Sunnyfield;

Register means the register of Members to be kept in accordance with the Act;

Relative means in respect of a Person Sunnyfield Supports, any person admitted by the Board as a Member under clause 7.3 in respect of that Person Sunnyfield Supports;

Seal means the Common Seal of Sunnyfield;

Secretary means any person appointed to perform the duties of Secretary of Sunnyfield; and

Tax Act means the Income Tax Assessment Act 1997 and any statutory modification, amendment or re-enactment thereto.

1.4 In this Constitution

- (a) words importing the singular also include the plural and vice versa, words importing a reference to the masculine gender include the feminine gender and vice versa, and words importing persons includes companies, corporations and associations (whether incorporated or unincorporated) and vice versa;
- (b) an expression in this Constitution that has a particular meaning in the Act has the same meaning in this Constitution;
- (c) where there is any inconsistency between this Constitution and the Act, this Constitution prevails to the extent of the inconsistency except where the Act cannot be excluded or modified; and
- (d) reference to any Act, Regulation or other legislation includes any statutory modification, amendment or re-enactment thereto and any reference to any section, part or division is to that provision as so modified, amended or re-enacted.

1.5 This Constitution contains clauses setting out the manner in which the Members have agreed to conduct the internal administration of Sunnyfield.

1.6 The objects for which Sunnyfield is established are:

- (a) primarily, to provide services to people with an intellectual disability; and generally to provide residential and/or vocational services, day programs,

respite, development and advocacy and aged care to and in respect of people with a disability;

- (b) to communicate openly with all stakeholders, and to respect their views;
- (c) to act ethically and with integrity in all its dealings including in its stewardship role;
- (d) to encourage equity of opportunity and value in its corporate practices;
- (e) to treat all stakeholders appropriately, to build trust and maintain and enhance the quality of services provided;
- (f) to continuously develop its people, services and facilities to sustain growth and to provide the best possible outcomes in all areas of its activities;
- (g) to provide any additional support required by a person with a disability in the areas of transportation, education, training, employment, therapy and recreation of such persons, as the Board may from time to time determine;
- (h) to promote the welfare generally of people with a disability and ensure that they will be adequately and sympathetically supported during their lifetime;
- (i) to ensure that people with a disability are receiving the skills and education they require to pursue personal interests and services are delivered in an empowering and learning environment to further their independence;
- (j) to make known and further the objects and activities of Sunnyfield by the publication and distribution of papers, journals and other publications and by advertising in any medium or by any means considered desirable;
- (k) so far as may be permitted by the Tax Act and the Charitable Fundraising Act 1991 (NSW) to accept subscriptions and donations (whether real or personal estate) and bequests and to collect funds for all or any of the purposes of Sunnyfield;
- (l) to contract with, appoint, employ, remove or suspend such staff or consultants as may be necessary or convenient for the purposes of Sunnyfield and to delegate to any such persons such power or duties of Sunnyfield as may legally be so delegated;
- (m) to draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants and securities or other negotiable instruments;
- (n) in furtherance of the objects of Sunnyfield to borrow or raise and secure payment of any money that may be required by Sunnyfield, upon such terms as may be deemed advisable and in particular by the issue of bonds, debentures, bills of exchange, promissory notes or other obligations or

securities of Sunnyfield or by mortgage or charge on all or any part of the property of Sunnyfield;

- (o) subject to the provisions of the Act to purchase, sell, take on lease or in exchange, hire or otherwise acquire any real and personal property, and in particular any land or buildings, furniture or library and any rights or privileges which Sunnyfield may think necessary or convenient for the purpose of its objects and to erect and from time to time maintain and alter any building for the purpose of Sunnyfield, provided that in case Sunnyfield shall take or hold any property which may be subject to any trusts Sunnyfield shall only deal with the same in such manner as is allowed by law having regard to such trusts;
- (p) to sell, improve, mortgage, lease, exchange, dispose or otherwise deal with all or any part of the property and rights of Sunnyfield;
- (q) to establish and disestablish, conduct, and control branches, committees, and other forms of organisations and administration, for the purposes of Sunnyfield and to delegate the powers and duties of Sunnyfield;
- (r) to undertake and execute any trusts or matters affecting any real or personal property of any description which may seem directly or indirectly conducive to any of the objects of Sunnyfield;
- (s) to act as a trustee for trusts with objects which are the same as or similar to the objects described in this clause 1.6 and which prohibits the distribution of its income and property amongst its members to an extent at least as great as is imposed on Sunnyfield under or by virtue of clause 2;
- (t) to establish, subsidise, promote, co-operate with, receive into union, become a member of, or appoint trustees, agents or delegates to control, manage, superintend, lend monetary assistance to or otherwise assist any association, fund or institution incorporated or unincorporated with objects altogether or in part similar to those of Sunnyfield and which prohibits the distribution of its income and property among its members to an extent at least as great as that imposed on Sunnyfield under or by virtue of clause 2 of this Constitution and to donate money for the advancement of any of the objects of Sunnyfield;
- (u) to apply for and obtain any special Act of Parliament to promote or advance the interests of Sunnyfield;
- (v) to invest and deal with the money of Sunnyfield not immediately required in such manner as may be permitted by law; .

- (w) to do all other such lawful acts and things as are or may be deemed necessary or conducive to the attainment of any of the aims, objects and purposes of Sunnyfield or in the exercise of any of its powers; and
- (x) to undertake such fund raising activities as the Board may from time to time determine (including without limitation, activities which may involve the expenditure of funds).

Sunnyfield may only exercise its powers for the objects set out in this clause 1.6 notwithstanding any provisions of the Act that may permit it to pursue other objects.

- 1.7 If any doubt arises as to the construction or interpretation of any clause of the Constitution, or of any of the regulations for the time being of the Board, the decision of the Board shall be conclusive and binding on all Members provided that such decision is reduced into writing and duly minuted.

2. APPLICATION OF INCOME AND PROPERTY

- 2.1 The income and property of Sunnyfield, whensoever derived, shall be applied solely towards the promotion of the objects of Sunnyfield as set forth in this Constitution.
- 2.2 No portion of the income and property of Sunnyfield shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to the Members.
- 2.3 Sunnyfield is prohibited from paying fees to any of the Directors.
- 2.4 Nothing in this clause 2 prevents the payment, in good faith, of reasonable and proper remuneration to any Officer or employee of Sunnyfield or to any Member, in return for any services actually rendered to Sunnyfield, nor prevent the payment of interest at a rate not exceeding interest at the rate for the time being charged by Bankers in Sydney for overdrawn accounts on money lent, or reasonable and proper rent for premises demised or let by any Member to Sunnyfield.
- 2.5 Subject always to the prior compliance with any act governing charitable fund raising bodies, Sunnyfield may pay to a Director:
- (a) out of pocket expenses reasonably incurred by a Director in the performance of any duty as Director of Sunnyfield where the amount payable does not exceed an amount approved by the Board;
 - (b) for any service rendered to Sunnyfield by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service.

3. AMENDMENTS

Subject to the Act and this Constitution, Sunnyfield may by Special Resolution alter or add to this Constitution, but no addition, alteration or amendment shall be made to or in this Constitution for the time being in force, unless the same shall have been submitted to the Ministers of the Crown for the time being respectively administering the Act, the Tax Act and the Charitable Fundraising Act, 1991 (NSW) on such occasions and in such terms as the relevant act or regulations thereunder require.

4. LIMITED LIABILITY

The liability of Members is limited.

5. CONTRIBUTION

Every Member and every Honorary Life Member of Sunnyfield undertakes to contribute to the assets of Sunnyfield in the event of the same being wound up during the time that he or she is a Member or within one year afterwards for payment of the debts and liabilities of Sunnyfield contracted before the time at which he or she ceases to be a Member and of the costs charges and expenses of winding up the same and for the adjustments of the rights of contributors amongst themselves such amount as may be required not exceeding Twenty Dollars (\$20.00).

6. WINDING UP

6.1 If upon the winding up or dissolution of Sunnyfield there remains after the satisfaction of all its debts and the liabilities any property whatsoever the same shall not be paid to or distributed among the Members but shall be given or transferred to some other institution or institutions in Australia having objects similar to the objects of Sunnyfield and which prohibits the distribution of its or their income and property amongst its or their Members to an extent at least as great as is imposed on Sunnyfield under or by virtue of clause 2 hereof and (if at the time of winding up or dissolution Sunnyfield is endorsed as a public benevolent institution pursuant to the Tax Act) which is a public benevolent institution for the purposes of the Tax Act such institution or institutions to be determined by the Directors at or before the time of dissolution and in default thereof by the Chief Judge in Equity of the Supreme Court of New South Wales or any Judge of that Court as may have or acquire jurisdiction in the matter and if and so far as effect cannot be given to the aforesaid provision then to some charitable object.

6.2 If Sunnyfield is a public benevolent institution endorsed or otherwise duly authorised as a deductible gift recipient for the purposes of the Tax Act and Sunnyfield maintains a gift fund pursuant to such endorsement, Sunnyfield must, on the earlier of the winding up of the gift fund or Sunnyfield having its said endorsement or authorisation revoked, transfer any surplus assets of that gift fund to an institution

or institutions in Australia having objects similar to the objects of Sunnyfield, which prohibits the distribution of its or their income and property amongst its or their Members to an extent at least as great as is imposed on Sunnyfield under or by virtue of clause 2 hereof, which is a public benevolent institution endorsed as a deductible gift recipient for the purposes of the Tax Act and which maintains a gift fund pursuant to such endorsement, such institution or institutions to be determined by the Directors.

7. MEMBERS

- 7.1 There must be at least one (1) Member.
- 7.2 The Board may from time to time register an increase or a decrease in the number of Members.
- 7.3 To further the objects of Sunnyfield and maintain and strengthen the family basis of Sunnyfield, membership of Sunnyfield is open to the following categories of person associated with a Person Sunnyfield Supports who has received three months mutually satisfactory service from Sunnyfield:
- (a) members of the immediate family of the Person Sunnyfield Support; or
 - (b) other close relatives of the Person Sunnyfield Supports as approved by the Board in its discretion; or
 - (c) the guardian of the Person Sunnyfield Supports. In this clause “guardian” does not include a government appointed nominee.
- 7.4 Membership of Sunnyfield may be granted as either a Family Member or a General Member provided that at any time there can only be one Family Member in respect of each Person Sunnyfield Supports. Any Member who is not a Family Member is a General Member.
- 7.5 If :
- (a) any Relative of a Person Sunnyfield Supports nominates himself or herself as the Family Member for the Person Sunnyfield Supports, or is nominated as the Family Member for the Person Sunnyfield Supports by another Member who is a Relative of the same Person Sunnyfield Supports;
 - (b) the nomination is substantially in a form prescribed by the Board from time to time; and
 - (c) the nomination is approved by the Board,
- that person may be admitted to the class of Family Member, effective immediately upon the approval by the Board of the nomination.

- 7.6 The Board may assume that a Relative who meets the criteria in clauses 7.4 and 7.5 above is eligible for admission to the class of Family Member in the absence of a Competing Nomination or receipt of a written Dispute Notice.
- 7.7 If the Company receives a Competing Nomination or a Dispute Notice prior to or after the admission of a Relative to the class of Family Member, the Board may decline to admit, or withdraw the prior admission of, such Relative of the Person Sunnyfield Supports to the class of Family Member until the Company receives:
- (a) a written notice from the Relative who submitted the Competing Nomination or Dispute Notice that:
 - (i) the Competing Nomination is withdrawn; or
 - (ii) the Dispute Notice is withdrawn; or
 - (b) where a Competing Nomination has been submitted, a written notice from the Relative the subject of the original nomination under clause 7.5 withdrawing that nomination, in which case the Competing Nomination may be considered by the Board under clause 7.5; or
 - (c) an order of the court to admit a nominated Relative to the class of Family Member.
- 7.8 The Board is under no obligation to notify a Relative of the receipt by the Company of an application for admission to the class of Family Member.
- 7.9 If a Relative is admitted as a Family Member and the Company subsequently receives a Dispute Notice, the relevant Family Member shall cease to be a Family Member from the date on which the Board exercises its discretion under clause 7.7 .
- 7.10 Subject to compliance with this Constitution any Member who ceases to be a Family Member may elect to be a General Member and enjoy all the rights of a General Member.
- 7.11 Unless the Board determines otherwise, every applicant meeting the criteria for membership of Sunnyfield (other than Honorary Life Membership) shall be proposed by one and seconded by another Member having the right to vote.
- 7.12 All applications for membership in any class shall be subject to the approval of the Board which may withhold such membership in its absolute discretion without ascribing any reason therefore. The application for membership shall be in such form as the Board may from time to time prescribe. The Board's decision is final. Such persons as the Board shall admit to membership and be enrolled on the Register shall be Members.

- 7.13 The Board may from time to time establish different classes of Members and prescribe the qualifications, rights and privileges of persons to become a member of a class.
- 7.14 Every Member entered on the Register of Members as at (30 August 2010) becomes a General Member as at that date, and subject to a compliance with this Constitution other than clause 12.3 has the right to retain General Membership indefinitely.
- 7.15 Any persons admitted to Membership after 30 August 2010 may retain Membership subject to compliance with this Constitution including clause 12.3.

8. HONORARY LIFE MEMBERS

- 8.1 Any person may be elected to be an Honorary Life Member by the Members by ordinary resolution in General Meeting if:
- (a) the Board has considered that the person warrants special recognition for outstanding service to Sunnyfield; and
 - (b) the Board has made a recommendation in writing to the Members for consideration in General Meeting that such person be considered for election to Honorary Life Membership.
- 8.2 At no time may there be more than 20 Honorary Life Members.
- 8.3 Subject to clause 12.1, any person who is a Family Member or a General Member at the time of their election to be an Honorary Life Member also retains their status as a Family Member or a General Member, as the case may be, and all rights and obligations associated with that category of membership, notwithstanding their election as an Honorary Life Member.

9. PATRONS

A Patron or Patrons of Sunnyfield may be elected by the Members in General Meeting if the Board has first nominated a person or persons the Board considers appropriate for consideration by the Members in General Meeting. A Patron need not be a Member and shall hold office at the discretion of the Board.

10. REGISTER

The Secretary shall keep the Register. A Member's details shall not be entered into such register except on authority of the Board.

11. ANNUAL SUBSCRIPTION

- 11.1 Subject to clause 11.4, Members (other than Honorary Life Members) must pay an annual subscription (if any) determined by the Board.
- 11.2 Annual subscriptions (if any) shall be payable at such times and in such manner as determined by the Board in each year.

11.3 The Board may on application by a Member, allow the Member to pay the annual subscription (if any) by instalments or waive the payment as determined by the Board.

11.4 The Board may in its discretion determine that no annual subscription is payable by the Members for a given year.

12. CESSATION OF MEMBERSHIP

12.1 A Member ceases to be a Member if:

- (a) he or she dies;
- (b) he or she resigns his or her membership by sending his or her resignation in writing to the Secretary and upon such resignation being accepted by the Board and such Member paying up any arrears of subscription (including annual subscriptions) due by him or her, he or she shall cease to be a Member; or
- (c) his or her membership ceases as a result of clauses 12.3 to 12.5; or
- (d) in the discretion of the Directors, the Company does not have a valid address for the Member for a period of 12 months from the date on which the address held by the Company for that Member is no longer valid.

12.2 Any person who shall by any means cease to be a Member, shall nevertheless remain liable for and shall pay to Sunnyfield, all monies which at the time of his or her ceasing to be a Member were due from him or her to Sunnyfield.

12.3 The Board may in its discretion order that in respect of a Member to whom clause 7.14 applies, membership ceases three (3) years after the Person Sunnyfield Supports who is related to the Member ceases to receive services from Sunnyfield on a regular basis.

12.4 Any person who ceases to be a Member under clause 12.1.4 shall be entitled to automatic reinstatement as a Member from the date on which that person provides a valid address to the Company, provided that any person exercising this right who was a Member under clause 12.3 shall only be entitled to the reinstatement of that membership until the date on which that person would have been entitled to be a Member under clause 12.3.

12.5 Subject to clause 12.7, the Board may resolve a Member to have forfeited membership and may direct his or her name to be removed from the Register if he or she:

- (a) is in arrears with their annual subscription (if any) for a period of one (1) month after the same becomes due and after that period neglects for one (1) month after notice is given to him or her in writing by the Secretary or Treasurer to pay such arrears;

- (b) is convicted of felony or is declared by any court of competent jurisdiction to have committed any fraud or misconduct; or
 - (c) is or becomes of unsound mind, or a person whose estate is liable to be dealt with in any way under the law relating to mental health.
- 12.6 Subject to clause 12.7 if any Member shall wilfully refuse or neglect to comply with the provisions of the Constitution or shall be guilty of any conduct which in the opinion of the Board is unbecoming of a Member or prejudicial to the interest of Sunnyfield, the Board shall have power by resolution to censure, fine, suspend or expel the Member from Sunnyfield.
- 12.7 Before the Board makes a resolution referred to in clause 12.5 or clause 12.6, the Board must:
- (a) meet to consider the allegation being made;
 - (b) provide the Member against whom the allegation has been made with at least seven (7) days written notice of this meeting of the Board and details of:
 - (i) the time and place of the Board meeting;
 - (ii) what is alleged against him or her; and
 - (iii) the intended resolution; and
 and confirmation that:
 - (iv) he or she has the right to give an oral or written explanation or defence he or she may think fit at the Board meeting; and
 - (v) subject to clause 12.8 he or she may elect to have the complaint dealt with by Sunnyfield in general meeting; and
 - (c) provide the Member with a reasonable opportunity to give such oral or written explanation or defence as the Member may reasonably think fit during the Board meeting and before the Board passes its resolution on the allegation.

Legal advisors are not permitted to attend the Board meeting referred to in this clause 12.7.

- 12.8 A Member may elect to have an allegation described in clauses 12.5 or 12.6 dealt with by the Members in general meeting by giving notice of his or her intention to this effect to the Secretary not less than twenty four hours prior to the appointed time for holding the Board meeting referred to in clause 12.8.
- 12.9 If the Member validly elects to have the question dealt by the Members, a General Meeting of Sunnyfield shall be called for the purpose and if at the meeting such a resolution is passed by a majority of those present and voting (such vote to be taken

by ballot) the Member concerned shall be dealt with accordingly and in the case of a resolution for his or her expulsion, the Member shall be expelled.

12.10 Whenever any person ceases to be a Member, the Board shall direct that his or her name shall be removed from the Register.

13. GENERAL MEETINGS

13.1 There shall be at least one General Meeting held during each calendar year and not more than 15 months after the holding of the last preceding General Meeting at such time and place as the Board may from time to time decide.

13.2 The General Meeting referred to in clause 13.1 shall be called the Annual General Meeting. All other General Meetings shall be called General Meetings.

13.3 Sunnyfield may hold a General Meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

13.4 A General Meeting may be called:

- (a) by three (3) Directors;
- (b) by the Board on the request of Members with at least ten percent (10%) of the votes entitled to be cast at the General Meeting;
- (c) by Members with at least ten percent (10%) of the votes entitled to be cast at the General Meeting; or
- (d) pursuant to an order of a court if it is impractical to call the meeting in any other way.

13.5 Subject to the provisions of the Act relating to special resolutions, not less than twenty-one days' notice of the holding of a General Meeting (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and in case of special business, the general nature of that business shall be given in the manner described in clause 27 or in such other manner as may be prescribed by Sunnyfield in General Meeting, to the Members and Directors but with the consent of all Members entitled to receive notice of some particular meeting that meeting may be convened by such shorter notice and in such a manner as those Members may think fit.

13.6 The accidental omission to give notice of a meeting to or the non-receipt of notice of a meeting by any Member shall not invalidate the proceedings at any meeting.

13.7 The Board must give its Auditor (if applicable):

- (a) notice of a General Meeting in the same way that a Member is entitled to receive notice; and

- (b) any other communication relating to the General Meeting that a Member is entitled to receive.

14. PROCEEDINGS AT GENERAL MEETINGS

- 14.1 The business of an Annual General Meeting shall be to receive and consider the statements, accounts and reports of the Board and of the Auditor, to elect the Directors for the ensuing year and to transact any other business which under this Constitution ought to be transacted at an Annual General Meeting. All other business transacted at an Annual General Meeting and all business transacted at a General Meeting shall be deemed special.
- 14.2 The Board's report referred to in clause 14.1, in addition to any other particulars which the Board shall deem desirable, shall contain a resume of the activities of Sunnyfield for the period since the preceding report. Such report shall, before presentation at the Annual General Meeting, be formally approved at a Meeting of the Board.
- 14.3 The Auditor is entitled to attend and be heard at General Meetings.
- 14.4 A Member wishing to bring before a General Meeting any motion or business shall give notice thereof in writing to the Secretary not less than thirty five (35) days before the day of the meeting and no motion or business shall be transacted or entertained at such meeting unless notice thereof has been given.
- 14.5 No business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business and remains present at all times during the meeting. Save as herein otherwise provided ten (10) Members personally present shall constitute a quorum for a General Meeting.
- 14.6 If within thirty (30) minutes from the time appointed for the meeting, a quorum is not present, the meeting if convened upon the requisition of Members shall be dissolved. In any other case, it shall stand adjourned to the same day in the next week, at the same time and place and if at the adjourned meeting a quorum is not present within thirty (30) minutes from the time appointed for the meeting, the Members present shall be a quorum.
- 14.7 The Chairman shall preside at every General Meeting of Sunnyfield unless resolved by the majority of Members present that he or she vacate the chair.
- 14.8 If the Chairman is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or if being present he or she shall be unwilling to act as Chairman, the Members present shall choose one of their number to be Chairman.
- 14.9 The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and

from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

14.10 When a General Meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of the original General Meeting.

14.11 Subject to clause 14.10 it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

15. VOTING AT GENERAL MEETINGS

15.1 At any General Meeting, a resolution put to the vote of the meeting shall be decided on a show of hands of all Members present in person or by proxy, unless a poll is (before or on the declaration of the results of a show of hands) demanded by the Chair or at least two (2) Members present in person or by proxy entitled to vote and unless a poll is demanded a declaration by the Chairman that a resolution has on a show of hands been carried unanimously or by a particular majority or lost and an entry to that effect in the Minute Book of Sunnyfield shall be conclusive evidence of the fact without proof of the numbers or proportion of the votes recorded in favour of or against such resolution.

15.2 Subject to clause 15.3, if a poll is duly demanded, it shall be taken in such manner as the Chairman directs and unless the meeting is adjourned, the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

15.3 On a poll:

(a) Only Family Members may vote;

(b) A resolution is passed only if it has the support of Family Members (whether as an Ordinary Resolution or a Special Resolution);

(c) A Family Member may appoint a proxy in respect of that Family Member's vote.

15.4 In the case of equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which a poll is demanded, shall be entitled to a second or casting vote.

15.5 A poll demanded on the election of a Chairman, or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the Chairman of the meeting directs.

15.6 Subject to clause 15.3, Members who have paid up all past and present subscriptions due to Sunnyfield as at the date of the General Meeting, shall be entitled to vote.

15.7 A Member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health may vote, whether on a

show of hands or on a poll, by his or her Committee or by his or her trustee or by such other person as properly has the management of his or her estate, and any such Committee, trustee or other person may vote by proxy or attorney.

- 15.8 Voting is restricted to Members aged 18 years and over. The Company is under no obligation to enquire as to the age of a Member.

16. PROXIES

- 16.1 The instrument appointing a proxy shall be in writing (in the common or usual form) under the hand of the appointor or of his or her attorney duly authorised. Only Members can be proxies. General Members may be appointed the proxy of a Family Member for all voting purposes. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- 16.2 Where it is desired to afford Members an opportunity of voting for or against a resolution, the instrument appointing a proxy shall be in a form prescribed by the Board from time to time or in a form substantially similar thereto.
- 16.3 The instrument appointing a proxy and the Power of Attorney or other authority, if any, under which it is signed or a copy certified as a true copy by a person qualified to witness statutory declarations of that power or authority shall be deposited at the Registered Office, or at such other place as is specified for that purpose in the notice convening the meeting, not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll not less than twenty-four hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.
- 16.4 A Member may appoint only one Proxy.
- 16.5 If an individual is attending both as a Member and as a proxy, they are to be counted only once for the purpose of determining whether a quorum is present.
- 16.6 A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, if no intimation in writing of such death, unsoundness of mind or revocation as foresaid has been received by Sunnyfield at the Registered Office before the commencement of the meeting or adjourned meeting at which the instrument is used.

17 THE BOARD

- 17.1 The business and affairs of Sunnyfield shall be under the management of and conducted by the Board.

- 17.2 The Board shall consist of no less than 6 and no more than 10 Directors, at least two of which must reside in Australia. At least 3 Directors must be Members. No paid employee of Sunnyfield may be a Director.
- 17.3 Sunnyfield shall appoint a person as a Director by resolution passed in general meeting.
- 17.4 The Board shall elect from its Directors such office bearers as it considers necessary.
- 17.5 Candidates for election to the Board shall be proposed and seconded in writing by Members entitled to vote at a General Meeting. The candidate must consent in writing to be a Director and his or her consent must be lodged with the Secretary thirty-five (35) days prior to the date of the General Meeting at which his or her candidacy is to be voted on.
- 17.6 The Auditor is ineligible to be elected or appointed as a Director or alternate Director.
- 17.7 The election of Directors shall take place at each Annual General Meeting and a ballot if necessary shall be held in such manner as the Chairman of the Meeting may decide.
- 17.8 Where there are more nominees for the position for Director at an Annual General Meeting than there are vacant positions for Directors, then person or persons elected shall be those persons receiving both a majority of votes on the resolution, and the greatest number of votes as between those persons nominated for the vacancy or vacancies.
- 17.9 [Deleted.]
- 17.10 A retiring Director shall be deemed to be nominated for re-election unless he or she has given notice to the Secretary that he or she does not desire to be re-elected.
- 17.11 Subject to clause 17.2, if a casual vacancy in the Board occurs, it may be filled by the appointment by the Board of a person considered by it to be suitable and the Director so appointed shall retire at the next succeeding Annual General Meeting and is eligible for re-election.
- 17.12 Alternate Directors:
- (a) Subject to the approval by the Board of a person nominated by a Director to be his alternate, a Director may appoint an Alternate Director to exercise some or all of the Director's powers for a specified period.
 - (b) If the appointing Director requests Sunnyfield to give the Alternate Director notice of Board meetings, Sunnyfield must do so.

- (c) When an Alternate Director exercises the Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Director.
- (d) The appointing Director may terminate the Alternate Director's appointment at any time.
- (e) The Board may terminate the Alternate Director's appointment at any time without having to give reasons, in which case the affected Director may, subject to clause 17.12.1, appoint a new Alternate Director.
- (f) An appointment or termination of an Alternate Director must be in writing. A copy of the appointment must be given to the Secretary.

17.13 Retirement of Directors:

- (a) A Director must not hold office without re-election past the third Annual General Meeting following the Director's appointment or 3 years, whichever is the longest.
- (b) At each Annual General Meeting, one third of the Directors (or if the number of Directors is not a multiple of three, the number that is nearest to but not exceeding one third) shall retire. A Director retiring pursuant to clause 17.11 or 17.13(a) shall be counted as a Director retiring pursuant to this clause.
- (c) The Directors to retire, other than those retiring pursuant to clause 17.11 or 17.13(a) or by reason of legislation shall be those who have been in office longest since their election or re-election or as the case may be.
- (d) As between Directors whose last election or re-election was on the same day, those to retire shall (unless they otherwise agree amongst themselves) be determined by the Board or in such manner as the Board shall decide.
- (e) A retiring Director shall hold office until the conclusion of the meeting at which the Director retires.

17.14 A Director may resign as a Director of Sunnyfield by giving written notice of resignation to the Secretary at the Registered Office.

17.15 The office of Director shall be vacated if he or she:

- (a) is removed from office by a Special Resolution of the Members provided in clause 19;
- (b) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (d) sends to the Board or the Secretary his or her written resignation of office;

- (e) (if a Member) is suspended for any period from membership;
- (f) ceases to be a Director by virtue of the Act;
- (g) becomes prohibited from being a Director by reason of any order made under the Act;
- (h) for more than six months is absent without permission of the Board from meetings of the Board held during this period;
- (i) is convicted of felony or is declared by any Court of competent jurisdiction to have committed any fraud or misconduct; or
- (j) is or becomes a paid employee of Sunnyfield.

17.16 Unless an exception under section 191 of the Act applies, if a Director has a material personal interest in a matter that relates to the affairs of Sunnyfield, the Director must give the Board notice of the interest. This notice must include details of the nature and extent of the interest and the relation of the interest to the affairs of Sunnyfield and be given at a Board meeting as soon as practicable after the Director becomes aware of their interest in the matter.

17.17 A Director with a material personal interest in a matter that relates to the affairs of Sunnyfield may give standing notice of this ongoing interest in accordance with the Act.

17.18 A Director who has a material personal interest in a matter that is being considered at a Board meeting shall not be present while the matter is being considered at the meeting or vote on the matter unless:

- (a) the interest does not need to be disclosed under section 191 of the Act; or
- (b) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the Director, the nature of their interest in the matter and its relation to the affairs of Sunnyfield; and
 - (ii) states that the Board is satisfied that the interest should not disqualify the Director from voting or being present.

18 MEETINGS OF THE BOARD

18.1 The Directors may meet together for the dispatch of business adjourn and otherwise regulate their meetings as they think fit and at least six (6) meetings shall be held each calendar year

18.2 The Board shall elect from its members annually a Chairman and also if it thinks fit, a Deputy Chairman of Sunnyfield. The Chairman shall preside at all meetings of the Board. In the absence or inability for any cause of the Chairman to act, the Deputy Chairman (if any) may exercise any of the functions exercisable by the Chairman. In

the absence or like inability of both the Chairman and Deputy Chairman, the Directors present shall appoint one of their members to exercise such functions.

- 18.3 Questions arising at any meeting shall be decided by a majority of votes.
- 18.4 In the case of equality of votes, the Chairman shall have a second or casting vote.
- 18.5 Three (3) Directors may at any time, and the Chairman on the requisition of three (3) Directors shall, summon a meeting of the Board.
- 18.6 As long as all Directors consent, a Board meeting may be called or held using any technology which allows all of the Directors participating in the meeting to hear each other at the same time. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting.
- 18.7 The quorum necessary for the transaction of the business of the Board shall be not less than one half of the Directors from time to time. The quorum must be present at all times during the meeting.
- 18.8 The Directors may act notwithstanding any vacancy in their body but if, and so long as their number is reduced below the number fixed as the minimum quorum under clause 18.7, the continuing Directors may act for the purpose of increasing the number to that number or for summoning a General Meeting of Sunnyfield but for no other purpose.
- 18.9 The Board may pass a resolution without a Board meeting being held if notice in writing of the resolution is given to all Directors and a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of Directors) sign a document containing a statement that they are in favour of the resolution set out in the document.
- 18.10 A resolution pursuant to clause 18.9 may consist of several documents in the same form each signed by one or more Directors and is effective when signed by the last of the Directors constituting the majority of the Directors. A facsimile transmission or other document produced by electronic means under the name of a Director with the Director's authority is taken to be a document signed by the Director for the purposes of clause 18.9 and is taken to be signed when received by the Company in legible form.
- 18.11 For the purposes of clause 18.9, the reference to Directors includes any alternate director who is appointed by a Director who is at the relevant time on leave of absence approved by the Board but does not include any other alternate directors.

19 REMOVAL OF DIRECTOR

Subject to section 203D of the Act, the Members in General Meeting may by Special Resolution remove any Director before the expiration of his or her period of office and may by an ordinary resolution appoint another person in his or her stead.

20 POWERS AND DUTIES OF THE BOARD

- 20.1 Subject to the Act, the management of the business and affairs and custody and control of the funds and property of Sunnyfield shall be vested in the Board who in addition to the powers and authorities by this Constitution expressly conferred upon them may exercise all such powers and do all such acts and things as may be exercised or done by Sunnyfield and are not by this Constitution or by the Act expressly directed or required to be exercised or done by Sunnyfield in General Meeting.
- 20.2 The Board shall define the powers and duties of the Chief Executive Officer (and delegate the same to him or her) and from time to time may alter or limit any such powers and duties in such manner as may be deemed desirable.
- 20.3 The Board shall cause minutes to be made in books provided of:
- (a) all appointments of officers made by the Board;
 - (b) the name of the Directors present at each meeting of the Board and of any committee of the Board;
 - (c) all resolutions and proceedings at all meetings of Sunnyfield and of the Board and of committees of the Board; and
 - (d) all resolutions passed by Directors without a meeting.
- 20.4 Sunnyfield must ensure that:
- (a) the minutes of a meeting are signed by the Chairman of the meeting or the Chairman of the next meeting within a reasonable time after the meeting; and
 - (b) resolutions passed without a meeting are signed by a Director within a reasonable time after the resolution is passed.
- 20.5 The Board may from time to time, at its discretion raise or borrow or secure the payment of any sum or sums of money for the purposes of Sunnyfield.
- 20.6 The Board may raise or secure the payment or repayment of such moneys in such manner and upon such terms and conditions in all respects as it shall think fit and in particular by any mortgage charge or other security on the whole or any part of the property of Sunnyfield both present and future.
- 20.7 The Board shall cause a proper register to be kept in accordance with any statute relating thereto of all mortgages and charges, specifically affecting the property of Sunnyfield.

21 COMMITTEES

- 21.1 The Board may delegate any of its powers to such committees as it thinks fit, and any committee so formed shall exercise the powers delegated to it in accordance with any directions of the Board.
- 21.2 The effect of a committee exercising a power delegated to it is the same as if the Board exercised it.
- 21.3 The Board Chairman may nominate a committee chairman and if no such chairman is nominated or if at any meeting the chairman is not present within fifteen minutes after the time appointed for the holding of the same, the members of the committee present may choose one of their number to be chairman of the meeting.
- 21.4 A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes by the members of the committee present and in case of an equality of votes, the chairman shall have a second or casting vote.
- 21.5 Each committee shall furnish to the appropriate meeting of the Board a report of its activities and shall tender to the Board such advice concerning the subject matter of its activities as the Board deems desirable.

22 VALIDITY OF ACTS

All acts done by any meeting of the Board or a committee of the Board or by any Director or an Alternate Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such person acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified.

23 SECRETARY

- 23.1 Sunnyfield must have at least one Secretary. At least one of them must ordinarily reside in Australia.
- 23.2 The Secretary shall be appointed by the Board on such terms and conditions as the Board thinks fit.

24 THE SEAL

The Board shall provide for the safe custody of the Seal of Sunnyfield which shall not be affixed to any instrument except by the authority of a resolution of the Board and in the presence of a Director and of the Secretary or Chief Executive Officer or such other person as the Board may appoint for the purpose; and that a Director and the Chief Executive Officer or such other person as aforesaid shall sign every instrument to which the Seal of Sunnyfield is so affixed in their presence.

25 ACCOUNTS

- 25.1 The Board shall ensure that true accounts and records are kept of the sums of the money received and expended by Sunnyfield and the matters in respect of which such receipts and expenditures take place and of the property credits and liabilities of Sunnyfield to enable true and fair statements and accounts to be prepared and to permit preparation of any other documents required by the Act or this Constitution.
- 25.2 For the purposes of clause 25.1, the Board shall cause proper accounting and other records to be kept and shall distribute copies of every statement and account of Sunnyfield (including every document required by law to be attached thereto) accompanied by a copy of the Auditors Report thereon as required by the Act.
- 25.3 The Board shall cause to be made out and laid before each Annual General Meeting the statements and accounts of Sunnyfield made up to a date not more than six (6) months before the date of the meeting.
- 25.4 Once at least in every year the accounts of Sunnyfield shall be examined and the correctness of the statements described in clause 25.2 ascertained by one or more properly qualified auditor or auditors.
- 25.5 The accounting and other records of Sunnyfield shall be kept:
- (a) in such manner as to enable them to be conveniently and properly audited;
 - (b) for seven (7) years after the completion of the transactions or operations to which they relate; and
 - (c) at the Registered Office or at such other place as the Board thinks fit.
- 25.6 The accounting and other records of Sunnyfield shall at all times be open to inspection by the Board.
- 25.7 The Board shall from time to time determine at what times and places and under what conditions and regulations the accounting records of Sunnyfield shall be open to the inspection of Members not being Directors.
- 25.8 Except at the discretion of the Board no Member other than a Director has any right to inspect any books or records of Sunnyfield other than as allowed by clauses 25.6 and 25.7 or by the Members in General Meeting or by the Act or other legislation.

26 AUDIT

- 26.1 A properly qualified auditor or auditors shall be appointed the Auditor and his, or her or their remuneration shall be fixed and duties regulated in accordance with the Act or other legislation.
- 26.2 Subject to Part 2M.4 of the Act, the Auditor may be:
- (a) an individual;

- (b) a firm; or
- (c) a company.

26.3 A person shall not be appointed or act as the Auditor if the person is:

- (a) an Officer of Sunnyfield, its holding company or any subsidiary company;
- (b) a partner, an employer or employee of an Officer of Sunnyfield, its holding company or any subsidiary company; or
- (c) a partner or employee of an employee of an Officer of Sunnyfield its holding company or any subsidiary company.

Despite clause 1.3, reference in this clause 26.3 to **Officer** includes any director secretary or employee of the Company.

26.4 Sunnyfield may have more than one Auditor.

26.5 Sunnyfield must appoint an Auditor at an Annual General Meeting and appoint an Auditor to fill any vacancy in the office of auditor at each subsequent Annual General Meeting.

26.6 Except where the Auditor is removed from office at the Annual General Meeting, Sunnyfield may appoint an Auditor at an Annual General Meeting only if a Member gives Sunnyfield written notice of the nomination of the individual, firm or company for appointment as the Auditor:

- (a) before the meeting was convened; or
- (b) not less than 21 days before the meeting.

26.7 An Auditor holds office until the Auditor dies, is removed or resigns from office or ceases to be capable of acting as Auditor in accordance with the Act.

26.8 Sunnyfield may resolve in General Meeting to remove the Auditor in accordance with Section 329 of the Act.

26.9 Except where a vacancy has been caused by the removal of the Auditor from office by Sunnyfield, the Board must appoint an Auditor to fill a vacancy in the office of Auditor within one (1) month after the vacancy occurs if:

- (a) there is no surviving or continuing Auditor (where the Auditor is a company); and
- (b) Sunnyfield has not appointed an Auditor to fill the vacancy at a General Meeting.

27 NOTICES

27.1 The Company may give Notice to a Member by any of the following means in the Board's discretion:

- (a) delivering it to that Member in person;

- (b) delivering it or sending it by post to the address of the Member in the Register or the alternative address (if any) nominated by that Member for that purpose;
- (c) sending it to a fax number or electronic address (if any) nominated by that Member;
- (d) if permitted by the Corporations Act, notifying that Member of the notice's availability by an electronic means nominated by the Member for that purpose; or
- (e) any other means permitted by the Corporations Act.

The non-receipt of such notice shall not invalidate the proceedings of any meeting held in pursuance of such notice.

27.2 A Notice sent by post or air-mail is taken to be given on the day after the date it is posted. A Notice sent by fax or other electronic transmission is taken to be given when the transmission is sent. A Notice given in accordance with clause 27.1(d) is taken to be given on the day after the date on which the Member is notified that the Notice is available.

27.3 [Deleted.]

27.4 Where a given number of days' notice or notice extending over any period is required to be given the day of service shall unless it is otherwise provided be counted in such number of days or other period.

27.5 Notice of every General Meeting shall be given in any manner herein before authorised to:

- (a) every Member, Honorary Life Member or Patron;
- (b) every Director; and
- (c) the Auditor or Auditors for the time being of Sunnyfield.

No other person shall be entitled to receive notices of General Meeting.

28 INDEMNITY & INSURANCE

28.1 Subject to the Act, Sunnyfield shall indemnify every Officer and, if the Board so resolves, employees of Sunnyfield 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 (or employee as relevant), other than:

- (a) a liability owed to Sunnyfield or a related body corporate of Sunnyfield;
- (b) a liability for a pecuniary penalty order under section 1317G of the Act or a compensation order under section 1317H of the Act; or

- (c) a liability owed to a person other than Sunnyfield that did not arise out of conduct in good faith.

28.2 Sunnyfield shall indemnify each Officer and if the Board so resolves employees of Sunnyfield 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, an Officer (or employee as relevant), other than for legal costs incurred:

- (a) in defending or resisting proceedings in which the Officer or employee is found to have a liability for which they could not be indemnified under clause 28.1;
- (b) in defending or resisting criminal proceedings in which the Officer or employee is found guilty;
- (c) in defending or resisting proceedings brought by the 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 this clause 28.2(c) does not apply to costs incurred in responding to actions taken by the 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 or employee under the Act in which the court denies the relief.

For the purposes of this clause 28.2, **proceedings** includes the outcome of the proceedings and any appeal in relation to the proceedings.

28.3 Sunnyfield may take out and pay the premiums in respect of policies of insurance insuring persons who are or have been Officers of Sunnyfield against such liabilities as the Directors think fit provided that any such insurances do not contravene the Act. Notwithstanding any other provisions of this Constitution, a Director shall not be disqualified from voting in favour of effecting such insurance by virtue of his or her office.