

CONSTITUTION

INDEPENDENT DIRECTORS ASSOCIATION

In PAPUA NEW GUINEA

7 July 2021

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1. Preliminary

1.1 Definitions and interpretation

Schedule 1 applies and forms part of this Constitution.

1.2 Name and nature of the Association

- (a) The name of the Association is the "Independent Directors Association in Papua New Guinea Incorporated".
- (b) The Association is an incorporated association limited by guarantee.
- (c) Each Member undertakes to contribute an amount not exceeding K100 to the property of the Association if the Association is wound up:
 - (i) at a time when that person is a Member; or
 - (ii) within one year of the time that person ceased to be a Member,for:
 - (iii) payment of the debts and liabilities of the Association contracted before that person ceased to be a Member;
 - (iv) payment of the costs, charges and expenses of winding up the Association; and
 - (v) adjustment of the rights of the contributories among themselves.

1.3 Objects

- (a) The object of the Association is, through education, to promote excellence, enterprise and integrity in the directors of all organisations, to improve their knowledge and skill with respect to their rights, duties and responsibilities, and to inculcate the highest standards of ethics among directors and, in fulfilling this object, the Association will:
 - (i) uphold and maintain the concept of corporate entity, the principle of limited liability and the preservation and furtherance of the free enterprise system;

- (ii) affiliate with organisations with similar objects; and
 - (iii) take an interest in legislative, economic and social matters to ensure the preservation of the basic commercial freedoms and to prevent abuse of those freedoms.
- (b) The Association:
- (i) will only apply the income and property of the Association in promoting the objects of the Association;
 - (ii) must not subscribe to, support with its funds, or amalgamate with, any association or organisation which does not, to the same extent as this Constitution, restrict the application of its income and property and prohibit the making of distributions to its members; and
 - (iii) must not support any activity, or impose on, or procure to be observed by, Members or others, any regulations or restrictions which, if they were an object of the Association, would make it a trade union within the meaning of the *Industrial Organisations Act*.

1.4 No distribution to Members

- (a) Subject to Article 1.4(b), the Association must not make any distributions to any Members, whether by way of dividend, surplus on winding up or otherwise.
- (b) Article 1.4(a) does not prevent the Association, with the approval of the Directors, and acting in good faith, paying:
 - (i) reasonable remuneration to a Member who is an employee of the Association;
 - (ii) reasonable remuneration in consideration for services rendered or goods supplied by a Member to the Association in the ordinary course of business;
 - (iii) interest, at a reasonable rate, on money borrowed by the Association from a Member;
 - (iv) reasonable rent for premises leased to the Association by a Member;

- (v) out-of-pocket expenses incurred by a Member for, or on behalf of, the Association; or
- (vi) any other reasonable amount of a similar character to those described in this Article 1.4(b).

1.5 Incorporation of the Association

The Association must not:

- (a) breach any condition placed on it by the Registrar of Companies; or
- (b) pursue objects or purposes that would have prevented its being granted the Certificate of Incorporation; or
- (c) apply its profits or other income to promote objects or purposes that would have prevented its being granted the Certificate of Incorporation; or
- (d) modify its Constitution to allow it to do anything which it is required not to do under Article 1.5(a) to (c) or Article 1.4(a).

2. Members

2.1 Classes of membership

The Directors may, from time to time, determine:

- (a) the various classes of membership of the Association;
- (b) any restriction in the number of Members or the number of Members within each class;
- (c) the qualifications for admission to each class; and
- (d) the rights attached to being a Member in each class.

2.2 Applications

- (a) Any person who agrees in writing to be bound by, and to comply with, the Association's Code of Conduct, is eligible to apply to become a Member.
- (b) Each applicant to become a Member must:
 - (i) complete and deliver to the Association an application in the form (including in electronic form); and
 - (ii) pay any initial fee;which the Directors determine, from time to time.
- (c) The Directors determine whether an applicant may become a Member.
- (d) The Directors are not required to give any reason for the rejection of any application to become a Member.
- (e) If an application to become a Member is accepted, the Association must:
 - (i) give written notice of the acceptance to the applicant including details of the class of membership and the rights that are then attached to that class;

- (ii) request payment of any amount owing for the initial fee and annual subscription fees (being a pro rata sum if so determined by the Directors); and
 - (iii) upon payment of that amount, enter the applicant's name in the Register.
- (f) If an application to become a Member is rejected, the Association must:
 - (i) give written notice of the rejection to the applicant; and
 - (ii) refund in full any fees paid by the applicant.

2.3 No transfers

The rights of being a Member are not transferable whether by operation of law or otherwise.

2.4 Ceasing to be a Member

- (a) A person will cease to be a Member if:
 - (i) that person resigns in accordance with Article 2.5;
 - (ii) that person is expelled under Article 2.6; or
 - (iii) a Cessation Event occurs in respect of that person.
- (b) The estate of a deceased Member is not released from any liability in respect of that person being a Member.

2.5 Resignation

- (a) A Member may resign as a Member by giving the Association notice in writing.
- (b) Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Association.

2.6 Expulsion or suspension

- (a) Subject to Article 2.6(c), the Directors may resolve to:
 - (i) expel a Member; or
 - (ii) suspend a Member:
 - A. for such period; and
 - B. from enjoying such rights and privileges of membership, as the Directors may determine;if:
 - (iii) an Expulsion Event (other than the non payment of a Fee) occurs in respect of the Member; and
 - (iv) the Association gives that Member at least 10 Business Days notice in writing:
 - A. stating the Expulsion Event and that the Member is liable to be expelled; and
 - B. informing the Member of his or her right under Article 2.6(c)(i).
- (b) The Directors may resolve to expel a Member if the Member does not pay a Fee within 20 Business Days after the due date for its payment.
- (c) Before passing any resolution under Article 2.6(a), the Directors:
 - (i) must allow the Member to give to the Directors, either orally or in writing, any explanation or defence of the Expulsion Event; and
 - (ii) may adopt other procedures to aid the resolution of complaints against the Member, including the appointment of complaints committees, conciliators and mediators.
- (d) Where a resolution is passed under Article 2.6(a) or 2.6(b), the Association must give the Member, notice ("Discipline Notice") in writing of the expulsion or suspension, within 10 Business Days of the resolution.

- (e) A Member may, by notice in writing to the Association within 10 Business Days of receipt of a Discipline Notice, request that a resolution for expulsion (but not suspension) of that Member under Article 2.6(a) be reviewed by the Association at the next general meeting.
- (f) If a request under Article 2.6(e) is made, the Directors must propose at the next general meeting of the Association that a resolution be moved to confirm the expulsion of the Member concerned.
- (g) A resolution under Article 2.6(a) takes effect:
 - (i) if the Member gives a notice under Article 2.6(e), the date (if any) the resolution is confirmed by a general meeting of the Association; or
 - (ii) if the Member does not give a notice under Article 2.6(e), the date of the resolution.
- (h) A resolution under Article 2.6(b) takes effect on the date of the resolution.
 - (i) The Directors may reinstate an expelled Member on any terms and at any time as the Directors resolve, including a requirement that all amounts due but unpaid by the expelled Member are paid.

2.7 Variation of classes and class rights

- (a) Subject to the Associations Incorporation Act and the terms of a particular class of membership, the Association may:
 - (i) vary or cancel rights attached to being a Member of that class; or
 - (ii) convert a Member from one class to another,by special resolution of the Association and:
 - (iii) a special resolution passed at a meeting of the Members included in that class; or
 - (iv) the written consent of Members who are entitled to at least 75% of the votes that may be cast in respect of membership of that class.

- (b) The provisions in this Constitution concerning meetings of Members (with the necessary changes) apply to a meeting held under Article 2.7(a)(iii).

2.8 Certificates

- (a) The Association may issue to each Member, free of charge, a certificate evidencing that person as a Member.
- (b) The Association may issue a replacement certificate of being a Member if:
 - (i) the Association receives and cancels the existing certificate; or
 - (ii) the Association is satisfied that the existing certificate is lost or destroyed, and the Member pays any fee as the Directors resolve.

3. Fees

3.1 Fees

- (a) The Association may require the payment of fees or levies by Members in the amounts and at the times as the Directors resolve.
- (b) The Association may make Fees payable for one or more Members, or classes of Members, for different amounts and at different times.
- (c) Pursuant to Article 3.1(a), the Directors may, from time to time, give notice to Members:
 - (i) revoking or postponing Fees;
 - (ii) extending the time for payment of Fees;
 - (iii) allowing for payment of Fees by instalments; or
 - (iv) stipulating the amount, the time, the method and the place of payment of Fees.

3.2 Interest

- (a) A Member must pay to the Association:
 - (i) interest at the rate reasonably determined by the Directors, on any Fees which are not paid on, or before, the time appointed for payment, from the time appointed for payment to the time of the actual payment; and
 - (ii) expenses incurred by the Association because of the failure to pay, or late payment of, that amount.
- (b) The Directors may waive payment of all or any part of an amount payable under Article 3.2(a).

3.3 Exercise of powers

The powers of the Association under this Article 3 may only be exercised by the Directors.

4. Proceedings of Members

4.1 Who can call meetings of Members

- (a) Subject to the Associations Incorporation Act, the Directors may call a meeting of Members at a time and place as the Directors resolve.
- (b) The Directors must call and arrange to hold a general meeting on the request of Members made in accordance with the Associations Incorporation Act.
- (c) The Members may call and arrange to hold a general meeting as provided by the Associations Incorporation Act.

4.2 Annual General Meeting

- (a) The Association must hold an AGM if required by, and in accordance with, the Associations Incorporation Act.
- (b) The business of an AGM may include any of the following, even if not referred to in the notice of the meeting:
 - (i) the consideration of the annual financial report, the Directors' report and the auditor's report for the Association;
 - (ii) the appointment of the auditor of the Association; and
 - (iii) the fixing of the remuneration of the auditor of the Association.

4.3 How to call meetings of Members

- (a) The Association must give not less than Prescribed Notice of a meeting of Members.
- (b) Notice of a meeting of Members must be given to each Member, each Director and any auditor of the Association.
- (c) Subject to Article 4.11(h), a notice of a meeting of Members must:
 - (i) set out the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);

- (ii) state the general nature of the business of the meeting; and
- (iii) set out or include any other information or documents specified by the Associations Incorporation Act.
- (d) Subject to the Associations Incorporation Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid if either or both a person does not receive notice of the meeting or the Association accidentally does not give notice of the meeting to a person.

4.4 Right to attend meetings

- (a) Each Member and any auditor of the Association is entitled to attend any meetings of Members.
- (b) Subject to this Constitution, each Director is entitled to attend and speak at all meetings of Members.

4.5 Meeting at more than one place

- (a) A meeting of Members may be held in two or more places linked together by any technology that:
 - (i) gives the Members as a whole in those places a reasonable opportunity to participate in proceedings;
 - (ii) enables the Chair to be aware of proceedings in each place; and
 - (iii) enables the Members in each place to vote on a show of hands and on a poll.
- (b) If a meeting of Members is held in two or more places under Article 4.5(a):
 - (i) a Member present at one of the places is taken to be present at the meeting; and
 - (ii) the Chair of that meeting may determine at which place the meeting is taken to have been held.

4.6 Quorum

- (a) Subject to Article 4.6(e), a quorum for a meeting of Members is ten Members entitled to vote at that meeting.
- (b) In determining whether a quorum for a meeting of Members is present:
 - (i) where a person is present as a Member and as a proxy or attorney of another Member, that person is counted separately for each appointment provided that there is at least one other Member present; and
 - (ii) where a person is present as a proxy or attorney for more than one Member, that person is counted separately for each appointment provided that there is at least one other Member present.
- (c) A quorum for a meeting of Members must be present at the commencement of the meeting. If a quorum is present at the commencement of a meeting of Members, it is taken to be present throughout the meeting unless the chair otherwise determines.
- (d) If a quorum is not present within 30 minutes after the time appointed for a meeting of Members:
 - (i) if the meeting was called under Article 4.1(b) or Article 4.1(c), the meeting is dissolved; and
 - (ii) any other meeting is adjourned to the date, time and place as the Directors may, by notice to the Members, appoint, or failing any appointment, to the same day in the next week at the same time and place as the meeting adjourned.
- (e) If a quorum is not present within 30 minutes after the time appointed for an adjourned meeting of Members:
 - (i) if there are not less than five Members present, they shall constitute a quorum; and
 - (ii) otherwise, the meeting is dissolved.

4.7 Chair

- (a) The Chair must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of Members.
- (b) If at a meeting of Members:
 - (i) there is no Chair;
 - (ii) the Chair is not present within 15 minutes after the time appointed for the holding of a meeting of Members; or
 - (iii) the Chair is present within that time but is not willing to chair all or part of that meeting,

the Directors present may, by majority vote, elect another Director or another person present to chair all or part of the meeting of Members.

- (c) Subject to Article 4.7(a), if at a meeting of Members:
 - (i) a Chair of that meeting has not been elected by the Directors under Article 4.7(b); or
 - (ii) the Chair elected by the Directors is not willing to chair all or part of a meeting of Members,

the Members present must elect another person, present and willing to act, to chair all or part of that meeting.

4.8 General conduct of meetings

- (a) Subject to the Associations Incorporation Act, the Chair of a meeting of Members is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting.
- (b) The Chair of a meeting of Members may delegate any power conferred by this Article to any person.
- (c) The powers conferred on the Chair of a meeting of Members under this Article 4.8 do not limit the powers conferred by law.

4.9 Resolutions of Members

- (a) Subject to the Associations Incorporation Act, a resolution is passed if more votes are cast in favour of the resolution by Members entitled to vote on the resolution than against the resolution.
- (b) Unless a poll is requested in accordance with Article 4.10, a resolution put to the vote at a meeting of Members must be decided on a show of hands.
- (c) A declaration by the Chair of a meeting of Members that a resolution has on a show of hands been passed, passed by a particular majority, or not passed, and an entry to that effect in the minutes of the meeting, are sufficient evidence of that fact, unless proved incorrect.

4.10 Polls

- (a) A poll may be demanded on any resolution at a meeting of Members except:
 - (i) the election of a Chair of that meeting; or
 - (ii) the adjournment of that meeting.
- (b) A poll on a resolution at a meeting of Members may be demanded by:
 - (i) at least five Members present and entitled to vote on that resolution;
 - (ii) Members with at least 5% of the votes that may be cast on the resolution on a poll; or
 - (iii) the Chair of that meeting.
- (c) A poll on a resolution at a meeting of Members may be demanded:
 - (i) before a vote on that resolution is taken; or
 - (ii) before, or immediately after, the result of the vote on that resolution on a show of hands is declared.
- (d) A demand for a poll may be withdrawn.

- (e) A poll demanded on a resolution at a meeting of Members must be taken in the manner and at the time and place the Chair directs.
- (f) The result of a poll demanded on a resolution of a meeting of Members is a resolution of that meeting.
- (g) A demand for a poll on a resolution of a meeting of Members does not prevent the continuance of that meeting or that meeting dealing with any other business.

4.11 Adjourned, cancelled and postponed meetings

- (a) Subject to the Associations Incorporation Act, the Chair:
 - (i) may; and
 - (ii) must, if the Members present with a majority of votes that may be cast at that meeting agree or direct the Chair to do so, adjourn a meeting of Members to any day, time and place.
- (b) No person other than the Chair of a meeting of Members may adjourn that meeting.
- (c) The Association is only required to give notice of an adjourned meeting if the period of adjournment exceeds the Prescribed Period.
- (d) Only business left unfinished is to be transacted at a meeting of Members resumed after an adjournment.
- (e) Subject to the Associations Incorporation Act and this Article 4.11, the Directors may at any time postpone or cancel a meeting of Members by giving notice, not less than five Business Days before the time at which the meeting was to be held, to each person to whom the notice of the meeting was required to be given.
- (f) A general meeting called under Article 4.1(b) must not be cancelled by the Directors without the consent of the Members who requested the meeting.
- (g) A general meeting called under Article 4.1(c) must not be cancelled or postponed by the Directors without the consent of the Members who called the meeting.

- (h) A notice adjourning or postponing a meeting of Members must set out the place, date and time for the revised meeting (and if the revised meeting is to be held in two or more places, the technology that will be used to facilitate this).

4.12 Number of votes

- (a) Subject to this Constitution and any rights or restrictions attached to a class of Membership, on a show of hands or on a poll at a meeting of Members, every Member present has one vote.
- (b) In the case of an equality of votes on a resolution at a meeting of Members, the Chair of that meeting has a casting vote on that resolution both on a show of hands and on a poll, in addition to any vote the Chair has in respect of that resolution.
- (c) A Member present at a meeting of Members is not entitled to vote on any resolution if any amount due and payable in respect of that person's Membership has not been paid.
- (d) A Member present at a meeting of Members is not entitled to vote on a resolution at that meeting where that vote is prohibited by the Associations Incorporation Act or an order of a court of competent jurisdiction.
- (e) The Association must disregard any vote on a resolution purported to be cast by a Member present at a meeting of Member where that person is not entitled to vote on that resolution.
- (f) The authority of a proxy or attorney for a Member to speak or vote at a meeting of Members is suspended while the Member is present in person at that meeting.

4.13 Objections to qualification to vote

- (a) An objection to the qualification of any person to vote at a meeting of Members may only be made:
 - (i) before that meeting, to the Directors; or
 - (ii) at that meeting (or any resumed meeting if that meeting is adjourned), to the Chair of that meeting.

- (b) Any objection under Article 4.13(a) must be decided by the Directors or the Chair of the meeting of Members (as the case may be), whose decision, made in good faith, is final and conclusive.

4.14 Proxies and attorneys

- (a) A Member, who is entitled to attend and cast a vote at a meeting of Members, may vote on a show of hands and on a poll:
 - (i) in person;
 - (ii) by not more than one proxy; or
 - (iii) by not more than one attorney.
- (b) A proxy or attorney of a Member need not be a Member.
- (c) A Member may appoint a proxy or attorney for:
 - (i) all meetings of Members; or
 - (ii) any one or more specified meetings of Members.
- (d) An instrument appointing a proxy is valid if it is signed by the Member making the appointment and contains:
 - (i) the name and address of that Member;
 - (ii) the name of the Association;
 - (iii) the name of the proxy or the name of the office held by the proxy; and
 - (iv) the meetings of Members at which the proxy may be used.
- (e) The Chair of a meeting of Members may determine that an instrument appointing a proxy is valid even if it contains only some of the information specified in Article 4.14(d).
- (f) An instrument appointing an attorney must be in a form as the Directors may prescribe or accept, from time to time.

- (g) Subject to the Associations Incorporation Act, the decision of the chair of a meeting of Members as to the validity of an instrument appointing a proxy or attorney is final and conclusive.
- (h) Unless otherwise provided in the Associations Incorporation Act or in the appointment, a proxy or attorney may:
 - (i) agree to a meeting of Members being called by shorter notice than is required by the Associations Incorporation Act or this Constitution;
 - (ii) agree to a resolution being either or both proposed and passed at a meeting of Members of which notice of less than the Prescribed Period is given;
 - (iii) speak on any resolution at a meeting of Members on which the proxy or attorney may vote;
 - (iv) vote at a meeting of Members (but only to the extent allowed by the appointment);
 - (v) demand or join in demanding a poll on any resolution at a meeting of Members on which the proxy or attorney may vote; and
 - (vi) attend and vote at any meeting of Members which is rescheduled or adjourned.
- (i) Unless otherwise provided in the Associations Incorporation Act or in the appointment, a proxy or attorney may vote on:
 - (i) any amendment to a resolution on which the proxy or attorney may vote;
 - (ii) any motion not to put that resolution or any similar motion; and
 - (iii) any procedural motion relating to that resolution, including a motion to elect the Chair of a meeting of Members, vacate the chair or adjourn that meeting,

even if the appointment directs the proxy or attorney how to vote on that resolution.

- (j) The Association must only send a form of proxy to Members in respect of a meeting of Members which provides for the Member:
 - (i) to appoint a proxy of the Member's choice, but may specify who is to be appointed as proxy if the Member does not choose; and
 - (ii) to vote for or against each resolution, and may also provide for the Member to abstain from voting on each resolution.
- (k) If the name of the proxy or the name of the office of the proxy in a proxy form of a Member is not filled in, the proxy of that Member is:
 - (i) the person specified by the Association in the form of proxy in the case the Member does not choose; or
 - (ii) if no person is so specified, the chair of that meeting.
- (l) A Member may specify the manner in which a proxy or attorney is to vote on a particular resolution at a meeting of Members but, unless specified, the proxy or attorney may vote as he or she thinks fit.
- (m) An appointment of proxy or attorney for a meeting of Members is effective only if the Association receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) not less than 48 hours before the time scheduled for commencement of that meeting (or any adjournment of that meeting).
- (n) Unless the Association has received notice in writing before the time scheduled for the commencement or resumption of a meeting of Members, a vote cast at that meeting by a person appointed by a Member as a proxy or attorney is, subject to this Constitution, valid even if, before the person votes, the appointing Member:
 - (i) dies; or
 - (ii) is mentally incapacitated; or
 - (iii) revokes the appointment of that person; or
 - (iv) revokes the authority under which the person was appointed by a third party.

5. Directors

5.1 Number of Directors

- (a) The Association must have not less than three Directors.
- (b) If the number of Directors is below the minimum fixed by this Constitution, the Directors must not act except for appointing one or more additional Directors or to call, and arrange to hold, a meeting of Members.
- (c) A Director must be a Member.

5.2 Board Composition

- (a) As at the date of incorporation ("Commencement Date"):
 - (i) the inaugural Directors are the persons specified as directors with the Register of Companies;
 - (ii) in the case of each Director, (including the Chair) the period of time which that Director has served as a member of the Board (or as the Chair) prior to the Commencement Date will not be included as part of that person's current Term and will not be included in determining when the current Term is to expire and when a Director has served as a Director for 6 years, for the purposes of Article 5.3 (and in the case of the Chair, the length of the Chair's term as chair for the purposes of Article 8.6(a) and when the Chair has served as a Director for 9 years, for the purposes of Article 8.6(c)).
- (b) The Board of Directors shall from time to time comprise:
 - (i) if appointed as a Director under Article 6.1, the Chief Executive Officer.

5.3 Maximum term for a Director

- (a) Subject only to Articles 5.2(b) and 8.6, no Director (other than the Chief Executive Officer and Chair) may serve as a Director for more than six years in total.
- (b) For the purposes of Article 8.6(c), the Chair may not serve as Director for more than nine years in total.

5.4 Vacation of office

- (a) A Director may resign from office by giving the Association notice in writing.
- (b) Subject to the Associations Incorporation Act and Article 5.7(c), the Association in general meeting convened on Prescribed Notice, may, by ordinary resolution, remove any Director and, if thought fit, appoint another person in place of that Director.
- (c) A Director ceases to be a Director if the Associations Incorporation Act so provides or if that Director:
 - (i) becomes of unsound mind or a person whose property is liable to be dealt with under a law relating to mental health;
 - (ii) is absent without the consent of the Directors from all meetings of the Directors held during a period of six months and a majority of the other Directors have not, within 14 days of having been given a notice by the Secretary giving details of the absence, resolved that leave of absence be granted;
 - (iii) resigns or is removed under this Constitution;
 - (iv) holds any office of profit under the Association (except that the Chief Executive Officer will continue in that role whilst a Director);
 - (v) becomes an insolvent under administration;
 - (vi) is convicted on indictment of an offence and the Board of Directors does not within one month after that conviction resolve to confirm the Director's appointment to the office of Director;
 - (vii) ceases to be a Member of the Association; or

5.5 Payment to Directors prohibited

- (a) The Association must not pay any fees to a Director for performing his or her duties and responsibilities as a Director.
- (b) A payment of the kind referred to in Article 1.5(b) may be made to a Director if that payment has been approved by the Directors.

6. Officers

6.1 Chief Executive Officer

- (a) The Directors may appoint a person as the Chief Executive Officer, for any period and on any terms (including as to remuneration) as the Directors resolve.
- (b) Subject to any agreement between the Association and the Chief Executive Officer, the Directors may remove or dismiss or suspend the Chief Executive Officer at any time, with or without cause.
- (c) The Directors may delegate any of their powers (including the power to delegate) to the Chief Executive Officer as provided in Article 7.3.
- (d) The Directors may revoke or vary:
 - (i) the appointment of the Chief Executive Officer; or
 - (ii) any power delegated to the Chief Executive Officer.
- (e) The Chief Executive Officer must exercise the powers delegated to him or her in accordance with any directions of the Directors.
- (f) The exercise of a delegated power by the Chief Executive Officer is as effective as if the Directors exercised the power.
- (g) The Board of Directors may appoint the Chief Executive Officer as a Director.
- (h) If the Chief Executive Officer is appointed as a Director, the Chief Executive Officer will cease to be a Director if the Chief Executive Officer is removed or dismissed for any reason, or otherwise resigns as Chief Executive Officer, but will not, for that reason alone, be rendered ineligible for appointment as a Director under any other Article.
- (i) No Chief Executive Officer is entitled to attend or vote at any meeting of the Board of Directors whilst under suspension from office.

6.2 Secretary

- (a) As at the date of adoption of this Constitution, the Secretary is the person specified as Board Secretary with the Registrar of Companies.

- (b) A Secretary or Secretaries may be appointed by the Board of Directors for any period and on any terms (including as to remuneration) as the Directors resolve.
- (c) Subject to any agreement between the Association and a Secretary, the Directors may remove or dismiss a Secretary at any time, with or without cause.
- (d) The Directors may revoke or vary the appointment of a Secretary.

6.3 Indemnity and insurance

- (a) To the extent permitted by law, the Association must indemnify each Relevant Officer against:
 - (i) a Liability of that person; and
 - (ii) Legal Costs of that person.
- (b) To the extent permitted by the law, the Association may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- (c) To the extent permitted by the law, the Association may pay, or agree to pay, a premium for a contract insuring a Relevant Officer against:
 - (i) a Liability of that person; and
 - (ii) Legal Costs of that person.
- (d) To the extent permitted by law, the Association may enter into an agreement or deed with:
 - (i) a Relevant Officer; or
 - (ii) a person who is, or has been, an officer of the Association or a related body corporate of the Association, under which the Association must do all or any of the following:
 - A. keep books of the Association and allow that officer, and his or her advisers, access to those books on the terms agreed;
 - B. indemnify that officer against any Liability of that officer;

- C. make a payment (whether by way of advance, loan or otherwise) to that officer in respect of Legal Costs of that officer; and
- D. keep that officer insured in respect of any act or omission by that officer, while a Relevant Officer or an officer of the Association or a related body corporate of the Association, on the terms agreed (including as to payment of all or part of the premium for a contract of insurance).

7. Powers of the Association and Directors

7.1 General powers

- (a) Subject to this Constitution, the Association may exercise, in any manner permitted by the Association Incorporation Act, any power which a public company limited by guarantee may exercise under the Act.
- (b) The business of the Association is to be managed by, or under the direction of, the Directors.
- (c) The Directors may exercise all the powers of the Association except any powers that the Association Incorporation Act or this Constitution requires the Association to exercise in general meeting.

7.2 Execution of documents

- (a) If the Association has a common seal, the Association may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by:
 - (i) two Directors; or
 - (ii) a Director and a Secretary; or
 - (iii) a Director and another person appointed by the Directors for that purpose.
- (b) The Association may execute a document without a common seal if the document is signed by:
 - (i) two Directors; or
 - (ii) a Director and a Secretary; or
 - (iii) a Director and another person appointed by the Directors for that purpose.
- (c) The Directors may resolve, generally or in a particular case, that any signature on certificates for membership, or other common use documents specified by the Directors, may be affixed by mechanical or other means.

- (d) Negotiable instruments may be signed, drawn, accepted, endorsed or otherwise executed by or on behalf of the Association in the manner, and by the persons, as the Directors resolve.

7.3 Committees and delegates

- (a) The Directors may delegate any of their powers (including this power to delegate) to a committee of any one or more Directors, the Chief Executive Officer, an employee of the Association, or a Member.
- (b) The Directors may revoke or vary any power delegated under Article 7.3(a).
- (c) A committee or delegate must exercise the powers delegated in accordance with any directions of the Directors.
- (d) The exercise of a delegated power by the committee or delegate is as effective as if the Directors exercised the power.
- (e) Article 8 applies (with the necessary changes) to meetings of a committee of Directors.

7.4 Attorney or agent

- (a) The Directors may appoint any person to be attorney or agent of the Association for any purpose, for any period and on any terms (including as to remuneration) as the Directors resolve.
- (b) The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent.
- (c) The Directors may revoke or vary:
 - (i) an appointment under Article 7.4(a); or
 - (ii) any power delegated to an attorney or agent.

8. Proceedings of Directors

8.1 Written resolutions of the Directors

- (a) The Directors may pass a resolution, without a meeting of the Directors being held, if all the Directors, entitled to vote on the resolution, assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a documents referred to in Article 8.1(a) may be used for assenting to by Directors if the wording of the resolution and the statement is identical in each copy.
- (c) A Director may signify assent to a document under this Article 8.1 by signing the document or by notifying the Association of that assent:
 - (i) in a manner permitted by Article 10.3; or
 - (ii) by any technology including telephone.
- (d) Where a Director signifies assent to a document under Article 8.1(c) other than by signing the document, the Director must, by way of confirmation, sign the document before, or at, the next meeting of Directors attended by that Director.
- (e) The resolution the subject of a document under Article 8.1(b) is not invalid if a Director does not comply with Article 8.1(d).

8.2 Meetings of the Directors

- (a) The Directors may meet, adjourn and otherwise regulate their meetings as they think fit.
- (b) A meeting of the Directors may be held using any technology consented to by all Directors. All Directors participating in the meeting will (unless there is a specific statement otherwise) be taken to have consented to the holding of the meeting by the relevant electronic means.
- (c) The consent of the Directors under Article 8.2(b) may be for all meetings of the Directors or for any one or more specified meetings.
- (d) A Director may withdraw his or her consent under Article 8.2(b) within a reasonable period before the meeting.

- (e) If a meeting of the Directors is held in two or more places linked together by any technology:
 - (i) a Director present at one of the places is taken to be present at the meeting unless and until that Director states to the chair of the meeting that he or she is discontinuing participation in the meeting; and
 - (ii) the Chair of that meeting may determine at which place the meeting will be taken to have been held.

8.3 Who can call meetings of the Directors

- (a) A Director may call a meeting of the Directors at any time.
- (b) On request of any Director, a Secretary must call a meeting of the Directors.

8.4 How to call meetings of the Directors

- (a) Notice of a meeting of the Directors must be given to each Director.
- (b) A notice of meeting of the Directors must:
 - (i) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this); and
 - (ii) state the general nature of the business of the meeting.
- (c) The Association must give not less than 24 hours' notice of a meeting of the Directors, unless all Directors agree otherwise.
- (d) A Director may waive notice of a meeting of the Directors by notice in writing to the Association to that effect.

8.5 Quorum

- (a) Subject to the Associations Incorporations Act, a quorum for a meeting of the Directors is:
 - (i) a majority of the total number of Directors; or
 - (ii) such greater number as the Directors have fixed.

- (b) A quorum for a meeting of the Directors must be present at all times during the meeting.
- (c) If there are not enough persons to form a quorum for a meeting of the Directors, one or more of the Directors (including those who have an interest in a matter being considered at that meeting) may call a general meeting and the general meeting may pass a resolution to deal with the matter.

8.6 Chair

- (a) Subject to this Article 8.6, the Board of Directors may:
 - (i) elect a Director as Chair of Directors, for any period they resolve, or if no period is specified, for a term of three years, or until the relevant person ceases to be Director; and
 - (ii) elect a Director as Deputy Chair, for any period they resolve, or if no period is specified, for a term of the lesser of three years or until the relevant person ceases to be Director.
- (b) The Board of Directors may remove:
 - (i) the Chair of Directors as chair; and/or
 - (ii) the Deputy Chair as deputy chair, at any time.
- (c) A Director must not be elected as the Chair for more than two three year terms and must not be elected as the Chair if the term of appointment as a Chair would result in the Director serving on the Board of Directors (whether as a Director or the Chair) for more than nine years in total (or such longer period where Articles 5.2(a)(ii) and 5.3(b) apply).
- (d) The Chair of Directors must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of the Directors.
- (e) If:
 - (i) there is no Chair of Directors; or

- (ii) that Chair is not present within 15 minutes after the time appointed for the holding of a meeting of the Directors; or
- (iii) that Chair is present within that time but is not willing to chair all or part of that meeting, the Directors present must elect one of themselves to chair all or part of the meeting.

8.7 Resolutions of the Directors

- (a) A resolution of the Directors is passed if more votes are cast in favour of the resolution than against it.
- (b) Subject to the Associations Incorporation Act and this Article 8.7, each Director has one vote on a matter arising at a meeting of the Directors.
- (c) Subject to the Associations Incorporation Act, in case of an equality of votes on a resolution at a meeting of the Directors, the Chair of that meeting does not have a casting vote on that resolution in addition to any vote the Chair has in his or her capacity as a Director.

9. Notices**9.1 Notice to Members**

- (a) Subject to Article 9.1(b), the Association may give notice to a Member:
 - (i) by hand delivery;
 - (ii) by sending it by prepaid post to the address of the Member in the Register or the alternative address (if any) nominated by that Member;
 - (iii) by sending it to the fax number or electronic address (if any) nominated by that Member; or
 - (iv) with the approval, given by special resolution, of the Directors, by advertisement in accordance with Article 9.1(c).
- (b) If the address of any Member in the Register is not within Papua New Guinea and that Member does not nominate an alternative address within P.N.G., unless otherwise specified by the Associations Incorporation Act, the Association may (in addition to any method of service specified in Article 9.1(a)) give a notice to that Member by:
 - (i) posting it on the Association's internet website (if any); or
 - (ii) advertisement in accordance with Article 9.1(c).
- (c) Any notice allowed to be given by the Association to Members by advertisement is sufficiently advertised if advertised once in a daily newspaper circulating in the provinces of Papua New Guinea.
- (d) A notice sent by prepaid post may be included:
 - (i) separately with; or
 - (ii) as part of the text of,

any other article, sent by prepaid post, including the Directors Journal or any other publication sent by the Association to Members.

9.2 Notice to Directors

The Association may give notice to a Director:

- (a) by hand delivery;
- (b) by sending it by prepaid post to the usual residential address of that person or the alternative address (if any) nominated by that person;
- (c) by sending it to the fax number or electronic address (if any) nominated by that person; or
- (d) by any other means agreed between the Association and that person.

9.3 Notice to the Association

A person may give notice to the Association:

- (a) by leaving it at the registered office of the Association;
- (b) by sending it by prepaid post to the registered office of the Association;
- (c) by sending it to the fax number at the registered office of the Association;
- (d) by sending it to the electronic address (if any) nominated by the Association for that purpose; or
- (e) by any other means permitted by the Associations Incorporation Act.

9.4 Time of service

- (a) A notice sent by prepaid post to an address within Papua New Guinea is taken to be given:
 - (i) in the case of a notice of meeting, one Business Day after it is posted; or
 - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (b) A notice sent by prepaid post to an address outside Papua New Guinea is taken to be given:

- (i) in the case of a notice of meeting, three Business Days after it is posted;
or
 - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (c) A notice sent by fax or electronic means is taken to be given on the Business Day it is sent, provided that the sender's transmission report shows that the whole notice was sent to the correct fax number or electronic address.
- (d) The giving of a notice by prepaid post is sufficiently proved by evidence that the postage was paid and the notice:
 - (i) was addressed to the correct address of the recipient; and
 - (ii) was placed in the post.

9.5 Signatures

The Directors may decide, generally or in a particular case, that a notice given by the Association be signed by mechanical or other means.

10. Winding up

10.1 Transfer of surplus

On a winding up of the Association, the Members must determine one or more associations or institutions whose constitutions:

- (a) require them to pursue only objects similar to those in Article 1.4 and to apply their income in promoting those objects;
- (b) prohibit them from making distributions to their members to at least the same extent as in Article 1.5; and

10.2 Application to National Court

If the Members fail to make a determination under Article 10.1 within 20 Business Days of the winding up of the Association, the liquidator must make an application to the National Court of Justice at Waigani to make that determination.

Schedule 1
Definitions and interpretation

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1. Definitions

In this Constitution:

"Act" means the *Associations Incorporation Act 1966* (Chapter No. 142).

"AGM" means the Annual General Meeting of Members.

"Board of Directors" or **"Board"** means the board of management of the Association which is constituted by the persons who hold office as Directors, from time to time.

"Business Day" means a day except a Saturday, Sunday or public holiday in Papua New Guinea.

"Cessation Event" means, in respect of a Member:

- (a) the death or bankruptcy of that Member; or
- (b) that Member becoming of unsound mind or a person whose property is liable to be dealt with under a law relating to mental health; or
- (c) that Member's name being entered on the register of persons who have been disqualified from managing corporations.

"Chair" means a person elected as Chair of Directors under Article 8.6.

"Chief Executive Officer" means the person appointed for the time being under Article 6.1, being an employee (whether full-time or part-time) of the Association or a related body corporate of the Association.

"Code of Conduct" means the Code of Conduct for Members, as prescribed by the Directors, from time to time.

"Director" means a director of the Association for the time being.

"Expulsion Event" means, in respect of a Member:

- (a) that Member has been convicted in criminal proceedings brought in connection with a contravention of the Associations Incorporation Act or otherwise relating to actions or omissions of that person in managing corporations;
- (b) that Member becomes disqualified from managing corporations; or
- (c) the conduct of that Member, in the opinion of the Directors, is unbecoming of a Member or prejudicial to the objects, interests or reputation of the Association.

"Fee" means a fee or levy payable by Members under Article 3.1.

"Legal Costs", of a person, means legal costs incurred by that person in defending an action for a Liability of that person.

"Liability", of a person, means a liability incurred by that person as an officer of the Association or a related body corporate of the Association.

"Chartered Fellow" means a Member admitted into the class of membership of the Association known as 'Chartered Fellow' determined by the Directors under Article 2.1(a) or any equivalent class from time to time.

"Member" means a person whose name is entered in the Register as a member of the Association.

"Prescribed Notice" means the Prescribed Period of notice or any shorter period of notice for a meeting allowed under the Associations Incorporation Act.

"Prescribed Period" means 21 days.

"Register" means the register of Members kept at the Association's registered office.

"Registrar" has the same meaning as the term "Registrar of Companies" has under the Associations Incorporation Act.

"Relevant Officer" means a person who is, or has been, a Secretary, a Chief Executive Officer or a Director.

"Secretary" means the Board Secretary of the Association for the time being.

"Term" means the term of office of each Director (other than the Chief Executive Officer and Chair), being a period:

- (a) commencing on the date that the Director takes office; and
- (b) terminating on the date that the Director retires, resigns, is removed, or ceases to be a director under Article 5.4(c).

2. Interpretation

- (a) In this Constitution:
 - (i) a reference to a meeting of Members includes a meeting of any class of Members;
 - (ii) a Member is taken to be present at a meeting of Members if the Member is present in person or by proxy or attorney; and
 - (iii) a reference to a notice or document in writing includes a notice or document given by fax or another form of written communication.
- (b) In this Constitution, headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:
 - (i) words importing the singular include the plural (and vice versa);
 - (ii) words indicating a gender include every other gender;
 - (iii) the word "**person**" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
 - (iv) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
 - (v) the word "**includes**" in any form is not a word of limitation.
- (c) Unless the context indicates a contrary intention, in this Constitution:
 - (i) a reference to an Article or a Schedule, is to an article or a schedule of this Constitution;
 - (ii) a reference in a Schedule to a paragraph is to a paragraph of that Schedule;

- (iii) a Schedule is part of this Constitution; and
 - (iv) a reference to this Constitution, is to this Constitution (and where applicable any of its provisions) as modified or repealed from time to time.
- (d) Unless the context indicates a contrary intention, in this Constitution, a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it.
- (e) Unless the context indicates a contrary intention, in this Constitution:
- (i) an expression that deals with a matter dealt with by a provision of the Associations Incorporation Act has the same meaning as in that provision; and
 - (ii) an expression that is defined in Section 1 of the Associations Incorporations Act has the same meaning as in that section.

3. Exercise of powers

Where this Constitution confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty must be performed, from time to time, as the occasion requires.

4. Severing invalid provisions

If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that does not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.