

**Constitution of Great Barrier
Reef Research Foundation
ACN 090 616 443**

**The Corporations Act
A company limited by guarantee
Incorporated in Queensland**

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GENERAL

1. Definitions

The following definitions apply in this Constitution unless the context otherwise requires.

Act means the *Corporations Act 2001* (Commonwealth) and the Corporations Regulations.

Department means the Department of the Environment and Heritage or the federal government department which from time to time is responsible for the regulation of environmental organisations;

Director means a person appointed or elected to the office of director of the Company in accordance with this Constitution and includes any alternate director duly acting as a director.

Fund means the Great Barrier Reef Research Foundation Fund referred to in Article 5.3(k).

ITAA means the *Income Tax Assessment Act 1997* (Commonwealth).

Member Present means, in connection with a meeting, the full member present in person at the venue or venues for the meeting or by proxy, by attorney and, where the full member is a body corporate, by representative.

Prescribed Rate means the base rate charged by the Company's principal banker to corporate customers from time to time in respect of overdraft loans in excess of \$100,000 calculated on a daily basis and a year of 365 days.

Rules means the rules for the time being of the Fund as varied or replaced from time to time.

Seal means any common seal or duplicate common seal of the Company.

2. Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) A gender includes all genders.
- (b) The singular includes the plural and conversely.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a paragraph or sub-paragraph is to a paragraph or sub-paragraph, as the case may be, of the Article or paragraph, respectively, in which the reference appears.
- (e) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

- (f) Except in so far as a contrary intention appears in this Constitution, an expression has, in a provision of this Constitution which relates to a particular provision of the Act, the same meaning as in that provision of the Act.

3. Replaceable Rules

The replaceable rules contained in the Act do not apply to the Company.

4. Actions authorised under the Act and compliance with the Act

Where the Act authorises or permits a company to do any matter or thing if so authorised by its constitution, the Company is and will be taken by this Article to be authorised or permitted to do that matter or thing, despite any other provisions of this Constitution.

OBJECTS

5. Purposes, Aims and Objects

- 5.1 The principal purpose of the Company is to raise and provide funding to support research that contributes to the environmental protection, enhancement, preservation and conservation of tropical reefs (especially the Great Barrier Reef) and adjoining coral coasts, for the benefit of the world community.
- 5.2 Notwithstanding Article 5.1, the aims and other purposes of the Company are:
- (a) to:
 - (i) protect and enhance; and
 - (ii) provide and support the provision of research into and education about, the ecologically sustainable use and protection of Australia's tropical reefs and adjoining coral coasts, especially the Great Barrier Reef World Heritage Area, for the benefit of the world community;
 - (a) the protection and enhancement of the natural environment or significant aspects of the natural environment; and
 - (b) the provision of information and education and the carrying on of research about the natural environment or significant aspects of the natural environment.
- 5.3 Notwithstanding Article 5.1, and without limiting the generality of Article 5.2, the objects of the Company are to:
- (a) undertake and provide funding to support efforts that contribute to the environmental protection, enhancement, preservation and conservation of the world's tropical coral reefs in general and the Great Barrier Reef in particular, and adjoining coral coasts;

- (b) undertake and provide funding to support activities that foster environmental protection, enhancement, preservation and conservation of the world's tropical coral reefs in general and the Great Barrier Reef in particular, and adjoining coral coasts, for the public good;
- (c) acquire and use land on Australia's tropical reefs and adjoining coral coasts as environmental, conservation and natural heritage areas and parks and national parks;
- (d) foster better understanding of the need for environmental protection and conservation of the Great Barrier Reef in the general public;
- (e) meet the requirement of the World Heritage Convention, Article 17 of which states:
“the States Parties to this Convention shall consider or encourage the establishment of national public and private foundations or associations whose purpose is to invite donations for the protection of the cultural and natural heritage as defined in Articles 1 and 2 of the Convention”;
- (f) undertake research and provide grants for research that:
 - (i) assists in establishing acceptable levels of use and minimise human impact so the Australia’s reefs are used in a sustainable manner for the benefit of the world community;
 - (ii) contributes to the protection and enhancement of the natural heritage of the Great Barrier Reef World Heritage Area;and to co-ordinate and where possible synthesise relevant research and data;
- (g) provide a database facility that enhances access to relevant research for researchers, reef managers, industry and the world community and provide funding for that purpose;
- (h) provide education about Australia's tropical reefs and adjoining coral coasts including to develop the Tropical Marine Research and Education Program and other world class education initiatives and provide funding for that purpose;
- (i) foster better understanding and communication about Australia’s coral coasts between the world community, industry, researchers and reef managers;
- (j) achieve a sustainable financial base for the Company; and
- (k) establish and maintain a public fund to be called “The Great Barrier Reef Research Foundation Fund” for the specific purpose of supporting the environmental purposes, aims and objects of the Company. The Fund is established to receive all gifts of money or property for this purpose and any amount received because of such gifts must be credited to its bank account. The Fund must not receive any other money or property into its account and must comply with subdivision 30-E of ITAA and the Rules.

INCOME AND PROPERTY

6. Application of income and property

- 6.1 Subject to Articles 6.2 and 6.3, the profits (if any) or other income and property of the Company must be applied solely towards the promotion of the purposes, aims and objects of the Company set out in Article 5 and no portion of it may be paid or transferred, directly or indirectly, to any member of the Company whether by way of dividend, bonus or otherwise.
- 6.2 Nothing in Article 6.1 prevents any payment in good faith by the Company of:
- (a) reasonable and proper remuneration to any member for any services actually rendered or goods supplied in the ordinary and usual course of business to the Company;
 - (b) the payment or reimbursement of out-of-pocket expenses incurred by a member of the Company on behalf of the Company where the amount payable does not exceed an amount previously approved by the directors of the Company;
 - (c) reasonable and proper rent for premises let or demised by any member of the Company to the Company;
 - (d) moneys to any member, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the directors and where the amount payable is approved by the directors and is not more than an amount which commercially would be reasonable payment for the service; or
 - (e) interest at a rate not exceeding the Prescribed Rate on money borrowed from members of the Company.
- 6.3 The Company must not pay fees to directors but the Company may make payments in good faith for:
- (a) the payment or reimbursement of out-of-pocket expenses incurred by a director in the performance of any duty as director where the amount payable does not exceed an amount previously approved by the directors;
 - (b) moneys to any director, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer where the provision of the service has the prior approval of the directors and where the amount payable is approved by the directors and is not more than amount which commercially would be reasonable payment for the service;
 - (c) any salary or wage due to the director as an employee of the Company where the terms of employment have been approved by the directors of the Company;

- (d) an insurance premium in respect of a contract insuring a director to which s212 of the Act refers or the provision of a financial benefit to a director to which s211 of the Act refers;
- (e) any payment to a director in the capacity of a member; and
- (f) any other payment to any director approved by the directors.

7. Conduit policy

Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the Company and not be influenced by the preference of the donor.

LIABILITY

8. Limited Liability

The liability of the members is limited.

9. Extent of liability

Each member undertakes to contribute to the property of the Company if the Company is wound up while he, she or it is a member or within 1 year after he, she or it ceases to be a member, for payment of the Company's debts and liabilities contracted before he, she or it ceases to be a member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, but not exceeding \$10.00.

MEMBERSHIP

10. Members

- 10.1 The number of members with which the Company proposes to be registered is unlimited.
- 10.2 The members of the Company will be:
 - (a) the persons specified, with their consent, as a proposed member in the Company's application for registration; and
 - (b) any other persons admitted to membership in accordance with this Constitution or any previous constitution of the Company.

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- 10.3 All members must be adults or bodies corporate.
- 10.4 The directors may determine from time to time the minimum and maximum number of members of the Company as a whole or any class of members.
- 10.5 The directors may determine from time to time to limit the minimum or maximum number of members of the Company as a whole or of any class who are either natural persons or bodies corporate in order to ensure that the Company is eligible to apply for and retain registration as an environmental organisation or for any other reason.
- 10.6 All acts done by the Company, any meeting of the members, the directors or any director or a committee are valid notwithstanding that the number of members or a class of members is less than any minimum or more than any maximum determined by the directors or fixed by this Constitution.

11. Classes of Members

- 11.1 The classes of members will be:
- (a) full members; and
 - (b) limited members.
- 11.2 The register of members of the Company at the date of adoption of this Constitution is a complete and accurate record of all members of the Company of every class at the date of adoption of this Constitution.

12. Full Members

- 12.1 Full members:
- (a) must pay the entrance fees and annual subscriptions determined in accordance with Article 14;
 - (b) have the right to attend and vote at general meetings of the Company.
- 12.2 Application for membership as a full member is by invitation of the directors. The directors may admit any person as a full member with the written consent of the person.
- 12.3 A person will immediately become a full member of the Company and must be registered in the Company's register of members when the directors determine to admit the person as a full member.
- 12.4 Each person recorded in the register of members of the Company as a full member of the Company at the date of adoption of this Constitution is deemed to have been validly admitted as a full member of the Company on the date of admission applicable to that member recorded in the register of members, notwithstanding any defect in the admission of the member.

13. Limited Members

13.1 Limited members:

- (a) are admitted for such period of time and upon such conditions as may be determined by the directors in respect of a particular limited member (and if no determination is made by the directors for a particular limited member, that member is admitted for a membership period of 1 year from the date when the directors determine to admit the person as a limited member);
- (b) must pay the entrance fees and annual subscriptions determined in accordance with Article 14;
- (c) have the right to receive notice of and to attend general meetings of the Company; and
- (d) do not have the right to vote at general meetings of the Company.

13.2 Application for membership as a limited member is by invitation of the directors. The directors may admit any person as a limited member with the written consent of the person.

13.3 A person will immediately become a limited member of the Company and must be registered in the Company's register of members when the directors determine to admit the person as a limited member.

13.4 The directors may at any time increase the period of time for which a limited member is admitted or vary any conditions upon which a limited member is admitted with the written consent of the relevant limited member.

13.5 Each person recorded in the register of members of the Company as a limited member of the Company at the date of adoption of this Constitution is deemed to have been validly admitted as a limited member of the Company on the date of admission applicable to that member recorded in the register of members, notwithstanding any defect in the admission of the member.

14. Entrance fee and annual subscription

14.1 The directors may, in their absolute discretion, determine the entrance fee and annual subscription for each class of members and may determine different entrance fees and annual subscriptions for different classes of members. Until otherwise determined by the directors there are no entrance fees or annual subscriptions for any class of member.

14.2 The annual subscription period will commence on 1 January in each year and annual subscriptions will be due and payable on 1 January in each year in advance or at such other time or times, including by instalments, as the directors may determine.

CESSATION OF MEMBERSHIP

15. Resignation of a member

A member may at any time, by giving notice in writing to the secretary, resign as a member of the Company. The resignation will be effective from the date of receipt of the notice by the secretary. That member's name must be removed from the register of members.

16. Non-payment of subscriptions

If the subscription of a member remains unpaid for a period of 30 days after it becomes due, the directors must direct the secretary to give notice to the member of that fact. If the subscription remains unpaid on the expiration of 21 days after the date of the notice, the directors may:

(a) suspend the member from all privileges of membership and, if the directors think fit, reinstate the member on payment of all arrears; or

(b) immediately or after a period of suspension,

expel the member from membership of the Company, whether or not all arrears have then been paid, and remove the member's name from the register of members.

17. Misconduct of a member

17.1 If any member:

(a) is in breach of the provisions of this Constitution; or

(b) is guilty of any act or omission which, in the opinion of the directors is unbecoming of a member, or prejudicial to the interest of the Company,

the directors may do any one or more of censure, suspend or fine the member or, instead of the foregoing, expel the member from the Company and remove the member's name from the register of members.

17.2 The directors must not expel a member under Article 17.1 unless:

(a) at least 7 days' notice has been given to the member stating the date, time and place at which the question of expulsion of that member is to be considered by the directors, and the nature of the alleged misconduct; and

(b) the members given the opportunity of giving to the directors, orally or in writing, any explanation he may think fit.

17.3 If the directors resolve to expel a member, the secretary must immediately give notice of this to the member. The member then has the right, exercisable by notifying the secretary within 7 days after receipt of the notice (the Expulsion Notice Period), to have the issue dealt with by the Company in general meeting. In that event, a general meeting of the Company must be called for that purpose, having the same powers as the directors have under Article 17.1. If a resolution to expel the member is passed at the meeting by a

majority of two-thirds of the Members Present, the member ceases to be a member on the making of the resolution and the member's name must be removed from the register of members.

- 17.4 If the member does not notify the secretary on or before the expiration of the Expulsion Notice Period that the member wishes to have the issue dealt with by the Company in general meeting, the member ceases to be a member on the expiration of the Expulsion Notice Period and the member's name must be removed from the register of members.

18. Other grounds for cessation of membership

A member's membership of the Company automatically ceases:

- (a) in the case of a member who is a natural person on the date when the period of membership for which the member was admitted (if any) expires or on the date that the member:
 - (i) dies;
 - (ii) becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the laws relating to mental health;
 - (iii) becomes bankrupt; or
 - (iv) is imprisoned for any period or is convicted of a felony or is convicted of an indictable offence; or
- (b) in the case of a member which is a body corporate on the date when the period of membership for which the member was admitted (if any) expires or on the date that:
 - (i) a liquidator is appointed in connection with the winding-up of the member; or
 - (ii) an order is made by a court for the winding-up or deregistration of the member.

19. Liability for subscription fees and other amounts following cessation

Any member ceasing to be a member:

- (a) will not be entitled to any refund (or part refund) of an entrance fee or subscription;
- (b) will remain liable for and must pay to the Company all subscriptions and moneys which were due and unpaid on the date of ceasing to be a member; and
- (c) will remain liable for amounts which the member is or may become liable to pay under Article 9.

GENERAL MEETINGS

20. Power of directors to convene

- 20.1 Any director may convene a general meeting whenever the director thinks fit.
- 20.2 Any director may cancel by notice in writing to all members any meeting convened by the director, except that a meeting convened on the requisition of a member or members must not be cancelled without the consent of the relevant member or members.
- 20.3 The directors may postpone a general meeting or change the place at which it is to be held by notice not later than 72 hours prior to the time of the meeting to all persons to whom the notice of meeting (the first notice) was given. The postponing notice must specify the place, date and time of the meeting. The meeting is taken to be duly convened under the first notice.

21. Notice of general meetings

- 21.1 Each notice convening a general meeting must contain the information required by the Act.
- 21.2 The non-receipt of a notice convening a general meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate the proceedings at or any resolution passed at the meeting.

22. Business of general meetings

Unless all full members are present as Members Present and agree otherwise, business must not be transacted at any general meeting except as set out in the notice of meeting.

23. Quorum

- 23.1 Business must not be transacted at any general meeting unless a quorum of full members is present at the time when the meeting proceeds to business.
- 23.2 Except as otherwise provided in this Constitution, 2 Members Present constitute a quorum.

24. If quorum not present

If a quorum is not present within 20 minutes after the time appointed for the meeting:

- (a) where the meeting is convened on the requisition of members, the proposed meeting is automatically dissolved (subject to Article 26.1);
- (b) in any other case:

- (i) the meeting stands adjourned to a day and at a time and place as the directors decide or, if no decision is made by the directors, to the same day in the next week at the same time and place; and
- (ii) if at the adjourned meeting a quorum is not present within 20 minutes after the time appointed for the meeting, the meeting is automatically dissolved.

25. Chair of meetings

25.1 Subject to Article 25.2, the chair of directors or, in the chair's absence, the deputy chair will preside as chair at every general meeting.

25.2 Where a general meeting is held and:

- (a) there is no chair or deputy chair; or
- (b) the chair or deputy chair is not present within 15 minutes after the time appointed for the meeting or does not wish to act as chair of the meeting,

the directors present may choose one of their number or, in the absence of all directors or if none of the directors present wish to act, the Members Present may elect one of their number to be chair of the meeting.

26. Adjournments

26.1 The chair may and must if so directed by the meeting adjourn the meeting from time to time and from place to place.

26.2 The only business which may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

26.3 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.

26.4 Except as provided by Article 26.3, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

27. Voting at general meetings

27.1 Any resolution to be considered at a meeting must be decided on a show of hands unless a poll is demanded.

27.2 A declaration by the chair that a resolution has on a show of hands been carried or lost and an entry to that effect in the minutes of the meeting are conclusive evidence of the fact without the need to show the number or proportion of the votes recorded in favour of or against the resolution.

27.3 Despite the Act, a poll for a resolution may be demanded by at least 5% of Members Present and entitled to vote on the resolution.

27.4 A poll may not be demanded on the election of a chair or on a resolution for adjournment.

28. Procedure for polls

28.1 A poll when demanded must be taken in the manner and at the time the chair directs.

28.2 The result of the poll is a resolution of the meeting at which the poll was demanded.

28.3 If a poll has been demanded at a meeting, the meeting may continue with the transaction of business other than the resolution on which the poll was demanded.

29. Chair's casting vote

In the case of an equality of votes on a show of hands or on a poll the chair of the meeting has a casting vote in addition to any vote to which the chair may be entitled as a member, proxy, attorney or body corporate representative.

30. Representation and voting of members

Subject to this Constitution:

- (a) at meetings of members each member entitled to attend may attend in person or by proxy, or attorney and (where the member is a body corporate) by representative and each member entitled to vote may vote in person or by proxy, or attorney and (where the member is a body corporate) by representative;
- (b) a full member is not entitled to vote at a general meeting unless all sums presently payable by the member in respect of membership in the Company have been paid; and
- (c) on a show of hands and on a poll, every Member Present having the right to vote at the meeting has 1 vote.

31. Objections to qualification to vote

31.1 An objection to the qualification of a person to vote may be raised only at the meeting or adjourned meeting at which the vote objected to is tendered.

31.2 Any objection must be referred to the chair of the meeting, whose decision is final.

31.3 A vote allowed after an objection is valid for all purposes.

32. Number of proxies

32.1 A full member may appoint 1 proxy.

32.2 A proxy must be:

- (a) a member of any class;
- (b) a director;

- (c) a director, employee or officer of a member which is a body corporate; or
- (d) the chair of the meeting.

33. Form of proxy

- 33.1 An instrument appointing a proxy must:
- (a) be in writing under the hand of the appointor or of the appointor's attorney duly authorised in writing; or
 - (b) if the appointor is a corporation, be either under seal or under the hand of a duly authorised officer or attorney.
- 33.2 A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.
- 33.3 An instrument appointing a proxy may be in any form that the directors may accept or stipulate.

34. Lodgement of proxies

- 34.1 For an instrument appointing an attorney to act on behalf of a member at all meetings of the Company (or at all meetings for a specified period) to be effective the following documents must be received by the Company not less than 48 hours (or any shorter period as the directors may permit) before the commencement of the meeting or adjourned meeting at which the attorney proposes to vote:
- (a) the power of attorney or a certified copy of that power of attorney; and
 - (b) any evidence that the directors may require of the validity and non-revocation of that power of attorney.
- 34.2 For the purposes of Article 34.1, the Company receives these documents when they are received at any of the following:
- (a) the Company's registered office;
 - (b) a fax number at the Company's registered office; or
 - (c) a place, fax number or electronic address specified for the purpose in the notice of meeting.

35. Validity of proxies

- 35.1 A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:
- (a) the previous death or unsoundness of mind of the principal; or
 - (b) the revocation of the instrument (or of the authority under which the instrument was executed) or the power,

if no notice in writing of the death, unsoundness of mind or revocation has been received by the Company at its registered office not less than 48 hours (or any shorter period as the directors may permit) before the commencement of the meeting, or adjourned meeting at which the instrument is used or the power is exercised.

- 35.2 A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes at the meeting on the resolution for which the proxy is proposed to be used.

36. Where proxy is incomplete

- 36.1 No instrument appointing a proxy is treated as invalid merely because it does not contain:
- (a) the address of the appointor or of a proxy;
 - (b) the proxy's name or the name of the office held by the proxy; or
 - (c) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.
- 36.2 Where the instrument does not specify the name of a proxy, the instrument is taken to be given in favour of the chair of the meeting.

37. Right of officers and advisers to attend general meeting

- 37.1 A secretary who is not a member is entitled to be present and, at the request of the chair, to speak at any general meeting.
- 37.2 Any other person (whether a member or not) requested by the directors to attend any general meeting is entitled to be present and, at the request of the chair, to speak at that general meeting.

APPOINTMENT, REMOVAL AND REMUNERATION OF DIRECTORS

38. Appointment and removal

- 38.1 Subject to the Act, the Company may at any time by resolution passed in general meeting:
- (a) appoint any person as a director; or
 - (b) remove any director from office.
- 38.2 Subject to the Act, the directors may at any time appoint any person as a director. Any director appointed under this Article holds office until the conclusion of the next following annual general meeting and is eligible for election at that meeting without needing to give any prior notice of an intention to submit for election but is not to be taken into account in determining the number of directors who are to retire by rotation at the meeting.
- 38.3 Subject to Articles 38.2 and 55.3, a director must retire from office at the conclusion of the third annual general meeting after which the director was elected or re-elected.

- 38.4 A retiring director under Article 38.3 is eligible for re-election without needing to give any prior notice of an intention to submit for re-election.
- 38.5 No person other than a retiring director under Article 1.1 or a director vacating office under Article 38.2 is eligible to be elected a director at any general meeting unless a notice of the director's candidature signed by the candidate is given to the Company at least 30 days before the meeting.
- 38.6 Subject to Articles 38.2, 2.2 and 18.3, at every annual general meeting, one-third of the directors or, if their number is not a multiple of three, then the number nearest to but not less than one-third must retire from office. The directors to retire under this Article 1.4 are the directors or director longest in office since last being elected. As between directors who were elected on the same day the directors to retire are (in default of agreement between them) determined by ballot. The length of time a director has been in office is calculated from the director's last election or appointment.

39. Vacation of office

- 39.1 In addition to the circumstances in which the office of a director becomes vacant:
- (a) under the Act or under Articles 38.2 or 1.1; or
 - (b) because of a resolution under Article 38.1(a);
- the office of a director becomes vacant if the director:
- (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) resigns by notice in writing to the Company;
 - (e) is absent without the consent of the directors from meetings of the directors held during a continuous period of 6 months; or
 - (f) dies.
- 39.2 A director whose office is terminated under any of the circumstances referred to in paragraphs (a) to (f) of Article 2.1 is not to be taken into account in determining the number of directors who are to retire by rotation at any annual general meeting.

POWERS AND DUTIES OF DIRECTORS

40. Powers of directors

- 40.1 Subject to the Act and this Constitution, the business of the Company is managed by the directors, who may exercise all powers of the Company which are not, by the Act or this Constitution, required to be exercised by the Company in general meeting.
- 40.2 Without limiting the generality of Article 3.1, the directors may exercise all the powers of the Company:
- (a) to borrow money, to charge any property or business of the Company or all or any of its uncalled capital;

- (b) to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

41. Appointment of attorneys

- 41.1 The directors may, by power of attorney, appoint any person to be the attorney of the Company for the purposes, with the powers, authorities and discretions vested in or exercisable by the directors for any period and subject to any conditions as they think fit.
- 41.2 Any appointment under Article 4.1 may be made on terms for the protection and convenience of persons dealing with the attorney as the directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

42. Negotiable instruments

All negotiable instruments of the Company must be executed by the persons and in the manner the directors decide from time to time.

PROCEEDINGS OF DIRECTORS

43. Proceedings

- 43.1 The directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- 43.2 A director may at any time, and on the request of a director a secretary must convene a meeting of the directors.
- 43.3 Reasonable notice must be given to every director of the place, date and time of every meeting of the directors. Where any director is for the time being outside of Australia, notice need only be given to that director if contact details have been given, but notice must always be given to any alternate director in Australia whose appointment by that director is for the time being in force.

44. Meetings by technology

- 44.1 For the purposes of the Act, each director, on becoming a director (or on the adoption of this Constitution), consents to the use of the following technology for calling or holding a directors meeting:
- (a) video;
 - (b) telephone;
 - (c) electronic mail;
 - (d) any other technology which permits each director to communicate with every other director; or

(e) any combination of the technologies described in the above paragraphs.

A director may withdraw the consent given under this Article in accordance with the Act.

44.2 Where the directors are not all in attendance at one place and are holding a meeting using technology and each director can communicate with the other directors:

(a) the participating directors are, for the purpose of every provision of this Constitution concerning meetings of the directors, taken to be assembled together at a meeting and to be present at that meeting; and

(b) all proceedings of those directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were present.

45. Quorum at meetings

At a meeting of directors, the number of directors whose presence is necessary to constitute a quorum is 2 directors entitled to vote. Unless the directors determine otherwise, the quorum need only be present at the time when the meeting proceeds to business.

46. Vacancies

The directors may act even in the event of a vacancy or vacancies in the office of a director or offices of directors, but if the number of directors is not sufficient to constitute a quorum at a meeting of directors, the directors may act only to appoint a sufficient number of directors to constitute a quorum.

47. Chair of directors

47.1 The directors may elect one of their number as their chair and may decide the period for which the chair is to hold office as chair.

47.2 Where a meeting of directors is held and:

(a) a chair has not been elected as provided by Article 10.1; or

(b) the chair is not present at the time appointed for the holding of the meeting or does not wish to chair the meeting,

the directors present may elect one of their number to be a chair of the meeting.

48. Proceedings at meetings

48.1 Subject to this Constitution, questions arising at a meeting of directors are decided by a majority of votes of directors present and voting and for all purposes any such decision is taken to be a decision of the directors.

48.2 In the case of an equality of votes, the chair of the meeting has a casting vote in addition to the chair's deliberative vote.

49. Material personal interests

- 49.1 A director is not disqualified by the director's office from contracting with the Company or any related body corporate of the Company in any capacity by reason of holding of the office of director.
- 49.2 In relation to a contract or arrangement in which a director has a material personal interest:
- (a) the fact that the director signed the document evidencing the contract or arrangement will not in any way affect its validity;
 - (b) a contract or arrangement made by the Company or any related body corporate with a director may not be avoided merely because the director is a party to the contract or arrangement or otherwise interested in it; and
 - (c) the director will not be liable to account to the Company for any profit derived in respect of the contract or arrangement merely because of the director's office or the fiduciary relationship it entails.
- 49.3 Notices of material personal interest given by directors must:
- (a) give details of the nature and extent of the director's interest and the relation of the interest to the affairs of the Company;
 - (b) be given at a directors' meeting as soon as practicable after the director becomes aware of their interest in the matter; and
 - (c) be recorded in the minutes of the directors' meeting at which the notice is given.
- 49.4 A director who has a material personal interest in a matter that is being considered at a directors' meeting must not be present while the matter is being considered at the meeting or vote on the matter, except in the following circumstances:
- (a) if the material personal interest is a matter that is not required to be disclosed under this Article 12 or under the Act; or
 - (b) if the directors who do not have a material personal interest in the matter have passed a resolution that:
 - (i) identified the director, the nature and the extent of the director's interest in the matter and its relation to the affairs of the Company; and
 - (ii) states that those directors are satisfied that the interest should not disqualify the director from voting or being present; or
 - (c) as otherwise permitted under the Act.
- 49.5 Nothing in this Article 12 affects the duty of a director:
- (a) who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with the directors' duties or interests as a director, to declare at a meeting of directors, the fact and the nature, character and extent of the conflict; or
 - (b) to comply with the Act.

50. Alternate directors

- 50.1 A director may:
- (a) with the approval of a majority of the other directors (if any), appoint a person (whether a member of the Company or not); or
 - (b) without the need for the approval of the other directors, appoint another director, to be an alternate director in the director's place during any period that the director thinks fit.
- 50.2 An alternate director is entitled to notice of meetings of the directors and, if the appointor is not present at such a meeting, is entitled to attend and vote in the director's stead.
- 50.3 An alternate director may exercise any powers which the appointor may exercise. The exercise of any power by the alternate director (including signing a document) is taken to be the exercise of the power by the appointor. The exercise of any power by the alternate director is as agent of the Company and not as agent of the appointor. Where the alternate is another director, that director is entitled to cast a deliberative vote on the director's own account and on account of each person by whom the director has been appointed as an alternate director.
- 50.4 The appointment of an alternate director:
- (a) may be terminated at any time by the appointor even if the period of the appointment of the alternate director has not expired; and
 - (b) terminates automatically if the appointor vacates office as a director.
- 50.5 An appointment or the termination of an appointment of an alternate director must be effected by service on the Company of a notice in writing signed by the director making the appointment.

51. Delegation

The directors may delegate any of their powers in accordance with the Act.

52. Committees

- 52.1 The directors may delegate any of their powers to a committee or committees consisting of such number of them and/or other persons as they think fit. A committee may consist of one or more persons.
- 52.2 A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors. A power so exercised is taken to be exercised by the directors.
- 52.3 Articles 6, 7, 10 and 11 apply to any committee as if each reference in those Articles to the directors was a reference to the members of the committee and each reference to a meeting of directors was to a meeting of the committee.

- 52.4 The number of members whose presence at a meeting of the committee is necessary to constitute a quorum is the number determined by the directors and, if not so determined, is two. Unless the directors determine otherwise, the quorum need only be present at the time when the meeting proceeds to business.
- 52.5 The minutes of all the proceedings and decisions of every committee must be made, entered and signed in the same manner in all respects as minutes of proceedings of the directors are required by the Act to be made, entered and signed.

53. Written resolutions

- 53.1 If a document:
- (a) is sent to all those entitled to receive notice of a meeting at which a resolution could be put;
 - (b) contains a statement that the signatories to it are in favour of that resolution;
 - (c) the terms of the resolution are set out or identified in the document; and
 - (d) has been signed by a majority of the directors entitled to vote on that resolution,
- a resolution in those terms is passed on the day on which and at the time at which the document was signed by a majority of directors and the document has effect as a minute of the resolution.
- 53.2 For the purposes of Article 16.1:
- (a) 2 or more separate documents containing statements in identical terms each of which is signed by one or more directors are together taken to constitute one document containing a statement in those terms signed by those directors at the time at which the last of those documents to be signed was signed by a director;
 - (b) a reference to a majority of the directors does not include a reference to an alternate director whose appointor has signed the document, but an alternate director may sign the document in the place of the alternate director's appointor; and
 - (c) a fax which is received by the Company or an agent of the Company and is sent for or on behalf of a director or alternate director is taken to be signed by that director or alternate director not later than the time of receipt of the fax by the Company or its agent in legible form.

54. Defects in appointments

- 54.1 All acts done by any meeting of the directors, committee of directors, or person acting as a director are as valid as if each person was duly appointed and qualified to be a director or a member of the committee.
- 54.2 Article 17.1 applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a director or a member of a committee or to act as a director or that a person so appointed was disqualified.

MANAGING DIRECTOR

55. Power to appoint managing director

- 55.1 The directors may appoint one or more directors to the office of managing director for the period and on the terms as they think fit. Subject to the terms of any agreement entered into in a particular case, the directors may at any time revoke any appointment.
- 55.2 A managing director's appointment automatically terminates if the managing director ceases for any reason to be a director.
- 55.3 An exempt managing director is the managing director or, if there is more than one managing director, the managing director designated by the directors to be an exempt managing director. An exempt managing director is not subject to retirement as a director by rotation while continuing to hold the office of director and is not to be taken into account in determining the rotation or retirement of directors or the number of directors to retire, but is subject to the same provisions as to removal as the other directors of the Company. This Article does not affect the operation of Articles 38.2 and 1.1.
- 55.4 If a director ceases to be the managing director, that person automatically ceases to be a director, unless the other directors resolve that the person will remain a director until the next annual general meeting in which case that director is deemed to be a retiring director under Article 1.1 at that annual general meeting.

56. Remuneration

A managing director may, subject to the Act and the terms of any agreement between the managing director and the Company, receive remuneration as the directors decide.

57. Delegation of powers to managing director

- 57.1 The directors may, on the terms and conditions and with any restrictions as they think fit, confer on a managing director any of the powers exercisable by them.
- 57.2 Any powers so conferred may be concurrent with the powers of the directors.
- 57.3 The directors may at any time withdraw or vary any of powers conferred on a managing director.

SECRETARIES AND OTHER OFFICERS

58. Secretaries

- 58.1 A secretary of the Company holds office on the terms and conditions, as to remuneration and otherwise, as the directors decide.
- 58.2 The directors may at any time terminate the appointment of a secretary.

59. Other officers

- 59.1 The directors may from time to time:
- (a) create any other position or positions in the Company with the powers and responsibilities as the directors may from time to time confer; and
 - (b) appoint any person, whether or not a director, to any position or positions created under paragraph (a).
- 59.2 The directors at any time may terminate the appointment of a person holding a position created under Article 5.1 and may abolish the position.

SEALS AND EXECUTING DOCUMENTS

60. Seals and their use

- 60.1 The Company may have a common seal. If the Company has a common seal it may also have a duplicate common seal.
- 60.2 A Seal may be used only by the authority of the directors, or of a committee of the directors authorised by the directors to authorise the use of the Seal. Every document to which the Seal is affixed must be signed by:
- (a) two directors;
 - (b) a director and a secretary (or another person appointed by the directors to countersign that document or a class of documents in which that document is included).
- 60.3 This Article does not limit the ways in which the Company may execute a document.

INSPECTION OF RECORDS

61. Inspection of records

- 61.1 The directors may authorise a member to inspect books of the Company to the extent, at the time and places and under the conditions, the directors consider appropriate.
- 61.2 A member (other than a director) does not have the right to inspect any document of the Company except as provided by law or as authorised by the directors.

NOTICES

62. Notices generally

- 62.1 Any member who has not left at or sent to the registered office, a place of address or an electronic mail address (for registration in the register) at or to which all notices and documents of the Company may be served or sent is not entitled to receive any notice.

- 62.2 A notice may be given by the Company to any member by:
- (a) serving it on the member personally;
 - (b) sending it by post to the member or leaving it at the member's address as shown in the register or the address supplied by the member to the Company for the giving of notices;
 - (c) serving it in any manner contemplated in this Article 8.2 on a member's attorney as specified by the member in a notice given under Article 8.3;
 - (d) fax to the fax number supplied by the member to the Company for the giving of notices; or
 - (e) transmitting it electronically to the electronic mail address given by the member to the Company for giving notices.
- 62.3 A member may, by written notice to the secretary left at or sent to the registered office, require that all notices to be given by the Company or the directors be served on the member's attorney at an address specified in the notice.
- 62.4 Notice to a member whose address for notices is outside Australia must be sent by airmail, fax or electronic mail.
- 62.5 Where a notice is sent by post, service of the notice is taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected:
- (a) in the case of a notice of a meeting, on the day after the date of its posting; and
 - (b) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- 62.6 Where a notice is sent by fax or electronic transmission, service of the notice is taken to be effected by properly addressing and sending or transmitting the notice and to have been effected on the day it is sent.

63. Notices of general meeting

- 63.1 Notice of every general meeting must be given:
- (a) in the manner authorised by Article 8.2;
 - (b) to every member and to each director; and
 - (c) to the auditor to the Company (if any).
- 63.2 No other person is entitled to receive notice of general meetings.

WINDING UP

64. Winding Up

If, on the winding up or dissolution of the Company by any means and for any reason, there remains any property, after the satisfaction of all the Company's debts and liabilities,

the property must not be paid to or distributed among the members of the Company, but must be given or transferred to:

- (a) in the case of the property in the Fund,
 - (i) any other environmental organisation or organisations having similar objects to the Fund and which is on the Register of Environmental Organisations kept under subdivision 30-E of the ITAA; or
 - (ii) if there is no such organisation under sub-paragraph (i), then to any other organisation or organisations which is on the Register of Environmental Organisations kept under subdivision 30-E of the ITAA; or
 - (iii) if there is no such organisation under sub-paragraph (ii), then to any funds, authorities or institutions in Australia gifts and donations to which are tax deductible,

as determined by the directors of the Foundation and, if more than one, in such shares and proportions among them as the directors may determine; and

- (b) in the case of any other property,
 - (i) one or more institutions (whether or a member or members of the Company) selected by the members of the Company in general meeting at or before the dissolution of the Company:
 - (A) having objects similar to the objects of the Company; and
 - (B) whose constitution prohibits the distribution of its or their income and property to an extent at least as great as that imposed on the Company under Article 6; or
 - (ii) if there are no institutions meeting the requirements of sub-paragraph (i), to one or more other institutions, associations or bodies (whether or not a member or members of the Company) selected by the members of the Company at or before the dissolution of the Company, the objects of which are the promotion of charity and gifts to which are allowable deductions under the ITAA; or
 - (iii) if the members do not make a selection pursuant to sub-paragraphs (i) or (ii) for any reason, to one or more institutions, associations or bodies meeting the requirements of either sub-paragraphs (i) or (ii) selected by the directors of the Company.

INDEMNITY

65. Indemnity and insurance

- 65.1 To the extent permitted by law and without limiting the powers of the Company, the Company must indemnify each person who is, or has been, a director or secretary of the Company against any liability which results directly or indirectly from facts or circumstances

relating to the person serving or having served in that capacity in relation to the Company or any of its subsidiaries:

- (a) to any person whether or not arising from a prior contingent liability incurred on or after 13 March 2000 other than:
 - (i) a liability owed to the Company or a related body corporate; or
 - (ii) a pecuniary penalty or compensation order made under the Act; or
 - (iii) a liability that is owed to someone (other than the Company or a related body corporate) and did not arise out of conduct in good faith;
- (b) for legal costs incurred in defending an action for liability incurred as a director or a secretary of the Company if the costs are incurred other than:
 - (i) in defending or resisting civil proceedings in which the person is found to have a liability for which there is no indemnity under Article 11.1(a); or
 - (ii) in defending or resisting criminal proceedings in which the person is found guilty; or
 - (iii) 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 be established; or
 - (iv) in connection with proceedings for relief to the person under the Act in which the Court denies the relief.
 - (A) Sub-paragraph (iii) does not apply to costs incurred in responding to actions brought by the ASIC or a liquidator as part of an investigation before commencing proceedings for the court order.

65.2 To the extent permitted by law and without limiting the powers of the Company, the directors may authorise the Company to, and the Company may enter into any:

- (a) documentary indemnity in favour of; or
- (b) insurance policy for the benefit of,

a person who is, or has been, a director, secretary, auditor, employee or other officer of the Company or of a subsidiary of the Company, which indemnity or insurance policy may be in such terms as the directors approve and, in particular, may apply to acts or omissions prior to or after the time of entering into the indemnity or policy.

65.3 The benefit of any indemnity previously given to any person in respect of liabilities incurred prior to 13 March 2000 is not affected by this Article 11.

65.4 The benefit of each indemnity given in Article 11 continues, even after its terms or the terms of this Article 11 are modified or deleted, in respect of a liability arising out of acts or omissions occurring prior to the modification or deletion.

THE GREAT BARRIER REEF RESEARCH FOUNDATION FUND

66. Current Rules

The Rules of the Great Barrier Reef Foundation Fund at the date of adoption of this Constitution are set out in the Schedule.

67. Ministerial rules

The Company agrees to comply with any rules that the Treasurer of the Commonwealth Government of Australia and the Minister of the Commonwealth Government of Australia with responsibility for the environment make to ensure that gifts to the Fund are only used for its principal purpose.

68. Annual statistical return

Statistical information requested by the Department on donations to the Fund will be provided within four months of the end of the financial year.

An audited financial statement for the Company and the Fund will be supplied with the annual statistical return. The statement will provide information on the expenditure of public fund monies and the management of public fund assets.

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Schedule

Rules of the Great Barrier Reef Research Foundation Fund

1. Establishment of the Fund

The Fund is established pursuant to the Constitution of the Company for the sole purpose of supporting the Environmental Objects of the Company.

2. Name of Fund

The Fund is known as Great Barrier Reef Research Foundation Fund.

3. Definitions

In these Rules the following expressions where the context so admits have the following meanings:

- (a) **Company** means Great Barrier Reef Research Foundation ACN 090 616 443, a company limited by guarantee;
- (b) **Constitution** means the constitution for the time being of the Company.
- (c) **donations** includes gifts and contributions;
- (d) **environmental objects** means the purpose set out in Article 5.1, the aims and other purposes set out in Article 5.2 and the objects set out in Article 5.3(a) to (i) of the Constitution;
- (e) **Environmental Organisation** has the meaning given in the ITAA;
- (f) **Fund** means the Great Barrier Reef Research Foundation Fund and includes:
 - (i) all donations and gifts of money and other property received by the Company for the Environmental Objects;
 - (ii) any income or accumulation of income of (i);
 - (iii) all other accretions to any of (i) and (ii); and
 - (iv) the investments and other property of every description for the time being representing such moneys or other property as set out in (i), (ii) and (iii) or any part or parts thereof;
- (g) **Model Rules** means the model rules for Register's public funds published by the Registrar of Environmental Organisations as amended from time to time;
- (h) **These Rules** means these rules of the Great Barrier Reef Research Foundation Fund including any subsequent variation, modification or replacement of these Rules.

4. Interpretation

In this interpretation of these Rules, unless the context otherwise requires:

- (a) words importing any gender include all genders;
- (b) words importing the singular number includes the plural number and vice versa;
- (c) references to persons or to people include corporations, associations, partnerships, government authorities, and other legal entities;
- (d) references to writing include any means of representing or reproducing words, figures, drawings or symbols in a visible, tangible form, in English;
- (e) references to signature and signing include due execution of a document by a corporation or other relevant entity;
- (f) references to statutes include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws and ordinances made under those statutes;
- (g) references to sections of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes;
- (h) headings are used for convenience only and are to be disregarded;
- (i) where any word or phrase is given a defined meaning, any other grammatical form of that word or phrase has a corresponding meaning;
- (j) each paragraph or sub-paragraph in a list is to be read independently from the others in the list;
- (k) if any term of these Rules is legally unenforceable or made inapplicable, it shall be severed or read down, but so as to maintain (as far as possible) all other terms of these Rules (unless to do so would change the underlying principal purposes of these Rules); and
- (l) definitions in the Constitution have the same meaning in these Rules unless a contrary intention appears.

5. Model rules

The Model Rules shall apply to the Fund and to the extent of any inconsistency between these Rules and the Model Rules, the Model Rules shall prevail.

6. Public invitations

The Company will invite members of the public to make donations of money or property to the Fund for the Environmental Objects.

7. Contributions to the Fund

- 7.1 All donations of money or property received by the Company for the Environmental Objects must be paid into the Fund.
- 7.2 The Fund may receive only donations of money or property intended to be used for the Environmental Objects.

8. Accumulation of income

The income of the whole or any part of the Fund may be accumulated and any income so accumulated shall be added to form part of the capital of the Fund.

9. No payment of profits

- 9.1 Except as provided in Rule 9.2, no part of the Fund may be paid, transferred or applied, directly or indirectly, by way of dividend, bonus, distribution or otherwise to:
- (a) the directors of the Company;
 - (b) the members of the Company;
 - (c) the members of the Management Committee;
 - (d) the controllers or owners of the Company; or
 - (e) any person claiming through any of the persons named in paragraphs (a) to (d).
- 9.2 The Fund may be used to pay for reasonable general operating expenses of the Company including rent, stationery, salaries and wages in accordance with the Constitution.

10. Investments

The Fund may be invested in any investments in which for the time being the Company is authorised to invest by the Constitution and the Act.

11. Management Committee

- 11.1 The administration of the Fund shall be under the day to day control of a Management Committee appointed from time to time by the directors of the Company and consisting of not less than three members.
- 11.2 A member of the Management Committee may, but need not, be a member or director of the Company.
- 11.3 A majority of the members of the Management Committee must be "responsible persons" (as defined by the Department) and otherwise meet the requirements of the Department for membership of the Management Committee.
- 11.4 The Management Committee shall administer the Fund in accordance with these Rules and may exercise all of the duties and powers of the directors of the Company in relation to

the administration of the Fund, including, without limitation, the power to issue receipts for donations, the power to invest the Fund and the power to acquire and dispose of land.

- 11.5 The provisions of the Constitution with respect to committees apply to the Management Committee.
- 11.6 The Company must advise the full details of the members of the Management Committee to the Secretary of the Department.
- 11.7 Within a reasonable time after any changes to the membership of the Management Committee, the Company must advise the Secretary of the Department of full details of the changes.

12. Accounts

The Company shall open and maintain in the name of the Fund a separate account or accounts at such bank or banks as the Management Committee may from time to time determine and all money which forms part of the Fund must be paid into such account or accounts. The Management Committee shall determine who shall be entitled to operate on such account or accounts.

13. Audit

The Management Committee shall keep or cause to be kept proper accounts of all receipts, payments, assets and liabilities relating to the Fund and all other matters necessary for showing a true statement and condition of the Fund and such accounts shall be audited at least once a year by the Company's auditor

14. Receipts

- 14.1 Receipts must be issued in the name of the Fund.
- 14.2 The receipt in writing of the Company, or any director, secretary or officer of the Company or any member of the Management Committee on behalf of the Company, for all money or other property paid or transferred to the Fund shall effectively discharge the person paying or transferring the same and from being concerned to see to the application thereof.

15. Variation of these Rules

- 15.1 These Rules may be altered, revoked or replaced in whole or in part at any time and from time to time by a resolution of the board of directors of the Company provided that no such alteration, revocation or replacement shall be of any force or effect to the extent that by virtue thereof any donation already made to the Fund or any part thereof shall cease to be tax deductible.

16. Reporting Requirements

- 16.1 The Company shall immediately notify the Secretary of the Department and the Australian Taxation Office of any alteration, revocation or replacement of these Rules.
- 16.2 The Company shall immediately notify the Secretary of the Department if:
- (a) it changes its name or the name of the Fund; or
 - (b) there has been any departure from the Model Rules of the Fund.

17. Winding Up

Upon the winding up or dissolution of the Fund all money, investments and property then forming the Fund, after the payment of all expenses and liabilities, must not be applied to the Company or any members thereof but must be paid or transferred to:

- (a) any other environmental organisation or organisations having similar objects to the Fund and which is on the Register of Environmental Organisations kept under subdivision 30-E of the ITAA; or
- (b) if there is no such organisation under paragraph (a), then to any other organisation or organisations which is on the Register of Environmental Organisations kept under subdivision 30-E of the ITAA; or
- (c) if there is no such organisation under paragraph (b), then to any funds, authorities or institutions in Australia gifts and donations to which are tax deductible,

as determined by the directors of the Company and, if more than one, in such shares and proportions among them as the directors may determine.

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