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**Corporations Act 2001 (Cth)**  
**Public company limited by guarantee**  
**Australian Nappy Association Limited**  
**ABN 637 803 087 14**

**1. Nature of Company and Liability**

**Nature of Company**

1.1 The Company is a public company limited by guarantee.

**Liability of Members and guarantee on winding up**

1.2 The liability of Members is limited. Every Member undertakes to contribute \$2 to the assets of the Company if it is wound up while that person is a Member, or within one year afterwards for:

1.2.1 Payment of the Company's debts and liabilities contracted before they ceased to be a Member; and

1.2.2 Costs and expenses of winding up.

**2. Objectives**

2.1 The Company has the following objectives;

"The Australian Nappy Association is the peak industry association representing the development, promotion and support of reusable nappy products in Australia"

2.2 The Company will seek to achieve its objectives by:

2.2.1 Raising money to further the aims of the Company and to secure sufficient funds for the purposes of the Company

2.2.2 Receiving any funds and to distribute these funds in a manner that best attains the objectives of the Company.

2.2.3 Doing all such things as are incidental, convenient or conducive to the attainment of all or any of the objects of the Company.

**3. Membership**

**Numbers of Members**

3.1 The number of Members of the Company is unlimited

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## **Classes of Membership**

- 3.2 Multiple classes of Membership will be decided on by the initial Members and outlined in a separate document. Membership classes and criteria for each class may be changed at any time by the Board.

## **Membership**

- 3.3 The Members of the Company are the initial Members as identified in the application for incorporation of the Company to the Australian Securities and Investments Commission and such other persons as the Company admits to membership in accordance with this constitution.

## **Membership not transferable**

- 3.4 A Member's rights, privileges and benefits of membership are personal to the Members and membership of the Company is not transferrable, other than by operation of law.

## **Application for Membership**

- 3.5 All Members must do all of the following:
- 3.5.1 Pay the application fee determined in accordance with clause 4.1
  - 3.5.2 In order to maintain Membership, pay the annual subscription in accordance with clause 4.2
  - 3.5.3 Otherwise comply with the provisions of this constitution.

## **Form of application**

- 3.6 An application for Membership must comply with the following requirements:
- 3.6.1 It must be signed by the applicant.
  - 3.6.2 It must be accompanied by such documents or evidence as to qualification for membership class applied for as the Board may determine from time to time.
  - 3.6.3 It must be accompanied by an application fee determined in accordance with clause 4.1

## **Admission to Membership**

- 3.7 The Board must consider an application for Membership as soon as practicable after its receipt and determine, in its absolute discretion, the admission or rejection of the applicant.
- 3.8 The Board may in its absolute discretion determine the category of Membership suitable for an applicant.
- 3.9 The Board does not have to give reasons for rejecting an application or granting a particular category of Membership.

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- 3.10 If an application for Membership is rejected, any application fee and the annual subscription must be refunded to the applicant.
- 3.11 If an applicant is accepted for Membership the Secretary must notify the applicant of admission in the form of a receipt for the application fee, if any, and annual subscription or in such other form as the Board may determine from time to time and the name and details of the applicant must be entered in the Register.

### **Register of Members**

- 3.12 A register of the Members of the Company must be kept in accordance with the Corporations Act.
- 3.13 The following details must be entered in the Register in respect of each Member:
- 3.13.1 The full name of the Member, including ACN or ABN
  - 3.13.2 The address of the Member (being the registered address in the case of a corporate Member)
  - 3.13.3 The date on which the entry of the Member's name in the Register is made.
- 3.14 The Register must also show the following information, which may be kept separately from the rest of the Register:
- 3.14.1 The name and details of each person who stopped being a member within the last 7 years.
  - 3.14.1 The date on which each such person stopped being a Member.
- 3.15 The Company may also keep further registers recording other information about Members that is not required to be kept under the Corporations Act.
- 3.16 The following details may be entered in a register referred to in clause 3.15:
- 3.16.1 The telephone number and email address of the Member.
  - 3.16.2 The class of Membership.
  - 3.16.3 The date of last payment of the Member's annual subscription.
  - 3.16.4 In the case of a Member other than an individual the full name, address, telephone number and email address of its corporate representative.
  - 3.16.5 Such other information as the Board may require.
- 3.17 Each Member must notify the secretary in writing of any change in that person's name, address, telephone number and email address within one month of the change.

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#### **4. Application fee and annual subscription**

##### **Application fee**

- 4.1 The application fee payable by each applicant for Membership is such sum as the Board may prescribe from time to time in respect of each category of Membership, and for the avoidance of doubt may be nil.

##### **Annual subscription**

- 4.2 The annual subscription payable by a Member is such sum as the Board may prescribe from time to time in respect of each class of Membership, and for the avoidance of doubt may be nil.
- 4.3 All annual subscriptions are due and payable in advance on 1<sup>st</sup> May each year.
- 4.4 If a person applies for Membership after 1<sup>st</sup> May in any year, the Board may reduce the annual subscription payable by the applicant in such a manner as they think fit.

##### **Unpaid annual subscriptions**

- 4.5 A Member ceases to be entitled to any of the rights or privileges of membership if the annual subscription of a Member remains unpaid for two months after it becomes payable and a notice of default is given to the Member pursuant to a resolution of the Board. However, the rights or privileges of membership may be reinstated on payment of all arrears if the Board (in its absolute discretion) so resolves.

#### **5. Removal and cessation of membership**

##### **Resignation**

- 5.1 A Member may resign from membership of the Company by giving written notice to the Secretary.
- 5.2 The resignation of a Member is deemed to take effect from the date of receipt of the notice of resignation or such later date as is provided in the notice.

##### **Failure to pay**

- 5.3 If a Member has not paid all arrears of annual subscriptions in accordance with clause 4.3 or if paid, the member's rights and privileges are not reinstated by the Board in accordance with clause 4.5, each of the following applies in respect of that Member:
- 5.3.1 The Member remains liable for all the obligations and liabilities of membership for six months after the date of notification under clause 4.5.
- 5.3.2 The Member ceases to be a member and the Member's name must be removed from the Register at the end of the six month period.

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### **Other cessation of membership**

- 5.4 A Member ceases to be a Member immediately upon any Termination Event occurring in respect of the Member.

### **Removal from Membership**

- 5.5 The Board may convene a meeting of Members to consider the removal of a member from the Register if the Board in its absolute discretion resolves that the person is no longer considered suitable for Membership of the Company.
- 5.6 The Board must provide at least two month's written notice to any member of any intervention to remove the person from the Register, so as to enable the Member to provide any written representations to the Company.
- 5.7 Where a Member makes any written representations and the Member requests that the representations be notified to Members of the company, the Company must do both the following:
- 5.7.1 State that the representations have been made in any notice of the resolution given to Members of the Company.
  - 5.7.2 Send a copy of the representations to every Member of the Company to whom the notice of the meeting has been or is sent.
  - 5.7.3 The requirements in clause 5.7 do not apply to the Company if the representations are received by it too late for it to satisfy those requirements.
  - 5.7.4 If a copy of the representations is not so sent because they were received too late or because of the Company's default, the Member may, without affecting any right to be heard orally, require the representations to be read out at the meeting.
  - 5.7.5 Copies of the representations need not be sent out and the representations need not be read out at the meeting if the Board is satisfied on reasonable grounds that the rights conferred by clause 5.7 are being abused, including to secure needless publicity for a defamatory matter.
- 5.8 The Board does not have to give reasons for recommending the removal of any Member from the Register.
- 5.9 An ordinary resolution of Members is required to pass the necessary resolution to remove a Member under clause 5.5.

## **6. No profit for members**

### **Transfer of income or property**

- 6.1 The Company may not pay or transfer any income or property, directly or indirectly to any Member.
- 6.2 The Company must not pay a dividend to any Member.



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## **Payments, services and information**

- 6.3 Nothing in this clause 6 prevents the Company making a payment in good faith of any of the following:
- 6.3.1 Remuneration to any officers or employees of the Company for services actually rendered to the Company (including payment of directors' fees in accordance with clause 11.1).
  - 6.3.2 An amount to any member in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual course of business.
  - 6.3.3 Reasonable and proper interest on money borrowed from any Member.
  - 6.3.4 Reasonable and proper rent for premises let by any Member to the Company.
  - 6.3.5 Reimbursement of expenses reasonably and properly incurred by any Member on the Company's behalf with the consent of the Board.
- 6.4 Nothing in this clause 6 prevents the Company from providing services or information to the members on terms which are different from the terms on which services or information are provided to persons who are not Members.

## **7. General meetings**

### **Convening of meetings by Directors**

- 7.1 Any Director may convene a general meeting.

### **Convening of meetings by Members**

- 7.2 The Board must call and arrange to hold a general meeting if required to do so under the Corporations Act.

### **Notice of general meeting**

- 7.3 The Board may give notice of a general meeting by any form of communication permitted by the Corporations Act.
- 7.3.1 The notice of a general meeting must specify the place, the day and the hour of meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate the meeting, the general nature of the business to be transacted and any other matters as are required by the Corporations Act.
  - 7.3.2 The accidental omission to give notice of any general meeting to, or the non-receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the general meeting.

### **Cancellation of general meetings**

- 7.4 The Board may cancel a general meeting, other than a general meeting which the Board is required to convene and hold under the Corporations Act.

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- 7.5 The Board may cancel a general meeting if notice of the cancellation is given to all persons entitled to receive notice of the meeting at least two business days prior to the time of the meeting as specified in notice of meeting.

#### **Quorum at general meetings**

- 7.6 The members in general meeting may not transact any business unless a quorum of Members is present at the time when the meeting proceeds to business.
- 7.7 Except as otherwise set out in this constitution 2 Members present if the number of Members is less than 20 or 4 Members present if the number of Members is greater than 20, in person or by representative is a quorum.
- 7.8 If a quorum is not present within half an hour from the time appointed for the meeting or a longer period allowed by the chairperson:
- 7.8.1 If the meeting is convened by or on the requisition of Members, it must be dissolved.
- 7.8.2 Otherwise, it must stand adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Board.
- 7.9 If a meeting has been adjourned to another time and place determined by the Board, not less than seven days' notice of the adjourned meeting must be given in the same matter as in the case of the original meeting.

#### **Quorum at adjourned general meetings**

- 7.10 At the adjourned meeting 2 Members present if the number of Members is less than 20 or 4 Members present if the number of Members is greater than 20, in person or by representative is a quorum but if a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

#### **Appointment of chairperson**

- 7.11 Every general meeting must be chaired by a chairperson. The chairperson will be determined as follows:
- 7.11.1 If the Board has elected a Director as Chair, that person is entitled to chair every general meeting.
- 7.11.2 The Directors present at a general meeting must elect one of their number to chair that meeting if either of the following applies:
- (a) No Chair has been elected in accordance with clause 13.7
- (b) The Chair is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act.
- 7.11.3 The Members present at a general meeting must elect one of the Members present to chair that meeting if either of the following applies:
- (a) There are no Directors present within 15 minutes after the time appointed for the holding of the meeting.
- (b) All Directors present decline to chair the meeting.

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### **Chairperson's powers**

- 7.12 The chairperson may temporarily vacate the chair at a general meeting in favour of another person present at any time and for any reason they see fit, and must do so if the members are voting on the chairperson's election or re-election as a Director.
- 7.13 Subject to the terms of this constitution regarding adjournment of meetings, the chairperson's ruling on all matters relating to the order of business, procedure and conduct of the general meeting is final and no motion of dissent from a ruling of the chairperson may be accepted.
- 7.14 The chairperson may, in his or her absolute discretion, refuse any person admission to a general meeting, or expel the person from the general meeting and not permit them to return, if the chairperson reasonably considers that the person's conduct is inappropriate. Inappropriate conduct in a general meeting includes:
- 7.14.1 The use of offensive or abusive language which is directed at any person, object or thing.
  - 7.14.2 Attendance at the meeting while under the influence of any kind of drug, or using or consuming any drug at the meeting including any alcoholic substance.
  - 7.14.3 Possession of any article, including a recording device or other electronic device or a sign or banner, which the chairperson considers is dangerous, offensive or disruptive or likely to become so.

### **Adjournment of meetings**

- 7.15 The chairperson may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to another time and to another place.
- 7.15.1 The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
  - 7.15.2 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.
  - 7.15.3 Except when a meeting is adjourned for 30 days or more, it is not necessary to give a notice of an adjournment or of the business to be transacted at an adjourned meeting.

### **Voting on show of hands**

- 7.16 At a general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is demanded before that vote is taken or before the result is declared or immediately after the result is declared.
- 7.17 If a poll is not duly demanded, a declaration by the chairperson that a resolution has on show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

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### **Demand for a poll**

- 7.18 A poll may be demanded by either:
- 7.18.1 The chairperson
  - 7.18.2 At least five Members entitled to vote on the resolution.
- 7.19 The demand for a poll may be withdrawn.
- 7.20 The demand for a poll does not prevent the continuance of a meeting for the transaction of business other than the question on which a poll is demanded.
- 7.21 If a poll is duly demanded, it must be taken in the manner and, except as to the election of a chairperson or on a question of adjournment, either at once or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll is the resolution of the meeting at which the poll is demanded.
- 7.22 A poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.

### **Voting rights of Members**

- 7.23 On a show of hands every person present who is a Member or who represents a corporation who is a Member has one vote.
- 7.24 On a poll every Member present in person or by proxy, attorney or representative has one vote.

### **Vote of the Chairperson at general meetings**

- 7.25 The chairperson of a general meeting is entitled to a second or casting vote (in addition to any votes he or she may have as a proxy or attorney).

### **Objections to voter qualification**

- 7.26 No objection may be raised to the qualification of a voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 7.27 An objection to the qualification of a voter must be referred to the chairperson, whose decision is final.
- 7.28 A vote not disallowed according to an objection as provided in this constitution is valid for purposes.

### **Mode of meeting for Members**

- 7.29 A general meeting may be called or held using any technology consented to by all the Members. The consent may be a standing one. A Member may only withdraw their consent within a reasonable period before the meeting. The Members may otherwise regulate their meetings as they think fit.

### **Resolution in writing**

- 7.30 A resolution in writing signed by all members entitled to vote on the resolution is to be treated as a determination of the members passed at a meeting of the members duly convened and held.

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## **Form of resolution in writing**

- 7.31 A resolution in writing may consist of several documents in like form, each signed by one or more members and if so signed it takes effect on the latest date on which a Member signs one of the documents.
- 7.32 If a resolution in writing is signed by a proxy of a member, it must not also be signed by the appointing member and vice versa.
- 7.33 In relation to a resolution in writing a document generated by electronic means which purports to be a facsimile of a resolution of Members is to be treated as a resolution in writing and a document bearing a facsimile of a signature is to be treated as signed.

## **8 Proxies and representatives**

### **Proxies and representatives of Members**

- 8.1 At meetings of Members each member entitled to vote may vote in person or by proxy or by attorney. A Member which is a corporation may appoint an individual as a representative.
- 8.2 Subject to the terms of their appointment, a person attending as a proxy, or as the attorney of a member, or as representing a corporation which is a Member, has all the powers of a member, except where expressly stated to the contrary.

### **Appointment of proxies**

- 8.3 A Member may appoint another person as their proxy to attend and vote instead of the Member. A proxy need not be a Member.
- 8.3.1 A document appointing a proxy must be in writing, in any form permitted by the Corporations Act and signed by the member making the appointment.
- 8.3.2 A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.
- 8.3.3 Except as expressly provided by the document appointing a proxy, an appointment of a proxy confers authority to do all things that the member can do in respect of a general meeting, except that the proxy is not entitled to vote on a show of hands.

### **Verification of proxies**

- 8.4 Before the time for holding the meeting or adjourned meeting at which a proxy proposes to vote, both of the following documents must be deposited with the Company:
- 8.4.1 The document appointing the proxy.
- 8.4.2 If the appointment is signed by the appointer's attorney, the authority under which the appointment was signed or a certified copy of that authority.
- 8.5 Those documents must either be:

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- 8.5.1 received at the Office, at a fax number at the Office or at another place or electronic address specified for that purpose in the notice convening the meeting not less than 24 hours before the time for holding the meeting; or
- 8.5.2 produced to the chairperson of the meeting before the proxy votes.
- 8.6 If a general meeting has been adjourned, an appointment and any authority received by the Company at least 24 hours before the resumption of the meeting are effective for the resumed part of the meeting.

#### **Validity of proxies**

- 8.7 A proxy document is invalid if it is not deposited or produced prior to a meeting or a vote being taken as required by this document.

#### **Revocation of appointment of proxy**

- 8.8 A vote given in accordance with the terms of a proxy document or power of attorney is valid despite the occurrence of any one of more of the following events if no intimation in writing of any of those events has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the document is used:
- 8.8.1 The previous death or unsoundness of mind of the principal
- 8.8.2 The revocation of the instrument or of the authority under which the instrument was executed.

### **9 Non-Member Stakeholders**

Clause removed – not relevant

### **10 Appointment and retirement of Directors**

#### **Initial Directors**

- 10.1 The initial Directors of the Company to be appointed on the day the Company is registered will be those individuals named in the application to register the Company who have consented to act as Directors.

#### **Number of Directors**

- 10.2 The number of Directors must not be less than 3 nor more than 5, unless otherwise determined in accordance with this constitution.
- 10.3 The Company may, by resolution, increase or reduce the number of Directors and may also determine in what rotation the increased or reduced number is to go out of office.

#### **Qualifications of Directors**

- 10.4 A person is only eligible for the appointment of Director of the company if the person is a member as defined in this constitution.

#### **Re-election of Directors at first AGM**

- 10.5 The Directors of the Company will be re-elected at the first AGM of the Company.

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### **Casual vacancies**

- 10.6 The Board, or if there is only one Director, that Director, may at any time appoint a person to be a Director, either to fill a casual vacancy or as an addition to the existing number of Directors. The total number of Directors may not exceed the number fixed in accordance with this constitution.
- 10.7 A Director appointed under clause 10.6 holds office only until the next general meeting after the appointment and is then eligible for re-election.

### **Removal from office**

- 10.8 The Company may by ordinary resolution remove a Director from office and may by ordinary resolution appoint another person as a replacement.
- 10.9 A person appointed to replace a Director removed from office must retire as a Director at the time ascertained as if the person became a Director on the day on which the Director removed from office was elected or last re-elected as a Director.

### **Vacation of office**

- 10.10 In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act or another provision of this constitution, the office of Director immediately becomes vacant if any of the following occurs:
- 10.10.1 The Director becomes an insolvent under administration.
  - 10.10.2 The Director 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.
  - 10.10.3 The Director is absent from at least 3 consecutive Board meetings or at least 3 consecutive meetings over a consecutive period of 12 months without the written consent of the Board.
  - 10.10.4 The Director becomes prohibited from being a director by reason of an order made under the Corporations Act.

## **11 Directors' remuneration**

### **Determination of fees**

- 11.1 The Directors must be paid by way of fees for their services the amounts, if any determined from time to time by the Company in general meeting.
- 11.2 Directors fees accrue from day to day.

### **Additional services rendered**

- 11.3 A Director may be paid a fee in return for any extra services actually rendered to the Company in a professional or technical capacity (other than within his or her ordinary duties as a Director):
- 11.3.1 with the prior approval of the Board: and
  - 11.3.2 where the amount payable does not exceed a commercially reasonable amount.

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- 11.4 A fee payable in accordance with clause 11.3 may be paid either by fixed sum or salary determined by the Board.

#### **Payment for expenses**

- 11.5 Each Director must be reimbursed for out-of-pocket expenses reasonable and properly incurred by the Director in connection with Company business (including travel and accommodation expenses). Alternatively, the Company may pay such amounts on the Director's behalf.

### **12 Powers of the Board**

- 12.1 The Board may exercise all those powers of the company as are not, by the Corporations Act or by this constitution, required to be exercised by the Members in general meeting or otherwise.

### **13 Proceedings of directors**

#### **Convening of Board meetings**

- 13.1 A Director may at any time, and a Secretary must be the requisition of a Director, convene a Board meeting.

#### **Notice of Board meetings**

- 13.2 The person convening a Board meeting must ensure that notice of the Board meeting is given to each Director at least 24 hours before the meeting or at another time determined by the Board resolution, except:

13.2.1 All Directors may waive in writing the required period of notice for a particular meeting.

13.2.2 It is not necessary to give a notice of a meeting of Directors to a Director who is out of Australia or who has been given leave of absence by the Board.

#### **Mode of meeting for Directors**

- 13.3 A Board meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting. The Board may otherwise regulate its meetings as they think fit.

#### **Quorum at Board meetings**

- 13.4 At a Board meeting the number of Directors whose presence is necessary to constitute a quorum is 50% or another number determined by the Board from time to time.

- 13.5 If the number of Directors is reduced below the number necessary for a quorum of Directors, the continuing Director or Directors may act only to:

13.5.1 appoint additional Directors to the number necessary for a quorum;  
or

13.5.2 convene a general meeting of the Company.



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### **Voting at Board meetings**

- 13.6 The Board must determine any questions arising at a Board meeting by a majority of votes of Directors present and voting.

### **Appointment of Chair**

- 13.7 The Board may elect a Director as Chair to Board meetings, and may determine the period for which the Chair will hold office.
- 13.8 If no Chair is elected, or if at any meeting the Chair is not present within ten minutes after the time appointed for holding the meeting or is unwilling to act, the Directors present must choose one of their number to chair that meeting.

### **Chairperson's vote at Board meetings**

- 13.9 The Chair (or other Director chairing the meeting in accordance with clause 13.8) has a second or casting vote at Board meetings.

### **Participation where Directors interested**

- 13.10 A Director may be present and may vote on a matter before the Board if and to the extent that they are permitted to do so under the Corporations Act.
- 13.11 If there are not enough Directors to form a quorum as a result of a Director having an interest which disqualifies them from voting then one or more of the Directors (including those who have the disqualifying interest in the matter) may call a general meeting of the Company and the general meeting may pass a resolution to deal with the matter.
- 13.12 Subject to compliance with the Corporations Act, a Director may execute or participate in the execution of a document by or on behalf of the Company.

### **No disqualification**

- 13.13 Subject to compliance with the Corporations Act, a Director or any entity in which the Director has a direct or indirect interest (as applicable) may:
- 13.13.1 Enter into a contract or arrangement with an Associated Party.
  - 13.13.2 Hold any office or place of profit (other than auditor) in an Associated Party.
  - 13.13.3 Act in a professional capacity (or be a member of a firm that so acts) other than as auditor of an Associated Party.
- 13.14 Despite the fiduciary nature of a Director's office and the Director's fiduciary obligations:
- 13.14.1 Any contract or arrangement entered into in accordance with clause 13.13.1 by the director or any entity in which the Director has a direct or indirect interest is not invalid or voidable.
  - 13.13.2 A Director may do any of the things specified in clause 13.13 without any liability to account to the Company or any other person for any direct or indirect benefit accruing to the Director or any entity in which the Director has a direct or indirect interest.

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### **Exercise of rights**

- 13.16 Subject to clause 13.21, the Board may delegate any of its powers to any person, as the Board sees fit. This includes delegating any of the Board's own powers to committees consisting of Directors or other persons (as the Board sees fit) to act in Australia or elsewhere.
- 13.17 A committee's exercise of a power in accordance with this constitution is to be treated as the exercise of that power by the Board.
- 13.18 A committee must conform to the directions of the Board in the exercise of any powers delegated to it.

### **Advisory Committees**

- 13.19 The Board may establish one or more advisory committees to provide advice and recommendations to the Board on specified matters (among any other functions determined by the Board).
- 13.20 The Board may, with respect to an Advisory Committee:
- 13.20.1 Specify in writing from time to time the terms of reference and functions of the Advisory Committee.
  - 13.20.2 Appoint such persons as they consider appropriate to the Advisory Committee (including, if thought fit, one or more Directors), and remove any such person from the Advisory Committee at any time by written notice.
  - 13.20.3 Specify the period and conditions (including as to remuneration, if any) of any such appointment to the Advisory Committee.
  - 13.20.4 Terminate the Advisory Committee at any time.
- 13.21 The Board must not delegate any of its powers to an Advisory Committee, and an Advisory Committee must not exercise any powers of a Director or the Board.

### **Proceedings of the committees**

- 13.22 Except as provided in a direction of the Board, the meetings and proceedings of a committee formed by the Directors of an Advisory Committee must be governed by the provisions of this constitution, in so far as they are applicable, as if meetings proceedings of the committee or Advisory Committee are meetings and proceedings of the Board.

### **Validity of acts of Directors**

- 13.23 All acts done by a Board meeting or of a committee of Directors or by a person acting as a Director are valid even if it is later discovered that there is a defect in the appointment of a person to be a Director or a member of the committee or that they or any of them were disqualified or were not entitled to vote.

### **Minutes**

- 13.24 The Board must cause minutes of all proceedings of general meetings, of Board meetings and of committees formed by the Directors to be entered, within one month after the relevant meeting is held, in books kept for the purpose.
- 13.25 The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed by the chairperson of the meeting at

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which the proceedings too place or by the chairperson of the next succeeding meeting.

### **Resolution in writing**

- 13.26 A resolution in writing signed by all Directors entitled to vote on the resolution is to be treated as a determination of the Board passed at a Board meeting duly convened and held.
- 13.26.1 A resolution in writing may consist of several document sin like form, each signed by one or more Directors and if so signed it takes effect on the latest date on which a Director signs one of the documents.
- 13.26.2 If a resolution in writing is signed by an alternate Director, it must not also be signed by the appointer of the alternative Director and vice versa.
- 13.26.3 In relation to a resolution in writing a document generated by electronic means which purports to be a facsimile of a resolution of Directors is to be treated as a resolution in writing and a document bearing a facsimile of a signature is to be treated as signed.

## **14 Alternative directors**

### **Appointment of alternate Directors**

- 14.1 A Director may appoint a person to be an alternate Director in the Director's place, during the period that the Director thinks fit.
- 14.1.1 The appointment of alternate Director must be in writing, signed by the Director.
- 14.1.2 The appointment of an alternate Director takes effect immediately on the signing of the notice of appointment by the Director.
- 14.2 The alternate Director must be a Member as defined in this constitution.

### **Powers of alternate Director**

- 14.3 Except as expressly provided in this constitution, an alternate Director takes is subject in all respects to the terms and conditions applying to the other Directors except for the provisions of this constitution which relate to the election of Directors, their fees and remuneration and the power to appoint an alternate Director.
- 14.4 An alternate Director has all of the following entitlements:
- 14.4.1 To perform all the duties of a Director while the Director who appointed the alternate Director his not exercising or performing them.
- 14.4.2 To receive notice of meetings of the Directors.
- 14.4.3 To attend and vote at meetings of the Board if the Director who appointed the alternate Director is not present.

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## **Termination of appointment of alternate Directors**

- 14.5 The appointment of an alternate Director is immediately terminated if any of the following circumstances occurs:
- 14.5.1 The Director who appointed the alternate Director ceases for any reason to be a Director.
  - 14.5.2 The Director who appointed the alternate Director gives notice of termination of the appointment to the Company.
  - 14.5.3 The Board resolves to terminate the appointment after giving five business days notice of intention to remove the alternate Director to the Director who appointed the alternate Director.

## **15 Secretary**

- 15.1 The Board may appoint one or more Secretaries and may at any time terminate the appointment of appointments.
- 15.2 The Board may determine the terms and conditions of appointment of a Secretary, including remuneration. Any one of the Secretaries may carry out any act or deed required by this constitution, the Corporations Act or by any other statute to be carried out by the secretary of the Company.

## **16 Indemnity and insurance**

### **Indemnity**

- 16.1 Every officer and past officer of the Company may be indemnified by the Company, to the fullest extent permitted by law, against a liability incurred by that person as an officer of the company or a subsidiary of the Company, including without limitation legal costs and expenses incurred in defending an action.

### **Insurance premiums**

- 16.2 The Company may pay the premium on a contract insuring a person who is or has been an officer of the Company to the fullest extent permitted by law.

## **17 Seals and execution of documents**

### **Custody of the Seal**

- 17.1 If the Company has one, the board must provide for the safe custody of the Seal.

### **Execution of documents**

- 17.2 The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by any of the following:
- 17.2.1 By two Directors.
  - 17.2.2 By a Director and the Secretary.
  - 17.2.3 By a Director and some other person appointed by the Directors for the purpose.
- 17.3 The Company may execute a document without the use of a seal if the document is signed by either of the following:

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- 17.3.1 By two Directors.
  - 17.3.2 By a director and a Secretary.

#### **Official seals**

- 17.4 The Company may have for use in place of the Seal outside the jurisdiction where the Seal is kept one or more official seals, to be used in accordance with procedures approved by the Board.

### **18 Gift Fund requirement**

#### **Company to maintain a Gift Fund**

- 18.1 The Company must maintain a Gift Fund in accordance with this clause 18 for so long as it seeks or has obtained endorsement as a DGR from the Australian Taxation Office, or the Company is named as a DGR in ITAA 97.

#### **Rules applying to the Gift Fund**

- 18.2 The following rules apply to any Gift Fund established and maintained by the Company:
  - 18.2.1 The gift Fund must have a name.
  - 18.2.2 The Company must maintain sufficient documents to provide evidence of the Gift Fund's purpose and operations.
  - 18.2.3 The Company must maintain a separate bank account for the Gift Fund.
  - 18.2.4 The following must be credited to the Gift Fund:
    - (a) All gifts of money or property to the Company for the Principal Purpose
    - (b) All money or property received by the Company because of those gifts.
  - 18.2.5 No other money or property may be credited to the Gift Fund.
  - 18.2.6 The Company must use any gifts, money or property of the kind referred to in clause 18.2.4 only for the Principal Purpose.

#### **Winding up of Gift Fund**

- 18.3 Despite clause 19, if the Gift Fund is wound up or the company ceases to be a DGR for any reason, any surplus assets of the Gift Fund remaining after the payment of liabilities attributable to it must be transferred to a fund authority or institution to which income tax deductible gifts can be made. For the avoidance of doubt, if a Gift Fund operated by the Company is wound up but the Company remains a DGR and operates any other gift fund in accordance with this clause 18, any surplus assets of the Gift Fund that is being wound up may be transferred to any other gift fund operated by the Company.

#### **Definitions**

- 18.4 In this clause 18 the following definitions apply:

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**DGR** means 'deductible gift recipient' within the meaning of section 30-227 of ITAA 97

**Gift Fund** means a fund that is maintained for the Principal Purpose.

**ITAA 97** means *Income Assessment Act 1997* (Cth).

**Principal Purpose** means the purposes of the Company as reflected in the objects of the Company specified in clause 2, or any of those purposes.

## **19 Surplus assets of winding up or dissolution**

19.1 Subject always to clause 18.3, upon the winding up or dissolution of the Company, any remaining property after satisfaction of all debts and liabilities, will not be paid to or distributed among the Members, but will be given or transferred to some other institution or company which satisfies both of the following requirements:

19.1.1 It has objects similar to the objects of the Company.

19.1.2 Its constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of clause 6.

19.2 This is to be determined by the Members at or before the time of winding up or dissolution of the Company and, in default of any determination, by the Supreme Court of the State or Territory in which the Office is located.

## **20 Accounts, audit and records**

### **Accounts**

20.1 The Board must cause proper accounting and other records to be kept in accordance with the Corporations Act.

### **Reports**

20.2 To the extent required by the Corporations Act, the Board must cause the company to:

20.2.1 Prepare financial reports in accordance with the Corporations Act.

20.2.2 Prepare director's reports in accordance with the Corporations Act.

20.2.3 Notify each member of the Member's right to receive reports from the Company.

20.2.4 Provide members with reports, in a form and within such timeframe as may be required by the Corporations Act.

### **Audit**

20.3 A registered company auditor must be appointed. The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Corporations Act.

### **Rights of inspection**

20.4 Subject to the Corporations Act:

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- 20.4.1 The board may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them are open to the inspection of Members other than Directors, and a Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Board or by the Company in general meeting.
- 20.4.2 Despite clause 20.4.1, the Board may refuse access to a document where the Board (acting reasonably) considers that such access would or would be likely to cause the Company to lose the benefit of any form of evidentiary privilege, including legal professional privilege.

## **21 Notices**

### **Persons authorised to give notices**

- 21.1 A notice by either the Company or a Member in connection with this constitution may be given on behalf of the Company or member by a solicitor, director or company secretary of the Company or Member.
- 21.2 The signature of a person on a notice given by the Company may be written, printed or stamped.

### **Method of giving notices**

- 21.3 In addition to the method for giving notices permitted by statute, a notice by the Company or a Member in connection with this constitution may be given to the addressee by any of the following means:
- 21.3.1 By delivering it to a street address of the addressee
- 21.3.2 By sending it by prepaid ordinary post (airmail if outside Australia) to a street or postal address of the addressee.
- 21.3.3 By sending it by facsimile or email to the facsimile number or email address of the addressee.

### **Address for giving notices to Members**

- 21.4 The street address or postal address of a Member is the street or postal address of the Member shown in the Register.
- 21.5 The facsimile number or email address of a member is the number which the member may specify by written notice to the Company as the facsimile number or email address to which notices may be sent to the Member.
- 21.6 If a person is entitled to a membership in consequence of the death or bankruptcy of a member, until that person gives notice the Company of an address for the giving of notices, the address of that person is the address of the deceased or bankrupt Member.

### **Address for giving notices to the Company**

- 21.7 The street and postal address of the Company is the Office.

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- 21.8 The facsimile number or email address of the Company is the number which the Company may specify by written notice to the Members as the facsimile number or email address to which notices may be sent to the Company.

**Time notice of meeting is given**

- 21.9 A notice of meeting given in accordance with this constitution is to be taken as given, served and received at the following times.
- 21.9.1 If delivered in writing to the street address of the addressee, at the time of delivery.
- 21.9.2 If it is sent by post to the street or postal address of the addressee, on the business day after posting.
- 21.9.3 If sent by facsimile or email to the facsimile number or email address of the addressee, at the time transmission is completed.

**Time other notices are given**

- 21.10 A notice given in accordance with this constitution is to be taken as given, serviced and received at the following times:
- 21.10.1 If delivered in writing to the street address of the addressee, at the time of delivery.
- 21.10.2 If it is sent by post to the street or postal address of the addressee, on the 2<sup>nd</sup> (5<sup>th</sup> if outside Australia) business day after posting.
- 21.10.3 If sent by facsimile or email to the facsimile number or email address of the addressee, at the time transmission is completed.

**Proof of giving notices**

- 21.11 The sending of a notice by facsimile or email and the time of completion of transmission may be proved conclusively by production of the relevant one of the following:
- 21.11.1 A transmission report by the facsimile machine from which the notice was transmitted which indicates that a facsimile of the notice was sent in its entirety to the facsimile number of the addressee.
- 21.11.2 A print out of an acknowledgement of receipt of the email or equivalent proof that the email was successfully transmitted.

**Persons entitled to notice of meeting**

- 21.12 Notice of every general meeting must be given by a method authorised by this constitution to all of the following persons:
- 21.12.1 Every Member.
- 21.12.2 Every Director
- 21.12.3 Every person (if any) entitled to a membership in consequence of the death or bankruptcy of a member who, but for the Member's death or bankruptcy, would be entitled to receive notice of the meeting.
- 21.12.4 The auditor for the time being of the company, if an.



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21.13 No other person is entitled to receive notices of general meetings.

## 22 Definitions and interpretation

22.1 In this constitution the following definitions apply:

**Advisory Committee** means an advisory committee established by the Board under clause 13.19.

**Associated Party** means each of the following:

- (a) The Company;
- (b) Any Related Body Corporate of the Company
- (c) Any other body corporate, trust or entity promoted by the Company or in which the Company has an interest of any kind.

**Board** means Directors acting as the board of the Company

**Chair** means the Director elected under clause 13.7 to preside as chairperson at Board meetings for the time being.

**Company** means Australian Nappy Association Limited ABN 637 803 087 14

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Director** means a person occupying the position of a director of the Company.

**Member** means a person whose name is entered in the Register as a member of the Company.

**Office** means the registered office of the Company.

**Register** means the register of Members kept by the Company under the Corporations Act.

**Related Body Corporate** has the meaning given in the Corporations Act.

**Seal** means, if the Company has one, the common seal of the Company.

**Secretary** means a person appointed to perform the duties of a secretary of the Company.

**Termination Event** means:

- (a) If a Member is an individual, the death or bankruptcy of that Member or that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health.
- (b) If a member is a body corporate, the deregistration or other dissolution of that Member.

### Interpretation

22.2 In this constitution, unless the context otherwise requires:

- 22.2.1 A reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision, in either case whether before, on or after the date of this constitution.

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- 22.2.2 A reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time.
- 22.2.3 A reference to a clause, part, schedule or attachment is a reference to a clause, part schedule or attachment of or to this constitution.
- 22.2.4 Where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 22.2.5 A word which indicates the singular indicates the plural, a word which indicates the plural indicates the singular, and a reference to any gender indicates the other genders.
- 22.2.6 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or public authority.
- 22.2.7 A reference to 'dollars' or '\$' means Australian dollars.
- 22.2.8 References to the word 'include' or 'including' are to be interpreted without limitation.
- 22.2.9 A reference to a time of day means that time of day in the place where the Office is located.
- 22.2.10 A reference to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in the place where the Office is located.
- 22.2.11 Where a period of time is specified and dates from a given day or the day of an act or event it must be calculated exclusive of that day.
- 22.2.12 A term of this constitution which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.

#### **References to this constitution**

- 22.3 A reference to this constitution, where emended, means this constitution as so amended.

#### **Replaceable rules**

- 22.4 Each of the provisions of the Corporations Act which would but for this clause apply to the Company as a replaceable rule within the meaning of the Corporations Act are displaced and do not apply to the Company.

#### **Application of Corporations Act**

- 22.5 Unless the context otherwise requires,
- 22.5.1 An expression used by not defined in this constitution has the same meaning given in the Corporations Act.
- 22.5.2 Where an expression referred to in clause 22.5.1 has more than one meaning in the Corporations Act and a provision of the Corporations

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Act deals with the same matter as the relevant clause of this constitution, the expression has the same meaning as in that provision.

# Australian Nappy Association