
Magenta Shores Golf and Country Club Limited

ACN 114 409 237

Constitution

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A Company Limited by Guarantee
Constitution of
Magenta Shores Golf and Country Club Limited
(ACN 114 409 237)

1 Interpretation

1.1 Definitions

In this Constitution, unless the context otherwise requires:

"**Act**" means the *Corporations Act 2001* (Cth) or any statutory modification or re-enactment of, or statutory provisions substituted for, such Act;

"**Annual General Meeting**" means an annual general meeting of the Club that section 250N of the Act requires to be held;

"**Applicant**" has the meaning given to it in clause 7.4(a);

"**Application Form**" has the meaning given to it in clause 7.4(b)(i);

"**ASIC**" means the Australian Securities and Investments Commission;

"**Auditor**" means any and all auditors of the Club for the time being as appointed pursuant to Chapter 2M of the Act;

"**Board**" means all of the Directors for the time being of the Club, or such number of them as having authority to act for the Club, as set out in this Constitution;

"**Business Day**" means a day which is not a Saturday, Sunday, public holiday or bank holiday in the State of New South Wales;

"**By-laws**" means all the by-laws set out at in the document entitled "The Magenta Shores Golf and Country Club 2006/2007 Handbook" subject to amendment of those by-laws or the addition of other by-laws made by the Board or the Club pursuant to clause 21 from time to time;

"**Certificate**" means any Membership certificate issued by the Club pursuant to clause 7.8;

"**Club**" means Magenta Shores Golf and Country Club Limited ACN 114 409 237;

"**Club Facilities**" means those facilities other than the Golf Course available to Members as prescribed by the Board and includes the Clubhouse;

"**Club Magenta**" means those facilities available to Club Magenta Members under the Licence Agreement and includes the members' lounge, tennis courts, swimming pool, steam room, gymnasium, barbeque facilities and parks;

"**Club Magenta Member**" means a Member other than:

- (a) the Founding Member,

(b) the Hotel Member and

(c) a Member who is not an owner of a Dwelling;

The Club Magenta Member has the rights and privileges of Club Magenta as set out in clause 9.1(i) and includes a Mirvac Guest and a Hotel Guest;

"**Clubhouse**" means that part of the Property being lots 1 and 3 in the Strata Plan;

"**Club Magenta Fee**" means the amount determined by the Board;

"**Community Plan**" means DP 270492;

"**Competition Day**" means times reserved during a day by the Manager on which a golf competition is held on the Golf Course organised by the Manager with or without payment of charges or fees;

"**Constitution**" means this Constitution as amended, substituted or supplemented;

"**Corporate Golf Day**" means a day on which the Manager may, at its discretion, make the Golf Course available for use by a company and may exclude Members, provided that such days do not take place on Saturdays, Sundays or public holidays, that the Manager endeavours to minimise disruption and pursuant to clause 9.1(c)(i)(D) or under the terms of the Management Agreement;

"**Corporate Member**" means a Member having the rights and privileges of a Corporate Member as set out in this Constitution;

"**Corporate Nominee**" means natural person nominated by a Corporate Member pursuant to clause 9.1(c)(i)(A) to enjoy the rights of a Corporate Nominee as set out in this Constitution;

"**Director**" means any natural person who for the time being holds the office of a director of the Club and includes any General Directors and Founding Directors;

"**Dwelling**" means a lot within the Magenta Shores Complex designed for and used as a residential dwelling or a serviced apartment;

"**Family Member**" means a Member having the rights and privileges of the Family Member as set out in this Constitution;

"**Family Member Guest**" means, in respect of a Member:

- (a) the spouse or de facto partner of that Member;
- (b) a parent, parent-in-law, sibling, child or step-child, grandparent, grandparent-in-law or grandchild of that Member; and
- (c) the spouse or de facto partner of any of the persons mentioned in paragraph (b) of this definition.

"**Family Nominee**" means a natural person nominated by a Family Member pursuant to clause 9.1(f)(i)(A) to enjoy the rights and privileges of a Family Nominee as set out in this Constitution;

"**Founding Member**" means the Member having the rights and privileges of a Founding Member set out in this Constitution;

"**Founding Directors**" has the meaning given to it in clause 14.1(a) (i);

"**Fund Raising Event**" means a fund raising event at the Golf Course held at the discretion of the Founding Member no more than 4 times a year at which Guests are not required to pay Green Fees;

"**General Directors**" has the meaning given to it under clause 14.1 (a) (ii);

"**Golf Course**" means that part of the Property being Lots 2, 3 and 4 in the Community Plan together with any adjacent land available to the Club to be used as part of the Golf Course;

"**Green Fees**" means such fees payable by a person who uses the Golf Course as determined by the Board from time to time;

"**Guest**" means, in relation to a Member, a guest of that Member who is invited by the Member to use the Golf Course and the Club Facilities other than Club Magenta as set out in this Constitution, and who is otherwise acceptable to the Board in its absolute discretion and includes Hotel Guests and Mirvac Guests;

"**Honorary Member**" means a Member having the rights and privileges of the Honorary Member as set out in this Constitution;

"**Hotel**" means the serviced premises business known as Quay West Resort Magenta Shores;

"**Hotel Guest**" means a person who:

- (a) on the day before, the day, or the day after he or she is a guest at the Quay West Magenta Shores and is permitted by the Hotel Member to use the Golf Course and the Club Facilities; or
- (b) is the owner of a Dwelling leased in connection with the operation of the Hotel.

"**Hotel Member**" means the Member having the rights and privileges of a Hotel Member as set out in this Constitution;

"**Individual Member**" means a Member having the rights and privileges of an Individual Member as set out in this Constitution;

"**Intermediate Member**" means a Member having the rights and privileges of an Intermediate Member as set out in this Constitution;

"**International Member**" means a Member having the rights and privileges of an International Member as set out in this Constitution;

"**Joining Fee**" means the initial joining fee payable pursuant to clause 8.4;

"**Junior Member**" means a Member under 18 years old who pays 50% of the Fees and has the rights and privileges of a Junior Member set out in this Constitution;

"**Licence Agreement**" means the agreement for the licensing of Club Magenta to be entered into between the Club and the Community Association;

"Magenta Shores Complex" means the land and improvements the subject of the Community Plan;

"Management Agreement" means the agreement for the management of the Golf Course and the Club Facilities between the Club and Mirvac Hotels Pty. Limited;

"Manager" means Mirvac Hotels Pty. Limited or its assignee under the Management Agreement or otherwise if the Management Agreement comes to an end any person who is appointed as Manager by the Board pursuant to clause 25;

"Member" means any person or body registered on the Register of Members as a Member;

"Membership" means membership of a Member in the Club;

"Mirvac Guest" means a person who is invited by the Founding Member to use the Golf Course or the Club Facilities or both;

"Mirvac Purchaser" means a person who:

- (a) is a purchaser of a Dwelling from Mirvac Spare Pty Limited and SPV Magenta Pty Limited or a Related Body Corporate of either of those companies; and
- (b) has the rights and privileges of a Mirvac Purchaser as set out in this Constitution.

For the purpose of this definition a person who has entered into and completed a contract to purchase under subclause (a) is a purchaser.

"Neighbourhood Land Agreement" means the agreement for the restricted use of residual neighbourhood land to the Property between the Club and Mirvac Hotels Pty Ltd dated on or about the date of this Constitution;

"Officer" of the Club has the same meaning as given in the Act;

"Ordinary Resolution" means a resolution passed by a general meeting of the Club pursuant to clause 16.7(a);

"Property" means lots 2, 3 and 4 in the Community Plan and Lots 1 and 3 in the Strata Plan;

"Property Purchaser" means a person who has entered into and completed a contract to purchase a Dwelling from a person other than Mirvac Spare Pty Limited, SPV Magenta Pty Limited or a Related Body Corporate of either of those companies;

"Public Officer" has the meaning given to it under section 252 of the *Income Tax Assessment Act 1936* (Cth);

"Register of Members" means the register of Members maintained by the Board pursuant to clause 17.6;

"Related Body Corporate" has the same meaning as given in the Act;

"Sales and Marketing" means any sales and marketing activities for corporate promotion purposes or for the sales and marketing of the Dwellings or the Hotel;

"Secretary" means any natural person appointed to perform the duties of a secretary of the Company pursuant to clause 15.1;

"Special Levies and Charges" means the levy determined in accordance with clause 8.3 and imposed on a Member as a charge payable for purposes to be determined by the Board;

"Special Resolution" means a resolution passed by a general meeting of the Club pursuant to clause 16.7(b);

"Strata Plan" means strata plan 77313;

"Subscription Fee" means the annual subscription fee payable pursuant to clause 8.2;

"Transfer Fee" means such fees payable by a Transferee pursuant to clause 12.1(a)(v);

"Transferee" has the meaning given to it in clause 12.1(a);

"Transferor" has the meaning given to it in clause 12.1(a); and

"Tournament Day" means any day other than a Competition Day or a Corporate Golf Day on which a golf tournament or a golf competition is held on the Golf Course with or without the payment of charges or fees.

2 Construction

When interpreting this Constitution, unless the context otherwise requires:

- (a) words denoting the singular number include the plural and vice versa;
- (b) words denoting any gender include all genders;
- (c) where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (d) references to clauses are to be clauses of this Constitution;
- (e) headings are for convenience only and do not affect interpretation;
- (f) month or monthly means calendar month or calendar monthly;
- (g) references to any part of this Constitution or any other agreement or instrument includes the party's successors (in the case of Members) or assigns (in the case of the Manager); and
- (h) the word "include" in any form is not a word of limitation.

3 Name of Club

The name of the Club must be Magenta Shores Golf and Country Club Limited.

4 Objectives of the Club

The objects for which the Club has been established are all or any of the following:

- (a) to purchase or otherwise acquire land for the purposes of establishing a Golf Course and Club Facilities;
- (b) to operate and make available the Golf Course and Club Facilities for use by Members or Guests or other persons who are, pursuant to the rights attached to their respective classes of Membership, authorised to use the Golf Course and Club Facilities;
- (c) to maintain and operate the Golf Course and the Club Facilities at a quality and standard consistent with the Golf Course and Club Facilities used in conjunction with a 5 star hotel;
- (d) in relation to the Golf Course, to promote the game of golf in accordance with the rules of the game of golf adopted from time to time by The Royal and Ancient Golf Club of St Andrews, except insofar as they are or may be modified by the body for the time being controlling the game of golf in New South Wales, Australia;
- (e) to conduct competitions and tournaments in relation to the Golf Course and the Club Facilities, including for persons who are not Members;
- (f) to cooperate with other golf bodies and associations in the promotion, development of, or otherwise in relation to golf;
- (g) to facilitate the provision and maintenance of Club Facilities used by Members and Guests;
- (h) to provide other facilities to the Members and Guests as the Board determines;
- (i) to raise funds by any lawful means for the achievement of the objects;
- (j) to enter into the Licence Agreement; and
- (k) any other object which, in the opinion of the Board, is in the best interests of fostering friendly relations among the residents, owners and staff of the Magenta Shores Complex.

5 Replaceable rules

Each of the sections or sub-sections of the Act which would apply to the Club as replaceable rules within the meaning of the Act, if not for this clause, are displaced and do not apply to the Club.

6 Income and payments

6.1 Club's application of income

The Club is a non-profit organisation and all the Club's profits (if any), other income and property, however derived, must be applied only to promote the Club's objects as set out in this Constitution.

6.2 No dividends, bonus or profit to be transferred to Members

None of the Club's profits or other income or property may be transferred to the Members, directly or indirectly, by way of dividend, bonus, profit or any other means.

6.3 Payments in good faith

Clauses 6.1 and 6.2 do not prevent the payment in good faith to an Officer or Member, to a firm of which an Officer or Member is a partner, or to an entity of which an Officer or Member is a director or shareholder, including any payment for one or more of the following purposes:

- (a) remuneration for services to the Club;
- (b) for goods supplied to the Club in the ordinary course of business;
- (c) interest on money borrowed from them by the Club at a rate not exceeding the prevailing market rate for commercial loans; or
- (d) reasonable rent for premises let by them to the Club.

6.4 Directors' Fees

Notwithstanding clause 6.3, the Club must not make any payment to a Director in return for services rendered to the Club in his or her capacity as a Director including, attendance fees. The Club may reimburse a Director in respect of reasonable out of pocket expenses.

7 Memberships

7.1 General

Subject to the provisions of this Constitution (in particular clause 9.1(a)) and any applicable provisions of the Act, Memberships will be under the control of the Board.

7.2 Classes of Members

- (a) Membership of the Club will be divided into the following classes:
 - (i) Founding Member;
 - (ii) Hotel Member;
 - (iii) Corporate Members;
 - (iv) Individual Members;
 - (v) Intermediate Members;

- (vi) Junior Members;
 - (vii) Family Members;
 - (viii) Honorary Members; and
 - (ix) International Members.
- (b) In addition to the classes of Membership referred to in clause 7.2(a), the Board may establish any other class of Membership or convert Memberships from one class to another as the Board sees fit. The Board may also establish such sub-classes of Membership in respect of Individual Members or Family Members as the Board sees fit. The rights and privileges of persons admitted to any such sub-classes of Membership with respect to the use of the Golf Course and any related services and access to the Club Facilities shall be as specified in the By-laws, provided that such rights and privileges are not more extensive than those to which Members in the class of Membership to which such sub-class relates are entitled under this Constitution and any relevant By-laws. For the avoidance of doubt, all other provisions of this Constitution and the By-laws relating to Individual Members and Family Members, including, but not limited to, the eligibility criteria and voting rights as specified in this Constitution, shall apply to any sub-class of Membership relating to the applicable class of Membership which may be established by the Board.
- (c) Subject to this clause 7, the Board may admit any number of persons to different classes of Membership, provided that the eligibility criteria as specified in this Constitution are satisfied.
- (d) The maximum number of persons the Board may admit as Members at any particular time, are as follows:
- (i) Founding Member: 1;
 - (ii) Hotel Member: 1;
 - (iii) Corporate Members: 20;
 - (iv) the aggregate number of all:
 - (A) Individual Members other than Mirvac Purchasers;
 - (B) Family Members other than Mirvac Purchasers;
 - (C) Junior Members other than Mirvac Purchasers;
 - (D) Intermediate Members other than Mirvac Purchasers; and
 - (E) International Members other than Mirvac Purchasers:
 a number determined by the Founding Member from time to time;
 - (v) the aggregate number of all:
 - (A) Individual Members who are Mirvac Purchasers;
 - (B) Intermediate Members who are Mirvac Purchasers;

- (C) Junior Members who are Mirvac Purchasers;
 - (D) Family Members who are Mirvac Purchasers; and
 - (E) International Members who are Mirvac Purchasers:
no restriction; and
- (vi) Honorary Members: 10,
subject to any limitations imposed under clauses 7.2(e) and 7.2(f).
- (e) The maximum number of persons the Board may admit within each class of Members may be varied at the discretion of the Board, subject to any limitation imposed under clause 7.2(f).
- (f) The Board must not admit any combination of Members which may result in there being more than 1200 Members at any one time. The Board may vary this number by Special Resolution.

7.3 Membership Eligibility

- (a) General
- (i) Only persons who meet the respective eligibility criteria detailed in clause 7.3(b) will be eligible to be Members of that class of Membership.
- (b) Eligibility Criteria
- The eligibility criteria of the respective classes of Membership are as follows:
- (i) Founding Member
Mirvac Projects Pty. Limited or a person nominated by Mirvac Projects Pty. Limited.
 - (ii) Hotel Member
Mirvac Hotels Pty. Limited or a person nominated by Mirvac Hotels Pty. Limited.
 - (iii) Corporate Member
Any person being a partnership, trust, company or other entity who is acceptable to the Board.
 - (iv) Individual Member
Any person who is acceptable to the Board.
 - (v) Junior Member
Any person under 18 years old who is acceptable to the Board.
 - (vi) Intermediate Member
Any persons at least 18 years old but under 24 years who is acceptable to the Board.
 - (vii) Family Member

Any persons who are acceptable to the Board.

(viii) Honorary Member

Any person nominated by the Founding Member.

(ix) International Members

Any person at least 18 years old who is not ordinarily resident in Australia and who is acceptable to the Board. For the purposes of this clause, a person is not ordinarily resident in Australia at a particular time if, and only if, the person has actually been outside Australia, continuously or intermittently, during 270 or more days in the period of 12 months immediately preceding that time.

7.4 Application

(a) Applicant

A person who satisfies the eligibility criteria for the relevant class of Membership ("**Applicant**") may apply to become a Member of that class by making an application to the Board.

(b) Form

(i) An application for Membership must be made on the form as approved by the Board from time to time ("**Application Form**"). An application other than for Junior Membership cannot be made by a person who is under 18 years of age at the time of application.

(ii) Without limiting the generality of clause 7.4(b)(i), the Application Form must include a statement that the Applicant agrees to be bound by this Constitution and the By-laws.

(c) References

Any Application Form from an Applicant who is applying to become an Individual Member or a Family Member, other than a Mirvac Purchaser or an Applicant who is a Transferee under clause 12.1 and has purchased their Dwelling from a Mirvac Purchaser, must be accompanied by 2 references from existing Members stating the Applicant is of good character and has been known to the referee for a period of at least 2 years. The Founding Member can waive this requirement.

(d) Change of class of Membership

An Individual Member who wishes to change the class of their Membership to become a Family Member must apply for Family Membership under this clause 7.4.

(e) Irrevocable Offer

An Application Form lodged by an Applicant with the Board constitutes an irrevocable offer by the Applicant to become a Member of the relevant class.

- (f) Nomination where Applicant is registered as a body with ASIC

Where an Applicant is registered as a body with ASIC, it must nominate a natural person as its representative in respect of all matters under this Constitution and in relation to any rights and obligations by being a Member of the Club.

7.5 Initial Member

Subject to other provisions of this Constitution, Mirvac Projects Pty. Limited will be the Founding Member of the Club as at the date of the adoption of this Constitution.

7.6 Admission

- (a) Further applications for Membership will be considered by the Board. The Board may, in its absolute discretion, accept or reject any application subject to clause 7.6(b). The Board is not required to give any reasons for the decision to accept or reject an application. The Founding Member can direct the Board when to consider applications
- (b) Notwithstanding clause 7.6(a), the Board must accept an application by:
- (i) Mirvac Projects Pty. Limited for admission as the Founding Member;
 - (ii) Mirvac Hotels Pty. Limited for admission as the Hotel Member;
 - (iii) any nominee in writing of Mirvac Hotels Pty. Limited for admission as the Hotel Member in nominee of Mirvac Hotels Pty. Limited as the Hotel Member;
 - (iv) any Applicant who is a Mirvac Purchaser and who submits an application for Membership within 1 month of purchasing their Dwelling, without having to join the waiting list; and
 - (v) any Applicant who is a Transferee under clause 12.1 and has purchased their Dwelling from a Mirvac Purchaser other than under a mortgagee sale, without having to join the waiting list.
- (c) If an application is accepted by the Board, the Secretary must within a reasonable time send to the successful Applicant notification of acceptance to become a Member and request that the successful Applicant pay the relevant Joining Fee and Subscription Fee for the class of Membership of which the Applicant has been accepted.
- (d) The successful Applicant must pay the relevant Joining Fee and Subscription Fee for the class of Membership for which he or she has been accepted for within 30 days of notification of acceptance by the Secretary.
- (e) Once the Joining Fee and Subscription Fee is received by the Club, the Secretary must within a reasonable time cause the name of the successful Applicant to be entered into the Register of Members.

- (f) A person will not become a Member until such time as that person's particulars are entered into the Register of Members.

7.7 Waiting list

- (a) If an application is acceptable to the Board pursuant to clause 7.6(a) and the maximum number of Members in clauses 7.2(d) or 7.2(e) has been reached, then the Applicant will automatically be placed on a waiting list.
- (b) Once the number of Members is less than the maximum number of Members in clauses 7.2(d) or 7.2(e), then:
 - (i) the Applicant who is a Mirvac Purchaser who has been on the waiting list for the longest time will become a Member in priority to all other Applicants;
 - (ii) when all Mirvac Purchaser Applicants have become Members then the Property Purchaser Applicant who has been on the waiting list for the longest time will become a Member in priority to all other Applicants; and
 - (iii) when all Mirvac Purchaser Applicants and Property Purchaser Applicants have become Members then the Applicant who has been on the waiting list for the longest time will become a Member.
- (c) This clause 7.7 applies to those Individual Members who apply for a change of Membership to become a Family Member.

7.8 Certificate

- (a) Any person whose name is entered as a Member in the Register of Members is entitled to receive a certificate as required by the Act in respect of the class of Membership held by that Member.
- (b) If a membership certificate is lost or destroyed, the Board shall, on application by the Member, issue a replacement membership certificate provided that the application is accompanied by:
 - (i) a fee as determined by the Board as it sees fit;
 - (ii) a statement in writing that the membership certificate has been lost or destroyed, and has not been pledged, sold or otherwise disposed of, and, if lost, that proper searches have been made;
 - (iii) an undertaking in writing that if it is found or received by the owner it will be returned to the Board; and
 - (iv) an indemnity from the Member on such terms as the Board may reasonably require.

7.9 Stamp Duty

Members shall be liable for all stamp duty payable in respect of an Application pursuant to clause 7.4, the Membership and any transaction or instrument thereto, and the Member shall indemnify and keep indemnified the Club against any and all liability for any such stamp duty.

7.10 Limited Liability

Members have no liability in that capacity upon the Club's dissolution except as set out in clause 22.1.

8 Fees, Levies and Charges

8.1 Determination of Fees

The Board may, subject to any other provision in this Constitution including clause 10.3:

- (a) determine the amount, if any are appropriate, of the Subscription Fees, Special Levies and Charges, Joining Fees and Club Magenta Fees; and
- (b) determine when and in what circumstances the Subscription Fees, Special Levies and Charges, Joining Fees and Club Magenta Fees are payable.

8.2 Subscription Fees

- (a) Each Member (except the Founding Member, a Hotel Member and any Honorary Members) must pay a Subscription Fee determined by the Board at intervals which include monthly, quarterly, half-yearly or yearly in advance.
- (b) The Subscription Fees payable by Members referred to in this clause 8.2 may be discounted by the Board in any manner as it sees fit.
- (c) The Board in its discretion may vary or waive the Subscription Fees for any class of Membership each year in a manner consistent to what the Board considers to be market rates for golf courses or facilities of a similar standard and offering to the Golf Course and Club Facilities.
- (d) Any person who becomes a Member during a financial year shall in respect of that financial year pay pro rata the amount of Subscription Fees referable to the portion of the financial year as yet uncompleted as at the date on which he becomes a Member (apportioned on a full month rounded up).

8.3 Special Levies and Charges

Each Member (except the Founding Member, a Hotel Member and any Honorary Members) must pay to the Club any Special Levies and Charges as may be required and notified by the Board.

8.4 Joining Fees

- (a) Each successful Applicant (except the Founding Member, a Hotel Member and any Honorary Members) must pay a Joining Fee as determined by the Board at intervals which include monthly, quarterly, half-yearly or yearly in advance.

- (b) The Board in its discretion may vary or waive the Joining Fees from time to time to what the Board considers to be market rates for golf courses or facilities of a similar standard and offering to the Golf Course and other Club Facilities.

8.5 Late payment of fees

- (a) If any Member at any time fails to pay any moneys due by the Member to the Club, the Board may issue a notice in writing requesting the Member to pay the moneys within 21 days of the giving of the notice.
- (b) If any Member fails to pay any moneys due by the Member to the Club within 21 days of the notice referred to in clause 8.5(a), then the amount of arrears bears interest at the rate determined by the Club as the cost of funds to the Club from the Club's banker.

9 Membership rights

9.1 Rights in relation to the Golf Course and Club Facilities

- (a) Founding Member

The Founding Member is not entitled to any rights under this Constitution other than the right to vote at any general meeting pursuant to clause 9.3, and the rights set out in this clause 9.1(a) and in clause 10.

- (i) Use of Golf Course

Subject to tee time availability, the Founding Member is entitled to invite Mirvac Guests to use the Golf Course and any related services on any day other than a Competition Day or a Corporate Golf Day. A Mirvac Guest using the Golf Course must pay Green Fees to the Club except if the Mirvac Guests are part of a promotion or Fund Raising Event in which event no Green Fees are payable.

- (ii) Sales and Marketing

The Founding Member is entitled to host Tournament Days on which the Founding Member may invite Mirvac Guests to use the Golf Course for Sales and Marketing purposes.

- (iii) Use of Club Facilities

Subject to clause 14.13(d) the Founding Member is entitled to invite Mirvac Guests to access the Club Facilities at no additional charge, provided that the Mirvac Guests pay for any goods and services provided by the Club or at the Club Facilities.

- (b) Hotel Member

- (i) Use of Golf Course

Subject to any By-laws and tee time availability, the Hotel Member is entitled to invite Hotel Guests to use the Golf Course and any related services on any day other than a Competition Day, a

Tournament Day or Corporate Golf Day. A Hotel Guest using the Golf Course must pay Green Fees to the Club.

(ii) Use of Club Facilities

Subject to clause 14.13(d) and any By-laws, the Hotel Member is entitled to invite Hotel Guests to access the Clubhouse and the Club Facilities at no additional charge, provided that the Hotel Guests pay for any goods and services provided by the Club at the Clubhouse or at the Club Facilities.

(iii) Sales and Marketing

The Hotel Member is entitled to the use of the Clubhouse and the Club Facilities to host a Tournament Day without approval from the Manager on which the Hotel Member may invite Guests to use the Golf Course for Sales and Marketing purposes.

(c) Corporate Members

A Corporate Member may hold more than one Corporate Membership in its name. For the purposes of this clause 9.1(c) each entry of a Corporate Member in the Register of Members is an independent entry.

(i) Use of Golf Course

Subject to any By-laws and tee time availability:

- (A) a Corporate Member must nominate at least 1, but no more than 4 Corporate Nominees and may also revoke a nomination, provided that only 1 change of nomination in respect of each Corporate Nominee will be permitted in any 12 month period unless the Board resolves otherwise (which may be subject to any conditions determined by the Board including the payment of an administration fee in respect of each additional nomination made by the Corporate Member during that 12 month period);
- (B) a Corporate Member is entitled to nominate no more than 4 unaccompanied Guests on any 1 day to use the Golf Course and any related services on any day other than a Competition Day, a Corporate Golf Day other than of the Corporate Member's Corporate Golf Day or a Tournament Day without payment of Green Fees;
- (C) a Corporate Nominee is entitled to use the Golf Course and any related services on any day other than a Competition Day, a Corporate Golf Day other than of the Corporate Member's Corporate Golf Day or a Tournament Day without payment of Green Fees; and
- (D) a Corporate Member is entitled to host a Corporate Golf Day for a fee determined by the Board, on which the Corporate Member may invite Guests to use the Golf Course.

(ii) Use of Club Facilities

Subject to clause 14.13(d) and any By-laws, a Corporate Nominee:

- (A) is entitled to access the Club Facilities at no additional charge provided that the Corporate Nominee pays for any goods and services provided by the Club or at the Club Facilities;
- (B) may invite members of their family and Guests, up to [4] in all, to use the Club Facilities, but only when the Corporate Nominee is also present;
- (C) is entitled to participate in any activities coordinated by the Club for the benefit of Corporate Members, including competitions held at the Club Facilities or at any other location;
- (D) must ensure that the Corporate Nominee, any invited family members of the Corporate Nominee and its Guests use the Club Facilities in a manner which is not prejudicial to the interests of other Members and their Guests, and agrees to indemnify the Club against any claim for loss, damage, costs and expenses in this regard; and
- (E) acknowledges and agrees that any use of the Club Facilities by the Corporate Nominee, any invited family members of the Corporate Nominee and its Guests is strictly at the risk of that Corporate Nominee and that the Club will not be held liable for any loss (including life) or damage in this regard.
- (F) A Corporate Member cannot transfer or lease his or her Corporate Membership.

In this clause 9.1(c)(ii) Club Facilities does not include Club Magenta.

(d) Individual Members

(i) Use of Golf Course

Subject to any By-laws and tee time availability, an Individual Member is entitled to use the Golf Course and any related services on any day other than a Competition Day, Corporate Golf Day, or Tournament Day without payment of Green Fees.

(ii) Use of Club Facilities

Subject to clause 14.13(d) and any By-laws, an Individual Member:

- (A) is entitled to access the Club Facilities at no additional charge provided that the Individual Member pays for any goods and services provided by the Club or at the Club Facilities;

- (B) may invite no more than 5 Guests to use the Club Facilities, but only when the Individual Member is also present;
- (C) is entitled to participate in any activities coordinated by the Club for the benefit of Individual Members, including competitions held at the Club Facilities or at any other location;
- (D) must ensure that the Individual Member and its Guests use the Club Facilities in a manner which is not prejudicial to the interests of other Members and their Guests, and agrees to indemnify the Club against any claim for loss, damage, costs and expenses in this regard; and
- (E) acknowledges and agrees that any use of the Club Facilities by the Individual Member and its Guests is strictly at the risk of that Individual Member and that the Club will not be held liable for any loss (including life) or damage in this regard.
- (F) An Individual Member cannot transfer or lease his or her Individual Membership.

In this clause 9.1(d)(ii) Club Facilities does not include Club Magenta.

(e) Junior Members

(i) Use of Golf Course

- (A) A Junior Member may not play golf on the Golf Course on days specified by the Board from time to time.
- (B) A Junior member is not entitled to vote at any general meeting.
- (C) A Junior Member may, subject to approval by the Board and availability and payment of an applicable Fee (as determined by the Board), convert their Junior Membership into an Individual Membership or, if the Junior Member satisfies the eligibility criteria for Intermediate Membership, into an Intermediate Membership at which time the Junior Membership held by the Member will be cancelled and an Individual Membership or an Intermediate Membership will be granted to the Member.
- (D) The Junior Membership of a Junior Member who does not convert its Junior Membership into an Individual Membership or an Intermediate membership will cease on 30 June following the date on which the Junior Member attains the age of 18 years.

- (E) A Junior Member cannot, unless otherwise decided by the Board, invite Guests to utilise the Golf Course and does not have any other rights in relation to Guests.
 - (F) A Junior Member cannot transfer or lease his or her Junior Membership.
 - (ii) Use of Club Facilities

Junior Members cannot use the Club Facilities with the exception of the lockers and the pro shop.
- (f) Family Members
 - (i) Use of Golf Course

Subject to any By-laws and tee time availability:

 - (A) a Family Member may nominate 1 Family Nominee and may also revoke the nomination, provided that only 1 change of nomination in respect of each Family Nominee will be permitted in any 12 month period unless the Board resolves otherwise (which may be subject to any conditions determined by the Board including the payment of an administration fee in respect of each additional nomination made by the Family Member during that 12 month period); and
 - (B) a Family Member and any Family Nominee are entitled to use the Golf Course and any related services on any day other than a Competition Day, Corporate Golf Day, or a Tournament Day without payment of Green Fees.
 - (ii) Use of Club Facilities

Subject to clause 14.13(d) and any By-laws, a Family Member and any Family Nominee:

 - (A) are entitled to access the Club Facilities at no additional charge provided that the Family Member or the Family Nominee pays for any goods and services provided by the Club or at the Club Facilities;
 - (B) may invite no more than 5 Guests to use the Club Facilities, but only when the Family Member or the Family Nominee is also present;
 - (C) are entitled to participate in any activities coordinated by the Club for the benefit of Family Members, including competitions held at the Club Facilities or at any other location;
 - (D) must ensure that the Family Member, the Family Nominee and their Guests use the Club Facilities in a manner which is not prejudicial to the interests of other Members and their Guests, and agree to indemnify the Club against any

claim for loss, damage, costs and expenses in this regard;
and

- (E) acknowledge and agree that any use of the Club Facilities by the Family Member, the Family Nominee and their Guests is strictly at the risk of that Family Member and that the Club will not be held liable for any loss (including life) or damage in this regard.

In this clause 9.1(f)(ii) Club Facilities does not include Club Magenta.

(g) Intermediate Members

(i) Use of Golf Course etc

- (A) An Intermediate Member may not play golf on the Golf Course on days specified by the Board from time to time.
- (B) An Intermediate Member may, subject to approval by the Board and availability and payment of an applicable Fee (as determined by the Board), convert his or her Intermediate Membership into an Individual Membership.
- (C) The Intermediate Membership of an Intermediate Member who does not convert his or her Intermediate Membership into an Individual Membership will cease on 30 June following the date on which the Intermediate Member attains the age of 24 years.
- (D) An Intermediate Member cannot transfer or lease his or her Intermediate Membership.

(ii) Use of Club Facilities

Subject to clause 14.13(d) and any By-laws, an Intermediate Member:

- (A) is entitled to access the Club Facilities at no additional charge provided that the Intermediate Member pays for any goods and services provided by the Club or at the Club Facilities;
- (B) may invite no more than 5 Guests to use the Club Facilities, but only when the Intermediate Member is also present;
- (C) is entitled to participate in any activities coordinated by the Club for the benefit of Intermediate Members, including competitions held at the Club Facilities or at any other location;
- (D) must ensure that the Intermediate Member and his or her Guests use the Club Facilities in a manner which is not

prejudicial to the interests of other Members and their Guests, and agrees to indemnify the Club against any claim for loss, damage, costs and expenses in this regard; and

- (E) acknowledges and agrees that any use of the Club Facilities by the Intermediate Member and his or her Guests is strictly at the risk of that Intermediate Member and that the Club will not be held liable for any loss (including life) or damage in this regard.

In this clause 9.1(g)(ii) Club Facilities does not include Club Magenta.

- (h) International Members

The rights and privileges of International Members with respect to the use of the Golf Course and any related services and access to, and the use of, the Club Facilities shall be as set out in the By-laws.

- (i) Club Magenta Members

Subject to clause 14.13(d) and the Licence Agreement Club Magenta Members are entitled to use Club Magenta.

9.2 Non members' rights

External golf club members who pay the Club Magenta Fee are entitled to invite no more than 5 Guests (but only when the Club Magenta Member is present) to use Club Magenta.

9.3 Participation in general meetings

- (a) Founding Member

A Founding Member is entitled to vote at any general meeting.

- (b) Hotel Member

A Hotel Member is entitled to vote at any general meeting.

- (c) Corporate Members

A Corporate Member is entitled to vote at any general meeting. The Corporate Nominees of a Corporate Member are not entitled to vote at any general meeting.

- (d) Individual Members

An Individual Member is entitled to vote at any general meeting.

- (e) Junior Members

A Junior Member is not entitled to vote at any general meeting.

- (f) Family Members

A Family Member is entitled to vote at any general meeting.

- (g) Honorary Members
An Honorary Member is not entitled to vote at any general meeting.
- (h) Intermediate Members
An Intermediate Member is entitled to vote at any general meeting.
- (i) International Members
An International Member is entitled to vote at any general meeting.

9.4 Variation of rights

- (a) The rights, privileges and prohibitions attached to each class of Membership must not be varied unless such variation has been approved by Special Resolution of the Member class whose rights may be varied at a general meeting.
- (b) Subject to clause 9.4(a), a variation of the rights, privileges and prohibitions attached to one or some of the Members of a particular class of Membership must be taken to have varied the rights attached to every other Member belonging to the same class of Membership.

10 Founder Member's additional rights

10.1 Matters requiring Special Resolution

Notwithstanding any other provision of this Constitution, each of the following matters must not be acted upon by the Club or any Member, Director, the chief executive officer or any other Officer or employee of the Club without a Special Resolution of the Members of the Club, passed with the affirmative vote of the Founding Member:

- (a) the appointment and removal of General Directors pursuant to clause 14;
- (b) the number of Members in each class under clauses 7.2(c), 7.2(d), 7.2(e) and 7.2(f);
- (c) the different types of classes of Membership under clauses 7.2(a) and 7.2(b);
- (d) variation of the rights attaching to Membership under clause 9;
- (e) any action which would affect the maintenance of the standard of the Golf Course and related services;
- (f) any change to clause 4;
- (g) the eligibility of Members of each class under clause 7.3(b);
- (h) any change to clause 7.7;
- (i) any change to the rights of the Founding Member in clause 8;
- (j) any change to clause 12;
- (k) any change to clause 14;

- (l) any change to clause 16;
- (m) any decision to vary or amend the terms of the Management Agreement; and
- (n) any decision to vary or amend the terms of the Licence Agreement.

10.2 Matters requiring Ordinary Resolution

Notwithstanding any other provision of this Constitution, each of the following matters must not be acted upon by the Club or any Member, Director, the chief executive officer or any other Officer or employee of the Club without an Ordinary Resolution of the Board, passed with the affirmative vote of at least one Founding Director:

- (a) any suspension of a Member or forfeiture of a Membership under clause 11;
- (b) the appointment and removal of a Secretary under clause 15;
- (c) the ability to take any other action or omit to take any other action that would have a material adverse affect on the Founding Member; and
- (d) subject to clause 10.1(h) any changes to clause 8.

10.3 Mirvac Purchasers and Fees, Levies and Charges

The Founding Member can waive or vary for any or all of Members who are Mirvac Purchasers, Joining Fees, Subscription Fees and Special Levies and Charges.

11 Suspension or forfeiture of Membership

11.1 Suspension

Subject to clause 11.3, the Board may suspend a Member from any rights attached to the relevant class of Membership for any period of time they determine if, at any time:

- (a) the Board forms the view that the Member has acted in a way unbecoming of a Member or which shall render the Member unfit for Membership;
- (b) the Member owes money to the Club and that amount remains unpaid for a period of at least 90 days including, without limitation, in relation to unpaid Subscription Fees, Special Levies and Charges; or
- (c) the Member breaches any provision of this Constitution.

11.2 Forfeiture

Subject to clause 11.3, the Board may forfeit the Membership of a Member immediately without compensation by the Club to that Member, and that Member will at that time be removed from the Register of Members if, for any reason and at any time, any of the following arises:

- (a) the Member ceases to satisfy the eligibility criteria in relation to the Member's class of Membership;
- (b) the Subscription Fee or other moneys payable by the Member remains unpaid for a period greater than 6 months and the Member fails to make an arrangement with the Club in respect of the payment of all outstanding amounts that is satisfactory to the Board; or
- (c) the Member, following a period of suspension under clause 11.1(a), continues to act in a manner unbecoming of a Member.

11.3 Disciplinary hearing

The Membership of a Member may only be suspended or forfeited under clauses 11.1 and 11.2 provided that:

- (a) the Member receives notice of any charge against the Member in the manner set out in clause 24.1(a) at least 5 Business Days before the meeting of the Board at which such charge is to be heard;
- (b) the Member charged will be entitled to attend the hearing for the purpose of answering the charge or may answer the charge in writing;
- (c) no motion by the Board to suspend or forfeit the Membership of a Member will be deemed to be passed unless the Board passes the resolution by Ordinary Resolution, passed with the affirmative vote of at least 1 Founding Director;
- (d) if the Member fails to attend such meeting the charge or complaint may be heard and dealt with and the Board may decide on the evidence before it, the Member's absence notwithstanding, having regard to any representations made to it in writing by the Member charged;
- (e) any decision of the Board of such hearing or any adjournment thereof shall be final and the Board shall not be required to assign any reason for its decision; and
- (f) in the event that a notice of charge is issued to a Member pursuant to clause 11.3(a) the Board shall have power to suspend that Member from all privileges of the Club until the charge is heard and determined.

11.4 Reinstatement

The Board may, at any time and under any conditions it determines (including the payment of a reinstatement fee) and without giving reasons, reinstate the Membership of a Member following suspension or forfeiture of Membership under clauses 11.1 and 11.2 respectively.

11.5 Non Active Membership

- (a) A Member may apply to the Board to suspend that Member's membership.
- (b) If the application under clause 11.5(a) is approved by the Board the annual fee is not payable by the Member for the period of suspension.

- (c) A Member can seek suspension of a membership for a maximum of 2 years.
- (d) Whilst a Member is suspended the Member is deemed for all purposes not a member.

12 Transfer of Mirvac purchaser memberships

12.1 General

- (a) Subject to any requirements under the Act and this Constitution, a Member being a Mirvac Purchaser wishing to dispose of his or her Membership ("**Transferor**") must not transfer such Membership to another person ("**Transferee**") unless:
 - (i) the Transferor gives to the Board the Membership Certificate issued to him pursuant to clause 7.8;
 - (ii) the Transferee satisfies the eligibility criteria pursuant to clause 7.3 that is applicable to the class of Membership to which the Transferor belongs;
 - (iii) the Transferee lodges an application for admission as a Member to the same Membership class as the Transferor to the Board pursuant to clause 7.4;
 - (iv) the Board approves the Transferee's application pursuant to clause 7.6; and
 - (v) the Transferee pays any applicable Transfer Fees and other charges as determined by the Board.
- (b) Subject to any requirements under the Act or the Constitution, an Individual Member (also a "**Transferor**") being a Mirvac Purchaser can become a Family Member (also a "**Transferee**") provided:
 - (i) the Transferor gives to the Board the membership certificate issued to him pursuant to clause 7.8;
 - (ii) the Transferee satisfies the eligibility criteria pursuant to clause 7.3 that is applicable to the class of Membership to which the Transferor belongs;
 - (iii) the Transferee lodges an application for admission as a Member to the same Membership class as the Transferor to the Board pursuant to clause 7.4;
 - (iv) the Board approves the Transferee's application pursuant to clause 7.6; and
 - (v) the Transferee pays any applicable Transfer Fees and other charges as determined by the Board.
- (c) If a Transferor disposes of his or her Membership in accordance with this clause 12, the Membership of the Transferor will be cancelled (and all of the rights attached to his Membership will cease) and a new

Membership of the same class will be granted to the Transferee without having to join the waiting list. The Transferor will still be liable for any unpaid amounts due and payable to the Club as at the date of transfer of the Membership, together with any other obligations that accrued up to and including that date.

- (d) Notwithstanding clauses 12.1(a), 12.1(b) and 12.1(c), the Club must not register or give effect to such transfer unless otherwise permitted in this Constitution and the provisions of clause 12.2 have been complied with.

12.2 Procedure for Registration

In order for the name of the Transferee to be entered into the Register of Members, the instrument of transfer must be:

- (a) in a form that is approved by the Board;
- (b) executed by or on behalf of both the Transferor and the Transferee;
- (c) duly stamped (if required by law); and
- (d) lodged with the Club together with:
 - (i) any transfer fee determined by the Board such amount not exceeding that prescribed under the Act;
 - (ii) any Certificate issued to the Transferor under clause 7.8 such that the Certificate can be cancelled and the Board is able to issue a new Certificate to the Transferee; and
 - (iii) any other information as may be required by the Board including, without limitation, information to enable the Board to establish the right of the Transferor to make such transfer.

13 Transmission of Membership

- (a) If at the date on which a Family Member dies there is a Family Nominee of the Family Member, then the Membership of the Family Member shall automatically transfer to the Family Nominee and the nomination of the Family Nominee shall be deemed to be revoked.
- (b) On the death of any Member other than as outlined in Clause 13 (a) the legal personal representative of that Member is not recognised by the Club as having any title to the interest in the Membership held by that Member.
- (c) Subject to the requirements of any applicable law and to clause 13(a), a person does not become entitled to any Membership in consequence of the death, bankruptcy, insolvency or any other incapacity of a Member.

14 Directors

14.1 Number of Directors

- (a) Subject to any requirements under the Act, the Club must at all times have at least 3 Directors, of whom 2 must ordinarily reside in Australia, to be appointed as follows:
 - (i) 2 Directors appointed in writing by the Founding Member (**Founding Directors**); and
 - (ii) at least 1 other Director elected in accordance with clause 14.6. (**General Directors**).
- (b) Subject to clause 14.1(a), the number of Directors will be determined by the Board and in the absence of such decision, will be a minimum of 3 Directors and a maximum of 7 Directors.
- (c) Notwithstanding clause 14.1(b), the Club may pass an Ordinary Resolution at a general meeting to increase or reduce the number of Directors.

14.2 Initial Directors

The initial Directors as at the date of the adoption of this Constitution are the persons named in Schedule 1.

The initial Directors must retire from office at the Club's first annual general meeting but can be re-elected.

14.3 General Directors' term of office

- (a) A General Director will hold office for a term of 1 year.
- (b) A retiring General Director holds office until the end of the annual general meeting for the year in which that Director retires.
- (c) A General Director, including an initial General Director or a General Director appointed to fill a casual vacancy is eligible for re-election for additional terms, provided that the number of consecutive terms a Director holds office does not exceed 5.

14.4 Founding Directors' term of office

A Founding Director will hold office until he or she resigns, or is otherwise removed from office by the Founding Member under clause 14.9(b).

14.5 Qualification of a Director

There is no requirement for Directors to be a Member, or to have any other qualification, unless the Club by Ordinary Resolution at a general meeting determines otherwise.

14.6 Election of General Directors

At a general meeting:

- (i) at which a General Director retires; or

- (ii) at the commencement of which there is a vacancy in the office of a Director,

the Club may by Ordinary Resolution fill the vacancy by electing someone to that office.

A General Director elected under this clause 14.6 takes office at the end of the meeting at which they are elected.

14.7 Nomination for election

- (a) A Member or a General Director may nominate a person for election as a General Director.
- (b) A nomination pursuant to clause 14.7 (a) must be in writing and signed by the nominator and nominee.
- (c) The nomination must be lodged with the Club at least 21 days prior to the annual general meeting at which the election is to take place.

14.8 Removal of General Directors

Subject to any requirements of this Constitution or the Act, the Club may by Ordinary Resolution remove any General Director before the expiration of that General Director's office, and may elect another person to fill that office.

14.9 Appointment and removal of Founding Directors

The Founding Member may, by notice in writing to the Board:

- (a) nominate any 2 persons to act as Founding Directors; and
- (b) request the removal from office of any person so nominated and nominate another person in each of such person's place.

14.10 Vacation of office

The office of a Director becomes vacant:

- (a) in the circumstances prescribed by the Act;
- (b) if the Director is of unsound mind;
- (c) if the Director is a person who, or whose estate, is liable to be dealt with in any way under the law about mental health;
- (d) if the Director resigns by notice in writing to the Club; or
- (e) if the Director is removed from his or her office as Director pursuant to clause 14.8 or 14.9 .

14.11 Casual Vacancy

- (a) The Board may at any time appoint a person to be a Director to fill a casual vacancy.

- (b) If at any time the number of Directors is reduced below the number fixed pursuant to this Constitution as the necessary quorum of Directors, the continuing Directors may act for the purpose of:
 - (i) increasing the number of Directors to that number; or
 - (ii) summoning a general meeting.
- (c) A Director appointed under clause 14.11 (a) holds office until the next Annual General Meeting, at which he or she must retire.

14.12 Conflict of Interest

- (a) Subject to any restrictions under the Act, and despite any rule of law or equity providing differently, a Director may in another capacity:
 - (i) be appointed to any office or place of profit in the Club; or
 - (ii) be interested in any operation, contract, undertaking or business arrangement in which the Club may be engaged or concerned,provided that the Director has, subject to any requirements under the Act, at the relevant time fully and fairly disclosed any relevant interest at a meeting of the Board.
- (b) Subject to any requirements in the Act, no Director may vote on any resolution of the Board relating to any operation, contract, undertaking or business engagement referred to in clause 14.12(a)(ii), or in any other matter in which the Director has a material personal interest, unless the Board resolves otherwise. In addition, unless the Board resolves otherwise, such Director must not be present, whilst a resolution or such matter is being considered by the Board, unless the Board (excluding that Director) passes a resolution:
 - (i) specifying the name of the Director, the subject matter and the nature and extent of the interest of that Director and its relation to the affairs of the Club; and
 - (ii) declaring that the Board is satisfied that such interest as specified should not, in the opinion of the Board, disqualify that Director from considering or voting on that subject matter.

14.13 Powers and duties of Directors

- (a) The Board is responsible for managing the Club and implementing the objects of the Club to the furthest extent possible.
- (b) The Board may exercise to the exclusion of the Club in general meeting all the powers of the Club which are not required, by the Act or by this Constitution, to be exercised by the Club in general meeting.
- (c) Without limiting the generality of clause 14.13(b), the Board may appoint or employ any person to be an officer, agent or attorney of the Club:
 - (i) for any purpose and for any period;

- (ii) with any powers, discretions and duties, including but not limited to those vested in the Board; and
- (iii) upon any conditions.
- (d) Without limiting the generality of clause 14.13(b), the Board is authorised to enter into any arrangements with a third party on any terms or conditions which may affect the rights and obligations of the Members, including, but not limited to, a term that limits a Member's entitlement to use the Clubhouse and the Club Facilities.
- (e) Without limiting the generality of clause 14.13(b) but subject to clause 19.1, the Board may exercise all the powers of the Club to borrow money, to charge any property or business of the Club, and to issue debentures or give any other security for a debt, liability or obligation of the Club or of any other person.
- (f) Without limiting the generality of clause 14.13(b) but subject to clause 19.1, the Board may exercise all the powers of the Club to ensure the Club meets its obligations under the Management Agreement, the Licensing Agreement and the Neighbourhood Land Agreement.

14.14 Proceedings of the Board

- (a) The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as it thinks fit.
- (b) At each meeting of the Board, the Board must elect one of the Directors present at the meeting to be the chair of the meeting.
- (c) The contemporaneous linking together by telephone or other electronic means of a number of Directors sufficient to constitute a quorum, constitutes a meeting of the Board.
- (d) The rules relating to meetings of the Board shall apply with the necessary changes when a meeting of the Board is held by telephone or other electronic means.
- (e) A Director participating in a meeting by telephone or other electronic means is considered present in person at the meeting.
- (f) A meeting by telephone or other electronic means is held at the place determined by the chair of the meeting.
- (g) At least one of the Directors involved in a meeting by telephone or other electronic means must have been at the place determined by the chair of the meeting as the meeting place for the duration of the meeting.

14.15 Convening of meetings of the Board

- (a) A Director may convene a meeting of the Board at any time.
- (b) The Secretary, on the request of a Director, must convene a meeting of the Board.

14.16 Notice of meetings of the Board

- (a) Subject to this Constitution, the Secretary must give notice of a meeting of the Board to each person who is, at the time of giving the notice, a Director.
- (b) A notice of a meeting of the Board:
 - (i) must specify the time and place of the meeting;
 - (ii) need not state the nature of the business to be transacted at the meeting;
 - (iii) may be given immediately before the meeting; and
 - (iv) may be given in person, by post, telephone, fax or other electronic means.
- (c) A Director may waive notice of any meeting of the Board if:
 - (i) written notice from that Director is delivered to the Club:
 - (A) in person; or
 - (B) by post, telephone, fax or other electronic means; or
 - (ii) all directors of the Club attend the meeting of the Board such that their presence constitutes a waiver of the requirement to receive notice of the meeting.
- (d) A valid action or a valid resolution remains valid even if a Director does not receive or is not given a notice of the meeting of the Board and:
 - (i) the failure occurred by accident or error;
 - (ii) the Director who did not receive a notice attended the meeting; or
 - (iii) before or after the meeting, the Director who did not receive a notice:
 - (A) waives notice of that meeting pursuant to clause 14.16(c); or
 - (B) signs a circular resolution.

14.17 Quorum at meetings of the Board

- (a) The Board may transact business at a meeting of the Board only if a quorum of Directors is present at the start of the meeting.
- (b) A quorum of Directors consists of:
 - (i) if the Directors have fixed a number for the quorum, that number of Directors; and
 - (ii) in any other case, 2 Directors,and must include at least 1 Founding Director.

14.18 Decisions of the Board

- (a) A meeting of the Board at which a quorum is present is competent to exercise each authority, power and discretion vested in or exercisable by the Board under this Constitution.
- (b) The Board must decide questions arising at a meeting of the Board by a majority of votes cast by the Directors present.
- (c) A decision under clause 14.18(b) is for all purposes a resolution of the Board.
- (d) In the case of an equality of votes upon any proposed resolution the chair of the meeting has a second or casting vote.

14.19 Circular Resolutions

- (a) The Board may pass a resolution without a meeting of the Board being held if all of the Directors who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of the document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy.
- (c) A resolution pursuant to this clause 14.19 is passed when the last Director signs.

15 Secretary and Public Officer

15.1 Appointment of Secretary

The Board must appoint at least 1 Secretary. At least 1 Secretary must ordinarily reside in Australia.

15.2 Suspension and removal of Secretary

The Board may suspend or remove a Secretary from that office at any time as the Board thinks fit.

15.3 Power, duties and authorities of Secretary

A Secretary holds office in the terms and conditions and with the powers, duties and authorities determined by the Board.

15.4 Public Officer

Subject to the provisions of any applicable law, the Board will appoint a Public Officer of the Club and may terminate such appointment at any time as the Board thinks fit and appoint another person as a replacement.

16 General Meetings

16.1 Annual general meetings

Annual general meetings of the Club are to be held according to the Act.

16.2 Power to convene general meeting

A Director may at any time convene a general meeting as he or she thinks fit, and must do so if required by the Act.

16.3 Notice of general meetings

- (a) Subject to this Constitution and to the rights or restrictions attached to a class of Members, the Club must give notice of a general meeting:
 - (i) within the time limits prescribed by the Act; and
 - (ii) in the manner authorised by clause 24,
providing that such general meeting will, notwithstanding that it is called by shorter notice than is required in this Constitution or the Act, be deemed to have been duly called if:
 - (iii) in the case of the annual general meeting, it is approved by all of the Members entitled to attend and vote at that annual general meeting; or
 - (iv) in the case of any other general meeting, it is approved by the Founding Member and 75% in number of all the Members entitled to attend and vote at such other general meeting.
- (b) The Club must give a notice of the general meeting to each person, who is at the date of the notice a Member, a Director or an Auditor of the Club.
- (c) A notice of a general meeting must:
 - (i) specify the date, time and place of the meeting; and
 - (ii) state the general nature of the business to be transacted at the meeting.
- (d) An action and a resolution remain valid even if a person entitled to receive a notice or proxy for a general meeting does not receive or is not sent one or both of them, and:
 - (i) the failure occurred by accident or error; or
 - (ii) before or after the meeting, the person:
 - (A) waives notice of that meeting; or
 - (B) gives written notice of the person's agreement to that action or resolution.
- (e) Subject to clause 16.3(f), a person's attendance at a general meeting waives any objection that person may have in relation to:
 - (i) a failure to give notice or to a defective notice; or

- (ii) the consideration of a matter which is not stated in the notice of the meeting.
- (f) Clause 16.3(e) does not apply if that person at the beginning of the meeting objects to the holding of the meeting.

16.4 Quorum at general meetings

- (a) Subject to clause 16.4(b), business may only be transacted at any general meeting, if a quorum of Members is present when the general meeting proceeds to business.
- (b) A quorum consists of the lesser of either 10 Members or one third of the Members (or if that is not a whole number, the next whole number greater than one-third of the Members) at the relevant time present in person or by proxy, attorney or representative and entitled to vote, and in any event must include the Founding Member.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting, then subject to the Act the meeting stands adjourned:
 - (i) to the day, the time and place, that the Directors determine; or
 - (ii) if no determination is made by the Directors, to the same day in the next week and at the same time and place.
- (d) If, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, then the adjourned meeting is dissolved.

16.5 Chair of general meetings

- (a) The Board shall elect a Director who will preside as chair at a general meeting.
- (b) Where at a general meeting:
 - (i) a chair has not been appointed pursuant to clause 16.5(a); or
 - (ii) the chair appointed pursuant to clause 16.5(a) is either not present within 15 minutes after the time appointed for the holding of the meeting, or is unwilling to act,

the Members present will elect one of the Directors present, and if no Director is present or no Director is willing to act, then one of their own number, to chair the meeting.

16.6 Conduct of general meetings

- (a) A person must refer any question arising at a general meeting about the order of business, procedure or conduct of the meeting to the chair of the meeting.
- (b) The chair's decision is final.
- (c) The chair may adjourn the meeting from time to time and from place to place.

- (d) The meeting may direct the chair to adjourn a meeting.
- (e) An adjourned meeting may only transact business unfinished at the meeting from which the adjournment took place.
- (f) If a meeting is adjourned for 30 days or more, then the Club must give notice of the adjourned meeting as if it is a new meeting.
- (g) Subject to clause 16.6(f), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

16.7 Decisions at general meetings

- (a) Where required by this Constitution, a decision of the Club by Ordinary Resolution at a general meeting is decided in the affirmative only if:
 - (i) every Founding Member who is present votes in favour of that decision; and
 - (ii) a majority of all other Members entitled to vote who are present vote in favour of that decision.
- (b) Where required by this Constitution or by any applicable law, a decision of the Club by Special Resolution at a general meeting is decided in the affirmative only if:
 - (i) the Founding Member who is present votes in favour of that decision; and
 - (ii) 75% of all other Members entitled to vote who are present vote in favour of that decision.
- (c) In the case of an equality of votes upon any proposed resolution the chair of the meeting has a second or casting vote.
- (d) A resolution put to the vote of a general meeting must be decided on a show of hands.
- (e) The chair may declare the result of a vote decided on a show of hands.
- (f) The chair's declaration of the result of a vote and an entry to that effect into the minute book is conclusive evidence of the result and further proof of the number or proportion of the votes recorded in favour of or against the resolution is not required.

16.8 Voting rights

- (a) Subject to this Constitution and to any rights or restrictions attached to a class of Members, at a general meeting:
 - (i) on a show of hands, every person present who is a Member or a proxy, attorney or representative of a Member has one vote; and
 - (ii) on a poll, every Member present in person or by proxy, attorney or representative has one vote.
- (b) A Family Member who has nominated a Family Nominee in accordance with this Constitution and not revoked that nomination

before the start of a general meeting (**Relevant Family Member**) is entitled to a second vote at the general meeting in addition to the vote to which the Relevant Family Member is entitled as a Family Member. Where the Relevant Family Member is present in person they are only entitled to one vote on a show of hands. On a poll, every Relevant Family Member who is present in person or by proxy, attorney or representative is entitled to two votes.

- (c) A person must raise an objection to the qualification of a person to vote at a general meeting:
 - (i) before or at the meeting at which the vote is given; and
 - (ii) by referring the objection to the chair of the meeting.
- (d) The chair's decision about a person's qualification to vote is final.

16.9 Right to appoint proxy

- (a) Subject to the Act, a Member or any class of Members entitled to attend a meeting of the Club is entitled to appoint another person as their proxy to attend the meeting in their place.
- (b) A proxy appointed pursuant to clause 16.9(a) has the same rights as the Members to speak and vote at the meeting and may be appointed in respect of more than one meeting.

16.10 Right to appoint attorney

- (a) A Member may appoint an attorney to act on the Member's behalf at all or any meetings of the Club or of any meeting of a class of Members.
- (b) To be effective, an instrument appointing an attorney, together with any evidence of non-revocation the Board requires, must be received by the Club at least 48 hours before the meeting.

17 Minutes and records

17.1 Minutes of meetings

The Board must ensure that minutes of proceedings and resolutions of general meetings and of meetings of Directors, including committees of Directors, are recorded in books kept for the purpose.

17.2 Minutes of resolutions passed without a meeting

The Board must ensure that minutes of resolutions passed and declarations made by the Board and committees of Directors without a meeting are recorded in books kept for the purpose.

17.3 Signing of minutes

- (a) The chair of the meeting or the chair of the next meeting must sign the minutes of a meeting within a reasonable time.

- (b) Where a resolution or declaration is to be passed without a meeting, all the Directors must sign the resolution or declaration within a reasonable time.

17.4 Minutes as evidence

Subject to proof to the contrary, a minute that is recorded and signed under clauses 17.1, 17.2 and 17.3 is evidence of the proceeding, resolution or declaration to which it relates.

17.5 Inspection of records

- (a) The Board must ensure the minute books for general meetings are open for inspection by Members free of charge.
- (b) Subject to clause 17.5(a), the Board may determine whether and to what extent, and at what times and places and under what conditions, the minute books, accounting records and other documents of the Club or any of them are open to the inspection by Members who are not Directors.

17.6 Register of Members

The Board must cause a proper register to be kept in accordance with the Act of all Members, and all the requirements of the Act pertaining to the registration of Members must be complied with.

17.7 Register of Charges

The Board must cause a proper register to be kept in accordance with the Act of all mortgages and charges specifically affecting the Club's property, and all the requirements of the Act pertaining to the registration of such mortgages and charges must be complied with.

17.8 Record of Officers

The Board must cause all letters of consent to act as an Officer of the Club to be kept in accordance with the Act.

18 Club finance

18.1 Financial Records

The Board must cause the Club to keep written financial records that:

- (a) correctly record and explain the transactions (including transactions undertaken in the capacity of trustee), financial position and performance of the Club; and
- (b) would enable true and fair financial statements to be prepared and audited.

18.2 Annual Audit

The Board must cause the accounts of the Club to be audited by an Auditor each year as required by the Act.

18.3 Financial Reports to be tabled

(a) Subject to any requirements under the Act, the Board must ensure that the following documents are tabled before each annual general meeting:

- (i) the financial report of the Club;
- (ii) the Directors' report; and
- (iii) the Auditor's report,

in each case in respect of the last financial year that ended before the annual general meeting. The reports must be prepared in accordance with any requirements under the Act.

(b) Subject to any requirements under the Act, the Board must, on the Club's behalf, report to all the Members in respect of every financial year that has ended, by sending to every Member either:

- (i) copies of the Club's financial report, the Directors' report and the Auditor's report, each as referred to in clause 18.3(a), for that financial year; or
- (ii) a concise report for that financial year prepared in accordance with section 314(2) of the Act,

by the earlier of 21 days before the next annual general meeting after the end of that financial year, or 4 months after the end of that financial year.

(c) Subject to any restrictions under the Act, any accidental omission to give a report pursuant to clause 18.3(b), or a non-receipt of such report by a Member, does not invalidate any of the proceedings of the annual general meeting.

19 Property

19.1 Fund raising

The Board must ensure that no charge, encumbrance or mortgage may be granted over any real estate of the Club unless:

- (a) the charge, encumbrance or mortgage over any real estate of the Club was entered into for the purposes of fund raising pursuant to the objects of the Club; and
- (b) the charge, encumbrance or mortgage over any real estate of the Club has been approved by Ordinary Resolution at a general meeting.

19.2 Sale of real estate of the Club

Except in the circumstances of a liquidation or winding up, the Board must ensure that no sale may be granted over any real estate of the Club unless the sale of any real estate of the Club:

- (a) was entered into pursuant to the objects of the Club; and

- (b) has been approved by Special Resolution at a general meeting.

19.3 DA Compliance

The Club must comply with the provisions of Development Consent 32-1-2003, including:

- (a) the on site monitoring of groundwater;
- (b) weed management; and
- (c) interception tranche.

20 Indemnification and insurance

20.1 Indemnity of officers

Every person who is or has been:

- (a) a Director; or
- (b) a Secretary; or
- (c) a Public Officer,

is entitled to be indemnified out of the property of the Club against:

- (d) every liability incurred by the person in that capacity; and
- (e) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:

- (f) the Club is forbidden by the law to indemnify the person against the liability or legal costs; or
- (g) an indemnity by the Club of the person against the liability or legal costs would, if given, be made void by the law.

20.2 Insurance of officers

The Club may pay, or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director, Secretary or Public Officer against liability incurred by that person in that capacity, including a liability for legal costs, unless:

- (a) the Club is forbidden by the law to pay or agree to pay the premium; or
- (b) the contract would, if the Club paid the premium, be made void by the law.

20.3 Insurance of Members

The Club may pay either directly or through an interposed entity, a premium for a contract insuring all Members for any property damage to the Golf Course and the Club Facilities incurred by any Member's use of the Golf Course and

Club Facilities provided that such Member must reimburse the Club for any excess payable under the insurance contract.

21 By-laws

21.1 Making and amending By-laws

- (a) The Board may from time to time:
 - (i) make additional By-laws which in its opinion is necessary or desirable for the control, administration and management of the Club's affairs; and
 - (ii) amend, repeal and replace the By-laws then in place, but only to the extent the Club can do so under clause 21.2.
- (b) Subject to clause 21.2, the Club by Ordinary Resolution in a general meeting may amend, repeal and replace any By-law, but that does not affect the validity of anything previously done by the Board or anyone pursuant to that By-law.

21.2 Effect of By-law

A By-law:

- (a) is subject to this Constitution;
- (b) must be consistent with this Constitution, and if not, the Constitution prevails to the extent of any inconsistency; and
- (c) when in force, is binding on all Members and has the same effect as a provision in this Constitution.

22 Winding up

22.1 Contributions of Members on winding up

Each Member must contribute to the Club's property if the Club is wound up while they are a Member or within one year after they ceased to be a Member.

This contribution is for:

- (a) payment of the Club's debts and liabilities contracted before they ceased to be Members;
- (b) the costs of winding up; and
- (c) adjustment of the rights of the contributories among themselves,

and the amount is not to exceed \$20.00.

22.2 Excess property on winding up

If on the winding up or dissolution of the Club, and after satisfaction of all its debts and liabilities, any property remains, that property must be given or transferred to another body or bodies:

- (a) having objects similar to those of the Club; and
- (b) whose constitution prohibits (or each of whose constitutions prohibits) the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Club under this Constitution.

That body is, or those bodies are, to be determined by the Members at or before the time of dissolution, or failing that, by a judge who has or acquires jurisdiction in the matter.

23 Amendments to Constitution

Subject to any requirements of the Act, the Club may alter this Constitution either wholly or in part, by passing a Special Resolution at a general meeting.

24 Notice

24.1 Notices by the Club to Members

- (a) The Club may give a notice to a Member by:
 - (i) serving it personally at, or by sending it by post in a prepaid envelope to, the Member's address as shown in the register of Members or another address the Member has supplied; or
 - (ii) sending it to the facsimile number the Member has supplied to the Club for the giving of notices.
- (b) The fact that a Member has supplied a facsimile number for the giving of notice does not require the Club to give any notice to that Member by facsimile.
- (c) If a Member has not supplied the Club with any address, a notice posted up on the Club premises shall be deemed to be served on such Member at the expiration of 24 hours after the notice was so posted up.
- (d) The Club may sign any notice given to a Member under clause 24.1(a) in writing or as a facsimile printed or affixed by some mechanical or other means.
- (e) A certificate signed by a Director or Secretary stating that the Club has given notice under this Constitution is conclusive evidence of that fact.

24.2 Notices by the Club to the Directors

- (a) Subject to this Constitution, the Club may give a notice to a Director either by:
 - (i) serving it personally at, or by sending it by post in a prepaid envelope to, the Director's usual residential or business address or to another address the Director has supplied to the Club for the giving of notices; or

- (ii) sending it to the facsimile number which the Director has supplied to the Club for the giving of notices.

24.3 Notices posted to addresses outside the Commonwealth

A notice sent by post to an address outside the Commonwealth must be sent by airmail.

24.4 Time of service

- (a) If a notice is sent by post, then it is served if a prepaid envelope containing the notice is properly addressed and placed in the post:
 - (i) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (ii) in any other case, 2 Business Days after the notice is placed in the post.
- (b) If a notice is sent by facsimile, then it is served when the transmitting machine confirms a successful transmission unless the recipient advises within a reasonable time that the transmission has been received in a garbled and incomplete form.
- (c) Where a given number of days notice is required to be given the day of posting and the day of receipt shall be counted in such number of days.

24.5 Notices in writing

A reference in this Constitution to a notice in writing includes a notice given by facsimile.

25 Manager

25.1 General

The Board may appoint one or more Managers for such period of time and on such terms as the Board thinks fit. Subject to the terms of any agreement entered into in a particular case, the Board may revoke any such appointment as it sees fit. The Board must enter into the Management Agreement.

25.2 Remuneration of Manager

Each Manager is entitled to receive (subject to the terms of any agreement entered into in a particular case and the Management Agreement) such remuneration, as the Board determines, for services rendered.

25.3 Powers of Manager

- (a) The Board may confer on the Manager any of the powers exercisable by the Board, and on any condition or with any restriction as the Board sees fit.
- (b) Any power conferred on the Manager may be concurrent with or to the exclusion of such power in respect of the Board.

- (c) The Board may withdraw or vary any of the powers conferred on any Manager.
- (d) Subject to any restrictions under the Act, the Board may delegate the responsibility for the day to day management of any part or the whole of the Club's operations to any Manager.
- (e) Each Manager must carry out the directions (if any) of the Board and report to the Board.
- (f) Each Manager shall have the discretion to assign priority for tee times to any class of Members and for Competition or Tournament Days.

This clause 25 does not apply to the Management Agreement to the extent of any inconsistency.

26 Guests

26.1 Right to invite Guests

- (a) Subject to clause 7, a Member may invite a Guest to use the Golf Course and the Club Facilities to the extent the inviting Member is entitled to use the Golf Course and the Club Facilities as set out in this Constitution subject to:
 - (i) if required by the Manager, the Member who invites a Guest shall enter the name of the Guest and his or her address in a guest book;
 - (ii) the Member who invites a Guest is responsible to pay for any applicable Guest Fees and other charges as determined by the Manager;
 - (iii) the Member who invites a Guest is responsible at all times for the conduct of the Guest and shall be responsible for any debts incurred by his or her Guest;
 - (iv) the Member who invites a Guest must accompany his or her Guests at all times; and
 - (v) any restrictions on a Guest to the use of certain Golf Course and Club Facilities on any particular day or generally as the Manager sees fit in its discretion.
- (b) A Member who is the owner of a Dwelling may invite a Family Member Guest to use the Golf Course and any related services to the extent the inviting Member is entitled to use the Golf Course as set out in this Constitution subject to the following conditions:
 - (i) the Family Member Guest may only use the Golf Course and any related services whilst the Family Member Guest is occupying the Dwelling owned by the inviting Member;
 - (ii) the inviting Member must introduce the Family Member Guest by way of a letter addressed to the Manager identifying the Family

Member Guest, the period during which the Family Member Guest intends to occupy the inviting Member's Dwelling, the number of rounds of golf to which, as between the inviting Member and the Family Member Guest, the Family Member Guest is entitled and such other details as are specified in the By-laws;

- (iii) the inviting Member is not required to accompany the Family Member Guest whilst the Family Member Guest uses the Golf Course and any related services; and
- (iv) such other conditions, including, but not limited to, the payment of Green Fees and limitations on the number of rounds of golf which Family Member Guests of the inviting Member are entitled in any 12 month period ending on 30 June, as are specified in the By-laws.

26.2 Number of visits per Guest

The Manager shall determine from time to time the number of visits that may be made by Guests in relation to:

- (a) the number of Guests that a Member may invite per day for use of the Golf Course or Club Facilities or both; and
- (b) the number of times in a calendar year that any individual person may be permitted to use the Golf Course or the Club Facilities or both, as a Guest of a Member.

26.3 Liability of the Club

A Member is responsible at all times for any use of the Golf Course or Club Facilities by any of his or her Guests and expressly agrees to indemnify the Club against any claim for loss, damage, costs and expenses made by any of the Member's Guests.

27 GST

27.1 GST Definitions

Expressions set out in bold in this clause 27 bear the same meaning as those expressions in the GST Law.

For the purpose of this clause 27:

"GST Amount" means, in relation to a Payment, an amount arrived at by multiplying the Payment (or the relevant part of a Payment if only part of a Payment is the consideration for a taxable supply) by the appropriate rate of GST (10% being the prevailing rate under current GST Law);

"GST Law" has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended) and any regulation made under that Act;

"Payment" means in relation to this clause 27:

(a) the amount of any monetary consideration (other than a GST Amount payable under this clause 27); and

(b) the **GST exclusive market value** of any non-monetary consideration,

paid or provided by one party to another for any supply made under or in connection with this document and includes any amount payable by way of indemnity, reimbursement, compensation or damages.

27.2 Amount Otherwise Payable Do Not Include GST

All Payments have been set or determined without regard to the impact of GST.

27.3 Liability to pay any GST

Subject to clause 27.5, if the whole or any part of a Payment is the consideration for a taxable supply, the GST Amount in respect of the Payment must be paid to the payee as an additional amount, at the same time and in the same manner as the Payment is otherwise payable or as otherwise agreed in writing.

27.4 Reimbursements

If this document requires a person to pay, reimburse or contribute to an amount paid or payable by another person in respect of an acquisition from a third party for which the other person is entitled to claim an input tax credit, the amount required to be paid, reimbursed or contributed by the person will exclude any GST forming part of that amount. If the other person's recovery from the person is a taxable supply, the amount required to be paid, reimbursed or contributed by the person will include any GST payable under clause 27.3.

27.5 Tax Invoice

A party's right to payment under clause 27.3 is subject to a valid tax invoice being delivered to the party liable to pay for the taxable supply.

27.6 Adjustments

If there is an adjustment event in relation to a supply made by the payee to the payer which results in the amount of GST being different from the amount of GST previously recovered by the payee from the payer ("**previous GST Amount**"), then the payee or its representative member must issue the necessary adjustment note, and, as appropriate:

(a) in the case of an increasing adjustment, the payer must pay to the payee the amount by which the amount of GST on the supply exceeds the previous GST Amount; and

(b) in the case of a decreasing adjustment, the payee must refund to the payer the amount by which the previous GST Amount exceeds the amount of GST on the supply.

27.7 Penalties and interest

If the payee of a Payment has become subject to any penalties or interest because of the late payment by the payee of any GST Amount and that late payment is a result of the failure of the payer to comply with the terms of this clause 27, then the payer must pay to the payee an additional amount on demand equal to the amount of those penalties and interest. The payee must use its best endeavours to mitigate such penalties and interest.

27.8 Indemnity

The payer must indemnify the payee on demand in respect of any claim arising from a breach by the payer of its obligations under this clause 27. For the avoidance of doubt, such indemnity does not include the payee's normal obligations under GST Law.