

Corporations Act 2001

A COMPANY LIMITED BY GUARANTEE

CONSTITUTION

of

KAIZEN CULTURE LTD

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CORPORATIONS ACT 2001
AUTOMATIC PARAGRAPH NUMBERING USED IN THIS DOCUMENT
A Public Company Limited by Guarantee
CONSTITUTION
of
KAIZEN CULTURE LTD

1 Name of the Company

1.1 The name of the Company is KAIZEN CULTURE LTD

2 Type of Company

2.1 The Company is a public company limited by guarantee.

2.2 The liability of the Members is limited.

3 Limitations

3.1 The objects for which the Company is established are:

To empower and inspire the Australian karate community through support and information.

3.2 The Company can only exercise the powers in section 124(1) of the Act to:

- (1) carry out the objects of the Company set out in clause 3.1; and
- (2) do all things incidental or convenient in relation to the exercise of power under clause 3.2 (1)

3.3 The income and property of the Company will only be applied towards the promotion of the objects of the Company set out in clause 3.1.

3.4 No income or property of the Company will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Company however nothing in this Constitution will prevent payment in good faith to a Member:

- (1) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company;
- (2) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Company; or
- (3) of reasonable and proper rent for premises leased by any Member to the Company.

3.5 No payment shall be made to any Director other than the payment:

- (1) of out of pocket expenses incurred by the Director in the performance of any duty as a Director where the amount payable does not exceed an amount previously approved by the Directors; and
- (2) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors and where the amount payable is approved by the Directors and is not more than an amount which commercially would be reasonable for the service.

3.6 The Constitution for the time being in force will not be altered without the prior written approval of the Australian Securities & Investments Commission.

DEFINITIONS AND INTERPRETATION

4 Definitions and Interpretation

4.1 In this Constitution, unless there is something in the subject or context which is inconsistent:

"**Board**" means the Board of Directors.

"**Committee**" means a committee of Directors established in accordance with clause 40.

"**Constitution**" means this Constitution as amended or supplemented from time to time.

"**Company**" means the company referred to in clause 1.1.

"**Director**" means any person holding the position of a director of the Company and "**Directors**" means the directors for the time being of the Company or as the context permits such number of them as have authority to act for the Company.

"**Act**" means the Corporations Act 2001 set out in section 82 of the Corporations Act of 1989 of the Commonwealth of Australia as in force in the State or Territory in which the Company is incorporated by virtue of the Corporations Act of that State or Territory.

"**Member**" means a member of the Company pursuant to clause 5.

"**Member Present**" means in connection with a meeting of Members, a Member being present in person or by proxy or attorney or, in the case of a corporation, by a Representative.

"**Office**" means the registered office for the time being of the Company.

"**Officer**" has the same meaning as given to that term in Section 241(4) of the Act.

"**President**" and "**Vice President**" means the persons elected to those offices pursuant to clause 27.

"**Register**" means the register of Members to be kept pursuant to the Corporations Act 2001.

"**Representative**" means a person authorised in accordance with section 250D of the Act to act as a representative of a body corporate holding shares in the Company.

"**Secretary**" means the person appointed as the secretary of the Company and includes any assistant or acting secretary.

4.2 In this Constitution, unless there is something in the subject or context which is inconsistent:

- (1) the singular includes the plural and vice versa;
- (2) the word "**person**" means a natural person and any partnership, association, body or entity whether incorporated or not;
- (3) the words "**writing**" and "**written**" include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
- (4) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (5) a reference to any clause or schedule is to a clause or schedule of this Constitution;
- (6) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it.

4.3 An expression used in a particular Part or Division of the Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any clause that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division.

4.4 The provisions of this Constitution displace the replaceable rules (but not replaceable rules which mandatorily apply to a public company) contained in the Corporations Act 2001.

4.5 Headings do not form part of or affect the construction or interpretation of this Constitution.

MEMBERSHIP

5 Admission to Membership

- 5.1 The number of Members of the Company is unlimited
- 5.2 The Members of the Company shall be:
- (1) the persons who are specified in the application for registration of the Company as persons who consent to becoming Members; and
 - (2) any other person admitted to membership by the Board in accordance with this Constitution.
- 5.3 Every applicant for membership of the company (other than the persons referred to in clause 5.2(1)) shall be proposed by a Member of the Company and seconded by another Member both of whom must personally know the applicant. The application for membership shall be in a form approved by the Board from time to time and shall be signed by the applicant and the applicants proposer and seconder and shall be addressed to the Secretary at the Office.
- 5.4 At the next meeting of the Board after the receipt of any application for membership, such application shall be considered and the Board will in its absolute discretion determine whether to admit or reject the application or decide to call upon the applicant to supply any evidence of eligibility that it considers reasonably necessary. If the Board:
- (1) requires further evidence under this clause, determination of the application will be deferred until this evidence has been supplied;
 - (2) rejects the application for membership, it will not be required to give any reason for the rejection.
- 5.5 (1) As soon as practicable following acceptance of an application, the Secretary will send to the applicant written notice of the acceptance and a request for payment of the entrance fee and first annual subscription. If an applicant is accepted for membership on or as from a date other than 1 July in any year, the first subscription payable by the applicant shall be pro-rated according to the period elapsed since the previous first day of July.
- (2) Upon payment of the entrance fee and first annual subscription the applicant shall become a Member of the Company, however if such payment has not been made within 2 months after the date of the notice of acceptance of the application, the Board may in its discretion cancel its acceptance of the application for membership of the Company.
- 5.6 The rights and privileges of every Member are personal to each Member and are not transferable by a Member's own act or by operation of law.

6 Entrance Fee and Subscriptions

- 6.1 The entrance fee and annual subscription payable by Members shall be such amount as the Company in general meeting shall from time to time prescribe.
- 6.2 All annual subscriptions shall become due and payable in advance on 1st January in every year.

7 Cessation of Membership

- 7.1 If a Member does not pay an annual subscription within 2 months of its due date then:
- (1) the Board will give the Member written notice of that fact; and
 - (2) if the full amount due is not paid by the Member within 30 days of the date of the notice the Board may declare the Member's membership forfeited.

However the Board may reinstate the Member's membership on payment of all arrears if the Board thinks fit to do so.

- 7.2 A Member's membership in the Company will cease if the Member gives the Secretary written notice of resignation and the membership will cease from the date of receipt of that notice by the Secretary.
- 7.3 If any Member shall wilfully refuse or neglect to comply with the provisions of the Constitution or shall be guilty of any conduct which in the opinion of the Board is unbecoming of a Member or prejudicial to the interests of the Company the Board shall have power by resolution to censure, fine, suspend or expel

the Member from the Company. However at least one week before the meeting of the Board at which such a resolution is passed the Member must be given notice of such meeting, of the allegations made against the Member and of the intended resolution. The Member shall, at such meeting and before the passing of such resolution, be given the opportunity of giving orally or in writing, any explanation or defence the Member may think fit. Despite the above, any such Member may, by written notice lodged with the Secretary at least twenty-four hours before the appointed time for the meeting at which the resolution is to be considered by the Board, elect to have the question dealt with by the Company in general meeting. In that event a general meeting of the Company shall be called for the purpose and if at the meeting such a resolution is passed by a majority of two-thirds of those present and voting (such a vote to be taken by ballot) the Member concerned shall be punished accordingly and in the case of a resolution for the Members expulsion the Member shall be expelled.

7.4 Any Member ceasing to be a Member:

- (1) will not be entitled to any refund (or part refund) of any annual subscription paid;
- (2) will continue to be liable for any annual subscription and all arrears due and unpaid at the date of the Member resignation or ceasing to be a Member and for all other moneys due by the Member to the Company and in addition for any sum not exceeding \$1.00 for which the Member is liable as a Member of the Company under clause 48.1.

GENERAL MEETINGS

8 Convening of General Meetings

- 8.1 Any Director may at any time convene a general meeting of the Company.
- 8.2 A Member shall be entitled to convene a general meeting in accordance with the provisions of the Act.
- 8.3 A general meeting of the Company may be convened at two or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting.

9 Notice of General Meeting

- 9.1 Subject to consent to shorter notice being given in accordance with the Act, at least 21 days notice of any general meeting must be given specifying:
 - (1) the place, day and hour of the meeting;
 - (2) the general nature of any business to be transacted at the meeting;
 - (3) if a special resolution is to be proposed, the details of and intention to propose it;
 - (4) if the meeting is to be held in two or more places the technology that will be used to facilitate this;
 - (5) any other information required by the Corporations Act 2001.

9.2 The accidental omission to give notice of any general meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice will not invalidate the proceedings at or any resolution passed at the meeting.

10 Cancellation or Postponement of General Meeting

- 10.1 Subject to the provisions of the Corporations Act 2001 and this Constitution the Directors may cancel a general meeting of the Company:
 - (1) convened by the Directors; or
 - (2) which has been convened by a Member or Members pursuant to the Corporations Act 2001 upon receipt by the Company of a written notice withdrawing the requisition signed by that Member or those Members.
- 10.2 The Directors may postpone a general meeting or change the venue at which it is to be held. No business shall be transacted at any postponed meeting other than the business stated in the notice to the Members relating to the original meeting.
- 10.3 Where any general meeting is cancelled or postponed or the venue for the same is changed:

- (1) the Directors must endeavour to notify in writing each person entitled to receive notice of the meeting of the cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution and in the case of the postponement of a meeting, the new place, date and time for the meeting; and
- (2) any failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

PROCEEDINGS AT GENERAL MEETINGS

11 Quorum

- 11.1 No business may be transacted at any general meeting unless a quorum of Members is present at all times during the meeting.
- 11.2 Two Members present and entitled to vote constitute a quorum for all general meetings.
- 11.3 If within 30 minutes after the time appointed for holding a general meeting a quorum is not present:
 - (1) the meeting if convened upon the requisition of Members shall be dissolved;
 - (2) in any other case:
 - (a) it will stand adjourned to the same day in the next week at the same time and place or to such other day time and place as the Directors may by notice to the Members appoint; and
 - (b) if at such adjourned meeting a quorum is not present within 30 minutes after the time appointed for the holding of the meeting the meeting shall be dissolved.

12 Chairperson

- 12.1 The President shall be entitled to preside as chairperson at every general meeting.
- 12.2 Where a general meeting is held and:
 - (1) there is no President; or
 - (2) the President is not present within 30 minutes after the time appointed for the holding of the meeting or if present is unwilling to act as chairperson of the meeting,the Vice President shall preside as chairperson of the meeting or, if the Vice President is not present or is unwilling to act then the other Directors present may choose another Director as chairperson of the meeting. If no Director is so chosen or if all the Directors present decline to take the chair the Members Present may choose one of their number to be chairperson of the meeting.
- 12.3 The rulings of the chairperson of a general meeting on all matters relating to the order of business, procedure and conduct of the meeting shall be final and no motion of dissent from such rulings shall be accepted.

13 Adjournments

- 13.1 The chairperson of a general meeting at which a quorum is present:
 - (1) may adjourn a meeting with the consent of the meeting; and
 - (2) must adjourn the meeting if the meeting so directsto a time and place as determined.
- 13.2 No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 13.3 A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.
- 13.4 It is not necessary to give any notice of an adjournment of a general meeting or of the business to be transacted at the adjourned meeting except if the meeting is adjourned for 30 days or more in which case notice of the adjourned meeting must be given as in the case of an original meeting.

14 Determination of Questions

- 14.1 At any general meeting a resolution to be considered at the meeting shall be decided on a show of hands unless a poll is demanded by:
- (1) the chairperson of the meeting;
 - (2) at least two Members Present and entitled to vote on the resolution; or
 - (3) by a Member Present or Members Present who represent at least 10% of the votes that may be cast on the resolution on a poll.
- 14.2 Before a vote on a resolution is taken, the chairperson must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- 14.3 A declaration by the chairperson of the result of a vote on a resolution by a show of hands and an entry to that effect contained in the minutes of the proceedings of the Company which has been signed by the chairperson of the meeting or the next succeeding meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

15 Polls

- 15.1 A poll may be demanded:
- (1) before a vote on a resolution is taken;
 - (2) before the voting results on a show of hands are declared; or
 - (3) immediately after the voting results on a show of hands are declared.
- 15.2 If a poll is demanded it must be taken in such manner and at such time and place as the chairperson of the meeting directs subject to clause 15.5.
- 15.3 The result of the poll shall be taken to be the resolution of the meeting at which the poll was demanded.
- 15.4 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.
- 15.5 A poll demanded on the election of a chairperson or any question of adjournment of the meeting must be taken immediately.
- 15.6 The demand for a poll may be withdrawn.

16 Voting Rights

- 16.1 A Member entitled to vote has one vote, both on a show of hands and a poll.

17 Voting Disqualification

- 17.1 A Member is not entitled to be present or to vote at any general meeting if any amount payable by the Member in respect of their membership is more than one month in arrears at the date of the meeting.

18 Objection to Qualification to Vote

- 18.1 Any challenge as to the qualification of a person to vote at a general meeting or the validity of any vote tendered may only be raised at the meeting and must be determined by the chairperson whose decision shall be final and conclusive and a vote allowed by the chairperson shall be valid for all purposes.

19 Persons of Unsound Mind and Minors

- 19.1 A Member of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health or who is a minor may vote whether on a show of hands or on a poll by the persons committee or by such other person as properly has the management or guardianship of that persons estate or by the public trustee (as the case may be) and the committee or other person or trustee may vote by proxy or representative.
- 19.2 Any person having the right of management or guardianship of the person or estate in respect of a Member as referred to in clause 19.1 must not exercise any of the rights conferred under that clause unless and until the person has provided to the Directors satisfactory evidence of the appointment of the person accordingly.

20 Chairperson's Casting Vote

20.1 In the case of an equality of votes whether on a show of hands or on a poll the chairperson of the meeting at which the show of hands is taken or at which the poll is demanded is entitled to a casting vote in addition to their vote as a Member.

21 Right of Non-Members to Attend General Meeting

21.1 The chairperson of a general meeting may invite any person who is not a Member to attend and address a meeting.

21.2 Any auditor of the Company shall be entitled to attend and address a general meeting.

PROXIES

22 Right to Appoint Proxies

22.1 A Member who is entitled to attend and vote at a general meeting of the Company may appoint a person as the Member's proxy to attend and vote for the Member at the meeting and such person need not be a Member.

22.2 If a Member appoints a proxy the proxy is entitled to vote on a show of hands and on a poll.

23 Appointing a Proxy

23.1 The instrument appointing a proxy must be in writing signed by the appointor or the appointor's attorney duly authorised in writing or if the appointor is a corporation signed by an authorised officer or attorney of the corporation.

23.2 The instrument of proxy is valid if it contains the information required by the Corporations Act 2001 which at the date of this Constitution is the following information:

- (1) the name and address of the Member;
- (2) the name of the Company;
- (3) the proxy's name or the name of the office of the proxy; and
- (4) the meetings at which the instrument of proxy may be used.

23.3 An instrument of proxy may be expressed to be a standing appointment. An instrument of proxy for a specified meeting is only valid for that meeting and any postponement or adjournment of that meeting.

23.4 An instrument of proxy shall not be treated as invalid merely because it does not specify all of the information required by clause 23.2

23.5 An instrument of proxy may be revoked at any time by notice in writing to the Company.

24 Lodgment of Proxies

24.1 An instrument appointing:

- (1) a proxy and the power of attorney or other authority (if any) under which it is signed or executed or a certified copy of that power or authority; or
- (2) an attorney to exercise a Member's voting rights at a general meeting or a certified copy of that power of attorney,

must be deposited at the Office or at such other place as is specified for that purpose in the notice convening the general meeting not less than 48 hours (or such shorter period as the Directors may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote and in default the instrument of proxy or the power of attorney will not be treated as valid.

24.2 For the purposes of this clause it will be sufficient that any document required to be lodged by a Member be received in legible form by facsimile at the place at which the document is required to be delivered by the Member and the document shall be regarded as received at the time the facsimile was received at that place.

25 Validity of Proxies

25.1 A vote exercised pursuant to an instrument of proxy, a power of attorney or other instrument of appointment is valid notwithstanding:

- (1) the death or unsoundness of mind of the Member;
- (2) the bankruptcy or liquidation of the Member;
- (3) the revocation of the instrument of proxy or the power of attorney or any instrument under which the instrument or the power was granted,

if the Company has not received at its Office written notice of the death, unsoundness of mind, bankruptcy, liquidation or revocation at least 48 hours (or such shorter period as the Directors may allow) prior to the time appointed for the holding of the general meeting or adjourned meeting, as the case may be, at which the instrument of proxy or the power of attorney is exercised.

25.2 A proxy who is not entitled to vote on a resolution as a Member may vote as a proxy for another Member who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.

26 Rights of Proxies and Attorneys

26.1 The instrument appointing a proxy will be taken to confer authority to demand or join in demanding a poll.

26.2 Unless a Member by the instrument of proxy directs the proxy to vote in a certain manner the proxy may vote as the proxy thinks fit on any motion or resolution. Otherwise the proxy shall follow the voting instructions contained in the instrument of proxy.

26.3 A proxy will not be revoked by the appointor attending and taking part in any general meeting but if the appointor votes on a resolution either on a show of hands or on a poll the person acting as proxy for the appointor shall not be entitled to vote in that capacity in respect of the resolution.

26.4 The chairperson of a general meeting may require any person acting as a proxy to establish to the satisfaction of the chairperson that the person is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person is unable to establish their identity they may be excluded from voting either upon a show of hands or upon a poll.

APPOINTMENT AND REMOVAL OF DIRECTORS

27 Number and Appointment of Directors

27.1 The office-bearers of the Company shall consist of a President, a Vice President and a Treasurer (who shall all be Directors) as well as any other Directors appointed to the Board. A Director must be a Member

27.2 The Board must consist of not less than 3 Directors and, unless the Company resolves in general meeting to the contrary, must not consist of more than 10 Directors.

27.3 The following persons who are specified in the application for registration of the Company as persons who consent to becoming Members shall constitute the first Directors:

- President - Mitchell Joseph Durham
- Vic President - Jonathan Matthew Denis Staynor
- Honorary Treasurer - Nathan Harris Blockley

Such persons shall all retire at the first annual general meeting but shall be eligible for re-election. From the first annual general meeting of the Company the Board shall consist of the office-bearers elected by the Members in accordance with the provisions set out in the Members Constitution.

27.4 At the first annual general meeting of the Company and at each following annual general meeting the office-bearers and other Directors shall be elected from among the Members and such office-bearers and other Directors shall hold office until the next annual general meeting when they shall retire but shall be eligible for re-election.

27.5 The election of office-bearers and other Directors shall take place in the following manner:

- (1) any two Members shall be at liberty to nominate any other Member to serve as an office-bearer or other Director;
- (2) the nomination, which shall be in writing and signed by the Member and the Members proposer and seconder, shall be lodged with the Secretary at least 21 days before the annual general meeting at which the election is to take place;
- (3) a list of the Members' names who are candidates, in alphabetical order, with the proposers' and seconders' names shall be posted in a conspicuous place at the Office and forwarded to all Directors at least 14 days prior to the annual general meeting;
- (4) balloting lists shall be prepared (if necessary) containing the names of the candidates only, in alphabetic order. Each Member present at the annual general meeting shall be entitled to vote for any number of such candidates not exceeding the number of vacancies;
- (5) in case there shall not be sufficient number of candidates nominated, the Board may fill up the remaining vacancy or vacancies;
- (6) if there be only one nomination for any position on the Board the chairperson of the annual general meeting at which the election is to take place shall declare such candidate duly elected;
- (7) wherever there is more than one nomination for any position on the Board the election shall be by ballot of the Members, conducted in the following manner:
 - (i) the voter shall mark their balloting list by marking a cross opposite the names of each of the candidates for whom the voter votes. The voter shall also sign their name legibly on the balloting list and cause it to be delivered to the Secretary. Each person voting shall vote for one candidate for each position required to fill the vacancy and no more;
 - (ii) the result of the ballot shall be determined by the Secretary assisted by two scrutineers appointed by the existing Board;
 - (iii) after the closing of the ballot the Secretary and scrutineers shall check the signatures of Members and their qualification to vote and proceed to the examination of the voting papers and shall report in writing the result of the ballot to the chairperson of the annual general meeting. The candidate for each position required to be filled receiving the greatest number of votes shall be deemed elected and a declaration as to such election shall be made at the annual general meeting;
 - (iv) in any case of doubt as to the formality of any voting paper the matter shall be referred to the chairperson of the meeting whose decision shall be final;
 - (v) in the event of an equality of votes in favour of two or more candidates, the chairperson of the meeting at which the election takes place shall have a casting vote or votes so as to decide the election;
 - (vi) the Members comprising the Board may direct the Secretary to destroy the ballot papers at any time after the expiration of one month after the date of the declaration of the election.

28 General Right to Appoint and Remove Directors

- 28.1 Subject to the Corporations Act 2001, the Company may by resolution passed in general meeting:
- (1) remove any Director; or
 - (2) appoint a person as a Director (whether or not as a replacement for a Director who has been removed or otherwise ceased to be a Director).
- 28.2 Subject to the Corporations Act 2001, the Directors may at any time appoint any person as a Director either to fill a casual vacancy or as an addition to their number. Any Director so appointed shall only hold office until the next annual general meeting of the Company after the appointment is made.
- 28.3 The Directors may act despite any vacancy in their body but if the number falls below the minimum fixed (if any) in accordance with clause 27 the Directors may act for the purpose of increasing the number of Directors to the minimum or of convening a general meeting or in emergencies but for no other purpose.

29 Vacation of Office

- 29.1 Any Director may retire from office on giving written notice to the Company at the Office of the Directors intention to retire and the resignation shall take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Company).
- 29.2 In addition to other circumstances in which the office of a Director becomes vacant as provided in this Constitution, the office of a Director shall automatically be vacated if the Director:
- (1) is prohibited from being or ceases to be or is removed as a Director pursuant to the provisions of the Corporations Act 2001 or by reason of any order made under the Corporations Act 2001;
 - (2) becomes an insolvent under administration or makes any composition or arrangement with creditors or any class of creditors;
 - (3) 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;
 - (4) is absent from meetings of the Directors during a period of 6 consecutive months without special leave of absence from the Directors and the Directors as a result declare that Directors office to be vacant;
 - (5) ceases to be a Member;
 - (6) holds any office of profit under the Company; or
 - (7) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Corporations Act 2001.

POWERS AND DUTIES OF DIRECTORS

30 Powers of Directors

- 30.1 Subject to the Corporations Act 2001 and this Constitution, the management and control of the business and affairs of the Company shall be vested in the Directors who may exercise all powers of the Company which are not by the Corporations Act 2001 or this Constitution required to be exercised by the Company in general meeting.
- 30.2 No resolution passed by the Company in general meeting shall have the effect of invalidating any prior act of the Directors which would have been valid if the resolution had not been passed.

31 Borrowing Powers

- 31.1 The Directors may exercise all the powers of the Company to:
- (1) raise or borrow any sum or sums of money for the purposes of the Company; and
 - (2) secure the payment or repayment of any amount payable by the Company and any other obligation or liability in such manner and on such terms and conditions as they think fit whether upon the security of any mortgage or charged upon all or any of the property, undertaking and assets of the Company both present and future.

32 Negotiable Instruments

- 32.1 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed as the case may be by the persons and in the manner determined from time to time by the Directors and failing such determination by any two Directors.

33 Conferment of Powers

- 33.1 The Directors may from time to time confer upon any Director for the time being or any other person as they may select such of the powers exercisable under this Constitution by the Directors as they may think fit for such time and to be exercised for such purposes and on such terms and conditions and with such restrictions as they think expedient.
- 33.2 Powers conferred under this clause may be exercised concurrently with the powers of the Directors in that regard and the Directors may from time to time withdraw, revoke or vary all or any of such powers.

DIRECTORS' DISCLOSURE OF INTEREST

34 Contracts with Directors

- 34.1 A Director and any firm, body or entity in which a Director has a direct or indirect material interest may in any capacity:
- (1) enter into any contract or arrangement with the Company; and
 - (2) act in a professional capacity, other than as auditor, for the Company
- and any Director or firm, body or entity so contracting or being so interested is not liable to account to the Company for any profit realised by any such contract or arrangement by reason only of the Director holding that office or of the fiduciary relationship established by the Director holding that office.
- 34.2 A Director must disclose their interest in accordance with the Corporations Act 2001 and the Secretary must record all declarations in the minutes of the relevant meeting.
- 34.3 The Board shall, at its absolute discretion, determine whether the interest of a Director is material.
- 34.4 Where such interest is material no payment or benefit shall be paid by the Company for such services other than for the recovery of fair and reasonable out of pocket expenses, unless the Board gives specific approval for such additional payments or benefits.
- 34.5 A Director's failure to make disclosure under this clause does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.
- 34.6 No Director shall vote as a Director in respect of any contract or arrangement in which a material interest of that Director is involved and if does purport to vote their vote shall not be counted.
- 34.7 A Director may not attest the affixing of the common seal to any document relating to a contract or arrangement or proposed contract or arrangement in which the Director has an interest.
- 34.8 A general notice given to the Board by a Director that the Director is an officer, a member of or otherwise interested in any specified corporation or firm stating the nature and the extent of the Director's interest in the corporation or firm shall, in relation to any matter involving the Company and that corporation or firm after the giving of the notice, be a sufficient disclosure of the Director's interest, provided that the extent of the interest is no greater at the time of first consideration of the relevant matter by the Directors than was stated in the notice.

PROCEEDINGS OF DIRECTORS

35 Meetings of Directors

- 35.1 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings and proceedings as they think fit.
- 35.2 A Director may at any time and the Secretary upon the request of a Director shall convene a meeting of Directors by giving at least 24 hours notice of the meeting to all Directors except a Director who the person convening the meeting reasonably believes to be outside Australia.
- 35.3 Notice of a meeting of Directors need not be in writing.
- 35.4 Without limiting the discretion of the Directors to regulate their meetings under this clause, a meeting of the Directors may with the consent of all Directors consist of a conference between Directors some or all of whom are in different places if each Director who participates is able:
- (1) to hear each of the other participating Directors addressing the meeting; and
 - (2) if the Director so wishes, to address each of the other participating Directors simultaneously
- whether directly, by conference telephone, video conferencing facility or any other form of communications equipment or by a combination of such methods. A meeting held in this way will be taken for the purposes of this Constitution to be held at the place where the largest group of participating Directors is assembled or, if no such group is readily identifiable, at the place where the chairperson of the meeting participates. Any Director may, by prior notice to the Secretary, indicate a wish to participate in a meeting in such manner. In this event, the Directors, if they all consent to the meeting

being held in the manner referred to in this clause shall procure that an appropriate conference facility is arranged at the expense of the Company. A Director who has consented to a meeting being held in the manner referred to in this clause may only withdraw their consent within a reasonable period before the meeting.

- 35.5 No Director may leave a conference held in accordance with clause 35.4 by disconnecting the Directors means of communication unless the Director has previously obtained the express consent of the chairperson of the meeting. A Director will be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone or other means of communication unless the Director has previously obtained the express consent of the chairperson to leave the conference.
- 35.6 All resolutions of the Directors passed at a meeting of Directors where a quorum is present but where notice of the meeting has not been given as required to each Director, or any act carried out pursuant to such resolution, shall, provided each Director to whom notice was not given subsequently agrees to waive the same, be as valid as if notice of the meeting had been duly given to all Directors.

36 Quorum

- 36.1 Until the Directors resolve to the contrary 3 Directors personally present (or in conference in accordance with clause 35.4) form a quorum and a quorum must be present at all times during the meeting. A Director who is disqualified from voting on a matter pursuant to clause 34 shall be counted in the quorum despite that disqualification.

37 Chairperson

- 37.1 The President shall, if present, preside as chairperson of every meeting of the Directors.
- 37.2 If a meeting of Directors is held and the President is not present within 10 minutes after the time appointed for the holding of the meeting or, if present, does not wish to chair the meeting, the Vice President shall preside as chairperson of the meeting or, if the Vice President is not present or is unwilling to act then the other Directors present must elect one of their number to be chairperson of the meeting.

38 Voting

- 38.1 A resolution of the Directors must be passed by a majority of votes of the Directors present at the meeting who vote on the resolution. A resolution passed by a majority of the votes cast by the Directors will for all purposes be taken to be a determination of the Directors.
- 38.2 Each Director shall have one vote.
- 38.3 In case of an equality of votes at a meeting of Directors, the chairperson has a casting vote in addition to the chairpersons deliberative vote.

39 Circular Resolutions by Directors

- 39.1 A resolution in writing signed by a majority of the Directors for the time being entitled to vote in relation to the resolution (not being less than a quorum) and stating that the signatories are in favour of the resolution will be as valid and effectual from the time it is signed by the last Director as if it had been passed at a duly convened meeting of Directors provided each Director has received 24 hours notice of the resolution.
- 39.2 A resolution in writing may consist of several documents in like form each signed by one or more Directors.
- 39.3 Every such resolution shall be deemed to have been passed on the day and at the time at which the document was last signed by a Director.
- 39.4 A facsimile transmission which is received by the Company and which purports to have been signed by a Director shall for the purposes of this clause be taken to be in writing and signed by that Director at the time of the receipt of the facsimile transmission by the Company in legible form.

40 Committee of Directors

- 40.1 The Directors may form and delegate any of their powers to a Committee consisting of such Directors as they think fit and may from time to time revoke such delegation.

- 40.2 A Committee must in exercise of the powers delegated to it conform to any directions and restrictions that may be imposed on it by the Directors. A power so exercised shall be taken to be exercised by the Directors.
- 40.3 The meetings and proceedings of any Committee consisting of more than one person will be governed by the provisions for regulating the meetings and proceedings of the Directors contained in this Constitution.
- 40.4 A minute of all the proceedings and decisions of every Committee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Directors are required by the Corporations Act 2001 and this Constitution to be made entered and signed.

41 Validation of Acts of Directors

- 41.1 All acts done:

- (1) at any meeting of the Directors; or
- (2) by a Committee; or
- (3) by any person acting as a Director,

shall, even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Director or person or that they or any of them were disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Director and had been entitled to vote.

MINUTES

42 Minutes

- 42.1 The Directors must cause minutes to be kept in accordance with the Corporations Act 2001 for the purposes of recording:
- (1) the names of the Directors present at each meeting of the Directors and of Directors present at each meeting of any Committee;
 - (2) all orders, resolutions and proceedings of general meetings and of meetings of Directors and of Committees;
 - (3) such matters as are required by the Corporations Act 2001 to be recorded in the record books of the Company including without limitation all declarations made or notices given by any Director of their interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.
- 42.2 Such minutes shall be signed by the chairperson of the meeting, or the chairperson of the next succeeding meeting and minutes which purport to be signed accordingly shall be received in evidence without any further proof as sufficient evidence that the matters and things recorded by such minutes actually took place or happened as recorded and of the regularity of such matters and things and that the same took place at a meeting duly convened and held.

SECRETARY

43 Appointment and Tenure

- 43.1 There must be at least one Secretary appointed by the Directors for a term and at remuneration and on conditions determined by the Directors. Such Secretary may be an honorary Secretary.
- 43.2 Any Secretary so appointed may be removed by the Directors.

EXECUTION OF DOCUMENTS

44 Execution of Documents

- 44.1 Without limiting the manner in which the Company may execute any contract, including as permitted under section 126 of the Corporations Act 2001, the Company may execute any agreement, deed or other document by:

- (1) two Directors signing the same; or
 - (2) one Director and one Secretary signing the same.
- 44.2 Nothing in this Constitution requires the Company to execute any agreement, deed or other document under common seal for the same to be effectively executed by the Company.

ACCOUNTS AND INSPECTION OF RECORDS

45 Accounts and Inspection

- 45.1 The Directors shall cause proper financial records to be kept and must distribute copies of the financial reports of the Company and a Director's report in accordance with the requirements of the Corporations Act 2001 and also from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Company or any of them will be open to the inspection of Members not being Directors.

NOTICES

46 Service of Notices

- 46.1 A notice may be given by the Company to any Member by:
- (1) serving it on the Member personally;
 - (2) sending it by post to the Member or leaving it at the Member's address shown in the Register or otherwise the address supplied by the Member to the Company for the giving of notices;
 - (3) facsimile to the facsimile number supplied by the Member to the Company for the giving of notices; or
 - (4) sending it to the electronic address supplied by the Member to the Company for the giving of notices.
- 46.2 Any Member who has not left at or sent to the Office the Member's place of address for inclusion in the Register as the place at which notices may be given to the Member shall not be entitled to receive any notice.
- 46.3 Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and shall be deemed to have been effected on the day after the date of posting. Service of a notice to a Member outside Australia shall be deemed to have been made in the ordinary course of the post.
- 46.4 Where a notice is sent by facsimile or other electronic means, service of the notice shall be taken to be effected by properly addressing and sending the notice and in such case shall be taken to have been effected on the business day after it is sent.
- 46.5 A notice may be given by the Company to the persons entitled to a share in consequence of the death, lunacy or bankruptcy of a Member by:
- (1) service on the Member personally;
 - (2) sending it by post addressed to the person by name or by the title of the representative of the deceased or lunatic or the assignee of the bankrupt or by any like description at the address, if any, within Australia supplied for the purpose by the person claiming to be entitled;
 - (3) by giving the notice in any manner in which the same might have been given if the death, lunacy or bankruptcy had not occurred.
- 46.6 Evidence of service of a notice may be established by proving that the envelope containing the notice and stamped appropriately was properly posted and a certificate given by any Officer of the Company to that effect shall be conclusive evidence of service.

47 Notices of General Meeting

- 47.1 Subject to clause 46.2, notice of every general meeting must be given in any manner authorised by this Constitution to:
- (1) every Member; and
 - (2) the auditor (if any) for the time being of the Company.

WINDING UP

48 Winding Up

48.1 If the Company is wound up:

- (1) each Member; and
- (2) each person who ceased to be a Member in the preceding year

undertakes to contribute to the property of the Company for the:

- (3) payment of the debts and liabilities of the Company (but in relation to those persons referred to in paragraph (2) above, only those contracted before the person ceased to be a Member) and payment of the costs, charges and expenses of winding up; and
 - (4) adjustment of the rights of the contributories amongst themselves,
- such amount as may be required but not exceeding \$1.00.

48.2 If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another institution or corporation which has:

- (1) objects which are similar to the objects of the Company as set out in clause 3.1;
- (2) a constitution which requires its income and property to be applied in promoting its objects; and
- (3) a constitution which prohibits it from paying or distributing its income and property amongst its Members to an extent at least as great as imposed on the Company by clause 3.4.

The identity of the corporation or institution is to be determined by the Members at or before the time of dissolution and failing such determination being made, by application to the Supreme Court for determination.

INDEMNITY

49 Indemnity

49.1 To the extent permitted by law every Officer (and former Officer) of the Company shall be indemnified out of the funds of the Company against all costs, expenses and liabilities incurred as such an Officer or employee (or former Officer or employee). However, no such Officer (or former Officer) shall be indemnified out of the funds of the Company under this clause unless:

- (1) it is in respect of a liability to another person (other than the Company or a related body corporate to the Company) where the liability to the other person does not arise out of conduct involving a lack of good faith; or
- (2) it is in respect of a liability for costs and expenses incurred:
 - (a) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the Officer (or former Officer) or in which the Officer (or former Officer) is acquitted; or
 - (b) in connection with an application, in relation to such proceedings, in which the court grants relief to the Officer (or former Officer) under the Corporations Act 2001.

50 Payment of Indemnity Policy Premium

50.1 To the extent permitted by law the Company may at the discretion of the Directors enter into and/or pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Company against any liability incurred by such person in that capacity (whether in respect of acts or omissions prior to or after the date of the issue of the policy or both) except for:

- (1) a liability arising out of conduct involving a wilful breach of duty in relation to the Company; or
- (2) a contravention of sections 232(5) or (6) of the Corporations Act 2001.

The Directors shall have the discretion to approve the terms and conditions of any such policy of insurance.

- 50.2 Where an Officer (or former Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of the Officers actions or omissions then the Company shall not be required to indemnify the Officer under clause 49 except to the extent that the indemnity affected by the insurance policy does not fully cover the persons liability.

51 Indemnity to Continue


- 51.1 The indemnity granted by the Company contained in clause 49 shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring prior to the date of the deletion or modification.

We the persons whose full names and addresses are set out below and who consent to becoming a Member of the Company agree to the form of the Constitution set out above.


We, being the members of KAIZEN CULTURE LTD hereby agree to the terms of the Constitution.



.....
Nathan Harris Blockley



.....
Jonathon Mathew Denis Staynor



.....
Mitchell Joseph Durham

Dated 2 June 2023