

# Constitution

Gladstone Industry Leadership Group Ltd

ACN 134 474 614

A company limited by guarantee

# Constitution of Gladstone Industry Leadership Group Ltd

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|   |           |
|---|-----------|
| <b>(i) Preliminary</b>                      | <b>5</b>  |
| 1. Defined terms & interpretation           | 5         |
| <b>(ii) Objects</b>                         | <b>6</b>  |
| 2. Objects                                  | 6         |
| <b>(iii) Income and property of Company</b> | <b>7</b>  |
| 3. Income and property of Company           | 7         |
| <b>(iv) Membership</b>                      | <b>7</b>  |
| 4. Classes of Membership and Fees           | 7         |
| 5. Admission                                | 8         |
| 6. Ceasing to be a Member                   | 9         |
| 7. Powers of attorney                       | 9         |
| 8. Representatives                          | 10        |
| <b>(v) General meetings</b>                 | <b>10</b> |
| 9. Calling general meeting                  | 10        |
| 10. Notice of general meeting               | 11        |
| <b>(vi) Proceedings at general meetings</b> | <b>12</b> |
| 11. Member                                  | 12        |
| 12. Quorum                                  | 12        |
| 13. Chairperson                             | 12        |
| 14. Adjournment                             | 13        |
| 15. Decision on questions                   | 13        |
| 16. Taking a poll                           | 14        |

|  |           |
|--|-----------|
| <b>(vii) Votes of Members</b>                      | <b>14</b> |
| 17. Voting rights                                  | 14        |
| 18. Objections                                     | 14        |
| 19. Votes by proxy                                 | 15        |
| 20. Document appointing proxy                      | 15        |
| 21. Lodgment of proxy                              | 16        |
| 22. Validity                                       | 16        |
| <b>(viii) Appointment and removal of Directors</b> | <b>16</b> |
| 23. Number of Directors                            | 16        |
| 24. Appointment of Directors                       | 16        |
| 25. Retirement                                     | 17        |
| 26. Nomination of Director                         | 18        |
| 27. Vacation of office                             | 18        |
| 28. Chairperson                                    | 18        |
| <b>(ix) Powers and duties of Directors</b>         | <b>19</b> |
| 29. Directors to manage Company                    | 19        |
| <b>(x) Remuneration of Directors</b>               | <b>19</b> |
| 30. Remuneration of Non-Executive Directors        | 19        |
| 31. Remuneration of Executive Directors            | 20        |
| <b>(xi) Proceedings of Directors</b>               | <b>20</b> |
| 32. Directors' meetings                            | 20        |
| 33. Decision on questions                          | 21        |
| 34. Directors' interests                           | 21        |
| 35. Remaining Directors                            | 23        |
| 36. Committees                                     | 23        |
| 37. Delegation                                     | 23        |
| 38. Written resolutions                            | 24        |
| 39. Validity of acts of Directors                  | 24        |
| 40. Minutes and Registers                          | 24        |

|   |           |
|---|-----------|
| <b>(xii) Management</b>                           | <b>25</b> |
| 41. Local management                              | 25        |
| 42. Appointment of attorneys and agents           | 25        |
| <b>(xiii) Chief Executive Officer</b>             | <b>26</b> |
| 43. Chief Executive Officer                       | 26        |
| <b>(xiv) Secretary</b>                            | <b>26</b> |
| 44. Secretary                                     | 26        |
| <b>(xv) Seals</b>                                 | <b>27</b> |
| 45. Common Seal                                   | 27        |
| 46. Duplicate Seal                                | 27        |
| <b>(xvi) Audit and accounts</b>                   | <b>27</b> |
| 47. Audit and accounts                            | 27        |
| <b>(xvii) Inspection of records</b>               | <b>27</b> |
| 48. Inspection of records                         | 27        |
| <b>(xviii) Notices</b>                            | <b>28</b> |
| 49. Service of notices                            | 28        |
| 50. Persons entitled to notice                    | 28        |
| <b>(xix) Winding up</b>                           | <b>29</b> |
| 51. Winding up                                    | 29        |
| <b>(xx) Indemnity</b>                             | <b>29</b> |
| 52. Indemnity                                     | 29        |
| <b>Schedule 1 - Company details</b>               | <b>31</b> |
| <b>Schedule 2 – Membership Criteria</b>           | <b>32</b> |
| <b>Schedule 3 - Full Members on Incorporation</b> | <b>33</b> |

## (i) Preliminary

### 1. Defined terms & interpretation

1.1 In this Constitution unless the contrary intention appears:

**Advisory Committee** has the meaning given in clause 36.1(b).

**Auditor** means the Company's auditor.

**Board Committee** has the meaning given in clause 36.1(a).

**CEO** means the chief executive officer of the Company, appointed pursuant to clause 43.1.

**Chairperson** means the person appointed as Chairperson pursuant to clause 28.

**Company** means the name of the company as specified in item 1 of Schedule 1.

**Constitution** means the constitution of the Company as amended from time to time.

**Corporations Act** means the *Corporations Act 2001* (Cth) as modified or amended from time to time.

**Deputy Chairperson** means the person appointed as Deputy Chairperson pursuant to clause 28.4.

**Director** includes any person occupying the position of director of the Company.

**Directors** mean all or some of the Directors acting as a board.

**Executive Director** means a Director who is an employee of the Company, including the CEO.

**Financial Year** means a 12 month period ending on 30 June.

**GILG** means Gladstone Industry Leadership Group Ltd

**Member** means a member under clause 4.

**Membership Criteria** means the membership criteria as specified in Schedule 2.

**Non-Executive Director** means a Director who is not an Executive Director.

**Office** means the Company's registered office.

**Register** means the register of Members of the Company.

**Registered Address** means the last known address of a Member as noted in the Register.

**Representative** means a person appointed as such under clause 8.

**Seal** means the Company's common seal (if any).

**Secretary** means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of such joint secretaries.

- 1.2 In this Constitution, unless the contrary intention appears:
- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
  - (b) words importing natural persons include corporations;
  - (c) words and expressions defined in the Corporations Act have the same meaning in this Constitution; and
  - (d) headings are for ease of reference only and do not affect the construction of this Constitution.
- 1.3 Unless the contrary intention appears in this Constitution, an expression in a clause of this Constitution has the same meaning as in a provision of the Corporations Act that deals with the same matter as the clause.
- 1.4 To the extent permitted by law, the replaceable rules in the Corporations Act do not apply to the Company.

## (ii) Objects

### 2. Objects

- 2.1 The objects for which the Company is established are to be a non-profit sustainable resource development organisation to:
- (a) Promote the sustainable development of Australian industrial resources in the Gladstone region
  - (b) Enhance health, safety & environmental performance and community wellbeing to make the Gladstone region a desirable location to live, work and raise a family
  - (c) Enable community input and access to industrial resource planning and operations in the Gladstone region
  - (d) Promote high standards of business ethics and sustainable work practices in industries operating in or planned for the Gladstone region
  - (e) Increase 'corporate citizenship', including involvement in partnerships, contributing to the development of physical and community infrastructure and greater reporting and monitoring through the use of environmental and social scorecards
  - (f) Investigate synergistic areas of common interest, especially with regard to health and safety and labour force recruitment as well as sustainable resource use and waste recovery, for the Gladstone region's industries

- (g) Ensure industry is responsive to emerging sustainability requirements
  - (h) Commission research and reports on areas of interest to Members and to present relevant findings to the local community, government and other bodies to support the responsible development of industries in the Gladstone region
  - (i) Be part of new ways of thinking and acting regionally, by participating in planning for the whole Gladstone region and through consulting with affected residents and people
- 2.2 The Company may only exercise the powers in section 124(1)<sup>1</sup> of the Corporations Act to:
- (a) carry out the objects in this clause 2; and
  - (b) do all things incidental or convenient in relation to the exercise of power under clause 2.2(a).

### (iii) Income and property of Company

#### 3. Income and property of Company

- 3.1 The assets and income of the organization shall be applied solely in furtherance of its above-mentioned objects and no portion shall be distributed directly or indirectly to the Members of the organization except as bona fide compensation for services rendered or expenses incurred on behalf of the organization.
- 3.2 No income or property will be paid or transferred directly or indirectly to any Member of the Company except for payments to a Member:
- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
  - (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.

### (iv) Membership

#### 4. Classes of Membership and Fees

- 4.1 Membership of the Company consists of:
- (a) Full Members admitted to the Company under clause 5, who must be one of the major industrial organisations operating in the Gladstone region;

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<sup>1</sup> Section 124(1) lists the powers of a company, including all powers of an individual and of a body corporate.

- (b) Infrastructure Members admitted to the Company under clause 5, who must be an infrastructure organisation operating in the Gladstone region and providing support services to Full Members;
  - (c) Associate Members who can be any other organisation operating in the Gladstone region who are not eligible to be Full or Infrastructure Members but have an interest in the objects of the Company.
- 4.2 A Joining Fee is the amount decided by the Full Members from time to time at a General Meeting and payable upon application for Full Membership. A Joining Fee does not apply to applications for Infrastructure or Associate Membership. In the event of a membership application being rejected by the Board, any Joining Fee already paid is refundable upon notification of the application rejection.
- 4.3 The Annual Subscription fee and method of calculation for each Full Member is the amount decided by the Full Members from time to time at a General Meeting. A method of calculation of subscriptions that would result in each Full Member not paying the same total of subscription may be adopted by Full Members provided that the same method of calculation is used for all Full Members within that membership class.
- 4.4 The Annual Subscription fee for each Infrastructure or Associate membership is a fixed amount for each of these membership classes decided by the Full Members from time to time at a General Meeting.
- 4.5 Each Member shall pay annually on or before 1 July or such other date (the due date) determined by the Board from time to time the subscriptions determined in Clauses 4.3 and 4.4.
- 4.6 Special Levies and their method of calculation for each Full Member is the amount decided by the Full Members from time to time at a General Meeting. A method of calculation of Special Levies that would result in each Member not paying the same total of Special Levy may be adopted by Members provided that the same method of calculation is used for all Members within that membership class
- 4.7 Each Member shall pay on such date (the due date) determined by the Board time to time the Special Levies determined in Clause 4.6.
- 4.8 A Member is a financial member if all applicable Joining Fees, Annual Subscriptions and Special Levies have been paid by the due date.

## 5. Admission

- 5.1 The number of Members is unlimited.
- 5.2 The Members of the Company are:
- (a) the persons who consented to become Full Members in the application for registration of the Company; and
  - (b) any Member subsequently admitted to Membership in accordance with this clause 5.

- 5.3 Applications for Membership of the Company must be made in writing, be proposed by a Full Member of the Company (the proposer) and seconded by another Full Member of the Company (the seconder).
- 5.4 Applications for Membership must be
- (a) in writing;
  - (b) signed by the applicant, proposer and seconder;
  - (c) in the form determined by the Board; and
  - (d) accompanied by the appropriate joining fee, annual subscription and special levies determined in Clause 4.
- 5.5 Applicants for Membership of the Company must satisfy the Membership Criteria as specified in Schedule 2 and varied from time to time by the Full Members at a General Meeting.
- 5.6 The Directors at their sole discretion will consider each application for Membership at the next Directors' meeting after the correctly completed application is received.
- 5.7 As soon as practicable following acceptance or rejection of an application for Membership, the Secretary will send the applicant written notice of such acceptance or rejection. An applicant for Membership becomes a Member upon such acceptance.
- 5.8 The rights and privileges of every Member are personal to each Member and are not transferable by the Member's own act or by operation of law.

## **6. Ceasing to be a Member**

- 6.1 A Member's Membership of the Company will cease:
- (a) if the Member gives the Secretary written notice of resignation, from the date of receipt of that notice by the Secretary;
  - (b) if the Member fails to pay a subscription or special levy within 3 months of the due date for payment;
  - (c) if a liquidator is appointed in connection with the winding-up of the Member; or
  - (d) if an order is made by a Court for the winding-up or deregistration of the Member.
- 6.2 Any Member ceasing to be a Member will remain liable for and will pay to the Company any moneys which were due to the Company at the date of ceasing to be a Member.

## **7. Powers of attorney**

- 7.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the Attorney to the Company for noting.

- 7.2 If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- 7.3 The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

## 8. Representatives

- 8.1 Any Member may by written notice to the Secretary:
- (a) appoint a natural person to act as its Representative in all matters connected with the Company as permitted by the Corporations Act; and
  - (b) remove a Representative.
- 8.2 A Representative is entitled to:
- (a) exercise at a general meeting all the powers which the Member that appointed him or her could exercise if it were a natural person;
  - (b) stand for election as an office bearer or Director<sup>2</sup>; and
  - (c) be counted towards a quorum on the basis that the Member is to be considered personally present at a general meeting by its Representative.
- 8.3 A certificate executed in accordance with section 127 of the Corporations Act is rebuttable evidence of the appointment or of the removal of the appointment (as appropriate) of the Representative.
- 8.4 The chairperson of a general meeting may allow a Representative to vote on the condition that he or she subsequently establishes his or her status as a Representative within a period prescribed by and to the satisfaction of the chairperson of the general meeting.
- 8.5 The appointment of a Representative may set out restrictions on the Representative's powers.

## (v) General meetings

### 9. Calling general meeting

- 9.1 The Directors may, at any time, call a general meeting.<sup>3</sup>
- 9.2 A Member may:<sup>4</sup>

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<sup>2</sup> If the Representative is elected as a Director it might be prudent for the individual to cease being a party's representative

<sup>3</sup> The first annual general meeting of the Company must be held within 18 months after the incorporation of the Company (section 250N(1) of *Corporations Act 2001*). The Company must hold an annual general meeting once each calendar year and within 5 months after the end of its financial year (section 250N(2) of *Corporations Act 2001*).

- (a) only request the Directors to call a general meeting in accordance with section 249D of the Corporations Act; and
- (b) not request or call and arrange to hold a general meeting except under section 249E or 249F of the Corporations Act.

## 10. Notice of general meeting

- 10.1 Subject to the provisions of the Corporations Act allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to all Members and other persons referred to in clause 50.1 of any general meeting.
- 10.2 A notice calling a general meeting:
- (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
  - (b) must state the general nature of the business to be transacted at the meeting; and
  - (c) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.
- 10.3 The business to be transacted at an annual general meeting may, regardless of whether stated in the notice, include:
- (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
  - (b) the election of directors; or
  - (c) the appointment and fixing of the remuneration of the Auditor.
- 10.4 The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 9.2).
- 10.5 The Directors must give notice to all Members and other persons referred to in clause 50.1 of:
- (a) the postponement or cancellation of a general meeting;
  - (b) the place, date and time of any new meeting.
- 10.6 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or other person referred to in clause 50.1 or the non-receipt of a notice (or form) by any Member or other person referred to in clause 50.1 does not invalidate the proceedings at or any resolution passed at the general meeting.

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<sup>4</sup> Sections 249D, 249E and 249F set out the rights of company members in relation to calling general meetings, including the right of members with 5% of the voting rights to call general meetings. Sections 249N, 249O and 249P set out the rights of members to put resolutions to general meetings, including the right of members with 5% of the voting rights.

## (vi) Proceedings at general meetings

### 11. Member

In clauses 12 (Quorum), 13 (Chairperson), 15 (Decision on questions) and 17 (Voting rights), **member** includes a member present in person or by proxy, attorney or Representative.

### 12. Quorum

12.1 No business may be transacted at a general meeting unless a quorum of members is present when the meeting proceeds to business.

12.2 A quorum of members is the majority of Full Members for the time being.

12.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:

- (a) if the general meeting was called on the requisition of Members, it is automatically dissolved; or
- (b) in any other case:
  - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
  - (ii) if at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting, the general meeting is automatically dissolved.

### 13. Chairperson

13.1 The Chairperson, or in the Chairperson's absence the Deputy Chairperson, will be the chairperson at every general meeting.

13.2 The Directors present may elect a chairperson of a general meeting if:

- (a) there is no Chairperson or Deputy Chairperson; or
- (b) neither the Chairperson nor Deputy Chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
- (c) the Chairperson and Deputy Chairperson are unwilling to act as chairperson of the general meeting.

13.3 If no election is made under clause 13.2, then:

- (a) the members may elect one of the Directors present as chairperson of the general meeting; or

- (b) if no Director is present or is willing to take the chair, the members may elect one of the members present as chairperson of the general meeting.

## 14. Adjournment

- 14.1 The chairperson of a general meeting at which a quorum is present:
  - (a) in his or her discretion may adjourn the general meeting with the meeting's consent; and
  - (b) must adjourn the general meeting if the meeting directs him or her to do so.
- 14.2 An adjourned general meeting may take place at a different venue to the initial general meeting.
- 14.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.
- 14.4 Notice of an adjourned general meeting must only be given in accordance with clause 10.1 if a general meeting has been adjourned for more than 21 days.

## 15. Decision on questions

- 15.1 Subject to the Corporations Act in relation to special resolutions and clause 15.2, a resolution is carried at a general meeting if a majority of the votes cast on the resolution are in favour of the resolution.
- 15.2 Special Resolutions must be referred to the Full Members and, in order to be carried, require a 75%<sup>5</sup> majority of votes cast by eligible members to be in favour.
- 15.3 The chairperson of a general meeting does not have a casting vote at general meetings in addition to the chairperson's votes as a member, proxy, attorney or Representative.
- 15.4 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded by any member or the chairperson of the meeting.
- 15.5 A poll may be demanded before a vote is taken or before or after the voting results on a show of hands are declared.
- 15.6 Unless a poll is demanded:
  - (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
  - (b) an entry to that effect in the minutes of the meeting,are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

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<sup>5</sup> A majority of 75% is the required majority for special resolutions under the Corporations Act (such as alteration of the Constitution).

- 15.7 The demand for a poll may be withdrawn.
- 15.8 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the general meeting was not entitled to do so.
- 15.9 If there is a dispute at a general meeting about a question of procedure, the chairperson of the general meeting may determine the question.

## 16. Taking a poll

- 16.1 A poll will be taken when and in the manner that the chairperson of the general meeting directs.
- 16.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.
- 16.3 The chairperson of a general meeting may determine any dispute about the admission or rejection of a vote on a poll.
- 16.4 The chairperson's determination, if made in good faith, will be final and conclusive.
- 16.5 A poll demanded on the election of the chairperson or the adjournment of a general meeting must be taken immediately.
- 16.6 After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

## (vii) Votes of Members

### 17. Voting rights

- 17.1 A Full Member is entitled to attend and vote at a general meeting if the Full Member is a financial member under clause 4.8 at the date of the meeting.
- 17.2 A Full Member is entitled to vote subject to clause 18.
- 17.3 A Member other than a Full Member is not entitled to attend or vote at a general meeting.

### 18. Objections

- 18.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.
- 18.2 An objection must be referred to the chairperson of the general meeting, whose decision is final.
- 18.3 A vote which the chairperson does not disallow because of an objection is valid for all purposes.

## 19. Votes by proxy

- 19.1 If a Member appoints a proxy or an attorney, the proxy or attorney may not vote on a show of hands.
- 19.2 A proxy need not be a Member.
- 19.3 A proxy may demand or join in demanding a poll.
- 19.4 A proxy or attorney may vote on a poll.
- 19.5 A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If a proxy votes at all, the proxy will be deemed to have voted all directed proxies in the manner directed.

## 20. Document appointing proxy

- 20.1 An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the information required by section 250A(1) of the Corporations Act. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required by section 250A(1) of the Corporations Act.
- 20.2 For the purposes of clause 20.1, an appointment received at an electronic address will be taken to be signed by the Member if:
  - (a) a personal identification code allocated by the Company to the Member has been included with the appointment; or
  - (b) the appointment has been verified in another manner approved by the Directors.
- 20.3 A proxy's appointment is valid at an adjourned general meeting.
- 20.4 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.
- 20.5 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:
  - (a) to vote on:
    - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
    - (ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting,  
even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
  - (b) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.

- 20.6 If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either cast as proxy or complete the appointment by inserting the name or names of one or more Directors.

## 21. Lodgment of proxy

- 21.1 The written appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
- (a) the time for holding the general meeting or adjourned general meeting at which the appointee is intended to vote; or
  - (b) the taking of a poll on which the appointee is intended to vote.
- 21.2 The Company receives an appointment of a proxy or attorney and any power of attorney or other authority under which the appointment was executed when they are received at:
- (a) the Office;
  - (b) a facsimile number at the Office; or
  - (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

## 22. Validity

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became mentally incapacitated; or
- (c) revoked the proxy or power,

unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant general meeting or adjourned general meeting.

## (viii) Appointment and removal of Directors

### 23. Number of Directors

The number of Directors is listed in Item 2 of Schedule 3.

### 24. Appointment of Directors

- 24.1 The initial Directors of the Company are the persons who have consented to act as directors and are set out in the Company's application for registration as a Company. Those persons hold office subject to the Constitution.

All Directors, other than the initial Directors and the CEO, must be appointed by the Full Members by election at a general meeting.<sup>6</sup>

- 24.2 Except for the CEO, to be eligible for appointment as a Director a person must be a full time employee of a Member company and have operational responsibility for that Member company.
- 24.3 The CEO (not including any person acting in that position temporarily) will be a Director for the period of his or her appointment as CEO, subject to clause 27.
- 24.4 An election must be conducted at each annual general meeting at which a Director is scheduled to retire.
- 24.5 In the case of a casual vacancy, an election will be held at the next general meeting following the vacancy arising or, if the Company would not have time to comply with clause 26.3 for that meeting, at the next general meeting for which the Company is able to comply.
- 24.6 The election result must be declared by the Company at the general meeting and the appointment will take effect at the end of the meeting.
- 24.7 Subject to clause 24.8, each election will be decided by majority vote of eligible voting Full Members on a preferential basis.
- 24.8 The Full Members may resolve to postpone an election of Directors until a later general meeting and the Company may call for additional nominations prior to that later meeting.
- 24.9 Voting rights for Full Members for election of Directors are the same as for any other resolutions at general meetings.

## 25. Retirement<sup>7</sup>

- 25.1 Subject to clause 25.3, at the close of every annual general meeting (not including the Company's first annual general meeting), one-half of the Directors (not including the CEO) or, if their number is not a multiple of two, then the number nearest to but not more than one-half of the Directors (not including the CEO), must retire.
- 25.2 The Directors to retire by rotation at an annual general meeting are those Directors who have been longest in office since their last appointment (not including the CEO). Directors appointed on the same day may agree among themselves or determine by lot which of them must retire.
- 25.3 A Director (other than the CEO and the Chairperson) must retire from office at the conclusion of the second annual general meeting after the Director was last appointed,

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<sup>6</sup> There is no provision in this constitution for the Directors to appoint alternates.

<sup>7</sup> This clause assumes a term of appointment of two years, hence the rotation of at least one-half of the directors every two years (may be more than one-half if, for example, there are an odd number of Directors).

even if his or her retirement results in more than one-half of all Directors retiring from office.

- 25.4 A retiring Director remains in office until the end of the relevant meeting and will be eligible for re-appointment at the meeting.

## 26. Nomination of Director

- 26.1 A person other than a retiring Director is not eligible for election as a Director at a general meeting unless a written notice has been left at the Office :

- (a) stating that the Member nominates the person for election as a Director;
- (b) stating that the person consents to the nomination; and
- (c) signed by the proposing Member and the nominated person.

- 26.2 A notice given in accordance with clause 26.1 must be left at the Office at least 14 days before the relevant general meeting.

- 26.3 A written notice referring to all Director vacancies and each candidate for election, must be sent to all Members at least seven days before every general meeting at which an election of a Director will take place.

## 27. Vacation of office

The office of a Director immediately becomes vacant if the Director:

- (a) is prohibited by the Corporations Act or other legislation from holding office or continuing as a Director;
- (b) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it;
- (c) resigns by notice in writing to the Company;
- (d) is removed by a resolution of the Company in general meeting;
- (e) 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;
- (f) is an employee or officer of a Member that ceases to be a Member; or
- (g) was nominated to be elected as a Director by a Member that ceases to be a Member.

## 28. Chairperson

- 28.1 The Directors shall at the first Directors' meeting following each annual general meeting, elect by ordinary majority resolution a Director as Chairperson.

- 28.2 The Chairperson's term of office as Chairperson shall expire on the earlier to occur of the conclusion of the second annual general meeting after he or she was last elected as Chairperson or the expiry of the Chairperson's term of office as a Director where not re-elected as Director.
- 28.3 A retiring Chairperson is eligible for re-election as Chairperson.
- 28.4 The Directors may elect a Director as Deputy Chairperson to act as chairperson in the Chairperson's absence.
- 28.5 The Directors present may elect a chairperson of a Directors' meeting if:
- (a) there is no Chairperson or Deputy Chairperson; or
  - (b) neither the Chairperson nor Deputy Chairperson is present within 15 minutes after the time appointed for holding the Directors' meeting; or
  - (c) the Chairperson and Deputy Chairperson are unwilling to act as chairperson of the Directors' meeting.

## **(ix) Powers and duties of Directors**

### **29. Directors to manage Company**

- 29.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the Corporations Act do not require to be exercised by the Company in general meeting.
- 29.2 Every Director and other agent or officer of the Company must:
- (a) keep secret all aspects of all transactions of the Company, except:
    - (i) to the extent necessary to enable the person to perform his or her duties to the Company;
    - (ii) as required by law;
    - (iii) where authorised pursuant to clause 34.8; and
    - (iv) when requested by the Directors to disclose information, to the auditors of the Company or a general meeting of the Company; and
  - (b) if requested by the Directors, sign and make a declaration that he or she will not disclose or publish any aspect of any transaction of the Company.

## **(x) Remuneration of Directors**

### **30. Remuneration of Non-Executive Directors**

- 30.1 The Non-Executive Directors may be paid or provided remuneration for their services as Directors, provided that:

- (a) the total amount or value of remuneration to all Non-Executive Directors must not exceed an aggregate maximum amount determined by the Company in general meeting; and
  - (b) if no maximum amount has been determined by the Company in general meeting, then the Non-Executive Directors may not be paid remuneration for their services as Directors.
- 30.2 The aggregate sum to be paid under clause 30.1 will be divided among the Non-Executive Directors in such proportion and manner as the Company in general meeting may determine or, if not so determined, as the Directors agree or, in default of agreement, equally and shall be deemed to accrue from day to day.
- 30.3 A Non-Executive Director may be paid for any service rendered to the Company by the Non-Executive 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 payment for the service.
- 30.4 Non-Executive Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any Board Committee or Advisory Committee or general meetings of the Company or otherwise in connection with the Company's business.
- 30.5 The Company may also pay a premium for a contract insuring a person who is or has been a Non-Executive Director against liability incurred by the person as a Director, except in circumstances prohibited by the Corporations Act.

## **31. Remuneration of Executive Directors**

- 31.1 The Directors may appoint a Director to any full-time or substantially full-time executive position in the Company, including as CEO, on such terms as they think fit.
- 31.2 The remuneration of an Executive Director from time to time will be fixed by the Directors.
- 31.3 The Company may reimburse an Executive Director for his or her expenses properly incurred as a Director or in the course of his or her office.
- 31.4 Except in circumstances prohibited by the Corporations Act, the Company may pay a premium for a contract insuring a person who is or has been an Executive Director against liability incurred by the person as a Director.

## **(xi) Proceedings of Directors**

### **32. Directors' meetings**

- 32.1 A Director may at any time, and the Secretary must on the request of a Director, call a Directors' meeting.

- 32.2 A Directors' meeting must be called on at least 48 hours notice of a meeting to each Director.
- 32.3 Subject to the Corporations Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- 32.4 The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- 32.5 Subject to clause 34, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 32.6 The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 32.7 A quorum is a majority of Directors for the time being or three Directors, whichever is higher.
- 32.8 Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson of the meeting of Directors may call a general meeting to deal with the matter.
- 32.9 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.
- 32.10 Directors must be present at a minimum of 75% of Directors meetings held annually.

### **33. Decision on questions**

- 33.1 Subject to this Constitution (including clause 15.2 and clause 38), questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to clause 34, each Director has one vote.
- 33.2 If there is an equality of votes, the chairperson of a meeting of Directors will have a casting vote in addition to his or her deliberative vote.

### **34. Directors' interests**

- 34.1 No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 34.2 No Director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 34.3 A Director is not disqualified merely because of being a Director from contracting with the Company in any respect.

- 34.4 A Director or a body or entity in which a Director has a direct or indirect interest may:
- (a) enter into any agreement or arrangement with the Company;
  - (b) hold any office or place of profit other than as auditor in the Company; and
  - (c) act in a professional capacity other than as auditor for the Company,
- and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.
- 34.5 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
- (a) be present while the matter is being considered at the meeting; or
  - (b) vote on the matter,
- unless permitted by the Corporations Act to do so, in which case the Director may:
- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
  - (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
  - (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- 34.6 A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.
- 34.7 Without limiting his or her other obligations, a Director who is an employee, board member or contractor of a Member that has a material financial interest in a matter that is being considered at a Directors' meeting must not:
- (a) be present while the matter is being considered at the meeting; or
  - (b) vote on the matter,
- unless the other Directors resolve otherwise.
- 34.8 A Director who is an employee or board member of a Member may disclose to that Member any information (confidential or otherwise) about the affairs, finances and accounts of the Company that comes into the Director's possession from time to time, subject to requiring the Member to maintain the confidentiality of any confidential information. This right will not apply if:

- (a) the exercise of such a right is inconsistent with this Constitution or the Director's fiduciary or other legal duties; and
- (b) the Board has directed that such information not be disclosed to the relevant Member.

## 35. Remaining Directors

- 35.1 The Directors may act even if there are vacancies on the board.
- 35.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to call a general meeting.

## 36. Committees

- 36.1 The Directors may establish either or both of the following:
  - (a) committees with powers delegated by the Directors (**Board Committees**); and
  - (b) advisory committees, with no delegated powers, to advise the Directors on specified matters (**Advisory Committees**).
- 36.2 Board Committee members and Advisory Committee members will be appointed by the Directors.
- 36.3 At least one Member of each Board Committee must be a Director.<sup>8</sup>
- 36.4 Meetings of any Board Committee or Advisory Committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each Board Committee or Advisory Committee member was a Director.
- 36.5 Clause 38 regarding written resolutions applies to resolutions of Board Committees and Advisory Committees as if each Board Committee or Advisory Committee member was a Director.

## 37. Delegation

- 37.1 The Directors may, upon any terms and conditions or restrictions as they see fit, delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to:
  - (a) a Board Committee;
  - (b) a Director;
  - (c) an employee of the Company; or
  - (d) any other person.

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<sup>8</sup> There are sound governance reasons for Board Committees to comprise a majority of directors.

- 37.2 A Board Committee to which, or person to whom, any powers have been delegated must exercise their powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.
- 37.3 A Board Committee to which, or person to whom, any powers have been delegated may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- 37.4 The Directors may at any time revoke any delegation of power.

## 38. Written resolutions

- 38.1 The Directors may pass a resolution without a Director's meeting being held if all the Directors 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. The resolution is passed when the last Director signs.
- 38.2 For the purposes of clause 38.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 38.3 Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- 38.4 The minutes of Directors' meetings must record that a meeting was held in accordance with this clause 38.

## 39. Validity of acts of Directors

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director; or
- (b) any of the circumstances specified in clause 27 applied to a person appointed as a Director,

all acts of the Directors before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

## 40. Minutes and Registers

- 40.1 The Directors must cause minutes to be made of:
- (a) the names of the Directors present at all Directors' meetings and meetings of Board Committees;
  - (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Board Committees;
  - (c) all resolutions passed by Directors in accordance with clause 38;
  - (d) all appointments of officers;
  - (e) all orders made by the Directors and Board Committees; and

- (f) all disclosures of interests made under clause 34.
- 40.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.
- 40.3 The Company must keep all registers required by this Constitution and the Corporations Act.

## **(xii) Management**

### **41. Local management**

- 41.1 The Directors may provide for the management and transaction of the affairs of the Company in any places and in such manner as they think fit.
- 41.2 Without limiting clause 41.1 the Directors may:
  - (a) establish local boards or agencies for managing any of the affairs of the Company in a specified place and appoint any persons to be Members of those local boards or agencies; and
  - (b) delegate to any person appointed under clause 41.2(a) any of the powers, authorities and discretions which may be exercised by the Directors under this Constitution,  
  
on any terms and subject to any conditions determined by the Directors.
- 41.3 The Directors may at any time revoke or vary any delegation under this clause 41.

### **42. Appointment of attorneys and agents**

- 42.1 The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint any person to be the attorney or agent of the Company:
  - (a) for the purposes;
  - (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
  - (c) for the period; and
  - (d) subject to the conditions,  
  
determined by the Directors.
- 42.2 An appointment by the Directors of an attorney or agent of the Company may be made in favour of:
  - (a) any member of any local board established under this Constitution;
  - (b) any company;
  - (c) the members, directors, nominees or managers of any company or firm; or

- (d) any fluctuating body of persons whether nominated directly or indirectly by the Directors.
- 42.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- 42.4 The Directors may appoint attorneys or agents by facsimile transmission, telegraph or cable to act for and on behalf of the Company.
- 42.5 An attorney or agent appointed under this clause 42 may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

### (xiii) Chief Executive Officer

#### 43. Chief Executive Officer

- 43.1 The Directors may appoint any person, including a Director, to the position of CEO for the period and on the terms (including as to remuneration) that the Directors see fit.
- 43.2 The CEO will be a Director pursuant to clause 24.3.
- 43.3 In the event of the appointment of a Director as CEO, that Director will be regarded from the date of effect of appointment as a Director under clause 24.3 and a vacancy in the Directors will arise at that time.
- 43.4 The Company in general meeting may, pursuant to clause 27(d), remove the CEO from holding office as a Director, but may not remove the CEO from his or her position as CEO.

### (xiv) Secretary

#### 44. Secretary

- 44.1 There must be at least one secretary of the Company, appointed by the Directors for a term and at remuneration and on conditions determined by them.
- 44.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.
- 44.3 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.
- 44.4 If the CEO is appointed as Secretary, the CEO will not be entitled to any remuneration in addition to his or her remuneration as CEO.

## (xv) Seals

### 45. Common Seal

45.1 If the Company has a Seal:

- (a) the Directors must provide for the safe custody of the Seal;
- (b) the Seal must not be used without the authority of the Directors;
- (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign the document.

### 46. Duplicate Seal

46.1 If the Company has a Seal, the Company may have one or more duplicate Seals of the Seal each of which:

- (a) must be a facsimile of the Seal with the addition on its face of the words 'Duplicate Seal';
- (b) must not be used except with the authority of the Directors.

## (xvi) Audit and accounts

### 47. Audit and accounts

47.1 The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the Corporations Act.

47.2 The Directors must cause the financial records of the Company to be audited in accordance with the requirements of the Corporations Act.

## (xvii) Inspection of records

### 48. Inspection of records

48.1 Except as otherwise required by the Corporations Act the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.

48.2 Except as otherwise required by the Corporations Act a Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

## (xviii) Notices

### 49. Service of notices

49.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution:

- (a) by serving it on the person; or
- (b) by sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.

49.2 A notice sent by post is taken to be served:

- (a) by properly addressing, prepaying and posting a letter containing the notice; and
- (b) on the day after the day on which it was posted.

49.3 A notice sent by facsimile transmission or electronic notification is taken to be served:

- (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
- (b) on the day after its despatch.

49.4 If a Member has no Registered Address a notice will be taken to be served on that Member 24 hours after it was posted on a notice board at the Office.

49.5 A Member whose Registered Address is not in Australia may specify in writing an address in Australia to be taken to be the Member's Registered Address within the meaning of this clause.

49.6 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.

49.7 Subject to the Corporations Act the signature to a written notice given by the Company may be written or printed.

49.8 All notices sent by post outside Australia must be sent by prepaid airmail post.

### 50. Persons entitled to notice

50.1 Notice of every general meeting must be given to:

- (a) every Full Member;
- (b) every Director and Secretary; and
- (c) the Auditor.

50.2 No other person is entitled to receive notice of a general meeting.

## (xix) Winding up

### 51. Winding up

51.1 If the Company is wound up:

- (a) each Member; and
- (b) each person who has ceased to be a Member in the preceding year,

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

- (c) payment of debts and liabilities of the Company (in relation to clause 51.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
- (d) adjustment of the rights of such Members and former Members amongst themselves,

such amount as may be required, not exceeding \$10.

51.2 In the event of the organization being dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organization with similar purpose which is not carried on for the profit or gain of its individual members.

## (xx) Indemnity

### 52. Indemnity

52.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act the Company indemnifies every person who is or has been an officer of the Company against any liability (other than for legal costs) incurred by that person as such an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).

52.2 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Company indemnifies every person who is or has been an officer of the Company against reasonable legal costs incurred in defending an action for a liability incurred by that person as such an officer of the Company (including such legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).

52.3 The amount of any indemnity payable under clauses 52.1 or 52.2 will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.

52.4 For the purposes of this clause 52, **officer** means:

- (a) a Director; or
- (b) a Secretary.

## Schedule 1 - Company details

| <b>Item</b> | <b>Issue</b>        | <b>Clause Reference</b> | <b>Details</b>  |
|-------------|---------------------|-------------------------|---|
| 1.          | Company Name        | Clause 1.1              | Gladstone Industry Leadership Group Ltd   |
| 2.          | Number of Directors | Clause 23               | The number of Directors is a minimum of 4, including the Chairperson and the CEO. |

## Schedule 2 – Membership Criteria

Members must support sustainable development of industrial resources in the Gladstone region by contributing to the activities of, and working in conjunction with, the Gladstone Industry Leadership Group Ltd (GILG)

Members must lead, promote and seek continual performance improvements in areas of community concern, such as:

Health & safety

Environment compliance

Labour force recruitment & retention

Infrastructure development

To engender stakeholder support for on-going operations and future development of industrial resources in the Gladstone region.

Members must commit to principles of behaviour that contribute to community engagement and stakeholder support for sustainable development of industrial resources in the Gladstone region, such as:

1. integrating sustainable development principles within the corporate decision making processes
2. implementing effective & transparent communication with stakeholders including independently verified reporting processes
3. implementing processes, plans and key performance indicators (KPI) to seek continual improvement in environmental performance
4. implementing processes, plans and key performance indicators (KPIs) to seek continual improvement in the health & safety of the workforce and the community
5. implementing risk management strategies that are based on valid data and sound science
6. contributing to conservation, mitigating impacts on biodiversity, and applying integrated approaches to land use planning
7. encouraging and facilitating responsible product design, transportation, use, recycling & waste disposal
8. contributing to the social, economic and institutional development of the local community
9. upholding fundamental human rights and respecting cultures, customs & values in dealings with employees and the local community
10. implementing & maintaining ethical businesses and sound systems of corporate governance

## Schedule 3 - Full Members on Incorporation

**QUEENSLAND ALUMINA LIMITED (ACN 009 725 044)**

**BOYNE SMELTERS LIMITED (ACN 010 061 935)**

**RIO TINTO ALCAN LIMITED (ACN 009 679 127)**

**CEMENT AUSTRALIA PTY LTD (104 053 474)**

**NRG GLADSTONE OPERATING SERVICES PTY LTD (CAN 062 519 275)**