

Constitution of Empower Golf Australia Ltd

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| Schedule | | Error! Bookmark not defined. |

1 Name of Corporation

The name of the company is **Empower Golf Australia Ltd.**

2 Status of the Constitution

2.1 Constitution of the Company

This is the constitution of the Company.

2.2 Replaceable Rules

This Constitution displaces the Replaceable Rules, accordingly, none of the Replaceable Rules apply.

3 Interpretation

3.1 Definitions

In this Constitution:

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| Auditor | the person appointed for the time being as the auditor of the Company. |
| Board | the Directors and alternates present at a meeting, duly convened as a Board meeting, at which a quorum is present. |
| Business Day | a day which is not a Saturday, Sunday or bank or public holiday in Sydney, New South Wales. |
| Casual Vacancy | the cessation of the particular office before expiry of the natural term, for whatever reason. |
| Chief Executive Office | any person appointed for the time being as the chief executive officer of the Company under clause 18. |
| Company | Empower Golf Australia Ltd. |
| Constitution | the constitution for the time being of the Company as constituted by this document and any resolutions of the Company modifying this document. |
| Corporations Act | the <i>Corporations Act 2001</i> (Cth). |
| Director | a person who is a director for the time being of the Company and Directors means more than one Director, and in relation to rules applying to meetings of the Board, including voting by Directors and material personal interests, references to Directors include alternates. |
| Member | a person who is, or who is registered as, a member of the Company and Members means more than one |

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| | Member. |
| Members | \$10.00. |
| Guarantee Amount | |
| Membership | being a Member of the Company. |
| Register of Members | the register of Members maintained pursuant to the Corporations Act. |
| Replaceable Rules | the replaceable rules applicable to a public company limited by guarantee set out in the Corporations Act. |
| Responsible Entity | in the case of a company that is registered under the <i>Australian Charities and Not-for-profits Commission Act 2012</i> , a director of the Company. |
| Seal | the common seal for the time being of the Company. |
| Secretary | any person appointed for the time being as, or to perform the functions of, secretary of the Company. |
| Tax Act | the <i>Income Tax Assessment Act 1997</i> (Cth) and the <i>Income Tax Assessment Act 1936</i> (Cth) as appropriate. |

3.2 Interpretation

In this Constitution:

- (a) the words “including”, “include” and “includes” are to be construed without limitation;
- (b) a reference to legislation is to be construed as a reference to that legislation, any subordinate legislation under it, and that legislation and subordinate legislation as amended, re-enacted or replaced for the time being;
- (c) a reference to a “person” includes a corporate representative appointed pursuant to section 250D of the Corporations Act;
- (d) headings are used for convenience only and are not intended to affect the interpretation of this Constitution; and
- (e) a word or expression defined in the Corporations Act and used, but not defined, in this Constitution has the same meaning given to it in the Corporations Act when used in this Constitution.

4 Objects and purpose

4.1 Objects and purpose

- (a) The objects of the Company are to provide for the relief of persons with a disability whose vulnerability and distress arouses compassion in the

community, through the pursuit of golf and related activities to relieve their needs and to stimulate and improve their wellbeing, including:

- (i) enriching the lives of people with a disability by providing them with access to golf;
 - (ii) encouraging and promoting opportunities for people with a disability to participate in golf;
 - (iii) attracting new golfers, supporting current golfers and initiating multi-disability development days and tournaments;
 - (iv) providing equipment, facilities and systems for people with a disability to take an active role and or compete in golf;
 - (v) raising funds for the promotion and development of golf for those with a disability; and
 - (vi) utilising golf as a rehabilitation tool for those with a disability.
- (b) The purpose of the Company is to pursue charitable purposes only and to apply the income and property of the Company whensoever derived only to promote the objects in clause 4.1(a).
- (c) In relation to the objects set out in clause 4.1(a), the Company may do other lawful things incidental or conducive to the attainment of these objects.

4.2 Distributions to Members

The Company is prohibited from making distributions to Members.

4.3 Payments to Directors

- (a) The Company must not pay fees to a Director for acting as a Director.
- (b) The Company may:
 - (i) pay a Director for work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done; or
 - (ii) reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Company.
- (c) Any payment made under clause 4.3(b) must be approved by the Directors.
- (d) The Company may pay premiums for insurance indemnifying Directors, as allowed for by law (including the Corporations Act) and this Constitution.

4.4 Non profit

The assets and income of the Company must be applied solely in furtherance of the Company's objects as set out in clause 4.1(a), and to this end the Company may:

- (a) apply any part of the income or capital of the Company; and

(b) accumulate any part of the income or capital of the Company, insofar as it is consistent with the Company's objects and the Company's endorsement for concessions under the Tax Act (if any).

5 Modification or repeal of this Constitution

5.1 Modifying or repealing Constitution

This Constitution may be modified or repealed only by a special resolution of the Company in a general meeting.

5.2 Date of effect of modification or repeal

Any modification or repeal of this Constitution takes effect on the date the special resolution is passed or any later date specified, or provided for, in the resolution.

5.3 Non prejudicial

- (a) The Company cannot modify the Constitution if it will unfairly prejudice one or more categories of Members.
- (b) The Company cannot modify the Constitution if it will impose a new or greater liability on a Member or on a category of Members, except with consent of the relevant Member.
- (c) Nothing in this clause 5.3 prevents the Company modifying the Constitution to comply with law, provided that the approvals in clause 5.1 are obtained.

6 Member's liability

6.1 Liability to contribute

Subject to this Constitution, each person who is a Member, and each person who was a Member during the year ending on the day of the commencement of the winding up of the Company, undertakes to contribute to the property of the Company for:

- (a) payment of debts and liabilities of the Company;
- (b) payment of the costs, charges and expenses of winding up; and
- (c) any adjustment of the rights of the contributories among Members.

6.2 Limited liability

The amount that each Member or past Member is liable to contribute is limited to the amount of the Member's Guarantee Amount.

7 Members

7.1 Number of Members

- (a) The Company must have at least one Member.
- (b) If there is only one Member, that Member may act as the sole Member of the Company.

7.2 Pre-condition to Membership

An incorporated or unincorporated organisation or entity, or natural person is entitled to become a Member if that person agrees to assume the liability to pay the Member's Guarantee Amount.

7.3 Becoming a Member

Subject to the Corporations Act, a person becomes a Member on the registration of that person's name in the Register of Members.

7.4 Current Member

The person named in the schedule is the first Member of the Company under this Constitution.

7.5 Eligibility for Membership

Any incorporated or unincorporated entity or natural person is eligible to become a Member if that entity or person:

- (a) shares the purposes and objects of the Company;
- (b) will actively participate in advancing the purposes and objects of the Company; or
- (c) will actively participate in the activities and or events facilitated by the Company.

7.6 Application for Membership

- (a) Only a person satisfying the eligibility requirements for Membership in clause 7.5 may apply for Membership.
- (b) The Board may prescribe the form of the application for Membership.
- (c) An application for Membership must be:
 - (i) in writing signed by the applicant; and
 - (ii) if the Board has prescribed the form of the application for Membership, in that prescribed form.

7.7 Consideration for application for Membership

At the first meeting of the Board after an application for Membership has been received by the Board, the Board must consider the application and either accept or reject the application.

7.8 Registration as Member

If the Board accepts an application for Membership, as soon as practicable, the Board must register the name of the person in the Register of Members.

8 Rights of Members are non-transferable

The rights and obligations of a Member are personal and are not transferable.

9 Cessation of Membership

9.1 Cessation of Membership

A Member ceases to be a Member if the Member:

- (a) resigns as a Member in accordance with this Constitution;
- (b) ceases to satisfy the eligibility requirements for Membership under this Constitution;
- (c) is expelled as a Member in accordance with this Constitution;
- (d) fails to pay any amount payable to the Company within 60 days of being required to and the Board resolves that Membership of the Member be terminated;
- (e) is placed under external administration or makes any composition or arrangement with its creditors;
- (f) is the subject of an order by a court of competent jurisdiction directing the body corporate to be wound up;
- (g) is made bankrupt or is the subject of an order by a court of competent jurisdiction directing the Member to be wound up; or
- (h) dies.

9.2 Resignation of Member

A Member may resign from the Company by giving the Board at least 30 days notice.

9.3 Expulsion of Member

- (a) The Directors may by resolution expel a Member if, in their absolute discretion, they decide it is not in the interests of the Company for the person to remain a Member.
- (b) If the Directors intend to consider a resolution under clause 9.3(a), at least one week before the meeting at which the resolution is to be considered, they must give the Member written notice:
 - (i) stating the date, place and time of the meeting;
 - (ii) setting out the intended resolution and the grounds on which it is based; and

- (iii) informing the Member that the Member may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.

10 Maintenance of Register

10.1 Register of Members

The Secretary must maintain a Register of Members setting out:

- (a) the name and address of each Member;
- (b) the date on which each person became a Member;
- (c) any conditions imposed on a Member's membership;
- (d) in respect of each person who has ceased to be a Member, the date on which that person ceased to be a Member; and
- (e) the details of a representative, if any, appointed under clause 14.

10.2 Inspection of Register of Members

The Register of Members must be kept at the Company's registered office or principal place of business. A Member may inspect the Register of Members between the hours of 9.00 am and 5.00 pm on any Business Day. No amount may be charged for inspection.

11 General meetings

11.1 Annual general meetings

The Company must hold its first annual general meeting within 18 months after its incorporation.

11.2 Director convening a general meeting

Any Director or the Directors may convene a general meeting.

11.3 Business at annual general meeting

The business of the annual general meeting may include any of the following:

- (a) the consideration of the annual financial report, directors' report and auditor's report;
- (b) the election of the Directors;
- (c) the appointment of the Auditor; and
- (d) determination of the Auditor's remuneration.

11.4 Meetings requested by Members

- (a) If the Board receives a request from a Member or Members with at least five percent of the votes that may be cast at any general meeting or at least 5 Members who are entitled to vote at that general meeting, the

Board must convene a general meeting within 21 days after the date of receipt of that request.

- (b) The request must detail any proposed resolution, the names of the Members requesting the meeting and be signed by all of the Members making the request. For this purpose, signatures of the Members may be contained in more than one document.
- (c) A general meeting requested by the Members must be held no later than two calendar months after the request is received.

11.5 Notice of general meeting

At least 21 days' notice of a general meeting must be given to the Members, Directors and Auditor. The notice must:

- (a) state the date, time and place (or places) of the meeting;
- (b) state the general nature of the business to be conducted at the meeting;
- (c) state any proposed resolutions;
- (d) state the names of proxies that have been appointed (if any); and
- (e) contain a statement informing the Members of the right to appoint a proxy.

11.6 Shorter notice of general meeting

Subject to the Corporations Act, shorter notice of a general meeting may be given if the calling of the notice of the general meeting on shorter notice is agreed to:

- (a) in the case of an annual general meeting, by all Members entitled to attend and vote at the meeting; and
- (b) in the case of any other general meeting, by 95% of the Members entitled to attend and vote at the general meeting,

and accordingly, any such general meeting will be treated as having been duly convened.

11.7 Notice of resumption of an adjourned meeting

If a general meeting is adjourned for 30 days or more, at least 30 days' notice must be given to the Members, Directors and Auditor of the day, time and place (or places) for the resumption of the adjourned general meeting.

11.8 General meetings at two or more places

A general meeting may be held in one place or two or more places. If a general meeting is held in two or more places, the Company must use technology that gives Members a reasonable opportunity to participate at that general meeting.

11.9 Postponement or cancellation of general meeting

- (a) Subject to this Constitution and the Corporations Act, the Board may change the place (or places) of, postpone or cancel a general meeting.

- (b) If a general meeting is convened pursuant to a request by Members, the Board may not postpone or cancel the general meeting without the consent of the requesting Members.

11.10 Notice of change, postponement or cancellation of meeting

- (a) If the Directors have convened a general meeting, the Board may change the place (or places) of the general meeting, postpone or cancel the general meeting. If a Director has convened a general meeting, only the Director who convened the general meeting may change the place (or places) of the general meeting, or postpone or cancel the general meeting.
- (b) If the Board changes the place (or places) of a general meeting, notice must be given to each Member and each person entitled to receive notice of the meeting of the new place (or places) of the meeting.
- (c) If the Board postpones a general meeting, notice must be given to each Member and each other person entitled to receive notice of the new date, time and place (or places) of the meeting.
- (d) If the Board cancels a general meeting, notice must be given to each Member and each other person entitled to receive notice of general meetings.
- (e) If a general meeting is convened pursuant to a request by Members, the Board may not postpone or cancel the general meeting without the consent of the requesting Members.

11.11 Omission to give notice relating to general meeting

No resolution passed at or proceedings at any general meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that general meeting;
- (b) any change of place (or places) of that general meeting;
- (c) postponement of that general meeting, including the date, time and place (or places) for the resumption of the adjourned meeting; or
- (d) resumption of that adjourned general meeting.

12 Proceedings at general meetings

12.1 Quorum

- (a) A quorum at a general meeting is at least 10 percent of the Members present in person or by proxy. The quorum must be present at all times during the general meeting.
- (b) If a Member has appointed more than one proxy and two or more proxies attend a general meeting, only one proxy will be counted for the purposes of determining whether there is a quorum.

12.2 Lack of quorum

- (a) If a quorum is not present within 30 minutes after the time appointed for a general meeting (or any longer period of time as the chair may allow) or ceases to be present at any time during the general meeting, the general meeting:
 - (i) if convened by a Director or on the request of Members, is dissolved; or
 - (ii) in any other case:
 - (A) is adjourned to be resumed on a day, time and place (or places) as the chair determines or if the chair is not present as the Directors or Director at the meeting may determine; or
 - (B) if the Directors do not so determine, no Director is present or no Director present so determines:
 - (1) the date for the resumption of the adjourned general meeting will be on the same day in the next week;
 - (2) the time for the resumption of the adjourned general meeting will be at the same time as the adjourned meeting; and
 - (3) the place (or places) for the resumption of the adjourned general meeting, will be at the same place (or places) as the adjourned meeting.
- (b) If a quorum is not present within 30 minutes after the time appointed for the resumption of the adjourned general meeting or ceases to be present during the meeting, the general meeting is dissolved.

12.3 Chairing general meetings

- (a) At the first general meeting of the Company, a Director will be elected as chair. The person elected as chair may chair each subsequent general meeting. At any subsequent general meeting a new chair may be elected. On the election of a new chair, the new chair will chair each subsequent general meeting.
- (b) If the chair is not present within 15 minutes after the time appointed for any general meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that general meeting, the Directors present may elect a Director present to chair that general meeting.
- (c) If no Director is elected or if all the Directors present decline to take the chair for the whole or any part of that general meeting, the Members present (whether in person or by proxy) may elect a Member present (in person) to chair for the whole or any part of that general meeting. If the Members do not so elect a chair, the meeting will be adjourned to be resumed on the same day, at the same time and at the same place (or places) in the following week.

12.4 Conduct of general meetings

The chair of each general meeting has charge of conduct of that meeting, including the procedures to be adopted and the application of those procedures at that meeting.

12.5 Adjournment

- (a) The chair of a general meeting may adjourn the meeting to another date, time and place (or places) if it appears to the chair that it is likely to be impracticable to hold or to continue to hold the meeting because of the number of Members who wish to attend but who are not present.
- (b) If a majority of Members present at a general meeting in person or by proxy determine that the meeting should be adjourned, the chair must adjourn the meeting to another date, time and place (or places) determined by the chair.
- (c) No business may be transacted on the resumption of an adjourned or postponed general meeting other than the business left unfinished at the adjourned or postponed general meeting.

13 Proxy

13.1 Appointment of proxy

- (a) A Member who is entitled to attend and to vote at a general meeting of the Company may appoint a person as proxy to attend, speak and vote for that Member. The instrument appointing a proxy may restrict the exercise of any power.
- (b) A proxy may be, but does not have to be, a Member.
- (c) An appointment of a proxy may be a standing one.
- (d) A proxy is not entitled to vote if the Member who has appointed the proxy is present in person at the meeting.
- (e) A Director may appoint a person as proxy to attend, speak and vote for that Director, as directed.

13.2 Proxy instruments

- (a) An appointment of a proxy must be in writing and be signed by the Member appointing the proxy or by the duly authorised attorney of the Member and state:
 - (i) the Member's name and address;
 - (ii) the Company's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the general meeting at which the proxy may be used, or if the appointment is a standing one, a clear statement to that effect.

- (b) An appointment of a proxy must be in writing and be signed by the Director appointing the proxy and state:
 - (i) the Director's name and address;
 - (ii) the Company's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the meeting at which the proxy may be used, or if the appointment is a standing one, a clear statement to that effect.
- (c) Where a proxy is signed pursuant to a power of attorney, a copy of the power of attorney (certified as a true copy of the original) must be attached to the proxy instrument sent to the Company.
- (d) An instrument appointing a proxy may direct the way in which a proxy is to vote on a particular resolution. If an instrument contains a direction, the proxy must vote as directed in the instrument, and is not entitled to vote on the proposed resolution except as directed in the instrument. If an instrument does not contain a direction, the proxy is entitled to vote on the proposed resolution as the proxy considers appropriate.
- (e) If a proxy is appointed to vote on a particular resolution by more than one member, that proxy:
 - (i) may vote on a show of hands in the same way if each instrument appointing the proxy directs the proxy to vote in the same way or does not direct the proxy how to vote; and
 - (ii) may not vote on a show of hands unless each instrument appointing the proxy and directing the proxy to vote in a particular way directs the proxy to vote in the same way.

13.3 Proxy to be received by Company

- (a) The instrument appointing a proxy is not effective unless it is received, together with any additional documentation, including a copy of the power of attorney (certified as a true copy of the original), by the Company at least 48 hours before the general meeting or, as the case may be, the resumption of an adjourned general meeting, at any of the following:
 - (i) the registered office;
 - (ii) a facsimile number at the registered office; or
 - (iii) a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.

13.4 Power to demand poll

A proxy may demand, or join in demanding, a poll.

13.5 Revocation of proxy

The appointment of a proxy may be revoked by the Member who appointed the proxy by notice to the Company from the Member or, as the case may be, the

duly authorised attorney of the Member, stating that the appointment of a proxy is revoked or by appointing a new proxy.

13.6 Validity of votes of proxy

A vote cast by a proxy will be valid unless before the start of a general meeting (or, in the case of an adjourned or postponed general meeting, not less than 48 hours before the resumption of the adjourned or postponed general meeting) at which a proxy votes:

- (a) the Member who appointed the proxy ceases to be a Member; or
- (b) the Company receives notice of:
 - (i) the revocation of the instrument appointing the proxy;
 - (ii) the appointment of a new proxy; or
 - (iii) the revocation of any power of attorney under which the proxy was appointed.

13.7 No liability

The Company is not responsible for ensuring that any directions provided in the instrument appointing the proxy or the way in which a proxy is to vote on a particular resolution are complied with, and accordingly is not liable if those directions are not complied with.

14 Representatives

14.1 Appointment of representative

- (a) If a Member is an incorporated or unincorporated organisation, or entity, it may appoint a natural person as its representative to exercise on its behalf any or all of the powers it may exercise:
 - (i) at meetings of the Members;
 - (ii) at meetings of creditors or debenture holders; or
 - (iii) relating to resolutions to be passed without meetings.
- (b) The appointment of a representative may be a standing one.

14.2 Authority to act as representative

- (a) An appointment of a representative must be in writing and be signed by the body corporate appointing the representative and state:
 - (i) the Member's name and address;
 - (ii) the Company's name;
 - (iii) the representative's name or the name of the office held by the representative; and
 - (iv) the general meeting at which the representative may act, or if the appointment is a standing one, a clear statement to that effect.

- (b) The instrument appointing the representative may restrict the exercise of any power.

14.3 Instrument to be received by Company

- (a) An instrument purporting to appoint the representative is not valid unless it is received by the Company at least 48 hours before the general meeting or, in the case of an adjourned meeting, at least 48 hours before the resumption of an adjourned general meeting.
- (b) An instrument appointing a representative must be received by the Company at any of the following:
 - (i) the registered office;
 - (ii) a facsimile number at the registered office; or
 - (iii) a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.

14.4 Revocation and appointment of representative

The appointment of a representative may be revoked by the Member who appointed the representative by notice to the Company from the Member stating that the appointment of the representative is revoked or by appointing a new representative.

14.5 Validity of votes of representative

A vote cast by a representative will be valid unless before the start of the general meeting (or, in the case of an adjourned or postponed general meeting, not less than 48 hours before the resumption of the adjourned or postponed general meeting) at which a representative votes:

- (a) the Member who appointed the representative ceases to be a Member; or
- (b) the Company has received notice of:
 - (i) the revocation of the instrument appointing the representative; or
 - (ii) the appointment of a new representative.

14.6 No liability

The Company is not responsible for ensuring that the terms of appointment of a representative are complied with, and accordingly is not liable if those terms are not complied with.

15 Voting

15.1 Entitlement to vote

Each Member entitled to vote at a general meeting may vote in person or by proxy. Each Member has one vote, whether on a show of hands, or on a poll.

15.2 Casting vote

If on any ordinary resolution an equal number of votes is cast for and against a resolution, the chair has one casting vote.

15.3 Proxy vote to be identified

Before a vote is taken the chair must inform the Members present whether any proxy votes have been received and, if so, how the proxy votes are to be cast.

15.4 Voting on resolution

At any general meeting, a resolution put to a vote must be determined by a show of hands unless a poll is demanded in accordance with this Constitution.

15.5 Objection to right to vote

- (a) A challenge to a right to vote at a general meeting:
 - (i) may only be made at that general meeting; and
 - (ii) must be determined by the chair.
- (b) A determination made by the chair in relation to a challenge to a right to vote is binding on all Members and is final.

15.6 Written resolutions

Members may pass a resolution without a general meeting being held if all the Members 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. For this purpose, signatures of the Members may be contained in more than one document.

15.7 Minutes of meetings

- (a) Unless a poll is demanded in accordance with this Constitution, a declaration by the chair that a resolution has, on a show of hands, been:
 - (i) carried;
 - (ii) carried unanimously;
 - (iii) carried by a particular majority; or
 - (iv) lost or not carried by a particular majority,is conclusive evidence of the fact declared. An entry to that effect made in the minutes book of the Company signed by the chair is evidence of that fact unless the contrary is proved.
- (b) Within one month after each general meeting, the Directors must record or cause to be recorded in the minutes book:
 - (i) the proceedings and resolutions of each general meeting;
 - (ii) any declarations at each general meeting; and
 - (iii) all resolutions passed by Members without a general meeting.

- (c) The chair, or the chair of the next meeting, must sign the minutes within one month after the general meeting.
- (d) The minute books must be kept at the registered office.
- (e) Members may inspect the minute books between the hours of 9.00 am and 5.00 pm on any Business Day. No amount may be charged for inspection.

15.8 Disputes to be resolved by chair

The chair will determine any dispute in relation to any vote, and the determination of the chair is binding on all Members and is final.

16 Poll

16.1 Chair may determine to take a poll

The chair of a general meeting may determine that a poll be taken on any resolution.

16.2 Right to demand poll

A poll may be demanded on any resolution at a general meeting other than the election of a chair or the question of an adjournment by:

- (a) at least five Members entitled to vote on the resolution; or
- (b) Members with at least five percent of the votes that may be cast on the resolution on a poll.

16.3 Procedure for demanding poll

- (a) A poll may be demanded:
 - (i) before a vote on a show of hands is taken;
 - (ii) before the result of a vote on a show of hands is declared; or
 - (iii) immediately after the result of a vote on a show of hands is declared.
- (b) If a poll is demanded, it may be taken in the manner and at the time and place (or places) as the chair directs.
- (c) A demand for a poll may be withdrawn at any time by the person or persons who demanded it. A demand for a poll which is withdrawn does not invalidate the result of a show of hands declared before the demand for the poll was made.
- (d) A demand for a poll does not prevent the general meeting continuing for the transaction of any business other than the question on which a poll has been duly demanded.

17 Appointment and removal of Directors

17.1 Number of Directors

The Company must have at least three and no more than seven Directors (not counting alternates).

17.2 Current Directors

The persons named in the schedule are the first Directors of the Company under this Constitution.

17.3 Appointment of Directors

- (a) The Company may by resolution at a general meeting appoint a person as a Director.
- (b) The Board may by resolution at a Board meeting appoint a natural person as a Director, as an additional Director or to fill the office of a Director vacated when a Director ceases to be a Director.
- (c) An appointment of a person as a Director is not effective unless a signed consent to the appointment is provided by that person to the Company. The appointment of a person as a Director will take effect on the later of the date of appointment and the date on which the Company receives the signed consent.

17.4 Confirmation of appointment

- (a) If a person is appointed as a Director by the Board, the Company must confirm the appointment at the next annual general meeting.
- (b) If the appointment is not confirmed, the person ceases to be a Director at the conclusion of the annual general meeting.

17.5 Removal of Director

- (a) The Company may remove a Director by resolution at a general meeting.
- (b) At least two months' notice must be given to the Company of the intention to move a resolution to remove a Director at a general meeting.
- (c) If notice of intention to move a resolution to remove a Director at a general meeting is received by the Company, a Director must be given a copy of the notice as soon as practicable.
- (d) The Director must be informed that the Director may:
 - (i) submit a written statement to the Company for circulation to the Members before the meeting at which the resolution is put to a vote; and
 - (ii) speak to the motion to remove the Director at the general meeting at which the resolution is to be put to a vote.
- (e) At least 21 days' notice must be given to the Members of a general meeting at which the resolution for the removal of a Director is proposed.

The notice must set out the proposed resolution and the grounds for the proposed resolution.

17.6 Cessation of Directorship

A person ceases to be a Director and the office of Director is vacated if the person:

- (a) is removed from office as a Director by a resolution of the Company at a general meeting;
- (b) resigns as a Director in accordance with this Constitution;
- (c) is subject to treatment under any mental health law and the Board resolves that the person should cease to be a Director;
- (d) dies;
- (e) is disqualified from acting as a Director under the Corporations Act;
- (f) is absent from 3 or more Board meetings in a continuous period of 12 months without leave of absence from the Board and the Board does not resolve that the Director should not cease to be a Director (or Board resolves that the Director's office should be vacated);
- (g) is suspended or removed from being a Responsible Entity of the Company by the Australian Charities and Not-for-profit Commission; or
- (h) is disqualified from being a Responsible Entity by the Australian Charities and Not-for-profit Commission.

17.7 Resignation of Directors

A Director may resign from the office of Director by giving notice of resignation to the Company at its registered office.

18 Chief Executive Officer

- (a) The Board may appoint a person to the office of Chief Executive Officer for such period, and on such terms, as the Board determines.
- (b) The Board may confer on a Chief Executive Officer any of the powers that the Board may exercise.
- (c) The Board may vary or revoke a conferral of any power on the Chief Executive Officer.
- (d) The Board may at any time vary or revoke an appointment of a Chief Executive Officer, subject to any applicable legislative requirements.

19 Powers and duties of Board

- (a) Subject to this Constitution and the Corporations Act, the activities of the Company are to be managed by, or under the direction of, the Board.

- (b) Subject to this Constitution and the Corporations Act, the Board may exercise all powers of the Company that are not required to be exercised by the Company in a general meeting.
- (c) The powers of the Board include the power to:
 - (i) borrow or otherwise raise money;
 - (ii) mortgage, charge (including in the form of a floating charge) any of the Company's assets (both present and future); and
 - (iii) issue debentures and other securities, and any instrument (including any bond).
- (d) The Board may delegate any of its powers to:
 - (i) a Director;
 - (ii) a committee of Directors;
 - (iii) an employee of the Company; or
 - (iv) any other person.

20 Establishment of Committees

20.1 Establishment of Committees

The Board may establish such committee or committees of the Board as it may decide from time to time.

20.2 Composition of Committees

- (a) A committee shall consist of such Directors and Members, as the Board may appoint to be members thereof.
- (b) The terms and conditions of appointment of Directors and Members appointed to be members of a committee shall be as the Board prescribes or otherwise fixes.
- (c) At the time it appoints the members of a committee, and thereafter as it deems necessary, the Board shall fix the number of such members that must be present at a meeting of the committee to constitute a quorum for such a meeting.

20.3 Chairperson of Committees

- (a) The Board shall appoint a member of the committee who is a Director to be chair of the committee, provided that if the Board is of the opinion that there are special reasons arising from the nature of the duties and functions of a committee which make it in the interest of the Company and preferable that it should do so, it may appoint to be chair of that committee a member who is not a Director.
- (b) The terms and conditions of appointment as chair of the member of the committee appointed to that office, if that member is not a Director, shall be as the Board prescribes or otherwise fixes.

20.4 Duties, functions and powers

The duties, functions, powers and authorities of a committee shall be as the Board prescribes or otherwise fixes, and these duties, functions, powers and authorities shall be performed and exercised as the Board may prescribe or decide.

20.5 Timing

- (a) A committee shall be deemed to be established when the name, duties, functions, powers and authorities thereof are prescribed or fixed and the chair thereof is appointed.
- (b) A committee shall not have power to perform any of its duties or functions while there is no chair appointed.

20.6 Subject to Board authority

- (a) Subject to this document, a committee shall be subject to the authority of the Board at all times and shall act in accordance with and not contrary to any direction of the Board.
- (b) The Board, at any time and either with or without notice of its intention so to do, may dissolve a committee by notice in writing to the chair of the committee.

21 Negotiable instruments

All negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed in such manner as the Board may determine.

22 Alternate Directors

22.1 Appointment and terms of appointment

- (a) If a Director wishes to appoint a person as an alternate, that Director must give notice to the Company detailing:
 - (i) the name, experience and qualifications of the person;
 - (ii) the terms upon which the Director intends to appoint the person as an alternate, including whether the person is to exercise some or all of the powers of the Director and the proposed terms of the notified; and
 - (iii) whether or not the alternate is to get notice of each meeting the Director is entitled to attend.
- (b) The Board may ask for further information in relation to the alternate's qualifications and experience.
- (c) If the alternate is a Director, the appointment will take effect immediately.

- (d) If the alternate is not a Director, at the first meeting of the Board after the notice of the proposed appointment has been received by the Board, the Board must consider the proposed appointment and either accept or reject the appointment. If the Board accepts the appointment of the alternate, the Director may appoint the person on the terms of appointment.
- (e) Where the alternate is not a Director, an appointment of a person as an alternate is not effective until a signed consent to the appointment is provided by that person to the Company. Accordingly, such an appointment will take effect on the later of the date of appointment and the date on which the Company received the signed consent.
- (f) An alternate is not an agent of the Director appointing the alternate.

22.2 No liability

The Company is not responsible for ensuring that the terms of appointment of an alternate are complied with and, accordingly, is not liable if those terms are not complied with.

22.3 Remuneration of alternate

An alternate is not entitled to receive any fee (or other remuneration) from the Company for services performed as an alternate.

22.4 Notice and attendance at Board meetings

If the notice appointing the alternate provides that the alternate is to receive notice of Board meetings, the Company must provide each alternate with notice. By notice to the Company, the Director who appointed an alternate may at any time require that the notice cease to be given to the alternate.

22.5 Voting of alternate

An alternate is entitled to a vote for each Director that the alternate represents in addition to any vote the alternate may have as a Director in the alternate's own right.

22.6 Termination of appointment of alternate

- (a) A Director who appointed an alternate may terminate the appointment of the alternate at any time by notice to the alternate, the Directors and the Company.
- (b) An alternate may terminate the alternate's appointment at any time by notice to the Directors and the Company.
- (c) A termination of appointment does not take effect until the Company has received notice of termination.

22.7 Cessation of appointment of alternate

An alternate ceases to be an alternate if the person who appointed that alternate ceases to be a Director.

23 Board and Committee meetings

23.1 Convening meetings

- (a) In the ordinary course, the Secretary will convene Board meetings in accordance with the determinations of the Board.
- (b) A Director may at any time convene a Board meeting by notice to the other Directors or a meeting of any committee of the Board of which that Director is a Member by notice to the other Directors.

23.2 Notice of meetings

- (a) Reasonable notice of each Board meeting must be given to the Directors and each alternate entitled to receive notice (if any) and in the case of each committee meeting each member of the committee.
- (b) Each notice must state:
 - (i) the date, time and place (or places) of the Board meeting;
 - (ii) the general nature of the business to be conducted at the Board meeting; and
 - (iii) any proposed resolutions.

23.3 Omission to give notice

No resolution passed at or proceedings at any Board meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that Board meeting;
- (b) any change of place (or places) of that Board meeting;
- (c) postponement of that Board meeting; or
- (d) resumption of that adjourned Board meeting.

23.4 Use of technology

- (a) A Board meeting may be convened or held using any technology consented to by all Directors. The consent may be a standing one. A Director may withdraw consent to the use of a particular technology within a reasonable time period before a Board meeting.
- (b) If a number of Directors equal to the quorum is able to hear or to see and to hear each other Director contemporaneously using any technology consented to by all Directors, there is a meeting and that meeting is quorate. The rules relating to meetings of Directors apply to each such meeting as determined by the chair of the meeting.
- (c) A Director participating at a meeting using technology consented to by all Directors is treated as being present in person at the meeting.
- (d) A meeting using technology consented to by all Directors is to be taken to be held at the place determined by the chair of the meeting.

- (e) A Director may not leave a meeting using technology consented to by all Directors unless the chair consents to that Director leaving.
- (f) A Director is presumed conclusively to have been present and to have formed part of a quorum at all times during a meeting using technology consented to by all Directors, unless the chair consents to that Director leaving in which case that Director will be treated as having been present until that Director leaves.

23.5 Quorum at meetings

A quorum at a Board meeting is at least 50 percent of the Directors present in person (not counting alternates). The quorum must be present at all times during the Board meeting.

23.6 Chair of meetings

- (a) At the first Board meeting a chair will be elected from the Directors present in person (not by alternate). The person that has been elected as chair may chair each subsequent Board meeting. At any subsequent Board meeting, a new chair may be elected. On the election of the new chair, the new chair will chair subsequent Board meetings. The Directors may elect a Director to chair a Board meeting by a majority vote.
- (b) If the chair is not present within 15 minutes after the time appointed for a Board meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that Board meeting, the Directors present may elect a Director present to chair that Board meeting.

23.7 Passing resolutions at meetings

- (a) A resolution of the Board must be passed by a majority of the votes cast by the Directors (or by proxy) entitled to vote on the resolution.
- (b) Each Director present in person or by alternate is entitled to vote and has one vote.

23.8 Casting vote

If on any resolution an equal number of votes is cast for and against a resolution, the chair has one casting vote in addition to any vote cast by the chair as a Director.

23.9 Conduct of meetings

The chair of each Board meeting has charge of conduct of that meeting, of the procedures to be adopted and the application of those procedures at that meeting.

23.10 Written resolutions

The Board may pass a resolution without a Board 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. For this purpose, signatures can be contained in more than one document, with

each document to be identical to each other document, and may be notified and recorded by electronic means.

23.11 Minutes of meetings

- (a) Within one month after each Board meeting, the Directors must record or cause to be recorded in the minute books:
 - (i) the proceedings and resolutions of each Board meeting; and
 - (ii) all resolutions passed without a Board meeting.
- (b) The chair, or the chair of the next Board meeting, must sign the minutes within one month after the meeting.
- (c) The minute books must be kept at the registered office.
- (d) The Directors may inspect the minute books between the hours of 9.00 am and 5.00 pm on any Business Day. No amount may be charged for inspection.

23.12 Committee meetings

The rules of this Constitution relating to meetings (including resolutions and minutes) and proceedings of the Board with any necessary modifications apply to the meeting of any committee of the Board except:

- (a) a quorum for a meeting of any committee is at least a majority of members of the committee present in person; and
- (b) the chair is the person appointed under clause 20.3.

24 Director's interests

24.1 Declaration of interest

- (a) Any Director who has a material personal interest in a contract or proposed contract of the Company, holds any office or owns any property such that the Director might have duties or interests which conflict or may conflict either directly or indirectly with the Director's duties or interests as a Director, must give the Board notice of the interest at a Board meeting.
- (b) A notice of a material personal interest must set out:
 - (i) the nature and extent of the interest; and
 - (ii) the relation of the interest to the affairs of the Company.
- (c) The notice must be provided to the Board at a Board meeting as soon as practicable.

24.2 Voting by interested Directors

A Director who has a material personal interest in a matter that is being considered at a Board meeting must not:

- (a) vote on the matter at a meeting; or

- (b) be present while the matter is being considered at the meeting, and accordingly will not count for the purposes of determining whether there is a quorum.

25 Appointment of Secretary

- (a) The Company must have at least one Secretary. The Board has the power to appoint a natural person to act as secretary on the terms and for such period as the Board may determine.
- (b) Any Secretary appointed may be removed at any time by the Board.

26 Removal and remuneration of Auditor

26.1 Remuneration of Auditor

The remuneration of the Auditor may be determined by the Company at a general meeting. If the remuneration is not determined at a general meeting, it may be determined by the Directors at a Board meeting.

26.2 Removal of Auditor

- (a) The Company may remove an Auditor by resolution at a general meeting.
- (b) At least two months' notice must be given to the Company of the intention to move a resolution to remove an Auditor at a general meeting.
- (c) If notice of an intention to move a resolution to remove the Auditor at a general meeting is received by the Company, the Auditor must be given a copy of the notice as soon as practicable.
- (d) The notice of an intention must also inform the Auditor that the Auditor:
 - (i) may submit written representations to the Company within seven days after receiving the notice and that the Auditor may request the Company to send a copy of the written representations to the Members before the resolution is put to a vote; and
 - (ii) may speak at the general meeting or request that the written representations be read at the general meeting at which the resolution is voted upon.

26.3 Auditor's attendance at general meetings

The Auditor must be notified of, and may attend, any general meeting. The Auditor is entitled to be heard at any general meeting it attends on any part of the business of the general meeting which concerns the Auditor.

27 Seal

- (a) If the Company has a Seal, the Directors must provide for the safe custody of the Seal (and any duplicate of it).

- (b) The Seal (and any duplicate of it) must not be used without the prior authority of the Board, and when used, the Seal must be used in accordance with any direction of the Board.
- (c) If a document is to be executed by the use of the Seal, the fixing of the Seal must be witnessed by two Directors or a Director and Secretary.

28 Financial records

28.1 Member's access to financial records

Other than as required by law, ordered by a court with jurisdiction or determined to be appropriate by the Board, no Member or any other person may inspect any financial or any other record of the Company.

28.2 Directors' access to financial records

Any Director may at any time access and inspect any financial and any other record of the Company.

28.3 Access to financial records after ceasing to be a Director

The Board may determine that any person who is to cease or has ceased to be a Director may continue to have access to and inspect any financial record and any other record of the Company relating to the time during which the person was a Director.

29 Notices

29.1 General

Any notice, statement or other communication under this Constitution must be in writing, except that any notice convening a Board meeting does not need to be in writing.

29.2 How to give a communication

- (a) In addition to any other way allowed by the Corporations Act, a notice or other communication may be given by being:
 - (i) personally delivered;
 - (ii) left at the person's current address as recorded in the Register of Members;
 - (iii) sent to the person's address as recorded in the Register of Members by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail;
 - (iv) sent by fax to the person's current fax number for notices; or
 - (v) sent by email to the person's current email address for notices.

29.3 Communications by post

A communication is given if posted:

- (a) within Australia to an Australian address, three Business Days after posting;
- (b) outside Australia to an address outside Australia, ten Business Days after posting.

29.4 Communications by fax

A communication is given if sent by fax, when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.

29.5 Communications by email

A communication is given if sent by email, when the information system from which the email was sent produces a confirmation of delivery report which indicates that the email has entered the information system of the recipient, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the information system of the recipient.

29.6 After hours communications

If a communication is given:

- (a) after 5.00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

30 Indemnity and insurance

30.1 Indemnity

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company must indemnify each officer, Director and Secretary or any person who has been an officer, a Director or Secretary of the Company out of the assets of the Company against any liability, loss, damage, cost or expense incurred or to be incurred by the officer, Director or Secretary in or arising out of the conduct of any activity of the Company or in or arising out of the proper performance of the officer's, Director's or Secretary's duties including any liability, loss, damage, cost, charge and expense incurred by that officer, Director or Secretary in defending any proceedings, whether civil or criminal, which relate to anything done or omitted to be done or alleged to have been done or omitted to be done by the officer, Director or Secretary, in which judgment is given in the officer's, Director's or Secretary's favour or in which the officer, Director or Secretary is acquitted or in connection with

any application in relation to any such proceedings in which relief is granted by the court to the officer, Director or Secretary.

- (b) This indemnity is not intended to indemnify any officer, Director or Secretary in respect of any liability in respect of which the Company must not give an indemnity, and should be construed and, if necessary, read down accordingly.

30.2 Documenting indemnity

The Company may enter into an agreement containing an indemnity in favour of any officer Director or Secretary. The Board will determine the terms of the indemnity contained in the agreement.

30.3 Insurance

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company may pay any premium in respect of a contract of insurance between an insurer and an officer, Director or Secretary or any person who has been an officer, Director or Secretary of the Company in respect of the liability suffered or incurred in or arising out of the conduct of any activity of the Company and the proper performance by the officer, Director or Secretary of any duty.
- (b) If the Board determines, the Company may execute a document containing rules under which the Company agrees to pay any premium in relation to such a contract of insurance.

31 Winding up

31.1 Liabilities and surplus assets

- (a) At the first occurrence of:
 - (i) the winding up of the Company; or
 - (ii) if the Company is endorsed as a deductible gift recipient under Subdivision 30-BA of the Tax Act, the revocation of that endorsement or the Company ceasing to be so endorsed,the Company must, subject to clause 31.2, apply its assets to satisfaction of all debts and liabilities of the Company, the payment of the costs and charges and expenses of winding up.
- (b) Any surplus assets of the Company remaining after payment of the amounts referred to in clause 31.1(a) must be transferred to another organisation in Australia which:
 - (i) if the Company is or was previously endorsed as a deductible gift recipient under Subdivision 30-BA of the Tax Act, has been endorsed as a deductible gift recipient under Subdivision 30-BA of the Tax Act or equivalent provisions; and

- (ii) has similar objects to the objects of the Company and whose constitution prohibits the distribution of its income and property among members.

31.2 Revocation of ATO endorsement

The Company's endorsement (if any) under Subdivision 30-BA of the Tax Act is not considered "revoked" for the purposes of clause 31.1 until the later of:

- (a) 60 days have elapsed since receiving written notice of revocation from the ATO; or

the finalisation of all objection processes or court proceedings, if any, in relation to the revocation.