



Nightingale Housing
nightingalehousing.org
Wurundjeri Country
1 / 6 Florence St
Brunswick VIC 3056

Constitution of The Nightingale Foundation Limited

Adopted by the Company from Incorporation

Table of Contents

1	Name of Corporation.....	3
2	Status of the Constitution.....	3
2.1	Constitution of the Company.....	3
2.2	Replaceable Rules.....	3
3	Interpretation.....	3
3.1	Definitions.....	3
3.2	Interpretation.....	4
4	Objects and purpose.....	4
5	Powers of the Company.....	4
6	Not for profit.....	4
7	Modification or repeal of this Constitution.....	4
7.1	Modifying or repealing Constitution.....	4
7.2	Date of effect of modification or repeal.....	4
7.3	Amending charitable objects.....	4
8	Member's liability.....	5
8.1	Liability to contribute.....	5
8.2	Limited liability.....	5
9	Members.....	5
9.1	Number of Members.....	5
9.2	Pre-condition to Membership.....	5
9.3	Becoming a Member.....	5
9.4	Application for Membership.....	5
9.5	Consideration for application for Membership.....	5
9.6	Registration as Member.....	5
10	Cessation of Membership.....	5
10.1	Cessation of Membership of a natural person.....	5
10.2	Cessation of Membership of a body corporate.....	6
10.3	Resignation of Member.....	6
10.4	Expulsion of Member.....	6
11	Maintenance of Register of Members.....	6
11.1	Register of Members.....	6
11.2	Inspection of Register of Members.....	6
12	General meetings.....	6
12.1	Annual general meetings.....	6
12.2	Director convening a general meeting.....	6
12.3	Meetings requested by Members.....	6
12.4	Notice of general meeting.....	7

12.5	Shorter notice of general meeting.....	7
12.6	Notice of resumption of an adjourned meeting.....	7
12.7	General meetings at two or more places.....	7
12.8	Postponement or cancellation of general meeting.....	7
12.9	Notice of change, postponement or cancellation of meeting.....	7
12.10	Omission to give notice relating to general meeting.....	8
13	Proceedings at general meetings.....	8
13.1	Quorum.....	8
13.2	Lack of quorum.....	8
13.3	Chairing general meetings.....	8
13.4	Conduct of general meetings.....	9
13.5	Adjournment.....	9
14	Proxy.....	9
14.1	Appointment of proxy.....	9
14.2	Proxy instruments.....	9
14.3	Proxy to be received by Company.....	10
14.4	Power to demand poll.....	10
14.5	Revocation of proxy.....	10
14.6	Validity of votes of proxy.....	10
14.7	No liability.....	10
15	Body corporate representative.....	10
15.1	Appointment of corporate representative.....	10
15.2	Authority to act as corporate representative.....	11
15.3	Instrument to be received by Company.....	11
15.4	Revocation and appointment of corporate representative.....	11
15.5	Validity of votes of corporate representative.....	11
15.6	No liability.....	11
16	Voting.....	12
16.1	Entitlement to vote.....	12
16.2	Casting vote.....	12
16.3	Voting on resolution.....	12
16.4	Objection to right to vote.....	12
16.5	Written resolutions.....	12
16.6	Minutes.....	12
16.7	Disputes to be resolved by chair.....	13
17	Poll.....	13
17.1	Chair may determine to take a poll.....	13
17.2	Right to demand poll.....	13

17.3	Procedure for demanding poll.....	13
18	Appointment and removal of Directors.....	13
18.1	Number of Directors.....	13
18.2	Appointment of Directors.....	13
18.3	Confirmation of appointment.....	14
18.4	Removal of Director.....	14
18.5	Cessation of Directorship.....	14
18.6	Resignation of Directors.....	14
19	Powers and duties of Board.....	14
20	Negotiable instruments.....	15
21	Managing Director.....	15
22	Alternate Directors.....	15
22.1	Appointment and terms of appointment.....	15
22.2	No liability.....	15
22.3	Remuneration of alternate.....	15
22.4	Notice and attendance at Board meetings.....	16
22.5	Voting of alternate.....	16
22.6	Termination of appointment of alternate.....	16
22.7	Cessation of appointment of alternate.....	16
23	Remuneration and reimbursement for expenses.....	16
23.1	Remuneration of Director.....	16
23.2	Payment for work other than as a Director.....	16
23.3	Reimbursement of expenses.....	16
24	Board meetings.....	16
24.1	Convening meetings.....	16
24.2	Notice of meetings.....	16
24.3	Omission to give notice.....	17
24.4	Use of technology.....	17
24.5	Quorum at meetings.....	17
24.6	Chair of meetings.....	17
24.7	Passing resolutions at meetings.....	17
24.8	Casting vote.....	18
24.9	Conduct of meetings.....	18
24.10	Written resolutions.....	18
24.11	Minutes of meetings.....	18
25	Directors' interests.....	18
25.1	Declaration of interest.....	18
25.2	Voting by interested Directors.....	18

26	Appointment of Secretary.....	18
27	Removal and remuneration of Auditor.....	19
27.1	Remuneration of Auditor.....	19
27.2	Removal of Auditor.....	19
27.3	Auditor's attendance at general meetings.....	19
28	Financial records.....	19
28.1	Member's access to financial records.....	19
28.2	Directors' access to financial records.....	19
28.3	Access to financial records after ceasing to be a Director.....	19
29	Notices.....	19
29.1	General.....	19
29.2	How to give a communication.....	20
29.3	Communications by post.....	20
29.4	Communications by fax.....	20
29.5	Communications by email.....	20
29.6	After hours communications.....	20
30	Indemnity and Insurance.....	20
30.1	Indemnity.....	20
30.2	Documenting indemnity.....	20
30.3	Insurance.....	21
31	Winding up.....	21
31.1	Surplus assets not to be distributed to members.....	21
31.2	Distribution of surplus assets.....	21
31.3	DGR Winding up and revocation.....	21

1 Name of Corporation

The name of the Company is **The Nightingale Foundation** Limited.

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 these terms have the following meanings:

ACNC Act Australian Charities and Not for Profits Commission Act 2012 (Cth), or any other legislation relating to the establishment or operation of an Australian charities commission and/or a national regulatory framework and/or a national education body or otherwise for the not for profit sector, as modified or amended from time to time and includes any regulations made under that Act or any other such legislation having application to the Company.

Applicable Not for Profit Laws Any law relating to the regulation of the charities or not for profit entities applicable to the Company, including the ACNC Act, the Tax Act, section 150 of the Corporations Act and any rulings or requirements of any commissioner or body under any such law, having application to the Company.

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.

Charitable Fundraising Act means the legislation of any State or Territory of Australia, or the Commonwealth of Australia, regulating the raising of funds for charitable purposes and applicable to the Company

Community Housing Providers An organisation that provides community housing and associated services to people on low incomes and is registered as a *Community Housing Provider* under the *National Regulatory System for Community Housing* or as a *Registered Agency or Registered Housing Association* approved by the Register in accordance with the *Housing Act 1983* (Vic).

Company The Nightingale Foundation Limited

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 *Corporations Act 2001* (Cth).

Directors	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.
Managing Director	Any person appointed for the time being as a managing director of the Company.
Member	A person who is, or who is registered as, a member of the Company and Members means more than one Member.
Member's Guarantee	An amount equal to \$1.
Membership	Being a Member of the Company.
Nightingale Foundation	The Nightingale Foundation Ltd ABN 22 666 285 221
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.
Secretary	Any person appointed for the time being as, or to perform the functions of, secretary of the Company.
Surplus Assets	Any assets of the Company that remain after paying all debts and other liabilities of the Company, including the costs of winding up.
Tax Act	The <i>Income Tax Assessment Act 1936</i> (Cth) and the <i>Income Tax Assessment Act 1997</i> (Cth) as applicable and as modified or amended from time to time and includes any regulations made under that Act and any rulings, published determinations, statements, guidelines or requirements of the Commissioner of Taxation having application to the Company.
Vulnerable Persons	Persons who are experiencing poverty, distress, suffering, illness and / or housing insecurity as a result of being unable to access, or being granted inadequate access to, housing.

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.

4 Objects and purpose

The Company is established as a public benevolent institution, to alleviate the poverty, distress, suffering, illness and/or housing insecurity of Vulnerable Persons in Australia by facilitating the development and supply of affordable housing for Vulnerable Persons and, for that purpose to:

- a. invest in, and develop, land in Australia to be used to provide secure and affordable housing, in particular for Vulnerable Persons;
- b. raise finance and promote resources to promote the supply of secure and affordable housing in Australia, in particular for Vulnerable Persons;
- c. engage with Community Housing Providers and similar organisations to deliver affordable housing directly to Vulnerable Persons;
- d. initiate and participate in law reform in Australia to ensure a greater supply of affordable housing in Australia, in particularly for Vulnerable Persons;
- e. develop partnerships or associations with other organisations, community groups and businesses to fulfil the Company's object and help carry out the activities listed in this clause 4;
- f. raise funds and seek donations of goods and services from the public and volunteers to support the object of the Company; and
- g. do all things that are incidental or ancillary to the attainment of the above objects,

And for the avoidance of doubt, it is confirmed that this Constitution requires the Company to pursue charitable purposes only and to apply its income in promoting those purposes.

5 Powers of the Company

Subject to clause 6, the Company has the following powers, which may only be used to carry out its charitable purpose, as set out in clause 4:

- a. the powers of an individual; and
- b. all the powers of a company limited by guarantee under the Corporations Act.

6 Not for profit

The Company must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 6(b) and 31.

Clause 6(a) does not stop the Company from doing the following things, provided they are done in good faith:

- a. paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Company; or
- b. making a payment to a member in carrying out the Company's charitable purposes.
- c. making such other payments, distributions or transfers as may be permitted by the Applicable Not-For-Profit laws.

7 Modification or repeal of this Constitution

7.1 Modifying or repealing Constitution

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

7.2 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.

7.3 Amending charitable objects

The Members must not pass a special resolution that amends this Constitution if passing it causes the Company to no longer be a charity.

8 Member's liability

8.1 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.

8.2 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.

9 Members

9.1 Number of Members

The Company must have at least one Member.

9.2 Pre-condition to Membership

A person is entitled to become a Member if that person agrees to assume the liability to pay the Member's Guarantee Amount.

9.3 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.

9.4 Application for Membership

The Board may prescribe the form of the application for Membership.
An application for Membership must be:

- a. in writing signed by the applicant; and
- b. if the Board has prescribed the form of the application for Membership, be in that prescribed form.

9.5 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.

9.6 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.

10 Cessation of Membership

10.1 Cessation of Membership of a natural person

A person ceases to be a Member:

- a. if the person resigns as a Member in accordance with this Constitution;
- b. if the person is expelled as a Member in accordance with this Constitution;
- c. if the person dies;
- d. if the person becomes a bankrupt.

10.2 Cessation of Membership of a body corporate

A body corporate ceases to be a Member:

- a. if the body corporate resigns as a Member in accordance with this Constitution;
- b. if the body corporate is expelled as a Member in accordance with this Constitution;
- c. if the body corporate is placed under external administration or makes any composition or arrangement with its creditors; or
- d. if the body corporate is the subject of an order by a court of competent jurisdiction directing the body corporate to be wound up.

10.3 Resignation of Member

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

10.4 Expulsion of Member

If the Board resolves that it is not in the best interests of the Company for a person to remain as a Member, that person is automatically expelled as a Member.

11 Maintenance of Register of Members

11.1 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; and
- c. in respect of each person who has ceased to be a Member, the date on which that person ceased to be a Member.

11.2 Inspection of Register of Members

The Register of Members must be kept at the Company's registered office or the 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.

12 General meetings

12.1 Annual general meetings

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

12.2 Director convening a general meeting

Any Director or the Directors may convene a general meeting.

12.3 Meetings requested by Members

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 100 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.

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.

A general meeting requested by the Members must be held no later than two calendar months after the request is received.

12.4 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.

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

12.6 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.

12.7 General meetings at two or more places

A general meeting may be held in 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.

12.8 Postponement or cancellation of general meeting

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

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.

12.9 Notice of change, postponement or cancellation of meeting

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.

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. 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.

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.

12.10 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. assumption of that adjourned general meeting.

13 Proceedings at general meetings

13.1 Quorum

A quorum at a general meeting is 2 or more Members present in person or by proxy. The quorum must be present at all times during the general meeting.

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.

13.2 Lack of quorum

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:

- a. if convened on the request of Members, is dissolved; or
- b. in any other case:
- c. 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 at the meeting may determine; or
- d. if the Directors do not so determine, no Director is present or no Director present determines:
- (i) the date for the resumption of the adjourned general meeting will be on the same day in the next week;
 - (ii) the time for the resumption of the adjourned general meeting will be at the same time as the adjourned meeting; and
 - (iii) the place (or places) for the resumption of the adjourned general meeting, will be at the same place (or places) as the adjourned meeting.

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.

13.3 Chairing general meetings

At the first general meeting of the Company, the Directors will elect a 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.

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 or the whole or any part of that general meeting, the Directors present may elect a Director present to chair that general meeting.

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.

13.4 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.

13.5 Adjournment

The chair of a general meeting at which a quorum is present may with the consent of the Members present in person or by proxy adjourn the general meeting.

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.

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.

14 Proxy

14.1 Appointment of proxy

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 the exercise of any power.

A proxy may be, but does not have to be, a Member.

A proxy is not entitled to vote if the Member who has appointed the proxy is present in person at the

meeting.

If a Member is entitled to cast two or more votes at a meeting, the Member may appoint two proxies. If the Member appoints two proxies and the appointment does not specify the proportion or the number of votes each proxy may exercise, each proxy may exercise half the votes.

14.2 Proxy instruments

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:

- a. the Member's name and address;
- b. the Company's name;
- c. the proxy's name or the name of the office held by the proxy; and
- d. the general meeting at which the proxy may be used, or if the appointment is a standing one, a clear statement to that effect.

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.

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.

If a proxy is appointed to vote on a particular resolution by more than one member, that proxy:

- a. 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;
- b. 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.

14.3 Proxy to be received by Company

An instrument purporting to appoint 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:

- a. the registered office;
- b. a facsimile number at the registered office; or
- c. a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.

14.4 Power to demand poll

A proxy may demand, or join in demanding, a poll in accordance with this Constitution.

14.5 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.

14.6 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:
- c. the revocation of the instrument appointing the proxy;
- d. the appointment of a new proxy; or
- e. the revocation of any power of attorney under which the proxy was appointed.

14.7 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.

15 Body corporate representative

15.1 Appointment of corporate representative

If a Member is a body corporate, it may appoint a natural person as its representative to exercise on its behalf any or all of the powers it may exercise:

- a. at meetings of the Members;
- b. at meetings of creditors or debenture holders; or
- c. relating to resolutions to be passed without meetings.

The appointment of a corporate representative may be a standing one.

15.2 Authority to act as corporate representative

An appointment of a corporate representative must be in writing and be signed by the body corporate appointing the representative and state:

- a. the Member's name and address;
- b. the Company's name;
- c. the representative's name or the name of the office held by the representative; and
- d. the general meeting at which the representative may act, or if the appointment is a standing one, a clear statement to that effect.

The instrument appointing the corporate representative may restrict the exercise of any power.

15.3 Instrument to be received by Company

An instrument purporting to appoint a corporate 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.

An instrument appointing a corporate representative must be received by the Company at any of the following:

- a. the registered office;
- b. a facsimile number at the registered office; or
- c. a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.

15.4 Revocation and appointment of corporate representative

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

15.5 Validity of votes of corporate representative

A vote cast by a corporate 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 corporate representative votes:

- a. the Member who appointed the corporate representative ceases to be a Member; or
- b. the Company has received notice of:
- c. the revocation of the instrument appointing the corporate representative; or
- d. the appointment of a new corporate representative.

15.6 No liability

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

16 Voting

16.1 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.

16.2 Casting vote

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

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.

16.3 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.

16.4 Objection to right to vote

A challenge to a right to vote at a general meeting:

- a. may only be made at that general meeting; and
- b. must be determined by the chair.

A determination made by the chair in relation to a challenge to a right to vote is binding on all Members and is final.

16.5 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.

16.6 Minutes

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:

- a. carried;
- b. carried unanimously;
- c. carried by a particular majority; or
- d. 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.

Within one month after each general meeting, the Directors must record or cause to be recorded in the minutes book:

- a. the proceedings and resolutions of each general meeting;
- b. any declarations at each general meeting ; and
- c. all resolutions passed by Members without a general meeting.

The chair, or the chair of the next meeting, must sign the minutes within one month after the general meeting.

The minute books must be kept at the registered office.

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.

16.7 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.

17 Poll

17.1 Chair may determine to take a poll

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

17.2 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.

17.3 Procedure for demanding poll

A poll may be demanded:

- a. before a vote on a show of hands is taken;
- b. before the result of a vote on a show of hands is declared; or
- c. immediately after the result of a vote on a show of hands is declared.

If a poll is demanded on the election of a chair or on the question of an adjournment, it must be taken immediately. If a poll is demanded on any other matter, it may be taken in the manner and at the time and place (or places) as the chair directs.

Other than where a poll is demanded on the election of a chair or the question of an adjournment, 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.

Other than where a poll is demanded on the election of a chair or the question of an adjournment, a demand for a poll does not prevent the general meeting continuing for the transaction of any business.

18 Appointment and removal of Directors

18.1 Number of Directors

The number of Directors (not counting alternates) must not be less than three or more than 5. At least two Directors must reside ordinarily in Australia.

18.2 Appointment of Directors

Subject to this Constitution, the Company may by resolution at a general meeting appoint a natural person as a Director.

Subject to this Constitution, 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.

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.

18.3 Confirmation of appointment

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

18.4 Removal of Director

The Company may remove a Director by resolution at a general meeting.

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.

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.

The Director must be informed that the Director:

- a. may 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
- b. may speak to the motion to remove the Director at the general meeting at which the resolution is to be put to vote.

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.

18.5 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. if the person is subject to assessment or treatment under any mental health law and the Board resolves that the person should cease to be a Member;
- d. dies;
- e. is disqualified from acting as a Director under the Corporations Act; or
- f. is absent from Board meetings for a continuous period of 12 months without leave of absence from the Board and the Board resolves that the Director's office should be vacated.

18.6 Resignation of Directors

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

19 Powers and duties of Board

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.

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.

20 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.

21 Managing Director

The Board may appoint one or more of the Directors to the office of Managing Director for such period, and on such terms (including as to remuneration), as the Board determines.

The Board may confer on a Managing Director any of the powers that the Board may exercise.

The Board may vary or revoke a conferral of any power on the Managing Director.

The Board may at any time vary or revoke an appointment of a Managing Director.

A person ceases to be a Managing Director if they cease to be a Director.

22 Alternate Directors

22.1 Appointment and terms of appointment

Any Director may appoint a natural person to act as the alternate of that Director and may specify the terms of the alternate's appointment. The terms of that appointment may provide for the alternate to exercise some or all of the powers of that Director.

A person may be appointed as the alternate of more than one Director.

An alternate is not an agent of the Director appointing the alternate.

The Director appointing an alternate must give notice to the Company of that appointment. If the notice does not detail the terms of the appointment, the alternate will have the power to exercise all of the powers of the Director. The appointment will continue until notice of termination of the appointment is received by the Company.

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.

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 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.

An alternate may terminate the alternate's appointment at any time by notice to the Directors and the Company.

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 Remuneration and reimbursement for expenses

23.1 Remuneration of Director

The Company must not pay fees to a Director for acting as a Director.

23.2 Payment for work other than as a Director

With the prior approval of the Board, the Company may 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.

23.3 Reimbursement of expenses

Directors and alternates are entitled to be reimbursed by the Company for reasonable costs and expenses incurred or to be incurred in connection with attendance at meetings of the Board and committees of the Board.

24 Board meetings

24.1 Convening meetings

In the ordinary course, the Secretary will convene Board meetings in accordance with the determinations of the Board.

A Director may at any time convene a Board meeting by notice to the other Directors.

24.2 Notice of meetings

Reasonable notice of each Board meeting must be given to the Directors and each alternate entitled to receive notice (if any).

Each notice must state:

- a. the date, time and place (or places) of the Board meeting;
- b. the general nature of the business to be conducted at the Board meeting; and
- c. any proposed resolutions.

24.3 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.

24.4 Use of technology

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.

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.

A Director participating at a meeting using technology consented to by all Directors is treated as being present in person at the meeting.

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.

24.5 Quorum at meetings

A quorum at a Board meeting is at least 2 of the Directors present in person (not counting alternates). The quorum must be present at all times during the Board meeting.

24.6 Chair of meetings

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.

If the chair is not present within 30 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.

24.7 Passing resolutions at meetings

A resolution of the Board must be passed by a majority of the votes cast by the Directors entitled to vote on the resolution.

Each Director present in person or by alternate is entitled to vote and has one vote.

24.8 Casting vote

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

24.9 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.

24.10 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.

24.11 Minutes of meetings

Within one month after each Board meeting, the Directors must record or cause to be recorded in the minute books:

- a. the proceedings and resolutions of each Board meeting; and
- b. all resolutions passed without a Board meeting
- c. The chair, or the chair of the next Board meeting, must sign the minutes within one month after the meeting.
- d. The minute books must be kept at the registered office.
- e. 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.

25 Directors' interests

25.1 Declaration of interest

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.

A notice of a material personal interest must set out:

- a. the nature and extent of the interest; and
- b. the relation of the interest to the affairs of the Company.

The notice must be provided to the Board at a Board meeting as soon as practicable.

25.2 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
- c. accordingly will not count for the purposes of determining whether there is a quorum.

26 Appointment of Secretary

Any Secretary appointed may be removed at any time by the Board.

27 Removal and remuneration of Auditor

27.1 Remuneration of Auditor

The remuneration of the Auditor may be determined by 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.

27.2 Removal of Auditor

The Company may remove an Auditor by resolution at a general meeting.

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.

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.

The notice of an intention must also inform the Auditor that the Auditor:

- a. 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 voted upon; and
- b. may speak at the general meeting or request that the written representations be read at the general meeting at which the resolution is to be put to a vote.

27.3 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.

28 Financial records

28.1 Member's access to financial records

The Board or the Company may by ordinary resolution, authorise any Member to inspect books of the Company.

28.2 Directors' access to financial records

Any Director may at any time access and inspect any financial 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 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

In addition to any other way allowed by the Corporations Act, a notice or other communication may be given by being:

personally delivered;

left at the person's current address as recorded in the Register of Members;

sent to the person's current address as recorded in the Register of Members by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail;

sent by fax to the person's current fax number for notices; or

sent by email to the person's current email address for notices.

29.3 Communications by post

Subject to clause 29.6, a communication is given if posted:

- a. within Australia to an Australian address, three Business Days after posting; or
- b. outside of Australia to an Australian address or within Australia to an address outside of

Australia, ten Business Days after posting.

29.4 Communications by fax

Subject to clause 29.6, 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

To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company must indemnify each officer, Director and Secretary of the Company in respect of any liability, loss, damage, cost or expense incurred or suffered or to be incurred or suffered by the officer, Director or Secretary in or arising out of the conduct of any activity of the Company or the proper performance of any duty of that officer, Director or Secretary.

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

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.

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 Surplus assets not to be distributed to members

If the Company is wound up, any Surplus Assets must not be distributed to a Member or a former Member of the Company, unless that Member or former Member is a charity as described in clause 31.2(a).

31.2 Distribution of surplus assets

Subject to the Corporations Act and any other applicable Act, and any court order, any Surplus Assets that remain after the Company is wound up must be distributed to one or more charities:

- a. with charitable purposes similar to, or inclusive of, the purposes in clause 4; and
- b. which also prohibit the distribution of any Surplus Assets to its members to at least the same extent as the Company.

The decision as to the charity or charities to be given the Surplus Assets must be made by a special resolution of the Members at or before the time of winding up. If the Members do not make this decision, the Company may apply to the Supreme Court to make this decision.

31.3 DGR Winding up and revocation

If the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets, namely:

- a. gifts of money or property for the principal purpose of the Company;
- b. contributions described in item 7 or 8 of the table in section 30-125 of the Tax Act in relation to a fundraising event held for the principal purpose; and
- c. money received by the Company because of such gifts and contributions.

will, as required by section 30 -125 of the Tax Act, be given or transferred to a fund, authority or institution gifts to which are deductible under Division 30 of the Tax Act and which, by its constitution, is:

- a. required to pursue charitable purposes only (being charitable purposes similar, as far as possible, to those of the Company);
- b. required to apply its income in promoting its charitable purposes; and
- c. prohibited from making any distribution to its members and paying fees to its Directors, to at least the same extent of such prohibitions under this Constitution,

such fund, authority or institution to be determined by the Members, and in default, by application to the Supreme Court of Victoria for determination.