

RICHMOND FUTURES LIMITED

CONSTITUTION

Version 2:
Approved by the Richmond Futures Members – 15 April 2020

Version 3:
Approved by the Richmond Futures Members – 25 May 2024
With Effect 01 Jul 2024

TABLE OF CONTENTS

1	Definitions and interpretation	4
1.1	Definitions	4
1.2	Interpretation.....	5
1.3	Signing.....	5
1.4	Corporations Act.....	6
1.5	Headings.....	6
1.6	Replaceable rules do not apply	6
2	Name and type of the company	6
2.1	Name of Company.....	6
2.2	Type of company	6
3	Limited liability of members	6
3.1	Liability of Members.....	6
3.2	Limited liability of Members	6
4	Purpose of the Company	6
4.1	Objects.....	6
5	Company's Powers	7
6	Not-for-profit	7
6.1	Not-for-profit.....	7
6.2	Payment in good faith	7
6.3	Amending the constitution	7
7	Membership	7
7.1	Membership	7
7.2	Register	7
7.3	Membership and Annual Renewal Fee	8
7.4	Who can be a Member	8
7.5	Admission as a member	8
7.6	Membership Process	8
7.7	Decision whether to approve Membership	8
7.8	When a person becomes a Member	8
7.9	When a person stops being a Member.....	9
8	Dispute resolution and disciplinary procedures	9
8.1	Dispute resolution	9
8.2	Disciplinary proceedings.....	10
9	General Meetings of Members	10
9.1	General Meetings called by Directors.....	10
9.2	General Meetings called by Members	11
9.3	Annual General Meeting	11
9.4	Notice of General Meetings	11
9.5	Quorum at General Meetings	12
9.6	Auditor's right to attend meetings	12
9.7	Representatives of Members.....	12
9.8	Using technology to hold meetings.....	13
9.9	Chairperson for General Meetings	13
9.10	Role of the chairperson.....	13
9.11	Adjournment of meetings.....	13
10	Members' resolutions and statements	13
10.1	Members' resolutions and statements.....	13
10.3	Circular resolutions of Members.....	14

11	Voting at General Meetings	15
11.1	How many votes a Member has	15
11.2	Questions decided by majority	15
11.3	Challenge to Member's right to vote	15
11.4	How voting is carried out	15
11.5	When and how a vote in writing must be held	15
11.6	Appointment of proxy	16
11.7	Voting by proxy	16
12	Directors	16
12.1	Number of Directors	16
12.2	Election and appointment of Directors	17
12.3	Election of chairperson	17
12.4	Term of office	17
12.5	When a Director stops being a Director	18
13	Powers of Directors	18
13.1	Powers of Directors	18
13.2	Delegation of Directors' powers	18
13.3	Payments to Directors	18
13.4	Execution of documents	19
14	Duties of Directors	19
14.1	Duties of Directors	19
14.2	Conflicts of interest	19
15	Directors' meetings	20
15.1	When the Directors meet	20
15.2	Calling Directors' meetings	20
15.3	Chairperson for Directors' meetings	20
15.4	Quorum at Directors' meetings	20
15.5	Using technology to hold Directors' meetings	20
15.6	Passing Directors' resolutions	20
15.7	Circular resolutions of Directors	20
16	Secretary	21
17	Minutes and records	21
17.1	Minutes and records	21
17.2	Financial and related records	21
17.3	By-laws	22
18	Financial Year	22
19	Indemnity, insurance and access	22
19.1	Indemnity	22
19.2	Insurance	22
19.3	Directors' access to documents	22
20	Winding up	22
20.1	Surplus Assets not to be distributed to Members	22
20.2	Distribution of Surplus Assets	22
21	Notices	23
21.1	What is notice	23
21.2	Notice to the Company	23
21.3	Notice to Members	23
21.4	When notice is taken to be given	23

1 Definitions and interpretation

1.1 Definitions

In this document unless the contrary intention appears:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Commonwealth).

Annual Renewal Fee means an annual fee for membership of the Company of an amount determined by the Directors under clause 7.3 (Membership and Annual Renewal Fee) from time to time.

Auditor means the auditor for the time being of the Company.

Board means all or some of the Directors acting as a board.

Business Day means any week day on which banks are generally open for business in Hobart, Australia.

Company means Richmond Futures Limited (ABN 57 627 502 167).

Constitution means this Constitution as amended from time to time and a reference to a clause is a reference to a clause of this Constitution.

Corporations Act means the *Corporations Act 2001* (Commonwealth).

Director means a person holding office as director of the Company.

Directors means all or some of the persons holding office as Directors of the Company.

Elected Chairperson means the elected chairperson appointed under clause 12.3 (Election of chairperson).

General Meeting means a meeting of the Members of the Company.

Guarantee Amount means 10 dollars (AUD).

Initial Member means a person who is named in the application for registration of the Company, with their consent, as a proposed Member of the Company.

Member means a person entered on the Register as a Member.

Officer means a Director or Secretary and includes a Director or Secretary after they have ceased to hold that office.

Purposes means the Company's purposes set out in clause 4 (Purpose of the Company).

Quorum means, in respect of a meeting of:

- (a) the Board, the attendance of at least 51% of the Directors entitled to attend and vote at the meeting; and
- (b) Members, the attendance of at least 2 Members (in person or by proxy or representative) entitled to attend and vote at the meeting unless the Company has only one Member in which case the quorum is that Member.

For the purposes of determining whether a Quorum is present, a person may only be counted once (even if that person is a Representative or proxy of more than one Member).

Register means the register of Members under the Corporations Act and if appropriate includes a branch register.

Registered Office means the registered office for the time being of the Company.

Representative means a person appointed to represent a corporate Member at a General Meeting of the Company in accordance with the Corporations Act.

Rule means a rule made by the Board in accordance with clause 17.3.

Secretary means a person appointed as a secretary of the Company in accordance with clause 16 (Secretary) and includes an honorary secretary and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

Special Resolution means a resolution:

- (a) of which notice has been given under clause 9.4(e)(iii) (Notice of General Meeting); and
- (b) that has been passed by at least 75% of the votes cast by Members present and entitled to vote on the resolution.

Surplus Assets means any assets of the Company that remain after paying all debts and other liabilities of the Company, including the costs of winding up, including:

- (a) gifts of money or property for the principal purpose of the organisation;
- (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation; and
- (c) money received by the organisation because of such gifts and contributions.

Tax Act means the *Income Tax Assessment Act 1997* (Commonwealth).

1.2 Interpretation

- (a) A reference to:
 - (i) one gender includes every other gender;
 - (ii) the singular includes the plural, and the plural includes the singular;
 - (iii) a person includes a body corporate or unincorporate;
 - (iv) a party includes the party's executors, administrators, successors and permitted assigns;
 - (v) a statute, regulation or provision of a statute or regulation (**Statutory Provision**) includes:
 - (A) that Statutory Provision as amended or re-enacted from time to time;
 - (B) a statute, regulation or provision enacted in replacement of that Statutory Provision; and
 - (C) another regulation or other statutory instrument made or issued under that Statutory Provision; and
 - (vi) money is to Australian dollars, unless otherwise stated.
- (b) The expression "this document" includes the deed, covenants, agreement, arrangement, understanding or transaction recorded in this document.
- (c) "Including" and similar expressions are not words of limitation.
- (d) A reference to a clause or schedule is a reference to a clause of or a schedule to this document.
- (e) A reference to a document (including, without limitation, a reference to this document) is to that document as amended, novated or replaced.
- (f) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (g) Headings and any table of contents or index are for convenience only and do not form part of this document or affect its interpretation.
- (h) A provision of this document must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this document or the inclusion of the provision in this document.
- (i) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
- (j) All references to time are to Australian Eastern Standard time.

1.3 Signing

Where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions, or in any other manner approved by the Directors.

1.4 Corporations Act

In this Constitution unless the contrary intention appears:

- (a) an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act; and
- (b) “section” means a section of the Corporations Act.

1.5 Headings

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

1.6 Replaceable rules do not apply

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

2 Name and type of the company

2.1 Name of Company

The name of the company is Richmond Futures Limited.

2.2 Type of company

The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.

3 Limited liability of members

3.1 Liability of Members

The liability of Members is limited to the amount of the guarantee in clause 3.2 (Limited liability of Members).

3.2 Limited liability of Members

Each Member must contribute the Guarantee Amount to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:

- (a) debts and liabilities of the Company incurred before the Member stopped being a Member; or
- (b) costs of winding up.

4 Purpose of the Company

4.1 Objects

The objects of the Company are to pursue the following charitable purposes:

- (a) promoting the prevention and control of mental health illnesses in people including by providing rehabilitation, recovery, wellbeing, clinical, support and education services to encourage mental health, physical health and emotional wellbeing;
- (b) supporting people to manage their mental health and to recover and maintain their wellbeing;
- (c) to maintain an association with Richmond Fellowship organisations throughout Australia and overseas;
- (d) any other purposes approved by the Members from time to time.

These objects may be achieved by:

- (e) providing services which are commercially viable, beneficial to the community and further the objectives of the Company;
- (f) registering and providing support services under programs administered pursuant to the National Disability Insurance Scheme (**NDIS**) or other commonwealth or state funded support service programs;
- (g) using the facilities, resources and staff of the Company to offer (on reasonable

-
- commercial terms) and provide services to NDIS participants and participants of other fee for service funding sources;
- (h) to enter into agreements or arrangements with organisations to promote and maintain the objectives of the Company;
 - (i) sourcing, funding, maintaining and managing assets to support the objects of the Company, and other organisations with compatible objectives; and
 - (j) to do such other things as are incidental or conducive to the attainment of these objects.

5 Company's Powers

The Company has the legal capacity and powers of an individual and also has all the powers of a Body Corporate under the Corporations Act.

6 Not-for-profit

6.1 Not-for-profit

The Company must not distribute any income or assets directly or indirectly to its Members, except as provided in clauses 6.2 (Payment in good faith) and 20.2 (Distribution of Surplus Assets).

6.2 Payment in good faith

Clause 6.1 (Not-for-profit) does not prevent 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(s).

6.3 Amending the constitution

- (a) Subject to clause 6.3(b), the Members may amend this Constitution by passing a Special Resolution.
- (b) The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to no longer be a charity.

7 Membership

7.1 Membership

The Members of the Company are:

- (a) Initial Member; and
- (b) any other person that the Directors allow to be a Member, in accordance with this Constitution.

7.2 Register

- (a) The Company must establish and maintain a Register. The Register must be kept by the Secretary and must contain:
 - (i) for each current Member:
 - (A) name;
 - (B) address;
 - (C) any alternative address nominated by the Member for the service of notices; and
 - (D) date the Member was entered on to the Register.
 - (ii) for each person who stopped being a Member in the last 7 years:
 - (A) name;

-
- (B) address;
 - (C) any alternative address nominated by the Member for the service of notices; and
 - (D) dates the Membership started and ended.
- (b) The Company must give current Members access to the Register.
 - (c) Information that is accessed from the Register must only be used in a manner relevant to the interests or rights of Members.

7.3 Membership and Annual Renewal Fee

The Company may charge:

- (a) an applicant for membership a joining fee; and
 - (b) Members an Annual Renewal Fee,
- of an amount determined by the Directors from time to time.

7.4 Who can be a Member

A person is eligible to apply to be a Member of the Company under clause 7.6 (Membership Process) if:

- (a) they are proposed for membership by a member of the Company and, if there is more than one member of the Company, seconded by another member of the Company; and
- (b) they support the Purposes of the Company; and
- (c) agree in writing to be bound by this Constitution, including paying the Guarantee Amount under clause 3.2 (Limited Liability of Members) if required.

7.5 Admission as a member

The Directors, or a person delegated the power to admit members in accordance with clause 13.2 (Delegation of Director's powers), may admit any person as a Member if the person is eligible under clause 7.4 (Who can be a Member) and the person pays any joining fee prescribed by the Directors under clause 7.3 (Membership and Annual Renewal Fee) from time to time.

7.6 Membership Process

- (a) An application for membership must be made in such form as the Directors prescribe.
- (b) An application for membership must be considered within a reasonable time after the application is received.

7.7 Decision whether to approve Membership

- (a) If the directors approve an application, the secretary must as soon as possible:
 - (i) enter the new member on the register of Members, and
 - (ii) write to the applicant to tell them that their application was approved, and the date that their membership started (see clause 7.8).
- (b) If the Directors reject an application, the secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons.
- (c) For the avoidance of doubt, the directors may approve an application even if the application does not state the matters listed in clauses 12 2(a), 12(2b) or 12 2(c). In that case, by applying to be a member, the applicant agrees to those three matters.

7.8 When a person becomes a Member

Other than Initial Member, an applicant will become a Member when they are entered on the Register.

7.9 When a person stops being a Member

A person immediately stops being a Member if they:

- (a) die;
- (b) are wound up or otherwise dissolved or deregistered (for an incorporated Member);
- (c) resign, by writing to the Secretary;
- (d) are expelled under clause 8.2 (Disciplinary proceedings);
- (e) fail to pay any Annual Renewal Fee within 60 days of such fee becoming due and payable; or
- (f) have not responded within 3 months to a written request from the Secretary that they confirm in writing that they want to remain a Member.

8 Dispute resolution and disciplinary procedures

8.1 Dispute resolution

- (a) The dispute resolution procedure in this clause applies to disputes under this Constitution between a Member or Director and:
 - (i) one or more Members;
 - (ii) one or more Directors; or
 - (iii) the Company.
- (b) A Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 8.2 (Disciplinary proceedings) until the disciplinary procedure is completed.
- (c) Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- (d) If those involved in the dispute do not resolve it under clause 8.1(c), they must within 10 days:
 - (i) tell the Directors about the dispute in writing;
 - (ii) agree or request that a mediator be appointed; and
 - (iii) attempt in good faith to settle the dispute by mediation.
- (e) The mediator must:
 - (i) be chosen by agreement of those involved; or
 - (ii) where those involved do not agree:
 - (A) for disputes between Members, a person chosen by the Directors; or
 - (B) for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the President of the Law Society of Tasmania.
- (f) A mediator chosen by the Directors under clause 8.1(e)(ii)(B):
 - (i) may be a Member or former Member of the Company;
 - (ii) must not have a personal interest in the dispute; and
 - (iii) must not be biased towards or against anyone involved in the dispute.
- (g) When conducting the mediation, the mediator must:
 - (i) allow those involved a reasonable chance to be heard;
 - (ii) allow those involved a reasonable chance to review any written statements;
 - (iii) ensure that those involved are given natural justice; and
 - (iv) not make a decision on the dispute.

8.2 Disciplinary proceedings

- (a) In accordance with this clause, the Directors may resolve to warn, suspend or expel a Member, other than the Initial Member while ever they are the sole member of the Company, from the Company if the Directors consider that:
 - (i) the Member has breached this Constitution; or
 - (ii) the Member's behaviour is causing, has caused, or is likely to cause harm to the Company or its reputation.
- (b) At least 14 days before the Directors' meeting at which a resolution under clause 8.2(a) will be considered, the Secretary must notify the Member in writing:
 - (i) that the Directors are considering a resolution to warn, suspend or expel the Member;
 - (ii) that this resolution will be considered at a Directors' meeting and the date of that meeting;
 - (iii) what the Member is said to have done or not done;
 - (iv) the nature of the resolution that has been proposed; and
 - (v) that the Member may provide an explanation to the Directors, and details of how to do so.
- (c) Before the Directors pass any resolution under clause 8.2(a), the Member must be given a chance to explain or defend themselves by:
 - (i) sending the Directors a written explanation before the Directors' meeting contemplated by clause 8.2(b) is held; and/or speaking at the meeting.
- (d) After considering any explanation under clause 8.2(c), the Directors may:
 - (i) take no further action;
 - (ii) warn the Member;
 - (iii) suspend the Member's rights as a Member for a period of no more than 12 months;
 - (iv) expel the Member;
 - (v) refer the decision to an unbiased, independent person for determination on conditions that the Directors consider appropriate (however, the person can only make a decision that the Directors could have made under this clause); or
 - (vi) require the matter to be determined at a General Meeting.
- (e) The Directors cannot fine a Member.
- (f) The Secretary must give written notice to the Member of the decision under clause 8.2(d) as soon as possible.
- (g) Disciplinary procedures must be completed as soon as reasonably practical.
- (h) There will be no liability for any loss or injury suffered by a Member as a result of any decision made in good faith under this clause.

9 General Meetings of Members

9.1 General Meetings called by Directors

- (a) The Directors may call a General Meeting.
- (b) If Members with at least 20% of the votes that may be cast at a General Meeting make a written request to the Company for a General Meeting to be held, the Directors must:
 - (i) within 28 days of the Members' request, give all Members notice of a General Meeting; and
 - (ii) hold the General Meeting within 2 months of the Members' request.
- (c) For the purposes of clause 9.1(b), the percentage of votes that Members have is

-
- to be worked out as at midnight before the Members request the meeting.
- (d) The Members who make the request for a General Meeting must:
 - (i) state in the request any resolution to be proposed at the meeting;
 - (ii) sign the request; and
 - (iii) give the request to the Company.
 - (e) Separate copies of a document setting out the request may be signed by Members if the wording of the request is the same in each copy.

9.2 General Meetings called by Members

- (a) If the Directors do not call the meeting within 28 days of being requested under clause 9.1(b) (General Meetings called by Directors), 50% or more of the Members who made the request may call and arrange to hold a General Meeting.
- (b) To call and hold a meeting under clause 9.2(a) the Members must:
 - (i) as far as possible, follow the procedures for General Meetings set out in this Constitution;
 - (ii) call the meeting using the list of Members on the Register, which the Company must provide to the Members making the request at no cost; and
 - (iii) hold the General Meeting within 3 months after the request was given to the Company.
- (c) The Company must pay the Members who request the General Meeting any reasonable expenses they incur because the Directors did not call and hold the meeting.

9.3 Annual General Meeting

- (a) A General Meeting, called the annual General Meeting, must be held:
 - (i) within 18 months after registration of the Company, and
 - (ii) after the first annual General Meeting, at least once in every calendar year.
- (b) Even if these items are not set out in the notice of meeting, the business of an annual General Meeting may include:
 - (i) a review of the Company's activities;
 - (ii) a review of the Company's finances;
 - (iii) any Auditor's report;
 - (iv) the election of Directors; and
 - (v) the appointment and payment of Auditors, if any.
- (c) Before or at the annual General Meeting, the Directors must give information to the Members on the Company's activities and finances during the period since the last annual General Meeting.
- (d) The chairperson of the annual General Meeting must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

9.4 Notice of General Meetings

- (a) Notice of a General Meeting must be given to:
 - (i) each Member entitled to vote at the meeting;
 - (ii) each Director; and
 - (iii) the Auditor (if any).
- (b) Notice of a General Meeting must be provided in writing at least 21 days before the meeting.
- (c) Subject to clause 9.4(d), notice of a meeting may be provided less than 21 days before the meeting if:

-
- (i) for an annual General Meeting, all the Members entitled to attend and vote at the annual General Meeting agree beforehand; or
 - (ii) for any other General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (d) Notice of a meeting cannot be provided less than 28 days before the meeting if a resolution will be moved to:
- (i) remove a Director;
 - (ii) appoint a Director in order to replace a Director who was removed; or
 - (iii) remove an Auditor.
- (e) Notice of a General Meeting must include:
- (i) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (ii) the general nature of the meeting's business;
 - (iii) if applicable, that a Special Resolution is to be proposed and the words of the proposed Special Resolution;
 - (iv) a statement that Members have the right to appoint proxies and that, if a Member appoints a proxy:
 - (A) the proxy does not need to be a Member of the Company;
 - (B) the proxy form must be delivered to the Company at its registered address or the address (including an electronic address) specified in the notice of the meeting; and
 - (C) the proxy form must be delivered to the Company at least 48 hours before the meeting.
- (f) If a General Meeting is adjourned (put off) for one month or more, the Members must be given new notice of the resumed meeting.

9.5 Quorum at General Meetings

- (a) For a General Meeting to be held, a Quorum must be present (in person, by proxy or by representative) for the whole meeting.
- (b) No business may be conducted at a General Meeting if a Quorum is not present.
- (c) If there is no Quorum present within 30 minutes after the starting time stated in the notice of General Meeting, the General Meeting is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
 - (i) if the date is not specified – the same day in the next week;
 - (ii) if the time is not specified – the same time; and
 - (iii) if the place is not specified – the same place.
- (d) If no Quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

9.6 Auditor's right to attend meetings

- (a) The Auditor (if any) is entitled to attend any General Meeting and to be heard by the Members on any part of the business of the meeting that concerns the Auditor in the capacity of Auditor.
- (b) The Company must give the Auditor (if any) any communications relating to the General Meeting that a Member of the Company is entitled to receive.

9.7 Representatives of Members

- (a) An incorporated Member may appoint as a Representative:
 - (i) one individual to represent the Member at meetings and to sign circular resolutions under clause 10.3 (Circular resolutions of Members); and
 - (ii) the same individual or another individual for the purpose of being appointed

or elected as a Director.

- (b) The appointment of a Representative by a Member must:
 - (i) be in writing;
 - (ii) include the name of the Representative;
 - (iii) be signed on behalf of the Member; and
 - (iv) be given to the Company or, for representation at a meeting, be given to the chairperson before the meeting starts.
- (c) A Representative has all the rights of a Member relevant to the purposes of the appointment as a Representative.
- (d) The appointment may be standing (ongoing).

9.8 Using technology to hold meetings

- (a) The Company may hold a General Meeting at 2 or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate, including to hear and be heard.
- (b) Anyone using this technology is taken to be present in person at the meeting.

9.9 Chairperson for General Meetings

- (a) The Elected Chairperson is entitled to chair General Meetings.
- (b) The Members present and entitled to vote at a General Meeting may choose a Director or Member to be the chairperson for that meeting if:
 - (i) there is no Elected Chairperson; or
 - (ii) the Elected Chairperson is not present within 30 minutes after the starting time set for the meeting; or
 - (iii) the Elected Chairperson is present but says they do not wish to act as chairperson of the meeting.

9.10 Role of the chairperson

- (a) The chairperson is responsible for the conduct of the General Meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions (including to the Auditor (if any)).
- (b) The chairperson does not have a casting vote.

9.11 Adjournment of meetings

- (a) If a Quorum is present, a General Meeting must be adjourned if a majority of Members present direct the chairperson to adjourn it.
- (b) Only unfinished business may be dealt with at a meeting resumed after an adjournment.

10 Members' resolutions and statements

10.1 Members' resolutions and statements

- (a) Members with at least 5% of the votes that may be cast on a resolution may give:
 - (i) written notice to the Company of a resolution they propose to move at a General Meeting (**Members' Resolution**); and/or
 - (ii) a written request to the Company that the Company give all of its Members a statement about a proposed resolution or any other matter that may properly be considered at a General Meeting (**Members' Statement**).
- (b) A notice of a Members' Resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- (c) A request to distribute a Members' Statement must set out the statement to be distributed and be signed by the Members making the request.

-
- (d) Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.
 - (e) For the purposes of clause 10.1(a) the percentage of votes that Members have is to be worked out as at midnight before the request or notice is given to the Company.
 - (f) If the Company has been given notice of a Members' Resolution under clause 10.1(a), the resolution must be considered at the next General Meeting held more than 2 months after the notice is given.
 - (g) This clause does not limit any other right that a Member has to propose a resolution at a General Meeting.

10.2 Company must give notice of proposed resolution or distribute statement

- (a) If the Company has been given a notice or request under clause 10.1 (Members' resolutions and statements):
 - (i) in time to send the notice of proposed Members' Resolution or a copy of the Members' Statement to Members with a notice of meeting, it must do so at the Company's cost; or
 - (ii) too late to send the notice of proposed Members' Resolution or a copy of the Members' Statement to Members with a notice of meeting, then the Members who proposed the resolution or made the request must pay the expenses reasonably incurred by the Company in giving Members notice of the proposed Members' Resolution or a copy of the Members' Statement. However, at a General Meeting, the Members may pass a resolution that the Company will pay these expenses.
 - (iii) Notices may be sent out via electronic mail and/or posted on the Company's website.
- (b) The Company does not need to send the notice of proposed Members' Resolution or a copy of the Members' Statement to Members if:
 - (i) it is more than 1 000 words long;
 - (ii) the Directors consider it may be defamatory;
 - (iii) clause 10.2(a)(ii) applies, and the Members who proposed the resolution or made the request have not paid the Company enough money to cover the cost of sending the notice of the proposed Members' Resolution or a copy of the Members' Statement to Members; or
 - (iv) in the case of a proposed Members' Resolution, the resolution does not relate to a matter that may be properly considered at a General Meeting or is otherwise not a valid resolution able to be put to the Members.

10.3 Circular resolutions of Members

- (a) Subject to clause 10.3(c), the Directors may put a resolution to the Members to pass without a General Meeting being held (Members Circular Resolution).
- (b) The Directors must notify the Auditor (if any) as soon as possible that a Members Circular Resolution has or will be put to Members, and set out the wording of the resolution.
- (c) Members Circular Resolutions cannot be used:
 - (i) for a resolution to remove an Auditor, appoint a Director or remove a Director;
 - (ii) for passing a Special Resolution; or
 - (iii) where the Corporations Act or this Constitution requires a meeting to be held.
- (d) A Members Circular Resolution is passed if a majority of the Members entitled to vote on the resolution sign or agree to the Members Circular Resolution, in the manner set out in clause 10.3(e) or clause 10.3(f).
- (e) Members may sign:

-
- (i) a single document setting out the Members Circular Resolution and containing a statement that they agree to the resolution; or
 - (ii) separate copies of that document, as long as the wording is the same in each copy.
- (f) The Company may send a Members Circular Resolution by email to Members and Members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

11 Voting at General Meetings

11.1 How many votes a Member has

Each Member has one vote.

11.2 Questions decided by majority

Subject to the requirements of the Corporations Act, a resolution, not being a Special Resolution, is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

11.3 Challenge to Member's right to vote

- (a) A Member or the chairperson may only challenge a person's right to vote at a General Meeting at that meeting.
- (b) If a challenge is made under clause 11.3(a), the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

11.4 How voting is carried out

- (a) Voting must be conducted and decided by:
 - (i) a show of hands;
 - (ii) a vote in writing; or
 - (iii) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- (b) Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- (c) On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- (d) The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

11.5 When and how a vote in writing must be held

- (a) A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
 - (i) at least 2 Members present;
 - (ii) Members present with at least 5% of the votes that may be passed on the resolution on the vote in writing; or
 - (iii) the chairperson.
- (b) For the purposes of clause 11.5(a)(ii) the percentage of votes that Members have is to be worked out as at midnight before the demand is made.
- (c) A vote in writing must be taken when and how the chairperson directs, unless clause 11.5(d) applies.
- (d) A vote in writing must be held immediately if it is demanded under clause 11.5(a):
 - (i) for the election of a chairperson under clause 9.9(b) (Chairperson for general meetings); or
 - (ii) to decide whether to adjourn the meeting.
- (e) A demand for a vote in writing may be withdrawn.

11.6 Appointment of proxy

- (a) A Member may appoint a proxy to attend and vote at a General Meeting on their behalf.
- (b) A proxy does not need to be a Member.
- (c) A proxy appointed to attend and vote for a Member has the same rights as the Member to:
 - (i) speak at the meeting;
 - (ii) vote on a show of hands;
 - (iii) vote in a vote in writing (but only to the extent allowed by the appointment); and
 - (iv) join in to demand a vote in writing under clause 11.5(a) (When and how a vote in writing must be held).
- (d) An appointment of proxy (proxy form) must be signed by the Member appointing the proxy and must contain:
 - (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 meeting(s) at which the appointment may be used.
- (e) A proxy appointment may be standing (ongoing).
- (f) Proxy forms must be received by the Company at the address stated in a notice given pursuant to clause 9.4(e)(iv)(B) (Notice of General Meetings) or the Company's registered address at least 48 hours before a meeting.
- (g) A proxy does not have the authority to speak and vote for a Member at a meeting while the Member is at the meeting.
- (h) Unless the Company receives written notice before the start or resumption of a General Meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Member:
 - (i) dies;
 - (ii) is mentally incapacitated;
 - (iii) revokes the proxy's appointment; or
 - (iv) revokes the authority of a Representative or agent who appointed the proxy.
- (i) A proxy appointment may specify the way the proxy must vote on a particular resolution.

11.7 Voting by proxy

- (a) A member who is appointed as a proxy is entitled to vote in their capacity as a proxy and in their capacity as a Member.
- (b) When a vote in writing is held, a proxy:
 - (i) does not need to vote, unless the proxy appointment specifies the way they must vote;
 - (ii) if the way they must vote is specified on the proxy form, must vote that way; and
 - (iii) if the proxy is also a Member or holds more than one proxy, may cast the votes held in different ways.

12 Directors

12.1 Number of Directors

The Company must have at least three and no more than seven Directors.

12.2 Election and appointment of Directors

- (a) The initial Directors are the people who have agreed to act as Directors and who are named as proposed Directors in the application for registration of the Company.
- (b) Apart from the initial Directors and Directors appointed under clause 12.2(e), the Members may elect a Director by a resolution passed in a General Meeting.
- (c) Each of the Directors must be appointed by a separate resolution, unless:
 - (i) the Members present have first passed a resolution that the appointments may be voted on together; and
 - (ii) no votes were cast against that resolution.
- (d) A person is eligible for election as a Director of the Company if they:
 - (i) are a Member of the Company, or a Representative of a Member of the Company, appointed under clause 9.7 (Representatives of Members);
 - (ii) are nominated by 2 Members or Representatives of Members entitled to vote (unless the person was previously elected as a Director at a General Meeting and has been a Director since that meeting);
 - (iii) give the Company their signed consent to act as a Director of the Company; and
 - (iv) are not ineligible to be a Director under the Corporations Act or the ACNC Act.
- (e) The Directors may appoint a person as a Director to fill a casual vacancy or as an additional Director if that person:
 - (i) gives the Company their signed consent to act as a Director of the Company; and
 - (ii) is not ineligible to be a Director under the Corporations Act or the ACNC Act.
- (f) If the number of Directors is reduced to fewer than 3 then the remaining Directors must act for the purpose of calling a General Meeting, but for no other purpose.

12.3 Election of chairperson

The Directors must elect a Director as the Company's Elected Chairperson.

12.4 Term of office

- (a) At each annual General Meeting:
 - (i) any Director appointed by the Directors to fill a casual vacancy or as an additional Director must retire; and
 - (ii) at least one-third of the remaining Directors must retire.
- (b) The Directors who must retire at each annual General Meeting under clause 12.4(a)(ii) will be the Directors who have been longest in office since last being elected. Where Directors were elected on the same day, the Director(s) to retire will be decided by lot unless they agree otherwise.
- (c) Other than a Director appointed under clause 12.2(e) (Election and appointment of Directors), a Director's term of office starts at the end of the annual General Meeting at which they are elected and ends at the end of the annual General Meeting at which they retire.
- (d) Each Director must retire at least once every three years.
- (e) A Director who retires under clause 12.4(d) may nominate for election or re-election, subject to clause 12.4(f).
- (f) A Director who has held office for a continuous period of nine years or more may only be re-appointed or re-elected by a Special Resolution.

12.5 When a Director stops being a Director

- (a) A Director stops being a Director if they:
 - (i) give written notice of resignation as a Director to the Company;
 - (ii) die;
 - (iii) are removed as a Director by a resolution of the Members;
 - (iv) stop being a Member of the Company;
 - (v) are a Representative of a Member, and that Member stops being a Member;
 - (vi) are a Representative of a Member, and the Member notifies the Company that the Representative is no longer a Representative;
 - (vii) behave in a manner which is inconsistent with national workplace bullying and harassments laws;
 - (viii) are absent for 3 consecutive Directors' meetings without approval from the Directors;
 - (ix) become ineligible to be a Director of the Company; or becomes ineligible to be a Director of the Company under the Corporations Act or the ACNC Act.

13 Powers of Directors

13.1 Powers of Directors

- (a) The Directors are responsible for managing and directing the activities of the Company to achieve the Purposes.
- (b) The Directors may use all the powers of the Company except for powers that, under the Corporations Act or this Constitution, may only be used by Members.
- (c) The Directors must decide on the responsible financial management of the Company including:
 - (i) any suitable written delegations of power under clause 13.2 (Delegation of Directors' powers); and
 - (ii) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- (d) The Directors cannot remove a Director or Auditor. Directors and Auditors may only be removed by a Members' Resolution at a General Meeting.

13.2 Delegation of Directors' powers

- (a) The Directors may delegate any of their powers and functions to a committee, a Director, an employee of the Company, or any other person, as they consider appropriate.
- (b) The delegation must be recorded in the Company's minute book.

13.3 Payments to Directors

- (a) The Company may 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 13.3(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.

13.4 Execution of documents

- (a) The Company may execute a document without using a common seal if the document is signed by:
 - (i) 2 Directors of the Company, or
 - (ii) a Director and the secretary.

14 Duties of Directors

14.1 Duties of Directors

The Directors must comply with their duties as Directors under legislation and common law, and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Company;
- (b) to act in good faith in the best interests of the Company and to further the Purposes of the Company;
- (c) not to misuse their position as a Director;
- (d) not to misuse information they gain in their role as a Director;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 14.2 (Conflicts of interest);
- (f) to ensure that the financial affairs of the Company are managed responsibly; and
- (g) not to allow the Company to operate while it is insolvent.

14.2 Conflicts of interest

- (a) A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):
 - (i) to the other Directors; or
 - (ii) if all of the Directors have the same conflict of interest, to the Members at the next General Meeting, or at an earlier time if reasonable to do so.
- (b) The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.
- (c) Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) must not, except as provided under clauses 14.2(d):
 - (i) be present at the meeting while the matter is being discussed; or
 - (ii) vote on the matter.
- (d) A Director may still be present and vote if:
 - (i) their interest arises because they are a Member of the Company, and the other Members have the same interest;
 - (ii) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company in accordance with clause 19.2 (Insurance);
 - (iii) their interest relates to a payment by the Company under clause 19.1 (Indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act;
 - (iv) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter; or
 - (v) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - (A) identifies the Director, the nature and extent of the Director's interest

-
- in the matter and how it relates to the affairs of the Company; and
- (B) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.
-

15 Directors' meetings

15.1 When the Directors meet

The Directors may decide how often, where and when they meet.

15.2 Calling Directors' meetings

- (a) A Director may call a Directors' meeting by giving reasonable notice to all of the other Directors.
- (b) A Director may give notice in writing or by any other means of communication that has previously been agreed to by all of the Directors.

15.3 Chairperson for Directors' meetings

- (a) The Elected Chairperson is entitled to chair Directors' meetings.
- (b) The Directors at a Directors' meeting may choose a Director to be the chairperson for that meeting if the Elected Chairperson is:
 - (i) not present within 30 minutes after the starting time set for the meeting; or
 - (ii) present but does not want to act as chairperson of the meeting.

15.4 Quorum at Directors' meetings

No business may be transacted at a Directors' meeting unless a Quorum is present. A quorum must be present for the whole directors' meeting.

15.5 Using technology to hold Directors' meetings

- (a) The Directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the Directors.
- (b) The Directors' agreement may be a standing (ongoing) one.
- (c) A Director may only withdraw their consent within a reasonable period before the meeting.

15.6 Passing Directors' resolutions

- (a) A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution. The vote shall be undertaken on a show of hands.
- (b) Each Director is entitled to one vote, and in the event of an equality of votes on a matter, the person presiding at the meeting will have a casting or second vote.

15.7 Circular resolutions of Directors

- (a) The Directors may pass a circular resolution without a Directors' meeting being held.
- (b) A circular resolution is passed if a majority the Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 15.7(c).
- (c) Each Director may sign:
 - (i) a single document setting out the resolution and containing a statement that they agree to the resolution; or
 - (ii) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- (d) The Company may send a circular resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- (e) A circular resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in clause 15.7(c).

16 Secretary

- (a) The Company must have at least one Secretary, who may also be a Director.
- (b) A Secretary must be appointed by the Directors (after giving the Company their signed consent to act as Secretary of the Company) and may be removed by the Directors.
- (c) The Directors must decide the terms and conditions under which the Secretary is appointed, including any remuneration.
- (d) The role of the Secretary includes:
 - (i) maintaining the Register; and
 - (ii) maintaining the minutes and other records of General Meetings (including notices of meetings), Directors' meetings and circular resolutions.

17 Minutes and records

17.1 Minutes and records

- (a) The Company must, within one month, make and keep the following records:
 - (i) minutes of proceedings and resolutions of General Meetings;
 - (ii) minutes of circular resolutions of Members;
 - (iii) a copy of a notice of each General Meeting; and
 - (iv) a copy of a Members' statement distributed to Members under clause 10.1 (Members Resolutions and Statements).
- (b) The Company must, within one month, make and keep the following records:
 - (i) minutes of proceedings and resolutions of Directors' meetings (including meetings of any committees); and
 - (ii) minutes of circular resolutions of Directors.
- (c) To allow Members to inspect the Company's records:
 - (i) the Company must give a Member access to the records set out in clause 17.1(a); and
 - (ii) the Directors may authorise a Member to inspect other records of the Company, including records referred to in clause 17.1(b) and clause 17.2 (Financial and related records).
- (d) The Directors must ensure that minutes of a General Meeting or a Directors' meeting are signed within a reasonable time after the meeting by:
 - (i) the chairperson of the meeting; or
 - (ii) the chairperson of the next meeting.
- (e) The Directors must ensure that minutes of the passing of a circular resolution (of Members or Directors) are signed by a Director within a reasonable time after the resolution is passed.

17.2 Financial and related records

- (a) The Company must make and keep written financial records that:
 - (i) correctly record and explain its transactions and financial position and performance; and
 - (ii) enable true and fair financial statements to be prepared and to be audited.
- (b) The Company must also keep written records that correctly record its operations.
- (c) The Company must retain its records for at least 7 years.
- (d) The Directors must take reasonable steps to ensure that the Company's records are kept safe.

17.3 By-laws

The directors may pass a resolution to make by-laws to give effect to this constitution. Members and directors must comply with by-laws as if they were part of this constitution.

18 Financial Year

The Company's financial year is from 1 July to 30 June, unless the Directors pass a resolution to change the financial year.

19 Indemnity, insurance and access

19.1 Indemnity

- (a) The Company indemnifies each Officer of the Company out of the assets of the Company, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an Officer of the Company.
- (b) In this clause, 'to the relevant extent' means:
 - (i) to the extent that the Company is not precluded by law (including the Corporations Act) from doing so; and
 - (ii) for the amount that the Officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- (c) The indemnity is a continuing obligation and is enforceable by an Officer even though that person is no longer an Officer of the Company.

19.2 Insurance

To the extent permitted by law (including the Corporations Act), and if the Directors consider it appropriate, the Company may pay or agree to pay a premium for a contract insuring a person who is or has been an Officer of the Company against any liability incurred by the person as an Officer of the Company.

19.3 Directors' access to documents

- (a) A Director has a right of access to the financial records of the Company at all reasonable times.
- (b) If the Directors agree, the Company must give a Director or former Director access to:
 - (i) certain documents, including documents provided for or available to the Directors; and
 - (ii) any other documents referred to in those documents.

20 Winding up

20.1 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 described in clause 20.2(a) (Distribution of Surplus Assets).

20.2 Distribution of Surplus Assets

- (a) Subject to the Corporations Act and any other applicable legislative instrument, and any court order, any Surplus Assets that remain after the Company is wound up or its endorsement of a deductible gift recipient is revoked, whichever occurs first, must be distributed to one or more charities:
 - (i) to which income tax deductible gifts can be made;
 - (ii) with charitable purpose(s) similar to, or inclusive of, the Company's Purposes; and
 - (iii) which also prohibit the distribution of any Surplus Assets to its Members to

at least the same extent as the Company.

- (b) The decision as to the charity or charities to be given the Surplus Assets must be made by a Special Resolution of 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.

21 Notices

21.1 What is notice

- (a) Anything written to or from the Company under any clause in this Constitution is written notice and is subject to this clause, unless specified otherwise.
- (b) This clause does not apply to a notice of proxy under clause 11.6(f) (Appointment of Proxy).

21.2 Notice to the Company

- (a) Written notice or any communication under this Constitution may be given to the Company, the Directors or the secretary by:
 - (i) delivering it to the Company's registered office;
 - (ii) posting it to the Company's registered office or to another address chosen by the Company for notice to be provided; or
 - (iii) sending it to an email address or other electronic address notified by the Company to the Members as the Company's email address or other electronic address.

21.3 Notice to Members

- (a) Written notice or any communication under this constitution may be given to a Member:
 - (i) in person;
 - (ii) by posting it to, or leaving it at the address of the Member in the register of Members or an alternative address (if any) nominated by the Member for service of notices;
 - (iii) sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any); or
 - (iv) if agreed to by the Member, by notifying the Member at an email or other electronic address nominated by the Member, that the notice is available at a specified place or address (including an electronic address).
- (b) If the Company does not have an address for the Member, the Company is not required to give notice in person.

21.4 When notice is taken to be given

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post, is taken to be given on the 5th day after it is posted with the correct payment of postage costs;
- (c) sent by email or other electronic method, is taken to be given on the business day after it is sent; and
- (d) given under clause 21.3(a)(iv) (Notice to Members) is taken to be given on the business day after the notification that the notice is available is sent.