



JACKSON McDONALD
MULTI-SECTOR LAW

Constitution

Armadillo & Co Foundation Limited

A Public Company Limited by Guarantee

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1. Name of the Company

The name of the company is Armadillo & Co Foundation Limited.

2. Definitions and interpretation

2.1 Definitions

Accounting Period means the period from the date of incorporation of the Company to the following 30 June and then each period of twelve months ending on 30 June in each year or any other period that the Board decides.

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

ACNC Commissioner means the Commissioner of the Australian Charities and Not-for-profits Commission for the purposes of the ACNC Act.

Advisory Committee means a committee established and governed by rule 13.

Annual Subscription Fee has the meaning given to it in rule 6.7(a).

ASIC means the Australian Securities and Investments Commission.

Auditor means the auditor, if any, of the Company appointed under rule 17.2.

Bankrupt means, in relation to a person, the state of being “insolvent under administration” as defined in the Corporations Act or having signed an authority under section 188 of the *Bankruptcy Act 1966* (Cth).

Board means the board of Directors of the Company.

Business Day means a day which is not a Saturday, Sunday, public holiday or bank holiday in the city of Perth, Western Australia.

Chairperson means the Director appointed under rule 9.5(a), and **chairperson** means either the Chairperson or a Director elected to be the chairperson for any Board meeting under rule 9.5(c) or any general meeting under rule 12.11(b).

Commissioner means the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of the ITAA97.

Company means the company named in rule 1.

Conflict of Interest means a material personal interest in a matter that relates to the affairs of the Company.

Constitution means this constitution and any amendments to or substitutions for it.

Contribution means:

- (a) a contribution of money or property as described in item 7 of the table contained in section 30-15 of the ITAA97 in relation to a fundraising event; or

- (b) a contribution of money as described in item 8 of the table contained in section 30-15 of the ITAA97 in relation to a successful bidder at an auction that was a fundraising event,

held for the Objects.

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

Deductible Gift Recipient means an institution, fund, authority or any other entity that is endorsed as a deductible gift recipient by the Commissioner under Division 30 of the ITAA97 or is a specific listed deductible gift recipient under Division 30 of the ITAA97.

Director means a person appointed as a director of the Company under rule 8.

Director Identification Number means a unique identifier that directors are required to apply for under Part 9.1A of the Corporations Act.

Initial Directors has the meaning given to it in rule 8.1.

ITAA97 means the *Income Tax Assessment Act 1997* (Cth).

Legal Costs of a person means legal costs incurred by that person in defending an action for a Liability of that person.

Liability of a person means any liability incurred by that person as an officer of the Company or a subsidiary of the Company.

Member means any person who is a member of the Company under rule 6, and the term **Membership** has a corresponding meaning.

Objects means the objects referred to in rule 4.1.

Proxy includes an attorney, or in the case of a corporation, trust or association, its nominee.

Register of Members means the list of Members of the Company maintained under rule 7.

Registered Charity means an entity registered by the ACNC Commissioner as a charity in accordance with the ACNC Act.

Relevant Officer means each person who is or has been a Director or Secretary and any other officers or former officers of the Company or of its related corporations that the Board determines.

Secretary means any person appointed as a secretary of the Company under rule 10.

Small Registered Charity means an entity registered by the ACNC Commissioner as a small registered charity in accordance with the ACNC Act.

Special Resolution means a resolution of the Company (of which written notice has been provided in accordance with rule 12.3) passed at a general meeting by not less than 75% of the votes cast by Members who are present at the meeting and are entitled to vote on a resolution.

2.2 Interpretation

- (a) This interpretation clause applies unless inconsistent with the context.
- (b) A reference to **resolve**, **resolution** or **ordinary resolution** means a resolution (other than a Special Resolution) which is passed, as applicable:
 - (i) at a general meeting by the majority of the Members who are present and entitled to vote;
 - (ii) at a Board meeting by the majority of Directors who are present and entitled to vote; or
 - (iii) in writing in accordance with rules 9.8 or 12.12.
- (c) If a word or phrase is defined, then its other grammatical forms have a corresponding meaning.
- (d) The singular includes the plural and vice versa.
- (e) A reference to a gender includes any gender.
- (f) The word *includes* and similar words are not words of limitation and do not restrict the interpretation of a word or phrase in this Constitution.
- (g) A reference to a document includes a variation or replacement of it.
- (h) A reference to a statute includes its subordinate legislation and a modification, replacement or re-enactment of either.
- (i) A reference to a person includes a reference to an individual, company, body corporate, trust, partnership, incorporated association, unincorporated body, joint venture, organisation and any other form of entity.
- (j) A reference to a Member present at a general meeting is a reference to a Member present in person, by technology or by proxy.
- (k) A reference to a Director present at a Board meeting is a reference to a Director present in person or by technology.
- (l) A reference to notices includes formal notices of meetings and all documents and other communications from the Company to Members.
- (m) A reference to writing and written includes printing, electronic documents and other ways of representing or reproducing words in a visible form.
- (n) If the date on which a thing must be done is not a Business Day, then that thing must be done on the next Business Day.
- (o) If a period of time runs from a given date, act or event, then the time is calculated exclusive of the date, act or event.
- (p) Headings are used for convenience only and do not affect the interpretation of this Constitution.

3. Application of the Corporations Act and the ACNC Act

- (a) Subject to rule 2, a word or expression used in a rule that deals with a matter dealt with by a provision of the Corporations Act or the ACNC Act has the same meaning as in that provision.
- (b) The replaceable rules do not apply to the Company except those which operate as mandatory rules for public companies limited by guarantee under the Corporations Act.
- (c) Except as otherwise provided in this Constitution, whilst the Company is a Registered Charity, the provisions of the Corporations Act which do not apply to a body corporate registered under the ACNC Act by virtue of section 111L of the Corporations Act, do not apply to the Company.

4. Objects and not for profit

4.1 Objects

The objects of the Company are to:

- (a) relieve the disadvantage, poverty, destitution or misfortune suffered by children; and
- (b) undertake any other charitable things or activities which are incidental or ancillary to the attainment of the above object.

4.2 Promotion of Objects

The Company must operate solely for the purpose of promoting and advancing the Objects. However, the Company is not required to promote all of the Objects at the same time or in any particular order and may, in its absolute discretion, determine the level and amount of promotion, funding or any other support which should be applied to any particular Object at any given time.

4.3 Not for profit

- (a) Subject to rule 4.3(b), the income and property of the Company must be applied solely towards the Objects and no part of that income or property may be paid, transferred or distributed, directly or indirectly, to any Director or Member except in good faith in the promotion of the Objects.
- (b) Rule 4.3(a) does not prohibit making a payment approved or ratified by the Board:
 - (i) for out-of-pocket expenses incurred by a Director in performing a duty as Director of the Company;
 - (ii) for any reasonable remuneration of a Director determined under rule 8.11;
 - (iii) in good faith for a good or service supplied to the Company by a Director (other than in the capacity as a Director of the Company) or Member, where:
 - (A) the supply has the prior approval of the Board; and

- (B) the amount payable is a commercially reasonable payment for the supply;
- (iv) of reasonable and proper interest on money borrowed from a Member or Director by the Company;
- (v) of reasonable and proper rent for premises let by any Member or any Director to the Company; or
- (vi) for indemnification of or payment of premiums on contracts of insurance for any Director to the extent permitted by law and this Constitution.

5. Company powers

5.1 General Company powers

The Company has the powers conferred on it by the Corporations Act, including the power to:

- (a) accept or refuse any gift, endowment or bequest made to or acquired by the Company generally for the Objects or for the purpose of any specific Object and to undertake, execute and carry out any charitable or other trust which may be considered expedient or desirable in the interests of the Company;
- (b) subscribe to, become a member of, and co-operate with, any other association or organisation;
- (c) establish and maintain any number of trusts, each for a specific purpose, consistent with the Objects; and
- (d) do all other things that are incidental or conducive to the attainment of the Objects and the exercise of the powers of the Company.

5.2 Power to amalgamate

- (a) Where it furthers the Objects, the Company may amalgamate with any one or more other institutions, organisations or entities, provided that those other institutions, organisations or entities:
 - (i) have similar objects to the Objects; and
 - (ii) prohibit distribution of its income and property among its members and directors to an extent at least as great as is imposed on the Company by rules 4.3(a) and 4.3(b).
- (b) The decision to amalgamate the Company pursuant to rule 5.2(a) must be made by Special Resolution of the Members.

5.3 Power to appoint patrons and friends of the Company

- (a) Without limiting the generality of the powers set out under rule 5.1, the Board has the capacity and power to:
 - (i) appoint honorary patrons to the Company, who must not be Directors, nor have any executive powers, nor be entitled to any remuneration except for reasonable out-of-pocket expenses in relation to services rendered in promoting the Company; and
 - (ii) appoint persons as a “*friend of Armadillo & Co Foundation*” and these friends have no voting powers.
- (b) Subject to rule 5.3(a), the Board may decide the privileges and rights (if any) attaching to the appointment of honorary patrons and friends.

6. Membership

6.1 Eligibility

Subject to rule 6.3, membership of the Company is open to any person.

6.2 Initial Members

The initial Members of the Company are the persons and entities specified in the application to ASIC to register the Company under the Corporations Act.

6.3 Admission to Membership

- (a) A person who wishes to become a Member must apply for Membership to the Board in writing, in the form that the Board determines.
- (b) The Board or its delegate must consider each application made under rule 6.3(a) and must accept or reject the application.
- (c) The Board is not required to provide reasons as to why a Membership application was rejected.
- (d) A person’s Membership takes effect when they are entered on the Register of Members.

6.4 Rights of Members

Members are entitled to receive:

- (a) notices of, attend, be heard at and vote at (one vote only on any given resolution) any general meeting; and
- (b) if they elect to do so, a copy of the annual financial report, Directors’ report or Auditor’s report (if any) of the Company within the time frame specified in the Corporations Act.

6.5 Duties of Members

Each Member must:

- (a) act honestly, diligently and with reasonable care;
- (b) act respectfully towards each other Member;
- (c) advance the Objects in accordance with this Constitution, the Corporations Act and the ACNC Act;
- (d) not make improper use of information or opportunities received through being a Member of the Company; and
- (e) not make any public statement on behalf of the Company unless authorised by the Board.

6.6 Liability of Members

- (a) The Company is a public company limited by guarantee and accordingly, the liability of the Members is limited.
- (b) Each Member undertakes to contribute an amount not more than **\$1.00** to the property of the Company if it is wound up while they are a Member or within one year after they cease to be a Member for:
 - (i) payment of the Company's debts and liabilities incurred before the time they ceased to be a Member; and
 - (ii) the costs, charges and expenses of winding up.

6.7 Subscription of Members

- (a) The Board may determine the amount of the Annual Subscription Fee (if any).
- (b) Each Member must pay the Annual Subscription Fee annually on or before 30 June, or any other date the Board determines.
- (c) A Member whose subscription is not paid within three months after the relevant date fixed by or under rule 6.7(b) ceases on the expiry of that period to be a Member, unless the Board decides otherwise.

6.8 Cessation of Membership

A Member automatically ceases to be a Member of the Company if the Member:

- (a) being an individual, dies, is or becomes Bankrupt, is or becomes of unsound mind or is or becomes a person whose property is liable to be dealt with in any way under a law relating to mental health;
- (b) being a corporation, trust or association, is wound up or is or becomes insolvent;
- (c) resigns as a Member by giving written notice to the Company; or

- (d) fails to pay their Annual Subscription Fee within the time period specified in rule 6.7(c).

6.9 Consequences of cessation of Membership

- (a) If a person ceases to be a Member under rule 6.8, the Member:
 - (i) loses any rights (including voting rights) arising as a result of Membership; and
 - (ii) is not entitled to a refund, rebate, relief or credit of their Annual Subscription Fee.
- (b) When a person's Membership ceases, the Secretary must remove the person's name from the Register of Members as soon as practicable.

7. Register of Members

- (a) The Company must update the Register of Members to reflect the appointment, suspension or removal of a person as a Member, as soon as practicable after the appointment, suspension or removal occurs.
- (b) A person's name must not be entered on the Register of Members unless that person has paid their Annual Subscription Fee.
- (c) The Register of Members must contain the information required by the Corporations Act and the class of Membership of each Member (if applicable).
- (d) The Register of Members shall be available for inspection by written application to the Company at its registered address consistent with the Corporations Act. Only the information required to be maintained in the Register of Members under the Corporations Act shall be available for inspection.

8. Directors

8.1 Initial Directors

The Initial Directors of the Company are the persons specified in the application to ASIC to register the Company under the Corporations Act.

8.2 Number and composition of Directors

There must be no less than 3 and no more than 9 Directors of the Company.

8.3 Qualifications of Directors

- (a) Subject to rule 8.3(c), the Board may determine the particular qualifications and experience (if any) a person must hold in order to be appointed as a Director.
- (b) In assessing whether a person satisfies the criteria determined by the Board under rule 8.3(a) (if any), regard may be had to any information supplied by that person and any information obtained from other sources.

- (c) A person is prohibited from being a Director if that person is disqualified from being a director under the Corporations Act or has been disqualified from being a responsible entity by the ACNC Commissioner under the ACNC Act.

8.4 Term of Directors

A Director holds office until their office becomes vacant under rule 8.6 or they are removed from office under rule 8.5(e).

8.5 Appointment and removal of Directors

- (a) Subject to rules 8.2 and 8.3, the Members may appoint Directors by ordinary resolution at a general meeting.
- (b) The Board may determine the rules which govern the election of Directors.
- (c) The Board may appoint a Director to fill a vacant position on the Board subject to rules 8.2 and 8.3, and that new Director holds office only until the conclusion of the next general meeting.
- (d) A person must not be appointed as a Director unless, prior to his or her appointment, that person has:
 - (i) provided a signed consent to act as a Director of the Company; and
 - (ii) applied for, or has, a Director Identification Number.
- (e) The Members may, at any time by resolution, remove any Director from office for any reason and appoint a replacement.

8.6 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act or rule 8.5(e), the office of Director becomes vacant if a Director:

- (a) dies;
- (b) resigns or retires from office by written notice to the Company;
- (c) is no longer eligible to be a Director under rule 8.3;
- (d) becomes of unsound mind or a person whose property is liable to be dealt with in any way under a law relating to mental health;
- (e) is or becomes Bankrupt;
- (f) is absent without the consent of the Directors from 3 consecutive Board meetings and the Directors resolve that the office of that Director be vacated;
- (g) becomes disqualified from being a Director under the Corporations Act; or
- (h) becomes prohibited or disqualified from being a responsible entity by the ACNC Commissioner under the ACNC Act.

8.7 Leave of absence

- (a) Where a Director is unable to fulfil some or all of their duties as a Director due to extenuating circumstances, the Board may grant that Director a leave of absence for any period that the Board may determine by ordinary resolution.
- (b) Despite any other rule in this Constitution, for the purposes of calculating whether a quorum of Directors is satisfied, a Director granted a leave of absence is to be excluded from that calculation for the period of their leave of absence.
- (c) The Board may make policies in relation to the granting of a leave of absence, including the rights and obligations of Directors granted a leave of absence and their right to access Board papers, agendas and minutes.

8.8 Duties of officers of the Company

- (a) The Directors, Secretary and any other officers of the Company must at all times comply with the duties imposed on them by the Corporations Act, the ACNC Act and any other applicable law.
- (b) Each Director must:
 - (i) act with reasonable care and diligence;
 - (ii) act honestly and fairly in the best interests of the Company for its Objects;
 - (iii) not misuse their position or information they gain as a Director or officer of the Company;
 - (iv) disclose any Conflicts of Interest;
 - (v) ensure that the financial affairs of the Company are managed responsibly; and
 - (vi) not allow the Company to operate while it is insolvent (as defined under the Corporations Act).

8.9 Powers of the Board

- (a) The Board is vested with the management of the Company's affairs and the control of the funds and other property of the Company.
- (b) The Board may exercise all of the powers of the Company except those which must, under this Constitution or the Corporations Act, be exercised by the Members at a general meeting.
- (c) The Board must comply with any Board policies, governance rules and codes of conduct as developed and updated by the Board.
- (d) Subject to this Constitution, the provisions of the Corporations Act, the provisions of the ACNC Act and any regulations prescribed by the Company in general meeting, no regulation made by the Company in general meeting invalidates any prior act of the Board that would have been valid if that regulation had not been made.

- (e) The Board may by power of attorney appoint any person, whether nominated directly or indirectly by the Board, to be the attorney of the Company for any purposes, with any powers, authorities, and discretions for any period and subject to any conditions that the Board determines.

8.10 Disclosure of Conflicts of Interest

- (a) A Director who has a Conflict of Interest in a matter being considered or about to be considered by the Board must:
 - (i) disclose the nature of that interest at a Board meeting as soon as possible after the relevant facts have come to his or her knowledge, and a record of that disclosure must be made in the minutes of that meeting; and
 - (ii) not be present while the Board is considering the matter nor cast any vote in relation to that matter.
- (b) The Board may make regulations requiring the disclosure of Conflicts of Interest that a Director, and any person considered by the Board to be related to or associated with a Director, may have in relation to any matter concerning the Company or a related corporation.

8.11 Director's fees

Each Director is entitled to reasonable remuneration to the extent permitted by law under the ACNC Act and as the Members decide in general meeting by ordinary resolution.

8.12 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.

9. Board meetings

9.1 Convening Board meetings

- (a) The Chairperson or a Director, with the approval of the Chairperson, may convene a Board meeting whenever he or she determines.
- (b) The Secretary must, on the request of a Director, convene a meeting of the Board.

9.2 Notice of Board meetings

- (a) Subject to this Constitution, notice of a Board meeting must be given to each person who is, at the time of giving the notice, a Director, except a Director on a leave of absence approved by the Board under rule 8.7(a).
- (b) A notice of a Board meeting:
 - (i) must specify the date, time and place of the meeting;
 - (ii) must state the nature of the business to be transacted at the meeting; and
 - (iii) may be given in person or by post, telephone, fax or other electronic means.
- (c) A Director may waive notice of a Board meeting by notifying the Board to that effect in person or by post, telephone, fax or other electronic means.
- (d) The date, time or place of a Board meeting must not unreasonably prevent a Director from attending.
- (e) The non-receipt of notice of a Board meeting by, or a failure to give notice of a Board meeting to, a Director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error; or
 - (ii) before or after the meeting, the Director:
 - (A) waives notice of that meeting; or
 - (B) notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post, telephone, fax or other electronic means; or
 - (iii) the Director attends the meeting.

9.3 Quorum at Board meetings

- (a) No business may be transacted at a Board meeting unless a quorum of Directors is present at the time the business is dealt with.
- (b) A quorum of a Board meeting is a 50% of Directors.
- (c) If a quorum is not present within 1 hour after the time appointed for the Board meeting, the meeting stands adjourned to the date, time and place as the Board decides.
- (d) If the number of Directors in office at any time is not sufficient to constitute a quorum at a Board meeting or is less than the minimum number of Directors fixed under this Constitution, the remaining Directors (if any) may only act to the extent that there is an emergency requiring them to act or to appoint an additional Director to the Board, under rule 8.5(c).

9.4 Meeting procedures

- (a) The Board may meet together for the dispatch of business and adjourn and otherwise regulate their Board meetings as they determine.
- (b) A Board meeting may be held at 2 or more venues using any technology that gives the Board members entitled to be heard at a Board meeting a reasonable opportunity to participate.
- (c) All the rules in this Constitution relating to Board meetings apply, so far as they can and with any necessary changes, to Board meetings using technology.
- (d) A Board meeting using technology is taken to be held at the place decided by the chairperson of the Board meeting, as long as at least one of the Directors involved was at that place for the duration of the Board meeting.
- (e) If, before or during the Board meeting, a technical difficulty occurs which means that one or more Directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, if a quorum of Directors remains present, continue with the Board meeting.
- (f) The Board may extend an invitation to any person or representative of a corporation it deems appropriate to attend a Board meeting, provided that the invitee is not entitled to vote on matters.

9.5 Chairperson of Directors

- (a) The Board must elect one of the Directors as Chairperson of the Board and may decide the period for which that Director is to be the Chairperson.
- (b) Subject to this Constitution, the Chairperson must preside as chairperson at each meeting of the Board.
- (c) The Directors present at the meeting must elect one of the Directors as chairperson of the meeting if:
 - (i) there is no Chairperson;
 - (ii) the Chairperson is not present within 30 minutes after the time appointed for the meeting; or
 - (iii) the Chairperson is present within that time but is not willing to act as chairperson of the meeting.

9.6 Decisions of Directors

- (a) A Board meeting at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Board under this Constitution.
- (b) Subject to this Constitution, questions arising at a Board meeting must be decided by an ordinary resolution of the Directors present and entitled to vote, and an ordinary resolution passed by the Directors is for all purposes deemed a decision of the Board.

- (c) The chairperson does not have a casting vote in addition to his or her vote as a Director.

9.7 Minutes

- (a) The Secretary must cause minutes of all proceedings of the Board and of Advisory Committees to be taken and then to be entered, within 30 days after the relevant meeting is held, in a minute book kept for that purpose.
- (b) The Secretary must ensure that all minutes, except resolutions in writing treated as determinations of the Board, are signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

9.8 Resolutions in writing

- (a) The Directors may pass a circular resolution without a Board meeting being held.
- (b) A circular resolution is passed if all the Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in rule 9.8(c).
- (c) Each Director may sign or otherwise agree to a circular resolution by:
 - (i) signing a single document setting out the resolution and containing a statement that they agree to the resolution;
 - (ii) signing separate copies of a document setting out the resolution and containing a statement that they agree to the resolution, as long as the wording of the resolution is the same in each copy; or
 - (iii) notifying the Company of their agreement to the resolution by post, electronic means or other method of written communication.
- (d) A resolution in writing may consist of several documents in like form, each signed or otherwise agreed by one or more Directors and if so agreed, it takes effect on the latest date on which a Director signs or otherwise agrees to the resolution in the manner set out in rule 9.8(c).

9.9 Validity of acts

An act done by a person acting as a Director or at a Board meeting attended by a person acting as a Director, is not invalidated merely because of:

- (a) a defect in the appointment of the person as a Director;
- (b) the person being disqualified from being a Director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the Board (as applicable) when the act was done.

10. Secretary

- (a) The Company must have a Secretary at all times.
- (b) The Board must appoint the Secretary and may terminate the appointment of the Secretary.
- (c) The Board may determine the terms and conditions of appointment and removal of a Secretary, including remuneration (if any).
- (d) The Secretary may carry out any act or deed required by this Constitution, the Corporations Act, the ACNC Act or by any other statute to be carried out by the Secretary of the Company.

11. Annual general meetings

11.1 Holding annual general meetings

The Company must hold an annual general meeting each year within 5 months after the end of its financial year.

11.2 Business of annual general meetings

The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:

- (a) confirmation of the minutes of the previous general meeting, except at the first annual general meeting;
- (b) the consideration of the reports (if any) that are required under the ACNC Act;
- (c) the appointment and remuneration of the Auditor (if any); and
- (d) asking questions about the management of the Company and asking questions of the Auditor (if any).

12. General meetings

12.1 Convening of general meetings by Directors

- (a) The Board may convene a general meeting of the Members at any time.
- (b) The Board must convene a general meeting if Members with at least 5% 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.

12.2 Convening of general meetings by Members

The Members of the Company may convene a general meeting of the Members provided that the requirements in sections 249E or 249F of the Corporations Act are satisfied.

12.3 Notice of general meeting

- (a) 21 days' notice of every general meeting convened under rules 12.1 or 12.2 must be given to:
 - (i) every Member entitled to receive notice;
 - (ii) each Director; and
 - (iii) the Auditor (if any).
- (b) A notice of general meeting must specify:
 - (i) the date, time and place of the meeting;
 - (ii) if the meeting is to be held in 2 or more places, the technology that will be used to facilitate the meeting;
 - (iii) the general nature of the business to be transacted at the meeting;
 - (iv) if any Special Resolution is to be proposed at the meeting, the proposed Special Resolution set out in full; and
 - (v) any other matters required by the ACNC Act or Corporations Act.
- (c) The Board may extend an invitation to any person, corporation or other entity to attend a general meeting, provided that any invitee is not entitled to vote on matters.

12.4 Waiving notice

- (a) A person may waive notice of a general meeting by written notice to the Company or by attendance at the general meeting.
- (b) The non-receipt of notice of a general meeting, or a failure to give notice of a general meeting to any person or entity entitled to receive notice of a general meeting does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
 - (i) the non-receipt or failure occurred by accident or error; or
 - (ii) before or after the meeting, the Member:
 - (A) waives notice of that meeting; or
 - (B) notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post, telephone, fax or other electronic means; or
 - (iii) the Member attends the meeting.

12.5 Postponing or cancelling a meeting

- (a) Subject to rule 12.5(b), the Board may change the venue for, postpone or cancel a general meeting at its own discretion by providing such notice to Members as the Board determines is reasonably practicable and appropriate in the circumstances.
- (b) If a general meeting is called and arranged to be held by the Members, the Board may not cancel it without the consent of the Members.

12.6 Quorum at general meetings

- (a) No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of Members is present.
- (b) A quorum for a general meeting is a majority of Members (rounded down to the nearest whole number).
- (c) For the purpose of determining whether a quorum is present under rule 12.6(b), a person attending as a proxy of a Member is deemed to be a Member.
- (d) If a quorum is not present within 30 minutes after the time appointed for a general meeting, the meeting must be dissolved.

12.7 Proxies

- (a) A Member may appoint a proxy.
- (b) A proxy may, but need not be, a Member of the Company.
- (c) A proxy may be appointed for:
 - (i) all general meetings;
 - (ii) any number of general meetings; or
 - (iii) a particular general meeting.
- (d) Unless otherwise provided in the instrument, an instrument appointing a proxy is taken to confer authority:
 - (i) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this Constitution;
 - (ii) to speak to any proposed resolution on which the proxy may vote;
 - (iii) to demand or join in demanding a poll on any resolution on which the proxy may vote;
 - (iv) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;

- (v) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the office of chairperson or to adjourn the meeting;
 - (vi) to act generally at the meeting; and
 - (vii) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the rescheduled or adjourned meeting or at the new venue.
- (e) If the Company has approved a form for the appointment of a proxy, the appointing Member must use that form.
 - (f) A proxy is not entitled to vote on a show of hands (but this does not prevent a Member appointed as a proxy from voting as a Member on a show of hands).
 - (g) Subject to any other rule in this rule 12.7, a proxy is entitled to a separate vote for each Member the person represents, in addition to any vote the person may have as a Member in his or her own right.
 - (h) The appointment of a proxy is revoked by the appointor attending and taking part in the general meeting.

12.8 Electronic voting

- (a) The Board may decide that a Member who is entitled to attend and vote on a resolution at a general meeting may cast their vote:
 - (i) in real time during the general meeting by electronic means; or
 - (ii) in advance of the general meeting by recording their vote with the Company using electronic or other means.
- (b) Where the Board has determined that a Member may lodge an electronic vote, the Board must make policies and procedures (consistent with this rule 12.8 and the Corporations Act) for the casting of electronic votes, including in respect of:
 - (i) the form, method and manner of voting by electronic means; and
 - (ii) when electronic votes must be received by the Company to be valid and effective.

12.9 Resolutions put to the vote

- (a) The Directors may decide the manner in which voting is to take place at a general meeting which may include by a show of hands or by electronic means or a combination of both.
- (b) In the absence of a determination under rule 12.9(a), a resolution put to the vote at any general meeting must be resolved by the Members on a show of hands unless a poll is demanded under rule 12.10.

- (c) Before a vote is taken, the chairperson must inform the meeting whether any electronic or proxy votes have been received and how the electronic or proxy votes are cast.
- (d) Except where stipulated by law or the rules of this Constitution, a resolution put to a vote at a general meeting is to be decided by an ordinary resolution of the votes cast by the Members entitled to vote at the general meeting either:
 - (i) in person;
 - (ii) by electronic means; or
 - (iii) by proxy.
- (e) The chairperson does not have a casting vote in addition to his or her vote as a Member (if applicable).
- (f) A challenge to a right to vote at a general meeting:
 - (i) may only be made at the general meeting; and
 - (ii) must be determined by the chairperson, whose decision is final.
- (g) A vote not disallowed by the chairperson of a meeting under this rule is valid for all purposes.
- (h) If a poll is not duly demanded under rule 12.10(a), a declaration by the chairperson which reflects a show of hands, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the result of the vote on a particular resolution. Neither the chairperson nor the minutes need to state the number or proportion of the votes recorded for or against a resolution.

12.10 Resolutions put to a poll

- (a) A poll may only be demanded by:
 - (i) the chairperson of the meeting;
 - (ii) at least 2 Members present in person or by their proxy; or
 - (iii) Members present in person and representing at least 5% of the total votes that may be cast on the resolution on a poll.
- (b) The demand for a poll may be withdrawn.
- (c) If a poll is duly demanded at a general meeting, it must be carried out as a vote by secret ballot.
- (d) A demand for a poll does not prevent a general meeting continuing for the transaction of any business, except the question on which the poll has been demanded.
- (e) The result of the poll is the resolution of the meeting at which the poll was demanded.

- (f) Rules 12.9(c) to 12.9(g) (inclusive) apply to any vote undertaken by a poll.

12.11 Chairperson of general meetings

- (a) Subject to this Constitution, the Director elected as Chairperson of the Board must preside as chairperson at each general meeting.
- (b) The Directors present at the meeting must elect one of the Directors as chairperson of the meeting if:
- (i) there is no Chairperson;
 - (ii) the Chairperson is not present within 30 minutes after the time appointed for the meeting; or
 - (iii) the Chairperson is present within that time but is not willing or able to act as chairperson of the meeting.
- (c) Subject to the terms of this Constitution, a ruling of the chairperson on all matters relating to the order of business, procedure and conduct of the general meeting is final.
- (d) The chairperson may expel a Member or any Director from a general meeting if the chairperson reasonably considers that the Member's or Director's conduct is inappropriate behaviour, including:
- (i) the use of offensive or abusive language which is directed to any person, object or thing; and
 - (ii) attendance at the meeting while under the influence of any kind of drug including but not limited to any alcoholic substance.

12.12 Resolutions in writing

- (a) Subject to rule 12.12(b), a resolution in writing signed by each of the Members and containing a statement that they are in favour of the resolution is valid as if it had been passed at a duly convened general meeting.
- (b) A resolution in writing cannot be used:
- (i) for a resolution to remove the 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.
- (c) A resolution in writing may consist of several documents in like form, each signed by one or more of the Members and if so signed, it takes effect on the latest date on which a Member signs one of the documents.
- (d) A document generated by electronic means which purports to be a facsimile of a resolution of the Members is to be treated as a resolution in writing.

12.13 Auditor's right to be heard

The Auditor (if any) is entitled to attend and be heard at a general meeting on any part of the business of that meeting that concerns the Auditor (if any) in their professional capacity.

12.14 Use of technology at general meetings

Subject to the Corporations Act:

- (a) the Company may hold a general meeting at 2 or more venues using any technology that gives the Members entitled to be heard at a general meeting a reasonable opportunity to participate;
- (b) a general meeting using technology is taken as held at the place decided by the chairperson of the general meeting, as long as at least one of the Members involved was at that place for the duration of the general meeting; and
- (c) if, before or during the general meeting, a technical difficulty occurs which means that one or more Members cease to participate, the chairperson may adjourn the general meeting until the difficulty is remedied or may, if a quorum of Members remains present, continue with the general meeting.

12.15 Adjourning general meetings

- (a) The chairperson of a general meeting may, and must if so directed by the Members, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting except the business left unfinished at the meeting from which the adjournment took place.
- (b) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (c) Where a meeting is adjourned, the Directors may change the venue for, postpone or cancel the adjourned meeting, unless the meeting was called and arranged to be held under the Corporations Act.
- (d) Any resolutions or Special Resolutions passed at the adjourned meeting take effect on the date of the adjourned meeting.

12.16 Minutes

- (a) The Secretary must cause proper minutes of all proceedings of general meetings to be taken and then to be entered within 30 days after the holding of each general meeting in a minute book kept for that purpose.
- (b) The Secretary must ensure that all minutes are checked and signed as correct by the chairperson of the general meeting to which those minutes relate or by the chairperson of the next succeeding general meeting.
- (c) When minutes have been entered and signed as correct under this rule, they are, until the contrary is proved, evidence that:
 - (i) the general meeting to which they relate (in this rule called "the meeting") was duly convened and held;

- (ii) all proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and
- (iii) all appointments or elections purporting to have been made at the meeting have been validly made.
- (d) During business hours all Members have the right to inspect signed minutes of general meetings.

13. Advisory Committees

13.1 Establishment of Advisory Committees

The Board may establish Advisory Committees to advise the Company on any matter relating to the Company.

13.2 Composition and role of Advisory Committees

Unless inconsistent with this Constitution, the Board may:

- (a) appoint and remove Advisory Committee members, or make provision for the appointment and removal of Advisory Committee members;
- (b) specify that the Advisory Committee consists of a single individual or a number of individuals;
- (c) determine the functions of any Advisory Committee;
- (d) make and amend the rules governing the proceedings and conduct for each Advisory Committee; and
- (e) determine the remuneration (if any) of any Advisory Committee members.

13.3 Advisory Committee decisions

- (a) If the Board establishes an Advisory Committee for a particular matter then the Board may obtain the opinion of that Advisory Committee before the Board makes any decision on that matter.
- (b) The opinion or decisions of an Advisory Committee are recommendations only and do not bind the Board in any way.

14. Chief Executive Officer

- (a) The Board may appoint a Chief Executive Officer who is responsible for the day to day management of the business and affairs of the Company and has the powers and undertakes the responsibilities as determined and in the manner determined by the Board.
- (b) The Chief Executive Officer will be remunerated in the manner and amounts as the Board determines.

15. Dispute resolution

- (a) The dispute resolution procedure set out in this rule 15 applies to disputes arising in relation to this Constitution between a Director, a Member or the Company.
- (b) The parties to a dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (c) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days of the date of the meeting, arrange to hold a meeting in the presence of a registered mediator.
- (d) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (e) The mediator, in conducting the mediation, must:
 - (i) give the parties to the mediation process every opportunity to be heard;
 - (ii) allow due consideration by all parties of any written statement submitted by any party; and
 - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (f) The mediator must not determine the dispute.
- (g) The mediation must be confidential and without prejudice.

16. Directors' indemnity and insurance

16.1 Indemnity and insurance

To the extent permitted by law, the Company:

- (a) must indemnify each Relevant Officer against:
 - (i) a Liability of that person; and
 - (ii) Legal Costs of that person;
- (b) may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in relation to Legal Costs of that person;
- (c) must pay, or agree to pay, a premium for a contract insuring (including appropriate runoff insurance) a Relevant Officer against:
 - (i) a Liability of that person; and
 - (ii) Legal Costs of that person; and

- (d) may enter into an agreement or deed with a Relevant Officer under which the Company must do all or any of the following:
 - (i) keep books of the Company and allow either or both that person and that person's advisers access to those books on the terms agreed;
 - (ii) indemnify that person against any Liability of that person;
 - (iii) make a payment (whether by way of advance, loan or otherwise) to that person in relation to Legal Costs of that person; and
 - (iv) keep that person insured in relation to any act or omission by that person while a Relevant Officer or an officer of the Company or a subsidiary of the Company, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

16.2 No limits

Nothing in rule 16:

- (a) affects any other right or remedy that a person to whom those rules apply may have in relation to any loss or liability referred to in those rules; or
- (b) limits the capacity of the Company to indemnify or provide insurance for any person to whom those rules do not apply.

17. Accounts audit and records

17.1 Accounts

- (a) The Board must cause proper accounting and other records to be kept in respect of the Company under all applicable laws.
- (b) The Company must prepare a financial report for each Accounting Period under all applicable laws.

17.2 Auditor

- (a) Subject to rule 17.2(c), unless the Company is required to have its financial report (including any documents required to be attached to or prepared with the financial report) audited pursuant to any written law or a valid direction received by the Company under any written law, the Company must have its financial report (including any documents required to be attached to or prepared with the financial report) either audited or reviewed as determined by the Board.
- (b) The remuneration of the Auditor must be fixed by the Board.
- (c) If the Company is a Small Registered Charity, the Company is not required to have its financial report audited or reviewed.

18. Records and rights of inspection by Member

- (a) Unless otherwise determined by the Board, the Members are entitled to inspect only those documents of the Company required to be available for inspection under the Corporations Act or the ACNC Act.

- (b) The Board may determine at what time and place a Member is entitled to inspect Company documents and under what conditions.

19. Notices

- (a) Subject to this rule, a notice is anything written to or from the Company under any rule in this Constitution.
- (b) Written notice under this Constitution may be given to the Company 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 or other electronic address notified by the Company.
- (c) Written notice under this Constitution may be given to a Member or officer of the Company:
 - (i) by delivering it to them in person;
 - (ii) by posting it to, or leaving it at, in respect of:
 - (A) a Member, at the address of the Member recorded in the Register of Members, or such alternative address nominated by the Member; or
 - (B) an officer, the address nominated by the officer for service of notices;
 - (iii) sending it to an email address nominated by the Member or officer for service of notices; or
 - (iv) by notifying the Member or officer at an email or other electronic address nominated by them, that the notice is available at a specified place or address approved by the Board and nominated by the Member as a means of receiving notices (including an electronic address, an electronic link to any website, document or attachment to the electronic address).
- (d) A notice is taken to be given when:
 - (i) delivered in person, or left at the recipient's address, on the day it is delivered;
 - (ii) sent by post, on the fifth day after it is posted;
 - (iii) sent by email, on the Business Day it was sent or if it was not sent on a Business Day, on the first Business Day immediately following the day it was sent; and
 - (iv) if given under rule 19(c)(iv), on the first Business Day immediately after the notification that the notice is available was sent.

20. Amending this Constitution

This Constitution may be amended by a Special Resolution of the Members.

21. By-laws

- (a) The Directors may pass a resolution to make by-laws to give effect to this Constitution.
- (b) The Members and Directors must comply with by-laws as if they were part of this Constitution.

22. Winding up

22.1 General winding up

- (a) The Company may resolve to wind up by Special Resolution.
- (b) If upon the winding up of the Company, there remains, after satisfaction of all its debts and liabilities, any assets whatsoever, the assets must not be paid to or distributed among the Members or Directors of the Company but must be transferred to one or more institutions, funds or authorities which:
 - (i) have one or more objects similar to the Objects;
 - (ii) is a Registered Charity;
 - (iii) is a Deductible Gift Recipient; and
 - (iv) prohibit distribution of its income and property among its members and directors (if any) to an extent at least as great as is imposed on the Company by rule 4.3.

22.2 Distribution of assets on loss of endorsement

If, upon the revocation of the Company's endorsement as a Deductible Gift Recipient, there remains, after satisfaction of all its debts and liabilities, any gifts, Contributions or money received because of such gifts or Contributions, the same must not be paid to, or distributed among, the Members or Directors of the Company, but must be transferred to one or more institutions, funds or authorities which:

- (a) have one or more objects similar to the Objects;
- (b) is a Registered Charity;
- (c) is a Deductible Gift Recipient; and
- (d) prohibit distribution of its income and property among its members and directors (if any) to an extent at least as great as is imposed on the Company by rule 4.3.

22.3 Other

- (a) The identity of the institutions, funds or authorities referred to in rules 22.1 and 22.2 must be decided by Special Resolution of the Members.
- (b) Where gifts to an institution, fund or authority are deductible only if, among other things, the conditions set out in the relevant table item in subdivision 30-B of the ITAA97 are satisfied, a transfer under this rule must be made in accordance with those conditions.