

**Constitution Deaf Services Limited**  
**ACN 118 664 298**

**A Company Limited by Guarantee**

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# Constitution For Deaf Services

## 1. DEFINITIONS AND INTERPRETATION

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### 1.1 Definitions

In this Constitution:

**Accumulative Service** means the total number of Annual Meetings which a Director has service on the Board. A break in service does not reset the calculation of Accumulative Service; a Director resumes service with their previously served Annual Meetings counted towards their Maximum Tenure.

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

**Annual Meeting** means the annual general meeting of Members.

**Appointed Director** means a Director appointed by the Board under clause 16.1(a)(iv).

**Auditor** means the auditor of the Company.

**Board** means the board of Directors of the Company.

**Business Day** means a day that is not a Saturday, Sunday or public holiday in the place where an act is to be performed, notice received or a payment is to be made.

**Chair** means the person appointed chair of the Board in accordance with this Constitution.

**Committee** means a committee established by the Board which reports to the Board and may include Directors and other appointees.

**Company** means Deaf Services Limited.

**Constitution** means this constitution and any supplementary, substituted or amended constitution being in force from time to time.

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

**Directors** means the directors of the Company in office from time to time, and **Director** means any of them.

**Elected Director** means a Director elected by the Members under clause 16.1(a)(iii).

**Extraordinary Meeting** means a General Meeting of Members other than an Annual Meeting.

**General Meeting** means any general meeting of the Company, being either an Annual Meeting or an Extraordinary Meeting.

**ITAA 97** means each of the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* (Cth), as applicable.

**Life Member** means a person appointed by the Directors pursuant to clause 8.4.

**Material Personal Interest** means a personal interest in which the interest:

- (a) Is of substance or value; or
- (b) has the capacity to influence the vote of the person,

regardless of how it arises.

**Maximum Tenure** means the maximum period of Accumulative Service for which a Director may hold office on the board under clause 16.3(c).

**Member** means the persons who for the time being are the members of the Company and whose names are entered in the Register as members, **Member** means any one of them and **Membership** has a corresponding meaning.

**Membership Year** means the 12 month period from 1 July to 30 June, or as otherwise determined by the Directors.

**Objects** mean the objects of the Company set out in clause 2.1.

**Register** means the register of Members of the Company to be kept in accordance with the Corporations Act

**Registered Address** means the registered office for the time being of the Company.

**Secretary** means a person appointed to perform the duties of a Secretary of the Company.

**Special resolution** means a resolution of a General Meeting where at least 75% of the votes cast on the resolution are in favour of the resolution and which is passed in accordance with sections 249H and 249L of the Corporations Act.

**Vice-Chair** means the person appointed vice-chair of the Board in accordance with this Constitution.

## 1.2 **Application of other definitions**

Unless the contrary intention appears:

- (a) an expression in a clause that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act; and
- (b) subject to paragraph (a), an expression in a clause that has a defined meaning for the purposes of the Corporations Act or ACNC Legislation has the same meaning as in the Corporations Act or ACNC Legislation.

## 1.3 **Interpretation**

In this constitution unless the context requires otherwise:

- (a) references to notices include formal notices of meeting and all documents and other communications from the Company to its Members;
- (b) a reference to writing and written includes printing, lithography and other ways of representing or reproducing words in a visible form;

- (c) a word or expression defined in the Corporations Act has the same meaning unless it is defined differently; and
- (d) the singular (including defined terms) includes the plural and the plural includes the singular.

#### 1.4 **Headings**

Headings are used for convenience only and do not affect the interpretation of this constitution.

#### 1.5 **Legislation**

- (a) In this Constitution, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.
- (b) If the company is registered as a charity by the Australian Charities and Not-for-profits Commission, the company must comply with the ACNC Legislation

#### 1.6 **Currency**

In this Constitution, a reference to '\$' or 'dollars' is a reference to Australian dollars.

#### 1.7 **Number and Gender**

In this Constitution, a reference to:

- (a) the singular includes the plural and vice versa; and
- (b) a gender includes the other genders.

#### 1.8 **Replaceable rules**

The operation of each section of the Corporations Act which is defined as a replaceable rule is displaced by this Constitution and does not apply to the Company.

## **2. COMPANY'S OBJECTS**

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### 2.1 **Charitable objects**

The Objects of the Company are for the public charitable purposes of providing benevolent relief to people who are deaf or hard of hearing, including by:

- (a) assisting people who are deaf or hard of hearing to achieve their potential;
- (b) providing information, support services and education resources, either alone or in conjunction with any person or organisation;
- (c) working to reduce barriers, be they linguistic, physical, cultural, legislative, attitudinal or otherwise, to the participation of people who are deaf or hard of hearing in the life of the community;
- (d) promoting the interests of people who are deaf or hard of hearing including undertaking community education and community development; and

- (e) providing information, support services and education resources to people with disabilities, particularly those with communication disorders, when appropriate.

## 2.2 **Activities**

To achieve the Objects, the Company may, without limitation:

- (a) harness the resources of the community in support of the Objects;
- (b) establish and maintain affiliations and information exchange with other organisations having similar Objects;
- (c) act as trustee of any trust which relates to the Objects;
- (d) promote the Objects; and
- (e) undertake all other activities incidental or ancillary to subclauses (a) to (d).

## 2.3 **Separate objects**

Each of the Objects is a separate Object of the Company and must not be construed by reference to any other Object.

## 2.4 **Exercise of powers to achieve objects**

Nothing restricts the company from exercising a power which in itself is not charitable, for any purpose which is incidental to the Objects of the company or which is intended to generate revenue for, or otherwise further, those Objects.

## **3. COMPANY'S POWERS**

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Solely for the purpose of pursuing its Objects, the Company may, in any way the Corporations Act permits:

- (a) exercise any power;
- (b) take any action; or
- (c) engage in any conduct or procedure,

which, under the Corporations Act, a Company limited by guarantee may exercise, take or engage in.

## **4. INCOME AND PROPERTY**

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- 4.1 The Company's income and property must be applied solely towards promoting the Company's Objects.
- 4.2 No part of the income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, fee or otherwise, to any of the Members.
- 4.3 This clause 4 does not prohibit making a payment:

- (a) in good faith to any Member for goods supplied in the ordinary and usual course of business;
- (b) of reasonable and proper interest on money borrowed from a Member;
- (c) of reasonable and proper rent for premises let by any Member to the Company; or
- (d) in carrying out the Company's Objects.

## **5. PAYMENTS TO DIRECTORS**

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- 5.1 All payments made by the Company to Directors, including all reimbursements for travelling and other expenses incurred by Directors in connection with the affairs of the Company, must be approved by the Board from time to time.
- 5.2 The Directors may be remunerated for their services as Directors as determined by the board and approved by the members from time to time.

## **6. LIABILITY OF MEMBERS**

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The liability of the Members is limited to the amount of the guarantee under clause 7.

## **7. GUARANTEE BY MEMBERS**

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- 7.1 Every Member undertakes to contribute an amount no more than two dollars (\$2.00) to the property of the Company if it is wound up while he or she is a Member or within one (1) year after he or she ceases to be a Member, for:
  - (a) payment of the Company's debts and liabilities contracted before the time he or she ceased to be a Member;
  - (b) the costs, charges and expenses of winding up; and
  - (c) the adjustment of the rights or the contributories among themselves.

## **8. MEMBERSHIP**

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### **8.1 Eligibility**

- (a) The following persons are eligible to become Members:
  - (i) a natural person over the age of 18 years; and
  - (ii) a body corporate.

### **8.2 Classes of Membership**

- (a) There will be the following classes of Membership in the Company:
  - (i) Life Members; and
  - (ii) Members.

- (b) The Board may from time to time establish such further categories of Membership and may take appropriate provision for the granting of such Membership and the conditions of such Membership.

### 8.3 Application for Membership

- (a) Every application for Membership of the Company after the date of adoption of this constitution must be:
  - (i) in the form (if any) prescribed by the Directors;
  - (ii) accompanied by all relevant applicant details required by that form; and
  - (iii) accompanied by the subscription fee for the relevant class of Membership (if any).
- (b) Applications for Membership must be considered and determined as soon as practicable, in accordance with a process set by the Directors from time to time. The Directors need not give any reason for rejecting an application. A person becomes a Member only once their name is entered into the register of Members.
- (c) For the purposes of registration, the number of Members of the Company is declared to be unlimited.

### 8.4 Life Member

- (a) The Directors may appoint a person Life Member if the person:
  - (i) has rendered some special service or benefit to the Company, or
  - (ii) the person has contributed to the advancement of people who are deaf or hard of hearing by
    - (A) furthering knowledge and expertise in the field,
    - (B) being an outstanding advocate; or
    - (C) making some other significant and lasting contribution, which the Company wishes to acknowledge.
- (b) Life Members are not required to pay annual subscription fees and are deemed financially eligible at all times, with the rights and privileges of Membership unaffected by this exemption.

### 8.5 Subscription Fee

- (a) The annual subscription fee is determined by the Directors and is payable in advance for each membership year, in accordance with the payment terms and renewal process set by the Directors.

- (b) The Directors must notify all persons entered on the Register of any alteration of the annual subscription fee within one (1) month of the resolution.
- (c) Receipt of the annual subscription fee renders the Member financially eligible to vote. The Member's rights and privileges associated with Membership will be suspended until receipt by the Company of the annual subscription fee.
- (d) If a Member who was suspended pursuant to clause 8.5(c) has not paid an annual subscription fee for more than three (3) months, the Directors may resolve that the person ceases to be a Member and his or her name must be removed from the Register.

## **9. WHEN MEMBERSHIP CEASES**

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### **9.1 Death, Resignation and Other Events**

A person immediately ceases to be a Member if the person:

- (a) dies;
- (b) resigns as a Member by giving written notice to the Company;
- (c) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors;
- (d) is expelled under clause 9.2;
- (e) becomes, in the opinion of the Directors (acting reasonably), an untraceable Member because the person has ceased to reside at, attend or otherwise communicate with his or her registered address; or
- (f) ceases to be a Member pursuant to clause 8.5(c).

### **9.2 Expulsion**

- (a) The Directors may expel a Member from the Company if, in their absolute discretion, they decide it is not in the interests of the Company for the person to remain a Member.
- (b) Prior to the expulsion of a Member, the Board must give the Member at least fourteen (14) days' notice of the Director's Meeting at which their expulsion as a Member will be considered and is entitled to attend the meeting and have an opportunity to show cause why he or she should not be expelled as a Member by circulating written reasons of not more than 1000 words or a short video in Auslan of no more than 7 mins duration to the Directors or by presenting to the meeting at which the resolution to expel the Member will be considered an oral argument not exceeding fifteen (15) minutes to be given in Auslan or orally in English.
- (c) If the Directors resolve to expel the Member after considering the Member's submissions referred to in subclause (b), the name of any expelled Member must be removed from the Register.

### 9.3 **Rights of a Member**

- (a) The rights and privileges of a Members are non-transferable and cease upon the person ceasing to be a Member.
- (b) A person who for any reason ceases to be a Member has no claim, monetary or otherwise, on the Company, its funds or property.

## 10. **GENERAL MEETING**

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### 10.1 **Frequency of General Meeting**

- (a) The Company must hold its first Annual Meeting within eighteen (18) months of its incorporation (but no more than five (5) months after the end of its first financial year). Afterwards an Annual Meeting will be held at least once in every year and within a period of five (5) months after the end of its financial year.
- (b) The Company may hold an Extraordinary Meeting for the purpose of transacting any business not required, pursuant to the Corporations Act, to be transacted at the Annual Meeting.

### 10.2 **Convening a General Meeting**

A General Meeting of the Company may be convened by:

- (a) the Board; or
- (b) a requisition of the Members in accordance with the Corporations Act

and will be convened at the times and in the manner prescribed by this Constitution and the Corporations Act.

### 10.3 **Notice of General Meeting**

- (a) The Secretary must give not less than twenty-one (21) days notice of any General Meeting.
- (b) The notice of General Meeting must detail the following information:
  - (i) the place, date and time for the meeting (and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
  - (ii) the general nature of the meeting's business;
  - (iii) details of any Special Resolutions to be proposed at the meeting; and;
  - (iv) that Members are entitled to appoint a proxy, who must be a Member.
- (c) With the consent of all the Members entitled to receive notice of any particular meeting, the meeting may be convened by shorter notice and in any manner

those Members think fit provided that such action complies with the Corporations Act or ACNC Legislation as applicable.

#### 10.4 **Procedural irregularities**

The non-receipt of a notice by or the accidental omission to give a notice to any of the Members of any General Meeting will not invalidate any resolution passed at that meeting.

#### 10.5 **Venue**

Despite any other clause, the Company may hold a General Meeting at two or more venues using technology that gives the Members as a whole a reasonable opportunity to participate in the meeting.

#### 10.6 **Virtual and hybrid General Meetings**

A General meeting may be held:

- (a) at one or more physical venues;
- (b) at one or more physical venues and using virtual meeting technology; and
- (c) using virtual meeting technology only.

### 11. **PROCEEDINGS AT GENERAL MEETINGS**

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#### 11.1 **Business of Annual Meeting**

The business of an Annual Meeting must include:

- (a) the confirmation of the minutes of the previous Annual Meeting;
- (b) the receipt and consideration of the audited balance sheet, the income and expenditure account for the financial year ending immediately prior to the Annual Meeting;
- (c) the reports of the Board and the Auditor;
- (d) if required by any relevant legislation, the appointment of an Auditor;
- (e) the election of any Directors who are due to retire at that Annual Meeting;
- (f) any other business which, under the Corporations Act or this Constitution, ought to be transacted at any annual general meeting; and
- (g) any business which is brought under consideration by any reports of the Board issued with the notice convening the meeting.

#### 11.2 **Quorum**

- (a) The quorum for a General Meeting will be the lesser of:
  - (i) twelve (12) Members; or

- (ii) half of the total Membership which is entitled to vote present in person or by proxy or attorney.

No business will be transacted at any meeting except the election of the chair and the adjournment of the meeting, unless the quorum is present.

- (b) A Member is taken to be present for the whole of a meeting which they are present physically or by electronic means at the commencement of the meeting.

### 11.3 **Chair**

- (a) The Chair of the Board will be entitled to take the chair at every General Meeting.
- (b) If there is no Chair or if at any meeting the Chair is not present at the time appointed for holding the meeting, or if the Chair is present but is unwilling to act as chair of the meeting, then the Vice-Chair will be entitled to take the chair.
- (c) If there is no Vice-Chair, or if at any meeting the Vice-Chair is not present at the time for holding the meeting, or if present is unwilling to act as chair of the meeting, then the persons present and entitled to vote may choose another Director as chair.
- (d) If no Director is present, or if all Directors present decline to take the chair, then those persons present will choose one of their number to be chair of that meeting.

### 11.4 **No Quorum**

If a quorum is not present within fifteen (15) minutes from the scheduled time appointed for a meeting, the meeting will be adjourned to the following week. If, at that adjourned meeting, a quorum is not present within fifteen (15) minutes from the time appointed for holding the meeting, the meeting will be dissolved.

### 11.5 **Adjourn**

The chair of the meeting may, with the consent of the Members, adjourn the meeting to another time or place (or both) but no business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

### 11.6 **Show of Hands**

The chair of the meeting may determine whether an item of business submitted to a General Meeting will be decided in the first instance by a show of hands of the Members personally present and entitled to vote.

### 11.7 **No Casting Vote**

If there is an equality of votes, the chair of the meeting does not have a casting vote in addition to any deliberated vote, and the resolution is taken to be rejected.

### 11.8 **Evidence of Resolution**

A declaration by the chair that a resolution has been passed or lost (having regard to the majority required) and an entry to that effect in the books of the Company, signed by the chair of that or the next succeeding meeting, will be conclusive evidence that the resolution has been passed or lost without proof of the number or proportion of the votes recorded in favour of or against the resolution.

### 11.9 **Poll**

- (a) The chair of the meeting or any Member present personally, by proxy or attorney may demand a poll before or on the declaration of the result of a show of hands.
- (b) The poll will be taken in the manner and at the time and place as the chair of the meeting directs, and either at once or after an interval or adjournment or otherwise.
- (c) The result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll may be withdrawn.
- (e) If there is a dispute as to the admission or rejection of a vote, the chair will finally determine that dispute.

### 11.10 **Demand for Poll**

The demand for a poll will not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll may not be demanded on the election of a chair of a meeting. A poll demanded on any question of adjournment will be taken at the meeting and without adjournment.

### 11.11 **Notice of Adjournment**

If any General Meeting is adjourned for more than twenty-one (21) days, a notice of that adjournment will be given to all the Members in the same manner as notice was or ought to have been given of the original meeting.

### 11.12 **Auditor**

The Auditor is entitled:

- (a) to attend any General Meeting of the Company;
- (b) to receive all notices of and other communications relating to any General Meeting which a Member is entitled to receive; and
- (c) to be heard at any General Meeting which the Auditor attends on any part of the business of the meeting which concerns the Auditor in that capacity, and is entitled to be heard despite the fact that the Auditor retires at that meeting or a resolution to remove the Auditor or the agent from office is passed at that meeting.

**11.13 General Meetings by technology**

- (a) The contemporaneous linking together by electronic means of a sufficient number of the Members in person, constitutes a quorum for a General Meeting, provided each Member has a reasonable opportunity to participate at the meeting.
- (b) All the provisions in this Constitution relating to General Meetings apply, so far as they can and with any necessary changes, to General Meetings by electronic means.
- (c) A Member who takes part in a meeting by electronic means is taken to be present in person at the meeting.
- (d) A meeting by electronic means is taken as held at the place decided by the Chair, as long as at least one of the Members involved was at that place for the duration of the meeting.

**12. VOTES OF MEMBERS**

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- 12.1 Each Member is entitled to exercise one (1) vote.
- 12.2 Any Member may vote at a General Meeting either personally or by proxy.

**13. APPOINTMENT OF PROXY**

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- 13.1 Any Member may appoint a proxy to vote on a Member's behalf and may direct the proxy or proxies to vote either for or against each or any resolution.
- 13.2 A proxy must be a Member.
- 13.3 The instrument appointing a proxy (and power of attorney, if any, under which it is signed) must be deposited at the Registered Office, sent electronically to the Registered Office or forwarded to any other place, or electronic address the Board determines, not less than forty-eight (48) hours before the time of holding the meeting or adjourned meeting or poll at which the person named in that instrument proposes to vote.

**14. FORM OF PROXY**

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- 14.1 An instrument appointing a proxy shall be in writing under the hand of the appointor or of his or her attorney duly authorised in writing.
- 14.2 The proxy is taken to include the right to demand or join in demanding a poll and will (except to the extent to which the proxy is specifically directed to vote for or against

any proposal) include power to act generally at the meeting for the person giving the proxy.

- 14.3 An instrument appointing a proxy will, unless the contrary is stated on it, be valid as well for any adjournment of the meeting as for the meeting to which it relates and need not be witnessed.
- 14.4 An instrument appointing a proxy shall be in the form set out in Schedule 1, or as determined by the Board.

## **15. VOTING OF ATTORNEY OR PROXY**

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- 15.1 A vote given in accordance with the terms of an instrument of proxy or power of attorney will be valid despite the previous death of the principal or revocation of the proxy or power of attorney, provided no notice in writing of the death or revocation has been received at the Registered Office before the meeting.
- 15.2 A proxy will not be revoked by the principal attending and taking part in the meeting, unless that principal votes on the poll at the meeting on the resolution for which the proxy is used.

## **16. BOARD**

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### **16.1 Board of Directors**

- (a) Subject to clause 16.2, the business of the Company and its affairs and property must be managed by a Board comprising;
- (i) no fewer than seven (7) Directors; and
  - (ii) no more than thirteen (13) Directors provided that:
  - (iii) no fewer than four (4) Directors must be elected by the Members (**Elected Directors**); and
  - (iv) no more than the greater of:
    - (A) three (3); or
    - (B) one half of the number of Elected Directors

may be appointed by the Board from time to time to fill specific skills required on the Board (Appointed Directors).
- (b) At least one (1) of the Directors must be deaf or hard of hearing, however any acts of the Company or Directors at a time when there is no such person as a Director will not be invalid as a result.
- (c) The Company may by resolution increase or reduce the minimum or maximum number of Directors.

### **16.2 Eligibility to be a Director**

In order to be eligible for appointment to the Board, an individual must:

- (a) be a Member of the Company;
- (b) not have served as a Director for a period exceeding the Maximum Tenure;
- (c) hold a director identification number issued by the Australian Business Registry; and
- (d) not be an employee of the Company.

### 16.3 Tenure of Directors

- (a) The tenure of an Elected Director:
  - (i) commence on the date that the person provides a consent to act as director, evidence of his/her director identification number and such further information or documents as are required by the Board following the conclusion of the Annual meeting at which her/she is elected; and
  - (ii) expires at the conclusion of the Annual Meeting at which he/she resigns under clause 16.4.
- (b) The tenure of an Appointed Director:
  - (i) commences at the conclusion of the Board meeting at which he/she is appointed; and
  - (ii) expires at the end of the period specified in the resolution of appointment being a period not exceeding three (3) years.
- (c) A person may be appointed as an Elected Director or an Appointed Director for more than one term of office, subject to the maximum tenure, being a total of nine Annual Meetings of Accumulative Service.
- (d) For the avoidance of doubt, the maximum tenure referred to in this clause 16.3 applies from the first appointment of that Director, irrespective of the date of any amendment to this Constitution.

### 16.4 Rotation

- (a) This clause 16.4 does not apply to an Appointed Director.
- (b) At the Annual Meeting of the Company in each calendar year at least one third of the Elected Directors must retire from office.
- (c) Unless otherwise agreed, the Elected Directors who must retire in accordance with subclause 16.4(b) will be the Elected Director who has been longest in office since last being elected. If two (2) or more Directors have been in office an equal length of time, the Directors who must retire will be determined by agreement between them or by lot.
- (d) Each Director must retire at least once every four (4) years.
- (e) A Director who retires under this clause 16.4 is eligible for re-election, subject to clause 16.3(c).

## 16.5 Casual appointment

The Directors may appoint an individual who is eligible to be a Director under clause 16.2 to fill a casual vacancy on the Board in respect of an Elected Director and the person so appointed will hold office until the next Annual Meeting, at which meeting the person will be eligible to stand for election as a Director.

The appointment by the Board of an Appointed Director is not taken to be an appointment to fill a casual vacancy, unless specified in the resolution of appointment.

## 17. POWER AND DUTIES OF DIRECTORS

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- 17.1 Subject to the ACNC Legislation and this Constitution, the management of the business and affairs of the Company is vested in the Board which may exercise all powers of the Company that this Constitution and the ACNC Legislation do not require to be exercised by the Company in General Meeting.
- 17.2 The management, custody, oversight of the property, business and general affairs of the Company will be under the management of the Board. Without limiting the generality of clause 17.1, the Board will have the power to:
- (a) appoint a Committee for any purpose and to delegate any powers to the Committee. A Committee must exercise its powers in accordance with any regulations imposed on it by the Board;
  - (b) make by-laws, rules and regulations for the property control administration and internal management of the Company's affairs, interest, effects and property, for the convenience comfort and well-being of the Members and to amend or rescind any by-laws, rules and regulations provided this power does not include power to amend the Constitution or make rules, regulations or by laws inconsistent with the Constitution;
  - (c) make by-laws regarding:
    - (i) the admission of Members;
    - (ii) proceeding at General Meetings;
    - (iii) the nomination and election of Directors;
    - (iv) proceedings of the Board; and
    - (v) the general conduct of the affairs of the Company;
  - (d) enforce the provisions of the Constitution, by-laws, rules and regulations;
  - (e) appoint any delegate to represent the Company at meetings of any association, group or body with which the Company is affiliated or for any other purpose;
  - (f) oversee the engagement control and dismissal of the Company's employees or paid officials and other persons referred to in the Constitution;
  - (g) determine who is entitled to sign in or endorse on the Company's behalf contracts, receipts, acceptances, cheques, bills of exchange, promissory notes and other documents or instruments;

- (h) oversee the financial administration and expenditure and the raising of funds on behalf of the Company;
- (i) bring to the notice of Members and employees all rules, regulations, by-laws as well as any alternations or repeals in force and binding on all Members and employees of the Company;
- (j) regulate the procedure at all meetings of the Company, the Board and any Committees so as to comply with the provisions of this Constitution and the Corporations Act; and
- (k) delegate such powers, authorities and discretions (being the powers, authorities and discretions vested in the Directors) for such period and subject to such conditions as they think fit to the chief executive officer, provided that such powers, authorities and discretions are not required to be exercised by the Company in general meeting or by the Board.

## **18. DISQUALIFICATION OF A DIRECTOR**

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### **18.1 Vacation of office**

The office of a Director becomes vacant if the Director:

- (a) becomes bankrupt or makes any arrangement or composition with their creditors generally;
- (b) is prohibited from being a director of a company by reasons of any order made under the Corporations Act or due to a provision of the ACNC Legislation;
- (c) ceases to be a Director by operation of any provision of the Corporations Act or the ACNC Legislation;
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under legislation relating to mental health;
- (e) resigns as a Director by notice in writing to the Company;
- (f) is absent from three (3) consecutive meetings of the Board without obtained leave of the Board;
- (g) reaches the maximum tenure under clause 16.3(c);
- (h) is an Appointed Director who ceases to maintain the relevant skills for which the Appointed Director was appointed;
- (i) is an Appointed Director who reaches the expiry of their appointment under clause 16.3(b)(ii);
- (ii) ceases to be a Member of the Company;
- (k) is removed by the Members.

## 18.2 **Material Personal Interest**

If a Director has:

- (a) a Material Personal Interest in relation to the Company's affairs;
- (b) not been present or voted in respect of a transaction in respect of their Material Personal Interest; and
- (c) complied with the requirements of the Corporations Act in relation to disclosure of the nature and extent of the Material Personal Interest and its relation to the Company's affairs before acting in a matter that relates to the Material Personal Interest

the Director:

- (d) is not in breach of their duty to the Company merely because they act in matters that relate to the Director's interest; and
- (e) in relation to any transaction that relate to the Director's Material Personal Interest:
  - (i) the transaction may proceed;
  - (ii) the Company cannot avoid the transaction merely because of the Director's Material Personal Interest; and
  - (iii) the Director may retain benefits under the transactions despite the Director's Material Personal Interest.

## 18.3 **Suspension of office**

If the Board resolves by majority vote that a Director has:

- (a) Breached, failed, refused or neglected to comply with:
  - (i) a clause of this Constitution;
  - (ii) his or her duties, obligations or responsibilities as a Director;
  - (iii) the policies of the Company; or
  - (iv) any other resolution or determination of the Board or any duly authorised sub-committee;
- (b) acted in a manner unbecoming of a Member or of a director of the Company;
- (c) acted in a manner prejudicial to the Objects and/or the interests of the Company; or
- (d) prejudiced the Company or brought the Company or themselves into disrepute,

the Board may suspend that Director from their position on the Board pending the outcome of investigation and determination of the Director's conduct in accordance with

the procedures set out in the by-laws or policies of the Company or by such other procedure as the remaining Directors consider appropriate.

## **19. PROCEEDINGS OF BOARD**

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### **19.1 Chair**

- (a) The Board must elect a Director to chair their meetings and may determine the period for which the Director is to be the Chair.
- (b) The board must elect a Director to be the Vice Chair to chair their meetings in the absence of the Chair and may determine the period for which the Director is to be the Vice Chair.
- (c) Where a meeting of the Directors is held and:
  - (i) A Director has not been elected to chair the meeting under clause 19.1(a) or 19.1(b); or
  - (ii) the previously elected Chair declines to act or is not present within fifteen (15) minutes after the time appointed for the holding of the meeting;

the Directors present must elect one of their number to chair the meeting or part of the meeting (as the case may be).

- (d) The Chair or in his or her absence, the Vice-Chair, will preside at a meeting of the Board. If neither the Chair nor the Vice-Chair is present at a meeting, the Directors present must choose another Director to act as chair for the purpose of the meeting.

### **19.2 Voting**

- (a) The Directors of the Board may meet and regulate their meeting as necessary. Questions arising at any meeting must be decided by a majority of votes except as provided in the Constitution or by-laws.
- (b) If the voting on any question is equally divided, the chair of the meeting is not entitled to exercise a second casting vote and the resolution is taken to be rejected.

### **19.3 Frequency of meetings**

The Secretary must upon request of the Chair or at least two (2) other Directors convene a meeting of the Board. Where practicable the Board must meet at least once every three (3) months.

### **19.4 Quorum**

A quorum of the Board comprises the majority of the total number of Directors, or such greater number fixed by the Directors.

### 19.5 **Number of Directors**

If the number of Directors falls below the minimum number referred to in clause 16.1, then the remaining Directors may only act for the purpose of;

- (a) increasing the number of Directors to the minimum number referred to in clause 16.1;
- (b) calling a General Meeting; or
- (c) dealing with an emergency.

### 19.6 **Validity of acts**

All acts done by any meeting of the Board, a Committee or by any person acting as member of the Board or Committee will if discovered afterwards that there was:

- (a) a defect in the appointment of any member of the Board or person action; or
- (b) that person was disqualified from acting as a director under the Corporations Act or responsible person under the ACNC Legislation

be valid as if every person had been duly appointed and qualified as a member of the Board or Committee.

### 19.7 **Circular resolution of Directors**

Subject to 19.5, the Directors may pass a resolution without a Directors' meeting being held if all the directors entitled to vote on the resolution sign a document or send an email to the Secretary containing a statement they are in favour of the resolution set out in the document. Identical copies of the document may be distributed for signing by different Directors and taken together will constitute one and the same document. The resolution is passed when the last Director signs the document, or an email is received by the Secretary from the last Director containing a statement that they are in favour of the resolution set out in the document.

### 19.8 **Unavailability of Directors**

If any Director intends to be unavailable or uncontactable for a period in excess of three (3) weeks, the Director may advise the Secretary in writing of that unavailability and the period of the unavailability. Any Director advising the Secretary in writing of any period of unavailability is not entitled to vote on the resolution under clause 19.7 during the period of unavailability.

### 19.9 **Mode of meeting**

A Board meeting may be held:

- (a) At one or more physical venues;
- (b) At one or more physical venues and using virtual meeting technology; and
- (c) using virtual meeting technology only.

## **20. COMPANY SECRETARY**

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### **20.1 Appointment of Secretary**

The Directors must appoint at least one (1) Secretary who may also be a Director.

### **20.2 Suspension and removal of Company Secretary**

The Board may suspend or remove a Secretary from that office in their absolute discretion.

### **20.3 Powers, duties and authorities of Company Secretary**

A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Board.

## **21. COMPANY OFFICERS**

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### **21.1 Chief Executive Officer**

- (a) The Directors must appoint one (1) chief executive officer from time to time.
- (b) The Directors may invite the chief executive officer to attend meetings of the Directors.
- (c) The Directors may delegate such of their powers as they see fit and on such conditions as they see fit, other than this power of delegation.
- (d) The appointment of a chief executive officer may be for the period, at the remuneration or on the conditions that the Directors think fit.
- (e) Subject to any contract between the Company and the chief executive officer, the chief executive officer may be removed or dismissed by the Directors at any time, with or without cause.
- (f) The Directors may:
  - (i) confer on the chief executive officer the powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the Directors) they think fit;
  - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on the chief executive officer; and
  - (iii) authorise the chief executive officer to delegate all or any of the powers, discretions and duties conferred on him or her.
- (g) An act done by a person acting as the chief executive officer is not invalidated merely because of:
  - (i) a defect in the person's appointment as the chief executive officer; or
  - (ii) the person being disqualified to be the chief executive officer, if that circumstance was not known by the person when the act was done.

## **22. MINUTES**

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- 22.1 The Board must cause minutes to be entered in the books in relation to:
- (a) Appointment of officers;
  - (b) The names of the persons present at each meeting of the Company or the Board or any Committee;
  - (c) All orders, rules, regulations and by-laws made by the Board or by any Committee; and
  - (d) All resolutions and proceedings of General Meetings and of the meetings of the Board, Committees and any minutes of any of those bodies received and passed at any subsequent meeting of those bodies will be evidence of the matters contained in the minutes.

## **23. EXECUTION OF DOCUMENTS**

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Instruments of the Company may be executed in accordance with section 127 of the Corporations Act or in accordance with any delegated authority authorised by the Board.

## **24. ACCOUNTS**

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- 24.1 The Board will cause to be kept proper books of account in which will be kept true and complete accounts of the affairs and transactions of the Company. Proper books will not be deemed to be kept unless the books give a true and fair view of the state of the Company's affairs and explain its transactions.
- 24.2 The books of account will be kept at the Registered Office or place or places as the Board think fit and will be open to the inspection of Directors during usual business hours.

## **25. AUDIT**

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The Company will observe the provisions of the Corporations Act and ACNC Legislation (as applicable) in relation to the appointment of an auditor or auditors.

## **26. INSPECTION OF AND ACCESS TO RECORDS**

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- 26.1 A person who is not a Director does not have the right to inspect any of the board papers, books, records or documents of the Company, except as provided by law, this Constitution or as authorised by the Directors or by a Special Resolution of the Members.
- 26.2 The Company may enter into contracts with its Directors agreeing to provide continuing access for a specified period after the Director ceases to be a Director to board papers, books, records and documents of the Company which relate to the

period during which the Director was a Director on such terms and conditions as the Directors think fit and which are not inconsistent with this clause<sup>26</sup>.

## **27. INDEMNITY AND INSURANCE**

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### **27.1 Application**

This clause 27 applies to:

- (a) each person who is or has been a Director, chief executive officer or Secretary of the Company; and
- (b) any other employees or former employees of the Company or of its related bodies corporate that the Directors decide in each case.

### **27.2 Indemnity**

The Company must, to the extent permitted by law:

- (a) indemnify; and
- (b) if requested by a person to whom this clause 27 applies, enter into a deed indemnifying, on a full indemnity basis and to the full extent permitted by law, each person to whom this clause 27 applies

for all losses or liabilities incurred by the person as an officer of the Company or of a related body corporate (including costs and expenses).

### **27.3 Extent of Indemnity**

The indemnity in clause 27.2:

- (a) is a continuing obligation and is enforceable by a person to whom clause 27 applies even though that person has ceased to be an officer of the Company or of a related body corporate; and
- (b) operates only to the extent that the loss or liability is not covered by insurance.

### **27.4 Insurance**

The Company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this clause 27.4 applies, against any liability incurred by the person as an officer of the Company or of a related body corporate.

### **27.5 Savings**

Nothing in clauses 27.2 or 27.4:

- (a) affects any other right or remedy that a person to whom those clauses apply may have in respect of any loss or liability referred to in those clauses; or

- (b) limits the capacity of the Company to indemnify or provide insurance for any person to whom those clauses do not apply.

## **28. NOTICES**

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### **28.1 How notices may be given**

- (a) A notice may be given by the Company to a Member by:
  - (i) delivering it to the Member personally;
  - (ii) sending it to the Member's electronic address, (if the Member has nominated an electronic address for receipt of notices); or
  - (iii) posting it by prepaid post to the Member's registered address.
- (b) A notice may be given by a Member to the Company by:
  - (i) delivering it to the Company's Registered Office;
  - (ii) sending it to the Company's electronic address; or
  - (iii) posting it by prepaid post to the Company's Registered Office.

### **28.2 When taken as given**

- (a) A notice is taken as given by the Company and received by the Member:
  - (i) if delivered, at the time of delivery;
  - (ii) if sent electronically, on the day of the transmission, so long as the sender of the notice does not receive a delivery failure message in respect of the email; and
  - (iii) if posted, on the second Business Day after it was posted.

### **28.3 Notice given by member**

- (a) A notice is taken as given by a Member and received by the Company:
  - (i) if delivered, at the time of delivery;
  - (ii) if faxed, when the Member receives a confirmation report that all pages of the fax have been transmitted to the Company's fax number, but if transmission or receipt is after 5.00pm, it is taken as received on the next Business Day;
  - (iii) if sent electronically, on the next Business Day; and
  - (iv) if posted, on the second Business Day after it was posted.

## **29. WINDING UP**

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- 29.1 If, on the winding up of the Company or the revocation of its endorsement as a deductible gift recipient, any property remains after satisfaction of all its debts and

liabilities, this property must only be given or transferred to a fund, authority or institution:

- (a) which is charitable at law;
- (b) whose constitution prohibits distributions or payments to its Members and Directors (if any) to an extent at least as great as is outlined in clause 4 and 5;
- (c) that is a public benevolent institution for the purpose of ITAA:
- (d) which has one or more similar objects to any of the Company's Objects; and
- (e) to which tax deductible gifts may be made.

29.2 The identity of the fund, authority or institution referred to in clause 29.1 must be decided by the Members by ordinary resolution at or before the time of winding up or dissolution of the Company or, in default of the Members deciding, by a court of competent jurisdiction.

**Schedule 1****FORM OF PROXY****DEAF SERVICES LIMITED****Proxy**

I, \_\_\_\_\_ of \_\_\_\_\_  
 being a Member of the Company appoint \_\_\_\_\_ of \_\_\_\_\_  
 \_\_\_\_\_ (being a person entitled to vote at a General Meeting  
 of the Company in accordance with and subject to the Constitution of the Company) as my proxy  
 to vote for me on my behalf at the General Meeting of the Company to be held on the \_\_\_\_\_ day  
 of \_\_\_\_\_ and at any adjournment of that meeting.

This form is to be used for the following resolution (s):

Voting on business of the Meeting	For	Against	Abstain
Resolution 1 [insert]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2 [insert]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3 [insert]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Signed:

Date