

AUTISM SPECTRUM AUSTRALIA (ASPECT)

ABN 12 000 637 267

CONSTITUTION

Amended by Special Resolution on 22 May 2013, 30 May 2018 and 25 May 2022

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CONSTITUTION
OF
AUTISM SPECTRUM AUSTRALIA (ASPECT)
ABN 12 000 637 267
A COMPANY LIMITED BY GUARANTEE

1 INTERPRETATION

1.1 Replaceable rules inapplicable

The replaceable rules in the Corporations Act do not apply to the Company unless repeated in this Constitution or specifically made applicable to the Company by a provision of this Constitution.

1.2 Definitions

In this Constitution, unless the context otherwise requires:

“ACNC Legislation” means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth).

“ASIC” means the Australian Securities and Investments Commission.

“Board” means the Board of Directors of the Company.

“Business Day” means a day which is not a Saturday, Sunday or bank or public holiday in New South Wales.

“Chair” means the Chairperson of a general meeting of Members or the Chairperson of a meeting of the Board (as the context requires).

“Charity” has the meaning given in the *Charities Act 2013* (Cth).

“Committee” means a Committee of Directors or a Committee of Directors and other persons appointed to such Committee by the Board formed under clause 18.7.

“Company” means Autism Spectrum Australia (Aspect), a company limited by guarantee and registered without the word “Limited” in its name under section 150 of the Corporations Act.

“Confidential Information”:

- (a) means information (whether or not in material form) given to or gained by a Director before, during or after that person’s term of Directorship, that relates to:
 - (i) the Company; or
 - (ii) students or participants or suppliers of or to the Company; or
 - (iii) any funding, sponsorship or donation arrangements in respect of the Company; and

(b) includes, but is not limited to:

- (i) trade secrets;
- (ii) information relating to the business affairs, accounts work, marketing plans, prospects, price information, supplier lists, research, management, financing, business strategies, products, inventions, designs or processes;
- (iii) computer data bases and computer software; and
- (iv) data surveys, student or participant lists, specifications, drawings, records, reports and statements.

“Constitution” means this Constitution as amended from time to time.

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

“Director” means any person occupying the position of a Director of the Company.

“Duties” includes, in any particular case where the Board considers it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an Officer by the Company or, where applicable, the subsidiary of the Company to any other corporation.

“Gift” means a gift to the Company pursuant to the provisions of subdivision 30-A of the *Income Tax Assessment Act 1997* (Cth) and which is either a gift of cash or a gift of an asset made or transferred or given to the Company.

“Gift Fund” means the gift fund established under clause **Error! Reference source not found.**

“Instantaneous Communication Device” includes telephone, television, fax, email, videoconference or any other audio, visual or data device which permits instantaneous communication between Directors.

“Liability” means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending an action for a liability incurred as an Officer.

“Members” means persons that are, or who are admitted as, members of the Company under clause 5.1.

“Objects” means the objects for which the Company is established set out in clause 4.

“Office” means the registered office from time to time of the Company.

“Office Bearers” has the meaning assigned in clause 17.1.

“Officer” means:

- (a) a Director or Secretary or a director or secretary of a subsidiary of the Company; or
- (b) a person:
 - (i) who makes or participates in making decisions that affect the whole, or a substantial part, of the business of the Company or a subsidiary of the Company;
 - (ii) who has the capacity to affect significantly the Company’s or a subsidiary of the Company’s financial standing; or
 - (iii) in accordance with whose instructions or wishes the Directors or the directors of a subsidiary of the Company are accustomed to act (excluding advice given by the person

in the proper performance of functions attached to the person's professional capacity or as part of their business relationship with the Directors or the directors of a subsidiary of the Company or the Company or a subsidiary of the Company),

and includes a former officer.

"Present" in connection with a meeting of Members, means present in person, by corporate representative or by proxy (but not by attorney) at the meeting.

"Register" means the register of Members to be kept pursuant to the Corporations Act.

"Related Body Corporate" has the meaning given in the Corporations Act.

"Relevant Extent" means:

- (a) to the extent the Company is not precluded by law from doing so;
- (b) to the extent and for the amount that the Officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and
- (c) where the Liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the Duties in relation to another corporation, to the extent and for the amount that the Officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.

"Secretary" means any person appointed to perform all or any of the Duties of a Secretary of the Company or any person appointed to act temporarily as such.

"Special Resolution" has the meaning given to that term in the Corporations Act.

"Tax Act" means the *Income Tax Assessment Act 1997* (Cth) and the *Income Tax Assessment Act 1936* (Cth).

1.3 Construction

In this Constitution unless the context otherwise requires:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other gender;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) "includes" means includes without limitation;
- (e) a reference to:
 - (i) a person includes a natural person 18 years or over, a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
 - (iii) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;

- (iv) a right includes a benefit, remedy, discretion or power;
 - (v) time is to local time in New South Wales;
 - (vi) "\$" or "dollars" is a reference to Australian currency;
 - (vii) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmission;
- (f) if the date on or by which any act must be done under this document is not a Business Day, the act must be done on or by the next Business Day; and
- (g) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

2 NAME

The name of the Company is: "Autism Spectrum Australia (Aspect)" or such other name as the Members may approve in accordance with this Constitution and the Corporations Act.

3 REGISTERED OFFICE

The Office of the Company shall be situated in New South Wales.

4 OBJECTS

The Company's Objects are:

- (a) to provide direct relief of suffering and distress of those individuals, as well as the families of those individuals, who have Autism Spectrum Disorder or another disability through but not limited to diagnosis and assessment, early intervention, educational services for school-aged children to prepare them for transition to environments that are not autism-specific, the provision of information and other services;
- (b) to raise awareness about Autism Spectrum Disorder to assist in the early identification of the individual with Autism Spectrum Disorder and to provide educational and training services to the professional and the general community about Autism Spectrum Disorder and the issues and needs of individuals with Autism Spectrum Disorder, as well as structured support to the families of those individuals to develop the individual's skills to allow the individual to achieve a good quality of life and provide relief to the families;
- (c) to research and evaluate the services provided;
- (d) to enter into arrangements with others, including any level of government or any society, organisation or company that in the Directors' opinion is conducive to the Objects, and to obtain privileges, financial support or concessions that allow the Company to meet its Objects from those persons;
- (e) to subscribe to or donate or become a member of and cooperate with any other body of persons whose Objects are altogether or in part similar to those of the Company;
- (f) to encourage and solicit the making of donations, Gifts and testamentary dispositions to the Company and obtain and disburse those funds in the furtherance of the Company's Objects;
- (g) to undertake public appeals from time to time to raise funds for the Company's Objects;

- (h) to establish a capital base and to use income from that base to provide an ongoing source of support for the Company to achieve its Objects; and
- (i) to do all such things as are incidental to the attainment of any of the above Objects.

5 MEMBERS

5.1 Categories of Membership

- (a) Membership of the Company shall initially be in three classes of Members.
- (b) The three initial classes of Members are:
 - (i) Ordinary Member, being a person that upon payment of the then applicable Membership fee shall, subject to this Constitution, be eligible for admission as an Ordinary Member of the Company.
 - (ii) Life Member, being a person that has given a sum of money or rendered a level of services in-kind to the Company of such magnitude as the Board from time to time determines worthy of a grant of Life Membership.
 - (iii) Life Governor, being a person that has given a sum of money or rendered a level of services in-kind to the Company of significantly greater magnitude than a person who is eligible to become a Life Member that the Board from time to time determines worthy of a grant of Life Governorship.
- (c) The Directors may establish classes of Members and prescribe and vary the qualifications, rights, privileges and obligations of all classes of Membership of the Company.
- (d) Where classes of Members have been established, the Directors may, by resolution, reclassify or convert Members from one class to another.

5.2 Ordinary Members

Any person that:

- (a) forwards to the Secretary a written application for Membership (in the form determined by the Board from time to time) agreeing to be bound by the Constitution, and
- (b) pays the then applicable Membership fee and pays any other annual or subscription fees payable,

may be admitted as an Ordinary Member by resolution of the Board in accordance with this Constitution.

5.3 Fees

- (a) The Membership fee payable by each class of Member and the period for which such fee entitles Membership, will be determined by the Board from time to time. The Board may grant any concession with regards to Membership fees as it thinks fit, including the full or partial waiver of all or any of such fees.
- (b) The annual subscription fee shall be payable annually in advance on the first day of the financial year determined in accordance with clause 21.2(a) or such other day as the Board determines.

- (c) A Member which ceases to be a Member before any fee becomes due and payable shall not be liable for that fee.
- (d) Subject to clause 5.3(c), resignation or other termination of a Member's Membership of the Company will not relieve a Member of responsibility for any financial obligations under this Constitution, including fees and other amounts due and payable by the Member to the Company, accruing up to the effective date of termination.

5.4 Notification

- (a) Upon the Board accepting the application for Membership, the Secretary will send to the person confirmation of their acceptance as a Member.
- (b) If an application for Membership is rejected, the Secretary must, as soon as practicable, notify the applicant that the application has been rejected and shall refund all application and subscription fees paid by the applicant in accordance with clause 5.2. In no case shall the Board or the Company be required to give any reason for the rejection of the applicant.

5.5 Commencement of Membership

For the avoidance of doubt, an applicant's Membership commences upon the making of a Board resolution to that effect.

5.6 Cessation of Membership

A person ceases to be a Member if the person:

- (a) resigns his or her Membership by giving one month's written notice to the Secretary or such lesser notice period as may be accepted by the Board;
- (b) dies;
- (c) becomes a person liable, or a person whose assets are liable, to any control or administration under any law relating to physical or mental health;
- (d) is expelled from membership in accordance with clauses 5.7 and 5.8;
- (e) has been on the Register for a period of at least 3 years, and the Company has, for a period of at least 3 years:
 - (i) had reasonable grounds for believing that the person was not residing at the address shown in the Register as the person's address; and
 - (ii) on each occasion during that period when it sought to communicate with the person, being unable after the exercise of reasonable diligence to do so; or
- (f) fails to pay any Membership fee within 60 days of the due date for such payment.

5.7 Expulsion from Membership

Subject to clause 5.8, if in the opinion of the Board, a Member's conduct is detrimental or prejudicial to the welfare, interests, character or Objects (including wilful breach of this Constitution or any regulations made pursuant to this Constitution), the Board may resolve to expel such person from Membership of the Company. A Member expelled from the Company does not have any claim on the Company, its funds or property.

5.8 Natural Justice Procedure

- (a) A resolution of the Board passed at a Board meeting pursuant to clause 5.7 (“**the resolution**”), shall be of no force or effect unless prior to passing the resolution:
 - (i) the Board has given not less than 14 days prior notice in writing to the Member referred to in the proposed resolution (“**the Notice**”);
 - (ii) the Notice includes a statement that the Member has a right to put their case to the Board by giving the Secretary a written statement for circulation to the Directors and appearing at the Board meeting at which the proposed resolution is to be considered to speak for a reasonable time; and
 - (iii) the Notice includes a statement containing reasonable particulars of the person’s conduct to be considered by the Board and a description of the resolution proposed.
- (b) Either prior to or at the meeting of the Board, the person may request the Chair to elaborate upon any of the particulars set forth in the Notice. The Board must use all reasonable endeavours to comply with such a request.
- (c) A statement given under paragraph (a)(ii) must be circulated to the Board before the meeting or, if there is insufficient time, read out at the meeting before the resolution is considered, unless the statement is more than 1,000 words or is considered defamatory by the Chair.
- (d) A resolution pursuant to clause 5.7 will be carried by a majority of 75% of the Directors present at such meeting.
- (e) The Secretary must give the Member written notice of the passing of a resolution pursuant to clause 5.7 as soon as reasonably practicable after the Board meeting to consider the resolution is held.

6 REGISTER OF MEMBERS

- (a) The Secretary must keep the Register at the Office and must enter in the Register:
 - (i) the full names and addresses of Members; and
 - (ii) the date on which each Member becomes and ceases to be a Member.
- (b) Each Member must notify the Company in writing of any change in that Member’s name, address, or email address, within one month after the change.

7 GENERAL MEETINGS

7.1 Annual general meeting

An annual general meeting of the Company must be held in accordance with the Corporations Act, notwithstanding section 111L of the Corporations Act.

7.2 Holding of general meetings

- (a) General meetings are to be held at the times and places resolved by the Company in general meetings or, if no time or place is resolved, as resolved by the Board.
- (b) The Company may hold a general meeting:

- (i) at two or more venues; or
- (ii) to the extent permitted by law,

using any Instantaneous Communication Device that gives Members as a whole a reasonable opportunity to participate, including hearing the proceedings and be heard.

7.3 Convening of general meetings

- (a) The Directors may at any time and must upon a written requisition made by at least 5% the total Membership in accordance with section 249D of the Corporations Act (notwithstanding section 111L of the Corporations Act), convene a general meeting of the Company.
- (b) Members may inspect and copy the Register by appointment with the Secretary but only for the purpose contemplated in clause 7.3(a). The Register must not be used for any other purpose.
- (c) Notwithstanding section 111L of the Corporations Act, the written request for a general meeting by the Members must:
 - (i) state the resolution/s to be proposed at the meeting;
 - (ii) be signed by all the Members requesting the meeting; and
 - (iii) be given to the Company at the Office.
- (d) The Board may by notice not later than 72 hours prior to the time of the meeting, change the venue for, postpone or cancel a general meeting, unless the meeting is called and arranged to be held by the Members or the Court under the Corporations Act. Any meeting so postponed shall be taken to have been duly convened under the first notice.
- (e) If a general meeting is called and arranged to be held under section 249D of the Corporations Act (notwithstanding section 111L of the Corporations Act), the Directors may not:
 - (i) postpone it beyond the date by which section 249D requires it to be held; or
 - (ii) cancel it without the consent of the requisitioning Members.

7.4 Notice of meetings

- (a) At least 21 days' prior notice must be given of a meeting of Members unless the Corporations Act otherwise provides (notwithstanding section 111L of the Corporations Act). The notice must specify the place, date and time of the meeting, the details of any Instantaneous Communication Device used in the meeting, and in the case of special business, the general nature of that business and any other information required by the Corporations Act (notwithstanding section 111L of the Corporations Act).
- (b) A notice convening a general meeting may be given either personally, by post, courier, email or any other form of wire or wireless communication.
- (c) A notice of meeting sent by post is taken to be delivered on the Business Day after it is posted.
- (d) A notice of meeting sent by email or other electronic means is taken to be received on the Business Day that it is sent.

7.5 Omission to give notice

The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice does not invalidate the proceedings or any resolution passed at the meeting.

7.6 Ordinary and Special business

- (a) Other than items of business requiring a Special Resolution due to the provisions of the Corporations Act or this Constitution, all other items of business to be conducted at a meeting of Members will be dealt with as ordinary business and will be passed upon the vote in favour of at least 50% of the votes cast by Members Present and entitled to vote on the resolution.
- (b) Business conducted at an annual general meeting for:
 - (i) the confirmation of the minutes of the preceding meeting;
 - (ii) the receipt and consideration of the annual financial report and the reports of the Directors and the auditors;
 - (iii) the appointment of the auditor of the Company;
 - (iv) the election of Directors; and
 - (v) the transaction of any business which under the Corporations Act (notwithstanding section 111L of the Corporations Act) or this Constitution is required to be transacted,
 will be dealt with as ordinary business.

7.7 Resolutions to amend Constitution

- (a) A resolution to amend this Constitution or this clause 7.7 shall be dealt with as a Special Resolution and will be decided in the affirmative where 75% of the votes cast by Members Present at the meeting and entitled to vote on the resolution are cast in favour of the resolution.
- (b) The Members must not pass a Special Resolution to amend this Constitution if such an amendment has the effect that the Company is no longer a Charity.
- (c) The Company must notify the Australian Charities and Not for Profits Commission of any amendment to the Constitution.

8 PROCEEDINGS AT GENERAL MEETINGS

8.1 Quorum

No business is to be transacted at any general meeting unless a quorum is present at the time the meeting proceeds to business. 15 Members Present constitute a quorum for the transaction of the business of a general meeting.

8.2 Lack of quorum

If within 30 minutes after the time appointed for the general meeting a quorum is not present:

- (a) in the case of a meeting convened upon the request of the Members, the meeting must be dissolved; and

- (b) in any other case, the meeting will stand adjourned to the same day in the next week at the same time and place or to such other day time and place as the Directors determine. If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting will be dissolved.

8.3 Departure of Members Affecting Quorum

If a quorum is present at the time appointed for the meeting (or within 30 minutes after the time appointed) but sufficient Members depart so that there is no longer a quorum, the Members Present may adjourn the meeting until a quorum is present, at which time any business may be transacted that would have been transacted at the meeting as originally called.

8.4 Chair

The Chair of the Board presides as Chair at every meeting of Members. If there is no Chair or if the Chair is not present within 15 minutes after the time appointed for the meeting or is unable or unwilling or refuses to act as chairperson of the meeting, the Deputy Chair (if any) must act as Chairperson of the meeting. If there is no Deputy Chair, or if the Deputy Chair is not present within 15 minutes after the time appointed for the meeting or is unable or unwilling or refuses to act as chairperson of the meeting, the Members Present and entitled to vote at the meeting must choose another Director as Chair. If no Director is so chosen or if none of the Directors present are willing to take the Chair, the Members Present must choose one of their own number to be Chair of the general meeting of Members.

8.5 Adjournment

The Chair of a general meeting may, with the consent of the meeting (and must if directed by the meeting), adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

8.6 Notice of adjourned meeting

It is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned general meeting, unless the meeting is adjourned for 21 days or more, in which case notice of the adjourned meeting is to be given as in the case of an original meeting.

8.7 Decision on resolutions

- (a) Subject to clause 8.7(c), a resolution put to the vote at a general meeting of the Company, is to be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chair (other than a resolution for the election of the Chair of a meeting or a resolution for the adjournment of a meeting) or by not less than 10 Members Present and having the right to vote at the meeting.
- (b) In the event of an equality of votes on a show of hands or on a poll the Chair shall not have a casting vote in addition to any vote to which the Chair may be entitled as a Member.
- (c) A question arising at a general meeting of the Company relating to the order of business, the entitlement of any person to attend or vote at the meeting, meeting procedure or conduct of the meeting must be referred to the Chair of the meeting, whose decision is final.

8.8 Minutes as evidence of result

Unless a poll is duly demanded in accordance with clause 8.7(a), a declaration by the Chair that a resolution has, on the show of hands, been carried or lost, and an entry to that effect in the book

containing the minutes of the proceedings of the Company signed by the Chair, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

8.9 Taking of poll

- (a) If a poll is duly demanded it must be taken before the close of the meeting in the manner and at the time and place, as the Chair of the meeting may direct. The result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded provided that a poll on the election of a Chair of a meeting or on any question of adjournment must be taken at the meeting and without adjournment.
- (b) The demand for a poll does not prevent the meeting continuing for the transaction of any business other than the question on which a poll has been demanded.
- (c) A poll may be demanded before a vote is taken, before the voting results on a show of hands are declared or immediately after the voting results on a show of hands are declared.
- (d) The demand for a poll may be withdrawn.
- (e) In the case of a dispute as to the admission or rejection of a vote on a show of hands or on a poll, the Chair must determine the dispute and the determination made in good faith will be final and conclusive.

8.10 Rights of Officers and Advisers to attend General Meetings

- (a) Any Director and the Company Secretary shall be entitled to attend and to speak at any general meeting.
- (b) The Company's auditor (or auditor's representative) is entitled to attend and speak at any general meeting, on any part of the business of the meeting that concerns the auditor in their capacity as auditor. The auditor's right to attend and speak at any meeting is not affected by the auditor retiring at the meeting or a resolution being passed removing the auditor from office.
- (c) Any other person (whether a Member or not) requested by the Board to attend any general meeting shall be entitled to be present and, at the request of the Chair, to speak at that general meeting.

9 REPRESENTATION AND VOTING OF MEMBERS

9.1 Representation

Members shall have the right to attend and vote at meetings of Members, provided they have paid all fees due and payable at the date of the notice of meeting on or before the date of the meeting.

9.2 Entitlement to vote

Subject to this Constitution and any rights or restrictions attached to any class of Membership, at a general meeting every Member Present has one vote, whether on a show of hands or on a poll.

9.3 When there is an equality of votes

In the case of an equality of votes whether on a show of hands or on a poll, the motion is lost.

10 PROXIES

10.1 Appointment of proxy

Subject to section 249X(3) of the Corporations Act (notwithstanding section 111L of the Corporations Act), a Member may appoint one proxy only, who may but need not be a Member of the Company, and that proxy is entitled to vote on a show of hands or on a poll.

10.2 Instrument of proxy

The instrument appointing a proxy must be in writing signed by the appointor. An instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution. Where an instrument contains such direction, the proxy is not entitled to vote on the proposed resolution except as directed in the instrument. A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated. The instrument appointing a proxy is valid for any adjournment of the meeting as well as for the meeting to which it relates, unless the contrary is stated.

10.3 Proxy to be deposited at the Office

- (a) The instrument appointing a proxy and the authority (if any) under which it is signed, or a certified copy of the authority, must be received by the Company not later than 5.00 pm on the Business Day before the general meeting or adjourned meeting or taking of the poll, at which the person named in the instrument proposes to vote. If this clause 10.3 is not complied with, the instrument of proxy will be invalid.
- (b) An instrument appointing a proxy is received when it is received at any of the following:
 - (i) the Office; or
 - (ii) a place or electronic address specified for the purpose in the notice of meeting.

10.4 Form of proxy

The Board shall from time to time determine the form of the instrument of proxy, which will be valid, if it is signed by the Member making the appointment.

An instrument of proxy in which the name of the appointee is not filled in is taken to be given in favour of the Chair of the meeting to which it relates.

10.5 Proxy's Authority

A proxy's authority to speak and vote for a Member at a meeting is suspended while the Member is present at the meeting, unless the Member directs otherwise.

10.6 Power to demand poll

The instrument appointing a proxy is taken to confer authority to demand, or join in demanding, a poll.

10.7 Identification of proxy

The Chair of a meeting may require a person acting as a proxy to establish to the satisfaction of the Chair that he or she is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person does not comply, that person may be excluded from voting either upon a show of hands or upon a poll.

11 DIRECTORS

11.1 Number and Composition

The Board shall consist of not less than 8 persons and not more than 12 persons and:

- (a) shall contain up to 10 persons elected by Members (**Member-elected Directors**); and
- (b) if the Board determines, shall contain up to 2 persons appointed by the Board (**Board-appointed Directors**).

The Company in a general meeting may by resolution increase or reduce the number, or alter the composition, of Directors specified in clause 11.1 and may determine the number of Directors to retire by rotation in accordance with clause 13.1(a).

11.2 Directors must be Members

All Directors, whether Member-elected Directors or Board-appointed Directors, must be Members.

11.3 No remuneration

Except as provided for in clause 27, no Director may receive any remuneration for his or her services as a Director.

11.4 Vacancies

Subject to clauses 11.2 and 11.6, if any vacancy of Member-elected Directors occurs, that vacancy may be filled by a person appointed by the Board. The person filling the vacancy holds office only until the next annual general meeting and is then eligible for election by the Members, but such person's appointment to fill the casual vacancy will not be taken into account in determining the Directors whose tenure is to expire by rotation at that meeting under clause 13.

11.5 Board-appointed Directors

Subject to clauses 11.2 and 11.6, the Board may at any time appoint any person as a Board-appointed Director, provided that there may only be a maximum of two Board-appointed Directors. The tenure of all Board-appointed Directors expires at the next Board meeting to occur after every annual general meeting of the Company. Upon the expiry of the tenure of any Board-appointed Director, the Board may re-appoint him or her as a Board-appointed Director in accordance with this clause.

11.6 Director Tenure

No Director (whether a Member-elected Director or a Board-appointed Director) shall serve for more than ten (10) consecutive years in office (**Maximum Term**). A Director who has served the Maximum Term may be appointed as a Board-appointed Director pursuant to clause 11.5 for a maximum of two (2) additional terms of one (1) year where the Board by Special Resolution in each of those years determines that the appointment of that person as a Board-appointed Director for such additional term would be in the best interests of the Company.

12 MANAGEMENT OF THE COMPANY

- (a) Subject to the Corporations Act, the ACNC Legislation and any other provision of this Constitution, the business and affairs of the Company shall be managed by the Board which may exercise all the powers and do everything that the Company may exercise or do and which is not required to be exercised or done by the Company in general meeting. Without limitation, the Board may exercise all the Company's powers to:

- (i) borrow or otherwise raise money;
 - (ii) charge Company property; and
 - (iii) issue debentures or give any other security for a debt, Liability or obligation of the Company or (subject to clause 27) any other person.
- (b) The Board may from time to time make regulations (not being inconsistent with this Constitution) governing the operations and administration of the Company and such other matters as the Board thinks fit. All such regulations must be displaced on the website of the Company as soon as practicable after such regulations are made.
- (c) The Board may:
- (i) appoint or employ a person to be an Officer, agent or attorney of the Company with powers, authorities, discretions and Duties, including those vested in or exercisable by the Board for such period and subject to such conditions as the Board thinks fit;
 - (ii) authorise an Officer to delegate powers and Duties vested in that Officer; and
 - (iii) subject to any provision of this Constitution, the Corporations Act or the ACNC Legislation to the contrary, dismiss or remove any agent, Officer or attorney with or without cause.

13 APPOINTMENT AND REMOVAL OF DIRECTORS

13.1 Director's retirement by rotation:

- (a) By the operation of this clause 13, and subject to clause 13.1(c) to (e), the tenure of one-third of the Member-elected Directors holding office prior to each annual general meeting (or, if their number is not a multiple of three, then the whole number nearest to and less than one-third of the Member-elected Directors appointed) less the number of Member-elected Directors who have retired or been removed since the last annual general meeting, will automatically expire.
- (b) For the purpose of clause 13.1(a), those Member-elected Directors whose tenure will automatically expire shall be determined by selecting from among those Directors who have held the office of Director of the Company for three or more years, beginning with those who have been in office for the longest continuous period of time, and where 2 or more Directors have held office for an equal continuous period of time, then the selection between them shall be determined by lot administered by the Secretary.
- (c) No Member-elected Director will have his or her tenure automatically expire due to the operation of clause 13.1(a) more than once in every 3 year period.
- (d) Subject to the operation of this clause 13, each Member-elected Director is elected for a term of 3 years expiring upon the commencement of the third annual general meeting held after the Director was last appointed.
- (e) Subject to clause 11.6, a Director whose tenure expires is eligible for re-election without needing to give any prior notice of his or her intention to submit himself or herself for re-election.
- (f) A retiring Member-elected Director shall be entitled to act as a Director throughout the meeting at which he or she retires.

13.2 Election of Directors by Members

- (a) The Directors shall call, at least 45 days prior to each annual general meeting, for nominations for election as Member-elected Directors from Members. For avoidance of doubt, such notice may be given by the Directors to the Members on the Company's website or using any other method the Directors think fit and need not be given to Members individually.
- (b) All nominations of candidates for election as Member-elected Directors must be received in writing at least 28 clear days before the relevant annual general meeting (**Nominations Closing Date**). The nominations must be duly signed by 2 Members and include a consent to act as a Director signed by the candidate and any other information required by the Board. The Secretary must compile a list of candidates (**Director Candidate List**) from all duly completed nominations received by the Secretary before the Nominations Closing Date.
- (c) The Board may nominate such additional candidates for inclusion in the Director Candidate List as it thinks fit.
- (d) The Director Candidate List must be forwarded to all Members not less than 21 days (or such lesser period as is from time to time permitted by the Corporations Act, notwithstanding section 111L of the Corporations Act) prior to the annual general meeting at which an election is to take place.
- (e) Subject to clause 11.2, no person except a Member-elected Director whose tenure has expired, a person nominated in accordance with clause 13.2(b) or a person recommended by the Board for election in accordance with clause 13.2(c), is eligible to be included in the Director Candidate List.
- (f) The election of Directors shall take place by way of resolution of Members Present at the annual general meeting, or in the event that more candidates have been nominated than vacancies exist on the Board, by ballot, as determined by the Board. Any ballot to elect Directors pursuant to this clause will be supervised by the Secretary or such other person as may be appointed by the Board to act as returning officer. In the case of an equality of votes for 2 or more candidates for the same position, a further ballot will be taken to determine the successful candidate.

13.3 Director Resignation

Any Director may resign from office upon giving notice in writing to the Secretary of the Director's intention to do so and such resignation takes effect upon the expiration of the notice or its earlier acceptance by the Board.

13.4 Removal of Directors

- (a) Subject to clause 13.4(b), the Company in general meeting may, by resolution, remove any Director from office.
- (b) No resolution for the removal of a Director from office is to be put to a general meeting, unless notice signed by a Member duly qualified to vote at that meeting and signifying the intention of that Member to propose that resolution is received by the Company not less than 28 clear days before the date appointed for holding the meeting.
- (c) The Director who is the subject of the notice referred to in clause 13.4(b) may make representations in writing to the Secretary or Chair within a period of 28 days and may request that the representations be provided to the Members.
- (d) Representations supplied by a Director under clause 13.4(c) must be provided to the Board before they are despatched to Members or, if there is insufficient time for the representations to be despatched to Members, read out at the meeting before the resolution is considered by the

Members Present, unless the statement is more than 1,000 words or is considered defamatory by the Chair.

14 DISQUALIFICATION OF DIRECTORS

- (a) In addition to the circumstances in which the office of Director becomes vacant by virtue of the Corporations Act or elsewhere in this Constitution, the office of a Director becomes vacant if:
 - (i) the Director becomes of unsound mind or a person whose personal estate is dealt with in any way under the law relating to mental health;
 - (ii) the Director becomes bankrupt or an insolvent under administration or makes any composition or arrangement with, or enters into an assignment for the benefit of, his or her creditors or any class of them;
 - (iii) the Director is removed from office pursuant to this Constitution or the Corporations Act;
 - (iv) the Director becomes ineligible to be a Director under the ACNC Legislation;
 - (v) the Director resigns by notice in writing to the Secretary or refuses to act;
 - (vi) the Director is absent from three (3) consecutive meetings of the Board without leave of absence from the Chair and the Board resolves that the Director's office be vacated;
 - (vii) the period for which the Director is appointed expires; or
 - (viii) the Director dies or ceases to be a Member.
- (b) No proceedings of the Board, or any resolution passed at any meeting, will be invalidated by reason of any Director taking part or concurring in such meeting or resolution being then disqualified until an entry is made in the minutes of the Board of the Director's office having been so vacated.

15 DIRECTOR'S OBLIGATIONS

15.1 Performance of Duties

The Directors must ensure they are aware of and comply with their duties as directors under relevant legislation, including in particular, the duties referred to in any governance standards made under the ACNC Legislation.

15.2 Confidentiality

A Director shall:

- (a) keep confidential all Confidential Information; and
- (b) not disclose any Confidential Information to any person, except:
 - (i) as required by law;
 - (ii) with the prior written consent of the Company; or
 - (iii) to the Company's agents, employees or advisers in the proper performance of the Director's responsibilities and Duties under this Constitution and as may be determined from time to time by the Board.

15.3 Use

No Director shall use any Confidential Information for the benefit of any person except the Company.

15.4 Confidential Information in the public domain

If any Confidential Information is lawfully within the public domain then to the extent that the Confidential Information is public, and subject to clause 15.5, a Director's obligations under clause 15.1 shall cease in respect of that Confidential Information.

15.5 Uncertainty

If there is uncertainty as to whether:

- (a) any information is Confidential Information; or
- (b) any Confidential Information is lawfully within the public domain,

that information shall be deemed to be Confidential Information and is not within the public domain, unless the Director is advised by the Board in writing to the contrary.

15.6 Security

A Director shall:

- (a) maintain proper and secure custody of all Confidential Information; and
- (b) use his or her best endeavours to prevent the use or disclosure of the Confidential Information by third parties.

15.7 Delivery or destruction of Confidential Information

- (a) A Director shall immediately deliver to the Company all Confidential Information that is physically capable of delivery:
 - (i) at the end of that person's term as a Director; and
 - (ii) at any time at the request of a person authorised by the Board.
- (b) Instead of delivering Confidential Information, the Board may direct the Director to destroy Confidential Information and certify in writing to the Company that the Confidential Information has been destroyed.
- (c) The Board may direct that Confidential Information contained in computer software or data be destroyed by erasing it from the magnetic media on which it is stored so that the information cannot be recovered or reconstructed.

15.8 Director must not make copies

- (a) A Director must not make any copy or summary of any Confidential Information, except if required to do so in the course of his or her Duties as a Director.
- (b) If a Director is required to make a copy or summary of Confidential Information in the course of the Director's Duties and functions as a Director, the copy or summary belongs to the Company.

15.9 Obligations to continue

- (a) A Director shall comply with the obligations under this clause 15 at all times during and after that person's term as a Director.
- (b) The Company may enforce the obligations under this clause 15 at any time.

15.10 No limitation

Nothing in this clause 15 shall limit any other duty of confidentiality of a Director at law or in equity.

15.11 Director's interests

Subject to the Corporations Act, the ACNC Legislation and clause 27:

- (a) a Director is not disqualified by the Director's office from contracting with the Company in any capacity and may enter into any arrangement, contract or dealing with the Company in any capacity;
- (b) no Director or proposed Director is disqualified by that office from becoming or remaining a director of any company in which the Company is in any way interested or which is in any way interested in the Company;
- (c) provided that the Corporations Act, the ACNC Legislation and this clause have been complied with by a Director, no contract, agreement or arrangement in which the Director is in any way interested, entered into by or on behalf of the Company can be avoided merely because of that Director's interest and the fact that the Director signed the document evidencing the contract, agreement or arrangement shall not in any way affect its validity;
- (d) a Director shall not, and shall procure that any company in relation to which he or she is a director shall not, without the Board's prior approval, directly or indirectly supply goods or services to the Company for valuable consideration where such goods or service can be satisfactorily obtained elsewhere; and
- (e) no Director who:
 - (i) enters into a contract, agreement or arrangement in which the Director has an interest; or
 - (ii) is a director of the other company with which the Company has entered into the contract, agreement or arrangement,

is liable to account to the Company for any profits or remuneration realised by that Director as a result of him or her being interested or being a director of the other company, if the Director has declared the Director's interest in the matter in accordance with clause 15.12 and not contravened this Constitution, the Corporations Act or the ACNC Legislation in relation to the matter.

15.12 Declaration of interest

The nature of a Director's interest in any contract, agreement or arrangement must be declared by that Director at a meeting of the Directors in accordance with the Corporations Act (notwithstanding section 111L of the Corporations Act) and the ACNC Legislation as soon as practicable after the relevant facts have come to his or her knowledge. A general notice that a Director is a member of any specified firm or corporation and is to be regarded as interested in all transactions with that firm or corporation is a sufficient declaration under this clause as regards the Director and the transactions, provided that the extent of that interest is not materially greater at the time of first consideration of the relevant matter

by the Board that was stated in the Notice and the Director has complied with section 192 of the Corporations Act (notwithstanding section 111L of the Corporations Act). After giving the general notice it is not necessary for the Director to give any special notice relating to any particular transaction with that firm or corporation. The Secretary must record in the minutes any declaration made or any general notice given by a Director under this clause.

15.13 Votes by interested Directors

Subject to the Corporations Act, a Director who has a material personal interest in a matter that is being considered at a meeting of Directors:

- (a) must not vote on the matter unless:
 - (i) the Directors have passed a resolution that the interest does not disqualify the Director from considering or voting on the matter;
 - (ii) the interested Director is entitled to be present and vote as a result of a declaration or order made by the ASIC under the Corporations Act; or
 - (iii) the interested Director is otherwise permitted by the Corporations Act and the ACNC Legislation to be present and vote; and
- (b) may not be present while the vote is taken.

16 DIRECTOR'S CONFLICTS OF INTEREST

If a Director holds any office or possesses any property such that he or she might have Duties or interests which directly or indirectly conflict with his or her Duties or interests as Director, that Director must declare at a meeting of the Directors the fact, nature, character and extent of the conflict.

17 OFFICE BEARERS

17.1 Office Bearers

The Office Bearers of the Company shall consist of a Chair, a Deputy Chair and an Honorary Treasurer, each of whom shall be a Director of the Company.

17.2 Appointment and Termination of Office Bearers

At the first meeting of the Board following each annual general meeting, the Board shall appoint Directors to be the Chair, the Deputy Chair and the Honorary Treasurer of the Company. If the position of any Office Bearer becomes vacant, the Board must elect from its members a new Office Bearer to fill that vacancy. Each appointment (whether or not to fill a casual vacancy) shall expire on the commencement of the first Board meeting following the next annual general meeting. These Office Bearers will be eligible for re-election and may serve an unlimited number of times as an Office Bearer. The Board shall determine the powers and Duties of each Office Bearer and may terminate a Director's appointment as an Office Bearer at any time.

17.3 Chair to preside at annual general meeting

Despite clause 13 and subject to clause 8.4, the person holding the office of Chair of the Board immediately before the commencement of an annual general meeting shall preside as Chair of that annual general meeting.

18 PROCEEDINGS OF DIRECTORS

18.1 Procedure generally

The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. A Director may at any time by written notice to the Secretary request that a meeting of the Board be convened, and the Secretary shall forthwith on the requisition of a Director, convene a Board meeting.

18.2 Quorum

- (a) The quorum for a Board meeting shall be the presence of not less than one-half of the number of Directors entitled to vote and then holding office. If that is not a whole number, then the quorum shall be the next whole number greater than one-half of the number of Directors then holding office.
- (b) No business may be conducted unless a quorum is present.
- (c) A meeting of the Directors will shall be adjourned if a quorum is not present within thirty (30) minutes of the time specified for the meeting, to a date and time within seven days of the date of, and at the same place as, the original meeting to be notified to all Directors.
- (d) Any Directors present at any meeting adjourned due to insufficiency of quorum shall constitute a quorum for that adjourned meeting.
- (e) If the number of Directors in office at any time is not sufficient to constitute a quorum at a Board meeting, the remaining Directors must act as soon as possible to:
 - (i) increase the Directors to a number sufficient to constitute a quorum required under the Constitution;
 - (ii) convene a general meeting of the Company for that purpose; or
 - (iii) appoint additional Directors,

and until that has happened the Directors may only act if and to the extent that there is an emergency requiring them to act.

18.3 Notice of Board meetings

- (a) Reasonable notice of a Board meeting is to be given to all Directors except to a Director whom the Secretary when giving notice to other Directors reasonably believes to be outside Australia.
- (b) A notice of meeting must:
 - (i) specify the date, time and place of the meeting;
 - (ii) indicate the general nature of the business to be conducted; and
 - (iii) be given at least 10 days before the date of the meeting.
- (c) 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 by or resolution passed at the meeting if non-receipt or failure occurred by accident or error.

18.4 Chair of Board meetings

The Chair shall preside at every Board meeting, or if no Chair has been elected, or if at any Board meeting the Chair is not present within 10 minutes after the appointed time for holding the meeting, or if being present the Chair is unwilling to preside, the Deputy Chair (if any) shall preside or if no Deputy Chair has been elected, or if the Deputy Chair is not present or is unwilling to preside at the meeting, then the Directors who are present may choose one of their number to be the Chair of the Board meeting.

18.5 Determinations

Subject to this Constitution, questions arising at any Board meeting are to be decided by a majority of votes of Directors present and voting and such decision shall for all purposes be taken as a decision of the Board. Each Director has one vote and a determination by a majority of the Directors will for all purposes be deemed a determination of the Directors. If there is an equality of votes at a meeting at which a quorum is present, the motion is lost and the Chair shall not have a second or casting vote in addition to the Chair's deliberative vote.

18.6 Alternate Directors

A Director may not appoint a person to act as an alternative Director in the Director's place.

18.7 Delegation to Committees

The Board may delegate any of its powers to one or more Committees consisting of one or more Directors or other persons as the Board thinks fit. Any Committee formed must comply with this Constitution, the Corporations Act and the regulations that may be imposed on it by the Board in exercising the Committee's delegated power. A power so exercised will be taken to have been exercised by the Board.

18.8 Procedure of Committees

The meetings of Committees consisting of more than one person are governed by the clauses of this Constitution regulating the meetings of the Directors so far as they are applicable and are not superseded by any regulations made by the Directors under this Constitution. The number of members whose presence at a meeting of a Committee is necessary to constitute a quorum is the number determined by the Board, and if not so determined is 2. Minutes of all the proceedings and decisions of every Committee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Corporations Act (notwithstanding section 111L of the Corporations Act) to be made, entered and signed.

18.9 Validation of irregular acts

Any act done by any Board meeting or by a Committee or by any person acting as a Director will be valid even if it is later discovered:

- (a) that there was some defect in the appointment or continuance in office of a Director or such other person; or
- (b) that any of them was disqualified or had vacated office or were not entitled to vote.

18.10 Written resolutions

- (a) If a document:

- (i) is sent to all those entitled to receive notice of a Board meeting at which a resolution could be put;
- (ii) contains a statement that the signatories to it are in favour of that resolution;
- (iii) the terms of the resolution are set out or identified in the document; and
- (iv) has been signed by not less than 75% of all Directors of the Company entitled to vote on that resolution,

a resolution in those terms is passed on the day on which and at the time at which the document was signed by the last of such Directors and the document is as valid and effectual as if it had been passed at a duly held Board meeting.

(b) For the purposes of paragraph (a):

- (i) "signed" shall include an email from or on behalf of a Director indicating assent to the resolution, provided it reasonably appears to the recipient that the email has been sent by the Director personally or on the Director's instructions;
- (ii) two or more separate documents containing statements in identical terms, each of which is signed by one or more Directors shall together be taken to constitute one document containing a statement in those terms signed by those Directors at the time at which the last of those documents to be signed was signed by a Director;
- (iii) an email which is received by the Company or an agent of the Company and is sent by a Director shall be taken to be signed by that Director not later than the time of receipt of the email by the Company or its agent in legible form; and
- (iv) "signed" shall include a vote made by a Director using an online voting platform operated or commissioned by the Company.

18.11 Board Meetings by Instantaneous Communication Device

For the purposes of this Constitution and the Corporations Act, each Director, on becoming a Director (or on the adoption of this Constitution) consents to the use of an Instantaneous Communication Device for calling or holding a Board meeting. The contemporaneous linking together by Instantaneous Communication Device of a number of Directors not less than the quorum, whether or not any one or more of the Directors is out of Australia, is deemed to constitute a Board meeting and all the provisions of this Constitution as to the Board meetings will apply to such meetings held by Instantaneous Communication Device so long as the following conditions are met:

- (a) all the Directors for the time being entitled to receive notice of the Board meeting entitled to notice of a meeting by Instantaneous Communication Device and to be linked by Instantaneous Communication Device for the purposes of such meeting. Notice of any such meeting may be given by the Instantaneous Communication Device or in any other manner permitted by this Constitution;
- (b) at the commencement of the Board meeting each Director taking part in the meeting by Instantaneous Communication Device is able to hear each of the other Directors taking part;
- (c) at the commencement of the Board meeting each Director must acknowledge his or her presence for the purpose of the Board meeting to all the other Directors taking part;
- (d) a minute of the proceedings of a meeting by Instantaneous Communication Device is sufficient evidence of those proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chair, and

all proceedings of the Board shall be as valid and effective as if conducted at a meeting at which all of the Directors were present. A Director may withdraw the consent given under this clause in accordance with the Corporations Act, provided that such withdrawal is notified to the Company within a reasonable period before the meeting at which an Instantaneous Communication Device is proposed to be used.

19 MINUTES

The Directors must cause minutes to be kept in accordance with the Corporations Act (notwithstanding section 111L of the Corporations Act):

- (a) of the names of the Directors present at each Board meeting and of any Committee;
- (b) of all appointments of Officers;
- (c) of all orders made by the Board and of any Committee; and
- (d) of all resolutions and proceedings of general meetings of the Company, Board meetings and meetings of Committees, and

such minutes if purporting to be signed (which, to the extent permitted by law, includes electronic signing) by the Chair of the meeting at which the proceedings were held or by the Chair of the next succeeding meeting, shall be receivable as prima facie evidence of the matters stated in such minutes. Once signed, all minutes shall be provided to the Secretary for retention on behalf of the Company as soon as practicable.

20 SECRETARY

The Directors shall appoint a Secretary in accordance with the Corporations Act at the remuneration and on the terms and conditions as the Directors think fit. A Secretary shall be appointed at the first meeting of the Board after a vacancy in that office occurs. Any Secretary so appointed may be removed by the Directors.

21 FINANCIAL RECORDS

21.1 Financial and other records

- (a) The Directors must:
 - (i) cause proper financial and other records to be kept that:
 - (A) correctly record and explain its transactions and financial position and performance; and
 - (B) enable true and fair financial statements to be prepared and to be audited, and ensure such records are retained by the Company for at least 7 years; and
 - (ii) provide annual financial reporting to Members,
 - as required by the Corporations Act and/or the ACNC Legislation, as applicable.
- (b) Directors have the right to access the Company's financial records at any reasonable time.

- (c) The Directors must from time to time determine whether and to what extent and at what times and places and under what conditions or regulations any financial or other records of the Company are to be open to the inspection of Members who are not Directors. No Member (who is not a Director) has the right to inspect any records of the Company except as conferred by statute or authorised by the Directors or by the Company in general meeting.

21.2 Financial Year

- (a) Subject to the Corporations Act, the financial year of the Company shall run from 1 January to 31 December of the same year.
- (b) Where required by the Corporations Act or the ACNC Legislation, the Company's books of account shall be examined and audited by a properly qualified auditor appointed by the Members at the annual general meeting.

21.3 Reporting to Members

- (a) Where required by the Corporations Act or the ACNC Legislation, the Board shall prepare and distribute copies of the financial report for each financial year, the Directors' report for the year and the auditor's report on the financial report.
- (b) Subject to the Corporations Act and the ACNC Legislation, the Board shall determine whether and to what extent the accounting and other records will be open to the inspection of the Members.

21.4 Consideration of Accounts at the AGM

Where required by the Corporations Act or the ACNC Legislation, the Board shall cause to be laid before each annual general meeting the financial report, the Directors' report and the auditor's report for the last financial year that ended before the annual general meeting.

22 NOTICES

22.1 Entitlement to Notice

Any Member who has not left at or sent to the Office a place of address or an email address (for registration in the Register) at or to which all notices and documents of the Company may be served or sent shall not be entitled to receive any notice.

22.2 Notices to Members

The Company may give notice to a Member by:

- (a) serving it on the Member personally;
- (b) sending it by post to the Member or leaving it at the Member's address as shown in the Register or the address supplied by the Member to the Company for the giving of notices;
- (c) sending it to the the electronic mail address (if any) supplied by the Member for the giving of notices; or
- (d) in any other way allowed under the Corporations Act.

22.3 Deemed service

Subject to clause 7.4:

- (a) a notice is sent by post, service of the notice is taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected at the time at which the letter would be delivered in the ordinary course of post;
- (b) a notice sent by electronic mail shall be taken to be effected by properly addressing and sending the notice and to have been effected on the day of transmission, if transmitted before 5.00pm on a Business Day, otherwise on the next Business Day; and
- (c) a notice sent by electronic mail is deemed not to be served only if the computer system used to send it reports that delivery failed.

22.4 Persons entitled to notice of general meeting

Notice of every general meeting must be given in the manner authorised to:

- (a) every Member; and
- (b) the auditor for the time being (if any) of the Company.

Except as required by the Corporations Act (notwithstanding section 111L of the Corporations Act), no other person is entitled to receive notices of general meetings.

23 DISPUTES AND MEDIATION

23.1 Application

- (a) The grievance procedure set out in this clause applies to disputes under this Constitution between:
 - (i) a Member and another Member; or
 - (ii) a Member and the Company.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 10 Business Days after the dispute came to the attention of all of the parties.

23.2 Mediation

- (a) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend the meeting, then the parties must, within 10 Business Days, hold a meeting in the presence of a mediator.
- (b) The mediator must be:
 - (i) a person chosen by agreement between the parties; or
 - (ii) in the absence of agreement:
 - (A) in the case of a dispute between a Member and another Member, a person appointed by the Board; or

- (B) in the case of a dispute between a Member and the Company, a person who is a mediator appointed or employed by the Australian Commercial Disputes Centre.
- (c) A mediator can be a Member but not a party to the dispute.
- (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 every opportunity to be heard; and
 - (ii) allow due consideration by all parties of any written statement 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) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Corporations Act or otherwise at law.

24 WINDING UP OR DISSOLUTION

- (a) In the event of the Company being dissolved, the amount which remains after such dissolution and the satisfaction of all debts and liabilities ("**Surplus**") shall not be paid to nor distributed amongst Members but shall be distributed in accordance with clause 24(b) or, if that is not applicable, clause 24(c).
- (b) At or before the winding up or dissolution of the Company, the Members may determine that the Surplus shall be given or transferred to one or more institutions or entities, provided the institution or entity:
 - (i) has objects similar to those of the Company and is charitable at law; and
 - (ii) is a public benevolent institution for the purposes of any Commonwealth taxation statute, including the Tax Act; and
 - (iii) prohibits the distribution of its income or property amongst its members to an extent at least as great as imposed under this Constitution.

If there is a determination in accordance with this clause 24(b), the Surplus shall be transferred to the institution or entity after the winding up or dissolution of the Company. If there is more than one institution or entity specified in the determination, the Surplus shall be transferred in the proportion specified in the determination or, if there is no such proportion specified, then, in proportions as determined by the Directors.

- (c) If there is no determination made in accordance with clause 24(b), the Surplus shall be given or transferred to another organisation in Australia, as determined by the Board, which has substantially similar objects to those of the Company and is charitable at law, is a public benevolent institution for the purposes of any Commonwealth taxation statute, including the Tax Act and which prohibits the distribution of its income or property amongst its members to an extent at least as great as imposed under this Constitution, in such manner as the Directors shall determine.
- (d) If and so far as effect cannot be given to clause 24(c), the Surplus shall be applied in Australia to some charitable object.

- (e) If the Company has been granted Deductible Gift Recipient (“DGR”) status by the Australian Taxation Office and the DGR status is revoked, the Company shall transfer all remaining Gifts, deductible contributions and any money received in respect of such Gifts and contributions to another organisation with DGR status with similar objects and which is charitable at law on winding up or on revocation of endorsement, whichever occurs first.

25 INDEMNITY OF OFFICERS

- (a) The Company must indemnify each Officer out of the assets of the Company to the Relevant Extent against any Liability incurred by the Officer in or arising out of the conduct of the business of the Company or a subsidiary of the Company or in or arising out of the discharge of the Duties of the Officer, except where the Liability:
 - (i) is owed to the Company or a Related Body Corporate;
 - (ii) arises out of conduct involving a lack of good faith;
 - (iii) is for a pecuniary penalty order under section 1317G of the Corporations Act;
 - (iv) is for a compensation order under section 1317H of the Corporations Act; or
 - (v) is for legal costs.
- (b) To the extent permitted by law, the Company must indemnify each Officer against any liability for legal costs incurred in defending an action for a liability incurred as an Officer, except if the costs are incurred:
 - (i) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under clause 25(a);
 - (ii) in defending or resisting criminal proceedings in which the person is found guilty;
 - (iii) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established; or
 - (iv) in connection with proceedings for relief to the person under the Corporations Act in which the court denies the relief.

Paragraph (iii) does not apply to costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order.
- (c) The Company may give an Officer a loan or advance in respect of legal costs for defending an action for a Liability incurred as an Officer, provided that such loan or advance does not contravene the Corporations Act.
- (d) Subject to the Corporations Act, where the Board considers it appropriate, the Company may execute a documentary indemnity or insurance policy in any form in favour of any Officer.
- (e) Subject to the Corporations Act, where the Board considers it appropriate, the Company may:
 - (i) make payments or agree to make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an Officer against any Liability incurred by the Officer in or arising out of the conduct of the business of the Company or a subsidiary of the Company or in or arising out of the discharge of the Duties of the Officer other than one for legal costs, conduct involving a wilful breach of duty in relation to the Company or contravention of section 182 or 183 of the Corporations Act; and

- (ii) bind itself and amend any contract or deed with any Officer to make the payments.
- (f) The benefit of each indemnity given in clauses 25(a) and (b) continues, even after its terms or the terms of this clause are modified or deleted, in respect of a liability arising out of acts or omissions occurring prior to the modification or deletion.

26 CAPACITY

Subject to the Corporations Act and clause 27, the Company has the legal capacity of a natural person including the capacity to exercise the powers set out in section 124 of the Corporations Act, which powers may only be used to carry out the Objects.

27 NON-PROFIT

The income and property of the Company must be applied solely towards the promotion of the Objects. In particular, no portion of the income and property of the Company is to be paid or transferred directly or indirectly by way of dividend or distribution of profit to Members or paid to Directors as fees for their services as Directors. This does not prevent the payment in good faith:

- (a) of remuneration to any Officers or servants of the Company for any services rendered to the Company, if such payment is approved by the Board and the amount payable is not more than an amount that would be commercially reasonable for the service;
- (b) for goods supplied by Members or Directors in the ordinary and usual course of business at fair and reasonable prices or prices more favourable to the Company;
- (c) of interest at a reasonable and proper rate on money borrowed from any Member;
- (d) of reasonable and proper rent for premises leased or licensed by any Member to the Company;
- (e) of out of pocket expenses (including travel and accommodation) incurred by a Director in performing Duties to the Company or otherwise on Company business if such payment is approved by the Board; or
- (f) in connection with the indemnification of, or payment of premiums on contracts of insurance for any Director, to the extent permitted by law and this Constitution,

provided that any such payment is first approved by the Board.

28 LIMITED LIABILITY

The Company is a company limited by guarantee and the Liability of the Members is limited as provided by clause 29 of this Constitution.

29 MEMBERS' GUARANTEE

Every Member undertakes to contribute an amount not exceeding \$20.00 to the property of the Company if the Company is wound up while he or she is a Member or within 1 year after ceasing to be a Member, for:

- (a) payment of the debts and liabilities of the Company contracted before they ceased to be a Member;
- (b) the costs, charges and expenses of winding up the Company; and

- (c) for an adjustment of the rights of contributories among themselves.

30 APPLICATION OF THE CORPORATIONS ACT AND THE ACNC ACT

30.1 What parts of the Corporations Act apply

Unless the contrary intention appears:

- (a) an expression used in this Constitution 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 clause 30.1(a), an expression in a clause of this Constitution that has a defined meaning for the purposes of the Corporations Act has the same meaning as in the Corporations Act.

30.2 Actions authorised under Corporations Act or ACNC Act

Where the Corporations Act or the ACNC Act authorises or permits a company to do any matter or thing if so authorised by its constitution, the Company is and shall be taken by this clause to be authorised or permitted to do that matter or thing, despite any other provision of this Constitution.

30.3 Replaceable rules displaced

- (a) The clauses of this Constitution displace each provision of a section or sub-section of the Corporations Act that applies (or would apply but for this clause) to the Company.
- (b) The replaceable rules do not apply to the Company except:
 - (i) where repeated in this Constitution;
 - (ii) where a rule is specifically made applicable to the Company by a provision of this Constitution; or
 - (iii) rules which operate as mandatory rules for public companies limited by guarantee under the Corporations Act.

30.4 Inconsistencies

While the Company is a registered charity under the ACNC Act, the ACNC Act and the Corporations Act override any clauses in this Constitution to the extent of any inconsistency.