

Constitution of
Palliative Care
Australia Limited

Palliative Care Australia Limited
(ACN 625 082 493)

2 July 2018

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1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

In this Constitution unless the context requires otherwise:

- (a) “**ACNC Law**” means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth);
- (b) “**Affiliate Member**” means a national not-for-profit single entity or federated organisation having aims consistent with the Objects and Principal Purposes of the Company admitted under clause 7.2;
- (c) “**AGM**” means the Annual General Meeting of the Company required to be held by the Company in each calendar year under the Corporations Act;
- (d) “**Appointed Director**” means a person appointed by the Board pursuant to clause 11.8;
- (e) “**Board**” means the board of Directors acting collectively under this Constitution;
- (f) “**Business Day**” means a day other than a Saturday, Sunday, bank holiday or public holiday in the Australian Capital Territory and “**Business Days**” has a corresponding meaning;
- (g) “**Chair**” means the person elected as the Chair of the Board under clause 12.3 or any person appointed to chair a meeting of the Company or a meeting of the Board pursuant to this Constitution;
- (h) “**Chief Executive Officer**” means the Chief Executive Officer of the Company as appointed under clause 16;
- (i) “**Committee**” means a Committee or Sub Committee of the Company appointed by the Board;
- (j) “**Company**” means Palliative Care Australia Limited;
- (k) “**Company Secretary**” means a person appointed as a secretary of the Company by the Board under clause 17;
- (l) “**Conflicts Register**” means the register of conflicts declared by Directors maintained by the Company Secretary in accordance with clause 13.9(d) and clause 17.3;
- (m) “**Constitution**” means this Constitution for the Company as amended from time to time, and a reference to a particular clause is a reference to a clause of this Constitution;
- (n) “**Corporations Act**” means the *Corporations Act 2001* (Cth);
- (o) “**Delegations Register**” means the register of delegations made by the Board in accordance with clause 17.3(b) and maintained by the Company Secretary;
- (p) “**Director**” means a director of the Company and includes First Directors, Appointed Directors and Elected Directors;
- (q) “**Elected Director**” means a director elected under clause 10.30;
- (r) “**Expulsion Event**” means, in respect of a Member:
 - (i) the Member has wilfully refused or neglected to comply with the provisions of this Constitution;

- (ii) the conduct of the Member, in the opinion of the Directors, is unbecoming of the Member or prejudicial to the interests or reputation of the Company;
or
- (iii) the Member is, or any step is taken for the Member to become, an externally administered body corporate;
- (s) “**Fee**” means any money owed by a Member to the Company as set out in this Constitution or the Policies;
- (t) “**First Directors**” means the persons referred to in Schedule 1;
- (u) “**General Meeting**” means a general meeting of Members and includes the AGM;
- (v) “**Gift Fund**” means the fund referred to in clause 23.3;
- (w) “**Honorary Member**” means a person appointed as an Honorary Member from time to time by the Board in recognition of their outstanding contributions to palliative care in Australia over a sustained period;
- (x) “**Member**” means a person admitted to the Company as a member pursuant to clause 7;
- (y) “**Members**” means a Member of the Company pursuant to clause 7;
- (z) “**Nominations Committee**” means the committee of that name appointed by the Board in accordance with clause 15.1, if any;
- (aa) “**Objects**” means the objects of the Company as set out in clause 3;
- (bb) “**Palliative Care**” means specialised health care of dying people aiming to maximise quality of life, and assist families and carers during and after death, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial and spiritual. The provision of Palliative Care services includes grief and bereavement support for the family and other carers during the life of the patient and continuing after death. Palliative Care has been comprehensively defined by the World Health Organisation;
- (cc) “**Policy**” means a policy of the Company made under clause 7.3, 8.2 and 18.1(a) and “**Policies**” has a corresponding meaning;
- (dd) “**Principal Purpose**” means the provision of charitable and relief services as set out in clause 4;
- (ee) “**Register of Members**” means the membership register maintained by the Company Secretary pursuant to clause 7.6(a) and clause 17.3(b);
- (ff) “**Schedule**” means a Schedule to this Constitution;
- (gg) “**Special Resolution**” means a resolution that must be passed by at least 75% of the votes cast by members entitled to vote on the resolution in accordance with this Constitution or the Corporations Act;
- (hh) “**State/Territory Member**” means those State/Territory Members referred to in clause 7.1(b)(i);
- (ii) “**Telecommunications Meetings**” means a meeting held by any technology (or any combination of technologies), which permits each Director, Representative or Member at a meeting of Directors or General Meeting to communicate with any other participant, and pursuant to clause 14;
- (jj) “**Terms of Reference**” means a term of reference for any committee established in accordance with clause 15;

- (kk) “**Transitional Provisions**” means the provisions referred to in clauses 11.1 and 11.2 and as set out in Schedule 1 to this Constitution; and
- (ll) “**Voting Member**” means in relation to a General Meeting, those Members present in person, by proxy or attending by approved technological means and entitled and eligible to vote.

1.2. Interpretation

In this Constitution unless the context requires otherwise:

- (a) a reference to the Company is a reference to Palliative Care Australia Limited a public company limited by guarantee which operates for the Principal Purpose;
- (b) a reference to a Member present at a General Meeting means the Member present in person or by proxy or attending by approved technological means;
- (c) a reference to a document or instrument includes any amendments made to it from time to time and, unless the contrary intention appears, includes a replacement;
- (d) words importing gender include all genders;
- (e) words in the singular include the plural and words in the plural include the singular;
- (f) the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (g) a reference to an organisation includes a reference to its successors, executors, administrators, substitutes and permitted assigns;
- (h) headings in this constitution are for reference only and do not form part of the Constitution;
- (i) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (j) a reference to a law includes regulations and instruments made under it and includes any statutory modification re-enactments of, or legislative provisions substituted for, and any subordinate legislation issued under, that legislation or provision;
- (k) the words include, includes, including and for example are not to be interpreted as words of limitation;
- (l) where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Board; and
- (m) a reference to “dollars” or “\$” is to an amount in Australian currency.

1.3. Corporations and ACNC Law

In this Constitution:

- (a) unless the context requires otherwise, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the ACNC Law or Corporations Act, the same meaning as in that provision of the ACNC Law or Corporations Act as applicable;

- (b) the provisions of the Corporations Act that apply as Replaceable Rules are displaced by this Constitution and accordingly do not apply to the Company;
- (c) in the event that any of the provisions of this Constitution are in breach of any of the provisions of the ACNC Law or the Corporations Act then the provisions will be read down to the extent that they will comply with the ACNC Law and Corporations Act and any provision that is in breach of those Acts will be deemed to be struck out and will not form part of this Constitution; and
- (d) in the event that the ACNC Law or the Corporations Act permit an act to be done, a decision to be made or a meeting to be held in a way that is more convenient for the Company or the Board or is more favourable to the Members or the Board than as required or permitted by this Constitution then the Board may, but will not be obliged to, make the decision, take the action, give the notice or hold the meeting or do the particular thing as permitted and in the time and in the manner permitted by those Acts as applicable.

2. COMPANY LIMITED BY GUARANTEE

2.1. Status of Company

The Company is a company limited by guarantee.

2.2. Limited Liability

Members have no liability to or for the Company in their capacity as a Member except as set out in this clause 2.

2.3. Contribution of Members on winding up

- (a) Each Member must contribute to the Company's property if the Company is wound up while they are a Member or within one year after their Membership ceases.
- (b) The contribution is for:
 - (i) payment of the Company's debts and liabilities contracted before their membership ceased; and
 - (ii) the costs of winding up,and such amount is not to exceed the sum of ten dollars (\$10).

3. OBJECTS

3.1. The Objects of the Company are to provide a national voice for Palliative Care in Australia. To foster and promote the principles of Palliative Care for people with a progressive and terminal illness and their families, among service providers, care givers and the community at large, and particularly:

- (a) to provide a national forum for the exchange of ideas and information on matters relating to Palliative Care, and to encourage the dissemination of such information to the general community and to professional and volunteer care givers through education and community awareness programs;
- (b) to provide grief and bereavement support for the family and other carers during the life of the patient and continuing after death;

- (c) to consult with government and health authorities on the needs of those with a progressive and terminal illness, and their families and carers, and generally to act as an advocate for the rights of service users;
- (d) to provide support, networking opportunities, and educational resources for clinicians, researchers, patients and carers;
- (e) to disseminate high quality information about Palliative Care, in easily accessible ways;
- (f) to assist in the identification of areas of need in the care of terminally ill people and their families, and to initiate action to fulfil those needs;
- (g) to generate discussion and debate about Palliative Care issues, in ways that enable participation by patients, carers, clinicians, researchers and policy makers;
- (h) to develop standards for Palliative Care in Australia and to promote the improvement and maintenance of these standards among Members and service providers;
- (i) to provide advice to, and support the development of, emerging Palliative Care organisations and existing Palliative Care programs throughout Australia through their member associations; and
- (j) liaise with and network with organisations with similar objectives across the Asia-Pacific region and internationally.

4. PRINCIPAL PURPOSE

The Company is established to:

- (a) be a charity whose Principal Purpose is to promote the prevention or control of disease in human beings in accordance with the Objects; and
- (b) do all things necessary to achieve the Objects.

5. POWERS

Solely for furthering the Objects under clause 3, the Company, in addition to any other powers it has under the Corporations Act and the ACNC Law, has the legal capacity and powers of:

- (a) a company limited by guarantee as set out under section 124 of the Corporations Act; and
- (b) a charity, established for the Principal Purpose and registered under the ACNC Law.

6. INCOME AND PROPERTY OF THE COMPANY

6.1. Sole Purpose

The income and property of the Company will only be applied towards the promotion of the Objects of the Company and for the Principal Purpose.

6.2. Payments to Members

No income or property will be paid or transferred directly or indirectly to any Member except for payments to a Member:

- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
- (b) as reimbursement for expenses properly incurred on behalf of the Company; or
- (c) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent; or
- (d) in return for services as a Director but only in accordance with the provisions of this Constitution; or
- (e) of reasonable rent for premises let to the Company by them.

7. MEMBERSHIP

7.1. Categories of Members

- (a) Following the establishment of the Company, the categories of Membership and the rights attached to that Membership class will be determined by the Board in accordance with the Policies.
- (b) Members of the Company will be:
 - (i) The following State/Territory Members:
 - A. Palliative Care ACT Inc.
 - B. Palliative Care New South Wales Inc.
 - C. Palliative Care Northern Territory Inc.
 - D. Palliative Care Queensland Inc.
 - E. Palliative Care South Australia Inc.
 - F. Palliative Care Tasmania Inc.
 - G. Palliative Care Victoria Inc.
 - H. Palliative Care Western Australia Inc.
 - (ii) Affiliate Members including but not limited to the Australian and New Zealand Society of Palliative Medicine;
 - (iii) Honorary Members; and
 - (iv) Other members as determined by the Board from time to time.
- (c) Members will advise the Company of the name of the person appointed as its authorised representative to attend General Meetings and vote on its behalf, not less than 7 days before the date of the scheduled Meeting.

7.2. Admission of Members

An entity will become a Member, and the Board will direct the Company Secretary to record a Member's name in the Register of Members kept by the Company, only upon meeting the criteria as determined by the Board or as set out in this Constitution and the Policies and provided the Member has submitted an application, which is accepted by the Board, in which the Member undertakes to:

- (a) be bound by this Constitution and the Policies (including Policies specific to the relevant category of Membership);
- (b) pay any Fee determined to apply to the Member under clause 9; and

- (c) support the Company in the encouragement and promotion of its Objects and Principal Purpose.

7.3. Subject to this Constitution, the Policies will set out:

- (a) the categories of Membership which exist;
- (b) the criteria to be met by each category of Member;
- (c) the procedure for suspending or cancelling Membership; and
- (d) the voting rights and rights of attendance at General Meetings for different categories of Membership.

7.4. A Member agrees to comply with this Constitution and the Policies and support the Company and the Objects.

7.5. A Member is entitled to any benefits of Membership prescribed to apply to Members in the Constitution and Policies.

7.6. General

- (a) The Company Secretary must keep a Register of Members in accordance with the Corporations Act.
- (b) No Member whose Membership ceases has any claim against the Company or the Directors for damages or otherwise arising from cessation or termination of Membership, or claim upon the property of the Company including its intellectual property rights.
- (c) Membership is particular to each Member. Members must not, and must not purport to, assign the rights comprising or associated with Membership to any other person or entity and any attempt to do so will be void.
- (d) A Member must treat all staff, contractors and representatives of the Company with respect and courtesy at all times.
- (e) A Member must not act in a manner unbecoming of a Member or prejudicial to the Objects, Principal Purpose or interests of the Company.

7.7. Cessation

A person will cease to be a Member on:

- (a) resignation;
- (b) the termination of their Membership according to this Constitution or the Policies;
- (c) without limiting anything else in this clause 7.7, that Member no longer meeting the requirements for Membership.

7.8. Resignation

For the purposes of clause 7.7(a), a Member may resign as a Member of the Company by giving 14 days' prior written notice to the Company Secretary.

7.9. Expulsion of Member

- (a) Subject to clause 7.9(c) the Directors may resolve to expel a Member if:

- (i) an Expulsion Event occurs in respect of the Member; and
 - (ii) the Company gives that Member at least 10 Business Days' notice in writing stating the Expulsion Event and that the Member is liable to be expelled, and informing the Member of its right under clause 7.9(c).
- (b) The Directors may resolve to expel a Member if the Member does not pay a Fee payable by the Member pursuant to this Constitution within 60 Business Days after the due date for its payment.
- (c) Before the passing of any resolution under clause 7.9(a), a Member is entitled to give the Directors, either orally or in writing, any explanation or defence of the Expulsion Event the Member may think fit.
- (d) Where a resolution is passed under clause 7.9(a) or 7.9(b), the Company must give that Member notice in writing of the expulsion within 10 Business Days of the resolution.
- (e) A Member may by notice in writing to the Company within 10 Business Days of receipt of the notice, request that a resolution be reviewed by the Company at the next General Meeting. If such a request is made, the Directors must propose at the next General Meeting of the Company that a resolution be moved to confirm the expulsion of the Member concerned.
- (f) A resolution under clause 7.9(a) takes effect:
 - (i) if the Member gives a notice under clause 7.9(e), on the date (if any) the resolution is confirmed by a General Meeting of the Company; or
 - (ii) if the Member does not give a notice under clause 7.9(e), on the date of the resolution.
- (g) A resolution under clause 7.9(b) takes effect on the date of the resolution.
- (h) The Directors may reinstate an expelled Member on any terms and at any time as the Directors resolve, including a requirement that all amounts due but unpaid by the expelled Member are paid.

8. STANDARDS AND DISCIPLINE OF MEMBERS

8.1. Jurisdiction

All Members will be subject to, and submit unreservedly to, the jurisdiction, procedures, penalties and appeal mechanisms of the Company whether under the Policies or under this Constitution.

8.2. Standards Policies

- (a) The Directors may make a Policy or Policies:
 - (i) for the hearing and determination of:
 - (A) grievances by any Member who feels aggrieved by a decision or action of the Company; and
 - (B) disputes between Members; and
 - (C) complaints by a member of the public;
 - (ii) for the discipline of Members;

- (iii) for the formation and administration of a Standards Committee which must be independent of any party before it on the matter which is the subject of the appeal in question; and
 - (iv) for the termination of Members.
- (b) The Directors or the CEO, in their sole discretion may refer an allegation (which in the opinion of the Directors is not vexatious, trifling or frivolous) by a complainant (including a Director or a Member) that a Member has:
 - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the Policies or any other resolution or determination of the Directors or any duly authorised committee; or
 - (ii) acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of the Company; or
 - (iii) prejudiced the Company or brought the Company or that Member into disrepute, which for the avoidance of doubt, will include breaches of a law which subjects that Member to a criminal sanction,

for investigation or determination either under the procedures set down in the Policies or by such other procedure and/or by persons as the Directors or the CEO consider appropriate.

9. FEES AND SUBSCRIPTIONS

9.1. The Board must determine from time to time:

- (a) the amount (if any) payable by an applicant to become a Member;
- (b) the amount of the annual subscription Fee payable by each Member, or any category of Members;
- (c) any other amount to be paid by each Member, or any category of Members, whether of a recurrent or any other nature; and
- (d) the payment method and the due date for payment of the Fee within the timeframes specified by the Board from time to time.

9.2. Each Member must pay to the Company the Fee determined under this clause 9.

9.3. Non-Payment of Fees

Subject to clause 9.4(a), the right of a Member to attend and vote at a General Meeting is suspended while the payment of any Fee or other amount determined under clause 9.1 is in arrears greater than 30 Business Days.

9.4. Deferral or reduction of Fee

- (a) The Directors may defer the obligations of a Member to pay a Fee or other amount, or reduce (including to zero) the Fee or other amount payable by a Member, if the Directors are satisfied that:
 - (i) there are reasonable grounds for doing so;
 - (ii) the Company will not be materially disadvantaged as a result; and

- (iii) the Member agrees to pay the deferred or (if greater than zero) the reduced Fee or other amount within a time fixed by the Directors.
- (b) If the Directors defer or reduce a Fee by a Member under this clause 9.4, that Member will retain their rights to attend and vote at a General Meeting, unless otherwise specified by the Directors, at the absolute discretion of the Directors.

10. GENERAL MEETINGS

10.1. General Meeting

General Meetings of the Company are to be held:

- (a) according to the Corporations Act; and
- (b) at a date and venue determined by the Directors.

10.2. Power to convene General Meeting

- (a) The Directors may convene a General Meeting when they think fit and must do so if required by the Corporations Act.
- (b) The Members eligible to vote may convene a General Meeting, in accordance with the Corporations Act.

10.3. Notice of a General Meeting

- (a) Notice of a General Meeting of Members must be given:
 - (i) to all Members entitled to attend the General Meeting, the Directors, and the auditor of the Company; and
 - (ii) in accordance with clause 21 (**service of documents**) and the Corporations Act.
- (b) At least 45 days prior to the proposed date of the General Meeting, the Company Secretary will request from Members who have the right to attend and vote at the meeting, notices of motions, which must be received no less than 28 days prior to the General Meeting.
- (c) At least 21 days' notice of the time and place of a General Meeting must be given, together with:
 - (i) all information required to be included in accordance with the Corporations Act;
 - (ii) in the case of a proposed Special Resolution, the intention to propose the Special Resolution and the terms of the proposed Special Resolution;
 - (iii) where applicable, any notice of motion received from any Member, pursuant to clause 10.3 (b), who has the right to attend and vote at the meeting, or any Director in accordance with the Corporations Act; and
 - (iv) where applicable, a list of all nominations recommended to the Members for positions to be elected at the relevant General Meeting.

10.4. Business of General Meetings

- (a) For the avoidance of doubt the business of the General Meeting will be as required by the Corporations Act or the ACNC Law.
- (b) No business other than that stated in the notice of meeting may be transacted at a General Meeting.

10.5. Cancellation or postponement of General Meeting

Where a General Meeting is convened by the Directors they may, if they think fit, cancel the meeting or postpone the meeting to a date and time they determine. This clause does not apply to a General Meeting convened by:

- (a) Members according to the Corporations Act;
- (b) the Directors at the request of Members; or
- (c) a court.

10.6. Written notice of cancellation or postponement of General Meeting

Notice of the cancellation or postponement of a General Meeting must state the reasons for doing so and be given to:

- (a) each Member entitled to attend the General Meeting; and
- (b) each other person entitled to notice of a General Meeting under the Corporations Act.

10.7. Contents of notice postponing General Meeting

A notice postponing a General Meeting must specify:

- (a) the new date and time for the meeting;
- (b) the place where the meeting is to be held, which may be either the same as, or different, to the place specified in the notice originally convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to hold the meeting in that manner.

10.8. Number of clear days for postponement of General Meeting

If a notice to postpone a General Meeting is given pursuant to clauses 10.5 and 10.6, the number of days between the date of the notice and the postponed General Meeting must not be less than the number of days' notice required by clause 10.3 or the Corporations Act.

10.9. Business at postponed General Meeting

The only business that may be transacted at a postponed General Meeting is the business specified in the notice originally convening the meeting.

10.10. Representative, proxy or attorney at postponed General Meeting

Where:

- (a) a Member appoints a proxy or attorney by way of instrument (an **Instrument**) to attend and vote at a General Meeting on a specified date, or at a General Meeting or General Meetings to be held on or before a specified date; and
- (b) the date for the meeting is postponed to a date later than the date specified in the Instrument,

then that later date is substituted for the date specified in the Instrument, unless the appointing Member notifies the Company in writing to the contrary at least 48 hours before the time at which the postponed meeting is to be held.

10.11. Non-receipt of notice

The non-receipt of a notice convening, cancelling or postponing a General Meeting, or the accidental omission to give a notice of that kind to, a person entitled to receive it, does not invalidate any resolution passed at the General Meeting or at a postponed meeting or the cancellation or postponement of the meeting.

10.12. Right to appoint proxy

- (a) A Voting Member entitled to attend a General Meeting of the Company is entitled to appoint a person as their proxy to attend the meeting in their place in accordance with the Corporations Act.
- (b) A proxy may be revoked by the appointing voting Member at any time by notice in writing to the Company which will be received by the company, at least 48 hours before the time at which the meeting is to be held.

10.13. Form of proxy

The instrument appointing a proxy may be in a form determined by the Directors from time to time provided it complies with the requirements of the Corporations Act.

10.14. Attorney of Member

A Member may appoint an attorney to act on the Member's behalf at all or any meetings of the Company.

10.15. Lodgement of proxy or attorney documents

- (a) A proxy or attorney of a Voting Member may vote at a General Meeting or adjourned or postponed meeting (as the case may be) only if the instrument appointing the proxy or attorney is received by the Company:
 - (i) at the office specified for that purpose in the notice of meeting; and
 - (ii) at least 48 hours before the scheduled commencement time for the meeting or adjourned or postponed meeting (as the case may be) at which the person named in the instrument proposes to vote. The scheduled commencement time is as specified in the notice of meeting.
- (b) An undated proxy is taken to be dated on the day that it is received by the Company.

10.16. Authority given by appointment

- (a) Unless the terms of the appointment specify to the contrary, an appointment by a Voting Member confers authority on a proxy or attorney:
 - (i) to agree to a General Meeting being convened by shorter notice than is required by the Corporations Act or by this Constitution;
 - (ii) to speak to any proposed resolution; and
 - (iii) to demand or join in demanding a poll on any resolution.
- (b) Unless the terms of the appointment specify to the contrary, even if the instrument of appointment refers to specific resolutions and directs the proxy or attorney on how to vote on those resolutions, the appointment is taken to confer authority:
 - (i) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (ii) to vote on any procedural motion; and
 - (iii) to act generally at the meeting.
- (c) Unless the terms of the appointment specify to the contrary, if the instrument of appointment refers to a specific meeting to be held at a specified time or venue and the meeting is postponed or adjourned or changed to another venue, then the appointment confers authority to attend and vote:
 - (i) at the postponed or adjourned meeting; or
 - (ii) at the new venue.
- (d) An appointment of a proxy may be a standing proxy — that is, the appointment under the proxy remains valid until it is revoked by the Voting Member that made the appointment.
- (e) The instrument appointing a proxy may provide for the Chair to act as proxy in the absence of any other appointment or if the person or persons nominated fails or fail to attend the meeting.
- (f) The instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution.
- (g) If a proxy is appointed to vote on a particular resolution by more than one Voting Member and the instruments appointing the proxy direct the proxy to vote on the resolution in different ways, then the proxy must not vote on a show of hands taken on the resolution.

10.17. Proceedings at General Meeting

- (a) Number for a quorum

The quorum will be the number of Members who must be present in person or attending a Telecommunications Meeting and be eligible to vote at a General Meeting as determined by the Members by ordinary resolution in General Meeting from time to time and as at the date of this Constitution will be half of the State/Territory Members.

- (b) Requirement for a quorum

An item of business may not be transacted at a General Meeting unless a quorum is present at the commencement of, and remains throughout, the General Meeting.

(c) Quorum and time

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

- (i) if convened by, or on requisition of, Members, is dissolved; and
- (ii) in any other case stands adjourned to such other day, time and place as the Chair determines.

10.18. Adjourned meeting

If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, those Members then present will constitute a quorum.

10.19. Chair to preside over General Meetings

- (a) The Chair is entitled to preside as Chair at General Meetings.
- (b) If a General Meeting is convened and there is no Chair, or the Chair is not present within 15 minutes after the time appointed for the meeting, or is unable or unwilling to act, the following may preside as Chair (in order of entitlement):
 - (i) a Director (or other person) chosen by a majority of the Directors present; or
 - (ii) the only Director present; or
 - (iii) a Voting Member who is chosen by a majority of the Voting Members present; or
 - (iv) a proxy or attorney of a Member.

10.20. Conduct of General Meetings

- (a) The Chair of the General Meeting:
 - (i) has charge of the general conduct of the meeting and of the procedures to be adopted;
 - (ii) may require the adoption of any procedure which in his or her opinion is necessary or desirable for proper and orderly debate or discussion or the proper and orderly casting or recording of votes; and
 - (iii) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the Chair considers it necessary or desirable for the proper conduct of the meeting.
- (b) A decision by the Chair under this clause 10.20 is final.

10.21. Adjournment of General Meeting

- (a) The Chair may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting.

- (b) The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and place agreed by vote of the Voting Members present.
- (c) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

10.22. Notice of adjourned meeting

- (a) It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for 14 days or more.
- (b) Where a meeting is adjourned for 14 days or more, at least the same period of notice as was originally required for the meeting must be given for the adjourned meeting.

10.23. Questions decided by majority

Subject to the requirements of the Corporations Act and except in the case of a Special Resolution, a resolution is carried if a simple majority of the votes cast on the resolution are in favour of it.

10.24. Equality of votes

Where an equal number of votes are cast in favour of and against the resolution, the Chair may exercise a second and casting vote in addition to the Chair's deliberate vote.

10.25. Declaration of results

- (a) At any General Meeting a resolution is to be put to the vote of the meeting unless a poll is properly demanded and the demand is not withdrawn.
- (b) If the Chair makes a declaration that a resolution has, on show of hands been lost or carried, whether unanimously or by a particular majority, an entry to that effect in the minutes of meetings of the Company is conclusive evidence of the fact.
- (c) Neither the Chair nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded for or against the resolution.

10.26. Poll

- (a) If a poll is properly demanded in accordance with the Corporations Act or by the Chair of the meeting, it must be taken in the manner and at the date and time directed by the Chair, and the result of the poll is the resolution of the meeting at which the poll was demanded.
- (b) A poll demanded on the election of a Chair or on a question of adjournment must be taken immediately.
- (c) A demand for a poll may be withdrawn.
- (d) A demand for a poll does not prevent the General Meeting continuing for the transaction of any business other than the question on which the poll was demanded.

10.27. Objection to voting qualification

- (a) An objection to the right of a person to attend or vote at a General Meeting (including an adjourned meeting):
 - (i) may not be raised except at that meeting; and
 - (ii) must be referred to the Chair, whose decision is final.
- (b) A vote not disallowed under the objection, is valid for all purposes.

10.28. Chair to determine any poll dispute

If there is a dispute about the admission or rejection of a vote, the Chair must decide it and the Chair's decision made is final.

10.29. Voting of Members

- (a) At a General Meeting, on a show of hands and on a poll or any other method of voting, each of the Voting Members will have the votes set out in this clause 10.29.
- (b) The Voting Members and the number of votes allocated to each Voting Member at a General Meeting will be as follows:
 - (i) State/Territory Member – 10 votes;
 - (ii) Affiliate Member – 1 vote;
 - (iii) Honorary Member – non-voting,or as determined in the Policies in accordance with clause 7.3.

10.30. Election of Directors

- (a) Elections for Elected Directors will be by ballot in accordance with this clause 10.30 at the relevant General Meeting.
- (b) The ballot for an election to fill one or more Elected Director positions will be conducted in accordance with the following procedure:
 - (i) if at the close of nominations and following a recommendation by the Nominations Committee to the Board, the number of nominees is equal to the number of positions to be filled, then no election is to take place and those eligible nominees will be taken to be elected; and
 - (ii) if at the close of nominations and following a recommendation by the Nominations Committee to the Board, there are more nominees than the number of positions to be filled, a ballot will be conducted, and may be conducted electronically as determined by the Board, and the nominee/s who receives the highest number of votes will be elected to fill the Elected Director positions. If two or more eligible nominees get the same number of votes and at the relevant time there is only one Elected Director position to be filled the Chair may exercise a casting vote in addition to the Chair's deliberate vote.

11. DIRECTORS

11.1. Number of Directors

The Board will comprise of a minimum of five (5) members and up to nine (9) members in total, including:

- (a) up to seven (7) Elected Directors; and
- (b) up to two (2) Appointed Directors.

11.2. Transitional Provisions and First Directors

- (a) The First Directors will be as set out in the Transitional Provisions.
- (b) In relation to the election and appointment of Directors at and from the date of this Constitution, the Transitional Provisions will be in force until such time as they have no effect.

11.3. Eligibility

- (a) An Elected Director must be a member of the one of the State/Territory Members.
- (b) The Board must strive to ensure that the Board has an appropriate balance of skills and experience having regard to the nature of the business and affairs of the Company. The Board may determine position or role descriptions or necessary qualifications for Director positions and will advise the Nominations Committee, if one, of such role description and qualifications and in making a recommendation to the Board, the Nominations Committee, if one, must take account of any Policy determined by the Board or direction given by the Board to the Nominations Committee, if one.

11.4. Nomination for election

- (a) At least 90 days prior to the proposed date of the AGM at which a resolution or resolutions will be proposed to fill a vacancy in an Elected Director position, the Company Secretary will request from Members nominations (which comply with this clause 11.4) for elections to positions falling vacant, which must be received no less than 60 days prior to the AGM.
- (b) The request from the Company Secretary to Members for nominations will include any recommendation regarding the desired skills required to fill an Elected Director position, consistent with the eligibility requirements set out at clause 11.3.
- (c) A nomination must:
 - (i) be in the form required by the Directors and this Constitution;
 - (ii) be signed by a State/Territory Member certifying that they are a financial member; and
 - (iii) be submitted to the Nominations Committee, if one, appointed by the Directors to administer nominations for Directors, or the Chief Executive Officer.
- (d) The Nominations Committee, if one, will make recommendations to the Directors in accordance with the Policies and for the avoidance of doubt the primary function of the Nominations Committee is to ensure the appropriate skill sets are satisfied when making recommendations to the Directors.

11.5. Term of office of Directors generally

Subject to clauses 11.1, 11.3, 11.7, 11.10, and the Transitional Provisions, Directors will hold office for a term of three (3) years.

11.6. Office held until end of meeting

A retiring Elected Director holds office until the end of the General Meeting at which that Elected Director retires but, subject to the requirement of this Constitution, including clauses 11.7 and 11.8, is eligible for re-election.

11.7. Elected Director elected at General Meeting

- (a) At a General Meeting:
 - (i) at which an Elected Director retires; or
 - (ii) at the commencement of which there is a vacancy in the office of an Elected Director,

there will be a vote of the Voting Members conducted in accordance with clause 10.30 to fill the vacancy.

- (b) Subject to clause the Transitional Provisions, an election of Directors must take place each year at the AGM at which at least one third of the total number of Directors must retire from office as a Director.
- (c) The Directors who must retire at a meeting are the Directors who have been longest in office since their last election but, as between persons who were last elected as Directors on the same day, the Directors to retire must be determined by agreement among themselves or, in the absence of agreement, by ballot.
- (d) In the event the number of nominations received for the Board are less than the positions to be filled, the Board may fill the vacancy as a casual vacancy pursuant to clause 11.10, and the Member so appointed will hold office up to and including the Annual General Meeting next following the date of his/her appointment, at which time the Director must retire, but is eligible for re-election.

11.8. Appointed Directors

The Board may at any time appoint up to two (2) independent directors in addition to the Elected Directors to complete the composition of the Board in accordance with clause 11.1.

11.9. Maximum term of office for Directors

- (a) Subject to clauses 11.3, 11.11 and 11.12, a Director may seek election under clause 11.7 or appointment under clause 11.8, for a maximum of three (3) consecutive terms, which for the avoidance of doubt is a maximum of nine (9) years.
- (b) Subject to clauses 11.3, 11.11 and 11.12, a Director may serve as Chair of the Board, as appointed under clause 12.3, for a maximum of two (2) consecutive terms, which for the avoidance of doubt is a maximum of six (6) years out of the total nine (9) year term that a Director may serve.
- (c) Where a person has been a Director for the maximum terms set out in clause 11.9(a) that person is not eligible for re-election or re-appointment for a period of not less than three years from the date of retirement from office.

11.10. Casual vacancy in ranks of Elected Directors

- (a) The Board may at any time appoint a person to fill a casual vacancy (as caused pursuant to clause 11.12) in the rank of the Directors.
- (b) A person appointed under clause 11.10(a) holds office until the next AGM at which time they can offer themselves for re-election and pursuant to clause 11.7. the term of this casual appointment will form part of the maximum term for appointment set out in clause 11.8, if any.

11.11. Removal of Director

- (a) Subject to the provisions of the Corporations Act, the Company may in a General Meeting by resolution passed by at least two thirds of the voting members, remove any Director prior to the expiration of that Director's term of office.
- (b) Unless otherwise resolved at a General Meeting, a Director removed in accordance with clause 11.11(a) cannot be re-appointed as a Director within three (3) years from the date of their removal.

11.12. Vacation of office

The office of a Director becomes vacant when the Corporations Act says it does and also if the Director:

- (a) is removed in accordance with clause 11.11(a);
- (b) becomes an ineligible director in accordance with the Corporations Act or the ACNC Law;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (d) dies;
- (e) resigns from office by notice in writing to the Company;
- (f) is not present at three (3) consecutive Board meetings without leave of absence from the Board;
- (g) is found to have breached this Constitution or the Policies;
- (h) is prohibited from being an officeholder of the Company pursuant to the Corporations Act or by reason of any order made pursuant to the Corporations Act; or
- (i) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Corporations Act or the ACNC Law.

11.13. Alternate Director

A Director cannot appoint an alternate.

12. POWERS AND DUTIES OF THE BOARD

12.1. General Powers of the Board

The Board is to determine and oversee the Company's overall direction and strategy, and may exercise those of the Company's powers that are not required, by the Corporations Act or the ACNC Law or by this Constitution, to be exercised by the Company in General Meeting.

12.2. Specific powers of the Board

Without limiting clause 12.1, the Board may exercise all the Company's powers to borrow or raise money, to charge any property or business or give any other security for a debt, liability or obligation of the Company or of any other person and in all cases to do all things necessary in pursuance of the Company's Objects and its Principal Purpose.

12.3. Board Positions

- (a) The Board may, from time to time, elect one of its number to any of the following positions:
- (i) Chair;
 - (ii) Deputy Chair; and
 - (iii) Treasurer,
- provided that no more than one position may be filled by one Director, until the next General Meeting.
- (b) The Chair may not at the same time also be an office holder of a Member or Affiliate Member.

12.4. Remuneration

- (a) Subject to clause 11.12, a Director may be paid for services as a Director provided the following conditions are satisfied:
- (i) a resolution is approved by the Members in General Meeting; and
 - (ii) such payment complies with the Corporations Act; and
 - (iii) following the recommendations of an external report commissioned by the Directors into board remuneration which will be conducted by an independent and suitably qualified person or organisation.
- (b) Directors of the Company may also, with the approval of the Directors, and subject to the Corporations Act be paid or reimbursed as the case may be, by the Company for:
- (i) services rendered to it other than as a Director; and
 - (ii) their reasonable travelling, accommodation and other expenses when:
 - A. travelling to or from meetings of the Directors, a Committee or the Company; or
 - B. otherwise engaged in the affairs of the Company.

12.5. Time and extension of time

Subject to the Corporations Act, where this Constitution requires that something be done by a particular time, or within a particular period, or that an event is to occur or a

circumstance is to change on or by a particular date, the Board may at its absolute discretion extend that time, period or date as it thinks fit.

12.6. Appointment of attorney

The Board may appoint any person to be the Company's attorney for the purposes, with the powers, authorities and discretions, for the period and subject to the conditions it thinks fit.

12.7. Provisions in power of attorney

A power of attorney granted under clause 12.6 may contain any provisions for the protection and convenience of persons dealing with the attorney that the Board thinks fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

12.8. Delegation of powers

- (a) Without limiting clause 16.4 the Board may by resolution, approval of Policies or by power of attorney or writing under seal, delegate any of their powers to the Chief Executive Officer or any employee of the Company or any other person as they think fit.
- (b) Any delegation by the Board of their powers:
 - (i) must specify the powers delegated, any restrictions on, and conditions attaching to, the exercise of those powers and the period during which that delegation is to be in force;
 - (ii) may be either general or limited in any way provided in the terms of the delegation;
 - (iii) need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position;
 - (iv) must be entered into the Delegations Register which will be maintained by the Company Secretary; and
 - (v) can be revoked at any time.
- (c) If exercising a power depends on a person's opinion, belief or state of mind, then that power may be exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.
- (d) Any power exercised by a delegate is as effective as if it had been exercised by the Board.

12.9. Duties of the Board

The Board must comply with their duties as Directors required under the Corporations Act, the common law and in accordance with the duties described in the ACNC Law as follows:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the Company;
- (b) to act in good faith in the best interests of the Company and to further the Principal Purpose and the Objects;

- (c) not to misuse their position as a Director;
- (d) not to misuse information they gain in their role as a Director;
- (e) to disclose any perceived or actual material conflicts of interest in accordance with clause 13.9;
- (f) to ensure that the financial affairs of the Company are managed responsibly; and
- (g) not to allow the Company to operate while it is insolvent.

12.10. Code of Conduct and Board Charter

The Board may:

- (a) adopt a code of conduct and Board charter for Directors; and
- (b) periodically review the code of conduct and Board charter in light of the general principles of good corporate governance and the requirements of the ACNC Law but in any event such review must be conducted annually.

13. PROCEEDINGS OF THE BOARD

13.1. Board meetings

- (a) Subject to clause 13.1(b), the Board may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.
- (b) The Board must meet at least four (4) times in each calendar year, face to face or by a Telecommunications Meeting.

13.2. Questions decided by majority

A question arising at a Board meeting is to be decided by a majority of votes of the Directors present in person or by a Telecommunications Meeting, and entitled to vote. Each Director present has one vote on a matter arising for decision by the Board.

13.3. Chair's casting vote

The Chair of the meeting will have a casting vote in addition to the Chair's deliberate vote.

13.4. Quorum

The quorum necessary for the transaction of business at a meeting will be a majority of the total number of Directors or such greater number as may be fixed by the Board.

13.5. Effect of vacancy

- (a) The continuing Directors may act despite a vacancy in their number.
- (b) However, if the number of Directors is reduced below the minimum number of Directors set out at clause 11.1, the remaining Directors may act only for the purpose of filling the vacancies to the extent necessary to bring their number up to that required for a quorum or to convene a General Meeting.

13.6. Convening meetings

- (a) A Director may, and the Company Secretary on the request of a Director must, convene a Board meeting.
- (b) Notice of a meeting of the Board must be given individually to each Director (except a Director on leave of absence approved by the Board). Notice of a meeting of the Board may be given in person, or by post or by telephone, facsimile or other electronic means.
- (c) A Director may waive notice of a meeting of the Board by giving notice to that effect to the Company in person or by post or by telephone, facsimile or other electronic means.
- (d) A person who attends a meeting of the Board waives any objection that person may have in relation to a failure to give proper notice of the meeting.
- (e) The non-receipt of a notice of a meeting of the Board or the accidental omission to give notice of a meeting to a person entitled to receive notice does not invalidate anything done (including the passing of a resolution) at a meeting of the Board.
- (f) The Chair will preside at Board Meetings. If a Chair is not appointed or if at any meeting the Chair is not present within five minutes after the time appointed for holding the same, or is unwilling to act, the Deputy Chair will preside, or if the Deputy Chair is not present, or is unwilling to act, then the Directors present may choose one of their number to preside over the meeting. Any such person presiding may exercise any vote to which that person might otherwise be entitled and will have a casting vote.

13.7. Circulating resolutions

- (a) The Board may pass a resolution without a Board meeting being held if notice in writing of the resolution is given to all Directors and a majority of the Directors, subject to the quorum set out at clause 13.4 being satisfied, vote in favour of the resolution and sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) The Directors may vote on any proposed resolution by any electronic means including fax, email, or any other written form of communications. Resolutions considered in this manner will be passed where more than 50% of the Directors eligible to vote, vote in favour of the resolution.
- (c) Separate copies of the document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy. A facsimile transmission or other document produced by electronic means under the name of a Director with the Director's authority is taken to be a document signed by the Director for the purposes of clause 13.7(a) and is taken to be signed when received by the Company in legible form.
- (d) The resolution is passed when the last Director required to achieve a majority signs and submits the resolution to the Company Secretary pursuant to this clause 13.7.

13.8. Validity of acts of Directors

Everything done at a Board meeting or a Committee meeting, or by a person acting as a Director or as a member of a Committee, is valid even if it is discovered later that there was some defect in the appointment, election or qualification of any of them or that any of them was disqualified or had vacated office.

13.9. Directors' Interests

- (a) A Director will declare to the Board any material personal interest or related party transaction (**Conflict of Interest**), as defined by the Corporations Act, as soon as practicable after that Director becomes aware of their Conflict of Interest.
- (b) Where a Director declares a Conflict of Interest, that Director must absent himself or herself from discussion of such matter unless otherwise determined by the Board and will in any event not be entitled to vote in respect of such matter.
- (c) In the event of any uncertainty in this regard, the issue will immediately be determined by a vote of the Board or, if this is not possible, the matter will be adjourned or deferred to the next meeting.
- (d) The Conflict of Interest will be entered into the Conflicts Register which will be maintained by the Company Secretary and disclosed to Directors and where relevant the Members by way of a standing notice.

13.10. Minutes

The Board must cause minutes of meetings to be made and kept according to the Corporations Act.

14. TELECOMMUNICATION MEETINGS OF THE COMPANY

14.1. Telecommunication Meeting

- (a) A General Meeting or a Board Meeting may be held by means of a Telecommunication Meeting, provided that:
 - (i) the number of Members or Directors participating is not less than the quorum required for a General Meeting or Board meeting (as applicable); and
 - (ii) the meeting is convened and held in accordance with the Corporations Act.
- (b) All provisions of this Constitution relating to a meeting apply to a Telecommunication Meeting in so far as they are not inconsistent with the provisions of this clause 14.

14.2. Conduct of Telecommunication Meeting

The following provisions apply to a Telecommunication Meeting:

- (a) all persons participating in the meeting must be linked by telephone, audio-visual or other instantaneous means for the purpose of the meeting;
- (b) all persons participating in the meeting via telecommunication who are entitled to vote may do so by announcing his or her vote, or by any other method to be pre-determined by the Chair;
- (c) each of the persons taking part in the meeting must be able to hear and be heard by each of the other persons taking part at the commencement of the meeting and each person so taking part is deemed for the purposes of this Constitution to be present at the meeting;
- (d) at the commencement of the meeting each person must announce his or her presence to all other persons taking part in the meeting;

- (e) a person may not leave a Telecommunication Meeting by disconnecting his or her telephone, audio-visual or other communication equipment unless that person has previously notified the Chair;
- (f) a person may conclusively be presumed to have been present and to have formed a part of a quorum at all times at a Telecommunication Meeting unless that person has previously notified the Chair of leaving the meeting; and
- (g) a minute of proceedings of a Telecommunication Meeting is sufficient evidence of the proceedings and of the observance of all necessary formalities if the minute is certified to be a correct minute by the Chair.

15. COMMITTEES

15.1. Committees

- (a) The Board may appoint Committees as it sees fit and may delegate any of their powers to Committees consisting of those persons they think fit (including Directors, individuals and consultants), and may vary or revoke any delegation.
- (b) The Committees may include, but will not be limited to:
 - (i) Finance, Audit and Risk Management Committee;
 - (ii) Nominations Committee;
 - (iii) National Policy Advisory Committee; and
 - (iv) any other Committee that the Board in their discretion determine to appoint.
- (c) The Committees' formation and functions will be set out in the Policies as determined by the Board from time to time and the Board will approve the Terms of Reference in respect of each Committee with the Terms of Reference reviewed as required but in any event no less than annually.
- (d) Each Committee specified in this clause or constituted by the Board in accordance with this clause, will comprise persons as determined by the Board and with the Chair of a Committee appointed, or elected as the case may be, in accordance with the Policies.

15.2. Powers delegated to Committees

- (a) A Committee must exercise the powers delegated to it according to the terms of the delegation and set out in the relevant Terms of Reference, any directions of the Board, and as set out in the Policies.
- (b) A Committee must act in accordance with the Terms of Reference of that Committee as determined by the Board, and in accordance with the Policies.
- (c) Powers delegated to and exercised by a Committee are taken to have been exercised by the Board.

15.3. Committee meetings

Unless otherwise determined by the Board, Committee meetings are governed by the provisions of this Constitution dealing with Board meetings, as far as they are capable of application as set out at clause 13.

16. CHIEF EXECUTIVE OFFICER

16.1. Appointment of Chief Executive Officer

The Board may appoint a Chief Executive Officer for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment. The Chief Executive Officer will not be a member of the Board.

16.2. Powers, duties and authorities of Chief Executive Officer

- (a) The Chief Executive Officer holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated by the Board.
- (b) The exercise of those powers and authorities, and the performance of those duties, by the Chief Executive Officer is subject at all times to the control of the Board.

16.3. Suspension and removal of Chief Executive Officer

Subject to the terms and conditions of the appointment and the law, the Board may suspend or remove the Chief Executive Officer from that office.

16.4. Delegation by Board to Chief Executive Officer

The Board may delegate to the Chief Executive Officer the power (subject to such reservations on the power as are decided by the Board) to conduct the day-to-day management and control of the business and affairs of the Company. The delegation will include the power and responsibility to:

- (a) develop business plans, budgets, strategies, policies, processes and codes of conduct for consideration by the Board and to implement them to the extent approved by the Board;
- (b) manage the financial and other reporting mechanisms of the Company;
- (c) approve and incur expenditure subject to specified expenditure limits and delegations entered into the Delegations Register; and
- (d) any other powers and responsibilities which the Board consider appropriate to delegate to the Chief Executive Officer.

16.5. Chief Executive Officer to attend meetings

- (a) The Chief Executive Officer is entitled to attend all meetings of the Company, meetings of the Board and any Committees and may speak on any matter, but does not have a vote.
- (b) The Board may exclude the Chief Executive Officer where the Board determines such exclusion is in the best interest of the Company.

17. COMPANY SECRETARY

17.1. Appointment of Company Secretary

The Board will appoint the Company Secretary.

17.2. Suspension and removal of Company Secretary

The Board may suspend or remove a Company Secretary from that office at any time.

17.3. Powers, duties and authorities of Company Secretary

- (a) A Company Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated to him or her by the Board and this Constitution.
- (b) The Company Secretary will establish and maintain the Delegations Register, the Conflicts Register and the Register of Members.

18. POLICIES

18.1. Making and amending Policies

- (a) In addition to the Policies made pursuant to clause 7.3 and 8.2, the Board may from time to time make Policies:
 - (i) that are required to be made under this Constitution; and
 - (ii) which in their opinion are necessary or desirable for the control, administration and management of the Company's affairs and may amend, repeal and replace those Policies.
- (b) The Policies referred to in clauses 7.3, 8.2 and 18.1(a) take effect 28 days after the service of the Policy on the Members and will be in force and effect on and from that date.

18.2. Effect of Policies

A Policy:

- (a) is subject to this Constitution;
- (b) must be consistent with this Constitution; and
- (c) when in force, is binding on all Members and has the same effect as a provision of this Constitution.

19. INSPECTION OF RECORDS

19.1. Right of the Members to Inspect Records

A Member does not have the right to inspect any document of the Company (including registers kept by the Company) except as set out in the Corporations Act or the ACNC Law.

20. ACCOUNTS

20.1. Accounting Records

The Board will cause proper accounting and other records to be kept and will distribute copies of financial statements as required by the Corporations Act and the ACNC Law.

20.2. Auditor

A properly qualified auditor or auditors will be appointed or removed by the Board in accordance with Corporations Act and the remuneration of such auditor or auditors fixed and duties regulated in accordance with the Corporations Act and the ACNC Law.

21. SERVICE OF DOCUMENTS

21.1. Document includes notice

In this clause 21, document includes a notice.

21.2. Methods of service on a Member

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register of Members or an alternative address nominated by the Member; or
- (c) by sending it to an electronic address nominated by the Member.

21.3. Methods of service on the Company

Unless otherwise specified in this Constitution, a Member may give a document to the Company:

- (a) by delivering it to the registered office of the Company (the Registered Office);
- (b) by sending it by post to the Registered Office; or
- (c) by sending it to an electronic address nominated by the Company.

21.4. Post

A document sent by post if sent to an address:

- (a) in Australia, may be sent by ordinary post; and
- (b) outside Australia, or sent from an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the fifth Business Day after the date of its posting.

21.5. Electronic transmission

If a document is sent by electronic transmission, delivery of the document is taken to:

- (a) be effected by properly addressing and transmitting the electronic transmission; and
- (b) have been delivered on the Business Day following its transmission.

22. INDEMNITY

22.1. Indemnity of officers

- (a) This clause 22 applies to every person who is or has been:

- (i) a Director, Chief Executive Officer, or Company Secretary of the Company;
 - (ii) an Auditor appointed by the Company; and
 - (iii) to any other officers, employees, former officers or former employees of the Company or of its related bodies corporate as the Board may determine.
- (b) Each person referred to in paragraph 22.1(a) is referred to as an **Indemnified Officer** for the purposes of the rest of clause 22.
- (c) The Company will indemnify each Indemnified Officer out of the property of the Company against:
- (i) every liability that the Indemnified Officer incurs as an officer of the Company or of a related body corporate of the Company; and
 - (ii) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the Indemnified Officer becomes involved as an officer of the Company or of a related body corporate of the Company,
- unless:
- (iii) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
 - (iv) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

22.2. Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring an Indemnified Officer against liability that the Indemnified Officer incurs as an officer of the Company or of a related body corporate of the Company including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute, and the Indemnified Officer must comply with the requirements of the insurance contract.

22.3. Deed

The Company may enter into a deed with any Indemnified Officer or a deed poll to give effect to the rights conferred by clause 22.1 on the terms the Board thinks fit (as long as they are consistent with clause this clause 22).

23. WINDING UP

23.1. Contributions of Members on winding up

- (a) Each Member must contribute the amounts set out in clause 2.3(b) on winding up of the Company.

23.2. Excess property on winding up

- (a) If on the winding up or dissolution of the Company, and after satisfaction of all its debts and liabilities, any property remains, that property must be given or transferred to another body or bodies:
 - (i) having objects and purposes similar to those of the Company;
 - (ii) having the same or similar charitable status as required by the Australian Taxation Office and the ACNC or the law from time to time; and
 - (iii) in accordance with clauses 6.2 and 23.3, whose constitution prohibits (or each of whose constitutions prohibit) the distribution of its or their income and property among its or their members to an extent at least as great as is imposed under this Constitution.
- (b) That body is, or those bodies are, to be determined by the Voting Members at or before the time of dissolution or, failing that determination, by a judge who has or acquires jurisdiction in the matter.

23.3. Establishment and Operation of Gift Funds

- (a) The Company, by resolution of the Board, may establish one or more Gift Funds to be used for the Principal Purpose and Objects of the Company and into which the public, or specific members of the public, will be invited to make gifts and donations of money and property.
- (b) Subject to anything else in this clause, the Board will determine the operation and administration procedures of each Gift Fund established under clause 23.3(a).
- (c) Despite anything else in this Constitution, upon the first occurrence of a Gift Fund created under this clause 23.3:
 - (i) being wound up; or
 - (ii) where the fund is endorsed as a deductible gift recipient within the meaning of section 30-227 of the *Income Tax Assessment Act 1997* (Cth), ceasing to have that endorsement;

any surplus contributions, gifts of money or property or surplus assets of that fund must be transferred to funds, authorities or institutions:

- (iii) that have objects similar to the objects of the Company;
- (iv) which are charitable at law; and
- (v) in the case of a fund of the Company, endorsed at any time as a deductible gift recipient; which are deductible gift recipients within the meaning of section 30-227 of the *Income Tax Assessment Act 1997* (Cth).

24. AMENDMENTS TO CONSTITUTION

24.1. This Constitution may be amended or repealed in accordance with this Constitution, the Corporations Act and the ACNC Law.

24.2. Amendments to this Constitution will be made by Special Resolution passed at either an AGM or a General Meeting.

24.3. A Special Resolution amending, adopting or repealing the Constitution takes effect:

- (a) if no later date is specified in the Special Resolution, then on the date on which the resolution is passed; or
- (b) on a later date specified in, or determined in accordance with, the Special Resolution.

24.4. The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to cease being a charity or lose deductible gift recipient or public benevolent institution status.

SCHEDULE 1

1. Transitional Provisions

- 1.1 “**First Directors**” means the persons referred to in clause 1.3 of this Schedule who will take office pursuant to their appointment to the Board.
- 1.2 Notwithstanding the maximum terms for Directors in clause 11.9:
- (a) at the first Annual General Meeting following the adoption of this Constitution, two (2) of the First Directors will retire from office (and in the absence of an agreement as to who will retire, those to retire will be determined by lot from the First Directors) and an election will be held to elect two (2) Elected Directors. Those retiring First Directors will, subject to the requirement of this Constitution, be eligible for re-election;
 - (b) at the second Annual General Meeting following the adoption of this Constitution, three (3) of the First Directors will retire from office (and in the absence of an agreement as to who will retire, those to retire will be determined by lot from the First Directors) and an election will be held to elect three (3) Elected Directors. Those retiring First Directors will, subject to the requirement of this Constitution, be eligible for re-election; and
 - (c) at the third Annual General Meeting following the adoption of this Constitution, the three (3) remaining First Directors will retire from office (and in the absence of an agreement as to who will retire, those to retire will be determined by lot from the First Directors) and an election will be held to elect three (3) Elected Directors. Those retiring First Directors will, subject to the requirement of this Constitution, be eligible for re-election.
- 1.3 The First Directors will be the Directors of the Board of the Company as at the date of this Constitution and are as follows:
- (a) Phil Plummer;
 - (b) Lindy Willmott;
 - (c) Andrew Allsop;
 - (d) Jane Fischer;
 - (e) Helen Walker;
 - (f) Judy Hollingworth;
 - (g) Alec Wagstaff; and
 - (h) Moira O’Connor.
- 1.4 These Transitional Provisions will cease to have effect on the expiry of the term of office for the last remaining First Director.