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Constitution

Australian Association of Gerontology ACN 162 569 986

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MinterEllison

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Preliminary

1. Defined terms

1.1 In this Constitution unless the contrary intention appears:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth), if it becomes law, or any other legislation relating to the establishment or operation of an Australian charities commission and/or a national regulatory framework for the not-for-profit sector, as modified or amended from time to time and includes any regulations made under that Act or any other such legislation and any rulings or requirements of the Commissioner of the Australian Charities and Not-for-profits Commission under that Act, or any commissioner or body under any other such legislation, having application to the Company.

Applicable Not-for-Profit Law means any law relating to the regulation of charities or not-for-profit entities applicable to the Company, including each Charitable Fundraising Act, the Tax Act, section 150 of the Corporations Act and the ACNC Act.

Auditor means the Company's auditor.

Charitable Fundraising Act means the legislation of any State or Territory of Australia, or the Commonwealth of Australia, regulating the raising of funds for charitable purposes and applicable to the Company, which may, for example, include the *Charitable Fundraising Act 1991* (NSW) and the *Fundraising Appeals Act 1998* (Vic).

Chief Executive Officer means the highest ranking officer responsible for the day-to-day management of the Company, as appointed by the Directors.

Company means Australian Association of Gerontology ACN 162 569 986.

Constitution means the constitution of the Company as amended from time to time.

Corporate Member means a body corporate or other organisation admitted to membership of the Company.

Corporations Act means the *Corporations Act 2001* (Cth) as modified or amended from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company.

Director includes any person occupying the position of director of the Company.

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

Division means a State or Territory based division of the Company established by the Directors pursuant to clause 57.1 to operate in a State or Territory (and, for the purpose of the election of Division Directors, comprising the Members who usually reside in the relevant State or Territory).

Elected Director means a Director elected by a Division in accordance with clause 39.

Honorary Life Member means a person admitted to membership of the Company as an honorary life member.

Honorary Member means a person admitted to membership of the Company as an honorary member.

Incorporated Association means the incorporated association known as the Australian Association of Gerontology Inc registered under the *Associations Incorporation Act 1991* (ACT).

Initial Elected Director means an Elected Director who takes office at the conclusion of the first annual general meeting of the Company after its registration under the Corporations Act (but does not include such a Director after they retire pursuant to clause 38.2, or, if sooner, otherwise cease to hold office as a Director).

Member means a member under clause 7, and:

- (a) includes an Ordinary Member, a Corporate Member, an Honorary Member or an Honorary Life Member; and
- (b) in clauses 18, 19, 21 and 24, includes a Member present in person or by proxy, attorney or Representative.

Nominated Representative means the person nominated by a Corporate Member (or an applicant for admission as a Corporate Member) to be their representative in respect of the affairs of the Company.

Office Bearer has the meaning given by clause 55.3 (being a Director appointed to any position or office in the Company other than auditor, Chief Executive Officer or any employed position or office).

Ordinary Member means an individual admitted to membership of the Company as an ordinary member.

President means the president of the Company.

Register means the register of Members of the Company.

Resident Member of a Division means a Member who usually resides in the State or Territory of the Division (and if there is any disagreement about where a Member usually resides, then the Directors shall determine the matter and such determination shall be final for all purposes in connection with this Constitution).

Representative means a person appointed by a Member to act as its representative under clause 30.

Seal means the Company's common seal (if any).

Secretary means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of those joint secretaries.

State means a State of Australia, being one of New South Wales, Tasmania, South Australia, Queensland, Victoria or Western Australia.

Tax Act means the *Income Tax Assessment Act 1997* (Cth) as modified or amended from time to time and includes any regulations made under that Act and any rulings or requirements of the Commissioner of Taxation of the Commonwealth of Australia having application to the Company.

Territory means either of the Australian Capital Territory or the Northern Territory.

Treasurer means the treasurer of the Company.

- 1.2 In this Constitution, except where the context otherwise requires, an expression in a clause of this Constitution has the same meaning as in the Corporations Act. Where the expression has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.

2. Interpretation

2.1 In this Constitution, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (f) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (g) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions; and
- (h) a reference to **applicable law** includes the applicable law and any applicable authorisation or licence granted thereunder.

2.2 Headings are for ease of reference only and do not affect interpretation.

2.3 For the purposes of this Constitution, if the provisions of the Corporations Act and this Constitution conflict on the same matter, the provisions of the Corporations Act prevail.

3. Replaceable rules

To the extent permitted by law, the replaceable rules in the Corporations Act do not apply to the Company.

Objects

4. Objects

4.1 The objects for which the Company is established are:

- (a) to promote gerontological research and dissemination of related information;
- (b) to promote and encourage cooperation between organisations and individuals interested in gerontology;
- (c) to promote, improve and encourage the education and training to the highest possible level of persons (whether previously qualified or not) in all or any of the fields of gerontology;
- (d) to promote and extend the interests and influence of all or any organisations concerned with gerontology and to represent and speak for all such organisations as requested on any subject related to gerontology; and
- (e) to do all such other things that may be ancillary to, or conducive to the attainment of, and not inconsistent with, any of the above.

And for the avoidance of doubt and for the purpose of section 150(1)(a) of the Corporations Act, it is confirmed that this Constitution requires the Company to pursue charitable purposes only and to apply its income in promoting those purposes.

- 4.2 The Company may only exercise the powers in section 124(1) of the Corporations Act to:
- (a) carry out the objects in this clause; and
 - (b) do all things incidental or convenient in relation to the exercise of power under clause 4.2(a).

Income and property of Company

5. Income and property of Company

- 5.1 The income, profits and assets of the Company will only be applied towards the promotion of the objects of the Company set out in clause 4, and the Company will not be carried on for the profit or gain of the Members, neither while it is operating nor on a winding up.
- 5.2 No income, profits or assets (whether in money, property or other benefits) will be paid, distributed or transferred directly or indirectly to any Member of the Company except, subject to clause 52, for payments to a Member as genuine compensation for services provided to, or reasonable expenses incurred on behalf of, the Company, or such other payments, distributions or transfers as may be permitted by the Applicable Not-for-Profit Laws.

6. Receipts

If the Company accepts a gift, contribution or donation of money or property, the Company must give the donor a receipt, and otherwise comply with all applicable laws in relation to any such gift, contribution or donation, including without limitation the Applicable Not-for-Profit Laws.

Membership

7. Admission

- 7.1 The number of Members with which the Company proposes to be registered is unlimited.
- 7.2 The categories of Members shall be:
- (a) Ordinary Members;
 - (b) Corporate Members;
 - (c) Honorary Members;
 - (d) Honorary Life Members; and
 - (e) such other categories of Members as may be created from time to time by the Company in general meeting pursuant to clause 7.3.
- 7.3 Subject to this Constitution and applicable law (including the Corporations Act), the Company in general meeting may by ordinary resolution from time to time determine, vary and replace:
- (a) the classes of membership of the Company (including the rights attaching, or not attaching, to a particular class of membership); and

- (b) the qualifications for admission, and continued membership, in a particular class of membership.

7.4 The Members of the Company are:

- (a) the persons who were members of the Incorporated Association on the date of registration of the Company as a company limited by guarantee under the Corporations Act (with each such Member being in the category of membership of the Company that is equivalent to the category of membership they had in the Incorporated Association); and
- (b) any other persons over the age of 18 years, bodies corporate or organisations who are admitted to membership in accordance with this Constitution,

and whose membership has not ceased pursuant to clause 12.

7.5 Applications for membership of the Company:

- (a) may be made by any person over the age of 18 years, any body corporate or any organisation who is interested in pursuing and supporting the objects of the Company;
- (b) must be in writing, signed by the applicant and in a form approved by, and containing the information required by, the Directors in their absolute discretion;
- (c) if made by a body corporate or other organisation, must include the name and usual residential address of, and also be signed by, an individual whom the body (or organisation) nominates to represent it in respect of the affairs of the Company and who has consented to so represent it, such individual being the Nominated Representative of the body (or organisation); and
- (d) may (and if the Directors so determine, shall) be accompanied by any entrance fee or first annual subscription payable by the applicant if their application is accepted.

7.6 The Directors or their delegate (who may be the Chief Executive Officer) will consider the application for membership as soon as convenient after the application is received. In considering an application for membership, the Directors or their delegate may:

- (a) accept or reject the application (and, if they accept the application, the Directors or their delegate shall determine (subject to clauses 8.1, 9.1 and 9.2) whether the applicant is to be admitted as an Ordinary Member, Corporate Member, Honorary Member, Honorary Life Member or such other category of membership as may exist at that time); or
- (b) ask the applicant to give more evidence of eligibility or suitability for membership.

7.7 If the Directors or their delegate ask for more evidence under clause 7.6, their determination of the application for membership is deferred until the evidence is given.

7.8 The Directors (or their delegate) do not have to give any reason for rejecting an application for membership, nor for any determination whether to admit an applicant as an Ordinary Member, Corporate Member, Honorary Member, Honorary Life Member or other category of Member, under clause 7.6(a).

7.9 As soon as practicable following acceptance of an application for membership by the Directors or their delegate under clause 7.6, the Secretary will:

- (a) send, or cause to be sent to, the applicant written notice of the acceptance (and, unless it accompanied the applicant's application for membership, request payment of any entrance fee or first annual subscription payable by the applicant); and
- (b) subject to the Company's receipt of any entrance fee or first annual subscription payable by the applicant (and the Directors or their delegate not having cancelled their acceptance

under clause 7.10), cause to be entered, the applicant's name in the Register (as an Ordinary Member, Corporate Member, Honorary Member, Honorary Life Member or other existing category of Member, as the case may be), whereupon the applicant becomes a Member.

- 7.10 If an entrance fee or first annual subscription payable by an applicant for membership is not paid within 60 days after the date the applicant is notified of acceptance of their application for membership, the Directors or their delegate may cancel their acceptance of the applicant for membership of the Company.
- 7.11 The rights and privileges of every Member are personal to each Member and are not transferable by the Member's own act or by operation of law.

8. Corporate Members

- 8.1 A person who is a body corporate or other organisation may only be admitted to membership of the Company as a Corporate Member.
- 8.2 A Corporate Member must at all times have a Nominated Representative who:
- (a) if the Corporate Member is a body corporate, is appointed as the person's Representative; and
 - (b) has consented in writing to their nomination and appointment as such.

9. Honorary Members and Honorary Life Members

- 9.1 The Directors may determine that an applicant for membership be admitted as an Honorary Member if they have special qualifications or experience relevant to the Company. A person the Directors determine to admit as an Honorary Member:
- (a) shall remain an Honorary Member for a term of 1 year from the date of the Directors' determination, upon the expiration of which term they will automatically cease to be an Honorary Member (and a Member) unless the Directors determine to re-admit them as an Honorary Member for a further 1 year term (the Directors may repeatedly re-admit a person as an Honorary Member pursuant to this clause 9.1(a)); and
 - (b) may, if not re-admitted as an Honorary Member under clause 9.1(a), apply to become a Member (other than an Honorary Member), and may be admitted by the Directors (in their absolute discretion) as such a Member, in accordance with clause 7.
- 9.2 The Directors may determine that a person be admitted as an Honorary Life Member (being the highest acknowledgement of contribution to the Company) if in the opinion of the Directors the person has made over a period of years an exceptional contribution to the Company or the Incorporated Association, and a person in respect of whom the directors make such a determination shall become an Honorary Life Member on the latter of:
- (a) in the case of a person who is already a Member:
 - (i) the person consenting in writing to be an Honorary Life Member; and
 - (ii) the Directors determination to admit the person as an Honorary Life Member; and
 - (b) in the case of a person who is not a Member:
 - (i) the Directors' acceptance of the person's application for membership and the entry of the person's name in the Register;

- (ii) the person consenting in writing to be an Honorary Life Member (which may be included in their application for membership);
- (iii) the Directors determination to admit the person as an Honorary Life Member (which may be part of the Directors' acceptance of the person's application for membership).

10. Notifications by members

A Member must promptly notify the Secretary in writing of:

- (a) any change in their qualification to be a Member;
- (b) a change in their name, address, facsimile number or electronic mail address; and
- (c) if a Corporate Member, a change of its Nominated Representative or the name, address, facsimile number or electronic mail address of its Nominated Representative.

11. Entrance fees and annual subscriptions

11.1 The:

- (a) Directors may, in their absolute discretion, determine that an entrance fee is payable by any applicant or class or sub-class of applicants; and
- (b) the Company in general meeting may determine that an annual subscription is payable by each Member or a particular class or sub-class of Members (and in the period between the registration of the Company under the Corporations Act and the first general meeting of the Company, the Directors may also make such a determination),

but:

- (c) unless and until they do, there will be no such fees payable by an applicant or Member (as the case may be); and
- (d) in any event, no such fees shall be payable by an Honorary Member or Honorary Life Member or an applicant for either such category of membership.

11.2 The Directors may from time to time:

- (a) suspend any determination made under clause 11.1(a) for a particular applicant (in which case no entrance fee will be payable by the applicant); or
- (b) revoke any determination made under clause 11.1(a), in which case entrance fees will not thereafter be payable by applicants from the effective date of the revocation but:
 - (i) any applicant whose application is accepted will not, unless the Directors determine otherwise, be entitled to any refund (or part refund) of any entrance fee paid to the Company before the effective date of the revocation; and
 - (ii) the Directors may subsequently make a new determination under clause 11.1(a) at any time.

11.3 The Company in general meeting may from time to time:

- (a) suspend any determination made under clause 11.1(b) for a particular annual subscription period or particular annual subscription periods (in which case no annual subscription will be payable by a Member in respect of that period or those periods); or

- (b) revoke any determination made under clause 11.1(b), in which case annual subscriptions will not thereafter be payable by Members from the effective date of the revocation but:
 - (i) Members will not, unless the Directors determine otherwise, be entitled to any refund (or part refund) of any annual subscription paid to the Company before the effective date of the revocation; and
 - (ii) the Company in general meeting may subsequently make a new determination under clause 11.1(b) at any time.
- 11.4 Subject to clause 11.2, if under clause 11.1(a) the Directors determine that an entrance fee is payable by an applicant or class or sub-class of applicants:
- (a) the Directors shall, in their absolute discretion, determine the amount of the entrance fee payable by each applicant required to pay such entrance fee (which amount they may vary from time to time and as between applicants or classes of applicants); and
 - (b) any such entrance fee payable by an applicant shall be payable either with their application for membership or, subject to any determination of the Directors under clause 7.5(d), within 60 days after the date the applicant is notified under clause 7.9(a) of the acceptance of their application for membership.
- 11.5 Subject to clause 11.2, if under clause 11.1(b) it is determined that an annual subscription is payable by each Member or a particular class or sub-class of Members:
- (a) the Company in general meeting shall determine the amount of the annual subscription payable by each Member required to pay such annual subscription (which amount the Company in general meeting may vary from time to time, and as between classes, sub-classes or categories of Members or individual Members), provided that if the Company in general meeting has not made such a determination, the Directors shall make such a determination which shall be effective until the Company in general meeting makes such a determination;
 - (b) unless otherwise determined by the Company in general meeting, the annual subscription period will commence on 1 July of each year, and, subject to clause 11.5(d), the annual subscription will be due in advance within 60 days after this date;
 - (c) the first annual subscription payable by a person who is a Member at the time a determination is made under clause 11.1(b) that an annual subscription is payable by such Member (or such a Member) will be payable:
 - (i) if the determination is that annual subscriptions will be payable commencing with effect from the next annual subscription period after the determination, in accordance with clause 11.5(b);
 - (ii) if the determination is that annual subscriptions will be payable commencing immediately, including in respect of the current annual subscription period, within 60 days after the date the Company notifies the Member of the determination and the amount payable (which amount the Company in general meeting may determine shall only be a fraction of the normal annual subscription for a full year);
 - (d) in the case of an applicant who is to be admitted as a Member after the making of a determination under clause 11.1(b) that an annual subscription is payable by such Member (or such a Member):
 - (i) the first annual subscription shall be payable by the applicant either with their application for membership or, subject to any determination of the Directors under

clause 7.5(d), within 60 days after the date the applicant is notified under clause 7.9(a) of the acceptance of their application for membership; and

- (ii) if the applicant is to be admitted as a Member at a date more than 6 months after the start of the applicable annual subscription period, the Directors or their delegate may determine that they will pay only one-half of the annual subscription until their next annual subscription falls due; and
- (e) if a Member who is required to do so does not pay their annual subscription within 60 days after it becomes due, the Directors:
 - (i) will give the Member notice of that fact; and
 - (ii) if the subscription remains unpaid 21 days from the date of that notice, may declare that Member's membership forfeited.

12. Ceasing to be a Member

12.1 A Member's membership of the Company will cease:

- (a) if the Member gives the Secretary written notice of resignation, from the date of receipt of that notice by the Secretary (or any later date specified in the notice);
- (b) if two thirds of the Directors present and voting at a meeting of Directors by resolution terminate the membership of a Member:
 - (i) whose conduct, position or circumstances in the Directors' opinion renders it undesirable that that Member continue to be a Member of the Company; and
 - (ii) only after the Member has been given at least 21 days' notice of the proposed resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed;
- (c) if their membership is forfeited under clause 11.5(e)(ii);
- (d) where the Member is an individual, if the Member:
 - (i) dies;
 - (ii) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health; or
 - (iii) is convicted of an indictable offence;
 - (iv) becomes bankrupt;
- (e) where the Member is not an individual, if:
 - (i) a liquidator is appointed in connection with the winding-up of the Member; or
 - (ii) an order is made by a Court for the winding-up or deregistration of the Member; or
- (f) if the Member is an Honorary Member and they cease to be a Member under clause 9.1(a).

12.2 Any Member ceasing to be a Member:

- (a) will not be entitled to any refund (or part refund) of any entrance fee or annual subscription; and
- (b) will remain liable for and will pay to the Company all annual subscriptions and moneys which were due at the date of ceasing to be a Member.

13. Powers of attorney

- 13.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the Attorney to the Company for notation.
- 13.2 If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- 13.3 The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

14. Patrons

The Company in general meeting may, upon the recommendation of the Directors, appoint one or more patrons and/or vice-patrons (who need not be Members) upon such terms and conditions as the general meeting may, upon the recommendation of the Directors, determine.

General meetings

15. Calling general meeting

- 15.1 Any two or more Directors may, at any time, call a general meeting.
- 15.2 A Member may:
 - (a) only request the Directors to call a general meeting in accordance with section 249D of the Corporations Act; and
 - (b) not request or call and arrange to hold a general meeting except under section 249E or 249F of the Corporations Act.
- 15.3 The Directors must call an annual general meeting to be held each calendar year to the extent required by, and in accordance with, the Corporations Act.

16. Notice of general meeting

- 16.1 Subject to the provisions of the Corporations Act allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members of any general meeting.
- 16.2 A notice calling a general meeting:
 - (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
 - (b) must state the general nature of the business to be transacted at the meeting;
 - (c) must specify a place and facsimile number and may specify an electronic address or other electronic means for the purposes of proxy appointment or proxy appointment authorities;
 - (d) if a special resolution is to be proposed at the meeting, must specify an intention to propose the special resolution and state the resolution; and
 - (e) must comply with the Corporations Act.

- 16.3 A notice of an annual general meeting need not state that the business to be transacted at the meeting includes:
- (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
 - (b) the election of directors; or
 - (c) the appointment and fixing of the remuneration of the Auditor.
- 16.4 The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 15.2).
- 16.5 The Directors must give notice of the postponement or cancellation of a general meeting to all persons referred to in clause 64.1 entitled to receive notices from the Company.
- 16.6 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

Proceedings at general meetings

17. Member

In clauses 18, 19, 21 and 24, Member includes a Member present in person or by proxy, attorney or Representative.

18. Quorum

- 18.1 No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.
- 18.2 A quorum is:
- (a) 4 Directors (unless there are less than 4 Directors, in which case it is a majority of the current Directors); together with
 - (b) 20 other Members (unless there are less than 20 other Members, in which case it is a majority of other Members).
- 18.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:
- (a) if the general meeting was called on the requisition of Members, it is automatically dissolved; or
 - (b) in any other case:
 - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
 - (ii) if at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting, the general meeting is automatically dissolved.

19. Chairperson

- 19.1 The chairperson, or in the chairperson's absence the deputy chairperson, of Directors' meetings will be the chairperson at every general meeting.
- 19.2 The Directors present may elect a chairperson of a general meeting if:
- (a) there is no chairperson or deputy chairperson; or
 - (b) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
 - (c) the chairperson and deputy chairperson are unwilling to act as chairperson of the general meeting.
- 19.3 If no election is made under clause 19.2, then:
- (a) the Members may elect one of the Directors present as chairperson; or
 - (b) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.
- 19.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.
- 19.5 The chairperson of an annual general meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Company.

20. Adjournment

- 20.1 The chairperson of a general meeting at which a quorum is present:
- (a) in his or her discretion may adjourn the general meeting with the meeting's consent; and
 - (b) must adjourn the general meeting if the meeting directs him or her to do so.
- 20.2 An adjourned general meeting may take place at a different venue to the initial general meeting.
- 20.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.
- 20.4 Notice of an adjourned general meeting must only be given in accordance with clause 16.1 if a general meeting has been adjourned for more than 21 days.

21. Decision on questions

- 21.1 Subject to the Corporations Act in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- 21.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the Corporations Act.
- 21.3 Unless a poll is demanded:
- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
 - (b) an entry to that effect in the minutes of the meeting,

are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

- 21.4 The demand for a poll may be withdrawn.
- 21.5 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the general meeting was not entitled to do so.

22. Taking a poll

- 22.1 A poll will be taken when and in the manner that the chairperson directs.
- 22.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.
- 22.3 The chairperson may determine any dispute about the admission or rejection of a vote.
- 22.4 The chairperson's determination, if made in good faith, will be final and conclusive.
- 22.5 A poll demanded on the election of the chairperson or the adjournment of a general meeting must be taken immediately.
- 22.6 After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

23. Casting vote of chairperson

The chairperson has a casting vote in addition to the chairperson's votes as a Member, proxy, attorney or Representative.

Votes of Members

24. Entitlement to vote

- 24.1 A Member entitled to vote has one vote (on a poll or show of hands).
- 24.2 A Member is not entitled to vote at a general meeting if:
 - (a) any annual subscription payable by the Member is more than one month in arrears at the date of the meeting; or
 - (b) they are in a class of Members in respect of which the right to vote at general meetings does not attach (whether such a class is a class of new Members established pursuant to clause 7.3 after the date of adoption of this Constitution or a class of Members existing on adoption of this Constitution but whose rights have been varied in accordance with clause 7.3),

and otherwise a Member is entitled to vote at a general meeting.

25. Objections

- 25.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.
- 25.2 An objection must be referred to the chairperson of the general meeting, whose decision made in good faith is final.

25.3 A vote which the chairperson does not disallow because of an objection is valid for all purposes.

26. Votes by proxy

26.1 If a Member appoints a proxy, proxies or an attorney, the proxy, proxies or attorney may, subject to the Corporations Act, vote on a show of hands.

26.2 A proxy need not be a Member.

26.3 A proxy may demand or join in demanding a poll.

26.4 A proxy or attorney may vote on a poll.

26.5 A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If an appointment directs the way the proxy is to vote on a particular resolution:

- (a) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
- (b) if the proxy has two or more appointments that specify different ways to vote on the resolution - the proxy must not vote on a show of hands;
- (c) if the proxy is the chair - the proxy must vote on a poll, and must vote that way; and
- (d) if the proxy is not the chair - the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.

27. Document appointing proxy

27.1 An appointment of a proxy is valid if it is signed, or authenticated in accordance with the Corporations Act, by the Member making the appointment and contains the information required by subsection 250A(1) of the Corporations Act. The Directors may determine that an appointment of a proxy is valid even if it only contains some of the information required by section 250A(1) of the Corporations Act.

27.2 The Company may send a proxy appointment form to Members in a form which has been approved by the Directors.

27.3 A proxy's appointment is valid at an adjourned general meeting.

27.4 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.

27.5 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:

- (a) to vote on:
 - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion; and
 - (ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting,even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and

- (b) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.

27.6 If a proxy appointment is signed or authenticated by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either act as proxy or complete the proxy appointment by inserting the name or names of one or more Directors or the Secretary.

28. Lodgment of proxy

28.1 Subject to clause 28.3, the appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless reduced in the notice of meeting to which the appointment relates) before the general meeting (or the resumption of an adjourned general meeting) at which the appointee is to attend and vote.

28.2 If the appointment purports to be executed under a power of attorney or other authority, the original document or a certified copy of it must be received by the Company at least 48 hours (unless reduced in the notice of meeting to which the appointment relates) before the general meeting (or the resumption of an adjourned general meeting).

28.3 The Company receives an appointment of a proxy or attorney or other authority under which it was signed when they are:

- (a) received at:
 - (i) the Company's registered office;
 - (ii) a facsimile number at the Company's registered office; or
 - (iii) a place, facsimile number or electronic address specified for that purpose in the notice of general meeting; or
- (b) if the notice of general meeting specifies other electronic means by which a Member may give an appointment, received by the Company in accordance with the Corporations Act.

29. Validity

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became mentally incapacitated; or
- (c) revoked the proxy or power,

unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant general meeting or adjourned general meeting.

30. Representatives of bodies corporate

30.1 Any Member that is a body corporate may appoint an individual as its representative as provided by the Corporations Act.

30.2 The appointment of a Representative may set out restrictions on the Representative's powers.

- 30.3 The original form of appointment of a Representative, a certified copy of the appointment, or a certificate of the body corporate evidencing the appointment of a Representative is prima facie evidence of a Representative having been appointed.
- 30.4 The chairperson of a general meeting may permit a person claiming to be a Representative to exercise the body's powers even if he or she has not produced a certificate or other satisfactory evidence of his or her appointment.

Appointment and removal of Directors

31. Number of Directors

There will not be more than 10 Directors, unless the Company by resolution passed in general meeting changes the maximum number.

32. First Directors

The first Directors of the Company are Julie Byles, Frank Schaper, Barbara Squires, Leon Flicker, Briony Dow, Melissa Lindeman, Christine Stirling, Helen Feist, Chris Hatherly and Andrea Petriwskyj, being the persons who have consented to act as Directors and are set out as Directors in the Company's application for registration as a company limited by guarantee under the Corporations Act. Those persons hold office subject to this Constitution.

33. Composition of Directors

Subject to this Constitution and the Corporations Act and the receipt of consent to act from any proposed Director, the Directors and Members shall endeavour to ensure that, at all times following the conclusion of the first annual general meeting of the Company after its registration under the Corporations Act, the Directors include:

- (a) one director from each Division (either elected in accordance with clause 39 or appointed under clause 40 to fill a casual vacancy in the office of an Elected Director); and
- (b) up to two additional Directors appointed by the Directors (in their absolute discretion) in accordance with clause 37.1.

34. Qualification

34.1 A Director:

- (a) must be a Member or the Nominated Representative of a Corporate Member; and
- (b) must not be the Chief Executive Officer or an employee of the Company.

35. Appointment and removal of Directors by general meeting

35.1 The Company may by resolution passed in general meeting:

- (a) subject to clauses 31, 33 and 34, appoint new Directors;
- (b) increase the maximum number of Directors;

- (c) remove any Director; and
- (d) subject to clauses 33 and 34, appoint another person in the Director's place.

36. Suspension of Directors

- 36.1 If the conduct, position or circumstances of any Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Company, a majority of Directors at a meeting of the Directors specifically called for that purpose may suspend that Director.
- 36.2 Within 14 days of any suspension under clause 36.1, the Directors must call a general meeting, at which the Members entitled to vote may either confirm the suspension and remove the Director from office in accordance with clause 35.1(c) or annul the suspension and reinstate the Director.

37. Non-elected Directors

- 37.1 Subject to clauses 31 and 34, the Directors may at any time appoint a person as a Director for the purposes of clause 33(b) for such period, not exceeding 3 years, as the Directors determine and specify in the relevant resolution appointing the Director, provided that there must not be more than 2 Directors appointed pursuant to this clause 37.1 holding office at any one time.
- 37.2 A person appointed a Director pursuant to clause 37.1 may, after expiry of their period of appointment, be re-appointed a Director in accordance with clause 37.1.
- 37.3 Subject to this Constitution, there is no restriction on the number of times a person can be appointed (or re-appointed) a Director pursuant to clause 37.1.

38. Retirement

- 38.1 Each first Director described in clause 32 shall retire at the conclusion of the first annual general meeting after the registration of the Company under the Corporations Act, but is eligible for re-election or re-appointment as the case may be.
- 38.2 The Initial Elected Directors, elected in accordance with clause 39, shall retire as follows:
 - (a) one-third of the Initial Elected Directors (rounded up to the nearest whole number of Initial Elected Directors if required) shall retire at the conclusion of the second annual general meeting after registration of the Company under the Corporations Act. The Initial Elected Directors to so retire shall be determined by agreement by the Initial Elected Directors or by lot (which determination shall be made and notified to the Secretary no later than 30 June 2014);
 - (b) one-third of the Initial Elected Directors (rounded up to the nearest whole number of Initial Elected Directors if required) shall retire at the conclusion of the third annual general meeting after registration of the Company under the Corporations Act. The Initial Elected Directors to so retire shall be determined by agreement by the remaining Initial Elected Directors or by lot (which determination shall be made and notified to the Secretary no later than 30 June 2015); and
 - (c) the remaining Initial Elected Directors shall retire at the conclusion of the fourth annual general meeting after registration of the Company under the Corporations Act.

- 38.3 An Elected Director other than an Initial Elected Director shall retire at the conclusion of the third annual general meeting following the annual general meeting at the conclusion of which their election as a Director became effective.
- 38.4 Subject to clause 38.5, a retiring Elected Director will be eligible for re-election.
- 38.5 Subject to clause 38.6, a retiring Elected Director will be ineligible for re-election after serving two consecutive terms in office (a 'term' for this purpose being the period between election in accordance with clause 39 and retirement pursuant to this clause 38 noting that the period from the registration of the Company under the Corporations Act until the first annual general meeting following such registration shall not be regarded as a 'term').
- 38.6 A person who has previously been an Elected Director but who is not currently an Elected Director is eligible for election as an Elected Director.

39. Election of Elected Directors

- 39.1 Before the first annual general meeting after registration of the Company under the Corporations Act, each Division shall elect, in accordance with clause 39.3, an Elected Director to take office with effect from the conclusion of the first annual general meeting.
- 39.2 When an Elected Director is to retire at the conclusion of an annual general meeting, the Division which elected the retiring Elected Director shall, before the annual general meeting and in accordance with clause 39.3, elect a Director to fill the office that will be vacated by the retiring Elected Director.
- 39.3 The election of an Elected Director shall take place at the times and in the manner and adopting the procedures determined by the Directors from time to time provided that, in each case, the election shall take place in the following manner:
- (a) a postal ballot, including the option of an electronic postal ballot, shall be conducted for the election of the Elected Director;
 - (b) the Directors shall determine the date for holding the annual general meeting at the conclusion of which the elected Elected Director shall take office (**Relevant AGM**) and advise that date to the secretary of the Division whose Members are to elect the Elected Director (**Relevant Division**);
 - (c) the Relevant Division shall call for nominations for election as an Elected Director from among its Resident Members;
 - (d) all nominations for election as an Elected Director must be in writing and signed by at least 1 Resident Member of the Relevant Division and also signed by the nominee consenting to such nomination (and set out any information about the nominee which the Directors have previously determined is to be included in such a nomination) and must be delivered to the Relevant Division not less than 35 days prior to the date determined for holding the Relevant AGM;
 - (e) only Resident Members of the Relevant Division are eligible to vote on the election of the Elected Director for the Relevant Division;
 - (f) a written notice referring to the ballot and each candidate for election (along with ballot papers and statements by candidates) shall be sent to all eligible Resident Members of the Relevant Division at least 21 days before the date fixed for holding the Relevant AGM;
 - (g) completed ballot papers must be delivered (either by post, facsimile, electronic transmission (including email) or in person) to the Relevant Division at least 7 days before

the date fixed for holding the Relevant AGM (and then forwarded by the Relevant Division to the Secretary);

- (h) the Directors must announce the results of the election at the Relevant AGM; and
- (i) the newly elected Elected Director shall take office with effect from the conclusion of the Relevant AGM.

39.4 For the purposes of clauses 39.3(d) and 39.3(g), nominations and completed ballot papers may be delivered to the Division by:

- (a) delivery to the current address of the Division by hand or post;
- (b) sending it to a current facsimile number for the Division; or
- (c) delivering it to a place, facsimile number or electronic mail address specified (in the notice calling for nominations) as the place where nominations and ballot papers may be delivered.

40. Casual Vacancy in office of Elected Director

40.1 If the office of an Elected Director (the **Vacating Director**) becomes vacant pursuant to clause 42:

- (a) the Directors (in consultation with, and upon recommendation from, the committee of the Division which elected the Vacating Director) may appoint a Resident Member of the same Division as the Vacating Director to fill the vacancy, in which case:
 - (i) the Director appointed pursuant to clause 40.1(a) holds office until the close of the next annual general meeting of the Company after their appointment; and
 - (ii) the vacancy is then to be filled (at the conclusion of that annual general meeting) by the election, in accordance with clause 39.3, of a new Elected Director from the same Division as the Vacating Director; or
- (b) if the vacancy is not filled by the Directors under clause 40.1(a), the vacancy shall be filled (at, if practicable, the conclusion of the next annual general meeting after the vacancy arose) by the election, in accordance with clause 39.3, of a new Elected Director from the same Division as the Vacating Director;
- (c) the new Elected Director elected under clause 40.1(a)(ii) or clause 40.1(b) holds office:
 - (i) until the conclusion of the annual general meeting of the Company at which the office of the Vacating Director would have become vacant under clause 38 had they not vacated their office under clause 42; or
 - (ii) if the new Elected Director is taking office at the conclusion of the annual general meeting at which the Vacating Director's office would have become vacant under clause 38 had they not vacated their office under clause 42, until the conclusion of the third annual general meeting following the annual general meeting at the conclusion of which their election as a Director became effective.

41. Period of office

A Director will continue to hold office until his or her office is vacated under clause 42 or under clause 38.

42. Vacation of office

The office of a Director immediately becomes vacant if the Director:

- (a) is prohibited by the Corporations Act from holding office or continuing as a Director;
- (b) in the opinion of the Directors, is incapable of managing their affairs due to mental or physical incapacity, or becomes, in the opinion of the Directors, incapable of performing his or her duties;
- (c) is committed of an indictable offence;
- (d) becomes bankrupt;
- (e) resigns by notice in writing to the Company;
- (f) is removed by a resolution of the Company pursuant to clause 35.1(c);
- (g) ceases to be a Member or the Nominated Representative of a Member;
- (h) is absent from Directors' meetings for four consecutive months without leave of absence from the Directors;
- (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;
- (j) becomes employed by the Company;
- (k) becomes the Chief Executive Officer;
- (l) dies; or
- (m) was appointed under clause 37.1 (for the purpose of clause 33(b)) and the period of their office (as determined by the Directors) expires or the period of 3 years from their date of appointment elapses (whichever is the sooner), unless they are re-appointed in accordance with clause 37.1.

Powers and duties of Directors

43. Powers and duties of Directors

43.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the Corporations Act do not require to be exercised by the Company in general meeting.

43.2 Without limiting the generality of clause 43.1, the Directors may exercise all the powers of the Company to:

- (a) borrow money;
- (b) charge any property or business of the Company;
- (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
- (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

43.3 The Directors may make, amend or repeal by-laws and regulations not inconsistent with this Constitution for the general conduct and management of the Company and the business of the Directors.

44. Delegation

44.1 The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to:

- (a) a committee of Directors (which may include persons other than Directors in addition to at least one Director);
- (b) a Director;
- (c) an employee of the Company; or
- (d) any other person.

44.2 A committee or person to which any powers have been delegated must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.

44.3 A committee or person to which any powers have been delegated may be authorised to sub-delegate all or any of the powers for the time being vested in it.

44.4 The Directors may at any time revoke any delegation of power.

44.5 Meetings of any committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors.

44.6 Without limiting any other provision in this clause 44, the Directors may:

- (a) appoint any person (other than a Director) to the position of Chief Executive Officer for such period and on such terms and conditions (including as to remuneration) as the Directors determine; and
- (b) subject to the terms of any employment contract with a person so appointed, vary or revoke the appointment.

Proceedings of Directors

45. Directors' meetings

45.1 A Director may at any time, and the Secretary must on the request of a Director, call a Directors' meeting.

45.2 Unless otherwise determined by the Directors, there shall be at least 4 Directors' meetings each calendar year.

45.3 A Directors' meeting must be called by not less than 48 hours notice of a meeting to each Director, unless the Directors unanimously agree otherwise. The notice may be in writing (including electronic transmission, such as email) or given using any other technology consented to by all the Directors.

- 45.4 An accidental omission to send a notice of a meeting of Directors to any Director or the non-receipt of such a notice by any Director does not invalidate the proceedings, or any resolution passed, at the meeting.
- 45.5 Subject to the Corporations Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- 45.6 The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- 45.7 Subject to clause 53, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 45.8 Clauses 45.5 to 45.7 apply to meetings of Directors' committees as if all committee members were Directors.
- 45.9 The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 45.10 A quorum is half of the number of Directors for the time being in office (rounded up to the nearest whole number). The quorum must be present at all times during the meeting.
- 45.11 Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson may call a general meeting to deal with the matter.

46. Decision on questions

- 46.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting.
- 46.2 Subject to clause 53 and the Corporations Act, each Director has one vote.
- 46.3 If there is an equality of votes, the chairperson of a meeting has a casting vote in addition to his or her deliberative vote.

47. Remaining Directors

- 47.1 The Directors may act even if there are vacancies on the board.
- 47.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:
- (a) appoint a Director; or
 - (b) call a general meeting.

48. Chairperson

- 48.1 The Directors may elect a Director as chairperson of Directors' meetings and may determine the period for which the chairperson will hold office. A Director so elected chairperson of Directors' meetings will also be appointed the President of the Company in accordance with clause 55.2.
- 48.2 If no chairperson is elected or if the chairperson is not present at any Directors' meeting within ten minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.

48.3 The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

49. Written resolutions

49.1 The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution (except a Director who is outside Australia and who has not given the Company a facsimile number or email address for receipt of notices) sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director entitled to vote signs.

49.2 For the purposes of clause 49.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.

49.3 Any document referred to in this clause may be in the form of a facsimile or electronic transmission (including email) or notification (and such a transmission that is received by the Company and which purports to be signed by a Director shall be treated as a document signed by the Director for the purposes of this clause 49).

49.4 The minutes of Directors' meetings must record that a resolution was passed in accordance with this clause.

49.5 This clause applies to meetings and resolutions of Directors' committees as if all members of the committee were Directors.

50. Validity of acts of Directors

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director or member of a Directors' committee; or
- (b) a person appointed to one of those positions was disqualified,

all acts of the Directors or the Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

51. Minutes and Registers

51.1 The Directors must cause minutes to be made of:

- (a) the names of the Directors present at all general meetings, Directors' meetings and meetings of Directors' committees;
- (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
- (c) all resolutions passed by Members in accordance with the Corporations Act;
- (d) all resolutions passed by Directors in accordance with clause 49;
- (e) all appointments of officers;
- (f) all orders made by the Directors and Directors' committees; and
- (g) all disclosures of interests made under clause 53.

- 51.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body, and if so signed will as between the Directors be conclusive evidence of the matters stated in such minutes.
- 51.3 The Company must keep all registers required by this Constitution and the Corporations Act.

Payments to Directors and Directors interests

52. Payments to Directors

No payment will be made to any Director of the Company other than payment:

- (a) of out of pocket expenses reasonably and properly incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors;
- (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service, and the amount payable, has the prior approval of the Directors and is not more than an amount which commercially would be reasonable payment for the service; and
- (c) relating to an indemnity in favour of the Director and permitted by section 199A of the Corporations Act or a contract of insurance permitted by section 199B of the Corporations Act.

53. Directors' interests

53.1 As required by the Corporations Act, a Director must give the Directors notice of any material personal interest in a matter that relates to the affairs of the Company.

53.2 Subject to this Constitution, including the provisions of this clause 53, a Director or a body or entity in which a Director has a direct or indirect interest may:

- (a) enter into any agreement or arrangement with the Company;
- (b) hold any office or place of profit other than as auditor in the Company; and
- (c) act in a professional capacity other than as auditor for the Company,

and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.

53.3 The fact that a Director holds office as a director, and has fiduciary obligations arising out of that office:

- (a) will not void or render voidable a contract made by a Director with the Company;
- (b) will not void or render voidable a contract or arrangement entered into by or on behalf of the Company and in which the Director may have any interest; and
- (c) will not require the Director to account to the Company for any profit realised by or under any contract or arrangement entered into by or on behalf of the Company and in which the Director may have any interest.

53.4 A Director may be or become a director or other officer of, or otherwise be interested in:

- (a) any related body corporate of the Company; or
- (b) any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise,

and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.

53.5 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter,

unless permitted to do so by the Corporations Act, in which case the Director may:

- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or a proposed contract or arrangement;
- (d) sign or countersign any document relating to that contract or arrangement or a proposed contract or arrangement; and
- (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

54. Conflicts of interest

In addition to clause 53.5, the Directors shall, to the extent required by any applicable law, establish a mechanism for dealing with any conflicts of interest that may occur involving a Director, officer or employee of the Company.

Office Bearers (including President)

55. Appointment of Office Bearers

55.1 Subject to clause 55.2, the Directors may appoint a Director to any position or office in the Company (other than the positions of Auditor and Chief Executive Officer and any employed office or position) on such terms and conditions as they think fit, including (without limitation) the position or office of Treasurer (being responsible, subject to the terms of the appointment by the Directors, for, any or all of, the maintenance of the financial records of the Company, the collection and receipt of monies due to the Company and the making of payments by the Company authorised by the Directors).

55.2 The Directors shall, at the same time they elect a Director as chairperson of Directors' meetings under clause 48.1, appoint that Director so elected as the President of the Company who shall:

- (a) hold the office of President for so long as they hold the office of chairperson of Directors' meetings, and shall automatically cease to hold the office of President if they cease to hold the office of chairperson of Directors' meetings; and
- (b) have such responsibilities as are consistent with the office of President as the Directors determine from time to time or as are set out in any relevant by-laws made under clause 43.3.

- 55.3 A Director appointed to a position or office under clause 55.1 or clause 55.2, and a Director otherwise occupying for the time a position or office described in clause 55.1 or 55.2, is referred to in this Constitution as an Office Bearer.
- 55.4 The Directors may, subject to the terms of any engagement with an Office Bearer, suspend, remove or dismiss him or her from the relevant office or position and appoint another Director (or, subject to clause 55.8, other person, as the case may be) in that place, provided that the person appointed to the office of President must always be the Director who has been elected chairperson of Directors' meetings under clause 48.1.
- 55.5 If an Office Bearer ceases to be a Director, then, unless the Directors determine otherwise, his or her appointment to the relevant office or position in the Company terminates automatically.
- 55.6 If an Office Bearer is suspended from the relevant office or position in the Company, his or her duties and obligations as Director are suspended for the same period.
- 55.7 An Office Bearer is subject to the same provisions as to retirement, resignation and removal as the other Directors.
- 55.8 Only a Director may be appointed to, and hold, the office or position of President, but the Directors may appoint a person other than a Director to any of the positions or offices referred to in clause 55.1.

56. Powers of Office Bearers

- 56.1 Subject to clauses 34.1(b) and 44.6(a) (the prohibitions on a Director being the Chief Executive Officer or an employee of the Company), the Directors may:
- (a) confer on an Office Bearer any powers exercisable by the Directors, subject to any terms and restrictions determined by the Directors; and
 - (b) authorise an Office Bearer to sub-delegate all or any of the powers vested in him or her.
- 56.2 Any power conferred under this clause may be concurrent with but not to the exclusion of the Directors' powers.
- 56.3 The Directors may at any time withdraw or vary any of the powers conferred on an Office Bearer.

Local management & Divisions

57. Local management and Divisions

- 57.1 The Directors may provide for the management and transaction of the affairs of the Company in any places and in such manner as they think fit, including by the establishment in any State or Territory of a Division to operate within that State or Territory, provided that:
- (a) no more than one Division can be established in any one State or Territory (though the committee of a Division may, with the permission of the Directors and on such terms and conditions as the Directors may determine, form chapters within the Division); and
 - (b) the Company in general meeting may at any time terminate the existence of any Division.
- 57.2 Without limiting clause 57.1 the Directors may:

- (a) establish local committees for managing any of the affairs of the Company in a specified place (including by establishing a committee of a Division to manage the affairs of the Company in the relevant State or Territory) and may:
 - (i) appoint any persons to be members of those local committees (and remove any such appointees); or
 - (ii) establish by-laws setting out procedures for appointing persons to those local committees and removing any such appointees;
- (b) delegate to any local committee established, or any person appointed to such a committee, under clause 57.2(a) any of the powers, authorities and discretions which may be exercised by the Directors under this Constitution; and
- (c) establish by-laws, rules or procedures governing the operation of a Division or the committee of a Division,

on any terms and subject to any conditions determined by the Directors.

- 57.3 Subject to clause 57.1(b), the Directors may at any time revoke or vary any delegation under this clause.
- 57.4 Without limiting any other provision in this clause 57, the committee of any Division may exercise within the relevant State or Territory such powers, authorities and discretions as the Directors may delegate to it under clause 57.2 and any such powers, authorities and discretions as may otherwise be conferred upon the committee under this Constitution.
- 57.5 At the first Directors' meeting held after the registration of the Company as a company limited by guarantee under the Corporations Act the Directors will (unless, for any reason, they are of the opinion that it would not be in the best interests of the Company to do so) exercise their powers under this clause 57 to:
- (a) establish in each State and Territory a Division to operate within the State or Territory (as the case may be); and
 - (b) establish a committee of each such Division to manage the affairs of the Company in the relevant State or Territory and:
 - (i) appoint to each such committee the persons who were members of the equivalent committee of the equivalent division of the Incorporated Association immediately before registration of the Company under the Corporations Act and who consent to being so appointed; and
 - (ii) delegate to each such committee such of the powers, authorities and discretions which may be exercised by the Directors under this Constitution as are necessary for the committee to perform the same, or substantially the same, functions as the functions able to be performed by the equivalent committee of the equivalent division of the Incorporated Association immediately before registration of the Company under the Corporations Act.

58. Appointment of attorneys and agents

- 58.1 The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint any person to be the attorney or agent of the Company:
- (a) for the purposes;

- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
 - (c) for the period; and
 - (d) subject to the conditions, determined by the Directors.
- 58.2 An appointment by the Directors of an attorney or agent of the Company may be made in favour of:
- (a) any member of any local committee established under this Constitution;
 - (b) any company;
 - (c) the members, directors, nominees or managers of any company or firm; or
 - (d) any fluctuating body of persons whether nominated directly or indirectly by the Directors.
- 58.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- 58.4 The Directors may appoint attorneys or agents by facsimile or electronic transmission to act for and on behalf of the Company.
- 58.5 An attorney or agent appointed under this clause may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

Secretary

59. Secretary

- 59.1 Unless not required by the Corporations Act, there must be at least one secretary of the Company who ordinarily resides in Australia appointed by the Directors on conditions determined by them.
- 59.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.
- 59.3 The Directors may, subject to the terms of the Secretary's employment contract (if any), suspend, remove or dismiss the Secretary.

Seals

60. Common Seal

If the Company has a Seal:

- (a) the Directors must provide for the safe custody of the Seal;
- (b) the Seal must not be used without the authority of the Directors or a Directors' committee authorised to use the Seal;
- (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign the document.

61. Duplicate Seal

If the Company has a Seal, the Company may have one or more duplicate seals of the Seal each of which:

- (a) must be a facsimile of the Seal with 'Duplicate Seal' on its face;
- (b) must not be used except with the authority of the Directors.

Inspection of records

62. Inspection of records

- 62.1 Except as otherwise required by the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.
- 62.2 Except as otherwise required by the Corporations Act, a Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

Notices

63. Service of notices

- 63.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution:
 - (a) by serving it on the person; or
 - (b) by sending it by post, facsimile transmission or electronic notification (including email) to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person; or
 - (c) if it is a notice of a meeting of Members, by giving it in accordance with section 249J(3) of the Corporations Act.
- 63.2 A notice sent by post is taken to be served:
 - (a) by properly addressing, prepaying and posting a letter containing the notice; and
 - (b) on the day after the day on which it was posted.
- 63.3 Subject to the Corporations Act, a notice sent by facsimile transmission or electronic notification is taken to be served:
 - (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
 - (b) on the day after its despatch.
- 63.4 If a Member does not have an address recorded in the Register a notice will be taken to be served on that Member 24 hours after it was posted:
 - (a) on a notice board at the Company's registered office; or

- (b) on the Company's website.
- 63.5 A Member whose address recorded in the Register is not in Australia may specify in writing an address in Australia to be taken to be the Member's for the purposes of clause 63.
- 63.6 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 63.7 Subject to the Corporations Act the signature to a written notice given by the Company may be written or printed.
- 63.8 All notices sent by post outside Australia must be sent by prepaid airmail post.

64. Persons entitled to notice

- 64.1 Notice of every general meeting must be given to:
 - (a) every Member who is entitled to attend the general meeting;
 - (b) every Director; and
 - (c) any Auditor.
- 64.2 No other person is entitled to receive notice of a general meeting.

Audit and accounts

65. Audit and accounts

- 65.1 The Directors must cause the Company to keep written financial records in relation to the business of the Company, and to prepare financial documents and reports, in accordance with the requirements of the Corporations Act and any other applicable laws.
- 65.2 The Directors must cause the financial records and financial documents of the Company to be audited to the extent required by, and in accordance with the requirements of, the Corporations Act and any other applicable laws.

Winding up

66. Winding up and Surplus Gifts

- 66.1 If the Company is wound up:
 - (a) each Member; and
 - (b) each person who has ceased to be a Member in the preceding year,
undertakes to contribute to the property of the Company for the:
 - (c) payment of debts and liabilities of the Company (in relation to clause 66.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
 - (d) adjustment of the rights of the contributories amongst themselves,

such amount as may be required, not exceeding \$2.00 (and otherwise has no liability for the payment of debts and liabilities of the Company nor obligation to contribute to the property of the Company).

- 66.2 Subject to clause 66.3, on the winding up of the Company, any surplus remaining following the satisfaction of all debts and liabilities of the Company will not be paid to or distributed amongst Members, but will, unless otherwise required by law, be given or transferred to another corporation or body which, by its constitution, is:
- (a) required to pursue charitable purposes only, being charitable purposes similar (as far as possible) to those of the Company;
 - (b) required to apply its income in promoting its charitable purposes; and
 - (c) prohibited from making any distribution to its members and paying fees to its directors, to at least the same extent of such prohibitions under this Constitution,

such corporation or body to be determined by the Members and in default, by application to the Supreme Court of Victoria for determination.

- 66.3 Any surplus gifts, fundraising contributions under Commonwealth taxation laws and money received because of those gifts or contributions, must be transferred to an eligible recipient who is:
- (a) a deductible gift recipient;
 - (b) required to pursue charitable purposes only, being charitable purposes similar (as far as possible) to those of the Company;
 - (c) required to apply its income in promoting its charitable purposes; and
 - (d) prohibited from making any distributions to its members and paying fees to its directors, to at least the same extent of such prohibitions under this Constitution,
- on the earlier of:
- (e) the Company's deductible gift recipient endorsement being revoked; or
 - (f) the winding up of the Company.

Indemnity and insurance

67. Indemnity

- 67.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Company indemnifies every person who is or has been an officer of the Company against:
- (a) any liability (other than for legal costs) incurred by that person as an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment); or
 - (b) reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of the Company (including legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).

- 67.2 The amount of any indemnity payable under clauses 67.1(a) or 67.1(b) will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.
- 67.3 For the purposes of this clause and clause 68, **officer** means:
- (a) a Director;
 - (b) a Secretary; or
 - (c) the Chief Executive Officer.

68. Insurance

The Company may pay a premium in respect of a contract insuring a person who is or has been an officer against liability incurred by the person as an officer, except in circumstances prohibited by the Corporations Act.

Internal disputes

69. Resolution of internal disputes

- 69.1 Disputes between Members (in their capacity as Members), and disputes between Members and the Company that the parties have not been able to themselves resolve (after following any internal dispute procedures the Directors may specify or adopt) are to be referred to the Dispute Settlement Centre of Victoria or such other mediator as the Directors may, subject to applicable law, determine.
- 69.2 At least seven days before such a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.
- 69.3 Any internal dispute procedures the Directors may specify or adopt include, without limitation:
- (a) the appointment of an independent person to arbitrate on the dispute;
 - (b) processes to bring the parties together to help resolve the dispute at an early stage, and should allow all parties a full and fair opportunity of presenting their case.

Complaints

70. Complaints

If, and to the extent, required by any applicable law, the Directors shall ensure that a mechanism is established that will properly and effectively deal with complaints made by members of the public and grievances from employees.

Execution of documents

71. Execution of documents

The Company may execute a document:

- (a) in accordance with section 127(1) of the Corporations Act;
- (b) if the Company has a Seal, in accordance with section 127(2) of the Corporations Act and clauses 60 and 61; or
- (c) in any other way approved by the Directors and permitted by law.