

Constitution of Australian Business Volunteers Limited

ACN 008 612 431

ABN 89 008 612 431

A company limited by guarantee

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Constitution of Australian Business Volunteers Limited

Date 27 November 2023

Preliminary

1 Name of the Company

The name of the company is Australian Business Volunteers Limited.

2 Type of Company

The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.

3 Limited liability of members

The liability of members is limited to the amount of the guarantee in clause 4.

4 The guarantee

Each member must contribute an amount not more than \$100 to the property of the Company if the Company is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for any:

- (a) debts and liabilities of the Company incurred before the member stopped being a member; or
- (b) costs of winding up.

5 Definitions

In this constitution, words and phrases have the meaning set out in clauses 89 and 91.

Charitable purposes and powers

6 Object

6.1 The Company is a not-for-profit, non-religious, non-political entity established and located in Australia for the main purpose of providing charitable relief of poverty or distress (including from sickness, disability, destitution, misfortune, helplessness or lack of education or training and resulting unemployment) suffered by individuals, by the Company contributing to skills transfer, capacity building, economic growth, job creation, advice and guidance to improve their livelihoods and incomes and strengthen their local communities in Australia's developing countries as declared by the Minister for Foreign Affairs and to provide or fund (or both) sustainable development, relief and aid projects within and outside Australia.

6.2 To achieve its main purpose the objects of the Company are:

- (a) to assist developing countries to achieve economic growth;

- (b) to help strengthen and improve the performance of businesses, communities, enterprises, institutions and organisations in developing countries;
- (c) to provide opportunities for Australian volunteers to participate in the Company's development assistance activities;
- (d) to promote co-operation and understanding between the peoples of Australia and developing countries, and within the Australian community;
- (e) to undertake other projects as deemed appropriate by the directors; and
- (f) to do such other things which are similar, related, necessary or incidental to achieving its main purpose at clause 6.1 and the objects in this clause 6.2.

6.3 The main purpose at clause 6.1 and the objects at clause 6.2 may be undertaken by the Company by (among other things):

- (a) the establishment of a relief fund (or a number of relief funds) for the purposes of raising money both through public donations and subscriptions and through government assistance to provide or fund (or both) sustainable development, relief and aid projects in developing countries (as declared by the Minister for Foreign Affairs for the purposes of the Overseas Aid Gift Deduction Scheme established by the *Income Tax Assessment Act 1997* (Cth)) (**Relief Fund**), which shall be managed in accordance with clauses 10 to 18;
- (b) the establishment of a fund similar to a Relief Fund should appropriate circumstances and recognised necessity give rise to the need to do so and to create the necessary rules for such fund in accordance with any applicable laws.

7 Powers

7.1 Subject to clause 8, the Company has the following legal capacity and powers, which may only be used to carry out its main purpose and objects set out in clause 6:

- (a) the powers of an individual; and
- (b) all the powers of a company limited by guarantee under section 124 of the Corporations Act.

7.2 Without limiting clauses 6.3 and 7.1, in the course of undertaking the Company's main purpose and objects, the Company may:

- (a) develop partnerships with indigenous and other local organisations in countries in which the Company works; and
- (b) do all things as are incidental or conducive to the attainment of any and all of the objectives and purposes specified in the foregoing provisions of this clause.

8 Not-for-profit

8.1 The Company must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 8.2 and 87.

- 8.2 Clause 8.1 does not stop the Company from doing the following things, provided they are done in good faith:
- (a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Company;
 - (b) paying interest on money lent by a member to the Company at a rate not exceeding current Australian bank overdraft rates of interest for moneys lent;
 - (c) paying a member reasonable rent for premises lent by a member to the Company; or
 - (d) making a payment to a member in carrying out the Company's charitable purpose(s).

9 Amending the constitution

- 9.1 Subject to clause 9.2, the members may amend this constitution by passing a Special Resolution.
- 9.2 The members must not pass a Special Resolution that amends this constitution if passing it causes the Company to no longer be a charity.

Relief Fund

10 Company to establish and maintain a Relief Fund

The Company may establish and maintain a Relief Fund to receive tax deductible donations, philanthropic gifts, grants, scholarships and other such monies gifted in support of the object of the Relief Fund set out at clause 11 below.

11 Object of the Relief Fund

The object of the Relief Fund is to solicit and receive gifts to aid the charitable objects of the Company as listed in clause 6, insofar as those objects provide relief to the peoples of countries declared by the Minister of Foreign Affairs to be a developing country.

12 Gifts kept separate

- 12.1 An account will be established to receive all gifts accepted by the Relief Fund.
- 12.2 This account must only include any money or property which is a gift to the Relief Fund or which is received because of such gifts, including, interest received on any monies in the account.

13 Receipts

- 13.1 All receipts for gifts must be issued in the name of the Relief Fund.
- 13.2 Receipts issued for gifts must include:
- (a) the name of the Relief Fund established on behalf of the Company;
 - (b) the amount of the gift;
 - (c) the fact that the receipt is for a gift; and
 - (d) the Company's Australian Business Number (ABN).

14 Public to be invited to donate

The general public will be invited to make gifts to the Relief Fund to be used for the purpose of carrying out the object of Relief Fund.

15 Management of the Relief Fund

15.1 The Relief Fund is to be managed by:

- (a) the directors, in which case a majority of the directors must be responsible persons; or
- (b) a sub-committee appointed by the directors, in which case a majority of sub-committee members must be responsible persons.

15.2 For the purposes of clause 15.1, a responsible person is someone who, because of their tenure of some public office or professional standing, has an underlying community responsibility, as distinct from obligations solely in relation to the objects of the company.

16 Not-for-profit

The assets and income of the Relief Fund shall be applied solely in the furtherance of the objects of the Relief Fund and no portion shall be distributed directly or indirectly to any individual except as bona fide compensation for services rendered or expenses incurred on behalf of the Relief Fund.

17 Winding up of Relief Fund or where Relief Fund's endorsement as a deductible gift recipient is revoked

In the event of the Relief Fund being wound up or dissolved, or if its endorsement as a deductible gift recipient is revoked, any surplus assets remaining after the payment of the Relief Fund's liabilities must not be paid to, or distributed amongst its members, but shall be transferred to another fund, authority or institution which has similar charitable objectives and to which income tax deductible gifts can be made.

18 Notification

The Australian Taxation Office must be notified of any proposed amendments or alterations to provisions for the Relief Fund.

Members

19 Membership and register of members

19.1 The members of the Company are:

- (a) Initial Members; and
- (b) any other person that the directors allow to be a member, in accordance with this constitution.

- 19.2 The directors will endeavour to ensure that the Company has at least 50 members at all times.
- 19.3 The Company must establish and maintain a register of members. The register of members must be kept by the secretary and must contain:
- (a) for each current member:
 - (i) name;
 - (ii) address;
 - (iii) any electronic address;
 - (iv) any alternative address (including an electronic address) nominated by the member for the service of notices; and
 - (v) the date the member was entered on to the register.
 - (b) for each person who stopped being a member in the last seven years:
 - (i) name;
 - (ii) address;
 - (iii) any electronic address;
 - (iv) any alternative address (including an electronic address) nominated by the member for the service of notices; and
 - (v) the dates the membership started and ended.
- 19.4 The Company must give current members access to the register of members.
- 19.5 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.
- 19.6 Each member must notify the Company of the details of its email address and postal address in Australia where the Company can send notices.
- 19.7 If a member fails to provide an address in accordance with 19.6, the address of the member is deemed to be the registered office of the Company.
- 19.8 Each member must notify the secretary in writing of any change in that person's name, address or email address within 1 month after the change.

20 Who can be a member

- 20.1 A person who supports the purposes of the Company is eligible to apply to be a member of the Company under clause 23, subject to any specific requirements under clause 21.
- 20.2 In this clause, 'person' means an individual or incorporated body.
- 20.3 Current staff and paid consultants of the Company are not eligible for membership of the Company.
- 20.4 The rights and privileges of every member are personal to each member and are not transferable by the member's own acts or by operation of law.

21 Classes of membership

21.1 The directors may at any time:

- (a) establish classes of membership of the Company;
- (b) determine any restrictions on the numbers of members within each class or category;
- (c) determine the qualifications and eligibility criteria for admission in or to each class or category; and
- (d) determine the rights and privileges of members within each class or category.

22 Variation of rights and privileges

22.1 Subject to the Corporations Act and the terms of a particular class of membership, the Company may vary or cancel the rights or privileges (or both) of members of a particular class or category, or convert a particular class or category of membership to another class or category:

- (a) by Special Resolution passed at a meeting of the members included in the affected class or category (as applicable); or
- (b) the written consent of members who are entitled to at least 75% of the votes that may be cast in respect of members of the affected class or category (as applicable).

22.2 The Company must give a written notice of the variation or cancellation to members of the class or category (as applicable) affected within 7 days after the variation or cancellation.

22.3 For the avoidance of doubt, clause 22.1 does not apply in relation to a member seeking to change from one class or category of membership to another. Whether such a member is admitted to the new class or category of membership is a matter to be determined by the directors in their sole and absolute discretion, taking into account the matters listed in clause 24 and any other matters the directors consider relevant.

23 How to apply to become a member

23.1 A person (as defined in clause 20.2) may apply to become a member of the Company by writing to the secretary.

23.2 Subject to clause 23.3, applications for membership of the Company must be:

- (a) in writing in the form prescribed or otherwise approved by the directors from time to time;
- (b) signed by or on behalf of the applicant; and
- (c) accompanied by such documents or evidence as to eligibility as the directors require in accordance with clause 23.5.

23.3 An application for membership of the Company may be provided by email, in which case, clause 23.2(b) will be deemed to have been satisfied.

23.4 By applying for membership of the Company, the member is taken to have agreed to comply with the Company's constitution, including paying the guarantee under clause 4 if required.

23.5 The directors may, in their sole and absolute discretion, require:

- (a) a certified copy of a recent police or child protection check (or both); and
- (b) such other documentation or information as the directors may require,

to be provided by an applicant in support of their or its application for membership. The directors may, in their sole discretion, require such checks and other documentation and information to be updated and reviewed annually or whenever deemed necessary in respect of a member.

24 Directors decide whether to approve membership

24.1 The directors must consider an application for membership within a reasonable time after the secretary receives the application.

24.2 In considering an application for membership, the directors may ask the applicant to give more evidence of eligibility for membership.

24.3 An application for membership must not be approved unless the directors, in their sole discretion, consider the applicant to be suitable to be a member.

24.4 The directors may, in their sole and absolute discretion, decide on the relevant matters to take into consideration in order to determine that an applicant is suitable to be a member in accordance with clause 24.3.

24.5 If the directors approve an application, the secretary must as soon as possible:

- (a) write to the applicant to tell them that their application was approved, and the date that their membership started (see clause 26);
- (b) if applicable, request payment of the applicant's entrance fee and first annual fee in accordance with clause 25; and
- (c) on receipt of the amounts referred to in clause 24.5(b), enter the new member on the register of members.

24.6 If the directors reject an application, the secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons.

24.7 For the avoidance of doubt, the directors may approve an application even if the application does not comply with clause 23.2.

25 Membership fees

25.1 The directors may determine from time to time:

- (a) the entrance fee (if any) payable by an applicant for membership;
- (b) the amount of the annual subscription fee (if any) payable by each member; and
- (c) the payment method and due date for payment of each amount payable by a member.

- 25.2 Each member must pay to the Company the amounts determined under this clause in accordance with clause 25.1(c) above.
- 25.3 The annual subscription fee may be different for different classes or categories of membership (if applicable).
- 25.4 The directors may in their sole and absolute discretion:
- (a) determine that no annual subscription fee is payable by any member, all members or any class or category of members (in whole or in part) for any given year; and
 - (b) extend the time for payment of annual subscription fees by any member, all members or any class or category of members (in whole or in part) for any given year.
- 25.5 No part of any fee will be refunded to a member who ceases to be a member in accordance with clause 27.
- 25.6 If a member does not pay an entrance fee or annual subscription fee within 30 days after it becomes due, the directors:
- (a) may give the member notice of the fact; and
 - (b) if the entrance fee or annual subscription fee remains unpaid 21 days from the date of such notice, may declare that member's membership forfeited.

26 When a person becomes a member

- 26.1 Other than Initial Members, an applicant will become a member when:
- (a) if required under clause 25, the applicant's entrance fee and first annual subscription fee are paid; and
 - (b) the applicant's name is entered on the register of members,
- whichever is later.
- 26.2 If the entrance fee and first annual subscription fee of an applicant for membership are required to be paid under clause 25 and are not paid within 30 days after the date the applicant is notified of acceptance of their application for membership, the directors may cancel their acceptance of the applicant's membership application.

27 When a person stops being a member

A person immediately stops being a member if they:

- (a) die;
- (b) forfeit their membership in accordance with clause 25.6(b);
- (c) are wound up or otherwise dissolved or deregistered (in the case of an incorporated member);
- (d) fail a police or child protection check;
- (e) become bankrupt;
- (f) become mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health;

- (g) resign, by writing to the secretary;
- (h) are expelled under clause 31; or
- (i) have not responded within three months to a written request from the secretary that they confirm in writing that they want to remain a member.

28 Powers of attorney

- 28.1 If a member executed or proposed to execute any document or do any act by or through an attorney which affects the Company or the member's membership of the Company, that member must deliver the instrument appointing the attorney to the Company for notation.
- 28.2 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.
- 28.3 The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

29 Representatives of members that are incorporated bodies

- 29.1 A member that is an incorporated body (including a corporation, association or other organisation) may by written notice to the secretary:
 - (a) appoint a natural person to act as its Representative in all matters connected with the Company as permitted by the Corporations Act; and
 - (b) remove a Representative.
- 29.2 A Representative is entitled to:
 - (a) exercise at a General Meeting all the powers which the corporation, association or other organisation that appointed him or her could exercise if it were a natural person;
 - (b) stand for appointment as an office bearer or director of the Company; and
 - (c) be counted towards a quorum on the basis that the member corporation, association or other organisation is to be considered personally present at a general meeting by its Representative.
- 29.3 A certificate executed in accordance with section 127 of the Corporations Act is rebuttable evidence of the appointment or of the removal of the appointment (as appropriate) of the Representative.
- 29.4 The chairperson of a General Meeting may allow a representative to vote on the condition that he or she subsequently establishes his or her status as a representative within a period prescribed by and to the satisfaction of the chairperson of the General Meeting.
- 29.5 The appointment of a representative may set out restrictions on the Representative's power.

Dispute resolution and disciplinary procedures

30 Dispute resolution

- 30.1 The dispute resolution procedure in this clause applies to disputes under this constitution between a member or director and:
- (a) one or more members;
 - (b) one or more directors; or
 - (c) the Company.
- 30.2 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 31 until the disciplinary procedure is completed.
- 30.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 30.4 If those involved in the dispute do not resolve it under clause 30.3, they must within 10 days:
- (a) tell the directors about the dispute in writing;
 - (b) agree or request that a mediator be appointed; and
 - (c) attempt in good faith to settle the dispute by mediation.
- 30.5 The mediator must be chosen:
- (a) by agreement of those involved; or
 - (b) by the following, where those involved do not agree:
 - (i) for disputes between members, the directors; or
 - (ii) for all other disputes, either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the Company has its registered office.
- 30.6 A mediator chosen by the directors under clause 30.5(b)(i):
- (a) may be a member or former member of the Company;
 - (b) must not have a personal interest in the dispute; and
 - (c) must not be biased towards or against anyone involved in the dispute.
- 30.7 When conducting the mediation, the mediator must:
- (a) allow those involved a reasonable chance to be heard;
 - (b) allow those involved a reasonable chance to review any written statements;
 - (c) ensure that those involved are given natural justice; and
 - (d) not make a decision on the dispute.

31 Disciplining members

- 31.1 In accordance with this clause, the directors may resolve to warn, suspend or expel a member from the Company if the directors consider that:
- (a) the member has breached this constitution; or
 - (b) the member's behaviour is causing, has caused, or is likely to cause harm to the Company.
- 31.2 At least 14 days before the directors' meeting at which a resolution under clause 31.1 will be considered, the secretary must notify the member in writing:
- (a) that the directors are considering a resolution to warn, suspend or expel the member;
 - (b) that this resolution will be considered at a directors' meeting and the date of that meeting;
 - (c) what the member is said to have done or not done;
 - (d) the nature of the resolution that has been proposed; and
 - (e) that the member may provide an explanation to the directors, and details of how to do so.
- 31.3 Before the directors pass any resolution under clause 31.1, the member must be given a chance to explain or defend themselves by:
- (a) sending the directors a written explanation before that directors' meeting; and/or
 - (b) speaking at the meeting.
- 31.4 After considering any explanation under clause 31.3, the directors may:
- (a) take no further action;
 - (b) warn the member;
 - (c) suspend the member's rights as a member for a period of no more than 12 months;
 - (d) expel the member;
 - (e) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause); or
 - (f) require the matter to be determined at a General Meeting.
- 31.5 The directors cannot fine a member.
- 31.6 The secretary must give written notice to the member of the decision under clause 31.4 as soon as possible.
- 31.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 31.8 There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

General Meetings of members

32 General meetings called by directors

- 32.1 The directors may call a General Meeting.
- 32.2 If members with at least 5% of the votes that may be cast at a General Meeting, or 10 members (whichever number is lower) make a written request to the Company for a General Meeting to be held, the directors must:
- (a) within 21 days of the members' request, give all members notice of a General Meeting; and
 - (b) hold the General Meeting within two months of the members' request.
- 32.3 The members who make the request for a General Meeting must:
- (a) state in the request any resolution to be proposed at the meeting;
 - (b) sign the request; and
 - (c) give the request to the Company.
- 32.4 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.
- 32.5 Any General Meeting called in accordance with clause 32.2 may be cancelled or postponed by:
- (a) members with at least 5% of the votes that may be cast at a General Meeting; or
 - (b) 10 members,
- whichever is a lesser number.
- 32.6 The percentage of votes that members have (in clauses 32.2 and 32.5) are to be calculated as at midnight before the members request the meeting.

33 General meetings called by members

- 33.1 If the directors do not call the meeting within 21 days of being requested under clause 32.2, 50% or more of the members who made the request may call and arrange to hold a General Meeting.
- 33.2 To call and hold a meeting under clause 33.1 the members must:
- (a) as far as possible, follow the procedures for General Meetings set out in this constitution;
 - (b) call the meeting using the list of members on the Company's member register, which the Company must provide to the members making the request at no cost; and
 - (c) hold the General Meeting within three months after the request was given to the Company.
- 33.3 The Company must pay the members who request the General Meeting any reasonable expenses they incur because the directors did not call and hold the meeting.

34 Annual General Meeting

- 34.1 The Annual General Meeting must be held:
- (a) within 18 months after registration of the Company; and
 - (b) after the first Annual General Meeting, at least once in every calendar year.
- 34.2 Even if these items are not set out in the notice of meeting, the business of an Annual General Meeting may include:
- (a) a review of the Company's activities;
 - (b) a review of the Company's finances;
 - (c) any auditor's report;
 - (d) the election of directors; and
 - (e) the appointment and payment of auditors, if any.
- 34.3 Before or at the Annual General Meeting, the directors must give information to the members on the Company's activities and finances during the period since the last Annual General Meeting.
- 34.4 The chairperson of the Annual General Meeting must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

35 Notice of General Meetings

- 35.1 Notice of a General Meeting must be given to:
- (a) each member entitled to vote at the meeting;
 - (b) each director; and
 - (c) the auditor (if any).
- 35.2 No other person is entitled to receive notice of a General Meeting.
- 35.3 Notice of a General Meeting must be provided in writing at least 21 days before the meeting.
- 35.4 Subject to clause 35.5, notice of a meeting may be provided less than 21 days before the meeting if:
- (a) for an Annual General Meeting, all the members entitled to attend and vote at the Annual General Meeting agree beforehand; or
 - (b) for any other General Meeting, members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 35.5 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a director;
 - (b) appoint a director in order to replace a director who was removed; or
 - (c) remove an auditor.

- 35.6 Notice of a General Meeting must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in one or more places, or held using Virtual Meeting Technology only, the technology that will be used to facilitate this);
 - (b) the general nature of the meeting's business;
 - (c) if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution; and
 - (d) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
 - (i) the proxy does not need to be a member of the Company;
 - (ii) the proxy form must be delivered to the Company at its registered address or an alternative address (including an electronic address), which must be specified in the statement; and
 - (iii) the proxy form must be delivered to the Company at least 48 hours before the meeting.
- 35.7 If a General Meeting is adjourned for one month or more, the members must be given new notice of the resumed meeting.

36 Quorum at General Meetings

- 36.1 The quorum for General Meetings is 3 members.
- 36.2 For a General Meeting to be held, the quorum must be present (in person, by proxy, by attorney or by representative or via Virtual Meeting Technology) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a Representative, proxy or attorney of more than one member).
- 36.3 Subject to clause 36.4, no business may be conducted at a General Meeting if a quorum is not present.
- 36.4 If there is no quorum present within 30 minutes after the starting time stated in the notice of General Meeting:
- (a) if the General Meeting was called on requisition of members, it is automatically dissolved; or
 - (b) in any other case the General Meeting is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
 - (i) if the date is not specified – the same day in the next week;
 - (ii) if the time is not specified – the same time; and
 - (iii) if the place is not specified – the same place.

37 Auditor's right to attend meetings

- 37.1 The auditor (if any) is entitled to attend any General Meeting and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 37.2 The Company must give the auditor (if any) any communications relating to the General Meeting that a member of the Company is entitled to receive.

38 Using technology to hold meetings

- 38.1 The Company may hold a General Meeting:
- (a) at one or more physical venues; or
 - (b) at one or more physical venues and using Virtual Meeting Technology; or
 - (c) using Virtual Meeting Technology only.
- 38.2 A General Meeting held in accordance with a method set out in clause 38.1 must comply with any requirements set out in the Corporations Act and give the members entitled to attend the meeting, as a whole, a reasonable opportunity to participate in the meeting.
- 38.3 A member who attends the meeting (whether at a physical venue or by using Virtual Meeting Technology) is taken for all purposes to be present in person at the meeting while so attending.

39 Chairperson for General Meetings

- 39.1 The Elected Chairperson or, in the Elected Chairperson's absence, the Deputy Chairperson (if any) will chair General Meetings, subject to clause 39.2.
- 39.2 The Members Present and entitled to vote at a General Meeting may choose another director or member to be the chairperson for that meeting if:
- (a) the Elected Chairperson and Deputy Chairperson (if any) are not present within 30 minutes after the starting time set for the meeting; or
 - (b) the Elected Chairperson or Deputy Chairperson are present, but both say they do not wish to act as chairperson of the meeting.

40 Role of the chairperson

- 40.1 The chairperson is responsible for the conduct of the General Meeting, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 40.2 The chairperson will have a casting vote in addition to the chairperson's vote as a member, proxy, attorney or Representative.

41 Adjournment of meetings

- 41.1 The chairperson of a General Meeting at which a quorum is present:
- (a) has discretion to adjourn a General Meeting; and
 - (b) must adjourn the General Meeting if a majority of Members Present direct the chairperson to adjourn it.

- 41.2 An adjourned General Meeting may take place at a different venue to the initial General Meeting.
- 41.3 Only unfinished business may be dealt with at a meeting resumed after an adjournment.
- 41.4 Fresh notice of the adjourned General Meeting is only required if a General Meeting has been adjourned for more than 21 days.

Members' resolutions and statements

42 Members' resolutions and statements

- 42.1 Members with at least 5% of the votes that may be cast on a resolution may give:
 - (a) written notice to the Company of a resolution they propose to move at a General Meeting (**Members' Resolution**); and/or
 - (b) a written request to the Company that the Company give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a General Meeting (**Members' Statement**).
- 42.2 A notice of a Members' Resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- 42.3 A request to distribute a Members' Statement must set out the statement to be distributed and be signed by the members making the request.
- 42.4 Separate copies of a document setting out a notice or a request may be signed by members if the wording is the same in each copy.
- 42.5 The percentage of votes that members have (as described in clause 42.1) is to be calculated as at midnight before the request or notice is given to the Company.
- 42.6 If the Company has been given notice of a Members' Resolution under clause 42.1(a), the resolution must be considered at the next General Meeting held no more than two months after the notice is given.
- 42.7 This clause does not limit any other right that a member has to propose a resolution at a General Meeting.

43 Company to distribute Members' Resolution or Members' Statement

- 43.1 If the Company has been given a notice or request under clause 42:
 - (a) in time to send the notice of Members' Resolution or a copy of the Members' Statement to members with a notice of General Meeting, it must do so at the Company's cost; or
 - (b) too late to send the notice of Members' Resolution or a copy of the Members' Statement to members with a notice of General Meeting, then the members that proposed the Members' Resolution or made the Members' Statement must pay the expenses reasonably incurred by the Company in giving members notice of the Members' Resolution or a copy of the Members' Statement. However, the members may subsequently pass a resolution at a General Meeting for the Company to pay these expenses.

- 43.2 The Company does not need to send the notice of Members' Resolution or a copy of the Members' Statement to members if:
- (a) it is more than 1,000 words long;
 - (b) the directors consider it may be defamatory;
 - (c) clause 43.1(b) applies, and the members that proposed the Members' Resolution or made the Members' Statement have not paid the Company enough money to cover the expenses reasonably incurred by the Company in giving members notice of the Members' Resolution or a copy of the Members' Statement; or
 - (d) in the case of a Members' Resolution, the resolution does not relate to a matter that may be properly considered at a General Meeting or is otherwise not a valid resolution able to be put to the members.

44 Circular Resolutions of members

- 44.1 Subject to clause 44.3, the directors may put a resolution to the members to pass a Circular Resolution.
- 44.2 The directors must notify the auditor (if any) as soon as possible that a Circular Resolution has or will be put to members, and set out the wording of the resolution.
- 44.3 Circular Resolutions cannot be used:
- (a) for a resolution to remove an auditor, appoint a director or remove a director;
 - (b) for passing a Special Resolution; or
 - (c) where the Corporations Act or this constitution requires a meeting to be held.
- 44.4 A Circular Resolution is passed if all the members entitled to vote on the resolution sign or agree to the Circular Resolution, in the manner set out in clause 44.5 or clause 44.6.
- 44.5 Members may sign:
- (a) a single document setting out the Circular Resolution and containing a statement that they agree to the resolution; or
 - (b) separate copies of that document, as long as the wording is the same in each copy.
- 44.6 The Company may send a Circular Resolution by email to members and members may agree by sending a reply email to that effect.

Voting at General Meetings

45 How many votes a member has

Each member entitled to vote has one vote.

46 Challenge to member's right to vote

- 46.1 A member or the chairperson may only challenge a person's right to vote at a General Meeting at that meeting.

46.2 If a challenge is made under clause 46.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

47 How voting is carried out

47.1 Except for Special Resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

47.2 Voting must be conducted and decided by:

- (a) a show of hands;
- (b) a vote in writing; or
- (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.

47.3 Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.

47.4 Unless a vote in writing is demanded:

- (a) a declaration by the chairperson that a resolution has been carried, or lost; and
 - (b) an entry to that effect in the minutes of the meeting,
- are conclusive evidence of the result of the vote.

47.5 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

48 When and how a vote in writing must be held

48.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:

- (a) at least five Members present;
- (b) Members Present with at least 5% of the votes that may be passed on the resolution on the vote in writing (calculated as at the midnight before the vote in writing is demanded); or
- (c) the chairperson.

48.2 A vote in writing must be taken when and how the chairperson directs, unless clause 48.3 applies.

48.3 A vote in writing must be held immediately if it is:

- (a) for the election of a chairperson under clause 39.2; or
- (b) to decide whether to adjourn the meeting.

48.4 A demand for a vote in writing may be withdrawn.

49 Offensive material

49.1 A person (including a member and any proxy, attorney or Representative of a member) may be refused admission to, or required to leave and not return to, a meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
 - (i) electronic or recording device;
 - (ii) placard or banner; or
 - (iii) other article,

which the chairperson considers to be dangerous, offensive or liable to cause disruption.

50 Appointment of proxy

- 50.1 A member may appoint a proxy to attend and vote at a General Meeting on their behalf.
- 50.2 A proxy does not need to be a member.
- 50.3 A proxy appointed to attend and vote for a member has the same rights as the member to:
 - (a) speak at the meeting;
 - (b) vote (but only to the extent allowed by the appointment); and
 - (c) join in to demand a vote in writing under clause 48.1.
- 50.4 An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
 - (a) the member's name and address;
 - (b) the Company's name;
 - (c) the proxy's name or the name of the office held by the proxy; and
 - (d) the meeting(s) at which the appointment may be used.
- 50.5 For the purposes of clause 50.4, an appointment received at an email address will be taken to be signed by the member if:
 - (a) a personal identification code allocated by the Company to the member has been input into the appointment; or
 - (b) the appointment has been verified in another manner approved by the directors.
- 50.6 A proxy appointment may be standing.
- 50.7 Proxy forms must be received by the Company at the Company's registered address or an alternative address (as stated in the notice of General Meeting in accordance with clause 35.6(d)(ii)) at least 48 hours before a meeting.
- 50.8 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- 50.9 Unless the Company receives written notice before the start or resumption of a General Meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:

- (a) dies;
 - (b) is mentally incapacitated;
 - (c) revokes the proxy's appointment; or
 - (d) revokes the authority of a representative or agent who appointed the proxy.
- 50.10 A proxy appointment may specify the way the proxy must vote on a particular resolution.

51 Voting by proxy

- 51.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- 51.2 When a vote in writing is held, a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way they must vote;
 - (b) if the way they must vote is specified on the proxy form, must vote that way; and
 - (c) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

Directors

52 Number of directors

The Company must have at least three and no more than eight directors.

53 Election and appointment of directors

- 53.1 The initial directors are the people who are directors at the time the Company last adopted this constitution.
- 53.2 Apart from the initial directors and directors appointed under clause 53.5, the members are responsible for electing a director by a resolution passed in a General Meeting.
- 53.3 Each director must be appointed by a separate resolution, unless:
- (a) the Members Present have first passed a resolution that the appointments may be voted on together; and
 - (b) no votes were cast against that resolution.
- 53.4 A person is eligible for election as a director of the Company if they:
- (a) a member of the Company, or a Representative of a member of the Company (appointed under clause 28);
 - (b) are nominated by two members or Representatives of members entitled to vote (unless the person was previously elected as a director at a General Meeting and has been a director since that meeting);
 - (c) are not the Company's auditor nor any partner, director or employee of the Company's auditor;

- (d) give the Company their signed consent to act as a director of the Company;
and
 - (e) are not ineligible to be a director under the Corporations Act or the ACNC Act.
- 53.5 The directors may appoint a person as a director to fill a casual vacancy or as an additional director if that person:
- (a) is a member of the Company, or a Representative of a member of the Company (appointed under clause 28);
 - (b) gives the Company their signed consent to act as a director of the Company;
 - (c) is not the Company's auditor nor any partner, director or employee of the Company's auditor; and
 - (d) is not ineligible to be a director under the Corporations Act or the ACNC Act.
- 53.6 If the number of directors is reduced to fewer than three or is less than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of directors to three (or higher if required for a quorum) or calling a General Meeting, but for no other purpose.
- 53.7 All acts done at any meeting of directors or by any person acting as a director will be valid as if every such person has been duly appointed and every director was qualified and entitled to vote, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a director or that any director was disqualified or not entitled to vote.

54 Election of chairperson

- 54.1 The directors must elect a director as the Company's Elected Chairperson and may determine the period for which the Elected Chairperson will hold office.
- 54.2 The directors may, at their discretion, elect another director to act as Deputy Chairperson in the Elected Chairperson's absence.

55 Term of office

- 55.1 At each Annual General Meeting:
- (a) any director appointed by the directors to fill a casual vacancy or as an additional director must retire; and
 - (b) at least one-third of the remaining directors must retire.
- 55.2 The directors who must retire at each Annual General Meeting under clause 55.1(b) will be the directors who have been longest in office since last being elected. Where directors were elected on the same day, the director(s) to retire will be decided by lot unless they agree otherwise.
- 55.3 Other than a director appointed under clause 53.5, a director's term of office starts at the end of the Annual General Meeting at which they are elected and ends at the end of the Annual General Meeting at which they retire.
- 55.4 Each director must retire at least once every three years.
- 55.5 A director who retires under clause 55.1 may nominate for election or re-election, subject to clause 55.6.

55.6 A director who has held office for a continuous period of six years or more may only be re-appointed or re-elected by a Special Resolution

56 When a director stops being a director

A director stops being a director if they:

- (a) give written notice of resignation as a director to the Company;
- (b) die;
- (c) are removed as a director by a resolution of the members;
- (d) stop being a member of the Company;
- (e) are the Representative of a member that is an incorporated body and that ceases to be a member of the Company, or the member notifies the Company stating the person is to no longer act as their Representative;
- (f) are absent for two consecutive directors' meetings without approval from the directors, and the Elected Chairperson determines that the absence should result in the director ceasing to be a director;
- (g) are, in the opinion of the directors, incapable of performing their duties;
- (h) are liable to have a person appointed to administer their affairs under a law relating to the administration of estates of person who through mental or physical incapacity are incapable of managing their affairs;
- (i) are directly or indirectly interested in any contract or proposed contract with the Company and fail to declare the nature of the interest in a way that causes the Company to breach its obligations under the ACNC Act; or
- (j) become ineligible to be a director of the Company under the Corporations Act or the ACNC Act.

57 Alternate directors

57.1 A director may, with the approval of the other directors, appoint any person as his or her alternate (**Alternate Director**) for a period determined by that director.

57.2 An Alternate Director is entitled to notice of directors' meetings and, if the appointor is not present at a meeting, is entitled to attend, be counted in a quorum and vote as a director.

57.3 An Alternate Director is an officer of the Company and is not an agent of the appointor.

57.4 The provisions of this constitution which apply to directors also apply to Alternate Directors.

57.5 The appointment of an Alternate Director:

- (a) may be revoked at any time by the appointor or by the other directors;
- (b) ends automatically when the appointor ceases to be a director.

57.6 Any appointment or revocation under this clause 57 must be effected by written notice delivered to the Secretary.

Powers of directors

58 Powers of directors

- 58.1 The directors are responsible for managing and directing the activities of the Company to achieve the purpose(s) set out in clause 6.
- 58.2 The directors may use all the powers of the Company except for powers that, under the Corporations Act or this constitution, may only be used by members.
- 58.3 Without limiting the generality of clause 58.2, the directors may exercise all the powers of the Company:
- (a) to borrow money;
 - (b) to charge any property or business of the Company;
 - (c) to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person;
 - (d) to guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person;
 - (e) without limiting its power to give other indemnities, to give indemnities permitted by section 199A of the Corporations Act; and
 - (f) without limiting its power to enter into other contracts (including other contracts of insurance), to enter into a contract of insurance permitted by section 199B of the Corporations Act.
- 58.4 The directors must decide on the responsible financial management of the Company including:
- (a) any suitable written delegations of power under clause 59; and
 - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 58.5 The directors cannot remove a director or auditor. Directors and auditors may only be removed by a Members' Resolution at a General Meeting.

59 Delegation of directors' powers

- 59.1 The directors may delegate any of their powers and functions to a committee, a director, an employee of the Company (such as a chief executive officer) or any other person, as they consider appropriate.
- 59.2 The directors may at any time revoke any delegation of power to a committee.
- 59.3 At least one member of each committee must be a director.
- 59.4 The delegation must be recorded in the Company's minute book.
- 59.5 A committee 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.
- 59.6 A committee may be authorised by the directors to sub-delegate all or any of the powers for the time being vested in it.

59.7 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 director. The provisions of this constitution apply to each member of a committee as if each member was a director.

60 Payments to directors

60.1 The Company must not pay fees to a director for acting as a director.

60.2 The Company may:

- (a) pay a director for work they do for the Company, other than as a director, if the amount is no more than a reasonable fee for the work done; or
- (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the Company.

60.3 Any payment made under clause 60.2 must be approved by the directors.

60.4 The Company may pay premiums for insurance indemnifying directors, as allowed for by law (including the Corporations Act) and this constitution.

61 Payments to the Elected Chairperson

61.1 Notwithstanding clause 60, the Company may pay a fee to the Elected Chairperson for performing the duties of a chairperson.

61.2 Any fee paid to the Elected Chairperson in accordance with this clause is to be determined by the directors (excluding the Elected Chairperson). In determining whether to pay a fee and the amount, the directors must consider:

- (a) whether paying the fee is in the best interests of the Company;
- (b) whether the amount is reasonable in the circumstances of the Company and in respect of the Elected Chairperson's duties.

62 Execution of documents

The Company may execute a document without using a common seal if the document is signed by:

- (a) two directors of the Company; or
- (b) a director and the secretary.

Duties of directors

63 Duties of directors

The directors must comply with their duties as directors under legislation and common law, and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

- (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 charitable purpose(s) of the Company set out in clause 6;

- (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 the manner set out in clause 64;
- (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.

64 Conflicts of interest

- 64.1 A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a Circular Resolution):
- (a) to the other directors; or
 - (b) if all of the directors have the same conflict of interest, to the members at the next General Meeting, or at an earlier time if reasonable to do so.
- 64.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- 64.3 Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a Circular Resolution) must not, except as provided under clause 64.4:
- (a) be present at the meeting while the matter is being discussed; or
 - (b) vote on the matter.
- 64.4 A director may still be present and vote if:
- (a) their interest arises because they are a member of the Company, and the other members have the same interest;
 - (b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the Company (see clause 84);
 - (c) their interest relates to a payment by the Company under clause 83, or any contract relating to an indemnity that is allowed under the Corporations Act;
 - (d) the Australian Securities and Investments Commission makes an order allowing the director to vote on the matter; or
 - (e) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the Company; and
 - (ii) says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

65 When the directors meet

The directors may decide how often, where and when they meet.

66 Calling directors' meetings

66.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors, and the Secretary must call a directors' meeting on the request of a director.

66.2 A director or the Secretary may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.

66.3 It is not necessary to give notice of a meeting of the directors to an Australian resident whom the Secretary or a director, when giving notice to the other directors, reasonably believes to be temporarily outside Australia.

67 Chairperson for directors' meetings

67.1 The Elected Chairperson will chair directors' meetings, subject to clause 67.2.

67.2 The directors at a directors' meeting may choose another director to be the chairperson for that meeting if the Elected Chairperson is:

- (a) not present within 30 minutes after the starting time set for the meeting; or
- (b) present but does not want to act as chairperson of the meeting.

68 Quorum at directors' meetings

68.1 Unless the directors determine otherwise, the quorum for a directors' meeting is a majority (more than 50%) of directors.

68.2 A quorum must be present for the whole directors' meeting.

68.3 Where a quorum cannot be established for the consideration of a particular matter at a directors' meeting, the chairperson of that meeting may call a General Meeting to deal with the matter.

69 Using technology to hold directors' meetings

69.1 The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.

69.2 The directors' agreement may be a standing one.

69.3 A director may only withdraw their consent within a reasonable period before a meeting.

70 Passing directors' resolutions

70.1 A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

70.2 In addition to any vote the chairperson of the meeting has as a director, the chairperson also has a casting vote if an equal number of votes is cast for and against a resolution. If the chairperson is not entitled to vote on the matter and an

equal number of votes is cast for and against the resolution, the resolution will not pass.

- 70.3 An Alternate Director has one vote for each director for whom they are an alternate, in addition to any vote they hold as a director in their own right.

71 Circular Resolutions of directors

- 71.1 The directors may pass a Circular Resolution.
- 71.2 A Circular Resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 71.3 or clause 71.4.
- 71.3 Each director may sign:
- (a) a single document setting out the resolution and containing a statement that they agree to the resolution; or
 - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 71.4 The Company may send a Circular Resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect.
- 71.5 A Circular Resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 71.3 or clause 71.4.

Secretary

72 Appointment and role of secretary

- 72.1 The Company must have at least one secretary, who may also be a director.
- 72.2 A secretary must be appointed by the directors (after giving the Company their signed consent to act as secretary of the Company) and may be removed by the directors.
- 72.3 The directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.
- 72.4 The role of the secretary includes (but is not limited to):
- (a) maintaining a register of the Company's members; and
 - (b) maintaining the minutes and other records of General Meetings (including notices of meetings), directors' meetings and Circular Resolutions.

Local management

73 Local management

- 73.1 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.
- 73.2 Without limiting clause 73.1, the directors may:
- (a) establish local boards or agencies for managing any of the affairs of the Company in a specified place and appoint any persons to be members of those local boards or agencies; and

- (b) delegate to any person appointed under clause 73.2(a) any of the powers, authorities and discretions which may be exercised by the directors under this constitution,

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

73.3 The directors may at any time revoke or vary any delegation made under this clause.

74 Appointment of attorneys and agents

74.1 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 or the Corporations Act);
- (c) for the period; and
- (d) subject to any conditions, determined by the directors.

74.2 An appointment by the directors of an attorney or agent of the Company may be made in favour of any person, including:

- (a) any member of any local board 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.

74.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the directors thinks fit.

74.4 The directors may appoint attorneys or agents to act for and on behalf of the Company in any manner they think fit, including by email transmission.

74.5 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 the attorney or agent.

Minutes and records

75 Minutes and records

75.1 The Company must, within one month, make and keep the following records:

- (a) minutes of proceedings and resolutions of General Meetings;
- (b) minutes of Circular Resolutions of members;
- (c) a copy of a notice of each General Meeting; and
- (d) a copy of a Members' Statement distributed to members under clause 43.

- 75.2 The Company must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees); and
 - (b) Circular Resolutions of directors.
- 75.3 Without limiting this clause 75, the directors must record in the minute book:
- (a) all appointments of directors or Secretaries;
 - (b) the names of the directors and Alternate Directors present at all meetings of the directors and the Company;
 - (c) the method by which the meeting was held;
 - (d) proxy votes exercisable and exercised in respect of each resolution at a General Meeting;
 - (e) each notice and standing notice given by a director of a material personal interest in a matter that related to the affairs of the Company; and
 - (f) any other matters required by the Corporations Act or ACNC Act to be recorded in the minute book.
- 75.4 To allow members to inspect the Company's records:
- (a) the Company must give a member access to the records set out in clause 75.1; and
 - (b) the directors may authorise a member to inspect other records of the Company, including records referred to in clause 75.2 and clause 76.1.
- 75.5 The directors must ensure that minutes of a General Meeting or a directors' meeting are signed within a reasonable time after the meeting by:
- (a) the chairperson of the meeting; or
 - (b) the chairperson of the next meeting.
- 75.6 The directors must ensure that a record of a Circular Resolution is signed by a director within a reasonable time after the resolution is passed.
- ## 76 Financial and related records
- 76.1 The Company must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance; and
 - (b) enable true and fair financial statements to be prepared and to be audited.
- 76.2 The Company must retain its financial records for at least seven years after completion of the transaction to which the record relates.
- 76.3 The Company must also keep written records that correctly record its operations.

By-laws

77 By-laws

- 77.1 The directors may pass a resolution to make by-laws to give effect to this constitution.
- 77.2 Members and directors must comply with by-laws as if they were part of this constitution.

Notice

78 What is notice

- 78.1 Anything written to or from the Company under any clause in this constitution is written notice and is subject to clauses 79 to 81, unless specified otherwise.
- 78.2 Clauses 79 to 81 do not apply to a proxy form under clause 50.7.

79 Notice to the Company

Written notice or any communication under this constitution may be given to the Company, the directors or the secretary by:

- (a) delivering it to the Company's registered office;
- (b) posting it to the Company's registered office or to an alternative address notified by the Company to the members as the Company's alternative address; or
- (c) sending it to an electronic address notified by the Company to the members as the Company's electronic address.

80 Notice to members

- 80.1 Written notice or any communication under this constitution may be given to a member:
- (a) in person;
 - (b) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices;
 - (c) sending it to an electronic address nominated by the member as an alternative address for service of notices (if any); or
 - (d) if agreed to by the member, by notifying the member at an electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).
- 80.2 If the Company does not have an address for the member, the Company is not required to give notice in person.

81 When notice is taken to be given

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;

- (b) sent by post, is taken to be given on the fourth day after it is posted with the correct payment of postage costs; and
- (c) given under clause 80.1(d) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

82 Company's financial year

The Company's financial year is from 1 July to 30 June, unless the directors pass a resolution to change the financial year.

Indemnity, insurance and access

83 Indemnity

- 83.1 The Company indemnifies each officer of the Company out of the assets of the Company, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Company.
- 83.2 In this clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office.
- 83.3 In this clause, 'to the relevant extent' means:
 - (a) to the extent that the Company is not precluded by law (including the Corporations Act) from doing so; and
 - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 83.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Company.

84 Insurance

To the extent permitted by law (including the Corporations Act), and if the directors consider it appropriate, the Company may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the Company against any liability incurred by the person as an officer of the Company.

85 Directors' access to documents

- 85.1 A director has a right of access to the financial records of the Company at all reasonable times.
- 85.2 If the directors agree, the Company must give a director or former director access to:
 - (a) certain documents, including documents provided for or available to the directors; and
 - (b) any other documents referred to in those documents.

Winding up

86 Surplus Assets not to be distributed to members

If the Company is wound up, any Surplus Assets must not be distributed to a member or a former member of the Company, unless that member or former member is a charity described in clause 87.1.

87 Distribution of Surplus Assets

87.1 Subject to the Corporations Act, any other applicable legislation and any court order, any Surplus Assets that remain after the Company is wound up must be distributed to one or more charities:

- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6;
- (b) which also prohibit the distribution of any Surplus Assets to its members to at least the same extent as the Company; and
- (c) that is or are deductible gift recipients within the meaning of the *Income Tax Assessment Act 1997* (Cth) or other applicable law.

87.2 If the Company is not a deductible gift recipient when it is wound up, the Company does not need to comply with clause 87.1(c).

87.3 The decision as to the charity or charities to be given the Surplus Assets must be made by a Special Resolution of members at or before the time of winding up. If the members do not make this decision, the Company may apply to the Supreme Court to make this decision.

Revocation of deductible gift recipient endorsement

88 Revocation of the Company's deductible gift recipient endorsement

88.1 If the Company's endorsement of the Company as a deductible gift recipient is revoked (whether or not the Company is to be wound up or dissolved) any surplus of the following assets must be transferred to one or more charities that meet the requirements of clauses 87.1(a) to 87.1(c) as decided by the directors:

- (a) gifts of money or property for the principal purposes of the Company;
- (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the Company; and
- (c) money received by the Company because of such gifts and contributions which are unspent.

Definitions and interpretation

89 Definitions

In this constitution:

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

Alternate Director means a person appointed as a director's alternate in accordance with clause 57.1.

Annual General Meeting means the General Meeting held annually pursuant to clause 34.1.

Circular Resolution means a resolution of members or directors passed without a meeting being held in the manner outlined in clause 44 (for members' resolutions) or clause 71 (for directors' resolutions).

Company means the company referred to in clause 1.

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

Deputy Chairperson means a person elected by the directors to act as chairperson in the Elected Chairperson's absence under clause 54.2.

Elected Chairperson means a person elected by the directors to be the Company's chairperson under clause 54.1.

General Meeting means a meeting of members.

Initial Member means a person who is a member of the Company at the time this constitution is adopted.

Members Present means, in connection with a General Meeting, each member present in person, by representative, by proxy or via Virtual Meeting Technology at the venue or venues for the meeting.

Members' Resolution has the meaning given to that term in clause 42.1(a).

Members' Statement has the meaning given to that term in clause 42.1(b).

Representative means a person appointed as such under clause 29.1.

Relief Fund means the overseas aid relief fund endorsed by the Australian Tax Office in accordance with the *Income Tax Assessment Act 1997* (Cth) and maintained and operated in accordance with clauses 10 to 18.

Special Resolution means a resolution:

- (a) of which notice has been given under clause 35.6(c); and
- (b) that has been passed by at least 75% of the votes cast by Members Present and entitled to vote on the resolution.

Surplus Assets means any assets of the Company that remain after paying all debts and other liabilities of the Company, including the costs of winding up.

Virtual Meeting Technology means a form of virtual technology that is reasonable and allows members who are entitled to attend and do attend General Meetings, as a whole, to vote and to exercise orally and in writing any rights of those members to ask questions and make comments.

90 Reading this constitution with the Corporations Act

90.1 The replaceable rules set out in the Corporations Act do not apply to the Company.

90.2 While the Company is registered as a charity, the ACNC Act and the Corporations Act override any clauses in this constitution which are inconsistent with those Acts.

- 90.3 If the Company is not registered as a charity, the Corporations Act overrides any clause in this constitution which is inconsistent with the Corporations Act.
- 90.4 A word or expression that is defined in the Corporations Act, or used in that Act and covering the same subject, has the same meaning as in this constitution.

91 Interpretation

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression; and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).