



Constitution

Marrickville Legal Centre

ACN 002 059 485

ABN 53 699 012 017

(A public company limited by guarantee)

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1 Defined terms and interpretation

1.1 *Defined terms*

The Dictionary in Schedule 1:

- (a) defines some of the terms used in this constitution;
- (b) sets out the rules of interpretation which apply to this constitution; and
- (c) clarifies the effect of the Corporations Act on this constitution.

1.2 *Interpretation*

The interpretation clause in Schedule 1 (**Dictionary**) sets out rules of interpretation for this constitution.

2 Nature of company and liability

2.1 *Name of the Company*

The name of the Company is Marrickville Legal Centre.

2.2 *Nature of the Company*

The Company is a public company limited by guarantee.

2.3 *Liability of each member is limited*

Each member guarantees to contribute up to a maximum of **ten** dollars to the assets of the Company if it is wound up while the member is a member, or within one year after they stop being a member, and at the time of winding up the debts and liabilities of the Company exceed its assets. The liability of each member is limited to making such contribution and no more.

3 Objects of the Company

The objects of the Company are to:

- (a) provide not-for-profit legal services to assist alleviate misfortune, distress and suffering;
- (b) involve people and groups affected by poverty, misfortune, distress and suffering in the recognition, understanding and solution of legal and related problems;
- (c) provide and promote community legal education;
- (d) develop and be involved in appropriate networks which help the Company pursue its objects ;
- (e) initiate and participate in action for law reform as well as reform to other policies and practices;

- (f) make the Company's services, publications, operations and governance processes as accessible as possible to all, acknowledging that the Company will not always have the resources to do so; and
- (g) carry out such other functions and purposes which are necessary or incidental to the objects listed above.

4 Legal capacity and powers of the Company

The Company has all of the powers of a natural person and of a body corporate, including those set out in the Corporations Act.

5 Amending the Constitution

- (a) Subject to clause 5(b), the ordinary members may amend this constitution by passing a Special Resolution.
- (b) The ordinary members must not pass a Special Resolution that amends this constitution if passing it causes the Company to no longer be a registered charity.

6 Membership

6.1 *Classes of membership*

- (a) Unless otherwise resolved by the Company in a General Meeting, the membership of the Company will consist of ordinary members and staff members.
- (b) Subject to the Corporations Act and the terms of a particular class of membership, the Company may vary or cancel rights attached to a member of that class, or convert a member from one class to another, by Special Resolution of the Company and either:
 - (i) a Special Resolution passed at a meeting of the members of that class; or
 - (ii) the written consent of members who are entitled to at least 75% of the votes that may be cast in respect of membership of that class.
- (c) The provisions in this constitution concerning meetings of members (with the necessary changes) apply to a meeting held under clause 6.1(b)(i).

6.2 *Ordinary members*

The ordinary members of the Company are the members at the date of incorporation of the Company and those members who:

- (a) have paid the membership fee; and
- (b) have been admitted by the Board to membership of the Company as ordinary members after making an application for ordinary membership and satisfying any eligibility criteria adopted by the Board.

6.3 *Staff members*

The staff members of the Company are those members who:

- (a) are employees of the Company;
- (b) have paid the membership fee; and
- (c) have been admitted by the Board to membership of the Company as staff members after making an application for staff membership and satisfying any eligibility criteria adopted by the Board.

6.4 *Members rights*

- (a) Subject to clause 6.1(b), an ordinary member has:
 - (i) the right to receive notices of and to attend and be heard at any General Meeting of the Company; and
 - (ii) the right to vote at any General Meeting of the Company.
- (b) Subject to clause 6.1(b), a staff member has the right to receive notices of and to attend and be heard at any General Meeting of the Company.

6.5 *Form of application*

- (a) Any person may apply to be a member of the Company. Subject to paragraph 6.5(b), a person's application for membership must be:
 - (i) in the form at Attachment A (for ordinary members) or Attachment B (for staff members) or any other form as determined by the Board from time to time;
 - (ii) signed by the applicant;
 - (iii) signed by a current member of the Company; and
 - (iv) accompanied by such documents or evidence as to eligibility as the Board requires in accordance with clause 6.2.
- (b) The Board may consider an application for membership and accept or reject it even if some or all of the criteria required by paragraph 6.5(a) have:
 - (i) not been met; or
 - (ii) been met in some other way.

6.6 *Membership not transferable*

No membership interest, benefit or right of any member is capable of being sold or transferred in any manner whatsoever and a membership interest shall automatically lapse if there is any such purported sale or transfer or agreement to effect same.

6.7 *Certificates*

- (a) The Company may issue to each member, free of charge, one certificate evidencing that person as a member.

- (b) The Company may issue a replacement certificate to a member if the Company receives and cancels the existing certificate for that person's membership or the Company is satisfied that the existing certificate is lost or destroyed, and the member pays any fee as the directors resolve.

7 Admission to membership

7.1 *Consideration of application by the Board*

If a person makes an application for membership in accordance with clause 6.5 the Board must consider that application for membership as soon as practicable after its receipt and determine, in their discretion, the acceptance or rejection of that application for membership.

7.2 *Acceptance or rejection of membership application*

- (a) If an application for membership is accepted:
 - (i) the Secretary must as soon as possible notify the applicant of admission; and
 - (ii) the name, address, any electronic address, any alternative address (including an electronic address) nominated by the member for the service of notices, and the date the member was entered on to the Company's member register must as soon as possible be entered in the register of members.
- (b) If an application for membership is rejected, the Secretary must notify the applicant as soon as possible that their application has been rejected but does not have to give reasons.
- (c) The directors do not have to give reasons for rejecting or accepting an application for membership.

8 Removal and cessation of membership

8.1 *Resignation of member*

- (a) A member may resign from membership of the Company by leaving written notice to that effect at the registered office addressed to the Secretary.
- (b) Unless the notice provides otherwise, the resignation of a member is deemed to take effect from the date such notice is left at the registered office.

8.2 *Expulsion of member*

- (a) Subject to clause 8.2(b) the directors may resolve to expel a member if:
 - (i) an Expulsion Event occurs in respect of the member; and
 - (ii) the Company gives that member at least 10 Business Days' notice in writing stating the Expulsion Event and that the member is liable to be expelled and informing the member of its right under clause 8.2(b).
- (b) Before the passing of any resolution under clause 8.2(a), a member is entitled to give the directors, either orally or in writing, any explanation or defence of the Expulsion Event the member may think fit.

- (c) Where a resolution is passed under clause 8.2(a), the Company must give that member notice in writing of the expulsion within 10 Business Days of the resolution.
- (d) A member may by notice in writing to the Company within 10 Business Days of receipt of the notice referred to in clause 8.2(c), request that a resolution under clause 8.2(a) be reviewed by the Company at the next General Meeting. If such a request is made, the directors must propose at the next General Meeting of the Company that a resolution be moved to confirm the expulsion of the member concerned.
- (e) A resolution under clause 8.2(a) takes effect:
 - (i) if the member gives a notice under clause 8.2(d), the date (if any) the resolution is confirmed by a General Meeting of the Company; or
 - (ii) if the member does not give a notice under clause 8.2(d), the date of the resolution.
- (f) The directors may reinstate an expelled member on any terms and at any time as the directors resolve.

8.3 *Cessation Events*

A person will cease to be a member of the Company if a Cessation Event occurs in respect of that member. The estate of a deceased member is not released from any liability in respect of that person being a member of the Company.

9 No profits for members

9.1 *Transfer of income or property*

Subject to the operation of clause 9.2, the assets and income of the Company shall be applied solely in furtherance of the objects of the Company and no portion of the income or assets of the Company may be paid or transferred, directly or indirectly to any member, except as bona fide compensation for services rendered or expenses incurred on behalf of the Company.

9.2 *Payments, services and information*

Nothing in clause 9.1 prevents the payment in good faith of:

- (a) remuneration to any officers or employees of the Company for services actually rendered to the Company;
- (b) an amount to any member in return for any services actually rendered to the Company (whether by the member or any corporation or partnership in which the member has an interest or is a member) or for goods supplied in the ordinary and usual course of business;
- (c) reasonable and proper interest on money borrowed from any member; or
- (d) reasonable and proper rent for premises let by any member to the Company.

10 Membership fees

- (a) The directors may require the payment of fees by members in the amounts and at the times as the directors resolve. The directors may make fees payable for one or more

members for different amounts and at different times. The directors may revoke or postpone payment of fees or extend the time for payment of fees.

- (b) The Company must give members at least 10 Business Days' notice of fees payable by members. A notice of fees must be in writing and specify the amount of the fee, and the time and place of payment of the fee. A fee is not invalid if a member does not receive notice of the fee.
- (c) A member must pay to the Company the amount of each fee levied on the member at the time and place specified in the notice of the fee.
- (d) The Company may accept from any member all or any part of the fees payable before that amount is due and payable.

11 General Meetings

11.1 *Convening of General Meetings by directors*

- (a) The directors may call a General Meeting.
- (b) If members with at least 5% of the votes that may be cast at a General Meeting make a written request to the Company for a General Meeting to be held, the directors must:
 - (i) within 21 days of the members' request, give all members notice of a General Meeting; and
 - (ii) hold the General Meeting within two months of the members' request.
- (c) The percentage of votes that members have (in clause 11.1(b)) is to be calculated as at midnight before the members request the meeting.
- (d) The members who make the request for a General Meeting must:
 - (i) state in the request any resolution to be proposed at the meeting;
 - (ii) sign the request; and
 - (iii) give the request to the Company.
- (e) 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.

11.2 *Convening of General Meetings by members*

- (a) If the directors do not call the meeting within 21 days of being requested under clause 11.1(b), 50% or more of the members who made the request may call and arrange to hold a General Meeting.
- (b) To call and hold a meeting under clause 11.2(a) the members must:
 - (i) as far as possible, follow the procedures for General Meeting's set out in this constitution;

- (ii) 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
 - (iii) hold the General Meeting within three months after the request was given to the Company.
- (c) 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.

11.3 *Circular Resolutions of members*

- (a) Subject to clause 11.3(c), the directors may put a resolution to the ordinary members to pass a Circular Resolution.
- (b) The directors must notify the auditor (if any) as soon as possible that a Circular Resolution has or will be put to the ordinary members and set out the wording of the resolution.
- (c) Circular Resolutions cannot be used:
 - (i) for a resolution to remove an auditor, appoint a director or remove a director;
 - (ii) for passing a Special Resolution; or
 - (iii) where the Corporations Act or this constitution requires a meeting to be held.
- (d) Each ordinary member has one vote on a Circular Resolution.
- (e) 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 11.3(f) or clause 11.3(g).
- (f) Members may sign:
 - (i) a single document setting out the Circular Resolution and containing a statement that they agree to the resolution; or
 - (ii) separate copies of that document, as long as the wording is the same in each copy.
- (g) The Company may send a Circular Resolution by email to members and members may agree by sending a reply email to that effect.

11.4 *Annual General Meeting*

- (a) The Annual General Meeting must be held:
 - (i) within 18 months after registration of the Company; and
 - (ii) after the first Annual General Meeting, at least once in every calendar year.
- (b) 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.

- (c) The chair 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.

11.5 *Notice of General Meetings*

- (a) Notice of a General Meeting must be given to each person who is at the date of the notice:
 - (i) a member of the Company;
 - (ii) a director of the Company; or
 - (iii) the auditor of the Company (if any).
- (b) Notice of a General Meeting must be provided in writing at least 21 days before the meeting.
- (c) Subject to clause 11.5(d), notice of a meeting may be provided less than 21 days before the meeting if:
 - (i) for an Annual General Meeting, all the members entitled to attend and vote at the Annual General Meeting agree beforehand; or
 - (ii) for any other General Meeting, members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (d) Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
 - (i) remove a director;
 - (ii) appoint a director in order to replace a director who was removed; or
 - (iii) remove an auditor.
- (e) The directors may postpone, cancel or change the venue for a General Meeting by giving notice not later than five Business Days before the time at which the General Meeting was to be held to each person listed at 11.5(a).
- (f) A notice postponing, cancelling or changing the venue for a General Meeting must specify the date, time and place of the General Meeting.
- (g) A notice of a General Meeting must specify:
 - (i) the date, time and place of the meeting (and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
 - (ii) the general nature of the business to be transacted at the meeting, except as provided in clause 11.5(i);
 - (iii) if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution; and

- (iv) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
 - (A) the proxy must be an ordinary member of the Company;
 - (B) 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
 - (C) the proxy form must be delivered to the Company within the timeframe specified in 11.13(j).
- (h) If a General Meeting is adjourned for one month or more, the members must be given new notice of the resumed meeting.
- (i) It is not necessary for a notice of an Annual General Meeting to state that the business to be transacted at the meeting includes the consideration of the annual financial report and the reports of the directors and auditor, the election of directors or the appointment or fixing of the remuneration of the auditor of the Company.
- (j) A person may waive notice of any General Meeting by notice in writing to the Company.
- (k) The non-receipt of notice of a General Meeting or proxy form by, or a failure to give notice of a General Meeting or a proxy form to, any person entitled to receive notice of a General Meeting under this clause 11.5 does not invalidate any act, matter or thing done or resolution passed at the General Meeting if:
 - (i) the non-receipt or failure occurred by accident or error; or
 - (ii) before or after the meeting, the person:
 - (A) has waived or waives notice of that meeting under clause 11.5(j); or
 - (B) has notified or notifies the Company of the person's agreement to that act, matter, thing or resolution by notice in writing to the Company.
- (l) A person's attendance at a General Meeting:
 - (i) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
 - (ii) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting or in clause 11.5(i), unless the person objects to considering the matter when it is presented.

11.6 *Using technology to hold General Meetings*

- (a) A General Meeting may be held at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.

- (b) Anyone using this technology is taken to be present in person at the meeting.

11.7 Admission to General Meetings

- (a) The chair of a General Meeting may refuse admission to a person, or require that person to leave and remain out of the meeting, if that person:
 - (i) has a camera, tape recorder or video camera, or another audio or visual recording device;
 - (ii) has a placard or banner;
 - (iii) has an article which the chair considers to be dangerous, offensive or liable to cause disruption;
 - (iv) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
 - (v) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or is not:
 - (A) subject to paragraph 11.7(b), a member of the Company or a proxy, attorney or Representative of a member of the Company;
 - (B) a director of the Company; or
 - (C) an auditor of the Company.
- (b) A person who is entitled to receive notice of a meeting or who is requested by the directors or the Chair to attend a General Meeting is entitled to be present, whether the person is a member or not.

11.8 Quorum at General Meetings

- (a) No business may be transacted at any General Meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of ordinary members is present when the meeting proceeds to business and remains present throughout the meeting.
- (b) Subject to clause 11.8(c)(ii)(B), a quorum consists of 7 ordinary members present at the meeting.
- (c) If a quorum is not present within 30 minutes after the starting time stated in the notice of General Meeting:
 - (i) where the meeting was convened by, or at the request of, an ordinary member or ordinary members, the meeting must be dissolved; or
 - (ii) in any other case:
 - (A) the meeting stands adjourned to the date, time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place; and
 - (B) if, at the adjourned meeting, 7 ordinary members are not present within 30 minutes after the time appointed for the meeting, the meeting may continue

with a quorum of 4 ordinary members. If at least 4 ordinary members are not present at the adjourned meeting, the meeting must be dissolved.

- (d) If no quorum is present at the adjourned meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

11.9 *Chairperson for General Meetings*

- (a) The Chair of directors will chair General Meetings, subject to clause 11.9(b).
- (b) The directors present at a General Meeting may elect a director or member present to chair the meeting if:
 - (i) there is no Chair of directors; or
 - (ii) the Chair of directors is not present within 15 minutes after the time appointed for the meeting; or
 - (iii) the Chair of directors is present within that time but is not willing to act as chair of the meeting.

11.10 *Conduct of General Meetings*

- (a) The chair of a General Meeting:
 - (i) is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting;
 - (ii) may require the adoption of any procedures which are in the chair's opinion, necessary or desirable for proper and orderly debate or discussion, including limiting the time that a person present may speak on a motion or other item of business before the meeting; and
 - (iii) the proper and orderly casting or recording of votes at the General Meeting, whether on a show of hands or on a poll, including the appointment of scrutineers.
- (b) The chair of a General Meeting may at any time whenever the chair considers it necessary or desirable for the proper and orderly conduct of the meeting:
 - (i) terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the ordinary members present; or
 - (ii) allow debate or discussion on any business, question, motion or resolution being considered by the meeting to continue.
- (c) The chair of a General Meeting may:
 - (i) refuse to allow debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting or clause 11.5(i); and

- (ii) refuse to allow any amendment to be moved to a resolution of which notice has been given under clause 11.5(a).
- (d) A decision by a chair under clauses 11.10(a), 11.10(b) or 11.10(c) is final.
- (e) The chair of a General Meeting may at any time during the course of the meeting adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting.
- (f) If the chair exercises the right under clause 11.10(e), it is in the chair's sole discretion whether to seek the approval of the ordinary members present to the adjournment.
- (g) If the chair does seek the ordinary members' approval, the chair must adjourn the meeting if the ordinary members present with a majority of votes agree or direct that the chair must do so.
- (h) The chair's rights under clause 11.10(e) are exclusive and, unless otherwise required by the chair, no vote may be taken or demanded by the ordinary members present in respect of any adjournment.
- (i) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (j) Notice of an adjournment and the business to be transacted at an adjourned meeting must be given to all persons who were entitled to receive notice of the meeting the subject of the adjournment.
- (k) Subject to clause 11.10(f), where a meeting is adjourned, the directors may postpone, cancel or change the venue of the adjourned meeting.

11.11 Decisions at General Meetings

- (a) Except in the case of any resolution which as a matter of law requires a Special Resolution, questions arising at a General Meeting are to be decided by a majority of votes cast by the ordinary members present at the meeting and that decision is for all purposes a decision of the ordinary members.
- (b) In the case of an equality of votes upon any proposed resolution at a meeting of members:
 - (i) the chair of the meeting does not have a second or casting vote; and
 - (ii) the proposed resolution is taken as having been lost.
- (c) A resolution put to the vote of a General Meeting must be decided on a show of hands unless a poll is demanded before a vote being decided by show of hands is taken or before or immediately after the declaration of the result of the show of hands:
 - (i) by the chair of the meeting;
 - (ii) by at least five ordinary members present and entitled to vote on the relevant resolution; or

- (iii) by an ordinary member or ordinary members present at the meeting and representing at least 5% of the votes that may be cast on the resolution on a poll.
- (d) A demand for a poll does not prevent the continuance of a General Meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chair of a General Meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a General Meeting, it will be taken when and in the manner the chair of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll cannot be demanded at a General Meeting on the election of a chair of the meeting.
- (h) The demand for a poll may be withdrawn.

11.12 Voting rights at General Meetings

- (a) Voting at a General Meeting must be conducted and decided by:
 - (i) a show of hands;
 - (ii) a vote in writing; or
 - (iii) another method chosen by the chair that is fair and reasonable in the circumstances.
- (b) Subject to clause (c), each ordinary member present (in person, by proxy or Representative) at a General Meeting is entitled to one vote.
- (c) An ordinary member present at a General Meeting is not entitled to vote on any resolution if any fees or any other amount due and payable by that ordinary member to the Company under this constitution have not been paid, or where that vote is prohibited by an order of a court of competent jurisdiction. The Company must disregard any vote on a resolution purported to be cast by an ordinary member present at a General Meeting where that person is not entitled to vote on that resolution.
- (d) An ordinary member or the chair may object to a person's right to vote at a General Meeting at that meeting.
- (e) If an objection is made under clause 11.12(d), it must be:
 - (i) raised before or immediately after the result of the motion on which the vote objected to is given or tendered; and
 - (ii) referred to the chair of the meeting, whose decision is final.
- (f) A vote not disallowed by the chair of a meeting under clause 11.12(e) is valid for all purposes.

- (g) A proxy, attorney or Representative is not entitled to vote on a show of hands (but this does not prevent an ordinary member appointed as a proxy, attorney or Representative from voting as an ordinary member on a show of hands).
- (h) When a vote in writing is held, a proxy, attorney or Representative:
 - (i) does not need to vote, unless the proxy appointment specifies the way they must vote;
 - (ii) if the way they must vote is specified on the proxy form, must vote that way; and
 - (iii) if the proxy is also an ordinary member or holds more than one proxy, may cast the votes held in different ways.
- (i) An infant ordinary member is not entitled to vote at a General Meeting. The parent or guardian of an infant ordinary member may vote at a General Meeting on evidence being produced of the relationship or of the appointment of the guardian as the directors may require.

11.13 Representation at General Meetings

- (a) Subject to this constitution, each ordinary member entitled to vote at a meeting of members may vote:
 - (i) in person or, where an ordinary member is a body corporate, by its Representative;
 - (ii) by proxy or, if the ordinary member is entitled to cast two or more votes at the meeting, by not more than two proxies; or
 - (iii) by attorneys.
- (b) A proxy, attorney or Representative must be an ordinary member of the Company.
- (c) A proxy, attorney or Representative may be appointed for all General Meetings, or for any number of General Meetings, or for a particular General Meeting.
- (d) A proxy, attorney or Representative may be appointed by not more than 6 ordinary members for any particular General Meeting.
- (e) Unless otherwise provided in the appointment, an appointment of a proxy, attorney or Representative is taken to confer authority:
 - (i) to agree to a meeting being convened by shorter notice than is required by this constitution;
 - (ii) to speak to any proposed resolution on which the proxy, attorney or Representative may vote;
 - (iii) to demand or join in demanding a poll on any resolution on which the proxy, attorney or Representative may vote;
 - (iv) even though the appointment may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions:

- (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (B) to vote on any procedural motion, including any motion to elect the chair, to vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and
- (v) even though the appointment may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re- scheduled or adjourned meeting or at the new venue.
- (f) The chair of a meeting may require any person purporting to act as a proxy, attorney or Representative to establish to the satisfaction of the chair that the person has been validly appointed as a proxy, attorney or Representative and is the person named in the relevant instrument of appointment, failing which the person may be excluded from attending or voting at the meeting.
- (g) An instrument appointing an attorney or Representative must be in a form as the directors may prescribe or accept. An instrument appointing a proxy is valid if it is signed by the ordinary member making the appointment and contains the name and address of that ordinary member, the name of the Company, the name of the proxy or the name of the office of the proxy, and the meeting(s) of members at which the proxy may be used. The chair of a meeting of members may determine that an instrument appointing a proxy is valid even if it contains only some of this information.
- (h) If the name of the proxy or the name of the office of the proxy in a proxy form of an ordinary member is not filled in, the proxy of that ordinary member is the person specified by the Company in the form of proxy in the case the ordinary member does not choose, or if no person is so specified, the chair of that meeting.
- (i) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.
- (j) An instrument appointing the proxy or attorney and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed must:
- (i) if being sent by mail, fax or other electronic means, be received at the address or facsimile number (as the case may be) of the Company's registered office or at another place, address, facsimile number or electronic address specified for that purpose in the notice convening the meeting one hour prior to the commencement of the General Meeting to which the notice of meeting relates; or
 - (ii) if delivered in person, be received by the Company before the resolution to which the instrument relates is put to the meeting (including being received during the meeting).
- (k) Unless the Company has received written notice of the matter by the time and at the place or in the manner set out in clause 11.13(i), a vote cast by a proxy or attorney is valid even if, before the proxy or attorney votes:

- (i) a Cessation Event occurs in relation to the appointer; or
 - (ii) the ordinary member revokes the proxy's or attorney's appointment; or
 - (iii) the ordinary member revokes the authority under which a third party appointed the proxy or attorney.
- (l) The authority of a proxy or attorney to speak and vote for an ordinary member at a General Meeting is suspended while the ordinary member is present at the meeting.

11.14 Resolutions without meetings

- (a) Subject to clause 11.14(c), the Company may pass a resolution without a General Meeting being held, if all of the ordinary members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) For the purposes of clause 11.14(a):
 - (i) the document may be sent to ordinary members in any manner described in clause 20;
 - (ii) the resolution is passed when the last ordinary member signs;
 - (iii) separate copies of a document may be used for signing by ordinary members if the wording of the resolution and statement is identical in each copy; and
 - (iv) a signature of an ordinary member transmitted to the Company by facsimile is sufficient evidence of signature so long as the original is produced within 30 days of signing.
- (c) Clause 11.14(a) does not apply to a resolution to remove an auditor.
- (d) Where a document is signed in accordance with clause 11.14(a) the document is to be taken as a minute of the passing of the resolution.

11.15 Resolutions of single member company

If the Company has only one member, the Company may pass a resolution by the member recording it and signing the record. That record is to be taken as a minute of the passing of that resolution.

12 Directors

12.1 Number of directors

- (a) The minimum number of directors is three.
- (b) The maximum number of directors is to be fixed by the directors but must not be more than 10 unless the Company in General Meeting determines otherwise. The directors must not determine a maximum which is less than the number of directors in office at the time the determination takes effect.

12.2 *Appointment and removal of directors*

- (a) A person is eligible for election as a director of the Company if they:
 - (i) are an ordinary member of the Company;
 - (ii) give the Company their signed consent to act as a director of the Company;
 - (iii) must not be disqualified from being a responsible person by the ACNC Commissioner, within the previous 12 months; and
 - (iv) are not ineligible to be a director under the Corporations Act or the ACNC Act.
- (b) Subject to clauses 12.1 and 12.2(l), the Company may by resolution elect any natural person to be a director, either as an addition to the existing directors or as otherwise provided in this constitution.
- (c) Subject to clause 12.1 and 12.2(a), the directors may appoint any natural person to be a director, either as an addition to the existing directors or to fill a casual vacancy (including any casual vacancy arising where a director is removed from office under clause 12.2(j) and no person is appointed in place of that director under clause 12.2(j)(ii).
- (d) A director appointed under clause 12.2(c) must retire from office at the next Annual General Meeting following their appointment.
- (e) An election of directors must take place each year and at that meeting five of the directors (excluding any director who must retire in accordance with clause 12.2(d)) must retire from office as directors.
- (f) The directors who must retire at an Annual General Meeting in accordance with clause 12.2(e) are those who have been longest in office since their last election. As between persons who were last elected as directors on the same day, the directors who must retire will be determined by agreement among themselves or, in the absence of agreement, by lot.
- (g) Subject to clause 12.2(l), the Company may by resolution fill the office vacated by a director under clause 12.2(d) or 12.2(e) by electing a person to that office.
- (h) A director retiring from office under clause 12.2(d) or 12.2(e) is eligible for re-election and that director may by resolution of the Company be re-elected to that office.
- (i) The retirement of a director from office under clause 12.2(d) or 12.2(e) and the re-election of the director or the election of another person to that office (as the case may be) takes effect at the conclusion of the meeting at which the retirement and re-election or election occur.
- (j) The Company may:
 - (i) by resolution in accordance with section 203D of the Corporations Act remove a director from office; and
 - (ii) subject to clause 12.2(l), by resolution fill the office vacated by a director who is removed under clause 12.2(j)(i) by electing another person to that office.

- (k) A person elected as a director under clause 12.2(j)(ii) must retire under clause 12.2(d) or 12.2(e) (as the case may be) on the same day that the director in whose place he or she was appointed would have had to retire under clause 12.2(d) or 12.2(e) if that director had not been removed from office under clause 12.2(j)(i).
- (l) A person may only be elected to the office of a director at a General Meeting if that person is a member of the Company and:
 - (i) is a director retiring from office under clause 12.2(d) or 12.2(e) and standing for re-election at that meeting;
 - (ii) has been nominated by the directors for election at that meeting and has, at least 30 days before the meeting, provided the Company with a written and signed notice signifying consent to the nomination; or
 - (iii) has, at least 30 days before the meeting, provided the Company with a written and signed notice signifying the intention to be a candidate for election as a director at that meeting.

12.3 *Office bearers*

- (a) At the first meeting of directors after an Annual General Meeting the Board must, as its first act as Board, elect from among themselves a person to fill the office bearer position of Chair and a person to fill the office bearer position of Secretary. The directors may, at the same meeting or a later meeting of directors, elect from among themselves those directors to fill the remaining office bearer positions. The office bearer positions are:
 - (i) Chair;
 - (ii) Treasurer; and
 - (iii) any other office bearer position created by the Board from time to time.
- (b) An election of office bearers under clause 12.3(a) may be conducted by a show of hands or by secret ballot as decided by the Board.
- (c) If there is an equality of votes when electing an office bearer under clause 12.3(a), the prospective office bearers for the position in question must decide among themselves as to who should fill that office bearer position. If an agreement cannot be reached between the prospective office bearers as to who should fill the position in question, the decision must be determined by lot.
- (d) Each office bearer will hold their position until the next Annual General Meeting unless the office bearer retires as a director or office bearer or is removed from being a director in accordance with this constitution.
- (e) A vacancy in an office bearer position must be filled at the first meeting of directors after the position becomes vacant in accordance with the process set out in clauses 12.3(b) to 12.3(d).

12.4 *Vacation of office*

- (a) The office of a director becomes vacant if the director:

- (i) becomes of unsound mind;
 - (ii) becomes insolvent or bankrupt, compounds with their creditors, or assigns their estate for the benefit of their creditor;
 - (iii) is convicted of an indictable offence;
 - (iv) fails to attend more than three consecutive meetings of the directors without supplying an apology and without leave of absence from the directors;
 - (v) becomes prohibited for being a director by reason of any order of any court of competent jurisdiction;
 - (vi) becomes ineligible to be a director of the Company under the Corporations Act or the ACNC Act; or
 - (vii) dies.
- (b) Nothing in clause 12.4(a) prevents a director from vacating his or her office if the director resigns by notice in writing to the Company.

12.5 *Payments to directors*

- (a) The directors are entitled to be paid or reimbursed for all reasonable travelling and other expenses properly incurred by them in connection with the affairs of the Company, including attending and returning from General Meetings of the Company or meetings of the directors or of committees of the directors, but will not otherwise receive any payment for acting as a director.
- (b) Nothing in this clause 12.5 restricts the remuneration to which a director may be entitled as an officer of the Company or of a related body corporate in a capacity other than director.

12.6 *Interested directors*

- (a) A director may, with the unanimous resolution of the directors, hold any other office, other than auditor, in the Company or a related body corporate in conjunction with their directorship. A director may be appointed to that office on the terms as to tenure of office and otherwise as the directors resolve.
- (b) A director of the Company may be a director or other officer of:
- (i) a related body corporate;
 - (ii) a body corporate promoted by the Company; or
 - (iii) a body corporate in which the Company is interested, as shareholder or otherwise,

or be otherwise interested in any of those bodies corporate. A director is not accountable to the Company for any remuneration or other benefits received by the director as a director or officer of that body corporate or from having an interest in that body corporate.

- (c) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the Company as the directors think fit. This includes voting in favour of

any resolution appointing a director as a director or other officer of that body corporate or voting for the payment of remuneration to the directors or other officers of that body corporate. A director may, if permitted by law, vote in favour of the exercise of those voting rights even if the director is, or may be about to be appointed, a director or other officer of that other body corporate.

- (d) A director may, by a unanimous resolution of the directors and despite being a director, contract with the Company in any respect including, without limitation:
 - (i) selling any property to, or purchasing any property from, the Company;
 - (ii) lending any money to, or borrowing any money from, the Company with or without interest and with or without security;
 - (iii) guaranteeing the repayment of any money borrowed by the Company for a commission or profit;
 - (iv) underwriting or guaranteeing the subscription for securities in a related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a shareholder or otherwise, for a commission or profit; or
 - (v) being engaged on a fee for services basis, for a period not exceeding three calendar months in any twelve month period, to act in any professional capacity, other than auditor, on behalf of the Company.
- (e) No contract made by a director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any director may be in any way interested is avoided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (f) No director contracting with the Company or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under a contract or arrangement of that kind merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.

12.7 *Conflicts of interest*

- (a) 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 written resolution pursuant to clause 12.1511.13) to the other directors.
- (b) If all of the directors have the same conflict of interest, the Board must determine a process for how this conflict is to be managed in a manner that allows the Board to act in the best interest of the Company and for its charitable purpose(s).
- (c) The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- (d) 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 written resolution pursuant to clause 12.15) must not, except as provided under clause 12.7(e) and 12.7(g):

- (i) be present at the meeting while the matter is being discussed; or
 - (ii) vote on the matter.
- (e) Subject to clause 12.7(f), a director may still be present and vote if:
- (i) their interest arises because they are a member of the Company, and the other members have the same interest;
 - (ii) 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 19.4);
 - (iii) their interest relates to a payment by the Company under clause 19.2, or any contract relating to an indemnity that is allowed under the Corporations Act;
 - (iv) the Australian Securities and Investments Commission makes an order allowing the director to vote on the matter; or
 - (v) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (A) 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
 - (B) says that those directors are satisfied that the interest should not stop the director from voting or being present.
- (f) If a director has a direct or indirect material personal interest in any contract with the organisation, that director cannot vote on the matter.
- (g) A director who is in any way interested in a contract or arrangement or proposed contract or arrangement (other than by having a material personal interest) may, despite that interest:
- (i) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
 - (ii) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
 - (iii) vote in respect of the contract or arrangement or proposed contract or arrangement or any matter arising out of those things.
- (h) Conflicts of Interest will be recorded and management in accordance with the procedures in the Board Charter.

12.8 *Powers and duties of directors*

- (a) The directors are responsible for managing the business of the Company and all the powers of the Company which are not required by the Corporations Act or this constitution to be exercised by the Company in General Meeting.

- (b) Without limiting the generality of clause 12.8(a), the directors may exercise all the powers of the Company to:
 - (i) borrow or otherwise raise money;
 - (ii) charge any property or business of the Company or all or any of its uncalled capital and;
 - (iii) give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) The directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments or other documents must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the Company.
- (d) The directors may pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of the assets acquired by it.
- (e) 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:
 - (i) 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;
 - (ii) 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 3;
 - (iii) not to misuse their position as a director;
 - (iv) not to misuse information they gain in their role as a director;
 - (v) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 12.7;
 - (vi) to ensure that the financial affairs of the Company are managed responsibly; and
 - (vii) not to allow the Company to operate while it is insolvent.
- (f) The directors may:
 - (i) appoint or employ any person to be an officer, agent or attorney of the Company for the purposes, for the period and on the conditions as they think fit;
 - (ii) resolve to delegate any of their powers to an officer, agent or attorney and the officer, agent or attorney must exercise the powers delegated in accordance with any directions of the directors;
 - (iii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and

- (iv) subject to any contract between the Company and the relevant officer, agent or attorney, remove or dismiss any officer (excluding a director of the Company), agent or attorney of the Company at any time, with or without cause.
- (g) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.

12.9 *Proceedings of directors*

The directors may hold meetings for the conduct of business and adjourn and otherwise regulate their meetings as they think fit. Directors must convene and hold a meeting of directors at least once in any 3 month period.

12.10 *Contemporaneous linking*

- (a) Contemporaneous linking together by a form of technology of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and all the provisions in this constitution relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors held using a form of technology. Convening of meetings of directors
- (b) A Secretary must, on the requisition of 3 directors, convene a meeting of the directors.

12.11 *Notice of meetings of directors*

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice a director, other than a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
 - (i) must specify the time and place of, or form of technology for, the meeting;
 - (ii) must state the nature of the business to be transacted at the meeting; and
 - (iii) may be given in person, by post or, by a form of technology.
- (c) A director may waive notice of a meeting of directors by notifying the Company to that effect in person, by post or by a form of technology.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the director:
 - (A) has waived or waives notice of that meeting under clause 12.11(c); or
 - (B) has notified or notifies the Company of his or her agreement to that act, matter, thing or resolution personally, by post or by a form of technology; or

- (iii) the director attended the meeting.
- (e) Attendance by a person at a meeting of directors waives any objection that person may have to a failure to give notice of the meeting.

12.12 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless there is a quorum of directors at the time the business is dealt with.
- (b) A quorum consists of one half of the current number of directors. Where half of the current number of directors is not a whole number the number must be rounded up to the nearest whole number.
- (c) If there is a vacancy in the office of a director, the remaining director or directors may act but, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, the remaining director or directors may act only in an emergency or for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or of convening a General Meeting of the Company.

12.13 Chairperson for directors' meetings

- (a) The Chair of directors must preside as chair at each meeting of directors, subject to clause 12.13(b).
- (b) If at a meeting of directors:
 - (i) there is no chair of directors;
 - (ii) the chair of directors is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting or of part of the meeting,

the directors present must elect one of themselves to be chair of the meeting or part of the meeting.

12.14 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this constitution.
- (b) Questions arising at a meeting of directors are to be decided by a majority of votes cast by the directors present and a decision of that kind is for all purposes a determination of the directors.
- (c) In the case of an equality of votes upon any proposed resolution at a meeting of directors:
 - (i) the chair of the meeting does not have a second or casting vote; and
 - (ii) the proposed resolution is to be taken as having been lost.

12.15 *Written resolutions*

- (a) An act, matter or thing is taken to have been done or a resolution passed by a meeting of the directors, if a document containing a statement to that effect is assented to by all of the directors other than:
 - (i) a director on leave of absence approved by the directors;
 - (ii) a director who disqualifies themselves from considering the act, matter or thing in question on the grounds that the director is not entitled at law to do so or has a conflict of interest; and
 - (iii) a director who the directors reasonably believe is not entitled to do the act, matter or thing or to vote on the resolution in question,

and the directors who assent to the document would have constituted a quorum at a meeting held to consider that act, matter, thing or resolution.

- (b) The act, matter or thing is taken to have been done or the resolution passed when the document is last assented to by a director.
- (c) Two or more separate documents in identical terms each of which is assented to by one or more directors are to be taken as constituting one document.
- (d) A director may signify assent to a document by signing the document or by notifying the Company of the director's assent in person or by post, facsimile, electronic, telephone or other method of written, audio or audio visual communication.
- (e) Where a director signifies assent to a document otherwise than by signing the document, the director must by way of confirmation sign the document at the next meeting of the directors attended by that director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.
- (f) Where a document is assented to in accordance with this clause 12.15, the document is to be taken as a minute of a meeting of directors.

12.16 *Committees of directors*

- (a) The directors may resolve to delegate any of their powers and functions, other than powers required by law to be dealt with by directors, to a committee or committees consisting of such number of directors as they think fit. The directors may revoke or vary any power so delegated.
- (b) Whenever directors delegate any of their powers or functions to a committee, it shall set terms of reference, and any procedures that it sees fit, for that committee.
- (c) The delegation must be recorded in the Company's records.
- (d) A committee to which any powers and functions have been so delegated must exercise the powers and functions delegated in accordance with any directions of the directors.

- (e) The provisions of this constitution applying to meetings and resolutions of directors apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee of directors.

12.17 Delegations

- (a) In accordance with the Board Charter the directors may resolve to delegate any of their powers and functions to a director or to an employee.
- (b) Any individual that receives a formal delegation of authority from the Board must exercise the powers and functions delegated in accordance with any directions of the directors.
- (c) The delegation must be recorded in the Delegation Register in accordance with the process set out in the Board Charter.

12.18 Validity of acts

An act done by a person acting as a director or by a meeting of directors or under a delegation of authority from the directors is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, when the act was done.

13 Company Secretary

13.1 Appointment of Secretary

- (a) The directors must appoint at least one Secretary and may appoint additional secretaries;
- (b) The Company Secretary will not be an office bearer but will be included in the the Company's insurance for Directors and Officers;
- (c) If the individual appointed as the Secretary is not a director the individual appointed will have the automatic right to attend all meetings of the Board without having to be specifically invited to attend.

13.2 Suspension and removal of Secretary

- (a) The directors may suspend or remove a Secretary from that office.

13.3 Powers, duties and authorities of Secretary

- (a) The directors must decide the terms and conditions under which the Secretary is appointed.
- (b) The role of the Secretary is set out in the Board Charter and includes (but is not limited to):

- (i) maintaining a register of the Company's members; and
 - (ii) maintaining the minutes and other records of General Meetings (including notices of meetings), Circular Resolutions of ordinary members and directors' meetings and written resolution pursuant to clause 12.15.
 - (iii) any further duties as set out in the Board Charter.
- (c) The exercise of those powers and authorities and the performance of those duties by a Secretary are subject at all times to the control of the Board and any delegation of authority granted to the individual acting in the capacity as the Secretary.

14 Dispute resolution

14.1 Dispute resolution

- (a) The dispute resolution procedure in this clause applies to disputes under this constitution between a member or director and:
- (i) one or more members;
 - (ii) one or more directors; or
 - (iii) the Company.
- (b) A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 18 until the disciplinary procedure is completed.
- (c) Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- (d) If those involved in the dispute do not resolve it under clause 14.1(c), they must within 10 days:
- (i) tell the directors about the dispute in writing;
 - (ii) agree or request that a mediator be appointed; and
 - (iii) attempt in good faith to settle the dispute by mediation.
- (e) The mediator must be chosen:
- (i) by agreement of those involved; or
 - (ii) by the following, where those involved do not agree:
 - (A) for disputes between members, the directors; or
 - (B) 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.

- (f) A mediator chosen by the directors under clause 14.1(e)(ii)(A):
 - (i) may be a member or former member of the Company;
 - (ii) must not have a personal interest in the dispute; and
 - (iii) must not be biased towards or against anyone involved in the dispute.
- (g) When conducting the mediation, the mediator must:
 - (i) allow those involved a reasonable chance to be heard;
 - (ii) allow those involved a reasonable chance to review any written statements;
 - (iii) ensure that those involved are given natural justice; and
 - (iv) not make a decision on the dispute.
- (h) It is the Chair's responsibility to ensure that:
 - (i) directors are aware of the process for management of disputes in accordance with this constitution; and
 - (ii) disputes are handled respectfully, confidentially, and in accordance with natural justice.
- (i) If the Chair is a party to the dispute, then the responsibility to ensure that disputes are handled respectfully, confidentially and in accordance with natural justice will be given to another director as determined by the directors (with the parties to the dispute abstaining).

15 Seals

15.1 *No common seal*

The Company will not have a common seal.

16 Winding up

- (a) Upon the winding up or dissolution of the Company, any assets remaining after satisfaction of all of the Company's debts and liabilities, will not be paid to or distributed among the current or former members of the Company, but will be transferred to some other organisation determined by the Board at or before the time of winding up or dissolution of the Company and, in default of any determination, by the Supreme Court of New South Wales, Australia:
 - (i) that has objectives similar to the objectives of the Company set out in clause 3;
 - (ii) whose constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of clause 9; and
 - (iii) which, if the Company is endorsed as a deductible gift recipient for the purposes of any Commonwealth taxation law, is endorsed as a deductible gift recipient for the purposes of any Commonwealth taxation law.

- (b) If the Company is not a deductible gift recipient when it is wound up, the Company does not need to comply with clause 16(a)(iii).

17 Revocation of deductible gift recipient endorsement

- (a) If the Company's endorsement as a deductible gift recipient is revoked (whether or not the Company is to be wound up or dissolved) any remains of the following assets must be transferred to one or more charities that meet the requirements of clauses 16(a)(i) to 16(a)(iii) as decided by the Board:
 - (i) gifts of money or property for the objectives of the Company set out in clause 3;
 - (ii) contributions made in relation to an eligible fundraising event held for the objectives of the Company; and
 - (iii) money received by the Company because of such gifts and contributions which are unspent.

18 Minutes and records

18.1 *Minutes*

The Secretary must, on behalf of the directors, make and keep minutes of:

- (a) all proceedings and resolutions of General Meetings;
- (b) all Circular Resolutions of ordinary members;
- (c) proceedings and resolutions of meetings of the directors and of committees of the directors; and
- (d) resolutions passed by directors without a meeting,

and ensure that these are recorded and entered in books kept for that purpose, within one month after the meeting is held or the resolution is passed.

18.2 *Signing of minutes*

- (a) Minutes of a meeting must be signed by the chair of the meeting or the chair of the next meeting within a reasonable time after the meeting.
- (b) Minutes of the passing of a resolution without a meeting must be signed by a director within a reasonable time after the resolution is passed.

18.3 *Minutes as evidence*

A minute that is recorded and signed in accordance with clauses 18.1 and 18.2 is evidence of the proceeding or resolution to which it relates, unless the contrary is proved.

18.4 *Inspection of records*

- (a) Subject to the Corporations Act and the ACNC Act (the Acts) the directors may determine whether and to what extent, and at what times and places and under what conditions, the

minute books, accounting records and other documents of the Company or any of them will be open to inspection by the members (other than directors).

- (b) A member (other than a director) does not have the right to inspect any books, records or documents of the Company except as provided by law or authorised by the directors.
- (c) The Company must establish and administer all registers required to be kept by the Company in accordance with the Acts and each member must provide the Company with such information as is required for the Company to comply with this clause 18.4(c). If events occur which would cause the information contained a register maintained by the Company to be inaccurate the member must notify the Company in writing of the change within 21 days of the date of such change occurring.
- (d) Unless proved incorrect, the register is sufficient evidence of the matters shown in the register.
- (e) The Company must keep its financial records for at least seven years after completion of the transaction to which the record relates or for any other period required by the Acts if such period is longer.
- (f) The Company must also keep written records that correctly record its operations.

19 Indemnity and insurance

19.1 *Persons to whom clauses 19.2 and 19.4 apply*

Clauses 19.2 and 19.4 apply:

- (a) to each person who is or has been a director or Secretary of the Company;
- (b) to such other officers or former officers of the Company or of its related bodies corporate as the directors in each case determine; and
- (c) if the directors so determine, to any auditor or former auditor of the Company or of its related bodies corporate.

19.2 *Indemnity*

The Company may indemnify, to the extent permitted by law, each person to whom this clause 19.2 applies for all losses or liabilities incurred by the person as an officer and, if the directors so determine, an auditor of the Company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis.

19.3 *Extent of indemnity*

The indemnity in clause 19.2:

- (a) is a continuing obligation and is enforceable by a person to whom clause 19.2 applies even though that person may have ceased to be an officer or auditor of the Company or of a related body corporate;
- (b) applies to losses and liabilities incurred both before and after the date of adoption of that clause; and

- (c) operates only to the extent that the loss or liability is not paid by insurance.

19.4 Insurance

- (a) The Company may, to the extent permitted by law:

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

for any person to whom this clause 19.4 applies against any liability incurred by the person as an officer or auditor of the Company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs.

- (b) The type of insurance policy and the level of indemnity shall be as set out in the Board Charter as amended from time to time.

19.5 Savings

Nothing in clause 19.2 or 19.4:

- (a) affects any other right or remedy that a person to whom those clauses apply may have in respect of any loss or liability referred to in those clauses; or
- (b) limits the capacity of the Company to indemnify or provide insurance for any person to whom those clauses do not apply.

20 Notices

20.1 Notices by the Company to members

- (a) A notice may be given by the Company to a member:
 - (i) by serving it personally at, or by sending it by post in a prepaid envelope to, the member's address as shown in the register of members or any other address, or by facsimile or electronic mail to a facsimile number or electronic address, as the member has supplied to the Company for the giving of notices; or
 - (ii) if the member does not have a registered address and has not supplied another address to the Company for the giving of notices, by exhibiting it at the registered office of the Company.
- (b) The fact that a person has supplied a facsimile number for the giving of notices does not require the Company to give any notice to that person by facsimile.
- (c) A signature to any notice given by the Company to a member under this clause 20 may be in writing or a facsimile printed or fixed by some mechanical or other means.
- (d) A certificate signed by a director or Secretary of the Company to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

20.2 *Notices by the Company to directors*

Subject to this constitution, a notice may be given by the Company to any auditor or director either by serving it personally at, or by sending it by post in a prepaid envelope to, the auditor's or director's usual residential or business address, or such other address, or by facsimile or electronic mail to such facsimile number or electronic address, as the auditor or director has supplied to the Company for the giving of notices.

20.3 *Notices by members or directors to the Company*

- (a) Subject to this constitution, a notice may be given by a member or director to the Company by serving it on the Company at, or by sending it by post in a prepaid envelope to, the registered office of the Company or by facsimile or electronic mail to the principal facsimile number or electronic address at the registered office of the Company.
- (b) The directors may resolve generally, or on a case by case basis, that a notice that is to be received by the Company is not to be accepted if given by electronic means (excluding by facsimile).
- (c) If a resolution of directors is passed under clause 20.3(b), the Company must give sufficient notice of the resolution to those required to give the particular notice to allow for the giving of notice by other means.

20.4 *Notices to members outside Australia*

A notice to be sent to a member outside Australia and its external territories must be sent by airmail, by facsimile or by electronic mail, or in another way that ensures it will be received quickly.

20.5 *Time of service*

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (i) in the case of a notice of a General Meeting, on the day after the date of its posting;
or
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by facsimile, the notice is to be taken to be given on the Business Day after it is sent.
- (c) Where a notice is sent by electronic mail, service of the notice is taken to be effected if the sender receives a confirmation of delivery and is to have been effected on the Business Day after it is sent.
- (d) Where the Company gives a notice under clause 20.1(a)(ii) by exhibiting it at the registered office of the Company, service of the notice is to be taken to be effected when the notice was first so exhibited.

20.6 *Other communications and documents*

Clauses 20.1 to 20.5 (inclusive) apply, so far as they can and with necessary changes, to the service of any communication or document.

20.7 *Notices in writing*

A reference in this constitution to a notice in writing includes a notice given by facsimile or another form of written communication.

21 Rules

21.1 *Power to formulate rules of the Company*

Without limiting the Board's powers under this constitution, the Board may from time to time pass resolutions to make regulations and rules relating to;

- (a) the qualifications of members and applicants for membership;
- (b) the procedure and timing of an application for admission;
- (c) procedure for nomination of directors;
- (d) the delegation by the Board of its powers to individuals or committees;
- (e) the powers, role and function of any committee members, executive or directors (including the terms of appointment of any executive director);
- (f) the Board Charter and any associated delegations; and
- (g) any other matter not being inconsistent with this constitution which relates to the operations or conduct of the Company.

21.2 *Inconsistency*

In the event of any inconsistency between rules or regulations formulated pursuant to clause 21.1 and the provisions of this constitution, the provisions of the Corporations Act (to the extent applicable to registered charities) and the ACNC Act, the provisions of this constitution, the Corporations Act and the ACNC Act shall prevail.

22 General

22.1 *Submission to jurisdiction*

Each member submits to the non-exclusive jurisdiction of the Supreme Court of the New South Wales, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

22.2 *Prohibition and enforceability*

Any provision of, or the application of any provision of, this constitution which is void, illegal, prohibited or unenforceable in any place:

- (a) is, in that place, ineffective only to the extent to which it is void, illegal, prohibited or unenforceable; and
- (b) does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

Schedule 1 Dictionary

1 **Dictionary**

In this constitution:

ACNC means the Australian Charities and Not-for-profits Commission.

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

Annual General Meeting means the General Meeting held annually pursuant to clause 11.4.

Board means some or all of the directors of the Company acting as a Board.

Business Day means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in the place where the Company's registered office is located.

Company means the Company referred to in clause 2.1.

Cessation Event means:

- (a) in respect of a member of the Company who is an individual:
 - (i) the death of the member;
 - (ii) the bankruptcy of the member; or
 - (iii) the member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (b) the member ceases to satisfy any eligibility criteria specified by the Board;
- (c) the member fails to pay the required membership fee within 20 days after the date on which that membership fee becomes due;
- (d) in respect of a member of the Company that is a body corporate, the dissolution of the member or the succession by another body corporate to the assets and liabilities of the member; and
- (e) in respect of a staff member, the person ceases to be employed by the Company.

Chair means the chair appointed in accordance with clause 12.3.

Circular Resolution means a resolution of members passed without a meeting being held in the manner outlined in clause 11.3.

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

Expulsion Event means, in respect of a member:

- (a) the member has wilfully refused or neglected to comply with the provisions of this constitution;

- (b) the conduct of the member, in the opinion of the directors, is unbecoming of the member or prejudicial to the interests or reputation of the Company; or
- (c) the member is, or any step is taken for the member to become, an externally administered body corporate.

General Meeting means a meeting of the members including and Annual General Meeting.

Representative, in relation to a body corporate, means an individual appointed as a representative of the body corporate=.

Seal means any common seal or duplicate seal of the Company.

Special Resolution means a resolution:

- (a) of which notice has been given under clause 11.5(g)(iii); and
- (b) that has been passed by at least 75% of the votes cast by ordinary members present and entitled to vote on the resolution.

2 Interpretation

2.1 General

- (a) An ordinary member is to be taken to be present at a General Meeting if the ordinary member is present in person or by proxy, attorney or Representative or is present by way of telephone or other telecommunications device.
- (b) A director is to be taken to be present at a meeting of directors if the director is present in person or by telephone or other telecommunications device.
- (c) Where a provision of this constitution establishes an office of Chair, the Chair may be referred to as a Chair, chairman or chairwoman, as the case requires.
- (d) A reference in a clause in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (e) In this constitution, headings and underlinings are for convenience only and do not affect the interpretation of this constitution and, unless the contrary intention appears:
 - (i) words importing the singular include the plural and vice versa;
 - (ii) words importing a gender include every other gender;
 - (iii) a reference to any statute, regulation, proclamation, ordinance or by-laws includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
 - (iv) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

2.2 Application of the Corporations Act

- (a) While the Company is registered as a charity, the ACNC Act and the Corporations Act (to the extent applicable to registered charities) override any clauses in this constitution which are inconsistent with those Acts.
- (b) 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.
- (c) Unless the contrary intention appears, an expression in a provision of this constitution that deals with a matter dealt with by a provision of the Corporations Act, has the same meaning as in that provision of the Corporations Act.
- (d) Subject to sub-clause (c), unless the contrary intention appears, an expression in a clause that is defined in section 9 of the Corporations Act has the same meaning as in that section.

2.3 Exercise of powers

- (a) The Company may exercise in any manner permitted by the Corporations Act any power which under the Corporations Act a company limited by guarantee may exercise if authorised by its constitution.
- (b) Where this constitution provides that a person or body may do a particular act or thing and the word “may” is used, the act or thing may be done at the discretion of the person or body.
- (c) Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (e) Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
 - (i) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (ii) subject to any contract between the Company and the relevant person, to remove or suspend any person appointed, with or without cause; and
 - (iii) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (f) Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.

- (g) Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (h) Where this constitution confers power on a person or body to delegate a function or power:
 - (i) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (ii) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (iii) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
 - (iv) the delegation may include the power to delegate;
 - (v) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and
 - (vi) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

2.4 Replaceable rules not to apply

The replaceable rules contained in the Corporations Act as amended from time to time do not apply to the Company.

2.5 Single member company

If at any time the Company has only one member then, unless the contrary *intention* appears:

- (a) a reference in a clause to the “members” is a reference to that member; and
- (b) without limiting sub-clause (a), a clause which confers power or imposes an obligation on the members to do a particular act or thing confers that power or imposes that obligation on that member.