



**CONSUMERS HEALTH FORUM OF  
AUSTRALIA**

**CONSTITUTION**

**November 2018**

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## 1. PRELIMINARY

### Nature of the Company

- 1.1 This is the Constitution of the **Consumer Health Forum of Australia Ltd** (the **Company**).
- 1.2 The Company is a not-for-profit public liability company limited by guarantee.

### The Guarantee

- 1.3 If the Company is wound up, for whatever reason, then each person who:
- (a) is a Member; or
  - (b) who was a Member in the 12 months preceding the winding up of the Company;
- is liable to pay the amount of \$1.00 towards:
- (c) the debts and liabilities of the Company; and
  - (d) the costs of the winding up.

### Aims and Objectives of the Company

- 1.4 The aims of the Company are:
- (a) to provide a means of optimising the participation of consumer and community groups in national policy, planning and service decisions which affect the health of consumers;
  - (b) to promote a public and preventative health approach which recognises the health impact of other government policy areas;
  - (c) to promote a just and equitable distribution of resources to redress inequalities in the health status of different groups of the Australian population, noting the pluralistic nature of our society;
  - (d) to encourage the development of a consumer centred health system which is:
    - (i) effective in enhancing the capacity of people to participate as fully as possible in community life;
    - (ii) responsive to consumer needs and preferences;
    - (iii) community based and managed;
    - (iv) respectful of human rights;
    - (v) culturally relevant;

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- (vi) universally accessible;
  - (vii) cost effective; and
  - (e) to promote the rights of all consumers to be involved in health policy, planning and service decisions.

1.5 The aims and objectives expressed in clause 1.4 shall be given their widest possible meaning consistent with their sense and intention.

### **Application of Income and Property**

1.6 Subject to the Constitution, the Company's income and property shall only be applied to the promotion of the Company's objects.

1.7 Except as otherwise permitted by clause 1.8, the Company must not pay or transfer any part of the Company's income to the Members.

### **Certain Payments Allowed**

1.8 Clauses 1.6 and 1.7 do not prevent the Company paying:

- (a) any officer, employee or Member of the Company (or any other person) in return for services rendered to the Company.
- (b) reasonable remuneration for goods supplied by the Member to the Company in the ordinary course of business; and
- (c) reasonable and proper rent for premises demised or let by any Member to the Company;
- (d) amounts that are otherwise authorised under the Constitution.

### **Replaceable Rules**

1.9 The replaceable rules in the Corporations Act do not apply to the Company.

1.10 In the event of any inconsistency between the Constitution and:

- (a) the Corporations Act; or
- (b) (while the Company is a registered charity) the ACNC Act;

the terms of those Acts prevail.

### **Definitions**

1.11 In the Constitution:

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

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- (b) **Agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (c) **Annual General Meeting** means the General Meeting called in accordance with clause 14.1 of the Constitution.
- (d) **Appointed Director** means a Director appointed by the Board in accordance with the Constitution but does not include a Director appointed to fill a casual vacancy.
- (e) **Appointer** means a Member appointing an attorney in accordance with clause 16.7.
- (f) **Associate Member** means a person entered on the Register as an Associate Member.
- (g) **CEO** means the chief executive officer of the Company.
- (h) **Chair** means the Director occupying the office of Chair of the Board.
- (i) **Company** means the company referred to in clause 1.1.
- (j) **Constitution** means this Constitution as amended from time to time.
- (k) **Corporate Representative** means a person appointed as a representative under clause 16.12.
- (l) **Corporations Act** means the *Corporations Act 2001* (Cth).
- (m) **Deputy Chair** means the Director occupying the office of Deputy Chair of the Board.
- (n) **Director** means a person holding office as a director of the Company.
- (o) **Elected Director** means a person nominated and elected as a Director in accordance with the Constitution.
- (p) **Extraordinary General Meeting** means any meeting of Members other than an Annual General Meeting.
- (q) **General Meeting** means:
- (i) an Annual General Meeting; or
  - (ii) an Extraordinary General Meeting.
- (r) **Honorary Life Member** means a person entered on the Register as an Honorary Life Member.
- (s) **Member** means:
- (i) a Voting Member;

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- (ii) an Associate Member; or
  - (iii) an Honorary Life Member.
  - (t) **Instrument** means a Proxy Form or power of attorney referred to in clause 16.9.
  - (u) **Officer**, in clause 12, has the meaning given by clause 12.3.
  - (v) **Ordinary Resolution** means a resolution passed at a meeting of Members by a majority of the votes cast by Members entitled to vote on the resolution.
  - (w) **Person** includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person.
  - (x) **Person chairing a Board Meeting** means a person referred to in clause 13.9.
  - (y) **Person chairing a General Meeting** means a person referred to in clauses 14.18, 14.19 or 14.20.
  - (z) **Principal** means a Member who appoints a proxy in accordance with clause 16.1.
  - (aa) **Register** means the register of Members maintained under the Constitution.
  - (bb) **Relevant Person**, in clause 10, has the meaning given by clause 10.3.
  - (cc) **The Seal** means the Common Seal of the Company.
  - (dd) **Secretary** means any person appointed to perform the duties of secretary of the Company.
  - (ee) **Special Resolution** means a resolution of which notice has been given and that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.
  - (ff) **Voting Member** means a person entered on the Register as a Voting Member.

### **Interpretive Rules**

- 1.12 In interpreting the Constitution, the following rules apply, except where the context otherwise demands:
- (a) references to:



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- (i) legislation includes every amendment, re-enactment or replacement of that legislation, and includes any subordinate legislation issued under it;
  - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated; and
  - (iii) anything (including a right, obligation or concept) includes each part of it.
- (b) If a word is defined, another part of speech has a corresponding meaning.
  - (c) Use of the expressions 'for example, or 'including', or similar expressions indicates does not limit the interpretation of the phrase preceding the expression to the examples provided.
  - (d) A power to do something includes a power, exercisable in the like circumstances, to revoke or undo it.

## **2. MEMBERSHIP**

### **Categories of Membership**

2.1 Subject to the requirements of the Constitution, a person may be:

- (a) a Voting Member;
- (b) an Associate Member; or
- (c) an Honorary Life Member.

### **Eligibility for Membership as Voting Member**

2.2 An organisation is eligible to apply to be a Voting Member if it is a not-for-profit organisation that agrees to accept the aims and objectives of the Company.

### **Eligibility for Membership as Associate Member**

2.3 An organisation or an individual is eligible to apply to be an Associate Member:

- (a) if they agree to respect the aims and objectives of the Company; and
- (b) if 1 of the following criteria are met:
  - (i) the applicant elects to apply for membership as an Associate Member; or
  - (ii) the applicant is not otherwise eligible to apply for membership as a Voting Member.

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## **Application for Membership**

2.4 An applicant may apply to the Company for membership as:

- (a) a Voting Member; or
- (b) an Associate Member.

### *Form of Application*

2.5 An application for membership must:

- (a) be made in the form prescribed by the Board; and
- (b) must be accompanied by a fee equal to the annual subscription determined under clause 3.6 for the relevant membership category; and
- (c) if the application is made for membership as a Voting Member, be accompanied by:
  - (a) the applicant's current statement of aims, rules or constitution;
  - (b) an explanation of the applicant's requirements for qualification for its membership; and
  - (c) any other material relating to the applicant's constitution, membership and activities as required by the Board.

### *Board's Consideration of Application*

2.6 On receipt of an application for membership made under clause 2.4, the Board must:

- (a) consider whether the person is eligible for membership in the relevant membership category; and
- (b) decide, by majority, whether to accept or refuse the person's application.

### *Additional Requirements for Application for Voting Membership*

2.7 The Board may only accept an application for membership as a Voting Member if a majority of the Board is satisfied, on the information provided in the application, that the applicant:

- (a) is a health-related not-for-profit organisation whose aims and objectives accord with the Company's aims and objectives;
- (b) is an organisation appropriate to serving the Company's purposes as determined by the Board;
- (c) has aims and objectives that include the representation of the opinions of consumers and sections of the community on health matters;

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- (d) in practice represents and/or is capable of reflecting consumer and community opinions;
  - (e) does not act primarily as the representative of professional, provider, or “for-profit” and such like interests;
  - (f) has a membership open to consumers and/or consumer organisations who can be elected to the governing body of the organisation; and
  - (g) fully supports the Company’s aims and objectives.

2.8 The Board is not obliged to accept an application for membership as a Voting Member even if the requirements of clause 2.7 are met.

### **Acceptance of Application**

2.9 If the Board resolves to accept an applicant for membership:

- (a) the Secretary must send the applicant a written notice of acceptance; and
- (b) the applicant becomes a Member of the Company and has the rights conferred on the Member by the Constitution from the day on which the applicant receives that written notice.

### **Refusal of Application**

2.10 Where an application for membership is rejected, the organisation or person may not reapply for membership until one year has elapsed from the date of the Board’s decision.

2.11 The Board must submit the name of any person whose application for membership has been refused to the next General Meeting.

### **Honorary Life Membership**

2.12 A natural person is eligible to be an Honorary Life Member if:

- (a) the natural person (the **Nominee**) has been nominated by a Voting Member using a form approved by the Board;
- (b) the Board considers that the Nominee has contributed significantly to the work of the Company; and
- (c) the Board recommends to a General Meeting that the Nominee be made an Honorary Life Member.

2.13 The Company may pass a resolution at General Meeting conferring Honorary Life Membership on a Nominee recommended by the Board in accordance with clause 2.12(c).

2.14 The nominee for Honorary Life Membership becomes an Honorary Life Member on passage of the resolution referred to in clause 2.13.

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### **3. RIGHTS AND RESPONSIBILITIES OF MEMBERS**

#### **Voting Members**

- 3.1 A Voting Member is entitled to:
- (a) receive notice of, and attend, General Meetings; and
  - (b) speak at General Meetings;
  - (c) subject to this Constitution, vote at a General Meeting; and
  - (d) receive such membership benefits as apply to the class of Voting Members determined by the Board.

#### **Associate Members**

- 3.2 An Associate Member is entitled to:
- (a) receive notice of, and attend, General Meetings;
  - (b) speak at General Meetings; and
  - (c) receive such membership benefits as apply to the class of Associate Members as determined by the Board.
- 3.3 An Associate Member is **not** entitled to vote at a General Meeting.

#### **Honorary Life Members**

- 3.4 An Honorary Life Member is entitled to
- (a) receive notice of, and attend, General Meetings;
  - (b) speak at General Meetings; and
  - (c) receive such membership benefits as apply to Honorary Life Members as determined by the Board.
- 3.5 Honorary Life Members are **not**:
- (a) entitled to vote at a General Meeting; and
  - (b) required to pay membership subscriptions.

#### **Membership Subscriptions**

- 3.6 The Board may, from time to time, determine subscriptions and may waive, wholly or partially, the annual subscription for any Member.
- 3.7 The annual subscription period is the following financial year as determined from time to time by the Board.

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- 3.8 If the Board has not determined an annual subscription period, then that period is 1 July to 30 June.
- 3.9 The Board may determine the arrangements for payment of subscriptions by Members.
- 3.10 The Company must send notice to a Voting Member or Associate Member who is required to pay an annual subscription.
- 3.11 A Member who is required to pay an annual subscription must pay the subscription within 30 days of receipt of the notice provided by the Company.
- 3.12 If the Voting Member or Associate Member does not pay the annual subscription within the 30-day period referred to in clause 3.11, then the Company must send a **reminder notice** to that Member.
- 3.13 The reminder notice must state that the annual subscription is to be paid within 30 days of the receipt of the reminder notice.
- 3.14 If the Voting Member or Associate Member does not pay the annual subscription within the 30-day period specified in clause 3.13, then the Board may revoke the that Member's membership.

### **Resignation of Membership**

- 3.15 A Member may resign their membership by written notice addressed to the Secretary.
- 3.16 A resignation takes effect on receipt of the notice by the Secretary.

### **Expelling a Member**

#### *Board's power to expel Member*

- 3.17 The Board may, by resolution, expel any Member:
- (a) who does not comply with the Company's Constitution, by-laws, rules or regulations; or
  - (b) whose conduct the Board considers is prejudicial to the Company's interests.
- 3.18 At least 21 days before the Board holds a meeting to expel a Member, the Board must give a written notice to the Member which states:
- (a) the allegations against the Member;
  - (b) the proposed resolution for the Member's expulsion;
  - (c) that the Member has an opportunity at the meeting to address the allegations either orally or in writing; and

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- (d) that if the Member notifies the Secretary in writing at least 48 hours before the meeting, the Member may elect to have the question of that Member's expulsion dealt with by the Company in general meeting.

*Members' power to expel Members*

- 3.19 The Members may expel a Member at General Meeting by passing a resolution with the support of two-thirds of those present and entitled to vote at a General Meeting.
- 3.20 The vote referred to in clause 3.19 must be taken by ballot.

*Other matters relating to expulsion*

- 3.21 A Member who is expelled from the Company does not have any claim on the Company, its funds or property.

**Cessation of Membership**

- 3.22 A person immediately stops being a Member if they:
- (a) die;
  - (b) are wound up, or otherwise dissolved or deregistered;
  - (c) resign their membership in accordance with clause 3.15;
  - (d) fail to pay the annual subscription and their membership is revoked in accordance with clause 3.14; or
  - (e) are expelled by the Company under clauses 3.17 or 3.19.
- 3.23 Where a Member's membership ceases, the Secretary must remove the Member's name from the Register as soon as is practicable.
- 3.24 Any person who ceases to be a Member:
- (a) remains liable for any annual subscriptions or other amounts that were due to the Company on the day the person ceased to be a Member; and
  - (b) is not entitled to any refund of the person's annual subscription.

**4. DIRECTORS**

**Transitional**

- 4.1 The following rules apply in respect of the Directors in office at the time that this version of the Constitution is adopted:
- (a) the Directors in office at the time this Constitution is adopted are the Directors of the Company;

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- (b) any Director in office at the time this Constitution is adopted who was required to retire in accordance with the terms of the previous Constitution must retire at the end of the General Meeting at which this Constitution is adopted;
  - (c) any Director currently in office at the time this version of the Constitution is adopted may see out the remainder of the term for which they were appointed or elected; and
  - (d) a Director's period of service prior to the adoption of this version of the Constitution does not count towards the term limits specified in clause 14.6

### **Number of Directors and Composition of Board**

- 4.2 The Board must have at least 5 Directors and not more than 9 Directors.
- 4.3 The Company may vary the maximum and minimum amounts of Directors referred to in clause 4.2 by Special Resolution.
- 4.4 If the number of Directors is reduced below the minimum set by clauses 4.2 and 4.3, the remaining Directors may act as the Board:
  - (a) to appoint Directors up to that minimum number; or
  - (b) to convene a General Meeting for the purpose, among other things, to seek nominations and election to the Board.

#### *Elected Directors*

- 4.5 The Company may elect an Elected Director by Ordinary Resolution passed at General Meeting.
- 4.6 The Company may only elect an Elected Director in accordance with any requirements of the Constitution.

#### *Board Appointed Directors*

- 4.7 The Board may appoint up to 3 Appointed Directors in addition to any Directors it appoints to fill a causal vacancy.
- 4.8 The Board may only appoint an Appointed Director in accordance with any requirements of the Constitution.

### **Who can be a Director?**

- 4.9 A person is eligible to be a Director if they:
  - (a) are over 18 years old;
  - (b) have not exceeded, or will not exceed, the term limits set by the Constitution;
  - (c) are not ineligible to be a director under the Corporations Act or ACNC Act;

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- (d) are not ineligible under clause 4.10; and
  - (e) if the person is to be elected as an Elected Director by the Company in General Meeting, the nomination and membership requirements of clause 4.13 are satisfied.

### **Who is ineligible to be a Director?**

4.10 The following people cannot be a Director:

- (a) any employee of the Company;
- (b) the Company's auditor; and
- (c) any officer, employee or partner of the Company's auditor.

4.11 If the Company employs a Director, then:

- (a) the Director is deemed to have resigned as a Director; and
- (b) there is a casual vacancy on the Board.

### **Skills and experience requirements for Appointed Directors**

4.12 The Board may only appoint a person as an Appointed Director, if it is satisfied that the person has 1 or more of the following kinds of qualifications, skills or experience:

- (a) at least 5 years' experience as a practising Chartered Accountant or Certified Practising Accountant;
- (b) legal qualifications, with appropriate experience in the not-for-profit sector;
- (c) at least 5 years' experience in marketing with a relevant degree qualification;
- (d) business qualifications, with at least 5 years' general management experience in either the not-for-profit sector or for-profit sector;
- (e) any qualification, skill or experience requirements approved by a majority of the Directors at the time of the proposed appointment.

### **Nomination and Membership Requirements for elected Directors**

4.13 A person (**Nominee**) is only eligible to be elected as a Director by the Company in General Meeting if the Nominee is:

- (a) a member of a Voting Member (**Nominating Voting Member**);
- (b) nominated by the Nominating Voting Member using the nomination form approved by the Board; and
- (c) the nomination form is signed by:



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- (i) the Nominee; and
  - (ii) a duly authorised representative of the Nominating Voting Member.

### **Director is deemed to be Voting Member**

4.14 A person is deemed to be, and has the rights of, a Voting Member for the duration while the person is a Director.

### **Term of office and term limits**

#### *Elected or Appointed Directors*

4.15 A Director, other than a Director appointed to fill a casual vacancy:

- (a) must retire at the end of the third Annual General Meeting after the Director was first elected or appointed; and
- (b) is eligible for re-election or re-appointment provided that the Director:
  - (i) remains eligible for election or appointment as a Director; and
  - (ii) has not exceeded the term limits set by clause 4.18.

4.16 Each period between:

- (a) the election or appointment of a Director; and
- (b) the retirement of that Director in accordance with clause 4.15(a) or, if the director has retired before that time, the end of the third Annual General Meeting following the election or appointment of the Director;

is counted as a **Term as a Director** for the purposes of clauses 4.18 and 4.19.

#### *Director appointed to fill casual vacancy*

4.17 A Director appointed to fill a casual vacancy must retire at the end of the next Annual General Meeting after the appointment of that Director.

#### *Term limits*

4.18 A person may only serve 2 consecutive Terms as a Director.

4.19 A person who has served 2 consecutive Terms as a Director is eligible for re-election or re-appointment as a Director once 3 years have passed since the end of the person's last Term as a Director.

### **When does a person stop being a Director?**

4.20 A person immediately stops being a Director if the Director:

- (a) dies;

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- (b) completes their term of office;
  - (c) resigns by written notice given to the Secretary;
  - (d) becomes bankrupt or makes an arrangement of composition with his or her creditors generally;
  - (e) becomes ineligible to be a Director under the Corporations Act or ACNC Act;
  - (f) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
  - (g) is absent, without the approval of a majority of the Board, for 3 consecutive board meetings;
  - (h) is removed by a resolution of the Company in General Meeting.

4.21 A Director who is removed by resolution under clause 4.20(h) is ineligible to be a Director for 3 years from 1 July of the year after the resolution was passed.

#### **Filling of a Casual Vacancy by the Board**

4.22 A **casual vacancy** occurs when a person stops being a Director for any reason other than the completion of their term of office.

4.23 The Board may, by majority, appoint a person who is eligible to be a Director under clause 4.9 to fill a casual vacancy.

#### **Approved absences of Directors**

4.24 The Board may grant a Director leave of absence for a period of up to 6 months. The Chair may, on application by the Director, extend this period by a further period of 6 months.

4.25 No period of leave will be greater than 12 months in any one term

### **5. CHAIR AND DEPUTY CHAIR**

#### **Appointment of Chair and Deputy Chair**

5.1 At the first Board meeting after each Annual General Meeting, the Board must elect

- (a) a Director to the office of Chair; and
- (b) a Director to the office of Deputy Chair.

5.2 If a Director occupying the office of Chair or Deputy Chair vacates their office, then the Board must elect a Director to the vacant office.

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## **6. POWERS OF THE BOARD**

### **Powers Generally**

6.1 The Board:

- (a) has power to manage the business of the Company; and
- (b) may exercise, by resolution, every right, power or capacity of the Company except those required to be exercised by the Company in general meeting.

### **Financial management**

6.2 The Board must decide on the responsible financial management of the Company, including:

- (a) how money will be managed; and
- (b) how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

6.3 In addition to clause 6.2(b), negotiable instruments or cheques may be authorised, signed, drawn, accepted, endorsed or otherwise executed by the Chair and a Director.

## **7. DELEGATION OF BOARD POWERS**

7.1 The Board may delegate any of its powers or functions to:

- (a) a committee;
- (b) a Director; or
- (c) an employee of the company (such as the CEO).

7.2 A delegation made under clause 7.1 may be limited, or subject to any terms or conditions, that the Board sees fit, including:

- (a) limiting the delegation to a particular transaction, or class of transactions; and
- (b) limiting the delegation's efficacy to a particular period.

## **8. COMMITTEES**

### **Establishing committees**

8.1 The Board may establish committees.

8.2 The Board must establish:

- (a) a Finance, Audit and Risk Committee; and

---

(b) a Governance Committee.

8.3 A committee is subject to the direction of the Board.

8.4 A committee must comply with any directions or requirements of the Board. These requirements may, without limitation, be set out in the form of regulations or standing orders.

### **Composition of committees**

#### *Board appointees*

8.5 The Board may appoint any other person it considers appropriate to a committee established under the Constitution.

8.6 The Board must appoint at least 2 Directors to

(a) the Finance, Audit and Risk Committee; and

(b) the Governance Committee.

#### *CEO is member of certain committees*

8.7 The CEO is an ex officio member of:

(a) the Finance, Audit and Risk Committee; and

(b) the Governance Committee.

#### *Committee may co-opt members*

8.8 A committee may co-opt any Member of the Company:

(a) with the consent of the Member; and

(b) in accordance with any requirements set out by the Board from time to time.

8.9 The Board may remove any member of a committee by passing a resolution to that effect.

### **Committee chairperson**

8.10 Subject to clause 8.11, each committee established under the Constitution must elect a chairperson.

8.11 The chairperson of:

(a) the Finance, Audit and Risk Committee; and

(b) the Governance Committee; and

must be a Director.

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## **Committee proceedings**

- 8.12 Subject to any directions or requirements imposed by the Board, a committee may meet and adjourn as it considers proper.
- 8.13 Subject to clause 8.15, each member of a committee has 1 vote.
- 8.14 All the business of a committee shall be determined by majority vote.
- 8.15 In the event of an equality of votes, the chairperson of a committee has a casting vote. This casting vote is in addition to the voting right conferred on the chairperson by clause 8.13.

## **9. DIRECTORS' DUTIES AND INTERESTS**

### **Directors' duties**

- 9.1 A Director must comply with all directors' duties arising under:
- (a) the general law; and
  - (b) any applicable legislation.
- 9.2 The duties of the Directors include the duties described in Governance Standard 5 of the *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth), namely:
- (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;
  - (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;
  - (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.

### **Director Not Disqualified from Holding Other Offices etc.**

- 9.3 A Director is not disqualified by reason only of being a Director from:
- (a) being a member or creditor of any corporation (including the Company) or partnership other than the auditor; or

- 
- (b) entering into any agreement with the Company.

## **Conflicts of interest**

### *Conflict of interest*

9.4 For the purposes of this Constitution, **conflict of interest** includes:

- (a) any actual or perceived conflict of interest under the general law; and
- (b) any personal interest, including a financial or non-financial interest, that could be seen to have a capacity to influence the vote of a Director.

### *Conflicts of interest must be declared*

9.5 A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered by the Board:

- (a) at a Board meeting; or
- (b) in a circular resolution.

9.6 The disclosure must be made:

- (a) at the start of the Board meeting at which the matter is to be considered; or
- (b) otherwise, as soon as possible.

9.7 A declared conflict of interest must be recorded in the Minutes.

### *What if all directors share interest?*

9.8 If all Directors share an actual or perceived material conflict of interest, then that interest must be disclosed to the Members at the next General Meeting, or at an earlier time if it is reasonable to do so.

### *Deemed interest*

9.9 A Director must declare any payments made for the Director's attendance or expenses at a meeting where the Director represents the Company.

### *Director Interested in a Matter*

9.10 A Director must not, except as otherwise provided in the Constitution:

- (a) be present at; or
- (b) vote on;

a matter before the Board (whether at a Board meeting, or in a circular resolution) in which the Director has a material personal interest.

9.11 However, a Director may still be present or vote if:

- 
- (a) the material personal 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;
  - (c) their interest relates to a payment by the company under clause 12 or any contract relating to an indemnity that is allowed under the Corporations Act;
  - (d) the Australian Securities and Investments Commission (**ASIC**) 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.

#### **Other matters relating to conflicts of interest**

- 9.12 A Director may be counted towards a quorum of a Board meeting that considers matters in which the Director has an interest.
- 9.13 The failure of a Director to declare an interest in a matter before the Board does not invalidate the Board's decisions on that matter.
- 9.14 The Company cannot avoid an agreement with a third party merely because a Director:
  - (a) fails to make a disclosure of an interest; or
  - (b) is present at, or counted in the quorum for, a Board meeting that considers or votes on that agreement.

## **10. CONFIDENTIALITY**

- 10.1 A Relevant Person must not disclose any information or documents obtained by the Director by virtue of their position except if that disclosure is:
  - (a) in the course of their duties as an officer of the Company;
  - (b) to the Board or to the Company in general meeting; or
  - (c) authorised by law.

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10.2 The Company may require a Relevant Person to sign a confidentiality undertaking consistent with clause 10.1.

10.3 In this clause, **Relevant Person** means:

- (a) a Director;
- (b) a member of a committee established under the Constitution;
- (c) the Company's auditor;
- (d) any officer of the Company.

10.4 The Company may also require an employee to sign a confidentiality undertaking in a form approved by the Board.

## **11. DIRECTORS' REMUNERATION**

### **Restrictions on Payments to Directors**

11.1 Subject to clauses 11.2 and 12, the Company must not pay fees or other remuneration to a Director.

### **Payments to Directors with Board Approval**

11.2 With the approval of the Board, the Company may pay to a Director:

- (a) reasonable expenses (including travel and accommodation) incurred in carrying out duties as a Director;
- (b) reasonable remuneration for any contract of services approved in advance by the Board and rendered by the Director to the Company;
- (c) reasonable remuneration for goods supplied by the Director to the Company in the ordinary course of business; and
- (d) reasonable rent for any premises leased by the Director to the Company.

## **12. INDEMNITY AND INSURANCE**

### **Indemnity**

12.1 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.

12.2 In clause 12, 'Officer' means a Director or Secretary and includes a Director or Secretary after they have ceased to hold that office.

12.3 In clause 12, '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).
- 12.4 The indemnity is a continuing obligation and is enforceable by an Officer even though that person is no longer an officer of the Company.
- 12.5 An Officer is not entitled to the indemnity referred to in clause 12.1 unless the Officer acted in a diligent and reasonable manner.

### **Insurance**

- 12.6 To the extent permitted by law (including the Corporations Act), the Company may enter into, and pay premiums on, a contract of insurance in respect of any person who is, or has been, an officer of the Company.

## **13. BOARD MEETINGS**

### **When do the Directors meet?**

- 13.1 The Directors may decide how often, where and when they meet.

### **Calling Board Meetings**

- 13.2 3 directors may call a Board meeting by giving written notice to the Secretary.
- 13.3 On receipt of the notice referred to in 13.2, the Secretary must set a date for the Board meeting. The date set by the Secretary must be within 28 days of the Secretary's receipt of the notice.

### **Notice of Board Meeting**

- 13.4 Subject to clause 13.5, Directors must be provided with at least 7 days' notice of a Board meeting by the Secretary.
- 13.5 The Chair may rule that in the event of urgent matters the notice of a Board meeting may be reduced to a minimum of 3 days.
- 13.6 Notice of a meeting may be given orally or in writing, including by electronic communication.

### **Procedural Rules**

- 13.7 The Board must adopt a Code of Meeting Procedures.
- 13.8 Board meetings must be conducted in accordance with the Code of Meeting Procedures.

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## **Chairing Board Meetings**

- 13.9 The following people may chair a Board meeting:
- (a) the Chair;
  - (b) if the Chair is unable or unwilling to chair the Board meeting, or is not present within 15 minutes of the time appointed for the meeting, the Deputy Chair; or
  - (c) if the Chair is unable or unwilling to chair the meeting or is not present within 15 minutes of the time appointed for the meeting, a Director selected by the Board for the purposes of chairing the Board meeting.

## **Quorum**

- 13.10 Unless the Board decides otherwise, the quorum for a Board meeting is 50% of the Directors (rounded up to the nearest whole number).
- 13.11 A quorum must be present for the whole Board meeting.
- 13.12 A Director who has an interest in a matter before the Board may be counted towards a quorum, even if they are prohibited from being present or voting on the matter in which they have an interest.

## **Use of technology**

- 13.13 A Director is considered to be present at a Board meeting held by audio or audio-visual communication if the Director is able to hear and be heard by all others attending.

## **Board meetings and procedure**

- 13.14 Subject to clause 13.15, each Director has 1 vote.
- 13.15 In addition the voting right conferred by clause 13.14, the Person chairing the Board meeting (see clause 13.9) may exercise a casting vote if the Board is equally divided.
- 13.16 Any exercise of the casting vote must be clearly recorded in the minutes of the meeting at which the casting vote was exercised.
- 13.17 Abstentions must be recorded as a vote against the motion.

## **Circular resolution**

- 13.18 The Board may pass a circular resolution without a Board meeting.
- 13.19 A circular resolution is passed when:

- 
- (a) subject to clause 13.22, all Directors entitled to vote on the resolution have signed a document setting out the resolution (or a copy of such a document) in the manner set out in clause 13.21; and
  - (b) a majority of Directors have indicated that they are in favour of the resolution;
  - (c) the Chair confirms in writing to the Directors that (a) and (b) above have been satisfied.

13.20 A circular resolution:

- (a) may be circulated and signed electronically (such as by email); and
- (b) must be circulated to each Director.

13.21 Each Director:

- (a) may sign:
  - (i) a single document setting out the resolution; or
  - (ii) separate copies of such a document, provided that the wording of the resolution is the same in each copy; and
- (b) must indicate whether they are in favour of, or oppose, the resolution set out in the document referred to in clause 13.21(a).

13.22 A Director who has been granted leave not to appear at the next Board Meeting is not required to sign a circular resolution in order for the resolution to be valid, provided that:

- (a) all other Directors have signed the document referred to in clause 13.21(a); and
- (b) the number of Directors that have signed the document is equal to the number required for a quorum for a meeting of directors as calculated under clause 13.10.

### **Valid Proceedings**

13.23 Any act of the Board, including the acts of a committee, are not invalid merely because:

- (a) there is a defect in the appointment of a Director, or a person who acts as a Director;
- (b) a Director, or person who acts a Director, is ineligible to be a Director.

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## 14. GENERAL MEETINGS

### Annual General Meeting

14.1 An Annual General Meeting of the Company must be held once every calendar year.

### Calling General Meetings

14.2 A General Meeting may be called:

- (a) by the Board or at least one-third of the Directors;
- (b) by the Board at the written request of the relevant amount of Voting Members (see clause 14.4).

14.3 The written request referred to in 14.2(b) must specify the business to be considered at the General Meeting, in order to be valid.

14.4 In clause 14.2, the **relevant amount** means the higher of:

- (a) 25 Voting Members; or
- (b) one third of all Voting Members.

### Notice of Meeting

14.5 21 days' notice of a General Meeting must be given to:

- (a) each Member;
- (b) each Director; and
- (c) the Company's auditor.

### Contents of notice

14.6 The notice must specify the following:

- (a) time, location and day of the meeting;
- (b) the general nature of the business to be considered at the General Meeting;
- (c) (if applicable) that a Special Resolution is proposed, and the text of the proposed resolution; and
- (d) the following information:
  - (i) that a Voting Member is entitled to appoint a proxy;
  - (ii) that the Proxy must be a Voting Member of the Company; and

- 
- (iii) that the complete proxy form must be received by the Company at its registered office at least 24 hours prior to the General Meeting.

### **Short Notice**

- 14.7 Subject to clauses 14.8 and 26, notice of a General Meeting may be provided less than 21 days before the General Meeting if:
- (a) in the case of an Annual General Meeting, all the Voting Members entitled to vote at the Annual General Meeting agree; or
  - (b) in any other case, 95% of the Voting Members entitled to vote at the General Meeting agree.
- 14.8 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 under 14.8(a); or
  - (c) remove an auditor.

### **Postponement or Cancellation**

- 14.9 The Board may:
- (a) postpone a General Meeting;
  - (b) cancel a General Meeting; or
  - (c) change the location of a General Meeting,
- by written notice given to each person entitled to receive notice of the meeting.

### **Notice for Reconvened Meeting**

- 14.10 Subject to clause 14.12, when a meeting is adjourned for 30 days or less, notice of the adjourned meeting is deemed to have been given by the Board.
- 14.11 When a meeting is adjourned for more than 30 days, the Company must provide notice as if the meeting had been convened for the first time.
- 14.12 Additional business may only be considered at an adjourned meeting if:
- (a) written notice of the additional business has been given to all persons entitled to attend the adjourned meeting;
  - (b) the written notice is given at least 10 days before the reconvening of the adjourned meeting.

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### **Accidental Omission**

- 14.13 A resolution passed in General Meeting is not invalid because of:
- (a) an accidental failure of the Company to provide notice to a Member, or Members; or
  - (b) non-receipt of a notice by a Member, or Members.

### **Quorum**

- 14.14 The quorum for a General Meeting is the lesser of the following:
- (a) 10 Voting Members; or
  - (b) 10% of all Voting Members eligible to vote at the General Meeting.
- 14.15 No business may be conducted at a General Meeting unless a quorum is present.
- 14.16 If a Member has appointed more than 1 proxy or representative, only 1 of them may be counted towards a quorum.

### **No quorum**

- 14.17 If a General Meeting lacks a quorum 30 minutes after the time appointed for the General Meeting, then:
- (a) the meeting is adjourned to a day, time and place determined by the Board, which the Board must notify to the Members. If the Board does not decide, or does not provide notice, then the General Meeting will be adjourned to the same time on the same day in the next week at the same place; and
  - (b) if a quorum is not present at the reconvened General Meeting within 30 minutes from the time appointed for the reconvened General Meeting, the General Meeting is dissolved.

### **Chairing General Meetings**

- 14.18 The Chair shall chair each General Meeting.
- 14.19 If:
- (a) there is no Chair; or
  - (b) the Chair is unwilling or unable to act; or
  - (c) the Chair is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to chair the meeting;
- then the Deputy Chair shall chair the General Meeting.
- 14.20 If:

- 
- (a) there is no Deputy Chair of the Board; or
  - (b) the Deputy Chair of the Board is unable or is unwilling to act;

then the Voting Members present at the General Meeting must elect a Voting Member present to chair the General Meeting.

### **Rights of Directors and auditor to attend General Meetings**

- 14.21 Each Director may attend, and speak at, a General Meeting.
- 14.22 The auditor may attend any General Meeting and to speak to any part of the business of the meeting which concerns the auditor in the capacity of auditor.

### **Adjournment of meeting with quorum**

- 14.23 The Chair of a General Meeting at which a quorum is present:
  - (a) may, with the consent of the General Meeting; and
  - (b) must, if directed by Ordinary Resolution of the General Meeting, adjourn the meeting to another time and place.
- 14.24 Additional business may be transacted at a General Meeting resumed after an adjournment under clause 14.23 if:
  - (a) written notice of the additional business has been given to all persons entitled to attend the adjourned meeting;
  - (b) the written notice is given at least 10 days before the reconvening of the adjourned meeting.

## **15. VOTING AT GENERAL MEETING**

### **Number of Votes**

- 15.1 Subject to clauses 15.2 and 15.7, at a General Meeting:
  - (a) each Voting Member has 1 vote;
  - (b) each Voting Member's vote may be exercised personally or by proxy, attorney or Corporate Representative.
- 15.2 Despite clause 15.1, a Voting Member is not entitled to vote at a General Meeting if their annual subscription is more than 1 month in arrears.
- 15.3 Despite anything else in this Constitution, a Voting Member whose rights are suspended under this clause is not entitled to move motions, or exercise any of the rights of a Voting Member in General Meeting.

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### **Casting Vote of Chair**

- 15.4 In the case of an equality of votes, the Person chairing a General Meeting at which a poll is requested shall be entitled to a casting vote.
- 15.5 The Person chairing a General Meeting has the discretion to cast the vote for or against the motion.
- 15.6 The exercise of a casting vote is to be recorded as such in the Minutes.

### **Voting Restrictions**

- 15.7 Despite clause 15.1, if:
- (a) the Corporations Act, ACNC Act or any other law prohibits a Voting Member, or Voting Members, from voting on a resolution; and
  - (b) the notice of the meeting at which the resolution will be proposed states that fact,
- then
- (c) the Voting Member, or Voting Members, referred to in clause 15.7(a) have no right to vote on that resolution; and
  - (d) the Company must not count any votes purportedly cast by those Voting Members.

### **Decision on Right to Vote**

- 15.8 A Voting Member or Director may challenge a person's right to vote at a General Meeting.
- 15.9 A challenge may only be made at the General Meeting at which the person purports to be entitled to vote.
- 15.10 A challenge, or any other doubt as to the validity of a vote, must be decided by the Person chairing the General Meeting.
- 15.11 The decision of the Person chairing the General Meeting is final. It is not open to challenge or a motion of dissent.

### **How Voting is Carried Out**

- 15.12 Subject to clause 15.14, a vote at a General Meeting must be conducted and decided by:
- (a) a show of hands; or
  - (b) on the voices; or
- unless a poll is demanded in accordance with clause 15.14.



- 
- 15.13 Unless a poll is requested and supported by the meeting, the Person chairing the General Meeting's declaration of a decision on a show of hands is final without proof of the number or proportion of the votes recorded in favour of or against the resolution.

### **Demand for poll**

- 15.14 A poll may be demanded on a resolution by:
- (a) a majority of the General Meeting upon motion moved by 2 Voting Members; or
  - (b) the Person chairing the General Meeting.
- 15.15 The demand for a poll does not affect the continuation of the meeting for the transaction of other business.

### **When and How Polls Must be Taken**

- 15.16 If a poll is demanded, the following rules apply:
- (a) subject to clause 15.16(b), the poll is to be taken at the time and place in the manner determined by the Person chairing the General Meeting;
  - (b) if the poll relates to:
    - (i) the adjournment of the General Meeting; or
    - (ii) the election of a Person to chair the General Meeting;the poll is to be held immediately in the manner determined by the Person chairing the General Meeting.

## **16. PROXIES, ATTORNEYS AND REPRESENTATIVES**

### **Appointment of Proxies**

- 16.1 A Member (**Principal**) may appoint a proxy to attend, and act for, the Principal at a General Meeting.
- 16.2 The instrument appointing a proxy (**Proxy Form**) must:
- (a) be in writing:
    - (i) in the form approved by the Board; or
    - (ii) in a common or usual form; and
  - (b) be signed by:
    - (i) the Principal; or

- 
- (ii) the Principal's duly authorised attorney; or
  - (iii) if the Principal is a body corporate, either under seal or under the hand of an officer or duly authorised attorney.

16.3 For the purposes of clause 16.2, an attorney is duly authorised if they are appointed in writing and the appointment is not contrary to law.

16.4 A proxy must be a Voting Member.

16.5 A proxy may vote on any resolution at a General Meeting subject to:

- (a) any written direction given by the Principal to vote for or against a motion; and
- (b) any limitations imposed on the proxy by in the Proxy Form.

16.6 Despite clause 16.5, a proxy has the authority to demand or join in demanding a poll.

### **Member's Attorney**

16.7 A Member (**Appointer**) may appoint an attorney to act at a General Meeting.

16.8 If the Appointer is a natural person, the power of attorney appointing the attorney referred to in clause 16.7 must be signed by the Appointer and at least 1 witness.

### **Deposit of Proxy Forms and Powers of Attorney**

16.9 A Proxy Form or power of attorney (**Instrument**) must be received at:

- (a) the Company's registered office; or
- (b) the place specified in the notice of meeting (if any);

at least 24 hours before a General Meeting or poll.

16.10 If the Instrument referred to in clause 16.9 has been made by the Member's attorney, then the Instrument must also be accompanied by:

- (a) the power of attorney that authorises the attorney to make the Instrument; or
- (b) a certified copy of such a power of attorney.

16.11 An Instrument must be deposited in accordance with clauses 16.9 and 16.10 to have effect.

### **Corporate Representatives**

16.12 A Member that is a body corporate may appoint an individual (**Corporate Representative**) to exercise all or any of the powers the Member may exercise at General Meeting.

- 
- 16.13 A Corporate Representative must be appointed by writing. The instrument must be signed by the public officer, the Chair or other authorised person from the body corporate.

### **Member of Unsound Mind**

- 16.14 If a Member who is a natural person:

- (a) lacks decision-making capacity; or
- (b) is subject to the laws relating to guardianship, administration or mental health;

then their trustee, guardian or other person responsible for the Member may vote on behalf of the Member and may exercise this power by proxy or attorney appointed in accordance with the Constitution.

### **Duration of Appointments**

- 16.15 An appointment as:

- (a) a proxy;
- (b) a power of attorney; or
- (c) a corporate representative;

under this Constitution may:

- (d) relate to a particular event, such as a General Meeting; or
- (e) be a standing appointment.

### **Suspension of Proxy or Attorney's Powers if Member Present**

- 16.16 A proxy or attorney has no power to act for a Member at a meeting at which the Member is present:

- (a) in the case of an individual, in person; or
- (b) in the case of a body corporate, by Corporate Representative.

- 16.17 A proxy has no power to act for a Member at a meeting at which the Member is present by attorney.

### **Priority of Conflicting Appointments of Attorney or Representative**

- 16.18 If more than 1 attorney or Corporate Representative appointed by a Member is present at a General Meeting and the Company has not received notice of revocation of any of the appointments:

- 
- (a) an attorney or Corporate Representative appointed to act at that General Meeting may act to the exclusion of an attorney or representative appointed under a standing appointment; and
  - (b) subject to clause 16.18(a), an attorney or representative appointed under a more recent appointment may act to the exclusion of an attorney or representative appointed earlier in time.

### **Multiple Proxy Forms**

- 16.19 Clause 16.20 applies where a Member has deposited a Proxy Form with the Company (**previous Proxy Form**).
- 16.20 If the Member referred to in clause 16.19, deposits a **further Proxy Form**, then the following rules apply:
- (a) if the further Proxy Form effects a standing appointment, the previous Proxy Form is revoked; and
  - (b) if:
    - (i) the further Proxy Form effects an appointment for a particular General Meeting; and
    - (ii) the previous Proxy Form effects a standing appointment;
- then the appointment effected by the previous Proxy Form is suspended in respect of the particular General Meeting referred to in clause 16.20(b)(i).

### **Continuing Authority**

- 16.21 An act done at a meeting of Members by a proxy, attorney or Corporate Representative is valid even if, before the act is done, the appointing Member:
- (a) dies or becomes mentally incapacitated;
  - (b) becomes bankrupt or insolvent under administration or is wound up; or
  - (c) revokes the appointment or revokes the authority under which the appointment was made by a third party,
- unless the Company has received written notice of the matter before the start or resumption of the meeting at which the vote is cast.

## **17. SECRETARY**

### **Appointment of Secretary**

- 17.1 The Board must appoint a person to be a Secretary.
- 17.2 The Secretary:

- 
- (a) must be over 18 years old; and
  - (b) must:
    - (i) not be disqualified from managing corporations; or
    - (ii) (if the Secretary is so disqualified) have permission from ASIC or a Court to manage a corporation;
  - (c) must not be the Chair or Deputy Chair;
  - (d) must consent to the appointment in writing; and
  - (e) may be:
    - (i) a Director (subject to the mandatory requirements of clause 17.2);  
or
    - (ii) an employee of the Company.

### **Term of appointment**

- 17.3 The Secretary holds office on the terms and conditions determined by the Board.
- 17.4 The Board may vary any the conditions on which the Secretary is engaged.
- 17.5 The Board may remove the Secretary from office, even if the Secretary's appointment is expressed to be for a specified term.

### **Cessation of Secretary's Appointment**

- 17.6 A person immediately stops being the Secretary if the person:
  - (a) dies;
  - (b) resigns by notice in writing to the Company; or
  - (c) ceases to meet any of the mandatory criteria specified in clause 17.2;
  - (d) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
  - (e) is removed from office by the Board.

## **18. CHIEF EXECUTIVE OFFICER**

### **Appointment of CEO**

- 18.1 The Board must appoint a CEO.

### **Responsibilities of CEO**

- 18.2 The CEO is responsible for:

- 
- (a) the efficient and effective management of the Company's operations; and
  - (b) implementing the decisions of the Board without undue delay.

18.3 The CEO's responsibilities include:

- (a) day-to-day management of the Company;
- (b) exercising any powers, or fulfilling any functions, delegated by the Board;
- (c) appointing staff in accordance with the organisational structure and resourcing requirements approved by the Board;
- (d) directing and dismissing staff; and
- (e) implementing the Company's Strategic Plan and Policies.

### **When does person cease being CEO?**

18.4 A person immediately stops being the CEO if the person:

- (a) dies, or
- (b) completes the term of their contract and is not re-appointed, or
- (c) resigns from the position by giving written notice to the Board, or
- (d) becomes a physically or mentally incapacitated person and is on medical advice from a competent person considered unfit to continue in the position, or
- (e) is sentenced to a term of imprisonment; or
- (f) is disqualified under the Corporations Act or ACNC Act; or
- (g) is removed from the position for breach of or under the terms of the CEO's contract, or
- (h) in the view of the Board has failed to perform at a suitable level after having been informed of the Board concerns and given a reasonable opportunity to improve or ongoing poor performance with the Company.

## **19. MINUTES**

### **Minutes Must Be Kept**

19.1 The Company must keep minutes of:

- (a) the names of Directors present at each Board meeting or committee meeting;
- (b) all proceedings and resolutions of Board meetings;

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- (c) all proceedings and resolution of committees established by the Company;
  - (d) written resolutions passed by Directors without a meeting; and
  - (e) disclosures and notices of Directors' interests.
- 19.2 Minutes must be made within 1 month of the occurrence of any of the events listed in clause 19.1.
- 19.3 The minutes are to be kept and signed in accordance with the Corporations Act.

### **Minutes as Evidence**

- 19.4 A minute kept and signed in accordance with the Corporations Act is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

### **Inspection of Minute Books**

- 19.5 The Company shall allow Members to inspect, and provide copies of, the minute books for General Meetings in accordance with the Corporations Act.

## **20. COMPANY SEAL**

- 20.1 The Board shall provide for the safe custody of the Seal which shall only be used by the authority of the Board.
- 20.2 Every instrument to which the Seal is affixed shall also be signed:
- (a) by 2 Directors; or
  - (b) the CEO and a Director.

## **21. FINANCIAL REPORTS AND AUDIT**

### **Company Must Keep Financial Records**

- 21.1 The Company must make and keep written financial records that:
- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance;
  - (b) would enable true and fair financial statements to be prepared and audited.
- 21.2 The Company must make its financial records available for inspection by Members.

### **Audit**

- 21.3 The Board must cause the Company's financial report for each financial year to be audited and obtain an Auditor's report which shall be made available to the Members of the Company.

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- 21.4 Copies of the Auditor's report for the past financial years are open to inspection upon reasonable notice at the company's office by any Member or representative Member.

### **Conclusive Reports**

- 21.5 Audited financial reports laid before the Company in General Meeting are conclusive except in respect of errors notified to the Company within 3 months of the General Meeting.
- 21.6 If the Company receives notice of an error within that period:
- (a) it must immediately correct the report; and
  - (b) the corrected report is conclusive.

## **22. REGISTER OF MEMBERS**

- 22.1 The Company must maintain a register of Members.
- 22.2 The Register must contain any information required by the Corporations Act, including:
- (a) the name and address of each Member;
  - (b) the date on which the entry of the Member's name in the Register is made;
  - (c) the name and details of each person who stopped being a Member within the last 7 years;
  - (d) the date on which the person stopped being a Member; and
  - (e) an index of Members' names if the Company has more than 50 Members and the Register itself is not kept in a form that operates effectively as an index.

## **23. WINDING UP**

- 23.1 If the Company is wound up, any Surplus Assets of the Company must not be distributed to Members or former Members.
- 23.2 Subject to the Constitution, the Corporations Act and any other applicable law, the distribution of the Surplus Assets remaining after winding up shall be determined by the majority decision of the Board.
- 23.3 Surplus Assets of the Company must be given or transferred to:
- (a) a charity with aims and objectives comparable to the Company's; and
  - (b) whose constitution prevents the distribution of its income and property among its Members.



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- 23.4 In clause 23, **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.

## **24. REVOCATION OF DEDUCTIBLE GIFT RECIPIENT STATUS**

- 24.1 If the Company's endorsement as a deductible gift recipient is revoked then,
- (a) gifts of money or property for the principal purpose 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;
- must be transferred to another organisation with deductible gift recipient status.

## **25. NOTICES**

### **Notice to Company, Directors or Secretary**

- 25.1 Written notice or any communication under the 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 another address chosen by the Company for notice to be provided;
  - (c) sending it to an email address or other electronic address notified by the Company to the Members as the Company's, Director's or Secretary's (as the case may be) email address or other electronic address; or
  - (d) sending it to the fax number notified by the Company to the Members as the Company's fax number.

### **Notice to Members**

- 25.2 Written notice or any communication under the 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 or an alternative address (if any) nominated by the Member for service of notices;
  - (c) sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any)

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- (d) sending it to the fax number nominated by the Member as an alternative address for service of notices (if any), or
  - (e) if agreed to by the Member, by notifying the Member at an email or other electronic address nominated by the Member, that the notice is available at a specified place or address (including an electronic address).

25.3 If the Company does not have an address for the Member, the Company is not required to give notice in person.

#### **When notice is taken to be given**

25.4 A notice under the Constitution is taken to be given:

- (a) if it is delivered personally or sent by fax or electronic message:
  - (i) by 5 pm (local time in the place of receipt) on a business day on that day; or
  - (ii) after 5 pm (local time in the place of receipt) on a business day, or on a day that is not a business day on the next business day; and
- (b) if it is sent by mail:
  - (i) within Australia 3 business days after posting; or
  - (ii) to a place outside Australia 5 business days after posting.

25.5 A certificate in writing signed by a Director or the Secretary stating that a notice was sent is conclusive evidence of service.

#### **Business Days**

25.6 For the purposes of clause 25.4, a **business day** is a day that is not:

- (a) a Saturday;
- (b) a Sunday; or
- (c) a public holiday;

in the place to which the notice is sent.

#### **Counting Days**

25.7 In calculating whether notice of an event (such as a General Meeting) has been given within the period required by the Constitution (if any), the day of service and the day on which the event is to occur must be counted towards the notice period.

#### **Notices to "Lost" Members**

25.8 If:

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- (a) a notice served on a Member in accordance with the Constitution is returned unclaimed or with an indication that the Member is not known at the address to which it was sent on 2 or more consecutive occasions; or
  - (b) the Board believes on other reasonable grounds that a Member is not at the address shown in the Register or otherwise notified to the Company;

the Company may give effective notice to that Member by exhibiting the notice at the Company's registered office for at least 48 hours.

- 25.9 Clause 25.8 ceases to apply if the Member gives the Company notice of a new address.

## **26. CHANGES TO THE CONSTITUTION**

- 26.1 The Constitution may be repealed, altered or amended by Special Resolution at a General Meeting.

- 26.2 The Constitution cannot be repealed, altered or amended other than in accordance with clause 26.1.

- 26.3 At least 21 days' notice must be given of any General Meeting, at which a motion to repeal, alter or amend the Constitution will be moved.

- 26.4 The notice referred to in clause 26.3 must also state the details of the proposed changes to the Constitution.

- 26.5 The notice referred to in clause 26.3 must be distributed to all Members of the Company.