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Constitution

Outdoor Health Australia

A public company limited by guarantee

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Communication and Decision Making Policy means the 'OHA Communication and Decision Making Policy' adopted by the Board of Directors from time to time.

Director means a person appointed to the position of a director of the Company and, where appropriate, includes an Acting Director.

Eligible Entity means an entity which:

- (a) has purposes similar to the Purposes;
- (b) is prohibited by Law or its governing document from distributing (while operating or on winding up) its income and property to its members, to at least the same extent as this Constitution; and
- (c) (if the Company is endorsed as a deductible gift recipient under the ITAA at the time it transfers assets to that entity) is endorsed as a deductible gift recipient under the ITAA.

Executive Director has the meaning given in rule 28.1.1.

Gift Fund has the meaning given in rule 38.1.

Hybrid Meeting means a meeting held at 1 or more physical locations linked with 1 or more technologies, such that participants may participate in the meeting physically or remotely.

Full Member means either an individual directly associated with the Company or an organisation undertaking activities associated with the Purpose and that is admitted to full membership of the Company under this Constitution. .

Interest Group Executive has the meaning given to it under rule 10.5.

ITAA means the *Income Tax Assessment Act 1997* (Cth).

Law includes:

- (a) any law, statute, regulation, ordinance, by-law, order or proclamation, and the common law; and
- (b) any authorisation, ruling, judgment, order, decree or other requirement of any Authority.

Managing Director means a Director appointed as managing director under rule 28.1.2.

Member means either:

- (a) a Full Member; or
- (b) an Affiliate Member.

Non-executive Director means a Director who is not an Executive Director.

Purposes means the purposes of the Company set out in rule 4.1.

Register means the register of Members of the Company.

Relevant Law means any one or more of the following and their subordinate legislation, where applicable to the Company:

- (a) the Act;
- (b) the ACNC Act;
- (c) the *Charities Act 2013* (Cth);
- (d) the ITAA; and
- (e) any:
 - (i) class order or regulatory guide issued by the Australian Securities and Investments Commission;
 - (ii) public or private ruling issued by the Australian Taxation Office; or
 - (iii) Commissioner's interpretation statement issued by the Australian Charities and Not-for-Profits Commission.

Representative means a person appointed under the Act to represent a corporate Member at a meeting of Members.

Secretary means any person appointed by the Directors to perform any duties of a secretary of the Company.

Surplus Property means, on a winding up of the Company, all property of the Company remaining after the satisfaction of all of its debts and liabilities, and the costs, charges and expenses of the winding up.

Virtual Meeting means a meeting held using 1 or more technologies where all participants participate remotely.

1.2 Expressions defined in the Act

Except where the context otherwise requires, an expression used in this Constitution has the same meaning as in the Act. Where the expression has more than one meaning in the Act and a provision of the Act deals with the same matter as a rule of this Constitution, then that expression where used in the rule of this Constitution has the same meaning as in that provision.

1.3 References to the Act

Unless otherwise indicated, a reference in this Constitution (including in the marginal notes) to a Chapter, Part, Division or section is a reference to a Chapter, Part, Division or section of the Act.

2. Application of the Act and other Relevant Law

2.1 Replaceable rules do not apply

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

2.2 Inconsistency

Where the Relevant Law:

- 2.2.1 confers a right on a Member or on another person;
- 2.2.2 restricts the exercise of rights or powers; or
- 2.2.3 requires a procedure to be followed before a certain action is taken by the Company, the Directors, the Members or any other person (for example, passing a resolution or exercising a right or power under this Constitution),

then the provisions of this Constitution will be subject to the exercise of that right or the application of that restriction, and all relevant persons must follow any required procedure.

Part 2 Company structure, purposes and powers

3. Company limited by guarantee

The Company is limited by guarantee and the liability of Members is limited as provided in this Constitution.

3.1 Company structure

The company structure will consist of:

- 3.1.1 Members;
- 3.1.2 Committees who assist the Board of Directors with fulfilling their roles and responsibility by providing expertise and advice; and
- 3.1.3 Board of Directors who are responsible for the governance and finances of the Company and fulfilling the Company purposes in rule 4.1.

4. Purposes and powers

4.1 Purposes

The principal purposes of the Company are:

- 4.1.1 to be a charity that advances health by supporting outdoor and nature-based health services, practices and interventions to improve the physical, mental and social health and wellbeing of Australians by working to make such services more accessible within the Australian health, education and social service;
- 4.1.2 to prevent and ameliorate a range of disease and illness (including but not limited to diagnosed mental illness and chronic lifestyle related diseases such as heart disease and diabetes);
- 4.1.3 to support diversity and equality by increasing access to outdoor health services for vulnerable, marginalised or disadvantaged individuals, families and communities;

- 4.1.4 to advocate for the evidenced benefits of outdoor healthcare interventions;
- 4.1.5 to engage and support outdoor health providers through evidenced research, quality practice, training, sector information and advocacy; and
- 4.1.6 to present evidenced research regarding the benefits of outdoor healthcare interventions to Government with the aim of informing Government policy and investment to minimise future fiscal health burdens and limit the spread of disease.

4.2 Powers

Subject to this Constitution and solely for carrying out the Purposes, the Company has the legal capacity and powers of an individual and all the powers of a body corporate under the Act, other than the power to issue shares.

Part 3 Member matters

5. Member liability and guarantee

5.1 Limited liability

The liability of each Member is limited to the amount specified in rule 5.2.

5.2 Member contribution

5.2.1 Each Member undertakes to contribute a maximum of \$10 to the Company if it is wound up:

- (a) while the Member is a Member; or
- (b) within 1 year after that Member ceases to be a Member,

5.2.2 That contribution is for:

- (a) the debts and liabilities of the Company contracted while that Member was a Member; and
- (b) the costs, charges and expenses of winding up.

6. Membership

6.1 Register

6.1.1 The Company must establish and maintain a Register.

6.1.2 Any dispute relating to the Register must be referred to the Directors, whose decision is final and binding on all Members.

6.2 Who are Members

The Members are:

- 6.2.1 each person specified in the application to register the Company lodged under s 117 of the Act and who has consented to be a Member; and
- 6.2.2 any other person the Directors admit to membership under rule 6.7.

6.3 Affiliate Members

Affiliate Members are:

- 6.3.1 entitled to:
 - (a) membership discounts for employees and volunteers of Affiliate Members as determined by the Board of Directors from time to time;
 - (b) formal affiliation with the Company; and
 - (c) use affiliate membership logo, and
- 6.3.2 not permitted to vote at meetings of the Members.

6.4 Full Members

Full Members are:

- 6.4.1 entitled to:
 - (a) observe meetings of the Board of Directors;
 - (b) membership discounts for employees and volunteers of Full Members as determined by the Board of Directors from time to time;
 - (c) formal affiliation with the Company; and
 - (d) use full membership logo; and
- 6.4.2 are entitled to vote at meetings of the Members.

6.5 Applying for membership

- 6.5.1 Each applicant for membership must apply in the form and manner, accompanied by any fee, as determined by the Directors from time to time.
- 6.5.2 The Directors must consider each application for membership and determine whether to accept or reject the application.
- 6.5.3 If the Directors accept an application for membership, the applicant's name must be entered in the Register and notification be sent to the applicant. The applicant becomes a Member when their name is entered in the Register.
- 6.5.4 If the Directors reject an application for membership, the Secretary must notify the applicant and refund (without interest) any application fee that was paid. The Directors do not need to give any reason for rejecting an application.

6.6 Not transferable

Membership is not transferable.

6.7 Fees

6.7.1 The Directors may prescribe, as they think fit, any membership and other fees payable by Members, and when those fees are payable.

6.7.2 The Directors must give Members not less than 1 months' notice of any change to the fees.

6.7.3 If a Member does not pay any prescribed fees within 2 months after they are due and payable, and does not rectify that default within 1 month of being given notice to do so, then the Member ceases to be a Member when that 1 month period expires.

7. Disciplinary action**7.1 Grounds for taking disciplinary action**

The Directors may, by a resolution passed by at least 75% of those present and voting at a meeting of the Directors, expel a Member, temporarily suspend membership rights, or take other disciplinary action (excluding imposition of fines) against a Member who:

7.1.1 did not comply with this Constitution;

7.1.2 acted in a way which, in the opinion of the Directors, indicates that the Member will not support the principal purposes of the Company; or

7.1.3 engaged in conduct which is, in the opinion of the Directors, prejudicial to the interests of the Company.

7.2 Notices to Member

7.2.1 At least 15 Business Days before the Directors hold a meeting to consider a resolution under rule 7.1, the Directors must give the Member a written notice which states:

(a) the allegations against the Member;

(b) the proposed resolution; and

(c) that the Member may, before the meeting, give the Directors a written statement regarding the allegations to be considered at the meeting.

7.2.2 Promptly after the Directors pass a resolution under rule 7.1, the Secretary must give the relevant Member a notice of the resolution.

7.3 Resolution taking effect

If the Directors pass a resolution under rule 7.1, any suspension or cessation of the relevant Member's membership will take effect at the end of the meeting at which the resolution was passed.

7.4 No liability

The Company has no liability to a Member arising from the Member being expelled from the Company or being subject to other disciplinary action under a resolution under rule 7.1.

8. Cessation of membership

8.1 Grounds for cessation

A Member ceases to be a Member if the Member:

- 8.1.1 gives the Company a written resignation;
- 8.1.2 ceases to be a Member under rule 6.9 (**Fees**);
- 8.1.3 is expelled under rule 7 (**Disciplinary action**);
- 8.1.4 (if an individual) dies or becomes mentally incapacitated or bankrupt;
- 8.1.5 (if a corporate entity) becomes insolvent, becomes subject to the appointment of a liquidator, is wound up, dissolved or deregistered, or otherwise ceases to exist; or
- 8.1.6 becomes, as determined by the Directors in their absolute discretion, an untraceable Member because the Member has ceased to be located at, attend or otherwise communicate with their address as shown in the Register. An untraceable Member ceases to be a Member on the date of the Directors' determination.

8.2 Removal from Register

- 8.2.1 If a Member ceases to be a Member, the Secretary must remove the Member's name from the Register.
- 8.2.2 On the removal of a Member's name from the Register:
 - (a) the Member will forfeit all rights and privileges attaching to membership and all rights which the Member may have against the Company arising from the membership; and
 - (b) the Company will have no liability to that Member arising from the cessation of membership or the Member's name being removed from the Register.

8.3 Surviving liability

Any Member who ceases to be a Member remains liable:

- 8.3.1 for any money owing to the Company; and
- 8.3.2 if the Company is wound up within 1 year after the date of cessation of membership – for the Member's contribution under rule 5.2.

9. Member's power of attorney

9.1 Member acting through an attorney

9.1.1 Rule 9.1.2 applies if a Member executes or proposes to execute any document, or does or proposes to do anything, by an attorney, where that document or act is relevant to the Company or to the membership.

9.1.2 The Company may require that Member to:

- (a) give the Company a certified copy of the power of attorney; and
- (b) provide satisfactory evidence that the power of attorney is effective and continues to be in force.

9.2 Continuing power of attorney

Any power of attorney granted by a Member will, as between the Company and that Member, continue in force and may be acted on unless the Company receives express written notice of its revocation or of the death of the Member who granted it.

9.3 Attorney as representative at general meeting

If a Member wishes to be represented by an attorney at a general meeting or an adjourned meeting, then the Member must comply with rule 21.3 of this Constitution.

Part 4 General meetings – arrangements

10. Who may call a general meeting

10.1 Calling general meetings

10.1.1 A meeting of Members may only be called by the Directors.

10.1.2 The Directors must call a meeting of Members within 21 days of a written request from a Member or Members with at least 5% of the votes that may be cast at the general meeting.

10.2 Calling AGMs

The Directors must call an AGM at least once in each calendar year and within five months after the end of its financial year. The AGM will be held at a time and place or places determined by the Directors.

11. Notices relating to general meetings

11.1 Entitlement to receive notice

Notice of each general meeting must be given to each Member, each Director (and each Acting Director when acting as a Director) and the Company's auditor (if any).

11.2 Period of notice

A notice of general meeting must be given:

11.2.1 according to rule 40 (**Notices**) and the Act; and

11.2.2 with a minimum notice period of 21 days.

11.3 Contents of notice

A notice of general meeting:

11.3.1 must contain:

- (a) the date, time and place for the meeting; and
- (b) the general nature of the meeting's business; and
- (c) if a special resolution is to be proposed at the meeting – set out an intention to propose the special resolution and state the resolution.

11.3.2 may specify a place for the Company to receive, or electronic means by which a Member may give the Company, a proxy appointment or a proxy appointment authority.

11.4 Notice to postpone, change venue, or cancel meeting

11.4.1 Subject to rule 12.4.2, the Directors may:

- (a) postpone a general meeting to a date and time determined by the Directors;
- (b) change the place (whether physical, virtual or both), or change or remove the technology to be used, for a general meeting; or
- (c) cancel a general meeting (other than a meeting requested by Members under rule 11.1.2).

11.4.2 If a general meeting was called by the Directors at the Members' request under rule 11.1.2, then the Directors must obtain the prior written consent of the Members who requested the meeting, before the Directors take any action under rule 12.4.1.

11.4.3 Before the date of the relevant meeting, the Directors must give notice of any action they take under rule 12.4.1 to all persons entitled to receive notices of a general meeting.

11.5 Defective notice or failure to receive

11.5.1 Anything done and any resolution passed at a general meeting are not invalidated by:

- (a) an accidental failure to give a notice of a general meeting, a notice of postponement, change of venue or cancellation, or a proxy form, to a person entitled to receive it; or
- (b) that person's failure to receive that notice or form.

- 11.5.2 By attending a general meeting, a person waives all objections that person may have to:
- (a) any failure to be given a notice, or the giving of a defective notice, of that meeting unless, at the beginning of the meeting, the person objects to the holding of that meeting; and
 - (b) consideration of any matter at that meeting which was not included as an item of business in the notice of meeting, unless that person objects to considering that matter when it is presented.

12. Board of Directors

12.1 The Board will consist of a maximum of 15 people including the:

- 12.1.1 Executive Directors;
- 12.1.2 Non-Executive Directors; and
- 12.1.3 Secretary.

12.2 Secretary

The role of the Secretary of the Company is set out in rule 33.

Part 5 General meetings – proceedings

13. Reference to ‘Member’ in this Part

Unless the contrary intention appears, a reference to a **Member** in Part 6 of this Constitution means that Member present in person or by proxy, attorney or Representative.

14. Quorum at general meeting

14.1 Requirement for quorum

- 14.1.1 No business may be transacted at a general meeting unless a quorum of Members is present at the commencement of business. This requirement does not apply to the election of a chair or the adjournment of the meeting.
- 14.1.2 A quorum of Members is 8 of the Members entitled to vote on a resolution at the meeting.
- 14.1.3 If a quorum is present at the beginning of a meeting, then it is taken to be present throughout the meeting unless the chair of the meeting declares otherwise (at the chair’s own motion or at the request of a Member present at the meeting).

- 14.1.4 In determining whether a quorum is present:
- (a) if a Member has appointed more than 1 proxy or attorney – only 1 of the proxies or attorneys is counted;
 - (b) if a person is attending the meeting both as a Member and as a proxy, attorney or Representative – that person is counted only once; and
 - (c) if the meeting is held as a Virtual Meeting or a Hybrid Meeting, then all persons attending the meeting remotely are taken for all purposes to be present in person at the meeting while so attending.

14.2 What happens if quorum not present

- 14.2.1 If a quorum is not present within 30 minutes after the time appointed for a general meeting, then:
- (a) that meeting is automatically dissolved if it was requested or called by Members; and
 - (b) (in any other case) that meeting is adjourned:
 - (i) to the same time and place (whether physical, virtual or both) 7 days later; or
 - (ii) to another day, time and place (whether physical, virtual or both) determined by the Directors and notified to all persons entitled to receive notices of a general meeting. If the adjourned meeting will be held as a Virtual Meeting or Hybrid Meeting, that notification must include sufficient information on how to participate in that meeting remotely.
- 14.2.2 At an adjourned general meeting, those Members present at that meeting are a quorum. This rule 15.2.2 overrides rule 15.1.2.

15. Chair of general meeting

15.1 Who chairs a general meeting

- 15.1.1 Subject to rule 16.1.2, the chair of Directors' meetings (or deputy chair, in the chair's absence) will be the chair of each general meeting.
- 15.1.2 The chair of a general meeting will be the person elected by a majority of the Directors present at that meeting if both the chair and deputy chair of Directors' meetings are:
- (a) not present within 15 minutes after the time appointed for holding the general meeting; or
 - (b) unwilling to chair the general meeting.
- 15.1.3 If no chair is elected under rule 16.1.2, then the chair of the general meeting will be, in order of precedence:
- (a) a Director present at that meeting, as elected by a majority of the Directors present;

- (b) the only Director present; or
- (c) (if no Director is present or is willing to take the chair) a Member present at that meeting, as elected by a majority of the Members present.

15.2 Acting Chair for part of general meeting

- 15.2.1 For the purpose of considering any specific business during a general meeting or for a discrete part of a general meeting, the chair may nominate another person present at that meeting to be the acting chair of that meeting (**Acting Chair**), with all of the chair's powers (except the power to adjourn that meeting).
- 15.2.2 The Acting Chair must be:
- (a) a Director immediately before that meeting or must be nominated as a Director at that meeting; or
 - (b) (if no person described in rule 16.2.2(a) is present and willing to act) a Member.
- 15.2.3 If a document appoints the chair of a general meeting as proxy for a part of the proceedings for which an Acting Chair is nominated, then the document is taken to be in favour of the Acting Chair for that part of the proceedings.

15.3 Chair's conduct of general meetings

- 15.3.1 The chair (including any Acting Chair or other person acting with the authority of the chair) may do the following:
- (a) (**general conduct and procedures**) determine the general conduct of the meeting and the procedures to adopt at the meeting, including the procedure to elect Directors;
 - (b) (**disputes on procedure**) determine any disputes about questions of procedure at that meeting;
 - (c) (**venue**) (subject to the Act) arrange a different or additional venue for the meeting without giving notice or putting the matter to a vote, if the original venue of the meeting is too small or otherwise unsuitable in the chair's opinion;
 - (d) (**security arrangements**) require any person wishing to attend the meeting to comply with searches, restrictions or other security arrangements that the chair considers appropriate;
 - (e) (**safety and admission**) do anything the chair considers appropriate for the safety of the attendees and the orderly conduct of the meeting, and may refuse entry to or evict from the meeting any person who:
 - (i) does not comply with security arrangements;
 - (ii) uses a recording or broadcasting device without consent;
 - (iii) refuses to comply with a request to turn off a mobile telephone or any other device;
 - (iv) possesses a placard, banner or anything which the chair considers to be dangerous, offensive or liable to cause disruption;

- (v) behaves or threatens to behave, or who the chair has reasonable grounds to believe may behave, in a dangerous, offensive or disruptive way; or
- (vi) was not entitled to notice of the meeting or to otherwise attend the meeting;
- (f) **(delegate power relating to safety and admission)** delegate the powers conferred by rule 16.3.1(e) to any person;
- (g) **(procedures for debates and votes)** adopt any procedure which is necessary or desirable, in the chair's opinion, for:
 - (i) proper and orderly debate or discussion; or
 - (ii) the proper and orderly casting or recording of votes at the meeting;
- (h) **(terminate debate)** (having regard to the Act) terminate discussion or debate on any matter if the chair considers it necessary or desirable for the proper conduct of the meeting;
- (i) **(disregard improper vote)** determine that a vote be disregarded and treated as not having been cast (without putting the matter to a vote), if a person purports to cast a vote at or for the purposes of the meeting in contravention of the Act;
- (j) **(disputes as to votes)** determine, in good faith, any dispute about the admission or rejection of any vote;
- (k) **(disallow amendment or new business)** (subject to the Act) disallow:
 - (i) any amendment to be moved to a resolution set out in the notice of meeting; or
 - (ii) any business to be transacted at the meeting unless the general nature of the business is stated in the notice of meeting; and
- (l) **(withdraw resolution)** withdraw from consideration by the meeting any resolution proposed in the notice of meeting (other than a resolution proposed by the Members or required by Law).

15.3.2 Any decision made under rule 16.3.1 is final.

15.4 Adjourning a general meeting

15.4.1 The chair of a general meeting at which a quorum is present may adjourn that meeting to any time and place, at the chair's discretion. Only the chair may demand a poll on any resolution concerning the adjournment.

15.4.2 Only unfinished business of the initial general meeting may be transacted at an adjourned general meeting.

15.4.3 If a general meeting is adjourned for 30 days or more, then notice of the adjourned meeting must be given to Members as if it were an original general meeting.

16. Venues and technology

16.1 How general meetings may be held

16.1.1 A general meeting may be held at 1 or more physical locations, as a Virtual Meeting or as a Hybrid Meeting.

16.1.2 The Directors may determine the technology or technologies to use for conducting a general meeting as a Virtual Meeting or a Hybrid Meeting, as long as any technology used complies with any requirements of the Act.

16.2 Place and time

A general meeting is taken to be held at the place and at the time determined under the Act and otherwise by the chair.

16.3 Virtual or Hybrid Meetings – quorum, voting, tabling documents and technical difficulties

16.3.1 This rule 17.3 applies if a general meeting is held as a Virtual Meeting or a Hybrid Meeting.

16.3.2 The meeting must be conducted in compliance with any policies and procedures that the Directors set for general meetings held as a Virtual Meeting or a Hybrid Meeting. Without limitation, those policies and procedures may relate to:

- (a) verifying the identity of the Member or of the Member’s proxy, attorney or Representative;
- (b) the security of the technology used; or
- (c) the use of technology to pass resolutions at a general meeting.

16.3.3 All persons attending the meeting remotely are taken for all purposes to be present in person at the meeting while so attending. Rules 15.1.4(a) and 15.1.4(b), if relevant, also apply to determine whether a quorum is present.

16.3.4 A vote taken at the meeting must be taken on a poll, and not on a show of hands.

16.3.5 A document which is required or permitted to be tabled at the meeting is taken to be tabled at the meeting if it is:

- (a) given before the meeting to the persons entitled to attend the meeting (whether physically or remotely); or
- (b) made accessible during the meeting to the persons attending the meeting (whether physically or remotely).

16.3.6 If technical difficulties arise before or during the meeting such that a person entitled to participate cannot participate in the meeting, then the chair may, unless the Act otherwise requires:

- (a) adjourn the meeting either for a reasonable period to fix the technology, or to another time and place that the chair decides; or
- (b) allow the meeting to continue (with the same technology or with different technology selected by the chair), if a quorum of Members remains able to

participate in the meeting. For clarity, any resolution passed at the continued meeting is valid.

17. Others entitled to attend general meeting

17.1 Auditors and general meetings

An auditor of the Company (if any) is entitled to attend any general meeting.

17.2 Directors and general meetings

A Director (including an Acting Director when acting as a Director) is entitled to attend and speak at all general meetings.

17.3 Invited persons

A person is entitled to attend a general meeting if requested by the Directors or the chair, and may speak at the meeting if the chair requests, whether that person is a Member or not.

17.4 Objection to attendance

17.4.1 An objection to the right of a person to attend a general meeting or adjourned general meeting may only be raised before or at that meeting.

17.4.2 An objection must be referred to the chair of that meeting, whose decision is final.

18. Decisions at general meetings

18.1 Proportion required for resolution to be carried

Subject to requirements under the Act relating to special resolutions, a resolution at a general meeting is carried if a majority of the votes cast on the resolution are in favour of it.

18.2 Casting vote

If there is an equal number of votes (on a show of hands or on a poll) for and against a proposed resolution at a general meeting, then the chair of the meeting will have a casting vote (in addition to the chair's vote as a Member, proxy, attorney or Representative).

18.3 Decision not invalidated

A decision of a general meeting may not be invalidated on the ground that a person voting at the meeting was not entitled to do so.

18.4 Voting by a show of hands

18.4.1 A resolution put to the vote of a general meeting is decided on a show of hands, unless a poll is required or demanded under rule 16.4.1 (**Adjourning a general meeting**), 17.3 (**Virtual or Hybrid Meetings – quorum, voting, tabling documents and technical difficulties**) or 19.5 (**Voting by taking a poll**).

18.4.2 Unless a poll is required or demanded as described above, the chair's declaration that a resolution on a show of hands has been carried, or carried by a specified majority, or lost, together with an entry to that effect in the minutes of the meeting,

are conclusive evidence of the result. Neither the chair nor the minutes need to state the number or proportion of votes recorded in favour or against.

18.5 Voting by taking a poll

- 18.5.1 **(Type of resolution)** A poll may be demanded on any resolution.
- 18.5.2 **(Who can demand)** A poll at a general meeting may be demanded by:
- (a) Members in accordance with the Act and not otherwise; or
 - (b) the chair.
- 18.5.3 **(Withdrawing demand)** The demand for a poll may be withdrawn at any time before the poll commences.
- 18.5.4 **(When to take poll)** It is not necessary to give notice of any poll. A poll will be taken at the time and in the manner that the chair directs.
- 18.5.5 **(Result of poll)** The result of the poll taken on a resolution at a general meeting will determine whether that resolution is carried or lost. That result may be announced in a manner and at the time (whether during that meeting or afterwards) that the chair considers appropriate.
- 18.5.6 **(Meeting may continue)** After a poll has been demanded at a general meeting, that meeting may continue for the transaction of business other than the question on which the poll was demanded.

18.6 Voting rights at meetings of Members

- 18.6.1 This rule 19.6 applies at a meeting of Members, whether voting on a show of hands or on a poll.
- 18.6.2 A Member (whether present at the meeting in person or by proxy, attorney or Representative) has 1 vote.
- 18.6.3 A proxy or attorney at a meeting must not vote on a Member's behalf if that Member also at the meeting.
- 18.6.4 If a Member appoints more than 1 proxy or attorney to vote at the same meeting, and more than 1 proxy or attorney attends the meeting, then none of them may vote on that Member's behalf.
- 18.6.5 If a person is appointed by 2 or more Members as their proxy, attorney or Representative, then that person is entitled to only 1 vote. If, however, the appointments specify different ways to vote on a resolution, then that person must not vote.

18.7 Direct votes

- 18.7.1 Despite anything to the contrary in this Constitution, the Directors may decide that, at any meeting of Members, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote on that resolution.
- 18.7.2 A direct vote includes a vote delivered to the Company by post or electronic or other means approved by the Directors.

- 18.7.3 The Directors may prescribe rules for direct voting, including the form, method and timing of giving a direct vote for the vote to be valid.
- 18.7.4 Subject to any rules prescribed by the Directors, if the Company receives a Member's valid direct vote on a resolution before the time of the relevant meeting, the Company may regard it as effective, and may disregard any vote on that resolution cast by that Member's proxy, attorney or Representative at the meeting.

Part 6 General meetings – proxies, attorneys and Representatives

19. Representation at general meetings

19.1 Voting in person or otherwise

Subject to this Constitution, each Member entitled to vote at a general meeting may vote:

- 19.1.1 in person;
- 19.1.2 where a Member is a body corporate, by its Representative;
- 19.1.3 by 1 proxy; or
- 19.1.4 by 1 attorney.

19.2 Membership not required

A proxy, an attorney or a Representative need not be a Member.

19.3 Evidence of appointment

19.3.1 Subject to rule 20.3.3, the chair may require a person acting as a proxy, attorney or Representative at a general meeting to prove to the chair's satisfaction that the person was duly appointed to act. If that person fails to do so, then the chair may:

- (a) exclude that person from attending or voting at that meeting; or
- (b) permit that person to exercise the powers of a proxy, attorney or Representative, and the chair may require that person to provide evidence of the appointment within the time set by the chair.

19.3.2 The chair may delegate the powers under rule 20.3.1 to any person.

19.3.3 The following is evidence of a Member's appointment of a Representative, unless the contrary is proven:

- (a) the original or a certified copy of the document appointing the Representative; or
- (b) a certificate of the Member evidencing the appointment of the Representative.

20. Proxies or attorneys of Members

20.1 Terms of appointment of proxy or attorney

- 20.1.1 A proxy or attorney may be appointed for all or any number of general meetings or for a particular purpose.
- 20.1.2 If a proxy or attorney is appointed for a general meeting which is adjourned or postponed, the appointment is valid at the resumption of that meeting.
- 20.1.3 Subject to this Constitution and any contrary provision in the appointment, the appointment of a proxy or attorney is taken to confer authority to vote on:
- (a) any amendment moved to a proposed resolution, and any motion not to put a proposed resolution to the meeting, or any similar motion;
 - (b) any procedural motion, including a motion to elect the chair, to vacate the chair, or to adjourn the general meeting; and
 - (c) any motion before the general meeting, even if the motion is not referred to in the document of appointment.
- 20.1.4 For clarity, rule 21.1.3 applies even if the appointment specifies the way the proxy or attorney must vote on a particular resolution.

20.2 Proxy appointment

- 20.2.1 The Company may make a proxy appointment form available to Members in a form approved by the Directors or by the chair and the Managing Director.
- 20.2.2 A proxy appointment is valid if it:
- (a) is signed by the Member making the appointment; and
 - (b) contains the information required by s 250A(1) of the Act.
- 20.2.3 A proxy appointment received at an electronic address specified in the notice of general meeting for receiving proxy appointments or otherwise received by the Company in accordance with the Act is taken to be signed by the Member under rule 21.2.2(a), if it is authenticated in accordance with the Act. For clarity, rule 40.2 does not apply to the delivery of a proxy appointment.

20.3 Lodging an appointment of proxy or attorney

- 20.3.1 For a proxy or attorney to vote at a general meeting or the resumption of an adjourned general meeting, the Company must receive the following at least 48 hours before that meeting or resumed meeting (unless the relevant notice of meeting permits a shorter period):
- (a) the original document appointing the proxy, or the proxy appointment made using technology (if any) specified in the notice of meeting, or the original or a certified copy of the document appointing the attorney; and
 - (b) (if the document appointing the proxy or attorney is executed under a power of attorney or other authority) the original or a certified copy of that power of attorney or other authority.

20.3.2 The Company is taken to have received an item described in rule 21.3.1 when it is received in accordance with the Act. For clarity, rule 40.2 does not apply to the delivery of those items.

20.4 Validity of vote in certain circumstances

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a person votes as a proxy, attorney or Representative, a vote cast by that person is valid even if, before the person votes:

20.4.1 the Member revokes the appointment or authority of the proxy, attorney or Representative; or

20.4.2 the Member revokes the authority under which the proxy, attorney or Representative was appointed by a third party.

20.5 Blank proxy or chair acting as proxy

If a Member submits a proxy appointment to the Company but does not name any appointee, then the chair may:

20.5.1 act as the Member's proxy; or

20.5.2 complete the proxy appointment by inserting the name or names of 1 or more Directors or the Secretary.

Part 7 Decisions without general meetings

21. Circulating resolutions of Members

21.1 Circulating resolution

21.1.1 If the Company has more than one Member, the Company may pass a resolution (excluding a resolution described in rule 22.2) without holding a general meeting if all the Members entitled to vote on the resolution sign a document:

(a) setting out the resolution; and

(b) containing a statement that they are in favour of that resolution.

21.1.2 Separate copies of a document may be used for signing by Members if the wording of the resolution and the statement is identical in each copy.

21.1.3 The resolution is passed when the last person signs.

21.2 Where circulating resolution not valid

A circulating resolution under rule 22.1 must not be used to pass:

21.2.1 a resolution to remove an auditor, appoint a Director or remove a Director;

21.2.2 a special resolution; or

21.2.3 a resolution which, under the Act or this Constitution, must be passed at a general meeting.

21.3 Satisfies meeting requirement

The passing of a resolution under rule 22.1 satisfies any requirement in the Act or this Constitution that the resolution be passed at a general meeting.

21.4 Notice to auditor

The Directors must notify the auditor (if any) as soon as possible that a circulating resolution has been or will be put to Members, and must set out the wording of the resolution in that notice.

Part 8 Committees

22. Committees

22.1 Establishment of Committees

The Board of Directors may establish Committees of the Company to provide advice and expertise to the Board of Directors.

22.2 Structure

Each Committee must include at least 1 member of the Board of Directors.

22.3 Appointment

Positions on a Committee must be appointed by the Board of Directors, and a person applying for a position on a Committee does not need to be a Member of the Company.

22.4 Objects of the Committees

The Committees exist to provide expertise and advice to the Board of Directors.

22.5 Reporting requirements of the Committees

Each Committee shall report to the Board of Directors quarterly and may offer relevant advice at Board Meetings from time to time.

Part 9 Directors and Secretary

23. Number of Directors, eligibility, appointment and removal**23.1 Number of Directors**

23.1.1 Until the Company passes a resolution under rule 24.1.2, the Company must have:

- (a) a minimum of 3 Directors (excluding Acting Directors); and
- (b) a maximum of 15 Directors (excluding Acting Directors).

23.1.2 Subject to the Act, the Company may (by resolution passed at a general meeting):

- (a) increase the minimum number of Directors; or
- (b) increase or decrease the maximum number of Directors.

23.1.3 The Directors may determine the numbers of Executive Directors and Non-executive Directors, but the total number of Directors must satisfy the limits in rule 24.1.1.

23.2 Eligibility to be a Director

23.2.1 A person is not required to be a Member to be a Director or an Acting Director.

23.2.2 A person is not eligible to become a Director if the person:

- (a) is a partner, employer or employee of the Company's auditor;
- (b) is disqualified from managing a corporation under the Act;
- (c) was an insolvent under administration in the previous 5 years; or
- (d) is otherwise not eligible to be a Director under the Relevant Law.

24. First Directors and their rotation**24.1 First Directors**

24.1.1 Despite any other provision in this Constitution, the first Directors are:

- (a) each person specified in the application to register the Company lodged under s 117 of the Act and who has consented to become a Director; and
- (b) any other person appointed by resolution of the Members before the Company's first AGM.

24.1.2 The term of office of a first Director commences on the date of appointment as a Director and continues until that Director retires under rule 25.2 or vacates the office under rule 26.6.

24.2 Rotation of first Directors

24.2.1 At the end of the Company's first and second AGMs, one third of the first Directors must retire from office. Unless they agree otherwise among themselves, the Directors to retire will be:

- (a) first: those who wish to retire;
- (b) second: those who have been longest in office since their appointment; and
- (c) third: as between those persons who became Directors on the same day, determined by lot.

24.2.2 At the end of the Company's third AGM, the remaining first Directors must retire from office.

25. Appointment, removal and retirement of Directors

25.1 Company's power to appoint and remove Directors

25.1.1 The Company may appoint a person as a Director by resolution passed in general meeting.

25.1.2 The Directors may determine the method of nomination and election of candidates, provided that:

- (a) each Member is entitled to vote for any number of candidates not exceeding the number of vacancies; and
- (b) the chair of the AGM will declare elected as Directors those candidates matching the number of vacancies who have received the greatest number of votes.

25.1.3 If the number of candidates is no more than the number of vacancies, then the chair of the AGM must declare those candidates to be elected as Directors.

25.1.4 Subject to the Act, the Company may, by resolution passed in general meeting:

- (a) remove any Director before the end of the Director's term of office; and
- (b) if the outgoing Director is a Non-executive Director, elect another person to replace the Director. The replacement Director will hold office for the remainder of the outgoing Director's original term of office.

25.2 Directors' power to appoint additional or casual Directors

The Directors may appoint an eligible person to be a Director, either to add to the existing Directors, or to fill a casual vacancy, but only if the total number of Directors does not exceed the limit in rule 24.1.

25.3 Retirement by rotation at AGM

25.3.1 Every other AGM must include an election of Directors. Except where rule 25.2 applies, the Directors who must retire from office (but who may stand for re-election) at the AGM are as follows:

- (a) each Director who has held office without re-election:
 - (i) for at least 2 years; or
 - (ii) past the third AGM after that Director's appointment or last election, if this period exceeds 2 years;
- (b) each Director who was appointed by the Directors under rule 26.2; and
- (c) (if rules 26.3.1(a) and 26.3.1(b) both do not apply) the Director who has held office longest without re-election. If 2 or more Directors have been in office the longest and for an equal duration, then the Director to retire may be agreed between those Directors, and otherwise must be determined by lot.

25.3.2 A retiring Director is eligible for re-election for a maximum of 4 consecutive terms (without counting any term served as a first Director)

25.3.3 Despite rule 26.3.2, a person may be re-elected and serve as a Director for more than 4 terms (without counting any term served as a first Director) if any further term starts at least 2 years after the end of the person's third consecutive term as Director

25.4 Election or re-election at general meeting

A person is eligible for election or re-election as a Director at a general meeting only if:

- 25.4.1 that person is a Director immediately before that meeting; or
- 25.4.2 that person is proposed by the Directors as a candidate for the office of Director.

25.5 When an appointment or removal takes effect

The appointment, election, re-election, retirement or removal of a Director at a general meeting takes effect at the conclusion of that general meeting, unless the relevant resolution specifies a different time.

25.6 Vacating the office of a Director

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

- 25.6.1 is prohibited from holding office, or ceases to be a Director, under the Relevant Law or an order made under the Relevant Law;
- 25.6.2 becomes of unsound mind or is liable to be (or is liable to have their estate) dealt with under any Law relating to mental health, or becomes in the opinion of the other Directors incapable of performing a Director's duties;
- 25.6.3 resigns by notice in writing to the Company;
- 25.6.4 is removed by a resolution of the Company in accordance with the Act; or

- 25.6.5 is not present (personally, or by using technology, or by representation by an Acting Director) at Directors' meetings for 3 consecutive months without leave of absence from the Directors.

26. Acting Directors

26.1 Appointment of Acting Directors

- 26.1.1 A Director may, with the approval of a majority of the other Directors, appoint any person as their acting to exercise some or all of that Director's powers, by giving a written notice to the Secretary.
- 26.1.2 An Acting Director is an officer of the Company. An Acting Director, while acting as a Director, is responsible to the Company for their own acts and defaults and is not an agent of the appointor.
- 26.1.3 An Acting Director does not have an interest in a contract or arrangement or a material personal interest in a matter by reason only of the fact that their appointor has such an interest.

26.2 Removal of Acting Directors

- 26.2.1 The appointment of an Acting Director may be revoked at any time by the appointor or by the other Directors, by giving a written notice to the Secretary.
- 26.2.2 An Acting Director's appointment ends automatically when their appointor ceases to be a Director.

26.3 Powers and duties of Acting Directors

- 26.3.1 An Acting Director is entitled to receive notices of Directors' meetings. If the appointor is not present at a meeting, the Acting Director is entitled to attend, be counted in a quorum and vote as a Director in place of the appointor.
- 26.3.2 Rules in this Constitution which apply to Directors also apply to each Acting Director, except that an Acting Director is not entitled to:
- (a) appoint another Acting Director; or
 - (b) receive from the Company any remuneration, or retirement or other benefit, of a Director, except as provided in rule 27.4.

26.4 Remuneration of Acting Directors

The Directors must decide the remuneration, if any, payable to an Acting Director and whether it is payable in addition to or in reduction of the remuneration payable to the appointor.

27. Executive Directors

27.1 Appointment of Executive Directors

- 27.1.1 In this Constitution, an **Executive Director** means:
- (a) a Managing Director;

- (b) a Director appointed to an executive position under rule 28.1.3; and
- (c) a Director (however appointed) who occupies for the time being a full-time or substantially full-time executive position in the Company or its related body corporate.

27.1.2 The Directors may appoint a Director to the office of managing director for the period and on the terms (including as to remuneration) determined by the Directors.

27.1.3 The Directors may also appoint a Director to any other full-time or substantially full-time executive position in the Company on the terms determined by the Directors.

27.2 Removal, suspension and retirement of Executive Directors

27.2.1 The Directors may, subject to the terms of the Executive Director's employment contract, suspend, remove or dismiss the Executive Director from executive office and appoint another Director in that place.

27.2.2 If an Executive Director ceases to be a Director, then their appointment as an Executive Director terminates automatically.

27.2.3 If an Executive Director ceases to hold an executive office in the Company, then they also cease to be a Director from the same date, unless the Directors resolve otherwise.

27.2.4 If an Executive Director is suspended from executive office of the Company or its related body corporate, then their duties and obligations as Director are suspended for the same period.

27.2.5 All Executive Directors are subject to retirement by rotation.

27.3 Powers and duties of Executive Directors

27.3.1 The Directors may delegate to an Executive Director any powers, discretions and duties that the Directors have, and may revoke or vary that delegation.

27.3.2 The Directors may authorise an Executive Director to delegate any of the powers, discretions and duties vested in the Executive Director.

27.3.3 Any power delegated under this rule may be concurrent with, but not to the exclusion of, the Directors' powers.

28. Powers and duties of Directors

28.1 General power to manage Company

The business of the Company is managed by or under the direction of the Directors. The Directors may exercise all powers of the Company that this Constitution or the Act do not require to be exercised by the Company in general meeting.

28.2 Specific power – to delegate to committees

28.2.1 The Directors may:

- (a) delegate any of their powers (excluding powers which, by Law, must be exercised by the Directors as a board) to a committee or committees, if each committee includes at least 1 Director;
- (b) authorise the committee to, in turn, delegate any of the powers vested in it; and
- (c) revoke any delegation of power at any time.

28.2.2 Rules in this Constitution which relate to Directors' meetings and Directors' resolutions apply to the meetings and resolutions of each committee:

- (a) as if all committee members were Directors; and
- (b) to the extent those rules apply and are consistent with the Directors' directions (if any).

28.3 Specific power – to delegate to local management

The Directors may provide for the Company's business to be managed and transacted in any place, in any manner and on terms determined by the Directors, including:

- 28.3.1 establishing, and appointing members of, local boards or agencies to manage the Company's business in a specified place;
- 28.3.2 appointing any person as a member of any of those boards or agencies, and delegating to that person any of the powers, authorities and discretions exercisable by the Directors under this Constitution; and
- 28.3.3 revoking or varying any delegation made under this rule.

28.4 Specific power – to appoint attorneys or agents

28.4.1 The Directors may:

- (a) by resolution or power of attorney, appoint any person to be the attorney or agent of the Company on terms determined by the Directors, including terms relating to:
 - (i) the purpose and duration of the appointment; and
 - (ii) the powers, authorities and discretions exercisable by that person under the appointment (which must not exceed those exercisable by the Directors under this Constitution);
- (b) authorise the attorney or agent to delegate any of the powers, authorities and discretions vested in the attorney or agent; and
- (c) remove or terminate the appointment of any attorney or agent at any time.

28.4.2 The Directors may make an appointment under rule 29.4.1 in favour of:

- (a) any member of any committee or local board established under this Constitution;

- 29.2.2 **(position in other entity)** hold any office or place of profit in any other body corporate, trust or entity promoted by the Company, or in which the Company has any interest (for example, as a purchaser, vendor or shareholder);
- 29.2.3 **(contracting with Company)** enter into any contract or arrangement with the Company;
- 29.2.4 **(employee scheme)** take part in any association, institution, fund, trust or scheme for the Company's past or present employees, or for persons dependent or connected to them;
- 29.2.5 **(professional capacity)** act in a professional capacity (or be a member of a firm, or a director or employee of a body corporate, which acts in a professional capacity) for the Company, except as auditor;
- 29.2.6 **(participate in meetings)** take part in, vote on, and be counted in a quorum for any meeting, resolution or decision of the Directors, and may attend any meeting where any matter is being considered by the Directors, even if that Director has an interest in that matter, resolution or decision;
- 29.2.7 **(voting)** exercise voting rights in respect of securities in the Company, including where the Director may have an interest (for example, a resolution to appoint that Director as an officer, or a resolution on the remuneration of officers); and
- 29.2.8 **(represent shareholder)** act as a nominee or representative of a shareholder of the Company, on terms agreed with the Company.

29.3 Benefit, validity and signing

- 29.3.1 A Director may do anything described in rule 30.2 despite the fiduciary relationship of the Director's office:
 - (a) without having to account to the Company for any direct or indirect benefit to the Director; and
 - (b) without affecting the validity of any contract or arrangement.
- 29.3.2 A Director's material personal interest in a matter does not disqualify that Director from signing, or participating in the Company's execution of, a document relating to that matter.

30. Remuneration and benefits of Directors

The Directors will be remunerated for their services as Directors according to this rule 31.

30.1 Remuneration of Non-executive Directors

- 30.1.1 **(calculation of yearly remuneration)** The total yearly amount or value of the remuneration of Non-executive Directors:
 - (a) must not exceed the maximum yearly amount determined by the Company in general meeting; and
 - (b) must be divided among the Non-executive Directors in the proportion and manner as the Directors agree, or (in the absence of that agreement) equally.

of Director or from a managerial office in the Company, in recognition of the person's services to the Company.

31. Directors' decisions and meetings

31.1 Decision making process

In passing a resolution of the Company, it is the intention of the Company that the Board of Directors and any other relevant person will work towards consensus decision making as provided for in the Communication and Decision Making Policy. When options for consensus decision making have been reasonably exhausted, the processes outlined in section 32 will apply

31.2 Directors' written resolutions without meetings

31.2.1 The Directors may pass a resolution without holding a Directors' meeting if all the Directors entitled to vote on the resolution (excluding a Director on leave of absence approved by the other Directors, or a Director who is uncontactable by the other Directors despite reasonable efforts for at least 48 hours after the resolution is circulated) sign a document setting out the resolution and containing a statement that they are in favour of that resolution.

31.2.2 In relation to the document referred to in rule 32.2.1:

- (a) it may be in electronic form and may be electronically signed;
- (b) separate copies of it may be used for signing by Directors if the wording of the resolution and statement is identical in each copy; and
- (c) the resolution is passed when the last Director signs it.

31.3 Directors' meetings – calling and holding meetings

31.3.1 The Directors may hold, adjourn and regulate their meetings as they think fit. Without limitation, a Directors' meeting may be held at 1 or more physical locations or as a Virtual Meeting or as a Hybrid Meeting.

31.3.2 Any 2 Directors or the chair may call a Directors' meeting by giving at least 48 hours notice to the other Directors (unless the Directors unanimously agree on a shorter notice period).

31.3.3 A Director may waive notice of a Directors' meeting by notifying the Company.

31.3.4 A Secretary must call a Directors' meeting at the request of at least 2 Directors.

31.3.5 Anything done and any resolution passed at a Directors' meeting are not invalidated by:

- (a) an accidental failure to send a notice of that meeting to any Director; or
- (b) any Director's failure to receive that notice.

31.4 Directors' meetings as Virtual Meetings or Hybrid Meetings

31.4.1 This rule 32.4 applies if a Directors' meeting is held as a Virtual Meeting or a Hybrid Meeting.

- (b) the elected chair is not present at the meeting within 10 minutes after the scheduled meeting time; or
- (c) the elected chair is not available or declines to act.

31.6.4 The Directors may resolve that the office of chair of Directors' meetings be treated as a service outside the scope of a Director's ordinary duties for the purpose of rule 31.1.7.

31.7 Directors' meetings – decisions

31.7.1 Questions arising at a Directors' meeting must be decided by a majority of votes of the Directors present and entitled to vote. Subject to the Act, each Director has 1 vote.

31.7.2 In the case of an equality of votes, the chair has a second or casting vote in addition to any vote that the chair has as a Director

31.7.3 An Acting Director has 1 vote for each Director for whom that Acting Director is an alternate. If an Acting Director is also a Director in their own right, then they have 1 vote as an Acting Director and 1 vote as a Director.

32. Secretary

32.1 Appointment of Secretary

32.1.1 The Directors may appoint 1 or more people as Secretary on terms determined by the Directors.

32.1.2 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

32.2 Powers and duties of Secretary

32.2.1 The Secretary is entitled to attend all Directors' meetings and meetings of Members.

32.2.2 The Directors may give the Secretary any powers, discretions and duties as they may determine, and may revoke or vary those powers, discretions and duties.

32.2.3 The Directors may authorise the Secretary to delegate any of the powers, discretions and duties vested in the Secretary.

33. Indemnity and insurance

33.1 Definition of Officer

In this rule 34:

acting in a Protected Capacity means acting in the capacity of:

33.1.1 a Director or Secretary; or

33.1.2 a director or secretary of a subsidiary of the Company.

Officer means a person who is or was a Director or a Secretary.

33.2 Indemnity for liability

To the extent permitted by s 199A of the Act and other applicable Laws, the Company indemnifies each Officer:

33.2.1 on a full indemnity basis against all liabilities, costs, losses and expenses (other than legal costs) incurred by that Officer while acting in a Protected Capacity during the period of office; and

33.2.2 against reasonable legal costs incurred by that Officer:

- (a) in defending, resisting or responding to proceedings (whether civil, criminal, administrative or investigatory) in connection with that Officer acting in a Protected Capacity during the period of office; or
- (b) in good faith in obtaining legal advice in connection with that Officer's performance of functions and discharge of duties while acting in a Protected Capacity during the period of office.

33.3 Insurance

To the extent permitted by s 199B of the Act and the Relevant Law, the Company may purchase and maintain insurance, or pay or agree to pay a premium for insurance, for each Officer against liabilities, costs, losses and expenses (including for legal costs) incurred while acting in a Protected Capacity during the period of office.

33.4 Company's agreement with Officers

The Company may enter into an agreement with an Officer relating to the matters covered by this rule 34, on terms that the Directors think fit and which are consistent with this rule 34.

Part 10 Execution by the Company

34. Execution

34.1 Manner of Execution

The Company may execute a document (including a deed):

- 34.1.1 in any manner permitted by the Act; or
- 34.1.2 by any person or persons authorised by a Directors' resolution signing the document electronically in electronic form, by hand in physical form or by any other method.

34.2 No limit on execution methods

This rule 35 does not limit the ways in which the Company can execute a document (including a deed) under the Act.

Part 11 **Inspection of books**

35. Inspection of books**35.1 Members' inspection of books**

A Member who is not a Director does not have the right to inspect the books of the Company, except as:

- 35.1.1 provided by Law;
- 35.1.2 authorised by the Directors under rule 36.2; or
- 35.1.3 authorised by the Company in general meeting.

35.2 Directors' resolution to allow inspection

Subject to requirements under the Act:

- 35.2.1 the Directors may determine whether and to what extent, at what times and places, and under what conditions, the books of the Company will be available for inspection by a Member who is not a Director; and
- 35.2.2 in the case of Directors' minutes and resolutions, the Directors at their discretion may refuse to provide all or some of them for inspection, or may provide a redacted version.

Part 12 **Distribution restrictions, Gift Fund and deductible gift recipient**

36. Application of income and property**36.1 Promotion of Purposes**

The Company must apply all of its income and property solely towards the furtherance and promotion of the Purposes.

36.2 Restriction on distributions

The Company must not pay or transfer directly or indirectly any Company income or property to any Members (in their capacity as Members) or Directors by way of dividend, bonus or other profit distribution.

36.3 Payments in good faith

Rule 37.2 does not prevent any payment in good faith to a Director or Member, or to a firm of which a Director or Member is a partner, if:

- 36.3.1 (where the payment is to a Director) the payment complies with rule 37.4.1; and

- 36.3.2 the payment is for one of the following:
- (a) remuneration for services to the Company;
 - (b) reimbursement for expenses properly incurred on behalf of the Company to further the Purposes, at fair and reasonable rates or rates more favourable to the Company;
 - (c) goods supplied to the Company in the ordinary course of business;
 - (d) interest on money borrowed by the Company or rent for premises let to the Company, where:
 - (i) the interest or rent has the prior consent of the Board; and
 - (ii) the amount payable does not exceed what would be payable on reasonable commercial terms; and
 - (e) a grant (or similar contribution) awarded to further the Purposes.

36.4 Payments to Directors

- 36.4.1 The Company must not make any payment to a Director for goods or services provided by that Director to the Company, unless:
- (a) the Board gave prior approval to the provision of those goods or services and the amount payable; and
 - (b) the amount payable is on reasonable commercial terms or at rates more favourable to the Company.
- 36.4.2 Total payments made to Directors under rule 37 must be disclosed to the Members at the AGM.
- 36.4.3 Rule 37 does not prohibit indemnification of or payment of premiums on contracts of insurance for any Director to the extent permitted by the Relevant Law and this Constitution.

37. Gift Fund and deductible gift recipient endorsement

37.1 Use of Gift Fund

- 37.1.1 If the Company is endorsed as a deductible gift recipient under Subdivision 30BA of the ITAA, then it must maintain a fund called the 'Gift Fund' and use it only to further the Purposes.
- 37.1.2 All of the following must be credited to the Gift Fund:
- (a) all gifts of money or property received by the Company;
 - (b) all contributions made in relation to any fund-raising event held for the Purposes (where 'contributions' and 'fund-raising event' have the meaning given in Division 30 of the ITAA); and
 - (c) all money received by the Company because of the gifts and contributions described in the above paragraphs.

37.1.3 The Gift Fund must not receive any money or property other than those described in rule 38.1.2.

37.2 Cessation of Gift Fund or revocation of endorsement

If the Gift Fund is wound up or the Company's deductible gift recipient endorsement under the ITAA is revoked (whether or not the Company will be wound up), then the Company must transfer any surplus assets of the Gift Fund to one or more Eligible Entities, as determined by the Directors.

37.3 Other provisions in the ITAA

If, at any time, the ITAA requires other provisions to maintain the Company's status as a company where gifts made to it can be deducted under the ITAA, then those provisions are taken to form part of this Constitution.

Part 13 Winding up

38. Distribution of property on winding up

38.1 Distribution of Surplus Property

If the Company is wound up, all Surplus Property must be given or transferred to one or more Eligible Entities, as determined:

38.1.1 by a special resolution of the Members at or before the time of winding up of the Company; or

38.1.2 if no special resolution is passed, by a judge of the Supreme Court or another court of competent jurisdiction.

38.2 No distribution to Members

Surplus Property must not be paid to or distributed to a Member or a former Member, unless it is an Eligible Entity.

Part 14 Notices, interpretation and general

39. Notices

39.1 Giving of notices and other documents

Any notice or other document required or permitted to be given under Law or this Constitution:

39.1.1 must be given in writing; and

- 39.1.2 may be given using any method (including by using technology) which complies with the Law and which also complies with:
- (a) rule 21 (**Proxies or attorneys of Members**) (if applicable) or the rest of this rule 40; or
 - (b) any policies and procedures relating to the giving and receiving of notices and other documents as determined by the Directors at any time.

39.2 Method and time of delivery to the Company

A notice or other document under this Constitution may be given to the Company or the Secretary by using any method specified below or permitted by Law. Except where rule 21 (**Proxies or attorneys of Members**) applies, it is taken to be delivered at the time specified in the adjacent column below.

Rule	How the sender may give the notice or other document to the Company or the Secretary	When the notice or other document is taken to be delivered to the Company or the Secretary
39.2.1	(personal delivery) By delivering it personally to the Company's registered office.	Upon delivery.
39.2.2	(courier) By sending it by courier to the Company's registered office.	Upon delivery.
39.2.3	(post) By sending it by prepaid post to the Company's registered office or to another address nominated by the Company for this purpose.	If posted within Australia using: (a) express post, 2 Business Days after posting; or (b) any other prepaid post, 6 Business Days after posting. If posted from outside Australia, 10 Business Days after posting.
39.2.4	(electronic communication) By emailing it to the Company's email address notified by the Company to the Members as its email address.	At the time the notice or other document left the sender's electronic system.

39.3 Method and time of delivery by the Company

The Company may give a notice or other document to any person who is entitled to it under this Constitution by using any method specified below or permitted by Law. The notice or other document is taken to be delivered at the time specified in the adjacent column below.

Rule	How the Company may give the notice or other document to the person	When the notice or other document is taken to be delivered to the person
39.3.1	(personal service) By serving it on the person.	Upon delivery.

Rule	How the Company may give the notice or other document to the person	When the notice or other document is taken to be delivered to the person
39.3.2	(courier) By sending it by courier to the person's address in the Register or an alternative address nominated by the person.	Upon delivery.
39.3.3	(post) By sending it by prepaid post (or prepaid airmail post for an address not in Australia) to the person's address in the Register or an alternative address nominated by the person.	If posted to an Australian address using: (a) express post, 2 Business Days after posting; or (b) any other prepaid post, 6 Business Days after posting. If posted to an address not in Australia, 10 Business Days after posting.
39.3.4	(electronic communication) By sending it by any electronic means to the person's electronic address nominated for this purpose.	At the time the notice or other document left the sender's electronic system.
39.3.5	(electronic access) By using any method described in the above rules to give the person sufficient information to allow the person to access the notice or other document electronically.	At the time specified in whichever of the above rules applies to the method used.

39.4 Uncontactable Members

39.4.1 If a Member does not have an address recorded in the Register and has no nominated alternative address, or if the Company reasonably believes that a Member is not known at the address recorded in the Register or the nominated alternative address, then a notice or other document:

- (a) is taken to be given to the Member if it is exhibited in the Company's registered office for 24 hours (even if it is not addressed to that Member); and
- (b) is taken to be served at the start of the 24 hours mentioned above.

39.4.2 The above rule ceases to apply if the Member gives the Company notice of a new address.

39.5 Signature on Company's notice

Subject to the Act, the signature on a notice or other document given by the Company may be written, printed or affixed by mechanical, electronic or other means.

39.6 Evidence of delivery

A written certificate signed by a Director, Secretary or other officer of the Company, or by any person that the Company engages to maintain the Register, that a notice or other document was given according to rule 40.3 is conclusive evidence of that fact.

39.7 Notice period for meeting

When calculating a notice period relating to a meeting (for example, under rule 12.2.2), disregard both:

39.7.1 the day the notice is taken to be given; and

39.7.2 the day of the relevant meeting.

40. Interpretation

40.1 Words and headings

In this Constitution, unless expressed to the contrary:

40.1.1 words denoting the singular include the plural and vice versa;

40.1.2 the word 'includes' in any form is not a word of limitation;

40.1.3 where a word or phrase is defined, another part of speech or grammatical form of that word or phrase has a corresponding meaning; and

40.1.4 headings, sub-headings and marginal notes are for reference only and do not affect the interpretation of this Constitution.

40.2 Specific references

In this Constitution, unless expressed to the contrary, a reference to:

40.2.1 any legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced and includes any subordinate legislation issued under it;

40.2.2 any document (such as a deed, agreement or other document) is to that document (or, if required by the context, to a part of it) as amended, novated, substituted or supplemented at any time;

40.2.3 writing includes writing in digital form;

40.2.4 'this Constitution' is to this Constitution as amended at any time;

40.2.5 'A\$', '\$', 'AUD' or 'dollars' is a reference to Australian dollars;

40.2.6 a rule, schedule or attachment is a reference to a rule, schedule or attachment in or to this Constitution;

40.2.7 a person includes a firm, partnership, joint venture, association, corporation or other body corporate;

- 40.2.8 a person includes the legal personal representatives, successors and permitted assigns of that person, and in the case of a trustee, includes any substituted or additional trustee;
- 40.2.9 any body (**Original Body**) which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the Original Body; and
- 40.2.10 a Member 'signing' a document or any communication to the Company, means that the Member may sign:
- (a) electronically or by any method permitted by Law; or
 - (b) in any manner approved by the Directors.

41. General

41.1 Submission to jurisdiction

Each Member submits to the non-exclusive jurisdiction of the courts of Victoria, Australia.

41.2 Severability

- 41.2.1 Any provision of this Constitution that is held to be illegal, invalid, void, voidable or unenforceable must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.
- 41.2.2 If it is not possible to read down a provision as required by this rule, part or all of the rule of this Constitution that is unlawful or unenforceable will be severed from this Constitution and the remaining provisions continue in force.

41.3 Business Day

If a payment or other act is required by this Constitution to be made or done on a day which is not a Business Day, the payment or act must be made or done on the next following Business Day.