
Corporations Act 2001 (Commonwealth)

A Company Limited by Guarantee

CONSTITUTION

of

BEYOND BLUE LIMITED

ACN 093 865 840

Contents

1.	Definitions, interpretation and status	1
1.1	Definitions	1
1.2	Interpretation	3
1.3	Application of Corporations Act	3
1.4	Replaceable rules.....	4
1.5	Company limited by guarantee	4
1.6	Objects of the Company	4
1.7	No distribution	5
2.	Membership	5
2.1	Members	5
2.2	Membership not transferable	5
3.	Certificates	6
3.1	Member's entitlement to Certificates.....	6
3.2	Issuing of Certificates	6
3.3	Duplicate Certificates.....	6
4.	Closure of register	6
5.	Contributions	6
6.	Cessation of membership	6
6.1	Resignation	6
6.2	Non-compliance with Constitution or misconduct.....	7
6.3	Cancellation of forfeiture.....	7
6.4	Cessation of membership	7
6.5	Continuing liability	7
7.	Variation of class rights	8
8.	Meetings of members	8
8.1	Calling meetings of Members	8
8.2	Annual general meetings	8
8.3	Notice of Members' meetings	8
8.4	Contents of notice	8
8.5	Failure to give notice	9
8.6	Notice of adjourned meeting.....	9
8.7	Persons entitled to notice of meeting of Members	9
8.8	Persons entitled to attend meetings of Members	9
8.9	Postponement or cancellation of meeting	10
8.10	Meeting of Members at more than one place.....	10
9.	Proceedings at meetings of members	10
9.1	Business of annual general meeting	10
9.2	Special business	10
9.3	Quorum	11
9.4	Chairperson.....	11
9.5	Members Observer.....	12
9.6	Voting: show of hands or poll.....	12
9.7	Questions decided by majority.....	12
9.8	Declaration by chairperson of resolution's result.....	12
9.9	Conduct of poll	12
9.10	Adjournment of meetings of Members	13
9.11	General conduct of meetings.....	13
9.12	Written resolutions of Members	14

10.	Votes at meetings of Members	14
10.1	Number of votes	14
10.2	No vote if Membership Rights forfeited	14
10.3	Objections to qualification to vote	14
10.4	Proxy not to vote if Member present	14
10.5	No vote if contrary to Corporations Act	14
11.	Proxies.....	15
11.1	Right to appoint proxy or attorney.....	15
11.2	Form of proxy or attorney	15
11.3	Directors or chairperson decide validity	15
11.4	Authority conferred on proxy or attorney.....	15
11.5	Deposit of power of attorney and proxy form before meeting...	16
11.6	Vote by proxy valid notwithstanding intervening event.....	16
11.7	How proxy is to vote	16
11.8	Failure to name appointee	17
12.	Representatives of Members	17
12.1	Appointment	17
12.2	Powers	17
12.3	Evidence of appointment or revocation.....	17
13.	Meetings of a class of Members	17
14.	Directors: appointment and removal.....	18
14.1	Number of Directors	18
14.2	Limited ability of Directors to act during vacancies	18
14.3	Director need not be Member	18
14.4	Appointment and Removal of Directors	18
14.5	Period of Appointment.....	19
14.6	Resignation of Directors	19
14.7	Vacation of office of Director.....	19
15.	Chief Executive Officer and Executive Directors.....	19
15.1	Appointment of Chief Executive Officer	19
15.2	Removal, suspension, replacement of absent Chief Executive Officer.....	20
15.3	Retirement of Chief Executive Officer.....	20
15.4	Executive Director or Chief Executive Officer ceasing to be an employee.....	20
15.5	Powers of Chief Executive Officer and Executive Directors	20
16.	Powers of company and its directors.....	21
16.1	Directors have powers of the Company	21
16.2	Directors may not exercise Company's power to borrow etc....	21
16.3	Security from Company for Directors	21
16.4	Directors may appoint attorney or agent	21
16.5	Execution of negotiable instruments	22
17.	Remuneration of directors	22
17.1	Fees for Directors	22
17.2	Remuneration of Directors.....	22
17.3	Payments on retirement, loss of office or death of Director	23
17.4	Remuneration of Directors - extra services, payment of expenses and increases in fees.....	23
17.5	Interests in staff funds	23
18.	Directors' contracts with company.....	23

18.1	Director may hold other office of profit	23
18.2	Contract not avoided when Director interested	23
18.3	When Director may vote	24
18.4	Director may act in professional capacity.....	24
18.5	Director may affix Seal notwithstanding interest	24
18.6	Disclosure of interest.....	24
18.7	Record of disclosures by Directors	25
19.	Proceedings of directors.....	25
19.1	Meetings of Directors.....	25
19.2	Quorum for meetings of Directors.....	25
19.3	Calling meetings of Directors	26
19.4	Notice of meetings of Directors.....	26
19.5	Meetings by using Technology	26
19.6	Votes at meetings of Directors.....	27
19.7	Casting vote for Chairperson	27
19.8	Chairperson and Deputy Chairperson.....	27
19.9	Board Observer	28
19.10	Board Committees.....	28
19.11	Defects in appointment or qualifications of Director	29
19.12	Written resolutions of Directors.....	29
20.	Minutes	29
20.1	Minutes of all proceedings to be kept	29
20.2	Minutes to be signed	30
20.3	Minutes to be presumed accurate.....	30
20.4	Inspection of minutes of meetings of Members.....	30
21.	Secretary	30
21.1	Appointment and removal of Secretary.....	30
21.2	Acting Secretary	30
22.	Execution of documents	30
22.1	Custody and use of Seal	30
22.2	Execution with a Seal	31
22.3	Execution without the Seal	31
22.4	Signatures on Certificates.....	31
22.5	Effect of execution.....	31
23.	Reserve funds	31
23.1	Establishment and purpose of reserve funds.....	31
23.2	Power to invest reserve funds	31
24.	Accounts	32
24.1	Company to keep accounts	32
24.2	Financial report to be laid before annual general meeting.....	32
24.3	Copy of accounts to be sent	32
24.4	Accounts conclusive	32
25.	Auditors: appointment and removal.....	32
26.	Secrecy.....	33
26.1	Members not entitled to discovery	33
26.2	Officers of Company not to disclose information.....	33
27.	Notices.....	33
27.1	Method of service of notices	33
27.2	Notice by advertisement	33

27.3	Time of service by post.....	34
27.4	Time of service by facsimile transmission.....	34
27.5	Time of service by electronic mail transmission.....	34
27.6	Signatures on notices.....	34
27.7	Calculation of notice period.....	34
28.	Winding up.....	34
28.1	Winding Up - Timing.....	34
28.2	Winding Up - Donation Fund.....	34
28.3	Winding Up - Operating Surplus.....	35
29.	Indemnities and insurance.....	35
29.1	Indemnity against liabilities.....	35
29.2	Indemnity for costs and expenses.....	35
29.3	Insurance.....	35

1. Definitions, interpretation and status

1.1 Definitions

In this Constitution:

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

"**Address**" means:

- (a) in the case of a Member, the address of the Member in the Register;
- (b) in the case of a Director or the auditors of the Company, such address of that person derived from information that is available to the public from the ASIC; or
- (c) in the case of any Recipient, such address (if any) as notified in writing to the Company by the Recipient for the purpose of serving notice on that Recipient.

"**ASIC**" means Australian Securities and Investments Commission.

"**Board**" means the board of Directors of the Company.

"**Business Day**" means a day which is not a Saturday, Sunday or public holiday in Melbourne, Victoria.

"**Certificate**" means a certificate stating that a person is a Member.

"**Chairperson**" means the chairperson of the Board elected in accordance with Article 19.8(a).

"**Chief Executive Officer**" means a person holding office as chief executive officer of the Company under Article 15.1.

"**Commonwealth**" means the Commonwealth of Australia.

"**Company**" means Beyond Blue Limited ACN 093 865 840 (or such other name as may be determined by the Members from time to time).

"**Corporations Act**" means the *Corporations Act 2001* (Commonwealth), except to the extent of any exemption, modification, declaration or order made in respect of that legislation which applies to the Company.

"**Corporation**" means a body corporate, wherever incorporated.

"**Deputy Chairperson**" means a person elected in accordance with Article 19.8(b).

"**Director**" means a director for the time being of the Company.

"**Eligible Beneficiary**" means funds, authorities or institutions gifts to which are deductible under the item 1 of the table in section 30-15 of the Tax Act for any purposes set out in the item of the table in Subdivision 30-B of the Tax Act that covers the fund, authority or institution.

"**Executive Director**" means a Director who is an employee (whether full-time or part-time) of the Company or of any related body corporate of the Company.

"**Group Company**" means the Company or a subsidiary of the Company.

"**Member**" means, subject to this Constitution, each of:

- (a) the Commonwealth;
- (b) Victoria;
- (c) the State of New South Wales;
- (d) the State of Queensland;
- (e) the State of South Australia;
- (f) the State of Western Australia;
- (g) the State of Tasmania;
- (h) the Australian Capital Territory; and
- (i) the Northern Territory of Australia.

"Membership" means membership of the Company.

"Members Observer" has the meaning given in Article 9.5.

"Membership Rights" means the rights and benefits conferred on a Member under this Constitution, including any right conferred in relation to general meetings or meetings of Members.

"Non-Executive Directors" means all Directors other than Executive Directors.

"Office" means the registered office for the time being of the Company.

"Officer" has the meaning given to it in section 9 of the Corporations Act.

"Prescribed Notice" means, in relation to a meeting, the Prescribed Period or such shorter period of notice allowed under the Corporations Act.

"Prescribed Period" means 21 days.

"Proceedings" means, in relation to a person, any proceedings (whether civil or criminal) in which it is alleged that the person has done or omitted to do some act, matter or thing:

- (a) in his or her capacity as an Officer of a Group Company; or
- (b) in the course of acting in connection with the affairs of a Group Company; or
- (c) otherwise arising out of the person holding office as an Officer of a Group Company,

including proceedings alleging that he or she was guilty of negligence, default, breach of trust or breach of duty in relation to a Group Company.

"Recipient" means a Member or other person receiving notice from the Company under this Constitution.

"Register" means the register of Members kept under the Corporations Act and, where appropriate, includes any branch register.

"Representative" means a person appointed under Article 12.

"Seal" means the common seal of the Company (if any).

"Secretary" means the secretary for the time being of the Company, and if there are joint secretaries, any one or more of such joint secretaries.

"Tax Act" means the *Income Tax Assessment Act 1997* (Commonwealth).

"Technology" includes radio, telephone, closed circuit television or other electronic means or telecommunications device for audio or audio-visual communication.

"Victoria" means the State of Victoria.

1.2 Interpretation

In this Constitution:

- (a) headings are for convenience only and do not affect meaning; and unless the contrary intention appears:
- (b) words importing the singular number include the plural number and vice versa;
- (c) words importing any gender include all other genders;
- (d) a reference to a person includes a corporation, a partnership, a body corporate, an unincorporated association and a statutory authority;
- (e) where any word or phrase is given a defined meaning any other part of speech or grammatical form in respect of that word or phrase has a corresponding meaning;
- (f) a reference to an Article or a Schedule is to an article or a schedule of this Constitution;
- (g) any Schedule is part of this Constitution;
- (h) a reference to this Constitution is to this Constitution (and where applicable any of its provisions) as amended, supplemented or replaced from time to time;
- (i) a reference to any legislation or to any section or provision thereof includes any statutory modification, amendment or re-enactment or any statutory provision substituted for it; and
- (j) any power, right, discretion or authority conferred upon any person or people under this Constitution may be exercised at any time and from time to time.

1.3 Application of Corporations Act

- (a) Subject to clause 1.3(b), except so far as a contrary intention appears anywhere in this Constitution:
 - (i) an expression in a provision of this Constitution that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act; and
 - (ii) an expression in a provision of this Constitution that is defined in section 9 of the Corporations Act has the same meaning as in that section.

- (b) For so long as but notwithstanding that the Company is registered as a charity under the ACNC Act, Parts 2G.2 and 2G.3 of the Corporations Act (to the extent that these provisions relate to meetings of members of a body corporate) shall be taken to apply to the Company and meetings of Members for the purposes of this Constitution as if the Company were not registered as a charity under the ACNC Act.

1.4 Replaceable rules

Each of the provisions of the sections or sub-sections of the Corporations Act which would but for this Article 1.4 apply to the Company as a replaceable rule in accordance with section 135(1) of the Corporations Act is displaced and does not apply to the Company.

1.5 Company limited by guarantee

- (a) The Company is a company limited by guarantee.
- (b) Each Member undertakes to contribute an amount not exceeding \$50 to the property of the Company if the Company is wound up:
 - (i) at a time when that Member is a Member; or
 - (ii) within one year of the time that Member ceased to be a Member,for:
 - (iii) payment of the debts and liabilities of the Company contracted before that Member ceased to be a Member;
 - (iv) payment of the costs, charges and expenses of winding up the Company; and
 - (v) adjustment of the rights of the contributories among themselves.

1.6 Objects of the Company

- (a) The objects for which the Company is established are to:
 - (i) Reduce the prevalence and impact of depression and anxiety conditions, and suicide in the Australian community by supporting people to protect and manage their mental health and to recover when they are unwell. Reduce people's experiences of stigma and discrimination relating to depression, anxiety conditions and suicide.
 - (ii) Improve people's opportunities to get effective support and services at the right time for depression and anxiety conditions and to prevent suicide.
 - (iii) Use best practices to deliver integrated, evidence-based and cost-efficient initiatives through the Company's people and resources.

These objects may be achieved through activities and advocacy which:

- (iv) develop promotion, prevention and early intervention strategies to increase community awareness and understanding of depression and anxiety conditions, and suicide; increase help-seeking; reduce associated stigma and discrimination; positively influence individual and community behaviour; and improve outcomes for people, families and communities;

- (v) increase the capacity of the Australian community, including governments, service providers, business, education and community sectors, working together, to deal effectively with depression and anxiety conditions and prevent suicide;
 - (vi) enhance professional training, development and support for general practitioners, allied health and welfare professionals and others providing services and support to people experiencing depression and anxiety conditions, and suicide risk;
 - (vii) commission and support research to enhance knowledge into the causes and consequences of depression and anxiety conditions, and suicide risk; trial new and innovative prevention, early detection, treatment and recovery activities for depression and anxiety conditions, and suicide risk and disseminate information about best practice models of care; and
 - (viii) promote partnerships across health, community, business, education and other sectors to enhance responsiveness and support to all Australians who may experience or be at risk of experiencing depression and anxiety conditions, and suicide.
- (b) The Company will only apply the income and property of the Company in promoting the objects of the Company.

1.7 No distribution

- (a) Subject to Article 1.7(b), the Company will not make any distributions to any Members, whether by way of dividends, surplus on winding up or otherwise.
- (b) Article 1.7(a) does not prevent the payment in good faith by the Company to a Member of:
 - (i) reasonable remuneration to any Member in consideration for services rendered or goods supplied by that Member to the Company in the ordinary course of business;
 - (ii) interest at a reasonable rate on money borrowed by the Company from that Member;
 - (iii) reasonable rent for premises demised or let to the Company by that Member; or
 - (iv) any other reasonable amount of a similar character to those described in this Article 1.7(b).

2. Membership

2.1 Members

Subject to this Constitution, the members of the Company shall be the Members.

2.2 Membership not transferable

Membership Rights are not transferable whether by operation of law or otherwise.

3. Certificates

3.1 Member's entitlement to Certificates

Every Member will be entitled to one Certificate.

3.2 Issuing of Certificates

- (a) Any Certificates will:
 - (i) be uniquely numbered; and
 - (ii) be executed in a manner permitted under the Corporations Act as the Directors may determine.
- (b) Subject to Article 3.3(b)(iii), the Company will not charge a fee for issuing Certificates.

3.3 Duplicate Certificates

- (a) If any Certificate is worn out or defaced, then on production of it to the Directors, the Directors may order it to be cancelled and the Company may issue a duplicate of it.
- (b) If any Certificate is lost or destroyed, then on application by the Member accompanied by:
 - (i) a statement in writing that the Certificate has been lost or destroyed;
 - (ii) an undertaking in writing that if the Certificate is found or received by the Member it will be returned to the Company; and
 - (iii) payment of a fee (not exceeding that prescribed in the Corporations Act) as the Directors determine,the Company will issue a duplicate of the certificate.

4. Closure of register

The Register may be closed during such time or times as the Directors think fit provided that the Register is not closed for more than 30 days in aggregate in any calendar year.

5. Contributions

- (a) The Company may receive payment of contributions from Members.
- (b) Each Member shall make contributions to the Company in the amounts and at the times specified in the funding agreement entered into by the respective Member and the Company and in force from time to time. A Member shall not be required to make any additional payments to the Company other than payments to be made under any such funding agreement.

6. Cessation of membership

6.1 Resignation

- (a) Subject to Article 6.1(b), a Member may at any time resign as a Member by giving the Company notice in writing.

- (b) If there is only one Member and the Member gives proper notice of resignation or on the same day all of the Members give proper notice of resignation, the notice or notices will be ineffective and the Member or Members cannot resign until either another person is appointed as a Member or the Company is wound up.
- (c) Subject to Article 6.1(b), a resignation under Article 6.1(a) is effective from the date the Company receives the notice.
- (d) If a Member resigns, the Company must remove the Member's name from the Register.

6.2 Non-compliance with Constitution or misconduct

- (a) If:
 - (i) a Member wilfully refuses or neglects to comply with the provisions of this Constitution; or
 - (ii) the conduct of a Member appears to a majority of the Directors to be unbecoming of the Member or prejudicial to the interest of the Company,

the Directors may, subject to compliance with the remaining provisions of this Article 6.2, by resolution:

 - (iii) censure the Member;
 - (iv) forfeit the Membership Rights of the Member; or
 - (v) expel the Member from the Company.
- (b) A Member will be given at least seven days notice of the meeting of the Directors at which a resolution referred to in Article 6.2(a) is to be put.
- (c) A notice under Article 6.2(b) must:
 - (i) specify the allegations against the Member; and
 - (ii) state the proposed resolution.
- (d) Before the passing of any resolution referred to in Article 6.2(a), a Member will have the opportunity of giving orally, or in writing, any explanation or defence the Member may think fit at the meeting referred to in Article 6.2(b).

6.3 Cancellation of forfeiture

Where any Membership Rights have been forfeited under Article 6.2, the Directors may reinstate the Membership Rights on such terms as the Director thinks fit.

6.4 Cessation of membership

A Member will cease to be a Member:

- (a) if the Member resigns in accordance with Article 6.1; or
- (b) if the Member is expelled under Article 6.2.

6.5 Continuing liability

- (a) The rights, duties, liabilities and obligations of a Member:

- (i) arising under this Constitution; and
- (ii) whether or not existing at the date of the Member ceasing to be a Member or arising or crystallising after that date out of or by reason of facts or circumstances occurring or in existence at or before that date,

will not be prejudiced, lessened or affected by that Member ceasing to be a Member.

- (b) Without limiting the generality of Article 6.5(a), a Member ceasing to become a Member will not relieve a Member from any obligation to pay any contribution owing at the time of cessation.

7. Variation of class rights

- (a) Subject to the Corporations Act and the rights of a particular class of Members, the Company may vary or cancel rights of Members in that class:
 - (i) by a special resolution passed at a meeting of the Members included in that class; or
 - (ii) with the written consent of Members who are entitled to at least 75% of the votes that may be cast by Members included in that class.
- (b) Article 13 applies to a meeting held pursuant to Article 7(a)(i).

8. Meetings of members

8.1 Calling meetings of Members

- (a) The Directors may call a meeting of Members whenever they think fit.
- (b) The Directors will call and arrange a general meeting on the request of Members made in accordance with the Corporations Act.
- (c) The Members may call and arrange to hold a general meeting as provided by the Corporations Act.

8.2 Annual general meetings

Where the Corporations Act requires the Company to hold annual general meetings, the Company will hold those annual general meetings in accordance with the Corporations Act.

8.3 Notice of Members' meetings

The Company must give to Members not less than Prescribed Notice of a meeting of Members.

8.4 Contents of notice

A notice of a meeting of Members will:

- (a) set out the place, date and time of the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
- (b) subject to the Corporations Act, state the general nature of the business of the meeting;

- (c) if a special resolution is to be proposed at the meeting, set out the intention to propose the special resolution and state the resolution;
- (d) if a Member is entitled to appoint a proxy, contain a statement that:
 - (i) the Member has a right to appoint a proxy; and
 - (ii) the proxy of a Member does not need to be a Member; and
- (e) set out or include any additional information or documents specified by the Corporations Act.

8.5 Failure to give notice

Subject to the Corporations Act, the accidental omission to give notice of any meeting of Members to, or the non-receipt of that notice by, any of the Members will not invalidate any resolution passed at that meeting.

8.6 Notice of adjourned meeting

- (a) Whenever a meeting of Members is adjourned for a period not exceeding the Prescribed Period, no further notice of the time and place of the adjourned meeting need be given by the Company.
- (b) Whenever a meeting of Members is adjourned for a period exceeding the Prescribed Period, at least three days' notice of the time and place of the adjourned meeting will be given by the Company.

8.7 Persons entitled to notice of meeting of Members

- (a) Notice of every meeting of Members (including an adjourned meeting referred to in Article 8.6(b)) will be given in a manner authorised by Article 27 and in accordance with the Corporations Act to:
 - (i) every Member;
 - (ii) every Director;
 - (iii) every Members Observer appointed in accordance with Article 9.5; and
 - (iv) the auditors of the Company.
- (b) Subject to the Corporations Act, no person other than those persons specified in Article 8.7(a) is entitled to receive notices of meetings of Members.

8.8 Persons entitled to attend meetings of Members

- (a) All Members and Members Observers are entitled to attend meetings of Members as well as any other persons entitled to attend under the Corporations Act.
- (b) Subject to this Constitution, each Director is entitled to attend and speak at all meetings of Members.
- (c) The chairperson of a meeting of Members may require any person to leave and remain out of any meeting of Members if that person, in the opinion of the chairperson, is not complying with his or her reasonable directions.

8.9 Postponement or cancellation of meeting

The Directors may whenever they think fit postpone or cancel any meeting of Members other than a meeting called as a result of a request under Article 8.1(b).

8.10 Meeting of Members at more than one place

- (a) A meeting of Members called in accordance with this Constitution may be held in two or more separate meeting places linked together by an instantaneous audio-visual communication device or any other Technology which, by itself or in conjunction with other arrangements:
 - (i) gives the Members as a whole in the separate meeting places a reasonable opportunity to participate in proceedings;
 - (ii) enables the chairperson to be aware of proceedings in each such place; and
 - (iii) enables the Members in each such place to vote on a show of hands and on a poll.
- (b) A Member present at one of the separate meeting places is taken to be present at the meeting of Members and entitled to exercise all rights which the Member is granted under this Constitution.
- (c) Where a meeting of Members is held in two or more separate places pursuant to Article 8.10(a), that meeting will be deemed to have been held at one of those places as is determined by the chairperson of the meeting.

9. Proceedings at meetings of members

9.1 Business of annual general meeting

The business of an annual general meeting is:

- (a) to receive and consider the annual financial report and any other accounts, reports and statements as are required to be laid before the meeting;
- (b) to determine the aggregate remuneration of the Non-Executive Directors for the purposes of Article 17.2(a); and
- (c) to transact any other business which under this Constitution or the Corporations Act ought to be or may be transacted at an annual general meeting.

9.2 Special business

- (a) All business transacted at an annual general meeting other than the matters specified in Article 9.1 and all business transacted at any other meeting of Members will be deemed special business.
- (b) Subject to the Corporations Act, no person may move at any meeting of Members:
 - (i) any resolution (other than a resolution in the same terms as specified in the notice of meeting); or
 - (ii) any amendment of a resolution,in respect of special business, unless the chairperson of the meeting approves.

9.3 Quorum

- (a) A quorum for a meeting of Members is the Commonwealth, Victoria and one other Member (present in person or by proxy or attorney or by a Representative) who has the right to vote at that meeting.
- (b) For the purposes of determining whether a quorum is present a Member who is present in their own capacity and as a proxy, attorney or Representative of another Member will be counted only once.
- (c) No business can be transacted at any meeting of Members unless the requisite quorum is present at the commencement of the meeting.
- (d) If a quorum is present at the beginning of a meeting of Members it is deemed present throughout the meeting unless the chairperson otherwise declares on the chairperson's own motion or on the motion of a Member (present in person or by proxy or attorney or by a Representative).
- (e) If half an hour after the time appointed for a meeting of Members a quorum is not present:
 - (i) a meeting called by the Directors on a request of Members, or called by the Members as is provided by the Corporations Act, will be dissolved; and
 - (ii) in any other case, the meeting will be adjourned to the date, time and place as the Directors may by notice to the Members appoint, but failing such appointment, then to the same day in the next week at the same time and place as the meeting adjourned.
- (f) If after half an hour from the time appointed for an adjourned meeting of Members, a quorum is not present, then the meeting will be dissolved.

9.4 Chairperson

- (a) The Chairperson or, in the Chairperson's absence, the Deputy Chairperson (if any) will preside as chairperson at every meeting of Members.
- (b) If:
 - (i) there is no Chairperson or Deputy Chairperson; or
 - (ii) at any meeting of Members neither the Chairperson nor the Deputy Chairperson is present within 15 minutes of the time appointed for holding the meeting or willing to act as chairperson for all or part of that meeting,the Director present or, if more than one Director is present, a majority of those Directors present, may choose another Director as chairperson of the meeting of Members or part of that meeting (as the case may be).
- (c) If no Director is present or if all Directors present decline to act as chairperson of all or part of a meeting of Members, the Members present may choose one of their number to be chairperson of that meeting or part of that meeting (as the case may be).
- (d) In the case of an equality of votes at any meeting of Members, the chairperson of the meeting has a casting vote both on a show of hands and on a poll.

9.5 Members Observer

- (a) Each of Victoria and the Commonwealth may from time to time appoint a person to attend Members' meetings (**Members Observer**). An appointment may relate to a specific Members' meeting or be a standing appointment. A Members Observer must be appointed in writing signed by or on behalf of Victoria or the Commonwealth (as the case may be). A copy of the appointment must be given to the Company at least 24 hours prior to the scheduled time of the relevant Members meeting.
- (b) Subject to Article 9.5(a), a Members Observer is entitled to attend Members' meetings and is entitled to receive notice of Members' meetings in accordance with Article 8.8(a).
- (c) For the avoidance of doubt, a Members Observer is not a Member and is not entitled to vote at any Members' meeting or count in the quorum for any Members' meeting. Nor is a Members Observer entitled to speak at any Members' meeting unless invited to do so by the Chairperson.

9.6 Voting: show of hands or poll

- (a) At any meeting of Members a resolution put to the vote of the meeting will be decided on a show of hands of Members (present in person or by proxy or attorney or by a Representative) unless:
 - (i) before a vote is taken; or
 - (ii) before or immediately after the declaration of the result of the show of hands,
a poll is demanded:
 - (iii) by the chairperson; or
 - (iv) by at least two Members, present in person or by proxy or attorney or by a Representative, having the right to vote at the meeting.
- (b) No poll will be demanded on any resolution concerning the election of a chairperson of a meeting or the adjournment of any meeting.

9.7 Questions decided by majority

Subject to the requirements of the Corporations Act in relation to special resolutions, a resolution will be taken to be carried if more votes are cast in favour of the resolution than against it.

9.8 Declaration by chairperson of resolution's result

A declaration by the chairperson of a meeting of Members that a resolution has on a show of hands been carried or carried by a particular majority or lost or not carried by a particular majority and an entry to that effect in the book of proceedings of the Company will be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

9.9 Conduct of poll

- (a) If a poll has been demanded under this Article 9, it will be taken:
 - (i) in such manner and at such time and place as the chairperson directs; and

- (ii) either at once or after an interval or adjournment or otherwise.
- (b) The result of the poll will be deemed to be the resolution of the meeting of Members at which the poll was demanded.
- (c) A demand for a poll may be withdrawn.
- (d) A demand for a poll will not prevent the continuance of the meeting or the transaction of any business other than the resolution on which a poll has been demanded.

9.10 Adjournment of meetings of Members

- (a) The chairperson must adjourn a meeting of Members from time to time and from place to place or close that meeting if the Members present with a majority of votes that may be cast at that meeting agree or direct the chairperson to do so.
- (b) No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

9.11 General conduct of meetings

- (a) Subject to the Corporations Act, the chairperson will be responsible for the general conduct of meetings of Members and for the procedures to be adopted at meetings of Members.
- (b) The chairperson may make rulings or adjourn a meeting of Members without putting the question (or any question) to the vote if such action is required to ensure the orderly conduct of the meeting.
- (c) The chairperson may require the adoption of any procedures which are, in the chairperson's opinion, necessary or desirable for the proper and orderly casting or recording of votes at any meeting of Members, whether on a show of hands or on a poll.
- (d) The chairperson may determine conclusively any dispute concerning the admission, validity or rejection of a vote at a meeting of Members.
- (e) The chairperson of a meeting of Members may refuse admission to, or require to leave and remain out of, the meeting any person:
 - (i) in possession of a pictorial-recording or sound-recording device;
 - (ii) in possession of a placard or banner;
 - (iii) in possession of an article considered by the chairperson to be dangerous, offensive or liable to cause disruption;
 - (iv) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession; or
 - (v) who behaves or threatens to behave in a dangerous, offensive or disruptive manner.
- (f) The chairperson may delegate the powers conferred by this Article to such person or persons as he or she thinks fit.
- (g) Nothing contained in this Article 9.11 will be taken to limit the powers conferred on the chairperson by law.

9.12 Written resolutions of Members

- (a) The Company may pass a resolution by the signing of a written record of that resolution by all Members.
- (b) To the extent permitted by the Corporations Act, a requirement, right or power in these Articles to pass a resolution in general meeting will be satisfied by the Company passing a resolution in accordance with Article 9.12(a).

10. Votes at meetings of Members

10.1 Number of votes

On a show of hands, and on a poll at a meeting of Members:

- (a) each Member (present in person or by proxy or attorney or by a Representative), other than the Commonwealth and Victoria, is entitled to one vote; and
- (b) each of the Commonwealth and Victoria is entitled to two votes.

10.2 No vote if Membership Rights forfeited

Notwithstanding Article 10.1, a Member will not be entitled to vote on any resolution, whether on a show of hands or on a poll, if:

- (a) the Directors have forfeited the Membership Rights relating to that Member under Article 6.2; or
- (b) the Membership Rights have not been reinstated under Article 6.3.

10.3 Objections to qualification to vote

- (a) No objection to the qualification of any person to vote at a meeting of Members will be raised except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at that meeting is valid for all purposes.
- (b) Any objection to the qualification of any person to vote at a meeting of Members made within the time referred to in Article 10.3(a) will be referred to the chairperson of the meeting, whose decision, made in good faith, is final and conclusive.

10.4 Proxy not to vote if Member present

If a Member is present at a meeting of Members and a proxy or attorney for such Member is also present, the proxy or attorney is not entitled to speak at the meeting or vote on a show of hands or on a poll.

10.5 No vote if contrary to Corporations Act

Notwithstanding anything contained in this Constitution to the contrary:

- (a) a Member (present in person or by proxy or attorney or by a Representative) will not be entitled to vote; and
- (b) the Company will disregard any vote purported to be cast by a Member (present in person or by proxy or attorney or by a Representative),

on a particular resolution where such a vote is prohibited by the Corporations Act.

11. Proxies

11.1 Right to appoint proxy or attorney

- (a) A Member who is entitled to attend and cast a vote at a meeting of Members may appoint a person (whether a Member or not) as the Member's proxy or attorney, as the case may be, to attend and vote for the Member at the meeting.
- (b) A proxy or attorney may be appointed for all meetings or for any number of meetings or for a particular purpose.

11.2 Form of proxy or attorney

- (a) An instrument appointing a proxy or attorney:
 - (i) must be in writing executed under the hand of a person authorised by the Member;
 - (ii) may contain directions as to the manner in which the proxy or attorney, as the case may be, is to vote in respect of any particular resolution or resolutions; and
 - (iii) subject to the Corporations Act, may otherwise be in any form as the Directors may prescribe or accept.
- (b) A facsimile or electronic copy of a written appointment of a proxy or a power of attorney is valid.
- (c) An appointment of a proxy is not invalid by virtue only of the fact that it contains some but not all of the information required by the Corporations Act.

11.3 Directors or chairperson decide validity

Subject to the Corporations Act, the Chairperson's decision or, in his or her absence, the Directors' decision as to the validity of a proxy or power of attorney or a facsimile or electronic copy thereof will be final and binding.

11.4 Authority conferred on proxy or attorney

Unless otherwise provided in the instrument, an instrument appointing a proxy or attorney will be taken to confer authority:

- (a) to agree to a meeting of Members being called by shorter notice than is required by the Corporations Act or this Constitution;
- (b) to agree to a resolution being proposed and passed at a meeting of Members of which notice of less than the Prescribed Period is given;
- (c) to vote on a show of hands in accordance with the directions (if any) given in the instrument;
- (d) even though the instrument may refer to specific resolutions and may direct the proxy or attorney how to vote on those resolutions:
 - (i) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion; and

- (ii) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting;
- (e) to speak on any proposed resolution on which the proxy or attorney may vote; and
- (f) to demand or join in demanding a poll on any resolution on which the proxy or attorney may vote.

11.5 Deposit of power of attorney and proxy form before meeting

An instrument appointing an attorney or a proxy and the power of attorney or other authority (if any) under which it is signed or a copy of that power or authority certified as a true copy or a facsimile or electronic copy of any of the documents referred to in this Article, must be deposited:

- (a) at the place, fax number or electronic mail address as is specified in the notice of meeting of Members to which the proxy or attorney relates; or
- (b) at the Office,

not less than 48 hours before the time scheduled for commencement of the meeting (or any adjournment of that meeting) at which the person named in the instrument intends to vote.

11.6 Vote by proxy valid notwithstanding intervening event

Unless the Company has received written notice not less than 48 hours before the time scheduled for the commencement of the meeting at which a person named in a proxy or power of attorney, as the case may be, intends to vote, a vote cast by that person will, subject to this Constitution, be valid even if, before the person votes:

- (a) the Member revokes the proxy or power of attorney; or
- (b) the Member revokes the authority under which the person was appointed by a third party.

11.7 How proxy is to vote

- (a) Any form of proxy sent out by the Company to Members in respect of a proposed meeting of Members will make provision for the Member to indicate whether the Member wishes to vote for or against each resolution.
- (b) A Member may, but need not, specify the manner in which a proxy is to vote on a particular resolution.
- (c) Where a Member does specify how a proxy is to vote on a particular resolution:
 - (i) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote in accordance with that specification;
 - (ii) if the proxy has two or more appointments that specify different manners in which a proxy is to vote on the resolution, the proxy must not vote on a show of hands;
 - (iii) if the proxy is the chairperson of the meeting concerned, the proxy must vote in accordance with that specification; and
 - (iv) if the proxy is not the chairperson of the meeting concerned, the proxy need not vote on a poll, but if the proxy does so, the proxy must vote in accordance with that specification.

11.8 Failure to name appointee

Any instrument of proxy in which the name of the appointee is not filled in will be deemed to be given in favour of the chairperson or such other person as is nominated by the Directors in the instrument of proxy or the notice calling the meeting of Members to which the proxy relates.

12. Representatives of Members

12.1 Appointment

- (a) Any Member may appoint an individual (either by name or position and whether a Member or not) as its representative to exercise all or any of the powers the Member may exercise:
 - (i) at a meeting of Members; or
 - (ii) relating to resolutions to be passed without a meeting of Members.
- (b) A Representative may be appointed for any number of, or all, meetings of Members.
- (c) A Member may appoint more than one Representative but only one Representative may exercise that Member's powers at any one time.

12.2 Powers

- (a) The appointment of a Representative by a Member may set out restrictions on the Representative's powers.
- (b) Unless otherwise specified in the appointment, a Representative acting in accordance with his or her authority until it is revoked by the Member, is entitled to exercise the same powers on behalf of that Member or the Corporation as that Member could exercise at a meeting or in voting on a resolution.

12.3 Evidence of appointment or revocation

- (a) A certificate:
 - (i) under the seal of a Corporation;
 - (ii) signed by two directors of the Corporation (or where the Corporation has only one director, signed by that director); or
 - (iii) signed by one director and one secretary of the Corporation; or
- (b) a letter signed by or on behalf of the Member,

or any other document as the chairperson of the meeting in his or her sole discretion considers sufficient, will be prima facie evidence of the appointment, or of the revocation of the appointment, as the case may be, of a Representative.

13. Meetings of a class of Members

All the provisions of this Constitution relating to a meeting of Members apply so far as they are capable of application and with any necessary changes to a meeting of a class of Members required to be held pursuant to this Constitution or the Corporations Act except that:

- (a) a quorum is two Members, present in person or by proxy or attorney or by a Representative, who are members of that class of Members, or if only one person is a member of that class of Members, that person (attending in person or by representation); and
- (b) any Member, present in person or by proxy or attorney or by a Representative, who is a member of that class of Members may demand a poll.

14. Directors: appointment and removal

14.1 Number of Directors

- (a) Subject to Articles 14.1(b) and 14.1(c), the Company must at all times have such number of directors as the Directors determine, being a number not less than a minimum of five and not more than a maximum of 15.
- (b) The Directors cannot reduce the number of Directors below the number in office at the time of any determination under Article 14.1(a).
- (c) The Company in general meeting may increase or reduce the maximum or minimum number of Directors by ordinary resolution, but the minimum cannot be less than 5.

14.2 Limited ability of Directors to act during vacancies

The continuing Directors may act notwithstanding any vacancy in their number, but for as long as the number of Directors is below the minimum fixed by this Constitution, the Directors will not act except:

- (a) in emergencies;
- (b) for the purpose of filling up vacancies; or
- (c) for the purpose of convening a meeting of Members.

14.3 Director need not be Member

A Director shall not be a Member.

14.4 Appointment and Removal of Directors

- (a) The Company may appoint or remove a person as a Director by resolution passed at a meeting of Members.
- (b) If a Director dies, resigns or otherwise ceases to be a Director, the Directors may appoint another person in his or her place as a Director to hold office until the next annual general meeting at which time that person shall be eligible for reappointment.
- (c) Subject to Article 14.1, the Directors may appoint any person as a Director to hold office until the next annual general meeting at which time that person shall be eligible for reappointment.
- (d) In exercising its powers of appointment of Directors, the Company shall take into account any special considerations relating to composition of the Directors recognized in any funding agreement entered into by the Company.

14.5 Period of Appointment

- (a) Subject to Article 14.5(d), a Director appointed under Article 14.4(a) will hold office until the third annual general meeting of the Company following that Director's last election or appointment.
- (b) Subject to Article 14.5(c), a Director who ceases to hold office pursuant to Article 14.5(a) does so at the end of the relevant meeting and is eligible for reappointment.
- (c) Subject to Articles 14.5(d) and 14.5(e), the maximum aggregate period that a Director may continuously hold office as a Director is nine years (excluding any period the person acts as a Director under Article 14.4(b) or 14.4(c)).
- (d) A Director who is also the Chief Executive Officer of the Company is not subject to Articles 14.5(a), 15.5(b) or 14.5(c). Article 15 also applies in accordance with its terms to a Director who is also the Chief Executive Officer.
- (e) A Director who is also the Chairperson is not subject to Article 14.5(c). Article 19.8 also applies in accordance with its terms to a Director who is also the Chairperson.

14.6 Resignation of Directors

A Director may resign from office on giving the Company notice in writing.

14.7 Vacation of office of Director

- (a) Each Director will remain in office until his or her office is vacated pursuant to Article 14.7(b) or the period of appointment for that Director expires.
- (b) The office of a Director is vacated if that Director:
 - (i) is absent without the consent of the Directors from all meetings of the Directors held during a period of six months and the Directors resolve that his or her office be vacated;
 - (ii) resigns the office of Director in accordance with Article 14.6 or 15.3;
 - (iii) is removed under the provisions of Article 14.4 or 15.2;
 - (iv) has served his or her maximum period of tenure prescribed by Article 14.5(c), if applicable, unless the other Directors unanimously determine that exceptional circumstances justify an extension of such tenure by a further period of not more than 3 years;
 - (v) ceases to be a Director by virtue of Article 15.4;
 - (vi) becomes an insolvent under administration (within the meaning of the Corporations Act); or
 - (vii) otherwise ceases to be, or becomes prohibited from being, a Director by virtue of the Corporations Act.

15. Chief Executive Officer and Executive Directors

15.1 Appointment of Chief Executive Officer

The Directors may appoint a Chief Executive Officer:

- (a) either for a fixed term or without any limitation as to the period for which the person appointed is to hold the office; and
- (b) subject to this Constitution, on any terms and conditions that the Directors determine.

The Chief Executive Officer may be a Director.

15.2 Removal, suspension, replacement of absent Chief Executive Officer

- (a) Subject to the provisions of any contract between a Chief Executive Officer and the Company, the Directors may:
 - (i) remove or dismiss or suspend a Chief Executive Officer from that office and appoint another or others in his or her place; or
 - (ii) appoint a temporary substitute for a Chief Executive Officer while that Chief Executive Officer is absent or unable to act.
- (b) If the Chief Executive Officer is also a Director, the Chief Executive Officer is not entitled to attend or vote at any meeting of Directors while under suspension from office.

15.3 Retirement of Chief Executive Officer

Subject to the provisions of any contract between each Chief Executive Officer and the Company, if the Chief Executive Officer is also a Director, the Chief Executive Officer is subject to the same provisions in this Constitution as to resignation, vacation from office and removal as the other Directors.

15.4 Executive Director or Chief Executive Officer ceasing to be an employee

- (a) Each Executive Director or Chief Executive Officer ceases to be a Director on ceasing to be an employee of the Company or of a related body corporate of the Company.
- (b) A person ceasing to be a Director by virtue of this Article will not for that reason alone be rendered ineligible for appointment as a Director under any other Article.

15.5 Powers of Chief Executive Officer and Executive Directors

- (a) The Directors may entrust to and confer on each Chief Executive Officer and each Executive Director such of the powers exercisable under this Constitution by the Directors as the Directors think fit.
- (b) The Directors may confer any of the powers referred to in Article 15.5(a):
 - (i) for such period;
 - (ii) to be exercised for any objects and purposes; and
 - (iii) subject to any terms and conditions,as the Directors think fit.
- (c) The Directors may confer any of the powers referred to in Article 15.5(a) either collaterally with or to the exclusion of and in substitution for all or any of the powers of the Directors in that behalf, and may revoke, withdraw, alter or vary all or any of the powers conferred.

- (d) Notwithstanding any provision of this Constitution, every Chief Executive Officer and Executive Director will at all times and in all respects be subject to the control of the Directors.

16. Powers of company and its directors

16.1 Directors have powers of the Company

- (a) The business of the Company is to be managed by or under the direction of the Directors.
- (b) Subject to this Constitution, the Directors may exercise all the powers of the Company and do all such acts and things which the Company is authorised or permitted to exercise and do and which are not by this Constitution or by statute directed or required to be exercised or done by the Company in general meeting.

16.2 Directors may not exercise Company's power to borrow etc

Notwithstanding any other provision of this Constitution, the Directors must not exercise any of the powers of the Company to:

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

except for or in relation to equipment leases, finance leases, hire purchase agreements or similar arrangements or credit card arrangements in the ordinary course of the operations of the Company or as permitted by Article 16.3.

16.3 Security from Company for Directors

If:

- (a) the Directors or any of them; or
- (b) any other person,

become or are about to become personally liable for the payment of any sum due from the Company, the Directors may execute or cause to be executed any mortgage, charge, bill of sale or security over or affecting the whole or any part of the assets of the Company in order to secure the Directors or persons so becoming liable from any loss in respect of such liability.

16.4 Directors may appoint attorney or agent

- (a) The Directors may, by resolution, power of attorney, or other written instrument, appoint any person or persons, to be attorney or agent of the Company:
 - (i) for any purposes;
 - (ii) with any powers, authorities and discretions being powers, authorities and discretions vested in or exercisable by the Directors;
 - (iii) for any period; and

(iv) subject to any conditions,

as the Directors think fit.

(b) An appointment under Article 16.4(a) may:

(i) be on such terms for the protection and convenience of persons dealing with the attorney or agent as the Directors think fit; and

(ii) authorise the attorney or agent to delegate all or any of the powers, authorities and discretions vested in the attorney or agent.

16.5 Execution of negotiable instruments

All cheques, promissory notes, banker's drafts, bills of exchange and other negotiable instruments signed, drawn, accepted, endorsed or otherwise executed by the Company, and all receipts for money paid to the Company, will be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in the manner and by the persons as the Directors determine.

17. Remuneration of directors

17.1 Fees for Directors

The Company must not pay any amount (including under Articles 17.2, 17.3 or 17.4) to a Director unless that payment has been approved by the Directors.

17.2 Remuneration of Directors

(a) The remuneration of the Non-Executive Directors will not:

(i) be more than the aggregate fixed sum which is determined by a general meeting, or until so determined, such sum as determined by the Directors; nor

(ii) be by way of a commission on, or percentage of, operating revenue or surplus.

(b) Provided that the aggregate remuneration paid to the Non-Executive Directors does not exceed the aggregate fixed sum determined in accordance with Article 17.2(a), the Directors will determine the amount of remuneration to be paid, or applied for the benefit of, any Non-Executive Director.

(c) For the purposes of Article 17.2(a), the remuneration of a Non-Executive Director does not include payments made in connection with the provision of superannuation benefits, the payment of superannuation benefits or any other payments made as a consequence of and in accordance with Articles 17.3, 17.4 or 17.5.

(d) The remuneration of a Non-Executive Directors will be deemed to accrue from day to day.

(e) The remuneration of the Executive Directors:

(i) will, subject to Article 17.2(e)(ii) and the provisions of any contract between each of them and the Company, be fixed by the Directors; and

(ii) may be by way of salary only,

but will not be by way of commission on, or percentage of, operating revenue or surplus.

17.3 Payments on retirement, loss of office or death of Director

Subject to the Corporations Act, the Company may, or may agree to, pay provide or make any payment or other benefit to a Director, a director of a related body corporate of the Company or any other person in connection with that person's or someone else's retirement, resignation from or loss of office, or death while in office.

17.4 Remuneration of Directors - extra services, payment of expenses and increases in fees

- (a) If any Director is called upon to:
- (i) perform extra services (including being a member on a committee referred to in Article 19.10); or
 - (ii) make any special exertion in going or residing abroad or otherwise for any of the purposes of the Company,

the Company may, subject to the Corporations Act and Article 17.4(b), pay additional remuneration or provide benefits to that Director as the Directors determine.

- (b) Any additional remuneration or benefits paid or provided under Article 17.4(a) will be by salary only and must not include or be by way of commission on, or percentage of, operating revenue or surplus.
- (c) The Company will pay all reasonable travelling, accommodation and other expenses incurred by a Director in consequence of his or her attendance at meetings of Directors and otherwise in the execution of his or her duties as a Director.

17.5 Interests in staff funds

Subject to the Corporations Act, any Director may participate in any association, institution, fund, trust or scheme for the benefit of past or present employees or Directors of the Company, a related body corporate of the Company or any of their respective predecessors in business, or for the benefit of the dependants of any such persons, or for the benefit of persons connected with any of those persons.

18. Directors' contracts with company

18.1 Director may hold other office of profit

A Director may hold any other office or place of profit in the Company (except that of auditor) in conjunction with the office of Director, on such terms as the Directors arrange.

18.2 Contract not avoided when Director interested

Subject to the Corporations Act:

- (a) no Director will be disqualified by virtue of holding the office of Director from holding any office or place of profit under any Corporation in which the Company is a shareholder or is otherwise interested;
- (b) no Director will be disqualified by virtue of holding the office of Director from contracting with the Company or any Corporation in which the Company is a

shareholder or is otherwise interested, either as vendor, purchaser or otherwise, and nor will any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested be avoided; and

- (c) a Director is not liable to account to the Company for any profit arising from that office or place of profit or realised by the contract or arrangement, or by any participation in an association or otherwise under Article 17.5 by reason only of the Director holding that office or of the fiduciary relations thereby established, provided that the disclosure required by Article 18.6 has been made.

18.3 When Director may vote

- (a) A Director who has an interest in a matter that is being considered at a meeting of Directors, may, despite that interest, vote, be present and be counted in a quorum at that meeting, unless that is prohibited by the Corporations Act.
- (b) No act of the Company is invalid or voidable by reason only of a failure of the Director to comply with a prohibition on voting, whether imposed by the Corporations Act or otherwise, in relation to a matter in which the Director is interested.

18.4 Director may act in professional capacity

Subject to the Corporations Act:

- (a) any Director may act by himself or herself or the Director's firm may act in a professional capacity for the Company or any other Corporation in which the Company is a shareholder or is otherwise interested; and
- (b) that Director and that Director's firm will be entitled to remuneration for professional services as if that Director were not a Director,

but nothing in this Article 18.4 authorises a Director or that Director's firm to act as an auditor of the Company.

18.5 Director may affix Seal notwithstanding interest

Notwithstanding that a Director is interested in a contract or arrangement, that Director may be appointed as the Director to sign on behalf of the Company or in whose presence the Seal of the Company is to be affixed to any instrument to which the interest relates.

18.6 Disclosure of interest

- (a) A Director who is in any way, whether directly or indirectly, interested in a matter in which the Company has an interest will declare the nature of the interest at a meeting of the Directors as soon as practicable after the relevant facts have come to the Director's knowledge.
- (b) For the purposes of Article 18.6(a), a general notice given to the Directors by a Director to the effect that the Director is an officer or member of a specified Corporation or a member of a specified firm or is otherwise interested in any Corporation or firm and is to be regarded as interested in any matter, after the date of the notice, in which that Corporation or firm may have an interest, will be deemed to be a sufficient declaration of interest in relation to the matter if:
 - (i) the notice states the nature and extent of the Director's interest in the Corporation or firm;

- (ii) when the matter is first considered, the extent of the Director's interest in the Corporation or firm is not greater than is stated in the notice; and
 - (iii) the notice is given at a meeting of the Directors or the Director takes reasonable steps to ensure that it is brought up and read at the next meeting of the Directors after it was given.
- (c) It is the duty of a Director who holds any office or possesses any property the holding of which office or the possession of which property might, whether directly or indirectly, create duties or interests in conflict with the duties or interests as a Director of the Company of that Director to declare the fact of his or her holding such office or possessing such property and the nature, character and extent of the conflict:
- (i) if that Director was not a Director at the time he or she commenced to hold such office or possess such property, at the first meeting of Directors held after that Director was appointed as a Director; or
 - (ii) if otherwise, at the first meeting of Directors held after that Director commenced to hold such office or possess such property.

18.7 Record of disclosures by Directors

It is the Secretary's duty to record in the minutes any disclosure given by a Director under this Article 18.

18.8 ACNC Governance Standards

For so long as the Company is registered as a charity under the ACNC Act:

- (a) for the purposes of this Article 18, sections 191 and 192 of the Corporations Act shall be taken to apply to each Director in relation to the disclosure of his or her interests as if the Company were not so registered under the ACNC Act;
- (b) without limiting the requirements of Article 18.6(a), each Director shall comply with the duties of disclosure set out in the governance standards in the ACNC Act from time to time (**ACNC Governance Standards**); and
- (c) the applicable requirements of the ACNC Act and the ACNC Governance Standards shall prevail over this Constitution to the extent of any inconsistency.

19. Proceedings of directors

19.1 Meetings of Directors

The Directors may hold a meeting, adjourn and otherwise regulate their meetings as they think fit.

19.2 Quorum for meetings of Directors

- (a) The Directors may determine the quorum necessary for the transaction of business.
- (b) Until otherwise determined, a quorum for the purpose of considering a matter at a meeting will be five persons, each of whom is:
 - (i) a Director; and
 - (ii) entitled under the Corporations Act to vote on a motion that may be moved in relation to such matter at that meeting.

- (c) A meeting of the Directors during which a quorum is present is competent to exercise all or any of the authorities, powers and discretions under this Constitution for the time being vested in or exercisable by the Directors generally.
- (d) Where a quorum cannot be established for a meeting of Directors (or consideration of a particular matter) a Director may convene a general meeting of Members to deal with the matter or the matters in question.

19.3 Calling meetings of Directors

Any 3 Directors may at any time, and the Secretary will on the request of any 3 Directors, call a meeting of the Directors.

19.4 Notice of meetings of Directors

- (a) Notice of every Directors' meeting must be given to each Director and each Board Observer appointed in accordance with Article 19.9.
- (b) Notice of a meeting of Directors may be given:
 - (i) in writing, by electronic mail to an electronic address or by any Technology; and
 - (ii) provided it accords with Article 19.4(b)(i), in different ways to different Directors.
- (c) If notice of a meeting of Directors cannot be given to a particular Director in accordance with Article 19.4(b), written notice served on:
 - (i) the usual residential address of that person;
 - (ii) the alternative address of that person notified under the Corporations Act; or
 - (iii) such other address (including an electronic address) provided to the Company by that person for the purpose of serving notice on that person,will constitute notice to that person of that meeting for the purposes of this Article 19.4.

19.5 Meetings by using Technology

- (a) Without limiting the discretion of the Directors to regulate their meetings under Article 19.1, the Directors may, if they think fit, confer by any Technology.
- (b) Notwithstanding that the Directors are not present together in one place at the time of the conference, a resolution passed by the conference will be deemed to have been passed at a meeting of the Directors held on the day on which and at the time at which the conference was held.
- (c) The provisions of this Constitution relating to proceedings of Directors apply to the conference to the extent that they are capable of applying, and with the necessary changes.
- (d) A Director present at the commencement of the conference will be conclusively presumed to have been present and, subject to other provisions of this Constitution, to have formed part of the quorum throughout the conference.

- (e) Any minutes of a conference of the type referred to in Article 19.5(a) purporting to be signed by the chairperson of that conference or by the Chairperson will be sufficient evidence of the observance of all necessary formalities regarding the convening and conduct of the conference.
- (f) When, by the operation of Article 19.5(b), a resolution is deemed to have been passed at a meeting of the Directors, that meeting will be deemed to have been held at such place as is determined by the chairperson of the relevant conference, provided that at least one of the Directors who took part in the conference was at that place for the duration of the conference.

19.6 Votes at meetings of Directors

Motions and resolutions arising at any meeting of the Directors will be decided by a majority of votes and, subject to the provisions of Article 18, each Director has one vote.

19.7 Casting vote for Chairperson

Subject to the Corporations Act, in case of an equality of votes at a meeting of Directors, the Chairperson will have a casting vote in addition to any vote he or she has in his or her capacity as a Director.

19.8 Chairperson and Deputy Chairperson

- (a) The Directors may elect a Director as the chairperson of the Board.
- (b) The Directors may also elect a Director as the deputy chairperson who, in the absence of the Chairperson at a meeting of the Directors, may exercise all the powers and authorities of the Chairperson.
- (c) If:
 - (i) no Chairperson or Deputy Chairperson is elected; or
 - (ii) at any meeting the Chairperson or Deputy Chairperson is not present within half an hour of the time appointed for holding the meeting or is not willing to act as Chairperson for all or part of that meeting,the Directors present will choose one of their number to be chairperson of that meeting or part of that meeting (as the case may be).
- (d) Subject to Article 14 and Article 19.8(e), the Directors may determine the period for which a person elected as Chairperson or Deputy Chairperson is to hold that office.
- (e) A person appointed as Chairperson will hold office as Chairperson until the first to occur of:
 - (i) the expiration of the period determined under Article 19.8(d) in respect of the person;
 - (ii) the person ceasing to be a Director;
 - (iii) the Directors at any time during that period resolving that the person will from that time cease to hold office as Chairperson; or
 - (iv) the person having held office as Chairperson until the longer of:

- A. the sixth anniversary of his or her initial appointment as Chairperson; or
 - B. where the Chairperson was initially appointed as such prior to the expiry of the period determined under Article 19.8(d) in respect of the immediately preceding Chairperson (the **Expected Succession Date**), the sixth anniversary of the Expected Succession Date.
- (f) When a Director who is the Chairperson or Deputy Chairperson retires at a general meeting and is re-appointed or re-elected as a Director at that meeting, that Chairperson or Deputy Chairperson will not by that fact alone cease to be the Chairperson or Deputy Chairperson as the case may be.

19.9 Board Observer

- (a) Each of Victoria and the Commonwealth may from time to time appoint a person to attend Board meetings (**Board Observer**). An appointment may relate to a specific Board meeting or be a standing appointment. A Board Observer must be appointed in writing signed by or on behalf of Victoria or the Commonwealth (as the case may be). A copy of the appointment must be given to the Company at least 24 hours prior to the scheduled time of the relevant Board meeting.
- (b) Subject to Article 19.9(a), a Board Observer is entitled to attend Board meetings and is entitled to receive notice of Board meetings in accordance with Article 19.4(a).
- (c) For the avoidance of doubt, a Board Observer is not a Director and is not entitled to vote at any Board meeting or count in the quorum for any Board meeting. Nor is a Board Observer entitled to speak at any Board meeting unless invited to do so by the Chairperson.

19.10 Board Committees

- (a) The Directors may:
 - (i) delegate any of their powers to committees consisting of one or more members who are Directors together with one or more persons who are not Directors (provided that the majority of the members of any committee are Directors) as they think fit; and
 - (ii) revoke that delegation.
- (b) A committee will conform to any directions and regulations that may be imposed upon it by the Directors in the exercise of its powers.
- (c) So far as they are capable of application and with the necessary changes, the provisions of the Constitution for regulating the meetings and proceedings of the Directors govern the meetings and proceedings of committees of two or more members to the extent that the same are consistent with any directions and regulations made by the Directors.
- (d) Where a committee consists of two or more members, a quorum will be any two members who are Director or a larger number of Directors as the committee itself determines.

19.11 Defects in appointment or qualifications of Director

All acts:

- (a) done at any meeting of the Directors; or
- (b) of a Board committee; or
- (c) by any person acting as a Director,

will be as valid as if every such person or committee had been duly appointed and every Director was qualified and entitled to vote, notwithstanding that it is afterwards discovered that:

- (d) there was some defect in the appointment of a Director (or as the case requires, a non-Director committee member) or of the committee or of the person acting; or
- (e) any Director (or as the case requires, a non-Director committee member) was disqualified or not entitled to vote.

19.12 Written resolutions of Directors

- (a) If all of the Directors have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms will be deemed to have been passed at a meeting of the Directors held on the day on which and at the time at which the document was last signed by a Director.
- (b) For the purposes of this Article 19.12:
 - (i) two or more separate documents containing statements in identical terms each of which is signed by one or more Directors will together be deemed to constitute one document containing a statement in those terms signed by the Directors;
 - (ii) a reference to all the Directors does not include a reference to a Director who, at a meeting of Directors, would not be entitled to vote on the resolution;and
 - (iii) any document so signed by a Director may be received by the Company at the Office (or other place agreed by the Directors) by post, by facsimile, by electronic mail or other Technology which displays the Director's signature or by delivery (personal or otherwise).

20. Minutes

20.1 Minutes of all proceedings to be kept

The Directors will cause minutes of:

- (a) all proceedings and resolutions of meetings of Members;
- (b) all proceedings and resolutions of meetings of the Directors, including meetings of Board committees;
- (c) all resolutions passed by Members without a meeting; and

- (d) all resolutions passed by the Directors without a meeting of Directors in accordance with Article 19.12,

to be duly entered in books kept for that purpose in accordance with the Corporations Act.

20.2 Minutes to be signed

- (a) The Directors will cause the minutes referred to in Articles 20.1(a) and 20.1(b) to be signed by:
 - (i) the chairperson of the meeting at which the proceedings took place or at which the resolutions were proposed; or
 - (ii) the chairperson of the next meeting.
- (b) The Directors will cause the minutes referred to in Article 20.1(c) to be signed by a Director within a reasonable time after the resolution the subject of that minute is passed.

20.3 Minutes to be presumed accurate

Where the minutes referred to in Article 20.2 are signed in accordance with that Article, those minutes will be presumed to be an accurate record of the relevant proceedings and resolutions unless the contrary is proved.

20.4 Inspection of minutes of meetings of Members

Books containing the minutes of proceedings of meetings of Members and resolutions passed by Members without a meeting in accordance with Article 9.12 will be open for inspection by any Member without charge.

21. Secretary

21.1 Appointment and removal of Secretary

- (a) A Secretary or Secretaries will be appointed by the Directors in accordance with the Corporations Act for the term, at the remuneration and on the conditions as the Directors think fit.
- (b) Any Secretary appointed pursuant to Article 21.1(a) may be removed by the Directors.

21.2 Acting Secretary

The Directors may appoint a person as an acting Secretary or as a temporary substitute for a Secretary who, for the purposes of this Constitution, will be deemed to be a Secretary.

22. Execution of documents

22.1 Custody and use of Seal

- (a) The Directors may provide a Seal for the Company and, if so, will provide for the safe custody of that Seal.
- (b) The Seal will only be used by the authority of the Directors or of a Board committee authorised by the Directors in that behalf.

22.2 Execution with a Seal

If the Company has a Seal, it may execute a document if the Seal is fixed to the document and the fixing of the Seal is witnessed by two Directors, a Director and a Secretary, or a Director and another person appointed by the Directors for that purpose.

22.3 Execution without the Seal

The Company may execute a document without using a Seal if the document is signed by two Directors, a Director and a Secretary, or a Director and another person appointed by the Directors for that purpose.

22.4 Signatures on Certificates

The Directors may determine:

- (a) either generally or in a particular case; and
- (b) in any event, subject to such conditions as the Directors think fit,

that wherever a Certificate requires a signature, that requirement will be satisfied by a facsimile or electronic copy of the signature affixed by such means as the Directors determine.

22.5 Effect of execution

Any instrument executed in accordance with this Article 22 if issued for valuable consideration will be binding on the Company notwithstanding any irregularity touching the authority of the Directors to issue the same, or the circumstances of its issue.

23. Reserve funds

23.1 Establishment and purpose of reserve funds

Subject to the Corporations Act the Directors may set aside out of the operating surplus of the Company any sums as the Directors think proper as a reserve fund to be applied, at the discretion of the Directors, for any purpose for which the operating surplus of the Company may be properly applied, including but not limited to the following:

- (a) to meet contingencies;
- (b) for repairing, improving and maintaining any property of the Company; and
- (c) for all other purposes as the Directors in their absolute discretion think conducive to the interests of the Company.

23.2 Power to invest reserve funds

- (a) The Directors may invest any of the sums set aside as a reserve fund on any investments as the Directors think fit, and may deal with, vary, and dispose of all or any part of those sums for the benefit of the Company.
- (b) The Directors may divide the reserve fund into any special funds as the Directors think fit and employ the whole or any part of the reserve fund in the business of the Company without being bound to keep it separate from the other assets.
- (c) Pending any application of reserves in accordance with this Article 23.2, and at the discretion of the Directors, the reserves may be used in the business of the Company or be invested as the Directors think fit.

24. Accounts

24.1 Company to keep accounts

The Company will keep:

- (a) all accounting and other records of the business of the Company as it is required to keep by the Corporations Act; and
- (b) notwithstanding Article 24.1(a), such other accounts and financial statements in the form specified in a resolution (if any) passed at a meeting of Members.

24.2 Financial report to be laid before annual general meeting

At the annual general meeting in every year (if any), the Directors will, if required by the Corporations Act, lay before the meeting:

- (a) the financial report for the last financial year of the Company that ended before that meeting; and
- (b) any other accounts, reports and statements as are required by the Corporations Act or by the resolution in Article 24.1(b).

24.3 Copy of accounts to be sent

Subject to the Corporations Act, a copy of the financial report and other reports referred to in Article 24.2 must be sent to Members and other persons entitled to receive them as required by the Corporations Act or by the resolution in Article 24.1(b).

24.4 Accounts conclusive

- (a) The financial report of the Company when:
 - (i) audited; and
 - (ii) if required to be laid before a general meeting of the Company, approved or received by that general meeting,

will be conclusive except as regards any material error discovered in it within three months after its approval or receipt (if any).

- (b) Whenever any material error is discovered within the three month period referred to in Article 24.4(a), the financial report will be corrected immediately and then it will be conclusive.

25. Auditors: appointment and removal

The auditors of the Company will:

- (a) be appointed and may be removed as provided in the Corporations Act; and
- (b) perform the duties and have the rights and powers as may be provided in the Corporations Act.

26. Secrecy

26.1 Members not entitled to discovery

- (a) The Directors will determine whether and to what extent, at what time and place, and under what conditions, the accounting records and other documents of the Company will be open to the inspection of Members other than Directors.
- (b) Subject to the Corporations Act, a Member not being a Director does not have the right, but may in the absolute discretion of the Directors be authorised, to inspect or to require or receive any information, or to require discovery of any record or document of the Company or any information respecting any detail of the Company's trading or business, or any matter which is or may be in the nature of a trade secret, confidential information, mystery of trade or secret process which may relate to the conduct of the business of the Company.

26.2 Officers of Company not to disclose information

Every Director, Chief Executive Officer, manager, Secretary, auditor, trustee, member of a committee, agent, accountant or other Officer is bound to observe secrecy with respect to all transactions of the Company with its customers, the state of the account of any individual, and all related matters.

27. Notices

27.1 Method of service of notices

- (a) A notice may be served by the Company on a Recipient by any of the following methods:
 - (i) by serving it personally on the Recipient;
 - (ii) by leaving it at the Address of the Recipient;
 - (iii) by sending it by post addressed to the Recipient at the Address of the Recipient; or
 - (iv) by sending it to a facsimile number or electronic address (if any) nominated by the Recipient for the purpose of serving notices on the Recipient.
- (b) The Company will acknowledge receipt of all notifications of change of address by Members or Directors.
- (c) The Company may also give notice to a Member by, if permitted by the Corporations Act, notifying that Member of the notice's availability by an electronic means nominated by the Member for that purpose.

27.2 Notice by advertisement

Any notice by a court of law or otherwise required or allowed to be given by the Company to the Members or any of them by advertisement will unless otherwise stipulated be sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

27.3 Time of service by post

- (a) Any notice sent by post, air-mail or air courier will be deemed to have been served on the day following that on which the letter, envelope or wrapper containing the notice is posted or delivered to the air courier.
- (b) In proving service of any notice it will be sufficient to prove that the letter, envelope or wrapper containing the notice was properly addressed and put into the post office or other public postal receptacle or delivered to the air courier.
- (c) A certificate in writing signed by any manager, Secretary or other Officer of the Company that the letter envelope or wrapper containing the notice was so addressed and posted is conclusive evidence thereof.

27.4 Time of service by facsimile transmission

Any notice sent by facsimile transmission to the Recipient's facsimile number nominated under Article 27.1(a)(iv) will be deemed to have been served on the Recipient on receipt by the Company of a transmission report confirming successful transmission.

27.5 Time of service by electronic mail transmission

Any notice sent by electronic mail transmission to the Recipient's electronic address nominated under Article 27.1(a)(iv) will be deemed to have been served on the Recipient on the receipt by the Company of an electronic confirmation of successful transmission.

27.6 Signatures on notices

The signature to any notice to be given by the Company may be written or printed or an electronic copy of it may be affixed by mechanical or other means.

27.7 Calculation of notice period

Where a period of notice is required to be given, the day on which the notice is dispatched and the day of doing the act or other thing will not be included in the number of days or other period.

28. Winding up

28.1 Winding Up - Timing

The company may be terminated or wound up by the Directors at any time.

28.2 Winding Up - Donation Fund

- (a) At the first occurrence of:
 - (i) the winding up of the Company; or
 - (ii) the Company ceasing to be endorsed as a deductible gift recipient under subdivision 30-BA of the Tax Act;

any property that remains after the satisfaction of all the debts and liabilities of the Company ("**Surplus Assets**") must, subject to Article 1.7(a), be transferred to one or more:

- (iii) Eligible Beneficiaries; or

- (iv) Funds, authorities and institutions, gifts to which are deductible under item 2 of the table in section 30-15 of the Tax Act,

as the Directors decide.

- (b) Where gifts to an Eligible Beneficiary are deductible only if, among other things, the conditions set out in the relevant item of the table in Subdivision 30-B of the Tax Act are satisfied, a transfer under this Article must be made in accordance with those conditions.

28.3 Winding Up - Operating Surplus

If on a winding up of the Company there remains a surplus, the liquidator must, subject to Article 1.7(a), give or transfer the property comprising that surplus to a Corporation of a kind described in Article 28.2(a)(iii) or 28.2(a)(iv) which has been nominated by the Minister for Health and Ageing of the Commonwealth, or such other Minister who from time to time carries on such functions, whose constitution requires the Corporation to pursue charitable purposes only and to apply its income in promoting those purposes.

29. Indemnities and insurance

29.1 Indemnity against liabilities

To the extent permitted by law, the Company:

- (a) indemnifies every person who is, or has been, a Director or Secretary; and
- (b) may, by deed, indemnify or agree to indemnify a person who is, or has been, an Officer of a Group Company,

against a liability incurred by that person, in his or her capacity as such a Director, Secretary or Officer, to another person (other than the Company or a related body corporate of the Company) provided that the liability does not arise out of conduct involving a lack of good faith.

29.2 Indemnity for costs and expenses

To the extent permitted by law, the Company:

- (a) indemnifies every person who is, or has been, a Director or Secretary; and
- (b) may, by deed, indemnify or agree to indemnify a person who is, or has been, an Officer of a Group Company,

against a liability for costs and expenses incurred by that person:

- (c) in defending any Proceedings in which judgment is given in that person's favour, or in which that person is acquitted; or
- (d) in connection with an application in relation to any Proceedings in which the Court grants relief to that person under the Corporations Act.

29.3 Insurance

To the extent permitted by law, the Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is, or has been, an Officer of a Group Company against a liability:

- (a) incurred by that person:

- (i) in his or her capacity as an Officer of a Group Company;
- (ii) in the course of acting in connection with the affairs of a Group Company; or
- (iii) otherwise arising out of the person holding office as an Officer of a Group Company,

provided that the liability does not arise out of conduct involving:

- (iv) a wilful breach of duty in relation to a Group Company; or
 - (v) a contravention of sections 182 or 183 of the Corporations Act; or
- (b) for costs and expenses incurred by that person in defending Proceedings, whatever their outcome.