



**CONSTITUTION**  
**of**  
**DEAFNESS FORUM LIMITED**

ACN 008 587 611

Updates:

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A Company Limited by Guarantee

**CONSTITUTION  
OF  
DEAFNESS FORUM AUSTRALIA**

**ACN 008 587 611**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Constitution, unless the context otherwise requires:

- (a) "**ACNC Act**" means the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)*; the *Australian Charities and Not-for-profits Commission Regulations 2022 (Cth)* and the *Charities Act 2013 (Cth)*.
- (b) "**Adult**" means a natural person of or over 18 years of age.
- (c) "**Alternate Director**" has the meaning given to it under clause 12.6.
- (d) "**Associate Members**" means an Adult who has an interest in the deafness sector and who supports the objects and rules of the Company, and is not a Consumer or a Service Provider.
- (e) "**ASIC**" means Australian Securities and Investments Commission.
- (f) "**Board**" means the Board of Directors for the time being of the Company.
- (g) "**By-Laws**" means the By-Laws of the Company made under clause 25.
- (h) "**Chairman**" means the Chairman of the Company.
- (i) "**Chief Executive Officer**" means the natural person from time to time appointed by the Directors to the office of Chief Executive Officer or, if at any time no person holds that office, instead means the Secretary.
- (j) "**Child**" means a natural person under 18 years of age.
- (k) "**Chronic Ear Disorder**" refers to people with a disorder of the ear (such as Tinnitus or Meniere's) which may occur with or without a hearing loss.
- (l) "**Class**" means a class of Full Members (as described in clause 5.2).
- (m) "**Company**" means Deafness Forum Limited ACN 008 587 611.
- (n) "**Committee**" includes a work group or advisory panel.
- (o) "**Constitution**" means the Constitution for the time being of the Company.
- (p) "**Consumer**" means an Adult who is:
  - (i) Hearing Impaired; or

- (ii) Deaf; or
  - (iii) has a Chronic Ear Disorder; or
  - (iv) a Parent or guardian of a person who is Hearing Impaired, or Deaf, or has a Chronic Ear Disorder; or
  - (v) Deafblind.
- (q) "**Consumer Association**" means a Hearing Impaired Association, a Deaf Association, an Ear Disorders Association, a Parent Association or a Deafblind Association. It is an organisation that is controlled by people with disability. It is one in which the majority of the members as well as the governing body (board of directors) are persons with disability.
- (r) "**Corporation**" means any body corporate, whether formed or incorporated within or outside the Territory.
- (s) "**Corporations Act**" means the *Corporations Act 2001* (Cth) and the *Corporations Regulations 2001*.
- (t) "**Deaf**" refers to people who regard themselves as members of the Deaf community by virtue of its language and culture.
- (u) "**Deaf Association**" means an Incorporated Person or an Organisation:
- (i) of which (in the opinion of the Board) not less than 50% of its members are people who are Deaf, and
  - (ii) which (in the opinion of the Board) includes, as one of its principal purposes, either the representation of the interests of people who are Deaf or the improvement of the wellbeing of people who are Deaf.
- (v) "**Deafblind**" refers to people who regard themselves as blind or visually impaired, as well as Deaf or Hearing Impaired.
- (w) "**Deafblind Association**" means an Incorporated Person or an Organisation:
- (i) of which (in the opinion of the Board) not less than 50% of its members are people who are deafblind, and
  - (ii) which (in the opinion of the Board) includes, as one of its principal purposes, either the representation of the interests of people who are deafblind or the improvement of the wellbeing of people who are deafblind.
- (x) "**DGR**" means an organisation endorsed by the Australian Taxation Office as a Deductible Gift Recipient.
- (y) "**Director**" means a Director for the time being of the Company.
- (z) "**Ear Disorders Association**" means an Incorporated Person or an Organisation:

- (i) of which (in the opinion of the Board) not less than 50% of its members are people who have a Chronic Ear Disorder, and
  - (ii) which (in the opinion of the Board) includes, as one of its principal purposes, either the representation of the interests of people who have a Chronic Ear Disorder or the improvement of the wellbeing of people who have a Chronic Ear Disorder.
- (aa) "**Eligible Person**" has the meaning given in clause 12.1.
- (bb) "**Financial year**" means each period of 12 months ending on 30 June or any other 12 month period determined by the Board.
- (cc) "**Full Member**" means a subscription-paying Person or Organisation admitted to membership of the Company under clause 5.3, and excludes Associate Members.
- (dd) "**Gift Fund**" means a fund maintained by the Company to receive gifts of money and assets made to the Company for its principal purpose or for the principal purpose of a fund for which the Company is a DGR.
- (ee) "**Group**" means each of the following groups of Eligible Persons:
  - (i) Hearing Impaired Consumer Nominees;
  - (ii) Deaf Consumer Nominees;
  - (iii) Ear Disorders Consumer Nominees;
  - (iv) Parent Consumer Nominees;
  - (v) Deafblind Nominees; and
  - (vi) Service Provider Nominees.
  - (vii) (as described in clause 12.1.
- (ff) "**Hearing Impaired**" refers to people with a hearing loss, who communicate predominantly orally; and includes people described as "oral deaf" because (predominantly) they use an oral language rather than a sign language, and people who (while using a sign language) do not see themselves as members of the Deaf community.
- (gg) "**Hearing Impaired Association**" means an Incorporated Person or an Organisation:
  - (i) of which (in the opinion of the Board) not less than 50% of its members are people who are Hearing Impaired, and
  - (ii) which (in the opinion of the Board) includes, as one of its principal purposes, either the representation of the interests of people who are Hearing Impaired or the improvement of the well being of people who are Hearing Impaired.

- (hh) "**Hearing Impaired Member**" means an Organisation or Person admitted as a Hearing Impaired Member under clause 5.3.
- (ii) "**Honorary Life Member**" means a Person or Organisation admitted to life membership under clause 5.4.
- (jj) "**Incorporated Person**" means a Person other than a natural person.
- (kk) "**member**" means a Person or Organisation admitted to membership of the Company under this Constitution.
- (ll) "**Object**" means the object of the Company set out in clause 3.1.
- (mm) "**Office**" means the registered office for the time being of the Company.
- (nn) "**Ordinary Resolution**" means a resolution in accordance with clause 11.20.
- (oo) "**Organisation**" means an unincorporated group or association of Persons of not less than five in number whose common and principal objective as a group or association is the promotion of the interests and wellbeing of people who are Deaf or Hearing Impaired or have a Chronic Ear Disorder.
- (pp) "**Parent**" means a natural person who is the parent or legal guardian of a Child or Adult, and includes a biological parent, step-parent and foster parent.
- (qq) "**Parent Association**" means an Incorporated Person or an Organisation:
  - (i) of which (in the opinion of the Board) not less than 50% of its members are the Parent of a person who is Deaf or Hearing Impaired or has a Chronic Ear Disorder, and
  - (ii) which (in the opinion of the Board) includes, as one of its principal purposes, either the representation of the interests of people who are the Parent of a person who is Deaf or Hearing Impaired or has a Chronic Ear Disorder or the improvement of the wellbeing of people who are the Parent of a person who is Deaf or Hearing Impaired or has a Chronic Ear Disorder.
- (rr) "**People**" means natural persons.
- (ss) "**Person**" means a natural person, Corporation, incorporated association or other legal entity.
- (tt) "**Representative**" means a person appointed as a representative of a member under clause 6 of the Constitution and (in the case of a Corporation) in accordance with section 250D of the Corporations Act.
- (uu) "**Secretary**" means any person appointed for the time being to perform the duties of the Secretary of the Company.
- (vv) "**Service Provider**" means an Adult who provides services which promote the well-being of people who are Hearing Impaired or Deaf or have a Chronic Ear Disorder.

- (ww) "**Service Provider Organisation**" means an Incorporated Person or an Organisation (including but not limited to any professional body) which (in the opinion of the Board) has, as its principal purpose, the provision of services which promote the wellbeing of people who are Hearing Impaired, or Deaf, or have a Chronic Ear Disorder.
- (xx) "**Special Resolution**" means a resolution in accordance with clause 11.21.
- (yy) "**State**" means any State or Territory of Australia.
- (zz) "**State Branch**" means a branch established under clause 8.
- (aaa) "**Territory**" means the Australian Capital Territory.

## 1.2 Interpretation

- (a) In this Constitution, unless the context otherwise requires:
  - (i) words importing the singular number include the plural number and vice versa;
  - (ii) words importing the masculine gender include the feminine gender and vice versa;
  - (iii) words importing persons include corporations;
  - (iv) expressions referring to writing shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form;
  - (v) an expression used in a particular Part or Division of the ACNC Act/the Corporations Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has in any clause of this Constitution that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division;
  - (vi) all headings contained in this Constitution are for guidance and do not form part of the substance of the Constitution.
- (b) [Deleted]
- (c) A reference to the ACNC Act/the Corporations Act or other legislation, or any provision of the ACNC Act/the Corporations Act or other legislation, includes a reference to any amending or replacement legislation and (where applicable) comparable provision of any such amending or replacement legislation.

## 2. EXCLUSION OF REPLACEABLE RULES

Subject to Part 2B.4 of the Corporations Act, the replaceable rules shall not apply to the Company.

## 2.1 **Type of Company**

The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity. The Company is an organisation that is controlled by people with disability. It is one in which the majority of the consumer members as well as the governing body (board of directors) are persons with disability.

## 3. **PURPOSES**

### 3.1 **Objects**

The objectives for which the Company is established ("**Objects**") are:

- (a) to represent, and to promote the interests and wellbeing of, people who are Hearing Impaired, Deaf or have a Chronic Ear Disorder;
- (b) to represent and to provide a forum for Organisations and Persons who wish to promote the interests and wellbeing of people who are Hearing Impaired, Deaf or have a Chronic Ear Disorder;
- (c) to encourage, conduct or aid research (with or without arranging or giving any monetary assistance) having relevance to people who are Hearing Impaired, Deaf or have a Chronic Ear Disorder or any segment of any one or more of those groups of people;
- (d) to raise funds by any means, and to use and apply funds (by donation, scholarship, grant or otherwise), for the promotion of the interests and well being of people who are Hearing Impaired, Deaf or have a Chronic Ear Disorder; and
- (e) to do all things which are incidental or conducive to attaining the above Objects.

### 3.2 **Powers**

Solely for the purpose of carrying out the Objects of the Company but not otherwise, the Company shall have the legal capacity and all the powers of a natural person, including the power to:

- (a) attract or encourage donations, bequests, legacies and all forms of deferred gifts from any Person and to accept grants (including specific purpose grants) from any Government Authorities and semi-Government Authorities;
- (b) raise money by any method that seems desirable;
- (c) administer, control or act as a trustee of any trust, settlement or other fund and as the nominee of any company or person;
- (d) subscribe to, become a member of, co-operate with or amalgamate with any other fund, authority or institution, whether incorporated or not, whose objects are altogether in part similar to those of the Company provided that the Company shall not subscribe to or support with its funds any fund, authority or institution which is not a fund, authority or institution approved by the Commissioner for Taxation as a fund, authority or institution referred to in Table 1 or Table 3 in sub-section 78(4) of the Income Tax Assessment Act 1986 (Cth)

and which does not prohibit the distribution of its income and property among its members to an extent at least as great as that imposed on the Company under or by virtue of clause 4 of this Constitution;

- (e) purchase, take or lease or in exchange, hire and otherwise acquire any lands, buildings, easements or property, real and personal, and any rights or privileges which may be requisite for the purposes of, or capable of being conveniently used in connection with, any of the objects of the Company provided that in case the Company shall take or hold any property which may be subject to any trusts, the Company shall only deal with the same in such manner as is allowed by law having regard to such trusts;
- (f) insure against fire or otherwise any insurable property of the Company and to pay premiums on insurance or assurance policies which the Company may acquire by any means;
- (g) enter into any arrangements with any government or authority, supreme, municipal, local or otherwise, and to obtain from any such government or authority any rights, privileges and concessions which the Company may think it desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (h) appoint, employ, remove or suspend managers, clerks, secretaries, servants, workmen and other persons;
- (i) establish and support or aid in the establishment and support of associations, institutions, funds, trusts and arrangements calculated to benefit employees or past employees of the Company or the dependants or connections of any such persons, and to grant pensions and allowances;
- (j) construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or facilities, and to contribute to, subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control thereof;
- (k) invest and deal with the money of the Company not immediately required, in such manner as may be permitted by law for the investment of trust funds;
- (l) borrow or raise or secure the payment of money in such manner as the Company may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Company in any way and in particular by the issue of debentures perpetual or otherwise charged upon all or any of the Company's property (both present and future), and to purchase, redeem or pay off any such securities;
- (m) make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments; sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Company;



- (n) take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price, of any part of the Company's property of whatsoever kind sold by the Company, or any money due to the Company from purchasers and others;
- (o) apply for, purchase, or otherwise acquire any patents, patent rights, copyrights, trade marks, formulae, licences, concessions, and the like, conferring any exclusive or non-exclusive or limited right to use, or any secret or other information as to any invention, and to use, exercise, develop, or grant licences in respect of, or otherwise turn to account, the property, rights, or information so acquired;
- (p) lend and advance money or give credit to any person, to guarantee, and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person, and to secure or undertake in any way the repayment of moneys lent or advanced to or the liabilities incurred by any person;
- (q) apply for, secure, acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise, and to exercise, carry out, and enjoy any charter, licence, power, authority, franchise, concession, right, or privilege, which any government or authority or any corporation or other public body may be empowered to grant; and to pay for, aid in, and contribute towards carrying the same into effect, and to appropriate any of the Company's debentures and assets to defray the necessary costs, charges, and expenses thereof;
- (r) apply for, promote, and obtain any statute, order, regulation, or other authorisation or enactment which may seem calculated directly or indirectly to benefit the Company and to oppose any bills, proceedings, or applications which may seem calculated directly or indirectly to prejudice the Company's interests;
- (s) procure the Company to be registered or recognised in any country or place outside the place of its incorporation;
- (t) produce, publish and distribute any newspapers, periodicals, books, leaflets, films, videos or other means of communication;
- (u) purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, institutions, societies or associations with which the Company is authorised to amalgamate;
- (v) transfer all or any part of the property, assets, liabilities and engagements of the Company to any one or more of the companies, institutions, societies or associations with which the Company is authorised to amalgamate;
- (w) transact any lawful business in aid of the Commonwealth of Australia in the prosecution of any war in which the Commonwealth of Australia is engaged;
- (x) make donations for patriotic or charitable purposes; and

- (y) hold or arrange competitions and provide or contribute towards the provision of prizes, awards and distinctions in connection therewith, provided that no members of the Company shall receive any prize, award or distinction of monetary value except as a successful competitor in any competition held or provided by the Company;

provided that the Company shall not support with its funds any activity or endeavour to impose on or procure to be observed by its members or others any regulations or restrictions which if an object of the Company would make it a trade union within the meaning of the Workplace Relations Act 1996 (Cth) and its rules and regulations.

- 3.3 Subject to clause 4 below, all the powers of a company limited by guarantee under the Corporations Act (including the powers set out in section 124(1) of the Corporations Act applicable to a company limited by guarantee) shall apply to the Company, which may only be used to carry out the Objects of the Company.

#### 4. **INCOME AND ASSETS**

- 4.1 The income and assets of the Company shall be applied solely towards the promotion of the Objects of the Company and no portion thereof shall be paid or transferred directly or indirectly to the members of the Company except as otherwise permitted under clause 4.2.

- 4.2 Nothing herein contained shall prevent:

- (a) the payment, in good faith, of remuneration to any officers or servants of the Company or to any member of the Company in return for any services actually rendered to the Company or for goods supplied or expenses, which have properly incurred at fair and reasonable rates in the ordinary and usual way of business or rates more favourable to the Company; or
- (b) the payment of interest, at a rate not exceeding the rate for the time being fixed reasonably for the purpose of this clause by the Constitution, on money borrowed from any member of the Company; or
- (c) reasonable and proper rent for premises demised or let to the Company by any member of the Company,

provided that no member of the Board or any Committee shall be appointed to any salaried office of the Company or any office of the Company paid by fees, and no remuneration or other benefit in money or money's worth shall be paid or given by the Company to any member of the Board or Committee of the Board, except (subject to clause 13A below) repayment of out-of-pocket expenses and interest at the rate aforesaid on money lent or reasonable and proper rent for premises demised or let to the Company.

- 4.3 Subject to clause 23, on revocation of the endorsement of the Company as a DGR, the Company must transfer the surplus assets of the Gift Fund (after payment of liabilities attributable to that Gift Fund) to another DGR, provided that, where the Company is a DGR for more than one Gift Fund, if a Gift Fund is wound up then the Company may

transfer the surplus assets of that Gift Fund (after payment of liabilities attributable to that Gift Fund) to one of its other Gift Funds.

## 5. MEMBERSHIP

### 5.1 Number

The number of members of the Company shall be one or such greater number as the Board may from time to time register. For the avoidance of doubt, there shall be no limit on the number of members that may be registered.

### 5.2 Members

- (a) The members shall consist of the Persons and Organisations admitted to membership from time to time by the Board.
- (b) There shall be four classes of Full Members ("**Classes**"), being:
  - (i) Consumers ("**Consumer Members**");
  - (ii) Consumer Associations ("**Consumer Association Members**");
  - (iii) Service Providers ("**Service Provider Members**"); and
  - (iv) Service Provider Organisations ("**Service Provider Organisation Members**").
- (c) Persons and Organisations, not including Associate Members may also become Honorary Life Members, as set out in clause 5.4.
- (d) There shall be one class of Associate Members ("**Class**"):
  - (i) Associate Members will not be registered as Full Members. They will not be entitled to vote at an annual general meeting, nor eligible to be a Director, nor eligible for Honorary Life Membership;
  - (ii) Upon application to the Company and at the Board's discretion, the Board may waive an Associate Member's subscription fee for any relevant year.

### 5.3 Applications for and Admission of Full Membership

- (a) Persons and Organisations who meet the membership criteria set out in this clause 5.3 may apply to become a Full Member of the Company in accordance with clause 5.2(b) inclusive (as applicable).
- (b) Persons who meet the membership criteria set out in clause 5.2(d) may apply to become an Associate Member of the Company. A person admitted to Associate membership of the Company shall be admitted as an Associate Member.
- (c) Applications for membership shall be made in the form and manner prescribed from time to time by the Board and shall state the Class and Group to which the applicant wishes to be admitted as a member.

- (d) A Person or Organisation admitted to full membership of the Company shall be admitted as a Consumer Member, Consumer Association Member, Service Provider Member or Service Provider Organisation Member (and may be a member of one Class only).
- (e) Any Consumer (including any Consumer who is also a Service Provider) may apply to be admitted as a Consumer Member.
- (f) Any Consumer Association (including any Consumer Association which is also a Service Provider Organisation) may apply to be admitted as a Consumer Association Member.
- (g) Any Service Provider (other than a person who is both a Service Provider and a Consumer) may apply to be admitted as a Service Provider Member.
- (h) Any Service Provider Organisation (other than any Service Provider Organisation which is also a Consumer Association) may apply to be admitted as a Service Provider Organisation Member.
- (i) Upon admission to membership, the name of the member shall be entered in the register of members. The member shall be admitted and recorded as a member of a Class and Group.
- (j) Membership in the case of natural persons shall, subject to the provisions of this Constitution, be subject to the terms and conditions and for the period of time determined by the Board at any time and from time to time.
- (k) Membership in the case of Organisations and Incorporated Persons shall be subject to the terms and conditions and for the period of time determined by the Board at any time and from time to time.
- (l) Subject to clause 5.3(m), each member shall have the rights, duties and privileges from time to time accorded to the Class of which the Person or Organisation is a member.
- (m) Members which are Organisations or Incorporated Persons may be classified and reclassified by the Board from time to time as Local, State or National. The Board may at any time and from time to time determine the rights, duties and privileges attaching to Local, State and National members and may differentiate between those classifications of members.
- (n) An annual membership fee in the amount (if any) from time to time determined by the members in general meeting shall be payable by all members (provided that the members may determine that fees pursuant to clause 5.6 and different amounts may apply in respect of different Classes).

#### 5.4 **Honorary Life Members**

- (a) Where a Person or Organisation, excluding Associate Members has (in the reasonable opinion of the Board) rendered outstanding service to the Company or in service of its Objects, and the Board has recommended to the members that that Person or Organisation be made an Honorary Life Member of the

Company, the Company may in general meeting (by Ordinary Resolution) admit that Person or Organisation as an Honorary Life Member.

- (b) An Honorary Life Member shall have the rights, privileges and duties of:
  - (i) a Full Member, if so determined by the Board or if a Full Member at the time of being admitted as an Honorary Life Member; or
  - (ii) as otherwise determined by the Board, in any other case,

except that an Honorary Life Member shall not be liable to pay any membership fee or levy to the Company.
- (c) An Honorary Life Member who has the rights, privileges and duties of a Full Member shall be deemed to be a member of the Class nominated by that Honorary Life Member or, failing or until any such nomination is made, of the Class determined by the Board.
- (d) An Honorary Life Member who does not have the rights, privileges and duties of a Full Member shall be deemed to be aligned with the Class nominated by that Honorary Life Member or, failing or until any such nomination is made, with the Class determined by the Board.

#### **5.5 Rejection of applications**

- (a) The Board may, in its absolute discretion, accept or refuse any application for membership and may decide any application on any grounds it considers appropriate in the interests of the Company.
- (b) The Board shall not be required to give any reason for the rejection of an application for membership, but shall refund any membership fee paid by the applicant (if any).

#### **5.6 Subscriptions and Levies**

- (a) The members at the annual general meeting shall by Ordinary Resolution determine the annual subscriptions payable by members (other than Honorary Life Members) and the subscription may vary between different Classes.
- (b) The Board may resolve to impose a levy upon members for specific purposes and under conditions specified in the resolution imposing the levy, but no levy may be imposed unless the resolution is passed by Ordinary Resolution at a general meeting of members.

#### **5.7 Limited Liability of members**

The liability of the members is limited to the amount of the guarantee in clause 5.8.

#### **5.8 Contribution by members**

Every member of the Company undertakes to contribute to the property of the Company, in the event of the same being wound up while such member is a member, or within one year after they cease to be a member, for payment of the debts and liabilities of the Company (contracted before they cease to be a member) and/or of the

costs, charges, and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding \$10 (the **guarantee**).

## 6. PROXIES AND REPRESENTATIVES OF MEMBERS

### 6.1 Appointment of proxies

Any Full Member may appoint a proxy at any member's meeting which that member may be entitled to attend and to exercise all rights and to discharge all duties which that member might have.

### 6.2 Instrument appointing proxies

The instrument appointing a proxy:

- (a) shall be in writing signed (including by affixing an electronic signature by any means), in the case of a member being a natural person, under the hand of the appointor or their attorney duly authorised in writing or in the case of a member being other than a natural person under the hand of a person authorised to sign on that member's behalf. The appointment of a proxy may be revoked by the appointor at any time;
- (b) may be in or to the effect of the following form or any other form which the Board may approve:

"I, (insert full name) of (address) being a full member of Deafness Forum Limited hereby appoint (full name) of (address) as my proxy to vote for me on my behalf at (specify meeting) and may be entitled to attend and to exercise all rights and duties which I might have by reason of my membership of the Company."; signed; and
- (c) need not be recognised by the Company until it has been deposited with or delivered to the Company at the Office or, where it relates to an annual general meeting, at the Office or the place of that meeting.
- (d) Proxy forms must be received by the Company at the address stated in the notice under clause 10.5 or the Office not less than 48 hours before a meeting.
- (e) A proxy appointment may specify the way the proxy must vote on a particular resolution, and in such case, the proxy must vote in such way accordingly.
- (f) If the proxy is also a member or holds more than one proxy, the proxyholder may cast the votes held in different ways.

### 6.3 Appointment of Representative by Organisation or Incorporated Person

Any Organisation or Incorporated Person which is a Full Member of the Company shall by a resolution of its directors or other governing body authorise such person as it thinks fit to act as its Representative at all or any meetings (whether of the Company or of any class of members of the Company) to be held during the continuance of the authority and the person so authorised shall be entitled to exercise the same powers on behalf

of the member which they represent as that member could exercise if it were a natural person who was a Full Member of the Company.

#### **6.4 Proof of appointment or revocation of appointment of Representative**

Such document as the chairman of the meeting in their sole discretion considers sufficient shall be prima facie evidence of the appointment or of the revocation of the appointment (as the case may be) of a Representative under clause 6.3 and, notwithstanding anything hereinbefore contained, the certificate or such other document evidencing the appointment of a Representative shall be deposited at the address specified in the notice under clause 10.5 or the Office not less than 48 hours before the time scheduled for the commencement of the meeting at which the Representative purports to exercise any powers pursuant to it.

### **7. CESSATION AND SUSPENSION OF MEMBERSHIP**

#### **7.1 Non-payment of fees**

- (a) If any levy or subscription of a member remains unpaid for a period of 3 calendar months after it becomes due, the member may, after notice of the default has been sent to them by the Chief Executive Officer, be debarred by resolution of the Board from all privileges of membership, provided that the Board may reinstate the member on payment of all arrears if it thinks fit to do so.
- (b) The Company may recover, as a debt, all amounts owing to it by a member or by a former member as at the date that member ceased to be a member of the Company.

#### **7.2 Resignation**

A member may at any time by giving notice in writing to the Board resign their membership of the Company but shall continue to be liable for any annual subscription and all arrears due and unpaid at the date of their resignation and for all other moneys due by them to the Company and for any sum not exceeding \$10 for which they are liable as a Full Member of the Company.

#### **7.3 Expulsion or discipline of members**

- (a) If (in the opinion of the Board) a member has refused or neglected to comply with any provision of this Constitution or the By-Laws, or has been guilty of conduct unbecoming a member or prejudicial to the interests of the Company, the Board may resolve to censure that member and/or either:
  - (i) to suspend that member from membership of the Company for any period (not exceeding six months) it thinks fit; or
  - (ii) to expel that member from membership of the Company.
- (b) A resolution of the Board passed under clause 7.3(a) shall not take effect unless:
  - (i) the Board gave to the Full Member referred to in the resolution not less than 14 days notice in writing of the date, time and place of the meeting

at which it was proposed to put the resolution, of what was alleged against them, and of the terms of the intended resolution;

- (ii) the notice also informed the Full Member that the member had a right to give any explanation or defence as they think fit, either orally at the meeting or by written submission made prior to the meeting;
  - (iii) the Full Member was given reasonable opportunity for such explanation or defence; and
  - (iv) the resolution was passed by not less than 75% of the Directors present at the meeting.
- (c) Any member aggrieved by a resolution of the Board passed under this clause may, within 28 days after the resolution was passed, appeal by notice in writing to the Company. The appeal shall be lodged with the Executive Officer.
  - (d) If an appeal is lodged, the resolution of the Board shall be stayed until the appeal is decided or discontinued.
  - (e) The Company shall determine an appeal at its first general meeting after the appeal is lodged.
  - (f) The Company shall give to the appellant 14 days notice in writing of the time, date and place at which the appeal will be heard and that the appellant has a right to be heard at the appeal. On the hearing of the appeal, the appellant shall (if they choose to be heard) be given a reasonable hearing.
  - (g) An appeal to the Company shall be in the nature of a re-hearing and the Company may, by Special Resolution, affirm, vary or quash the resolution of the Board.

## 8. STATE BRANCHES OF THE FORUM

- (a) The Company may from time to time and at any time establish and abolish State Branches in any one or more of the States and Territories.
- (b) Each State Branch shall be subject to direction by the Company.

## 9. CORPORATE SPONSORS

- (a) The Board may from time to time and at any time allow participation in the activities of the Company by Persons and Organisations who are not members of the Company ("**Corporate Sponsors**").
- (b) Corporate Sponsors are entitled to receive published documents of the Company but not regular correspondence from the Company, nor Notices of Meeting.
- (c) Participation as a Corporate Sponsor will be subject to terms and conditions determined by the Board from time to time including the making of an annual donation at a minimum level determined by the Board.



## 10. GENERAL MEETINGS

### 10.1 Annual general meeting

- (a) The annual general meeting must be held at least once in every calendar year. At each annual general meeting, the business may include:
  - (i) the election of members of the Board (subject to clauses 12.2 and 11.19),
  - (ii) determination of subscriptions and levies (if applicable),
  - (iii) approve any report of the Board and auditor's report, and
  - (iv) the appointment and payment of auditors
- (b) Not less than 21 days before the annual general meeting, the directors must give information to the members on the company's activities and finances during the period since the last annual general meeting.
- (c) The chairperson of the annual general meeting must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the company.

### 10.2 General meetings

- (a) All general meetings other than annual general meetings shall be called general meetings.
- (b) Subject to the Corporations Act, general meetings of the Company may be held within or outside Australia and may be convened at any time using technology.

### 10.3 General meetings called by director

A general meeting can be called in the following manner:

- (a) A majority of the directors may call a meeting of the Company's members; or
- (b) A Director must in accordance with Section 249D of the Corporations Act by request in writing executed by at least 5% of the votes of members that may be cast at the general meeting:
  - (i) within 21 days of the members' request, give all members notice of a general meeting, and
  - (ii) convene the general meeting within 2 months on such written requisition.
- (c) The percentage of votes that members have in clause 10.3(b) is to be worked out as at midnight before the members request the meeting.
- (d) The members who make the request for a general meeting must:
  - (i) state in the request any resolution to be proposed at the meeting;
  - (ii) sign the request, and

- (iii) give the request to the company.
- (e) Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

#### **10.3A General meetings called by members**

- (a) If the directors do not give members notice of a general meeting within 21 days of being requested under clause 10.3(b), 50% or more of the members who made the request may call and arrange to hold a general meeting.
- (b) To call and hold a meeting under clause 10.3A the members must:
  - (i) as far as possible, follow the procedures for general meetings set out in this Constitution;
  - (ii) call the meeting using the list of members on the company's member register, which the company must provide to the members making the request at no cost, and
  - (iii) hold the general meeting within three months after the request was given to the company.
- (c) The company must pay the members who request the general meeting any reasonable expenses they incur because the directors did not call and hold the meeting.

#### **10.4 Notice of meetings**

Subject to the provisions of the Corporations Act relating to agreements for shorter notice and other provisions of this Constitution, a minimum of 21 days' notice or such longer periods as may be prescribed by this Constitution (exclusive of the day on which the notice is served, or deemed to be served, and exclusive of the day for which notice is given) shall be given to all Persons and Organisations entitled to receive such notices from the Company.

#### **10.5 Contents of Notice**

A notice of a meeting of Full Members will:

- (a) set out the place, date and time of the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
- (b) 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 Full Member is entitled to appoint a proxy, contain a statement that:
  - (i) the Full Member has a right to appoint a proxy;
  - (ii) the proxy of a Full Member does not need to be a member of the Company;

- (iii) [Deleted];
- (iv) the proxy form must be delivered to the company at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
- (v) the proxy form must be delivered to the company at least 48 hours before the meeting.

#### 10.6 **Entitlement to notice**

Notice of a meeting of members will be given to all Full Members and Honorary Life Members.

#### 10.7 **Failure to give notice**

The accidental omission to give notice of a meeting to, or the non-receipt of such notice by, any person entitled to receive notice of a meeting shall not invalidate any resolution or proceedings of any meeting.

#### 10.8 **[Deleted]**

#### 10.9 **[Deleted]**

#### 10.10 **Documents relating to General Meetings**

- (a) Meeting materials may be distributed to members in one of the following ways:
  - (i) sending a hard copy,
  - (ii) sending the document in electronic form via an electronic communication (e.g. an attachment to an email),
  - (iii) sending the recipient sufficient information in physical form to allow the recipient to access the document electronically (e.g. by posting a card with a link to a website where the document can be downloaded), or
  - (iv) sending the recipient sufficient information in electronic form (via an electronic communication such as email) to allow the recipient to access the document electronically (e.g. by sending an email which includes a link to a website),

provided that in the case of sending a document in an electronic form, it is reasonable to expect that the document would be readily accessible so as to be useable for subsequent reference.

- (b) A member may elect by notice to receive a document physically or in electronic form.

## 11. PROCEEDINGS AT GENERAL MEETINGS (INCLUDING ANNUAL GENERAL MEETINGS)

### 11.1 Quorum and Assistance

- (a) No business shall be transacted at any general meeting unless:
- (i) a quorum of Full Members is present (in person or by proxy or Representative) at the time when the meeting proceeds to business; and
  - (ii) reasonable assistance (by way of assisted hearing devices, interpreters and note takers) to the reasonable satisfaction of the majority of Full Members in attendance is provided at that meeting ("**Reasonable Assistance**").
- (b) In this clause 11:

"**Full Member**" includes a person attending as an attorney of a full member or as a proxy or Representative;

"**a quorum**" is not less than 10% of the Incorporated Person and Organisation members in each Class entitled to vote; and

"**Reasonable Assistance**" is taken to have been provided unless a majority of full members present vote otherwise.

### 11.2 If quorum absent

If within a half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Full Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the full members present shall be a quorum unless, where the Company has more than one full member, only one full member is present within that time, in which case the meeting shall be dissolved.

### 11.3 Chairman

The Chairman if any, of the Board, shall preside as chairman at every general meeting of the Company or, if there is no such chairman or if they are not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, the full members present shall elect one of their number to be chairman of the meeting.

### 11.4 Adjournment of meeting

The chairman may, with the consent of any meeting at which a quorum is present and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be

necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

#### **11.5 Voting: show of hands or a vote in writing**

At any general meeting a resolution put to the vote at the meeting shall be decided by (i) a show of hands; (ii) a vote in writing; or (iii) another method chosen by the chairperson that is fair and reasonable in the circumstances, provided that a vote in writing shall be adopted if it is demanded pursuant to clause 11.6. On a show of hands, a chairperson's decision is conclusive evidence of the result of the vote without proof of the number or proportion of the votes recorded in favour of or against the resolution.

#### **11.6 When and how a vote in writing must be held**

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

- (a) on a resolution before a general meeting for expulsion of a member pursuant to clause 7.3; and
- (b) on any resolution before a general meeting if demanded:
  - (i) by the chairman; or
  - (ii) by at least 3 Full Members present in person or by proxy or by Representative.

The demand for a vote in writing may be withdrawn.

#### **11.7 Procedure for a vote in writing**

A vote in writing must be taken when and how the chairperson directs, unless:

- (a) for the election of a chairperson under clause 11.3, or
- (b) to decide whether to adjourn the meeting,

and in each case, a vote in writing must be held immediately.

#### **11.8 [Deleted]**

#### **11.9 Determination of votes**

Subject to this Constitution, all questions arising at any meeting of members shall be decided by a majority of votes and a determination by a majority of the Full Members present either in person or by proxy or Representatives at a duly constituted meeting thereof shall for all purposes be deemed a determination of the Company.

#### **11.10 Casting vote of chairman**

In the case of an equality of votes, whether on a show of hands or on a vote in writing, the chairman of the meeting at which the show of hands or a vote in writing takes place shall have a second or casting vote.

### 11.11 **Voting**

A Full Member may vote in person or by proxy or Representative and (a) on a show of hands by every person present who is a Full Member or proxy or Representative of a Full Member, shall have one vote; and (b) on a vote in writing every Full Member present in person or by proxy or Representative shall have one vote. An Honorary Life Member who is or has the rights of a Full Member shall have only one vote.

### 11.12 **Incapacity**

A full member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health may vote, whether on a show of hands or on a vote in writing, by their committee or by their trustee or by such other person as properly has the management of their estate and any such committee, trustee or other person may subject to clause 6 vote by proxy.

### 11.13 **Vote by proxy valid notwithstanding intervening death or revocation**

A vote given in accordance with the terms of an instrument of proxy or appointment of a Representative shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, if no intimation in writing of such death, unsoundness of mind or revocation has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the instrument is used.

### 11.14 **[Deleted]**

### 11.15 **No vote if subscription unpaid**

No member shall be entitled to vote or speak at any general meeting if their annual subscription shall be more than one month in arrears at the date of the meeting.

### 11.16 **Resolution in writing**

- (a) Subject to the provisions of the Corporations Act and (c), a resolution in writing signed by all the voting members (including by electronic means) shall be as valid and effectual as if it had been passed at a general meeting convened and held.
- (b) Any resolution may consist of several documents in like form, each signed by one or more voting members.
- (c) A resolution to remove an auditor or a director cannot be passed in writing.

### 11.17 **Invitees to meetings**

For the purpose of encouraging the participation of non-members in the activities of the Company and the carrying out of its Objects, the Board may invite any Person or Organisation which is not a member to attend a general meeting. Any invited Person or Organisation may, with the prior consent of the chairman, take part in all discussions at the general meeting but shall not be entitled to vote.

#### 11.18 **Objections to votes at meetings**

- (a) No objection may be made as to the entitlement or qualification of any Full Member to vote at any general meeting except where made at that meeting or adjourned meeting.
- (b) Any objection allowed under this clause shall be referred to and determined by the Chairman of the meeting, whose decision shall be final.
- (c) Any vote not disallowed in accordance with this Constitution shall be valid for all purposes.

#### 11.19 **[Deleted]**

#### 11.20 **Ordinary Resolutions**

- (a) Where the ACNC Act/the Corporations Act requires any matter to be dealt with by members as an ordinary resolution, or this Constitution requires a matter to be dealt with by full members as an Ordinary Resolution, the matter will be dealt with as an Ordinary Resolution in accordance with this clause.
- (b) The votes of all voting members shall be tallied (both for and against) and recorded in the minutes;
- (c) those votes shall be tallied for each Class (both for and against) and recorded in the minutes;
- (d) the resolution shall be taken to have been passed if and only if:
  - (i) not less than 21 days notice of the proposed resolution has been given to full members (or such longer period of notice as may be prescribed by the Corporations Act or this Constitution); and
  - (ii) not less than 50% of voting members in each Class have voted in favour of the resolution.

#### 11.21 **Special Resolutions**

- (a) Where the ACNC Act/the Corporations Act requires any matter to be dealt with by members as a Special Resolution, or this Constitution requires any matter to be dealt with by members as a Special Resolution, the matter will be dealt with as a Special Resolution in accordance with this clause.
- (b) the votes of all voting members shall be tallied (both for and against) and recorded in the minutes:
- (c) those votes shall be tallied for each Class (for and against) and recorded in the minutes;
- (d) the resolution shall be taken to have been passed if and only if:
  - (i) not less than 21 days' notice of the proposed resolution has been given to full members (or such longer period as may be prescribed by the ACNC Act/the Corporations Act or this Constitution); and

- (ii) not less than 75% of voting members in each Class have voted in favour of the resolution.

#### 11.22 Appointment, Replacement and Removal of auditor

- (a) A properly qualified auditor or properly qualified auditors shall be appointed and their remuneration fixed and duties regulated in accordance with the Corporations Act.
- (b) The auditor must be removed in accordance with the Corporations Act. The Board may resolve to serve a notice of intention to remove the auditor and propose a replacement auditor to be appointed and to convene a general meeting of the Company.
- (c) Subject to the Corporations Act, any notice of intention to move the resolution must be given to the Company at least two (2) months before the general meeting to be held and the Company shall as soon as possible send a copy of such notice to the auditor and lodge a copy of the notice to ASIC.
- (d) Subject to the Corporations Act, in the same general meeting, the Company may by special resolution immediately appoint a replacement auditor.

### 12. BOARD

#### 12.1 Composition of Board

- (a) The Board shall consist of not less than 4 persons and not more than 10 persons or such other number as shall be determined from time to time in the general meeting. Subject to other provisions in this Constitution and the Corporations Act, if the number of Directors falls under the required minimum number, the Board shall endeavour to appoint additional Directors within eleven (11) months, and the remaining Directors may act notwithstanding any vacancy in the Board.
- (b) A person is eligible to be nominated and appointed as a Director only if that person ("**Eligible Person**") is an Adult, is not an employee of the Company, is not an Associate Member and, as at the date which is 30 days prior to the date of the next annual general meeting ("**Prescribed Date**"):
  - (i) is a Hearing Impaired person who is not an Auslan user and is either a member or nominee of a Consumer Association Member ("**Hearing Impaired Consumer Nominee**"); or
  - (ii) is an Auslan-using Deaf person and is either a member or nominee of a Consumer Association Member ("**Deaf Consumer Nominee**"); or
  - (iii) is a person who has a chronic disorder of the ear and is either a member or nominee of a Consumer Association Member ("**Ear Disorders Consumer Nominee**"); or
  - (iv) is a parent or guardian of a person who is Hearing Impaired or Deaf or has a chronic disorder of the ear and is either a member or nominee of a Consumer Association Member ("**Parent Consumer Nominee**"); or



- (v) is a person who is deafblind and is either a member or nominee of a Consumer Association Member ("**Deafblind Consumer Nominee**"); or
  - (vi) is a Service Provider and is either a member or nominee of a Service Provider Organisation Member ("**Service Provider Nominee**").
- (c) The Board shall include:
- (i) one Hearing Impaired Consumer Nominee;
  - (ii) one Deaf Consumer Nominee;
  - (iii) one Ear Disorders Consumer Nominee; and
  - (iv) one Parent Consumer Nominee,
- and may include:
- (v) up to four additional Eligible Persons who are Hearing Impaired Consumer Nominees, Deaf Consumer Nominees, Ear Disorders Consumer Nominees, Parent Consumer Nominees, or Deafblind Consumer Nominees (or any combination of such persons); and
  - (vi) up to two Eligible Persons who are Service Provider Nominees.

## 12.2 **Directors and Officers**

- (a) In this clause:
- (i) in relation to any Eligible Person who is a member or nominee of a Consumer Association Member, "**Eligible Voter**" means a Consumer Association Member which is a Full Member;
  - (ii) in relation to any Eligible Person who is a Service Provider Nominee, "**Eligible Voter**" means a Service Provider Organisation Member which is a Full Member; and
  - (iii) "**Proposer**" means the Organisation or Incorporated Person which nominates any Eligible Person to serve as a Director.
- (b) A Director's term of office shall:
- (i) start on the date of the annual general meeting of the Company at which they are appointed (except in the case of a director appointed in accordance with clause 12.2(e), in which case the term of office will start at the beginning of the Co-opted Term); and
  - (ii) continue for up to three years until the annual general meeting held in the relevant year when they shall retire, but they shall be eligible for re-election.

A Director shall serve no more than three consecutive terms but be eligible to be Co-opted or elected after a hiatus of twelve months.

- (c) So far as practicable, one-third of the Board for the time being will retire at each annual general meeting (or, if the number of the Directors is not a multiple of three (3), the number nearest to but not less than one-third) shall retire from office by rotation, provided that every Director shall be subject to retirement at an annual general meeting at least once every three years. For the purpose of giving effect to this principle, the Director who must retire at each annual general meeting under this clause will be the director who has been in the office for the longest term.
- (d) The nomination and election of Directors shall take place in the following manner:
  - (i) An Eligible Person may be nominated to serve as a Director by (and only by) an Incorporated Person or Organisation which is a Full Member as at the Prescribed Date, subject to clauses 12.2(d)(ii) and (iii);
  - (ii) A Consumer Association Member may only nominate and vote in respect of an Eligible Person who is a Hearing Impaired Consumer Nominee, or Deaf Consumer Nominee, or Ear Disorders Consumer Nominee, or Parent Consumer Nominee, or Deafblind Consumer Nominee. A Service Provider Organisation Member may only nominate and vote in respect of an Eligible Person who is a Service Provider Nominee;
  - (iii) An Incorporated Person or Organisation shall not nominate any of its members or any other person to serve as a Director if a Director who is not retiring at the next annual general meeting is either a member of that Incorporated Person or Organisation or was nominated to serve as a Director by that Incorporated Person or Organisation;
  - (iv) The nomination, which must be in writing and signed by the nominee and their Proposer, shall be lodged with the Executive Officer at least 30 days before the next annual general meeting;
  - (v) A list of the candidates' names for each Group, in alphabetical order, with the Proposers' and seconders' (if the Company has more than one member) names shall be posted in a conspicuous place in the Office for at least 7 days immediately preceding the annual general meeting;
  - (vi) Balloting lists shall be prepared (if necessary) containing the names of the candidates only for each Group, in alphabetical order;
  - (vii) In the event there shall not be sufficient number of candidates nominated, the Board may fill up the remaining vacancy or vacancies with Eligible Persons from any one or more Groups;
  - (viii) If less than eight Eligible Persons are elected by the Consumer Association Members, the Board members who were elected by Consumer Association Members may appoint as directors up to four additional Eligible Persons who are Deaf Consumer Nominees, Hearing Impaired Consumer Nominees, Ear Disorders Consumer Nominees,

Parent Consumer Nominees, or Deafblind Consumer Nominees (or any combination of such persons);

- (ix) Subject to clauses 12.2(d)(x) and (xi), the Eligible Voters which are Consumer Association Members shall vote (by separate and a vote in writing) only in respect of Eligible Persons who are a member or nominee of a Consumer Association Member, and Eligible Voters which are Service Provider Organisation Members shall vote (by separate and a vote in writing) only in respect of Eligible Persons who are a member or nominee of a Service Provider Organisation Member, provided that an Eligible Voter is not entitled to vote unless it:
  - A. Was a Full Member as at the Prescribed Date, and
  - B. Has paid all moneys due and owing by it as a member to the Company as at the Prescribed Date;
- (x) If there is only one candidate nominated in respect of any Group and the Class entitled to vote for that candidate is entitled to have at least one additional person appointed to the Board, that candidate shall be declared as elected without any need for vote;
- (xi) If there are only two candidates nominated in respect of any Group and the Class entitled to vote for that candidate is entitled to have two additional persons appointed to the Board, those two candidates shall be declared as elected without any need to vote;
- (xii) If the number of candidates nominated in respect of any Group is greater than the number of additional persons which the Class entitled to vote for those candidates is entitled to have appointed to the Board, voting shall be by preferential system (for the relevant Group) as follows:
  - A. Each Eligible Voter entitled to vote must, in its ballot paper, indicate its order of preference for all the candidates in its Section by consecutively numbering those candidates in order of preference (the first preferred candidate being numbered "1", the second preferred candidate being numbered "2", and so on). Any vote which does not comply with that requirement is not a valid vote, and will not be counted as a vote for any purpose.
  - B. A candidate will only be declared elected upon obtaining an absolute majority of votes (that is, more than 50% of valid votes), so that:
    - 1) If a candidate secures more than half of the first preferences (that is the primary votes) that person is elected;
    - 2) If that does not occur, then the person with the lowest number of first preference votes is eliminated and that person's second preference votes are distributed to other

candidates in the Group who have not then been elected or eliminated;

- 3) For each remaining candidate, the number of votes obtained through the distribution of the eliminated candidate's second preferences is added to the number of the candidate's first preferences; and
- 4) If, by that procedure, a candidate has more than 50% of the votes, that person is elected. If no candidate at this stage has more than 50% of the votes, elimination and distribution of preferences continues until a candidate has an absolute majority (so that, in the next stage, the candidate then having the lowest aggregate number of first preferences and allocated second preferences is eliminated and that candidate's second preferences are distributed to other candidates as applicable; but
- 5) If at any stage all the remaining candidates are tied as to the aggregate number of their first preferences and allocated second preferences, then the candidate having the highest number of first preferences is elected.

C. The elimination and distribution procedures shall continue until one candidate has been elected in accordance with those procedures and, if the Group is entitled to have a second person appointed to the Board at that time, a second person has been elected in accordance with those procedures.

(xiii) The appointment of a person to the Board by election at the annual general meeting, or by postal ballot conducted not more than 30 days prior to the meeting, shall take effect immediately after the annual general meeting.

- (e) The Board shall have power at any time, and from time to time, to appoint any Eligible Person who is a member of any Incorporated Person or Organisation which is a financial Full Member to the Board, either to fill a casual vacancy or as an addition to the existing Directors but so that the total number of Directors shall not at any time exceed the number fixed in accordance with this Constitution, and provided that (in respect of any casual vacancy) a person shall not be appointed to fill a casual vacancy unless s/he is a member of an Organisation or Incorporated Person which is affiliated with the same Group as the person who vacated office. Any Director so appointed shall hold office only until the next following annual general meeting (the "**Co-opted Term**"), but is eligible for re-election.
- (f) The Directors shall appoint officers from among their number for the positions of Chairperson (one) and Deputy Chairpersons (two). They may also appoint from among their number an honorary Treasurer and/or an honorary Public Officer. They may determine the periods for which such appointees are to hold office, but each such appointment shall terminate automatically upon the

appointee ceasing to be a Director. Either the Chairperson, or one of the Deputy Chairpersons, must be an Auslan-using Deaf person.

### 12.3 Removal of Directors

- (a) The Company may, by Ordinary Resolution, remove any Director before the expiration of their period of office and the notice of intention to move the resolution must be given to the Company two (2) months before the meeting is to be held, and the Company must give the director a copy of such notice as soon as possible.
- (b) The director proposed to be removed has the right to put case to members by giving the company a written statement for circulation to members or speaking to the motion at the meeting. A written statement is to be circulated by the Company to members in accordance with section 203D of the Companies Act.
- (c) The Company may by an Ordinary Resolution appoint another person (who is a full member of the same Group as the removed Director) in their stead. The person so appointed shall hold office only until the next following annual general meeting.

### 12.4 Expenses of Directors

The Directors shall be paid all travelling, accommodation and other out-of-pocket expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or in connection with the business of the Company.

### 12.5 Vacation of office of Director

The office of any Director shall become vacant if that Director:

- (a) is removed from office by Ordinary Resolution of a general meeting of full members;
- (b) becomes bankrupt or makes any arrangement or composition with their creditors generally;
- (c) becomes prohibited from being a Director by reason of any order made under the ACNC Act/the Corporations Act;
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (e) resigns their office by notice in writing to the Company;
- (f) is absent without permission of the Board from four consecutive meetings of the Board;
- (g) ceases to be a Full Member or a member of an Incorporated Person or Organisation which is a Full Member or, where at the time of their appointment they are neither a Full Member nor a member of an Incorporated Person or

Organisation which was a Full Member, ceases to be affiliated with the Group of which their Proposer was a member at that time;

- (h) becomes an employee of the Company;
- (i) ceases to be or to be entitled to be a Director by reason of any provision of the ACNC Act/the Corporations Act; or
- (j) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare that interest in the manner required by the ACNC Act/the Corporations Act.

## 12.6 **Alternate Directors**

- (a) A Director may by written notice, with the prior approval of the Board, appoint a person who is a member of an Incorporated Person or Organisation which is a Full Member to be an Alternate Director in place of the appointor during the appointor's inability to act as a Director ("**Appointee**"), provided that the Incorporated Person or Organisation of which the Appointee is a member must be a member of the same Group as that represented by the appointor.
- (b) An Appointee is entitled to be given notice of meetings of the Directors and, where their appointor is not present at a meeting, is entitled to attend and vote in place of the appointor. Where the Appointee exercises their appointor's powers as a Director, the exercise of the power is effective as if the powers were exercised by the Director.
- (c) An Appointee shall automatically vacate office if their appointor ceases to be a member of the Board or revokes or suspends the appointment.
- (d) Any appointment or revocation or suspension of appointment of an Appointee by the appointor shall be effected only by the appointor giving notice in writing to the Company at the Office.
- (e) An Appointee may resign by giving written notice of resignation to the Company at the Office.
- (f) The Directors may suspend or remove an Appointee as an Alternate Director by resolution after giving not less than 14 days' notice of the proposed suspension or removal to the Appointee and their appointor.

## 13. **POWERS AND DUTIES OF DIRECTORS**

### 13.1 **Functions of Board**

The control, management and conduct of the affairs of the Company, subject to the provisions of this Constitution, shall be vested in the Board which may exercise all the powers of the Company and may, without affecting the generality of the foregoing:

- (a) borrow money on behalf of the Company either with or without security and if with security may give security by mortgage, charge or lien over all or any part of the property of the Company and for the purposes of clause 4 the rate of interest payable in respect of moneys borrowed from members of the Company

shall not exceed the lowest rate paid for the time being by the Commonwealth Banking Corporation in respect of term deposits of an equivalent amount for an equivalent period;

- (b) invest money of the Company in accordance with clauses 3.1 and 3.2 and from time to time vary those investments;
- (c) appoint any staff, appoint or engage any professional or other assistance or service required by the Company in the carrying out of its activities and pay reasonable remuneration and fees therefor;
- (d) open any banking account and operate the same;
- (e) pay all expenses in setting up and registering the Company; and
- (f) exercise all such other powers of the Company as are not, by the ACNC Act/the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting, subject, nevertheless, to this Constitution, to the ACNC Act/the Corporations Act, and to such regulations being not inconsistent with the Constitution and the ACNC Act/the Corporations Act as may be prescribed by the Company in general meeting, but no regulation made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if that regulation had not been made.

### **13.2 Appointment of attorneys of Company**

The Board may, from time to time, by power of attorney, appoint any corporation, firm or person or body of persons, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities, and discretions not exceeding those vested in or exercisable by the Directors under this Constitution and for such period and subject to such conditions as they may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board may think fit and may in addition authorise the attorney to delegate all or any of the powers, authorities and discretions vested in them.

### **13.3 Bills of exchange**

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company shall be signed, drawn, accepted, indorsed or otherwise executed as the case may be by any 2 Directors or in such other manner as the Board may from time to time determine.

### **13.4 Duties of Directors**

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

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the Company;

- (b) to act in good faith in the best interests of the Company and to further the charitable purpose(s) of the company set out in clause 3;
- (c) not to misuse their position as a director;
- (d) not to misuse information they gain in their role as a director;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 13A;
- (f) to ensure that the financial affairs of the Company are managed responsibly, and
- (g) not to allow the company to operate while it is insolvent.

### **13A CONFLICT OF INTEREST**

13A.1 A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):

- (a) to the other directors, or
- (b) if all of the directors have the same conflict of interest, to the members at the next general meeting, or at an earlier time if reasonable to do so.

13A.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.

13A.3 Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under clauses :

- (a) be present at the meeting while the matter is being discussed, or
- (b) vote on the matter.

13A.4 A director may still be present and vote if:

- (a) their interest arises because they are a member of the company, and the other members have the same interest;
- (b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the company (see clause 24);
- (c) their interest relates to a payment by the company under clause 24 (*indemnity*), or any contract relating to an indemnity that is allowed under the Corporations Act;
- (d) ASIC makes an order allowing the director to vote on the matter, or
- (e) the directors who do not have a material personal interest in the matter pass a resolution that:



- (f) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the company, and
- (g) says that those directors are satisfied that the interest should not stop the director from voting or being present.

## 14. PROCEEDINGS OF DIRECTORS

### 14.1 Meeting of Directors

- (a) The Board may meet together for the despatch of business, adjourn and otherwise regulate its meetings as the Directors think fit. A Director may at any time and the Secretary shall, on the requisition of a Director, summon a meeting of the Board.
- (b) No business shall be transacted at a meeting of the Board unless:
  - (i) a quorum is present (as provided in clause 14.4); and
  - (ii) reasonable assistance (by way of assisted hearing devices, interpreters and note takers) to the reasonable satisfaction of the Board members in attendance is provided at that meeting. Such reasonable assistance is taken to have been provided unless a majority of the Board members present vote otherwise.
- (c) The Board shall elect its Chairman and two Deputy Chairmen at its first meeting after an annual general meeting.
- (d) Not less than 21 days notice of a meeting of the Board must be given to all Board members except that, where the Chairman is of the opinion that an emergency exists, the Chairman may call a meeting on such shorter notice as they think fit. Notices of meeting must specify the date, time and place of meeting and the general nature of the business of the meeting.

### 14.2 Meetings by Electronic Means

- (a) Without limiting the discretion of the Directors to regulate their meetings under Clause 14.1, the Directors may, if they think fit, confer by radio, telephone, closed circuit television, e-mail, the Internet or other electronic means of visual or audio or audio-visual communication.
- (b) Notwithstanding that the Directors are not present together in one place at the time of the conference, a resolution passed by such a 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 such conferences 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 Clause 14.2(a) purporting to be signed by the chairperson of that conference or by the chairperson of the next succeeding meeting of Directors 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 Clause 14.2(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 such place for the duration of the conference.

### 14.3 **Voting**

- (a) Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination by a majority of Directors shall for all purposes be deemed a determination of the Board. Each member of the Board shall have one vote. In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.
- (b) For the avoidance of doubt, a Director may not appoint a proxy at a meeting of directors.

### 14.4 **Quorum**

The quorum necessary for the transaction of the business of the Board may be fixed by the Board, and unless so fixed shall be one half of the number of Directors.

### 14.5 **Reduction in number of Directors**

The continuing Directors may act notwithstanding any vacancy in their number but if and for so long as their number is reduced below the number fixed by or pursuant to the Constitution as the necessary quorum of Directors (in a board meeting), the continuing Director or Directors may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company, but for no other purpose.

### 14.6 **Chairman at meetings of Board**

The Chairman shall preside as chairman at every meeting of the Board, or if the Chairman is not present the one of the Deputy Chairmen (as decided by the Directors present) shall preside as chairman, or if no Deputy Chairman is present the Directors present may choose one of their number to be the chairman of the meeting.

## 15. **COMMITTEES**

### 15.1 **Committee**

The Board may delegate any of its powers not being powers exercisable by or duties imposed on the Directors of the Company by virtue of the ACNC Act/the Corporations Act or the general law to Committees consisting of the Chairman and such other member or members of the Board as it thinks fit. Any Committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be

imposed on it by the Board. A Committee shall have the power to co-opt any member or members of the Company and each such member shall have one vote at meetings of the Committee.

#### 15.2 **Chairman of a Committee**

A Committee may elect a chairman of its meetings, but if no such chairman is elected, or if at any meeting the chairman is not present within 10 minutes after the time appointed for holding the meeting, the members present may choose one of their number to be the chairman of the meeting.

#### 15.3 **Voting at meetings of committee**

A Committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman of the Committee shall have a second or casting vote.

### 16. **VALIDITY OF ACTIONS AND RESOLUTIONS**

#### 16.1 **Defect in appointment**

All acts done by any meeting of the Board or of a Committee of the Board or by any person acting as a Director, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any Director or person acting as aforesaid, or that they or any of them were disqualified, shall be as valid as if every such person had been duly appointed and was qualified to be a Director.

#### 16.2 **Written resolutions of Directors**

- (a) The Directors may pass a resolution without a meeting of the Directors being held if all the Directors entitled to vote on the resolution assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of the document referred to in Article 16.2(a) may be used for assenting to by Directors if the wording of the resolution and the statement is identical in each copy.

### 17. **MINUTES**

The Board shall cause to be kept and recorded minutes of all appointments of office-bearers, other officers, of the names of Directors present at meetings of the Company and of the Directors, and of all resolutions and proceedings of general meetings of the Company, of the Board and of all Committees of the Board and shall cause such minutes to be signed by the chairman of the meeting of the next meeting. Copies of all such minutes shall be sent forthwith to the Directors.

### 18. **REGISTER OF MEMBERS**

18.1 The Company shall keep a register of members in which shall be entered:

- (a) for each current member:

- (i) the names and addresses (any alternative address nominated by the member for the service of notices);
  - (ii) the date on which the name of a member was entered in the register; and
  - (iii) the Class and Group to which the member was admitted; and
- (b) for each person who stopped being a member in the last 7 years:
- (i) the names and addresses (any alternative address nominated by the member for the service of notices);
  - (ii) the date on which the name of a member was entered in the register and the date of cessation; and
  - (iii) the Class and Group to which the member was admitted.

18.2 The Company must give current members access to the register of members.

18.3 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

## 19. **SECRETARY, CHIEF EXECUTIVE OFFICER AND HONORARY OFFICERS**

### 19.1 **Secretary**

The Secretary shall be appointed by the Board in accordance with the Corporations Act for such term and upon such conditions as it thinks fit, and any Secretary so appointed may be removed by the Board. The role of the secretary includes:

- (a) maintaining a register of the company's members; and
- (b) maintaining the minutes and other records of general meetings (including notices of meetings), directors' meetings and circular resolutions.

### 19.2 **Chief Executive Officer**

The Board may appoint a Chief Executive Officer of the Company on such terms and conditions (including remuneration) as the Board thinks fit. The Chief Executive Officer shall have the powers, authorities and duties from time to time determined by the Board.

### 19.3 **Honorary officers**

The Directors may provide for the creation of patrons and other honorary officers and for the admission and retirement of persons to such offices. The Board may confer upon such persons the right to attend and to speak at general meetings, but not a right to vote.

## 20. **SEAL**

The Company shall not be required to have a common seal but, where it does have a common seal, the Directors shall provide for the safe custody of the Seal, which shall only be used by the authority of the Board or of a committee of the Board authorised

by the Board in that behalf and every instrument to which the Seal is affixed shall be signed by a Director and shall be countersigned by the Secretary or by a second Director or by the Chief Executive Officer or some other person appointed by the Board for the purpose.

**21. ACCOUNTS AND RECORDS**

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

- (a) minutes of proceedings and resolutions of general meetings;
- (b) minutes of circular resolutions of members;
- (c) a copy of a notice of each general meeting, and
- (d) a copy of a members' statement distributed to members.

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

- (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
- (b) minutes of circular resolutions of directors.

21.3 To allow members to inspect the Company records:

- (a) the Company must give a member access to the records set out in clause 21.1, and
- (b) the directors may authorise a member to inspect other records of the Company, including records referred to in clause 21.2 and clause 21.6.

21.4 The directors must ensure that minutes of a general meeting or a directors' meeting are signed within a reasonable time after the meeting by:

- (a) the chairperson of the meeting, or
- (b) the chairperson of the next meeting.

21.5 The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

21.6 The Board shall cause accounting and other records to be kept that correctly record and explain its transactions and financial position and performance, and enable true and fair financial statements to be prepared to be audited. The Board must retain its record for at least seven (7) years and the directors must take reasonable steps to ensure that the Company's records are kept safe. The Board shall distribute copies of every profit and loss account and balance sheet including every document required by law attached thereto and accompanied by a copy of the auditor's report thereon as required by the ACNC Act/the Corporations Act and shall from time to time determine whether and to what extent and at what times and place and under what conditions or regulations the accounting and other records of the Company or any of them shall be open to the inspection of full members not being Directors. No member not being a

Director shall have any right of inspecting any account or book or paper of the Company except as conferred by statute or authorised by the Board or by the Company in general meeting.

- 21.7 All state Branches shall present to the Executive Officer by no later than two months after the end of each financial year their most recent Balance Sheets and Income and Expenditure Statements, together with a report on their year's activities, for inclusion in the agenda for the next annual general meeting of the Company.

## 22. NOTICES

### 22.1 Notice to Members

- (a) The Company may give Notice to a Member:
- (i) in person;
  - (ii) by sending it by post to the address of the Member in the Register or the alternative address (if any) nominated by that Member;
  - (iii) by sending it to the electronic address (if any) nominated by that Member;
  - (iv) if permitted by the Corporations Act, by sending it by other electronic means (if any) nominated by that Member; or
  - (v) by any other means permitted by the Corporations Act.
- (b) If the address of a Member in the Register is not within Australia, the Company must send all documents to that Member by air-mail, air courier or to the electronic address (if any) nominated by that Member.
- (c) Subject to the Corporations Act, a Notice to a Member is sufficient, even if:
- (i) in respect of a Member who is a natural person, that person has died or become bankrupt or of unsound mind; or
  - (ii) in respect of a Member which is a body corporate that Member has been deregistered or is externally administered,
- and regardless of whether or not the Company has notice of that event.
- (d) Any Notice required or allowed to be given by the Company to one or more Members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

### 22.2 Notice to Directors

The Company may give Notice to a Director or Alternate Director:

- (a) in person;

- (b) by sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person;
- (c) by sending it to the fax number or electronic address (if any) nominated by that person; or
- (d) by any other means agreed between the Company and that person.

### 22.3 Notice to the Company

A person may give Notice to the Company:

- (a) by leaving it at the registered office of the Company;
- (b) by sending it by post to the registered office of the Company;
- (c) by sending it to the registered office of the Company nominated by the Company for that purpose;
- (d) by sending it to the electronic address (if any) nominated by the Company for that purpose; or
- (e) by any other means permitted by the Corporations Act.

### 22.4 Time of service

- (a) A notice sent by post to an address within Australia is taken to be given:
  - (i) in the case of a notice of meeting, one Business Day after it is posted; or
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (b) A notice sent by post or air-mail to an address outside Australia is taken to be given:
  - (i) in the case of a notice of meeting, 5 Business Days after it is posted; or
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (c) A notice sent by air courier to a place outside Australia is taken to be given 3 Business Days after delivery to the air courier.
- (d) A notice sent electronically is taken to be given on the Business Day it is sent.
- (e) If the Corporations Act permits a notice of meeting to be given to a Member by notifying the Member (using the nominated notification means of that Member):
  - (i) that the notice of meeting is available; and
  - (ii) how the Member may use the nominated access means of that Member to access the notice of meeting,

the notice of meeting is taken to be given on the Business Day after the day on which the Member is notified that the notice of meeting is available.

- (f) The giving of a notice by post, air-mail or air courier is sufficiently proved by evidence that the notice:
  - (i) was addressed to the correct address of the recipient; and
  - (ii) was placed in the post or delivered to the air courier.
- (g) A certificate by a Director or Secretary of a matter referred to in Article 23(f) is sufficient evidence of the matter, unless it is proved to the contrary.

## 22.5 Signatures

The Directors may decide, generally or in a particular case, that a notice given by the Company be signed by mechanical or other means.

## 22.6 Notices of general meeting

Notice of every general meeting shall be given in any manner hereinbefore authorised to:

- (a) every Full Member except those members who (having no registered address within Australia) have not supplied to the Company an address within Australia for the giving of notices to them;
- (b) each honorary officer entitled to attend at general meetings; and
- (c) the auditor for the time being of the Company.

## 22.7 Entitlement to notices

Except as provided in clause 22.2, no other person shall be entitled to receive notices of general meetings.

## 23. WINDING-UP

If upon the winding-up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the current or former members of the Company, but shall be given or transferred to some other fund, authority or institution which is or each of which is a fund, authority or institution approved by the Commissioner for Taxation as a fund, authority or institution referred to in *Sub-Section 30-20 or Section 30-40 of the Income Tax Assessment Act 1997 (Cth)* or Table 1 or Table 3 of the *Income Tax Assessment Act 1936 (Cth)* and having objects similar to the objects of the Company and which prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of clause 4 of this Constitution. The decision as to the charity or charities to be given the surplus assets must be made by a Special Resolution of members at or before the time of winding up. If the members do not make this decision, the company may apply to the Supreme Court to make this decision.



## 24. INDEMNITY AND INSURANCE

- (a) To the extent permitted by law, the Company shall indemnify each Relevant Officer against:
  - (i) a Liability of that person; and
  - (ii) Legal Costs of that person.
- (b) To the extent permitted by law, the Company may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- (c) To the extent permitted by law, the Company shall pay, or agree to pay, a premium for a contract insuring a Relevant Officer against:
  - (i) a Liability of that person; and
  - (ii) Legal Costs of that person.
- (d) To the extent permitted by law, the Company may enter into an agreement or deed with a Relevant Officer; or a person who is, or has been an officer of the Company or a subsidiary of the Company, under which the Company must do all or any of the following:
  - (i) keep books of the Company and allow either or both that person and that person's advisers access to those books on the terms agreed;
  - (ii) indemnify that person against any Liability of that person;
  - (iii) make a payment (whether by way of advance, loan or otherwise) to that person in respect of Legal Costs of that person; and
  - (iv) keep that person insured in respect of any act or omission by that person while a Relevant Officer or an officer of the Company or a subsidiary of the Company, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

**"Legal Costs"** of a person means legal costs incurred by that person in defending an action for a Liability of that person.

**"Liability"** of a person means any liability incurred by that person in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the person as an officer of the Company or a subsidiary of the Company unless the liability was incurred by the officer through their own lack of good faith.

**"Relevant Officer"** means a person who is, or has been, a Director or Secretary.

25. **BY-LAWS**

The Board may at its discretion determine, amend, repeal or set aside By-Laws for the operation of committees or officers of the Company not otherwise provided for in this Constitution provided such by-laws are not inconsistent with this Constitution.

26. **ALTERATION OF CONSTITUTION**

The members may amend this Constitution by passing a Special Resolution, provided that the members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to no longer be a charity or make any change to clause 2.1.

## **BY-LAWS**

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### **1. WORKING PROTOCOL TO PROTECT MINORITY VIEWPOINTS**

- 1.1 That where a divergence of opinion exists between the Groups or Classes of membership in respect of anything other than matters pertaining to internal administration, management or operation of the Company itself, and where unanimous agreement cannot be reached between the Groups or Classes as represented on the Board, the Company will not proclaim any "**policy**" in respect of that matter, but shall ensure that all diverging viewpoints are put forward.
- 1.2 That where a divergence of opinion exists as in By-Law 1.1 above, each Group and Class shall have equal access to the facilities, services and resources at the disposal of the Company to ensure that its views are correctly, fairly, and equitably presented to government, and the community at large.
- 1.3 That the rights of every member organisation to campaign publicly as it wishes, irrespective of the view of other member organisations shall be guaranteed.

### **2. DISPUTE RESOLUTION PROCESS**

- 2.1 That where a divergence of opinion exists as in By-Law 1.1 above, the relevant Groups and Classes of membership ("**Parties**") must for a period of 20 Business Days engage in good faith negotiations to agree upon the proposed policy. If they reach agreement on the policy, the Parties must prior to the end of the specified period pass a unanimous Ordinary Resolution to effect the final agreed policy.
- 2.2 If the Parties are unable to reach an agreement on the proposed policy in accordance with By-Law 2.1 ("**Policy Dispute**"), then the Parties must give notice to the Directors that the Parties have failed to resolve the Policy Dispute in accordance with By-Law 2.1 ("**Policy Dispute Notice**").
- 2.3 Following a Policy Dispute Notice, each Party must cause senior representatives to meet (in person or by telephone/virtual meeting) promptly after the notice is given, and use all reasonable endeavours acting in good faith to resolve the Policy Dispute by joint discussions.
- 2.4 If the senior representatives of the Parties have not resolved the Policy Dispute within 20 Business Days after the date of the Policy Dispute Notice or by such other date as the Parties may agree in writing, then any Party may refer the Policy Dispute for determination by a mediator by issuing a notice to each Party setting out reasonable details of the Policy Dispute and the matters which the mediator is required to determine ("**Mediator Notice**").
- 2.5 Following receipt of a Mediator Notice in accordance with By-Law 2.4 the Parties must endeavour to resolve the dispute by mediation conducted in accordance with the Australian Disputes Centre ("**ADC**") mediator guidelines and administered by the ADC as follows:
  - (a) if the parties are unable to agree on a mediator, either the Chief Executive Officer of ADC or their nominee will appoint a mediator; and

- (b) the mediation will be held in Sydney, New South Wales, or such other place as the parties may agree.

**3. SUBSCRIPTIONS**

- 3.1 All subscriptions shall be due and payable in each calendar year. Each member shall receive a written invoice in respect of the subscription falling due.

**4. DIRECTOR LEAVE OF ABSENCE**

- 4.1 That where a Director intends to take or requires a leave of absence for a period of 2 weeks or more, the Director should use reasonable endeavours to formally apply for approval from the Board in writing in accordance with clause 22.2, and such approval may not be unreasonably withheld.
- 4.2 Where approval has been granted following application from a Director in accordance with By-Law 4.1 above, the Board shall record the grant of approval in the minutes of the next board meeting.