

ALLIANCE FRANCAISE DE SYDNEY
A.C.N. 000 783 139

(A public company limited by guarantee)

Constitution

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1. Interpretation

1.1 Definitions

In this Constitution, unless the context requires otherwise:

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

Alternate Director means a Director appointed in accordance with clause 38.

Board means the board of Directors of the Company.

Board Chair means the President or other nominated chair of a Board meeting in accordance with clause 34.

Board Committee means a committee of Directors formed in accordance with clause 37.

Committee member has a corresponding meaning.

Business Day means a day which is not a Saturday, Sunday or public holiday in Sydney, New South Wales.

Chair means the chair of a general meeting appointed in accordance with clause 17.

Company means Alliance Française de Sydney (ACN 000 783 139).

Constitution means this Constitution.

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

Director means a director of the Company.

Family Member means any person so admitted to the Company in accordance with clause 7.8. **Family Membership** has a corresponding meaning.

General Manager means the person holding that office under this Constitution.

Honorary Member means a person who has been accorded the privileges of Membership pursuant to clause 7.10. **Honorary Membership** has a corresponding meaning.

Life Member means a member who has been elected to life membership pursuant to clause 7.9. **Life Membership** has a corresponding meaning.

Member means a member of the Company.

Membership means any person admitted as a Member to the Company pursuant to clause 7.

Member Representative in relation to a Member which is a body corporate, means a representative of the body corporate appointed under section 250D of the Corporations Act.

Ordinary Member means any person so admitted to the Company in accordance with clause 7.5.

President means the person holding that office of the Company.

Register of Members has the meaning given to it in clause 8.

School means any education institution determined by the Board to be a school for the purposes of this Constitution.

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

Secretary means the person holding that office under this Constitution.

Signed and **signature** include verifiable electronic signature.

Special Resolution means a resolution that has been passed by at least 75% of the votes cast by Members present and entitled to vote on the resolution.

Student Member has the meaning given in clause 7.6. **Student Membership** has a corresponding meaning.

Vice-President means the person holding that office of the Company.

1.2 General

In this Constitution, unless the context requires otherwise:

- (a) words in the singular include the plural and vice versa;
- (b) a reference to a gender includes the other gender;
- (c) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (d) a reference to any clause or schedule is to a clause or schedule of this Constitution;
- (e) a reference to any legislation or to any provision of any legislation includes any modification, consolidation or re-enactment of it, any legislative provisions substituted for it and all regulations and statutory instruments issued under it;
- (f) the words 'including', 'such as', 'for example' and the like are not, and should not be interpreted to be, words of limitation, unless explicitly stated otherwise;
- (g) a reference in a clause in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being;
- (h) the word person means a natural person and any partnership, association, body or entity whether incorporated or not;
- (i) the words writing and written include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form, including email and electronic communications via a website;

- (j) unless the contrary intention appears, an expression in a clause that deals with a matter dealt with by a provision of the Corporations Act, has the same meaning as in that provision and an expression in a clause that is defined in section 9 of the Corporations Act has the same meaning as in that section;
- (k) where this Constitution provides that a person or body may do a particular act or thing and the word "may" is used, the act or thing may be done at the discretion of the person or body;
- (l) a requirement for something to be carried out in writing will be satisfied if the matter in question is carried out in some other lawful manner that is approved by the Directors; and
- (m) where communication from a Member to the Company must be 'signed' by a Member, in addition to any other methods permitted by law, the Member may sign in any manner that allows the Directors to be satisfied, acting reasonably, that the communication is from the relevant Member, including by using an electronic signature.

1.3 Replaceable Rules

The provisions of this Constitution displace the replaceable rules (but not replaceable rules which mandatorily apply to a public company) contained in the Corporations Act.

1.4 Headings

Headings do not form part of or affect the construction or interpretation of this Constitution.

2. Name of the Company

The name of the company is Alliance Française de Sydney (ACN 000 783 139), or if the name is lawfully changed in accordance with the Corporations Act and this Constitution, that name.

3. 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.

4. Limited Liability of Members

- (a) Each Member must contribute an amount not more than \$10.00 to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:
 - (i) debts and liabilities of the Company;
 - (ii) the costs, charges and expenses of winding up; and
 - (iii) any adjustment of the rights of the contributories among Members,
 to the extent such amounts exceed the Company's assets at the time of winding up.

- (b) The liability of each Member is limited to making such contribution and no more.

5. Objects and powers

- 5.1 The charitable purposes of the Company are the promotion of French and Francophone culture in its broadest sense in the Greater Sydney region and throughout Australia by the promotion of a range of objects and activities including but not limited to the following:
- (a) promoting the French language; promoting and advancing the teaching, learning, study, speaking and application of French in academic, social, cultural and commercial contexts; promoting French scholarship and education; promoting French fine arts, history, design, film and other audiovisual works, interactive games, theatre, literature, dance, fashion, music, sports, tourism, gastronomy, society and architecture;
 - (b) organising, producing, conducting and hosting events, presentations, talks, conferences, festivals including The Alliance Française French Film Festival and Alliance Française Classic French Film Festival and other cultural activities promoting French culture throughout Australia;
 - (c) collaborating with Australian cultural organisations to promote French culture;
 - (d) fostering relationships between the French and Australian communities for the advancement of the principal purpose and objects; to bring together those seeking to contribute to the development of knowledge and awareness of French culture and language;
 - (e) promoting and advancing mutual understanding between Australia and France by promoting and developing linguistic and cultural exchanges;
 - (f) publishing works and providing information relating to the promotion of French and Francophone culture;
 - (g) facilitating philanthropy and financial support of the promotion of the principal purposes and objects;
 - (h) promoting such other objects relating to the promotion and understanding of French and Francophone culture as the Directors shall approve; and
 - (i) undertaking any other activities in furtherance of the above.
- 5.2 The Company can only exercise the powers in section 124(1) of the Corporations Act to:
- (a) carry out the objects of the Company set out in clause 5.1; and
 - (b) do all things incidental or convenient in relation to the attainment of an object under clause 5.1.
- 5.3 The Company has no political affiliation and must act at all times without any form of discrimination.
- 5.4 The Company forms part of a network of Alliance Française organisations around the world with similar objects, the principal member of the network being Alliance Française de Paris,

itself a not for profit organisation having its registered office at 101 Boulevard Raspail, Paris, 75006 France. Whilst operating independently and pursuant to relevant Australian laws, the Company also adheres to the principles and recommendations of the **Fondation Alliance Française**, having its registered office at 101 Boulevard Raspail, Paris, 75006, France.

6. Membership

Without limiting the power of the Board to determine:

- (a) classes of Membership, affiliation or relationship,
- (b) the qualifications and conditions for Membership, or
- (c) the procedures for application and registration of Members,

the Members of the Company shall be any person admitted as a Member pursuant to clause 7 who has not ceased to be a Member in accordance with clause 11.

7. Applications for Membership

7.1 Application

- (a) An application for Membership of the Company shall be made in writing in the form determined by the Directors from time to time, signed by the applicant and accompanied by such documents or evidence as the Directors may request. An application may be made electronically via email and/or via the Company's website and may include electronic signature with such verification of the applicant's identity and standing as the Board in its absolute discretion may require.
- (b) The applicant must ensure that all information provided when applying for Membership of the Company is true and accurate and is not misleading or deceptive.
- (c) The applicant must pay any annual subscription fee payable under clause 10 at the time of lodging their application for Membership. If an application for Membership is refused, any such payment will be refunded.

7.2 Consent to storage of Personal Information

- (a) An application for Membership shall include a statement by the applicant consenting to their personal information being stored by the Company and used for internal Company management purposes and promotional purposes and such other reasonably necessary purposes as the Company may require.
- (b) Every renewal of annual Membership shall include renewal of the abovementioned consent by the Member.
- (c) If at any time a Member ceases to consent to their personal information being stored and used by the Company other than for the purpose of maintaining the Register of Members and other internal management purposes, they must advise the Company in writing that they cease to so consent.

7.3 Acceptance

- (a) The Board has the sole discretion to refuse an application for Membership and is not required to provide reasons for such refusal.
- (b) Upon receipt of any annual subscription fee payable under clause 10, the Company shall send the applicant written confirmation of acceptance.
- (c) The Secretary must ensure that each applicant not admitted as a Member of the Company is informed of this decision.
- (d) The Company may:
 - (i) renew Membership annually or for such other periods as the Board shall prescribe;
 - (ii) issue an invoice for any annual subscription fee which shall be due and payable on each anniversary of the acceptance of the Membership application; and
 - (iii) waive, vary or revoke fees as the Board so determines from time to time.

7.4 Classes of Membership

The Board may, from time to time, pass by-laws which set out the classes of Membership, and the eligibility standards, rights and benefits of all classes of Membership. The Board's decision regarding a person's class of Membership shall be final.

7.5 Ordinary Members

Any person may apply to become an Ordinary Member of the Company, provided they are over the age of 18. Each Ordinary Member shall have one vote and be counted as part of a quorum at general meetings.

7.6 Students Members

- (a) Any person can apply for Student Membership if they are, at the time of application:
 - (i) over the age of 18;
 - (ii) enrolled as a student of the Company at that time; and
 - (iii) pay the annual subscription fee applicable to Members at that time (if any).
- (b) If a person is eligible for consideration for Student Membership of the Company, the application will be considered by the Company in accordance with clause 7.3.
- (c) Subject to payment of any required annual subscription fee, Student Membership of a person remains current for the following periods:
 - (i) for new students of the Company, for a term of 12 months from the date of enrolment as a student of the Company;
 - (ii) for existing students of the Company, 12 months from the date on which the person accepts an offer of membership made by the Company;

- (iii) for a further 12 month period if the person continues to be enrolled as a student of the Company at the commencement of that 12 month period.
- (d) Each Student Member shall have one vote and be counted as part of a quorum at general meetings.

7.7 Schools and corporate members

Schools, companies, institutions, associations and other entities may apply to become a Member of the Company. Each such School, company, institution, association or other entity member shall have one vote, be counted as part of a quorum at general meetings and shall nominate one person from that entity to be a Member Representative to act on its behalf.

Such appointing entity shall provide the Company with a written appointment of the Member Representative.

7.8 Family Members

Any family comprising one or more adults and one or more children under the age of 18 may apply to become a Member of the Company. Up to two adult members of a Family Membership shall have one vote each and be counted as part of a quorum at general meetings. Child members of a Family Membership shall not have the right to vote as a Member nor to be counted as part of a quorum at general meetings.

7.9 Life Members

A Member of the Company may be made a Life Member by resolution of a general meeting of the Company, following the submission of a recommendation to the general meeting of the Board to that effect. Life Membership shall only be conferred in recognition of outstanding services to the Company. Life Members shall have one vote and be counted as part of a quorum at general meetings.

7.10 Honorary Members

Honorary Membership of the Company may be granted by the Board to:

- (a) the Patron who shall, subject to his or her consent being forthcoming, be the Governor of the State of New South Wales;
- (b) the President d'Honneur who shall, subject to his or her consent being forthcoming, be The Ambassador of France to Australia;
- (c) the Vice President d'Honneur who shall, subject to his or her consent being forthcoming, be The Consul General of France at Sydney; and
- (d) such other persons, companies or supporters as the Board shall in its discretion grant Honorary Membership to in recognition of services to or other support of the Company.

Honorary Members of the Company shall enjoy certain benefits as determined by the Board from time to time and may attend general meetings as observers but shall not have the right to vote as a Member nor to be counted as part of a quorum at general meetings.

7.11 Employees

All persons who are employed by the Company shall for the period of their employment enjoy certain benefits as determined by the Board from time to time and may attend general

meetings as observers but shall not have the right to vote as a Member nor to be counted as part of a quorum at general meetings. Employees of the Company are not permitted during the period of their employment to become Members of the Company.

7.12 Persons under the age of 18

Persons under the age of 18 shall enjoy certain benefits as determined by the Board from time to time, such as access to the media centre and other resources, discounts on films and other cultural events and promotions, but shall not have the right to vote as a Member nor to be counted as part of a quorum at general meetings.

7.13 Membership cards

The Company may issue to each Member a membership card without charge. Replacement membership cards may be issued upon payment of a fee to be determined by the Company and upon such terms as the Company may require, including as to declaration of the loss or destruction of the original membership card.

8. Register of Members

- 8.1 The Company must establish and maintain a Register of Members in accordance with the law.
- 8.2 Without limiting the requirement in clause 8.1, the Register of Members must be kept by the Secretary and must contain:
- (a) for each current Member:
 - (i) name;
 - (ii) their class of Membership;
 - (iii) address (which may also include an electronic address such as email);
 - (iv) any alternative address nominated by the Member for the service of notices (which may also include an electronic address such as email);
 - (v) in the case of a School or corporate member that has appointed a Member Representative, the full name and contact details of the Member Representative;
 - (vi) date the Member was entered on to the Register of Members; and
 - (vii) any other information required by the Directors or the law from time to time.
 - (b) for each person who stopped being a Member in the last 7 years:
 - (i) name;
 - (ii) address (which may also include an electronic address such as email);
 - (iii) any alternative address nominated by the Member for the service of notices (which may also include an electronic address such as email); and
 - (iv) dates the Membership started and ended.

- 8.3 The Company must give current Members reasonable access to the Register of Members.
- 8.4 Information that is accessed from the Register of Members must only be used in a manner relevant to the interests or rights of Members.

9. Membership entitlements not transferable

A right privilege or obligation which a person has by reason of being a Member of the Company:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates on cessation of the person's Membership.

10. Subscription Fee

Should the Board determine that an annual subscription fee shall be payable by each Member to the Company under clause 7, such fee will be determined by the Board from time to time and will be published on the Company's website.

11. Resignation, cessation, revocation and removal of Membership

- 11.1 The Directors may adopt such other policies and procedures relating to the disciplining, suspension and expulsion of Members as they so determine from time to time, provided they are consistent with the requirements set out in this clause 11.
- 11.2 Where a Member ceases to be a Member in accordance with the law or this constitution, the Secretary must update the Register of Members to record this change.

11.3 Resignation from Membership

A Member may at any time by giving notice in writing to the Secretary resign their Membership but shall continue to be liable for any annual subscription fee and all arrears due and unpaid at the date of such resignation and all other moneys payable by them to the Company. Upon receipt of such a notice of resignation the Secretary shall within 14 days proceed to update the Register of Members in accordance with clause 11.2 and send notice confirming removal to the Member. Unless the notice provides otherwise, the resignation takes effect from the date the notice is received.

11.4 Automatic stopping of Membership

- (a) A Member will also cease to be a Member of the Company upon the following events (**cessation events**):
 - (i) in respect of a Member who is an individual:
 - (A) the death of the Member;
 - (B) the bankruptcy of the Member;

- (C) the Member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
 - (D) the Member ceases to satisfy any eligibility criteria specified by the Board;
 - (E) in respect of a Member that is a body corporate, the dissolution or external administration of the Member or the succession by another body corporate to the assets and liabilities of the Member;
 - (F) in respect of a Student Member, when their Student Membership is no longer current under clause 7.6(c); or
 - (G) the Member becoming an employee of the Company.
- (ii) On the basis of the above cessation events the Board may resolve that the Register of Members be updated in accordance with clause 11.2 without further notice.
 - (iii) The estate of a deceased Member is not released from any liability in respect of that person being a Member.
 - (iv) If the subscription of a Member remains unpaid after it becomes due then the Member's rights shall be suspended and if the annual subscription fee remains unpaid 14 days after a notice of default is sent to the Member by the Secretary or Honorary Treasurer, the Register of Members will be updated in accordance with clause 11.2. The Register may be updated again at the discretion of the Board upon payment of any outstanding fees.

11.5 Expulsion of Members

- (a) Subject to clause 11.5(b), if any Member shall wilfully refuse or neglect to comply with the provisions of this Constitution or other rules of the Company or if the Member's conduct in the opinion of the Board is unbecoming of a Member or prejudicial to the interests or reputation of the Company, the Board shall have the power to revoke the Membership of that Member and the Secretary will update the Register of Members in accordance with clause 11.2.
- (b) At least one week before the meeting of the Board at which a resolution for revocation of a Member is passed, notice of such meeting and of the complaints against the Member and of the intended resolution for revocation of Membership shall be sent to the Member at their current contact details recorded on the Register of Members. The Member shall at such meeting and before the passing of such resolution have an opportunity to give an explanation and make submissions, oral or written, as to why their Membership should not be revoked.
- (c) The Board may reinstate a revoked Membership on any terms and at any time as the Directors resolve, including a requirement that all amounts due but unpaid by the revoked Member are paid.

12. No profits for Members

12.1 Transfer of income or property

Subject to the operation of clause 12.2, the assets and income of the Company shall be applied solely in furtherance of the principal purposes of the Company and its objects and no portion of the income or assets of the Company may be paid or transferred, directly or indirectly to any Member.

12.2 Payments, services and information

Nothing in clause 12.1 prevents the payment in good faith of:

- (a) any expenses incurred on behalf of the Company;
- (b) remuneration to any officers or employees of the Company for services actually rendered to the Company and to Directors for professional services other than acting as a Director rendered to the Company which have been approved by the Board;
- (c) an amount to any Member in return for any services actually rendered to the Company (whether by the Member or any corporation or partnership in which the Member has an interest or is a Member) or for goods supplied in the ordinary and usual course of business;
- (d) reasonable and proper interest on money borrowed from any Member;
- (e) reasonable and proper rent for premises let by any Member to the Company; or
- (f) by way of a grant (or similar contribution) awarded in furtherance of the charitable purposes of the Company set out in clause 5.1.

12.3 Public Fund

The Company may establish and maintain a public fund to receive tax deductible donations, philanthropic gifts, grants, scholarships and other such monies gifted in support of the Company Objects set out in clause 5.1.

13. Convening of general meetings

13.1 For as long as the Company is registered as a charity with the Australian Charities and Not-for-profits Commission or its successor, and for as long as the law permits or requires, the Directors:

- (a) unless the Corporations Act otherwise requires a meeting of Members for a particular resolution to be passed, may determine whether or not to hold meetings of Members including annual general meetings;
- (b) must ensure that the Australian Charities and Not-for-profits Commission Governance Standards, in particular Governance Standard 2 relating to accountability to Members, are complied with; and
- (c) must ensure that if the Company does hold a meeting of Members, it does so in accordance with this constitution and the Corporations Act despite the fact that the

provisions of the Corporations Act dealing with Members' meetings may not be directly applicable to the Company.

- 13.2 If there is any inconsistency between the Corporations Act and this Constitution with respect to the calling and holding of Members' meetings then, to the extent permitted by law, the provisions of this constitution will prevail.
- 13.3 A general meeting may be convened by:
- (a) the Directors by resolution of the Board;
 - (b) Members in accordance with the Corporations Act (including sections 249D, 249E, and 249F); or
 - (c) the Court in accordance with the Corporations Act (including section 249G).
- 13.4 Subject to clause 13.6, the Directors may postpone, cancel or change the venue for a general meeting by giving notice not later than five Business Days before the time at which the general meeting was to be held to each person who is at the date of the notice:
- (a) a Member;
 - (b) a Director; or
 - (c) an auditor of the Company.
- 13.5 A notice postponing or changing the venue for a general meeting must specify the date, time and place of the general meeting.
- 13.6 A general meeting convened under section 249D of the Corporations Act may not be postponed beyond the date by which section 249D requires it to be held and may not be cancelled without the consent of the Member or Members who requested it.
- 13.7 A meeting of Members may be held in 2 or more places linked together by any technology that gives the Members as a whole in those places a reasonable opportunity to participate in proceedings, enables the Chair to be aware of proceedings in each place, and enables the Members in each place to vote on a show of hands and on a poll.

14. Notice of general meetings

- 14.1 Subject to this Constitution, notice of a general meeting must be given within the time limits prescribed by the Corporations Act to each person who is at the date of the notice:
- (a) a Member;
 - (b) a Director; or
 - (c) an auditor of the Company.
- 14.2 A notice of a general meeting must specify the date, time and place of the meeting (and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this) and, except as provided in clause 14.3, state the general nature of the business to be transacted at

the meeting (including the text of any resolutions to be proposed at the meeting) and any other matters required under the Corporations Act.

- 14.3 It is not necessary for a notice of an annual general meeting to state that the business to be transacted at the meeting includes the consideration of the annual financial report and the reports of the Directors and auditor, the election of Directors or the appointment or fixing of the remuneration of the auditor of the Company.
- 14.4 A person may waive notice of any general meeting by notice in writing to the Company.
- 14.5 The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this clause 14 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
- (a) the non-receipt or failure occurred by accident or error; or
 - (b) before or after the meeting, the person:
 - (i) has waived or waives notice of that meeting under clause 14.4; or
 - (ii) has notified or notifies the Company of the person's agreement to that act, matter, thing or resolution by notice in writing to the Company.
- 14.6 A person's attendance at a general meeting:
- (a) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
 - (b) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting or in clause 14.3, unless the person objects to considering the matter when it is presented.

15. Admission to general meetings

- 15.1 The Chair of a general meeting may refuse admission to a person, or require that person to leave and remain out of the meeting, if that person:
- (a) has a camera, tape recorder or video camera, smartphone or other audio or visual recording device that they use or intend to use to record and/or to stream or otherwise broadcast the meeting;
 - (b) has a placard or banner;
 - (c) has an article which the Chair considers to be dangerous, offensive or liable to cause disruption;
 - (d) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
 - (e) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or

- (f) refuses to comply with a direction or order of the Chair or otherwise breaches conditions of attendance at the meeting, including a direction that mobile phones be switched off during the meeting.

15.2 A person who is entitled to receive notice of a meeting or who is requested by the Directors or the Chair to attend a general meeting is entitled to be present, whether the person is a Member or not.

16. Quorum at general meetings

16.1 No business may be transacted at any general meeting, except the election of a Chair and the adjournment of the meeting, unless a quorum of Members is present when the meeting proceeds to business and remains present throughout the meeting.

16.2 A quorum consists of 15 Members entitled to vote who are present at the meeting in person, by proxy, attorney or Member Representative.

16.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:

- (a) where the meeting was convened by, or at the request of, a Member or Members, the meeting must be dissolved; or
- (b) where the meeting was convened by, or at the request of, the Directors or the Court:
 - (i) the meeting stands adjourned to the day, time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and
 - (ii) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

17. Chair of general meetings

17.1 The Board Chair must preside as Chair at each general meeting if present within 10 minutes after the time appointed for the meeting and willing to act.

17.2 The Directors present at a general meeting may elect a person present to chair the meeting if:

- (a) there is no Board Chair;
- (b) the Board Chair is not present within 10 minutes after the time appointed for the meeting; or
- (c) the Board Chair is present within that time but is not willing to act as chair of the meeting.

17.3 Subject to clauses 17.1 and 17.2, if at a general meeting:

- (a) a Board Chair has not been elected by the Directors; or

- (b) an elected chair is not available or is not willing to act as a chair of the meeting (or part of the meeting),

the Members present must elect as chair of the meeting another person who is present and willing to act.

18. Conduct of general meetings

- 18.1 The Chair of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting and may require the adoption of any procedures which are in their opinion necessary or desirable for:
 - (a) proper and orderly debate or discussion, including limiting the time that a person present may speak on a motion or other item of business before the meeting; and
 - (b) the proper and orderly casting or recording of votes at the general meeting, whether on a show of hands or on a poll, including the appointment of scrutineers.
- 18.2 Subject to sections 250S and 250T of the Corporations Act, the Chair of a general meeting may at any time they consider it necessary or desirable for the proper and orderly conduct of the meeting:
 - (a) terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present; or
 - (b) allow debate or discussion on any business, question, motion or resolution being considered by the meeting to continue.
- 18.3 Subject to sections 250S and 250T of the Corporations Act, the Chair of a general meeting may:
 - (a) refuse to allow debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting; and
 - (b) refuse to allow any amendment to be moved to a resolution of which notice has been given under clause 14.1.
- 18.4 A decision by a Chair under clauses 18.1, 18.2 or 18.3 is final.
- 18.5 The Chair of a general meeting may at any time during the course of the meeting adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting.
- 18.6 If the Chair exercises their right under clause 18.5, it is in the Chair's sole discretion whether to seek the approval of the Members present to the adjournment.
- 18.7 If the Chair does seek the Members' approval, the Chair must adjourn the meeting if the Members present with a majority of votes agree or direct that the Chair must do so.

- 18.8 The Chair's rights under clause 18.5 are exclusive and, unless otherwise required by the Chair, no vote may be taken or demanded by the Members present in respect of any adjournment.
- 18.9 No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 18.10 Notice of an adjournment and the business to be transacted at an adjourned meeting must be given to all persons who were entitled to receive notice of the meeting the subject of the adjournment.
- 18.11 Subject to clause 13.6, where a meeting is adjourned, the Directors may postpone, cancel or change the venue of the adjourned meeting.

19. Decisions at general meetings

- 19.1 Except in the case of any resolution which as a matter of law requires a Special Resolution, questions arising at a general meeting are to be decided by a majority of votes cast by the Members present at the meeting and that decision is for all purposes a decision of the Members.
- 19.2 Subject to the Corporations Act, in the case of an equality of votes upon any proposed resolution at a meeting of Members, unless the Members present resolve that the Chair ought to have a second or casting vote in addition to any vote the Chair may have in their capacity as a Member:
- (a) the Chair of the meeting does not have a second or casting vote; and
 - (b) the proposed resolution is taken as having been lost.
- 19.3 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded before a vote being decided by show of hands is taken or before or immediately after the declaration of the result of the show of hands:
- (a) by the Chair of the meeting;
 - (b) by at least 5 Members present and entitled to vote on the relevant resolution; or
 - (c) by a Member or Members present at the meeting and representing at least 5% of the votes that may be cast on the resolution on a poll.
- 19.4 A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- 19.5 Unless a poll is duly demanded, a declaration by the Chair of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 19.6 If a poll is duly demanded at a general meeting, it will be taken when and in the manner the Chair of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.

19.7 The demand for a poll may be withdrawn.

20. Matters requiring Special Resolution in addition to those required under Corporations Act

- (a) Without limiting the powers of the Board to exercise its powers and perform duties to comply with requirements of the Corporations Act, including but not limited to the requirements to keep the Company solvent and to avoid insolvent trading, all business that concerns the sale or other disposal of any real property or intellectual property owned by the Company or the rights thereto may only be effected by a Special Resolution of the Members.
- (b) Where the Board considers it necessary and appropriate in order to discharge its responsibilities to the Company as Directors under the Corporations Act to sell assets or seek one or more loans or securities, for example to keep the Company solvent or to avoid insolvent trading, the Board may reserve the right to exercise its powers in relation to Company property without fetter as circumstances may demand.

21. Voting rights

21.1 Members have the following voting rights:

- (a) on a show of hands, every person present who is a Member has one vote; and
- (b) on a poll, every Member present in person or by proxy or attorney has one vote.

21.2 A Member present at a general meeting is not entitled to vote on any resolution if any fees or any other amount due and payable by that Member to the Company under this Constitution have not been paid and are outstanding or where that vote is prohibited by the Corporations Act or an order of a Court of competent jurisdiction. The Company must disregard any vote on a resolution purported to be cast by a Member present at a general meeting where that person is not entitled to vote on that resolution.

21.3 If a Member has appointed more than one proxy or Member Representative, only one proxy or Member Representative (as the case may be) must be counted.

21.4 An objection to the qualification of a person to vote at a general meeting:

- (a) must be raised before or immediately after the result of the motion on which the vote objected to is given or tendered; and
- (b) must be referred to the Chair of the meeting, whose decision is final.

21.5 A vote not disallowed by the Chair of a meeting under clause 21.4 is valid for all purposes.

22. Representation at general meetings

- 22.1 Subject to this Constitution, each Member entitled to vote at a meeting of Members may vote:
- (a) in person or, where a Member is a body corporate, by its Member Representative;
 - (b) by proxy; or
 - (c) by a person holding a power of attorney.
- 22.2 A proxy, a person holding a power of attorney or a Member Representative may but does not have to be a Member.
- 22.3 A proxy, attorney or Member Representative may be appointed for a particular general meeting.
- 22.4 Unless otherwise provided in the Corporations Act or in the appointment, an appointment of a proxy, attorney or Member Representative is taken to confer authority:
- (a) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this Constitution;
 - (b) to speak to any proposed resolution on which the proxy, attorney or Member Representative may vote;
 - (c) to demand or join in demanding a poll on any resolution on which the proxy, attorney or Member Representative may vote;
 - (d) even though the appointment may refer to specific resolutions and may direct the proxy, attorney or Member Representative how to vote on those resolutions:
 - (i) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion; and
 - (ii) to vote on any procedural motion to adjourn the meeting; and
 - (iii) to act generally at the meeting; and
 - (e) even though the appointment may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- 22.5 The Chair of a meeting may require any person purporting to act as a proxy, attorney or Member Representative to establish to the satisfaction of the Chair that the person has been validly appointed as a proxy, attorney or Member Representative and is the person named in the relevant instrument of appointment, failing which the person may be excluded from attending or voting at the meeting.
- 22.6 An instrument appointing a proxy, an attorney or Member Representative must be in a form as the Directors may prescribe or accept.
- 22.7 An instrument appointing a proxy is valid if it is signed by the Member making the appointment and contains the name and address of that Member, the name of the Company, the name of

the proxy or the name of the office of the proxy, and the meetings of Members at which the proxy may be used. The Chair of a meeting of Members may determine that an instrument appointing a proxy is valid even if it contains only some of this information.

- 22.8 The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- 22.9 A proxy cannot receive more than one nomination, except for the Chair who may receive more than one nomination.
- 22.10 If the name of the proxy or the name of the office of the proxy in a proxy form of a Member is not filled in, the proxy of that Member is the person specified by the Company in the form of proxy in the case the Member does not choose, or if no person is so specified, the Chair of that meeting.
- 22.11 An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.
- 22.12 A proxy or attorney may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy or attorney, and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed, are received:
- (a) at the registered office of the Company or by electronic transmission (including email) to the electronic address specified for that purpose in the notice convening the meeting; and
 - (b) at least 48 hours before the time scheduled for the commencement of the meeting, as specified in the notice of meeting.
- 22.13 Unless the Company has received written notice of the matter by the time and at the place or in the manner set out in clause 22.12, a vote cast by a proxy or attorney is valid even if, before the proxy or attorney votes:
- (a) the appointer ceases to be a Member; or
 - (b) the Member revokes the proxy's or attorney's appointment; or
 - (c) the Member revokes the authority under which a third party appointed the proxy or attorney.
- 22.14 The authority of a proxy or attorney to speak and vote for a Member at a general meeting is suspended while the Member is present at the meeting.

23. Board of Directors

23.1 Directors

- (a) The Directors in office on the date that this Constitution was adopted by the Company continue in office but on the terms and conditions set out in this Constitution.
- (b) The minimum number of Directors is 5.

- (c) The maximum number of directors is to be fixed by the Directors but must not be more than 9 unless the Company in general meeting determines otherwise. The Directors must not determine a maximum which is less than the number of Directors in office at the time the determination takes effect.

23.2 Officer-bearers

- (a) The Company will have the following officer-bearers, namely:
 - (i) the President;
 - (ii) one or more Vice-President(s); and
 - (iii) an Honorary Treasurer.
- (b) The President may not serve as President more than a total of 6 years consecutively.

24. Election of Directors

24.1 Election of Directors

- (a) The Directors shall be elected from among the Members and Member Representatives, as applicable, and shall hold office until the annual general meeting on the third anniversary of their election, when they shall be eligible for re-election for a further term of 3 years.
- (b) Subject to clause 24.1(c), no Director may be re-elected more than twice consecutively so that no Director may serve consecutively more than a total of 9 years.
- (c) A Director who has held office for a continuous period of 9 years or more may only be re-elected for one or more further term or terms of 12 months by a Special Resolution.
- (d) To be eligible for election as Director, a person must:
 - (i) be 18 years of age or older;
 - (ii) not be ineligible to be a director under the Corporations Act or the ACNC Act;
 - (iii) have knowledge about and be committed to the charitable purposes of the Company set out in clause 5.1;
 - (iv) not be an employee of the Company; and
 - (v) meet any other criteria relating to the composition of the Board and skills and qualifications of directors as may be determined by the Directors from time to time.

24.2 Manner of election

- (a) Subject to clause 24.2(b), the election of Directors shall take place in the following manner:
 - (i) any 2 Members may nominate any other Member (or Member Representative, as applicable) to serve as a Director;

- (ii) all nominations for Director shall be in writing and signed by the 2 nominating Members shall be lodged with the Secretary at least 35 days before the annual general meeting at which the election is to take place;
 - (iii) balloting lists shall be prepared (if necessary) containing the names of the candidates only in alphabetical order, and each Member present at the annual general meeting shall be entitled to vote for any number of such candidates not exceeding the number of vacancies; and
 - (iv) the candidate obtaining the greatest number of the votes shall be elected and in case of an equality of votes for the last place or places those candidates obtaining the same number of votes shall become elected provided the number of directors does not exceed the maximum number allowed by this Constitution. If the maximum number is exceeded, the Board will decide by lot which candidates receiving the same number of votes become elected.
- (b) The Board may from time to time pass a by-law allowing for Director elections to be carried out by postal or electronic vote.

25. Casual vacancies

The Board may from time to time appoint any Member or Member Representative, as applicable, to the Board to fill a casual vacancy provided that the total number of Directors shall not at any time exceed the maximum number allowed by this Constitution. Any Director so appointed shall hold office only until the next annual general meeting.

26. Vacation of office of Director

The office of a Director shall become vacant if the Director:

- (a) becomes ineligible to be a Director under the Corporations Act or the ACNC Act;
- (b) dies;
- (c) becomes bankrupt or makes arrangements or composition with his or her creditors generally;
- (d) is, due to physical or mental impairment, unable to properly perform the duties of a Director, as determined by a suitably qualified professional acting reasonably;
- (e) is convicted of an indictable offence;
- (f) resigns their office by notice in writing to the Company;
- (g) is absent without permission of the Board from 4 consecutive Board meetings;
- (h) ceases to be a Member or Member Representative, as applicable; or
- (i) is removed as a Director by ordinary resolution of the Members at a general meeting.

27. Remuneration of Directors

- 27.1 Directors, including Alternate Directors, shall not be remunerated out of the funds of the Company for performing the functions of a Director of the Company. With the approval of the Board, individual Directors may be paid for professional services they provide to the Company at the request of the Board in relation to particular matters and/or disbursements arising in relation thereto that they are able to provide due to their particular skills for the benefit of the Company.
- 27.2 Directors may be paid travelling and other expenses properly incurred by them in connection with the affairs of the Company, including attending and returning from general meetings of the Company or meetings of the Board or of Board Committees.
- 27.3 Notwithstanding anything else in this constitution, no payment of any kind can be made by the Company to a Director unless that payment is approved by:
- (a) the Directors; or
 - (b) such other person or persons to whom the Directors may have delegated such authority in a way consistent with clause 37.

28. Conflicts of interest

- 28.1 A Director is not disqualified merely because of being a Director from being employed by the Company or acting in any professional capacity, other than auditor, on behalf of the Company.
- 28.2 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 the Board (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.
- 28.3 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.
- 28.4 Each Director who has a material personal interest in a matter that is being considered at a Board meeting (or that is proposed in a circular resolution) must not, except as provided under clause 28.5:
- (a) be present at the meeting while the matter is being discussed; or
 - (b) vote on the matter.
- 28.5 If clause 28.4 operates to the effect that there are not enough Directors to form a quorum for a Board meeting, one or more Directors (including those who have a material personal interest) may call a general meeting and the general meeting may pass a resolution to deal with the matter.

28.6 A Director may still be present and vote if:

- (a) 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;
- (b) their interest relates to an indemnity payment by the Company, or any contract relating to an indemnity that is allowed under the Corporations Act;
- (c) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter; or
- (d) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company; and
 - (ii) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

28.7 The Directors may make by-laws setting out the policies regarding the disclosure of interests that a Director, and any person deemed by the Directors to be related to or associated with the Director, may have in any matter concerning the Company or a related body corporate.

28.8 Any by-laws made under clause 28.7 bind all Directors and apply in addition to any obligations imposed on the Directors by the Corporations Act and the ACNC Act to disclose interests to the Company.

29. Powers and duties of Directors

29.1 The Directors are responsible for managing the business of the Company and may exercise to the exclusion of the Company in general meeting all the powers of the Company which are not required by the Corporations Act or this Constitution to be exercised by the Company in general meeting.

29.2 Without limiting the generality of clause 29.1, the Directors may exercise all the powers of the Company to borrow or otherwise raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

29.3 The Directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments or other documents must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the Company.

29.4 The Directors may pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of the assets acquired by it.

29.5 The Directors may:

- (a) appoint or employ any person to be an officer, agent or attorney of the Company for the purposes, for the period and on the conditions as they think fit;

- (b) grant a power of attorney that may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the Directors think fit.
- (c) resolve to delegate any of their powers to an officer, agent or attorney and the officer, agent or attorney must exercise the powers delegated in accordance with any directions of the Directors;
- (d) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
- (e) subject to any contract between the Company and the relevant officer, agent or attorney, remove or dismiss any officer (excluding a Director of the Company), agent or attorney of the Company at any time, with or without cause.

29.6 The Board may make and approve by-laws, regulations and rules for the operation of the Company and interpretation and implementation thereof.

29.7 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 5.1;
- (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 28;
- (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.

30. Board meetings

30.1 The Directors may hold meetings for the conduct of business and adjourn and otherwise regulate their meetings as they think fit.

30.2 Subject to the Corporations Act, the Directors may hold Board meetings using any technology that is agreed to by all of the Directors. Such agreement may be a standing one and a Director may only withdraw their consent within a reasonable period before the meeting.

31. Convening of meetings of Directors

- 31.1 A Director may, whenever the Director thinks fit, convene a Board meeting.
- 31.2 The Secretary must, on the requisition of a Director, convene a Board meeting.

32. Notice of Board meetings

- 32.1 Subject to this Constitution, notice of a Board meeting must be given to each person who is at the time of giving the notice:
- (a) a Director, other than a Director on leave of absence approved by the Directors; or
 - (b) an Alternate Director appointed under clause 38 by a Director on leave of absence approved by the Directors.
- 32.2 A notice of a Board meeting:
- (a) must specify the time and place of, or form of technology for, the meeting;
 - (b) must state the nature of the business to be transacted at the meeting;
 - (c) may be given in person, by post or, subject to the Corporations Act, by a form of technology;
 - (d) must be provided with sufficient time for the Directors to properly consider the subject matter contained within the notice and any accompanying materials;
 - (e) will be taken to have been given to an Alternate Director if it is given to the Director who appointed that Alternate Director.
- 32.3 A Director or Alternate Director may waive notice of a Board meeting by notifying the Company to that effect in person, by post or by a form of technology.
- 32.4 The non-receipt of notice of a Board meeting by, or a failure to give notice of a Board meeting to a Director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
- (a) the non-receipt or failure occurred by accident or error;
 - (b) before or after the meeting, the Director or Alternate Director appointed by the Director:
 - (i) has waived or waives notice of that meeting under clause 32.3; or
 - (ii) has notified or notifies the Company of their agreement to that act, matter, thing or resolution personally, by post or by a form of technology.
- 32.5 Attendance by a person at a Board meeting waives any objection that person and:
- (a) if the person is a Director, any Alternate Director appointed by that person; or

- (b) if the person is an Alternate Director, the Director who appointed that person as Alternate Director,

may have to a failure to give notice of the meeting.

33. Quorum at Board meetings

- 33.1 No business may be transacted at a Board meeting unless there is a quorum of Directors at the time the business is dealt with.
- 33.2 A quorum consists of 5 Directors.
- 33.3 A Director is to be taken to be present at a Board meeting if the Director is present in person or using technology.
- 33.4 If, within 30 minutes after the time appointed for the meeting, a quorum is not present, then, without prejudice to the right of those present to discuss but not to vote on any matter, the meeting will be dissolved or stand adjourned to such time, date and place as those present at the meeting decide and as notified to all Directors in accordance with clause 32.1.
- 33.5 Notwithstanding the above, if there is a vacancy in the office of a Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a Board meeting, the remaining Directors may act only in an emergency or for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum or of convening a general meeting of the Company.

34. Board Chair

The President shall preside as Board Chair at every Board meeting, or if there is no President, the President is not present within 15 minutes after the time for holding the meeting (or part of the meeting) or the chairperson is present but is prevented from acting or not willing to act as chair of the meeting or of part of the meeting, the Vice-President shall act as chair of the meeting (or part of the meeting); or if there is no Vice-President, the Vice-President is not present within 15 minutes after the time for holding the meeting (or part of the meeting), or the Vice-President is present but is prevented from acting or not willing to act as chair of the meeting or of part of the meeting, the Directors may choose one of their number to be the Board Chair of the meeting (or part of the meeting).

35. Decisions of Directors

- 35.1 A Board meeting at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Directors under the law and this Constitution.
- 35.2 Questions arising at a Board meeting and any other matter to be determined by the directors under this Constitution are (unless a higher number or threshold is required under the law or this Constitution) to be decided by a majority of votes cast by the Directors present and a decision of that kind is for all purposes a determination of the Directors.

- 35.3 In the case of an equality of votes upon any proposed resolution at a Board meeting, the Board Chair shall have a second or casting vote.

36. Written resolutions

- 36.1 An act, matter or thing is taken to have been done or a resolution passed at a Board meeting if a document containing a statement to that effect is assented to by all of the Directors other than:

- (a) a Director on leave of absence approved by the Directors;
- (b) a Director who disqualifies himself or herself from considering the act, matter or thing in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; and
- (c) a Director who the Directors reasonably believe is not entitled to do the act, matter or thing or to vote on the resolution in question,

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

- 36.2 The act, matter or thing is taken to have been done or the resolution passed when the document is last assented to by a Director and communicated to the President.
- 36.3 Two or more separate documents in identical terms each of which is assented to by one or more Directors may be taken as constituting one document.
- 36.4 A Director may signify assent to a document by signing the document or by notifying the Company of the Director's assent in person or by post, electronic, telephone or other method of written, audio or audio visual communication.
- 36.5 Where a Director signifies assent to a document otherwise than by signing the document, the Director must by way of confirmation sign the document at the next Board meeting attended by that Director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.
- 36.6 Where a document is assented to in accordance with this clause 36, the document is to be taken as a minute of a Board meeting.

37. Board Committees

- 37.1 The Directors may resolve to delegate any of their powers to a Board committee or committees consisting of such number of Directors as they think fit. The Directors may revoke or vary any power so delegated.
- 37.2 A Board committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.
- 37.3 The provisions of this Constitution applying to meetings and resolutions of Directors apply, so far as they can and with any necessary changes, to meetings and resolutions of a Board Committee.

- 37.4 Membership of a Board Committee may be treated as an extra service or special exertion performed by the members of the Board committee.
- 37.5 The Directors may continue to exercise all of their powers despite any delegation made under this clause 37.

38. Alternate Directors

- 38.1 With the prior approval of the Board, a Director may appoint a person that is a Member of the Company to be the Director's Alternate Director for such period as the Director thinks fit.
- 38.2 An Alternate Director may, but need not, be a Director of the Company however an Alternate Director must be a Member of the Company.
- 38.3 One person may act as the Alternate Director to more than one Director.
- 38.4 An Alternate Director may resign as an Alternate Director prior to the end of any stated period of appointment by giving notice of resignation to the Director appointing him or her and by giving the Company a copy of such resignation.
- 38.5 An Alternate Director is entitled, if the appointer does not attend a Board meeting, to attend and vote in place of and on behalf of the appointer, provided that, if more than one Director appoints the same person as an Alternate Director, that Alternate Director will only be entitled to one vote in his or her capacity as an Alternate Director at any Board meeting.
- 38.6 An Alternate Director is entitled to a separate vote for each Director the Alternate Director represents in addition to any vote the Alternate Director may have as a Director in his or her own right.
- 38.7 In the absence of the appointer, an Alternate Director may exercise any powers that the appointer may exercise and the exercise of that power by the Alternate Director is to be taken to be the exercise of the power by the appointer.
- 38.8 The office of an Alternate Director is vacated if and when the appointer vacates office as a Director.
- 38.9 The appointment of an Alternate Director may be terminated at any time by the appointer even though the period of the appointment of the Alternate Director has not expired.
- 38.10 An appointment, or the termination of an appointment, of an Alternate Director must be in writing signed by the Director who makes or made the appointment and does not take effect unless and until the Company has received notice in writing of the appointment or termination.
- 38.11 An Alternate Director is not to be taken into account in determining the minimum or maximum number of Directors allowed under this Constitution.
- 38.12 In determining whether a quorum is present at a Board meeting:
- (a) where a Director has appointed an Alternate Director, that Alternate Director is counted if the appointing Director is not present;

- (b) where a person is present as Director and an Alternate Director for another Director, that person is counted separately provided that there is at least one other Director or Alternate Director present; and
- (c) where a person is present as an Alternate Director for more than one Director, that person is counted separately for each appointment provided that there is at least one other Director or Alternate Director present.

38.13 An Alternate Director, while acting as a Director, is responsible to the Company for his or her own acts and defaults and is not to be taken to be the agent of the Director by whom he or she was appointed.

38.14 As a corollary to the above, any Director appointing any Alternate Director is not responsible for the acts and defaults of the Alternate Director.

39. Validity of acts

All acts done by any meeting of the Board or a Board committee or by any person acting as a Director or committee member shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or committee member or that the Director or committee member or any of them were disqualified, had vacated office, or was not entitled to vote, be as valid as if every such person had been duly appointed and was qualified to be a Director or committee member.

40. Executive officers

40.1 General Manager

- (a) The Board may employ a General Manager who will manage the day-to-day business of the Company.
- (b) The General Manager will report to and be responsible to the Board for the Company's activities and operations.
- (c) The General Manager shall, if requested by the Board, attend Board meetings and Board Committee meetings, and discuss and provide information on matters relevant to the operations of the Company but will not have a vote unless the General Manager is also a member of the relevant Board or Board Committee.

40.2 Secretary

- (a) The Board shall appoint a Secretary who may be, but does not need to be, a Director.
- (b) The Secretary shall attend Board meetings, discuss and provide information on matters relevant to the operations of the Company, record minutes and other records of proceedings and comply with the requirements of the Corporations Act and other relevant laws relating to the role of Secretary.
- (c) The Secretary shall in accordance with the Corporations Act be appointed by the Board for such term, at such remuneration and upon such conditions as it thinks fit, in accordance with this Constitution, and any Secretary so appointed may also be removed by it.

- (d) Subject to any contract between the Company and the relevant Secretary, the Secretary of the Company may be removed or dismissed by the Directors at any time, with or without cause. If that person is a Director, such removal or dismissal does not remove that person from office as a Director.
- (e) The duties of the Secretary include:
 - (i) ensuring that the necessary registers required by the law are established and properly maintained;
 - (ii) ensuring that any required annual returns and annual reports are lodged with the appropriate regulator on time; and
 - (iii) ensuring the organisation of, and attendance at, meetings of the Members and the Directors, including the sending out of notices, the preparation of agenda and the compilation of minutes.
- (f) An act done by a person acting as a Secretary is not invalid just because:
 - (i) of a defect in the person's appointment as a Secretary; or
 - (ii) the person is disqualified from being a Secretary,
 if that circumstance was not known by the person or the Directors when the act was done.

40.3 Provisions applicable to all other executive officers

- (a) A reference in this clause 40.3 to an 'executive officer' is a reference to executive officers other than the General Manager or the Secretary.
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the Board deems fit.
- (c) Subject to any contract between the Company and the relevant executive officer, an executive officer of the Company may be removed or dismissed by the Board at any time, with or without cause.
- (d) The Board may:
 - (i) confer on an executive officer the powers, discretions and duties as they think fit, and may resolve to delegate any powers, discretions and duties vested in or exercisable by the Directors;
 - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (iii) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (e) An executive officer is not required to be a Member to qualify for appointment.

- (f) An act done by a person acting as an executive officer is not invalidated by reason only of:
 - (i) a defect in the person's appointment as an executive officer; or
 - (ii) the person being disqualified to be an executive officer,if that circumstance was not known by the person when the act was done.

41. Accounts; Inspection of accounts; Audit

41.1 Accounts

The Board shall cause proper accounting and other records to be kept and shall distribute copies of every income statement and statement of financial position (including every document required by law to be attached thereto) accompanied by a copy of the auditor's report thereon as required by the Corporations Act provided, however, that the Board shall cause to be made out and laid before each annual general meeting a statement of financial position and income statement made up to a date not more than six months before the date of the meeting.

41.2 Inspection of Accounts

The annual audited financial reports shall be placed on the Company's website.

41.3 Audit

- (a) A properly qualified auditor shall be appointed and their remuneration fixed and duties regulated in accordance with the Corporations Act.
- (b) At least once in every year the accounts of the Company shall be examined and the correctness of the balance sheet ascertained by a properly qualified auditor.

42. Seal

42.1 Adoption of common seal

- (a) The Board may determine that the Company have a common seal or for the Company to no longer have a common seal.
- (b) Clauses 42.2 and 42.3 only apply if the Company has a common seal.

42.2 Safe custody of Seal

The Board must provide for the safe custody of the Seal.

42.3 Use of Seal

- (a) The Seal must be used only by the authority of the Board or a Board Committee authorised by the Board to authorise the use of the Seal.
- (b) The authority to use the Seal may be given before or after the Seal is used.

- (c) Until the Board determines otherwise, the fixing of the Seal to a document must be witnessed by either 2 Directors or a Director and the Secretary.

43. Winding up and revocation of DGR status

43.1 Winding up

Upon the winding up or dissolution of the Company, any assets remaining after satisfaction of all of the Company's debts and liabilities, will not be paid to or distributed among the Members, but will be transferred to some other organisation or organisations determined by the Board at or before the time of winding up or dissolution of the Company and, in default of any determination, by the Supreme Court of New South Wales, Australia:

- (a) which has charitable objectives similar to or inclusive of the objectives of the Company;
- (b) whose constituent documents require its income and property to be applied in promoting its objectives;
- (c) whose constituent documents prohibit the distribution of its income and property among its Members to an extent at least as great as those set out in clause 12; and
- (d) which, if the Company has deductible gift recipient endorsement, is or are deductible gift recipients within the meaning of the *Income Tax Assessment Act 1997* (Cth).

43.2 Revocation of DGR status

If the Company has deductible gift recipient endorsement and it loses such endorsement or has such endorsement revoked (whether or not the Company is to be wound up), any surplus gift funds must be transferred to one or more organisations determined by the Board:

- (a) which has objectives similar to or inclusive of the objectives of the Company;
- (b) whose constituent documents require its income and property to be applied in promoting its objectives and agrees to use any distribution provided to it by the Company to further such objects or purposes;
- (c) whose constituent documents prohibit the distribution of its income and property among its Members on terms substantially to the effect of clause 12 (either while it is operating or upon winding up);
- (d) is registered as a charity with the Australian Charities and Not-for-profits Commission; and
- (e) which, if the Company has deductible gift recipient status, is or are deductible gift recipients within the meaning of the *Income Tax Assessment Act 1997* (Cth).

44. Minutes and records

44.1 Minutes

The Board must cause minutes of:

- (a) all proceedings and resolutions of general meetings;

- (b) proceedings and resolutions of meetings of the Board and of Board Committees; and
- (c) resolutions passed by the Board without a meeting,

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

44.2 Signing of minutes

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

44.3 Minutes as evidence

A minute that is recorded and signed in accordance with clauses 44.1 and 44.2 is evidence of the proceeding, a resolution to which it relates, unless the contrary is proved.

44.4 Inspection of records

- (a) Subject to the Corporations Act, the Board may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the Company or any of them will be open to the inspection of Members other than Directors.
- (b) A Member who is not also a Director does not have the right to inspect any books, records or documents of the Company except as provided by law or authorised by the Board.
- (c) The Company must establish and administer all registers required to be kept by the Company in accordance with the Corporations Act and each Member must provide the Company with such information as is required for the Company to comply with this clause 44.4(c). If events occur which would cause the information contained a register maintained by the Company to be inaccurate the Member must notify the Company in writing of the change within 21 days of the date of such change occurring.
- (d) Unless proved incorrect, the register is sufficient evidence of the matters shown in the register.
- (e) The Company must keep the financial records required by the Corporations Act.

44.5 Directors' access to documents

A Director has a right of access to the financial records of the Company at all reasonable times.

45. Indemnity and insurance

45.1 Indemnified Persons

In this clause 45, **Indemnified Person** means:

- (a) each person who is or has been a Director or executive officer (within the meaning of clause 40) of the Company;

- (b) such other officers or former officers of the Company or of its related bodies corporate as the Board in each case determines; and
- (c) if the Board so determines, any auditor or former auditor of the Company or of its related bodies corporate.

45.2 Indemnity

The Company indemnifies, to the extent permitted by law, each Indemnified Person for all losses or liabilities incurred by the person as an officer of the Company and, if the Directors so determine, an auditor of the Company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis.

45.3 Extent of Indemnity

The indemnity in clause 45.2:

- (a) is a continuing obligation and is enforceable by an Indemnified Person even though that person may have ceased to be an officer or auditor of the Company or of a related body corporate;
- (b) applies to losses and liabilities incurred both before and after the date of adoption of that clause;
- (c) does not cover any loss or liability of an officer seeking to be indemnified under that clause if that loss or liability arises from that person's wilful misconduct or fraud; and
- (d) operates only to the extent that the loss or liability is not paid by insurance.

45.4 Insurance

The Company must, to the extent permitted by law:

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

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

45.5 Savings

Nothing in clauses 45.2 to 45.4 (inclusive):

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

46. Notices

46.1 Notices by the Company to Members

- (a) A notice may be given by the Company to a Member:
 - (i) by serving it personally at, or by sending it by post in a prepaid envelope to, the Member's address as shown in the Register of Members or any other address, or by any electronic transmission (including email) to any electronic address, as the Member has supplied to the Company for the giving of notices; or
 - (ii) if the Member does not have a registered address and has not supplied another address to the Company for the giving of notices, by exhibiting it at the registered office of the Company.
- (b) A signature to any notice given by the Company to a Member under this clause 46 may be in writing or by some other means (including electronically).
- (c) A certificate signed by a Director or Secretary of the Company to the effect that a notice has been given in accordance with this Constitution is conclusive evidence of that fact.

46.2 Notices by the Company to Directors

Subject to this Constitution, a notice may be given by the Company to any auditor, or Director either by serving it personally at, or by sending it by post in a prepaid envelope to, the auditor's or Director's usual residential or business address, or such other address, or by electronic transmission (including email) to such electronic address as the auditor or Director has supplied to the Company for the giving of notices.

46.3 Notices by Members or Directors to the Company

- (a) Subject to this Constitution, a notice may be given by a Member or Director to the Company by serving it on the Company at, or by sending it by post in a prepaid envelope to, the registered office of the Company or by electronic transmission (including email) to the principal electronic address at the registered office of the Company.
- (b) The Directors may resolve generally, or on a case-by-case basis, that a notice that is to be received by the Company is not to be accepted if given by electronic means.
- (c) If a resolution of Directors is passed under clause 46.3(b), the Company must give sufficient notice of the resolution to those required to give the particular notice to allow for the giving of notice by other means.

46.4 Notices to Members outside Australia

A notice to be sent to a Member outside Australia and its external territories must be sent by airmail or by electronic mail (such as email) or in another way that ensures it will be received quickly.

46.5 Time of service

- (a) Where a notice is served personally, service of the notice is taken to be effected when delivered.

- (b) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (i) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (c) Where a notice is sent by electronic mail or other electronic means, service of the notice is taken to be effected:
 - (i) when the sender receives a confirmation of delivery; or
 - (ii) 30 minutes after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the notice has not been delivered,

whichever happens first.
- (d) Where the Company gives a notice under clause 46.5(b)(i) by exhibiting it at the registered office of the Company, service of the notice is to be taken to be effected when the notice was first so exhibited.
- (e) If the delivery or receipt of a notice is on a day which is not a Business Day or is after 5.00pm on a Business Day, it is deemed to be received at 9.00am on the following Business Day.

46.6 Other communications and documents

Clauses 46.1 to 46.5 (inclusive) apply, so far as they can and with necessary changes, to the service of any communication or document.

46.7 Notices in writing

Any notice, statement or other communication under this Constitution must be in writing, except that any notice convening a Board meeting does not need to be in writing.

47. By-laws

47.1 Power to formulate by-laws of the Company

Without limiting the board's powers under this Constitution, the board may from time to time pass resolutions to make or amend by-laws relating to;

- (a) the qualifications of Members and applicants for Membership;
- (b) the procedure and timing of an application for admission;
- (c) procedure for nomination of Directors;
- (d) the election of Directors;

- (e) the delegation by the Board of its powers to the Board Committees;
- (f) the powers, role and function of any committee members, executive officers or Directors (including the terms of appointment of any executive director); and
- (g) any other matter not being inconsistent with this Constitution which relates to the operations or conduct of the Company.

47.2 Inconsistency

In the event of any inconsistency between by-laws formulated pursuant to clause 47.1 and the provisions of this Constitution or the law, the provisions of this Constitution and the law shall prevail.

47.3 Effects of the by-laws

The Members and Directors must comply with by-laws as if they were part of this Constitution.

48. General

48.1 Submission to jurisdiction

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

48.2 Prohibition and enforceability

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

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

48.3 Amending the Constitution

- (a) Subject to sub-clause (b) below, the Members may amend this Constitution by passing a Special Resolution.
- (b) The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to no longer be a charity.

48.4 Dispute Resolution

Any disputes (disagreements) under this Constitution between a Member or Director and:

- (a) one or more Members;
- (b) one or more Directors; or

(c) the Company,

must be resolved in accordance with the dispute resolution procedures as set out in the relevant by-law passed by the Board from time to time.

Lyn Tuit



François Romanet

