

Constitution

ASHM Health (ASHM)

Approved at EGM, 11 September 2025

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1. NAME OF THE COMPANY

The name of the Company is ASHM Health.

2. TYPE OF COMPANY

- (a) The Company is a not-for-profit public company limited by guarantee and a registered charity. It is therefore subject to the requirements of the Act and is regulated by the Australian Charities and Not for Profit Commission (**ACNC**).
- (b) Subject to this Constitution, each person who is a Member and each person who was a Member during the year ending on the day of the commencement of the winding up of the Company, undertakes to contribute to the property of the Company for:
 - (i) payment of debts and liabilities of the Company;
 - (ii) payment of the costs, charges and expenses of winding up; and
 - (iii) any adjustment of the rights of the contributories among Members.
- (c) The amount that each Member or past Member is liable to contribute is limited to one dollar (\$1.00).

3. REPLACEABLE RULES

This Constitution displaces the Replaceable Rules to the extent that it is inconsistent with any Replaceable Rules.

4. DEFINITIONS AND INTERPRETATION

4.1 Definitions

In this Constitution, unless there is something in the subject or context which is inconsistent:

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

Alternate Director means any natural person appointed by a Director for the time being to hold the office of alternate director.

Annual General Meeting means the annual general meeting of the Members of the Company.

Blood-borne Virus or BBV means a virus that is transmitted by blood or body fluids.

Board means the Board of Directors.

Chair means the person holding that office under this Constitution and includes any assistant or acting chair.

Committee means a committee established in accordance with **clause 51**.

Company means ASHM Health.

Constitution means this Constitution as amended or supplemented from time to time.

DGR means a deductible gift recipient as defined by the law from time to time.

Director means any person holding the position of a director of the Company (including the Office Bearers, Ordinary Directors and Independent Directors).

Directors means the directors for the time being of the Company or, as the context permits, such number of them as have authority to act for the Company.

Extraordinary General Meeting means a general meeting that is convened in accordance with ASHM's constitution and is held to deal with any matters that cannot wait until the next AGM.

Financial Year means the period commencing on 1 July in any calendar year to 30 June in the following calendar year (both inclusive).

Financial Member means a Member who has paid the nominated subscription rate (as approved by the Board).

HIV means Human Immunodeficiency Virus.

Honorary Life Member means a person who is an Individual Member of the Company in accordance with **clause 6.5(b)**.

In writing means in written form be that handwriting, typed or electronically generated

Independent Director means a director appointed to the board by the board pursuant to clause 40

Individual Member means a natural person who is a Member of the Company.

Member means a member of the Company pursuant to **clause 6** (and **Membership** has the corresponding meaning) and includes:

- (a) Organisational Members;
- (b) Individual Members;
- (c) Ordinary Members;
- (d) Honorary Life Members;
- (e) Student Members;
- (f) Retired Members; and
- (g) Sustaining Members.

Member's Guarantee Amount means the amount referred to in **clause 2(c)**.

Objects means the objects of the Company as set out in **clause 5.1**.

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

Office Bearer means the:

- (a) President;
- (b) President Elect;
- (c) Vice Presidents; and
- (d) Treasurer,

of the Company.

Officer has the same meaning as given to that term in section 9 of the Act.

Ordinary Director means a Director referred to in **clause 36.2(a)(ii)** and may include a reference to a Independent Director.

Ordinary Member means any person who is a Member of the Company in accordance with **clause 6.5(a)**.

Organisational Member means a Member of the Company which is a body corporate.

President means the President of the Board as referred to in **clause 37**.

President Elect means the President Elect of the Board as referred to in **clause 37**.

Register means the register of Members to be kept pursuant to the Act and **clause 59**.

Replaceable Rules means the replaceable rules applicable to a public company limited by guarantee set out in the Act.

Representative means a person as described in **clause 7**.

Retired Member means a person who is an Individual Member of the Company in accordance with **clause 6.5(d)**.

Secretary means the person appointed as the secretary of the Company under **clause 54**, and includes any assistant or acting secretary.

Special Resolution means, in relation to a resolution of Voting Members, a resolution approved by at least seventy-five per cent (75%) of the Voting Members Present entitled to vote on the resolution.

Student Member means any person who is an Individual Member of the Company in accordance with **clause 6.5(c)**.

Subscription means the subscription fees payable by Members pursuant to **clause 9**.

Sustaining Member means an Individual Member or Organisational Member of the Company in accordance with **clause 6.5(e)**.

Treasurer means the Office Bearer referred to in **clause 37**.

Vice President means the Office Bearer referred to in **clause 37**.

Voting Members means:

- (a) Ordinary Members who are also Financial Members; and
- (b) Honorary Life Members.

Voting Member Present means, in connection with a meeting of Members, a Voting Member being present in person or by proxy or attorney.

4.2 Interpretation

- (a) In this Constitution, unless there is something in the subject or context which is inconsistent:
 - (i) the singular includes the plural and vice versa;
 - (ii) each gender includes all other genders;
 - (iii) the word "person" means a natural person and any partnership, association, body or entity whether incorporated or not;
 - (iv) the words "writing" and "written" include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
 - (v) 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;
 - (vi) a reference to any clause or schedule is to a clause or schedule of this Constitution; and
 - (vii) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it.
- (b) An expression used in a particular Part or Division of the Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any clause that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division.
- (c) Headings do not form part of or affect the construction or interpretation of this Constitution.

5. OBJECTS AND PURPOSES

5.1 Objects

- (a) The Company is a charitable institution and a health promotion charity. The Objects of the Company are:

- (i) to provide support and representation to health care providers in the areas of HIV, viral hepatitis, other Blood-borne Viruses, sexual and reproductive health and related conditions;
- (ii) to reduce the impact of HIV, viral hepatitis, other blood-borne viruses, sexually transmitted infections and related conditions by supporting, promoting and facilitating workforce development to ensure the delivery of optimal treatment and care;
- (iii) to foster education for health professionals and the general public through the provision of higher and vocational education courses (and any other continuing education courses) which encourage free intellectual inquiry;
- (iv) to facilitate, foster and advance scientific practice and research;
- (v) to facilitate liaison between and across disciplines to support a partnership approach to dealing with, managing and preventing these conditions, particularly, but not limited to:
 - (A) clinical and laboratory practitioners;
 - (B) specialist and generalist care providers;
 - (C) service providers and policy makers; and
 - (D) promoting multidisciplinary approaches;
- (vi) to promote informed public discussion of issues related to HIV, viral hepatitis, other blood-borne viruses, sexual and reproductive health and related conditions;
- (vii) to provide leadership and advocacy to shape an effective workforce and policy response
- (viii) to liaise with other national or international bodies whose objects are similar to those of the Company;
- (ix) to assist those involved in health care provision in developing countries to achieve these objects and, in particular, to undertake development and/or aid activities in relation to those objectives in those countries;
- (x) to attempt to meet any other needs of the Members, other health professionals and the members of the affected communities or people at risk, through the provision of education, training and support and from participating in the sector;
- (xi) to operate an overseas aid fund (called the "ASHM International Aid Fund"); and
- (xii) to do anything ancillary to the Objects set out in **clauses 5.1(a)(i) to 5.1(a)(x)**.

- (b) The Company can only exercise the powers in section 124(1) of the Act to:
 - (i) carry out the Objects; and
 - (ii) do all things incidental or convenient in relation to the exercise of power under **clause 5.1(b)(i)**.

5.2 Income and Property

- (a) The income and property of the Company will be applied solely towards the promotion of the Objects and the exercise of the Company's powers as set out in this Constitution.
- (b) No income or property of the Company will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Company. However, nothing in this Constitution will prevent payment in good faith:
 - (i) to a Member in return for any services rendered or goods supplied or hired by the Company from a Member in the ordinary and usual course of business to the Company;
 - (ii) as remuneration to any employee of the Company;
 - (iii) of interest to a Member at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Company; or
 - (iv) of reasonable and proper rent to a Member for premises leased by any Member to the Company; and
 - (v) for moneys representing reimbursement to a Member of out-of-pocket expenses reasonably incurred by the Member and to which the Member would be entitled if they were not a Member.
- (c) No payment shall be made to any Director other than the payment:
 - (i) of out of pocket expenses incurred by the Director in the performance of any duty as a Director where the amount payable does not exceed an amount previously approved by the Board; and
 - (ii) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable for the service.

MEMBERSHIP

6. ADMISSION TO MEMBERSHIP

6.1 Number of Members

The Company must have at least one hundred (100) Members.

6.2 Pre-condition to Membership

Subject to **clause 6.5**, a person or body corporate is entitled to become a Member if that person or body corporate agrees to assume the liability to pay the Member's Guarantee Amount.

6.3 Becoming a Member

Subject to the Act, a person or body corporate becomes a Member on the registration of that person's or body corporate's name in the Register.

6.4 Classes of Membership

- (a) There are five (5) classes of Membership in the Company, being the following:
 - (i) Ordinary Members;
 - (ii) Honorary Life Members;
 - (iii) Student Members;
 - (iv) Retired Members;
 - (v) Sustaining Members; and
- (b) In addition to those benefits attached to different classes of Membership as set out in this **clause 6**, the Board will determine from time to time what additional benefits shall attach to each class of Membership.
- (c) Only Ordinary Members who are also Financial Members, and Honorary Life Members are entitled to vote at the Company's AGM and are eligible to hold office.

6.5 Eligibility for Membership

The eligibility criteria of the respective classes of Membership are as follows:

(a) Ordinary Member

An individual person will be entitled to be an Ordinary Member if:

- (i) the person is a medical or health services graduate; or
- (ii) the person is a health care provider;
- (iii) the person is a health policy maker, planner or scientist who works in the HIV, viral hepatitis, other BBVs or sexual and reproductive health sector;
- (iv) the person is an employee or volunteer in the HIV, viral hepatitis, other BBVs or sexual and reproductive health sector; or
- (v) the person has a valid interest within the HIV, viral hepatitis, other BBVs or sexual and reproductive health sector.

and:

- (vi) the person agrees with and will work to further the Objects; and

- (vii) the person's application for Membership in this class is approved by the Board.

(b) Honorary Life Member

- (i) An individual person will be entitled to be an Honorary Life Member if the person is invited by the Board to be an Honorary Life Member in recognition of distinguished achievement in furthering the Objects.
- (ii) Eligibility for Honorary Life Membership is determined by the Board in its sole discretion.

(c) Student Member

An individual person will be entitled to be a Student Member if the person:

- (i) is a fulltime student in a health science, medical, research or related discipline and undertakes study in an area relevant to HIV, viral hepatitis, sexual and reproductive health or related conditions; and
- (ii) is interested in furthering the Objects; and
- (iii) has been approved as a Student Member by the Board; and
- (iv) has their on-going enrolment attested to by an academic supervisor or academic advisor.

(d) Retired Member

An individual person will be entitled to be a Retired Member if the person is retired from fulltime employment and:

- (i) is a financial Ordinary Member and has been so for a period of five (5) or more consecutive Calendar Years; or
- (ii) who, at the time of nomination, holds a voluntary or advisory role in the HIV, viral hepatitis, sexual health or related diseases sector; and
 - (A) is interested in furthering the Objects; and
 - (B) has their application for Membership in this class approved by the Board.

(e) Sustaining Member

An Individual Member or Organisational Member will be entitled to be a Sustaining Member if the individual person or body corporate:

- (i) is interested in the Objects;
- (ii) is able to support the Company in the pursuit of the Objects; and
- (iii) has its application for Membership in this class approved by the Board.

6.6 Application for Membership

- (a) The Board may prescribe the form of the application for Membership.
- (b) Subject to **clauses 10.2 and 10.3**, an application for Membership must be:
 - (i) made using a form approved by the Board and made available on ASHM's website;
 - (ii) completed by the applicant; and
 - (iii) lodged with the Secretary.

6.7 Consideration of application for Membership

- (a) As soon as practicable after receiving the application for Membership, the Secretary will refer the application to the Board.
- (b) At the first meeting of the Board after the application for Membership has been received by the Board, the Board must consider the application and either accept or reject the application, without being required to provide any reasons for its determination.

6.8 Approval of application for Membership

- (a) If the Board approves an application for Membership, the Secretary will, as soon as practicable after approval by the Board, notify the applicant of the approval.
- (b) The applicant must, within twenty-eight (28) days after receiving notification of approval for Membership, pay the Subscription.

6.9 Registration as Member

On receipt of the payment of the Subscription pursuant to **clause 6.8(b)**, the Secretary will enter the name of the applicant and the respective class of Membership in the Register.

7. REPRESENTATIVE

7.1 Sustaining Members

This **clause 7** only applies to Sustaining Members which are Organisational Members and nominees for Sustaining Membership which are bodies corporate.

7.2 Nomination

Where a Sustaining Member or a nominee for Sustaining Membership is not an individual person, it must appoint as its Representative a natural person.

7.3 Entry in Register

- (a) The name and address of the Representative will be entered in the Register as the representative of the Sustaining Member.
- (b) All correspondence and notices from the Company will be served on that Representative and any notice served on a Representative will be deemed to be service on the Sustaining Member which is represented by that particular Representative.

7.4 Powers of Representative

If the appointment of a Representative by the Sustaining Member is made by reference to a position held, the appointment must identify the position.

7.5 Replacement of Representative

Despite **clause 8**, a Sustaining Member may remove and replace a Representative where the Sustaining Member gives written notice to ASHM and then approved by the Board.

7.6 Rights and Powers of Representatives

- (a) A signature by a Representative of a Sustaining Member on behalf of that Sustaining Member is taken to be the signature of that Sustaining Member for the purposes of this Constitution.
- (b) Any power or right of a Sustaining Member as granted by this Constitution can be exercised by the Representative of that particular Sustaining Member.
- (c) Sustaining Members are represented at meetings of Members by their Representatives, subject to the right of a Representative to appoint a proxy pursuant to **clause 31**.
- (d) The actions of a Representative bind the Sustaining Member which is represented by that particular Representative.
- (e) Each Representative will comply with the terms of this Constitution in all matters pertaining to the Company as if a Member themselves.

8. MEMBERSHIP ENTITLEMENTS NOT TRANSFERABLE

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

- (a) is not capable of being transferred or transmitted to another person or body corporate;
- (b) terminates on cessation of the person's or body corporate's Membership; and
- (c) may not be exercised during any period that the Member's Subscription has been due but unpaid for a period in excess of six (6) months.

9. SUBSCRIPTIONS

9.1 Payment of Subscription

There shall be a Subscription payable by each Member to the Company, in the form of either an annual subscription or pro-rata option when necessary.

9.2 Amount of Subscription

Subject to **clause 9.3**, the amount of any Subscription shall be fixed by the Board and shall be payable by Members at such times and in such manner as determined by the Board from time to time. The Board can set different rates of Subscriptions for different classes of Membership.

9.3 No Subscription

The Board may in its discretion:

- (a) determine that:
 - (i) no Subscription is payable; or
 - (ii) a discounted Subscription is payable,by a Member or Members in a given year; and
- (b) extend the time for payment of Subscriptions by any Member.

9.4 No refund

No part of any Subscription shall be refunded to a Member who ceases to be a Member in accordance with **clause 11**.

10. VARIATION OF MEMBERSHIP

10.1 Variation

A Member may only vary its Membership in accordance with this **clause 10**.

10.2 Student Members

- (a) Upon completion of a Student Member's study, if a Student Member satisfies the eligibility criteria for Ordinary Membership pursuant to **clause 6.5(a)**, a Student Member is entitled to be nominated for Ordinary Membership.
- (b) Application for Ordinary Membership may be affected by self-nomination by the Student Member.
- (c) The application must be:
 - (i) in writing;
 - (ii) in the form prescribed by the Board, if any;
 - (iii) completed by the applicant; and
 - (iv) lodged with the Secretary.
- (d) As soon as practicable after receiving the application for Ordinary Membership, the Secretary will refer the application to the Board and **clauses 6.7(b) to 6.9** will apply.

10.3 Transition to Retired Member

- (a) Any Ordinary Member is entitled, upon retirement from fulltime employment and subject to satisfying the eligibility criteria pursuant to **clause 6.5(d)**, to self-nominate for Membership as a Retired Member.
- (b) Despite anything else in this Constitution, the approval of the Board is not required to effect a Member's transition to a Retired Member.
- (c) The application must be:

- (i) in writing;
 - (ii) in the form prescribed by the Board, if any;
 - (iii) completed by the applicant; and
 - (iv) lodged with the Secretary.
- (d) As soon as practicable after receiving the application for Retired Membership, the Secretary will enter the name of the applicant as a Retired Member in the Register.

10.4 Transition to Voting Member

- (a) Notwithstanding anything else herein contained, any non-voting Member who is eligible for nomination as a Voting Member must have that nomination approved by the Board.
- (b) The Board may in its absolute discretion require that non-voting Member to seek nomination from two (2) Voting Members.
- (c) If **clause 10.4(b)** applies, the nomination and approval process will be employed in accordance with **clauses 6.6 to 6.9**.

11. CESSATION OF MEMBERSHIP

11.1 Cessation of Membership

A Member's Membership will cease:

- (a) if, being an Individual Member, the Member dies;
- (b) on the date that the Secretary receives written notice of resignation from that Member;
- (c) subject to **clause 9.3**, if that Member has failed to pay the Member's Subscription fees for the current Financial Year and the two (2) preceding Financial Years;
- (d) if the Member is expelled pursuant to **clause 12**;
- (e) if, being an Organisational Member:
 - (i) that Member is dissolved or otherwise ceases to exist;
 - (ii) that Member has:
 - (A) a receiver;
 - (B) a receiver and manager;
 - (C) a liquidator;
 - (D) an administrator;
 - (E) an administrator of a deed of company arrangement; or

- (F) a trustee of other person administering a compromise or arrangement between the Member and someone else,

appointed to it; or

- (f) if the Company in general meeting resolves by a Special Resolution, to terminate the membership of a Member whose conduct or circumstances in the opinion of the Company renders it undesirable that that Member continue to be a Member of the Company. The Member must be given at least twenty-one (21) days' notice of the proposed resolution and must be given the opportunity to be heard at the meeting at which the resolution is proposed.

11.2 Resignation of Membership

- (a) A Member is not entitled to resign as a Member except in accordance with this **clause 11.2**.
- (b) All Subscriptions, all arrears due and unpaid and all other monies due to the Company or for which the Member is liable as a Member of the Company under **clause 2(b)**, including where applicable the Member's Guarantee Amount, must be paid prior to the date on which a written notice of resignation (**Resignation Notice**) is served by the Member on the Company.
- (c) A Resignation Notice must be delivered to the Secretary giving one (1) months' notice of the Member's intention to resign as a Member, or such period as the Board may determine from time to time in its absolute discretion (**Resignation Period**).
- (d) Upon the expiry of the Resignation Period the Member ceases to be a Member.

11.3 Updating the Register

Where a Member ceases to be a Member pursuant to this **clause 11**, and in every other case where a Member ceases to be a Member, the Secretary will make an appropriate entry in the Register recording the date on which the Member ceased to be a Member.

12. DISCIPLINING OF MEMBERS

12.1 Disciplining of Members

- (a) The Board may resolve to expel any Member or to suspend any Member from Membership of the Company where the Board holds the opinion that the Member:
- (i) has persistently refused or neglected to comply with a provision or provisions of this Constitution; or
- (ii) has persistently or wilfully acted in a manner prejudicial to the interests and Objects of the Company.
- (b) A resolution of the Board pursuant to **clause 12.1(a)** will be of no effect unless the Board confirms the resolution in accordance with this clause at a meeting held not earlier than fourteen (14) days and not later than

twenty-eight (28) days after the service on the Member of notice under **clause 12.1(c)**.

- (c) If the Board resolves under **clause 12.1(a)** to expel or suspend any Member, the Secretary must serve the Member with a notice in writing:
 - (i) setting out the resolution of the Board and the grounds upon which it is based;
 - (ii) stating that the Member may address the Board at a meeting to be held not earlier than fourteen (14) days and not later than twenty-eight (28) days after service of the notice;
 - (iii) stating the date, place and time of that meeting; and
 - (iv) informing the Member that the Member may do either or both of the following:
 - (A) attend and speak at that meeting;
 - (B) submit to the Board at or prior to the date of that meeting written representations relating to the resolution.
- (d) At a meeting of the Board held in accordance with **clause 12.1(c)(ii)**, the Board must:
 - (i) give the Member an opportunity to make oral representations;
 - (ii) give due consideration to any written representations submitted to the Board by the Member at or prior to the meeting; and
 - (iii) resolve whether to confirm or to revoke the decision to expel or suspend the Member.
- (e) The Member must be notified in writing of the decision of the Board within seven (7) days. If the Board resolves to confirm the expulsion or suspension, the Member must also be notified of the right of appeal available under **clause 12.2**.
- (f) A resolution confirmed by the Board under **clause 12.1(d)** does not take effect:
 - (i) until the expiration of the period within which the Member is entitled to appeal against the resolution; or
 - (ii) if the Member exercises the right of appeal, until the Company confirms the resolution pursuant to **clause 12.2(d)**.

12.2 Right of Appeal of Disciplined Member

- (a) A Member may appeal to the Company in general meeting against a resolution of the Board, which is confirmed under **clause 12.2(d)**. Written notice of such an appeal must be lodged with the Secretary within seven (7) days of service of the notice required under **clause 12.1(e)**.

- (b) Upon receipt of a notice of appeal under **clause 12.2(a)**, the Secretary will notify the Board and the notice of appeal must be considered at the next general meeting.
- (c) At a general meeting of the Company which has the notice of appeal on its agenda, pursuant to **clause 12.2(b)**:
 - (i) the Board and the Member must be given the opportunity to state their respective cases orally or in the writing, or both; and
 - (ii) the Voting Members present must vote by secret ballot on the question of whether the resolution will be confirmed.
- (d) Confirmation of the resolution may be by a simple majority of those Voting Members Present.

13. RESOLUTION OF DISPUTES BETWEEN MEMBERS

- (a) Disputes between Members (in their capacity as Members), including any disputes in relation to the Company's fundraising activities, shall be referred to the Board which must take steps to resolve the dispute.
- (b) If a dispute so referred is not resolved to the satisfaction of any party to the dispute within thirty (30) days of its being referred, then that party may refer the dispute to mediation before a mediator appointed by mutual agreement of the parties.
- (c) Failing agreement by the parties to the appointment of a mediator within fourteen (14) days of a party notifying the other party of its intention to refer the dispute to mediation, the appointment of the mediator shall be made by the President of the New South Wales Law Society.
- (d) The costs of the mediator appointed pursuant to **clause 13(b)** or **clause 13(c)** (as the case may be) shall be shared equally between the Members party to the dispute.
- (e) At least seven (7) days before a mediation session established by a mediator appointed pursuant to **clause 13(b)** or **clause 13(c)** (as the case may be) is to commence, the parties to the dispute are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.

GENERAL MEETINGS

14. ANNUAL GENERAL MEETINGS

- (a) With the exception of the first Annual General Meeting of the Company, an Annual General Meeting of the Members must be convened at least once in each Financial Year and within a period of six (6) months after the expiration of each Financial Year.
- (b) The Annual General Meeting is, subject to the Act, to be convened on such date and at such place and time as the Board thinks fit.
- (c) Use of virtual technology:

- (i) Voting Members are allowed to attend the AGM via whatever technology is available and deemed suitable by the Board, so long as the Voting Member can hear the proceedings, ask questions and vote.
- (ii) As per **clause 19.2**, Voting Members attending the meeting via virtual technology are included when assessing whether quorum has been reached

15. BUSINESS AT ANNUAL GENERAL MEETINGS

In addition to any other business which may be transacted at an Annual General Meeting, the business of an Annual General Meeting must include the following:

- (a) to confirm the minutes of the last preceding Annual General Meeting and of any general meetings held since that Annual General Meeting;
- (b) to receive from the Board reports on the activities of the Company during the last preceding Financial Year;
- (c) to elect the Ordinary Directors;
- (d) to appoint an auditor;
- (e) to transact such business as may be transacted at an Annual General Meeting pursuant to this Constitution;
- (f) to transact special business of which not less than twenty-one (21) days' notice shall have been given to the Secretary; and
- (g) to transact any other business which the meeting may think fit to be transacted as ordinary business.

16. CONVENING OF GENERAL MEETINGS

- (a) The Board may, whenever it thinks fit, convene a general meeting of the Company.
- (b) The Board must, on the requisition in writing of:
 - (i) not less than five per cent (5%) of the total number of Voting Members; or
 - (ii) at least one hundred (100) Voting Members,convene a general meeting.
- (c) A requisition of Voting Members for a general meeting under **clause 16(b)**:
 - (i) must state the purpose or purposes of the general meeting;
 - (ii) must be signed by the Voting Members making the requisition;
 - (iii) must be lodged with the Secretary; and

- (iv) may consist of several documents in a similar form, each signed by one or more of the Voting Members making the requisition.
- (d) A general meeting of the Company may be convened at two (2) or more venues using any technology that gives the Members a reasonable opportunity to participate in the general meeting.

17. NOTICE OF GENERAL MEETINGS

17.1 Notice

Subject to consent to shorter notice being given in accordance with the Act, at least twenty-one (21) days' notice of any general meeting must be given to each Member and each Director specifying:

- (a) the place, day and hour of the meeting;
- (b) the general nature of any business to be transacted at the meeting;
- (c) if a Special Resolution is to be proposed, the details of and intention to propose it;
- (d) if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and
- (e) any other information required by the Act.

17.2 Failure to give notice

The accidental omission to give notice of any general meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice will not invalidate the proceedings at or any resolution passed at the meeting.

17.3 Voting matters

The matters upon which Voting Members can vote are limited to those matters expressly provided for in the Act, this Constitution and the general law.

17.4 Matters at meetings

- (a) No matter other than that specified in the notice under **clause 17.1** will be transacted at the meeting.
- (b) A Member intending to bring a matter before a meeting must give notice in writing to the Secretary at least one (1) month before the meeting specifying the nature of the matter and the Secretary must include the matter in the next notice given under **clause 17.1**.

18. CANCELLATION OR POSTPONEMENT OF GENERAL MEETING

18.1 Cancellation

Subject to the provisions of the Act and this Constitution, the Board may cancel a general meeting of the Company:

- (a) convened by the Board; or

- (b) which has been convened by a Voting Member or Voting Members pursuant to the Act upon receipt by the Company of a written notice withdrawing the requisition signed by that Voting Member or those Voting Members.

18.2 Postponement

The Board may postpone a general meeting or change the venue at which it is to be held. No business shall be transacted at any postponed meeting other than the business stated in the notice to the Members relating to the original meeting.

18.3 Notification of cancellation or postponement

Where any general meeting is cancelled or postponed or the venue for the same is changed:

- (a) the Board must endeavour to notify in writing each person entitled to receive notice of the meeting of the cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution and in the case of the postponement of a meeting, the new place, date and time for the meeting; and
- (b) any failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

PROCEEDINGS AT GENERAL MEETINGS

19. QUORUM

19.1 Quorum required

No business may be transacted at any general meeting unless a quorum of Voting Members is present at all times during the meeting.

19.2 Quorum

Voting Members numbering twice the maximum number of Directors, as defined in **clause 36.1**, plus one, present in person, via virtual technology (subject to the conditions noted in **clause 14(c)**, or by proxy, constitutes quorum.

19.3 No quorum

- (a) If within thirty (30) minutes after the time appointed for holding a general meeting a quorum is not present:
 - (i) the meeting, if convened upon the requisition of Voting Members, shall be dissolved; and
 - (ii) in any other case it will stand adjourned to the same day in the next week at the same time and place or to such other day time and place as the Board may by notice to the Members appoint..

20. CHAIR

20.1 Chair

The President or, in the President's absence, a Vice President or the President Elect will preside as Chair at every general meeting. The Vice Presidents and President Elect shall determine between them which of them is to preside as Chair in the President's absence. If they cannot agree, the determination will be made by lot.

20.2 No Chair

Where a general meeting is held and:

- (a) there is no Chair; or
- (b) the Chair is not present within thirty (30) minutes after the time appointed for the holding of the meeting or, if present, is unwilling to act as Chair of the meeting,

the other Directors present may choose another Director as Chair of the meeting by two-thirds majority, or if their number is not three or a multiple of three, then the nearest number to one-third. If no Director is so chosen, or if all the Directors present decline to take the chair, the Voting Members Present may choose one of their members to be Chair of the meeting.

20.3 Final ruling

The rulings of the Chair of a general meeting on all matters relating to the order of business, procedure and conduct of the meeting shall be final and no motion of dissent from such rulings shall be accepted.

21. ADJOURNMENTS

21.1 Adjournment

The Chair of a general meeting at which a quorum is present:

- (a) may adjourn a meeting with the consent of the majority of the Voting Members Present; and
- (b) must adjourn the meeting if the majority of the Voting Members Present so directs, to a time and place as determined.

21.2 Business at adjourned meeting

No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.

21.3 Resolutions

A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

21.4 Notice

It is not necessary to give any notice of an adjournment of a general meeting or of the business to be transacted at the adjourned meeting except if the meeting is adjourned for fourteen (14) days or more, in which case notice of the adjourned meeting must be given as in the case of an original meeting.

22. DETERMINATION OF QUESTIONS

22.1 Poll

At any general meeting a resolution to be considered at the meeting shall be decided on a show of hands unless a poll is demanded by:

- (a) the Chair of the meeting; or
- (b) at least three (3) Voting Members Present and entitled to vote on the resolution.

22.2 Proxy votes

Before a vote on a resolution is taken, the Chair must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.

22.3 Determination

A declaration by the Chair of the result of a vote on a resolution by a show of hands and an entry to that effect contained in the minutes of the proceedings of the Company, which has been signed by the Chair of the meeting or the next succeeding meeting, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

23. SPECIAL RESOLUTIONS

- (a) A Special Resolution of Members shall only be carried if at least twenty-one (21) days' written notice has been given to Voting Members on the subject of the resolution and that notice:
 - (i) provides reasonable details of the proposed resolution; and
 - (ii) specifies the intention to propose the resolution as a Special Resolution.
- (b) Subject to the Act, the requirements of **clause 23(a)** shall not apply to the extent that all the Voting Members agree to waive the requirements of **clause 23(a)**.
- (c) A Special Resolution is passed if it is passed by a majority which comprises no less than seventy-five per cent (75%) of Voting Members Present.

24. POLLS

- (a) A poll may be demanded:
 - (i) before a vote on a resolution is taken;
 - (ii) before the voting results on a show of hands are declared; or
 - (iii) immediately after the voting results on a show of hands are declared.
- (b) If a poll is demanded it must be taken in such manner and at such time before the close of the meeting and at such place as the Chair of the meeting directs, subject to **clause 24(e)**.

- (c) The result of the poll shall be taken to be the resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.
- (e) A poll demanded on the election of a Chair or any question of adjournment of the meeting must be taken immediately.
- (f) The demand for a poll may be withdrawn.

25. VOTING RIGHTS

- (a) On any question arising at a general meeting a Voting Member has one (1) vote only.
- (b) All votes must be given personally or by proxy.

26. VOTING DISQUALIFICATION

- (a) No person or body corporate other than a Voting Member shall be entitled to a vote at a general meeting.
- (b) A Voting Member whose Subscription for the current Financial Year has been due but not paid for a period in excess of six (6) months is not entitled to vote at any general meeting or Annual General Meeting.

27. OBJECTION TO QUALIFICATION TO VOTE

Any challenge as to the qualification of a person to vote at a general meeting or the validity of any vote tendered may only be raised at the meeting and must be determined by the Chair, whose decision shall be final and conclusive, and a vote allowed by the Chair shall be valid for all purposes.

28. PERSONS OF UNSOUND MIND AND MINORS

- (a) A Voting Member:
 - (i) of unsound mind; or
 - (ii) whose person or estate is liable to be dealt with in any way under the law relating to mental health; or
 - (iii) who is a minor,

may vote whether on a show of hands or on a poll by that Voting Member's committee or by such other person as properly has the management or guardianship of that Voting Member's estate or by the public trustee (as the case may be) and the committee or other person or trustee may vote by proxy or representative.

- (b) Any person having the right of management or guardianship of the person or estate in respect of a Voting Member as referred to in **clause**

28(a) must not exercise any of the rights conferred under that clause unless and until the person has provided to the Board satisfactory evidence of the appointment of the person accordingly.

29. CHAIR'S CASTING VOTE

In the case of an equality of votes whether on a show of hands or on a poll, the Chair of the meeting at which the show of hands is taken or at which the poll is demanded is not entitled to a casting vote.

30. RIGHT OF NON-MEMBERS TO ATTEND GENERAL MEETING

- (a) The Chair of a general meeting may invite any person who is not a Member to attend and address a meeting.
- (b) Any auditor of the Company shall be entitled to attend and address a general meeting.

PROXIES

31. RIGHT TO APPOINT PROXIES

- (a) A Voting Member may appoint another person as the appointing Voting Member's proxy to attend and vote for the appointing Voting Member at the meeting and such person need not be a Member.
- (b) If a Voting Member appoints a proxy, the proxy is entitled to vote on a show of hands and on a poll.

32. APPOINTING A PROXY

32.1 Appointing a Proxy

The instrument appointing a proxy must be in a form approved by the Board and signed by the appointer or the appointer's attorney duly authorised in writing.

32.2 Instrument of Proxy

- (a) The instrument of proxy is valid if it contains the information required by the Act which at the date of this Constitution is the following information:
 - (i) the name and address of the Voting Member;
 - (ii) the name of the Company;
 - (iii) the proxy's name or the name of the office of the proxy; and
 - (iv) the meetings at which the instrument of proxy may be used.
- (b) An instrument of proxy may be expressed to be a standing appointment. An instrument of proxy for a specified meeting is only valid for that meeting and any postponement or adjournment of that meeting.
- (c) An instrument of proxy shall not be treated as invalid merely because it does not specify all of the information required by **clause 32.2(a)**.

- (d) An instrument of proxy may be revoked at any time by notice in writing to the Company.

33. LODGEMENT OF PROXIES

- (a) An instrument appointing:
 - (i) a proxy and the power of attorney or other authority (if any) under which it is signed or executed or a certified copy of that power or authority; or
 - (ii) an attorney to exercise a Member's voting rights at a general meeting or a certified copy of that power of attorney,

must be deposited at whatever location is specified for that purpose in the notice convening the general meeting not less than one (1) hour (or such shorter period as the Board may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote and in default the instrument of proxy or the power of attorney will not be treated as valid.

- (b) For the purposes of this clause it will be sufficient that any document required to be lodged by a Voting Member be received in legible form by email or other electronic transmission if the notice of meeting so permits at the address and in the form specified in the notice and the proxy shall be regarded as received at the time of the receipt of the email or other electronic transmission by the Company.

34. VALIDITY OF PROXIES

- (a) A vote exercised pursuant to an instrument of proxy, a power of attorney or other instrument of appointment is valid notwithstanding:
 - (i) the death or unsoundness of mind of the Voting Member;
 - (ii) the bankruptcy or liquidation of the Voting Member;
 - (iii) the revocation of the instrument of proxy or the power of attorney or any instrument under which the instrument or the power was granted,

if the Company has not received at the location referred to in **clause 33(a)** written notice of the death, unsoundness of mind, bankruptcy, liquidation or revocation at least one (1) hour (or such shorter period as the Board may allow) prior to the time appointed for the holding of the general meeting or adjourned meeting, as the case may be, at which the instrument of proxy or the power of attorney is exercised.

- (b) A proxy who is not entitled to vote on a resolution as a Voting Member may vote as a proxy for another Voting Member who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.

35. RIGHTS OF PROXIES AND ATTORNEYS

35.1 Authority

The instrument appointing a proxy will be taken to confer authority to demand or join in demanding a poll.

35.2 Voting

- (a) Unless a Voting Member by the instrument of proxy directs the proxy to vote in a certain manner, the proxy may vote as the proxy thinks fit on any motion or resolution. Otherwise, the proxy shall follow the voting instructions contained in the instrument of proxy.
- (b) No voting member can hold more than 5 proxies at a time.

35.3 No revocation

A proxy will not be revoked by the appointer attending and taking part in any general meeting, but if the appointer votes on a resolution either on a show of hands or on a poll, the person acting as proxy for the appointer shall not be entitled to vote in that capacity in respect of the resolution.

35.4 Identity of proxy

The Chair of a general meeting may require any person acting as a proxy to establish to the satisfaction of the Chair that he is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person is unable to establish his identity, he may be excluded from voting either upon a show of hands or upon a poll.

APPOINTMENT AND REMOVAL OF DIRECTORS

36. NUMBER AND APPOINTMENT OF DIRECTORS

36.1 Number of Directors

The Board of Directors shall consist of no less than seven (7) and no more than twelve (12) persons, including any Independent Directors elected as per **clause 40**. The President will propose the number of Board members required in this range, and the proposed number will require approval from the Board.

36.2 Constitution of Board

- (a) The Board shall at all times consist of the following Directors:
 - (i) four (4) Office Bearers, and
 - (ii) no less than three (3) and no more than eight (8) other Directors (hereinafter referred to as **Ordinary Directors**).
- (b) Except for Independent Directors to be eligible for election to the Board, a candidate must be either an Ordinary Member or an Honorary Life Member whose Subscriptions and other fees or monies were paid and up to date for at least six (6) months prior to the election.
- (c) Subject to **clause 38.1**, the Directors will be appointed by Voting Members at the Annual General Meeting, or such Extraordinary General Meeting that may be held from time to time.

36.3 Term of Ordinary Directors

- (a) Each Ordinary Director shall hold office for a period of two (2) years with the option to extend by one (1) further year.
- (b) At the end of a three (3) year term, an Ordinary Director is eligible for re-election.
- (c) Subject to **clause 40(h)**, each Ordinary Director shall hold office from the conclusion of the Annual General Meeting at which they are elected until the expiry of the term set out in clause 36.3(a).

36.4 Frequency of Board elections

- (a) Board elections will be held in line with **clause 36.3(a)**.
- (b) The first election under this regime will be the year following the adoption of these amended clauses.
- (c) The election of the President Elect will follow the requirement to elect a new President and will therefore be independent of the cycle to elect Ordinary Directors.

37. OFFICE BEARERS

37.1 Office Bearers

- (a) The Office Bearers are:
 - (i) the President;
 - (ii) the President Elect (if any);
 - (iii) the two (2) Vice Presidents, subject to **clause 37.1(b)**; and
 - (iv) the Treasurer,each of whom must be a Director.
- (b) In a year where there is a President Elect, they will fill one of the Vice President positions.

37.2 Appointment of Office Bearers

- (a) Subject to this **clause 37**, the Office Bearers shall be elected in accordance with **clause 39**.
- (b) The President and President Elect are:
 - (i) not required to have served as a Vice President to be eligible for appointment as the President; but
 - (ii) required to have served as a Director for at least one (1) year before being eligible for appointment as the President.
- (c) A President Elect, elected in accordance with **clause 37.3** is automatically appointed as President at the end of the incumbent President's term, without the need for a further election.

- (d) A Vice President is required to have served as a Director for at least one (1) year before being eligible for appointment as a Vice President.
- (e) The Treasurer must be a member of the Finance, Risk Management and Audit Committee.

37.3 Term of office for Office Bearers

- (a) For the avoidance of doubt, the terms of office for Officer Bearers set out in this **clause 37.3**:
 - (i) are subject to, and automatically terminate upon, the Office Bearer ceasing to be a Director for any reason; and
 - (ii) are otherwise in respect of each relevant Officer Bearer's position as an Office Bearer only, and a Director ceasing to hold a position as Office Bearer will not of itself end their term of appointment as a Director unless otherwise provided for in this Constitution.
- (b) A person shall hold the office of President for a period of two (2) years and will be eligible to be reappointed to that position for a further period of one (1) year, meaning that the maximum period a person can serve as President is three (3) consecutive years whilst he or she is on the Board.
- (c) The President Elect shall be elected in accordance with **clause 39.2** at the Board meeting one (1) year preceding the end of the term of the incumbent President and shall therefore hold the office for one (1) year.
- (d) If the President Elect resigns from the position of President Elect or is removed from the position, the Board shall fill the casual vacancy of President Elect from amongst the eligible membership in accordance with **clause 37.2**.
- (e) If a Director leaves the Board for any period of time and is subsequently reappointed to the Board, that Director is, subject to **clause 37.2(b)(ii)**, once again eligible to be appointed to the position of President.
- (f) A person may hold the office of Vice President or Treasurer for a period of two (2) years and will be eligible to be appointed to that position for a maximum of five (5) consecutive years whilst he or she is on the Board.
- (g) If a Director leaves the Board for any period of time and is subsequently reappointed to the Board, that Director is once again eligible to be appointed to the position of Vice President.
- (h) Each President, President Elect, Treasurer and Vice President shall hold office from the date of their appointment under **clause 37.2** at which their term commences until the earlier of:
 - (i) the expiry of the term for the relevant Office Bearer position set out in this **clause 37.3**; or
 - (ii) the President, President Elect, Treasurer or Vice President resigns or is removed from office in accordance with this Constitution or the Act.

37.4 Removal of President, Treasurer and Vice Presidents

The Board may remove a President, President Elect, Treasurer or Vice President from their office as President, President Elect, Treasurer or Vice President respectively during a term and elect a replacement President, President Elect, Treasurer or Vice President at any time during the term, and such replacement will hold office as such until the end of the relevant term under **clause 37.3(h)**.

38. GENERAL RIGHT TO APPOINT AND REMOVE DIRECTORS

38.1 Casual vacancy

Subject to the Act, the Board may at any time appoint a Voting Member who is an Individual Member as a Director to fill any casual vacancy. Any Director so appointed shall only hold office until the next annual general meeting of the Company after the appointment is made.

38.2 Board may act

The Board may act despite any vacancy in their body, but if the number falls below the minimum required by the Act, the Board may act:

- (a) for the purpose of increasing the number of Directors to the minimum; or
- (b) for the purpose of convening a general meeting; or
- (c) in emergencies;

but for no other purpose.

38.3 Removal of Director

- (a) The Members may by resolution in a general meeting remove a Director from office prior to the expiration of the Director's term and the Members may by resolution appoint another Voting Member to hold office until the expiration of the term of office of the Director so removed.
- (b) A Director to whom a resolution under **clause 38.3(a)** relates may submit written representations to the Secretary or the President. The representations may be sent to each Member or, if they are not sent, the Director is entitled to require that the representations are read out at the meeting at which the resolution is considered.

39. ELECTION OF ORDINARY DIRECTORS AND OFFICE BEARERS

39.1 Procedure for Elections

- (a) Nominations of candidates for election as Office Bearers and the Ordinary Directors:
 - (i) must be made in writing, signed by two (2) Voting Members and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
 - (ii) must be delivered to the Secretary at least thirty five (35) days before the date fixed for the holding of:

- (A) in the case of Office Bearers, the relevant Board meeting at which the nomination will be voted on; and
 - (B) in the case of Ordinary Directors, the Annual General Meeting at which the term commences.
- (b) In accordance with **clauses 36.3** and **36.4**, the only nominations that will be sought will be for those Director positions where the incumbent has:
 - (i) resigned during the year and the position has either not replaced or filled with as a casual vacancy;
 - (ii) completed their term of appointment in accordance with this Constitution.
- (c) The number of positions of Directors to be filled each year (if any) will depend on:
 - (i) the number of positions available as determined by **clause 39.1(b)**; and
 - (ii) the view of the current Directors of the optimal size of the Board within the parameters defined in **clause 36.2(a)(ii)**.
- (d) Each candidate is entitled to submit a brief resume and statement to accompany as part of their application.
- (e) Subject to the provisions of **clauses 36.1, 39.3** and **40**, in respect of Ordinary Directors:
 - (i) if insufficient nominations are received to fill all vacant positions, the candidates nominated will be deemed to be elected. Any unfilled positions may be filled by the Board, after the AGM, as a casual vacancy;
 - (ii) if the number of nominations received is equal to the number of vacancies for each position to be filled, the persons nominated shall be taken to have been elected;
 - (iii) if the number of nominations received exceeds the number of vacancies for each position to be filled, a ballot is to be held. This will be conducted by any efficient method, as determined by the Board, as soon as practicable after the close of nominations. The ballot will close no less than one week before the date of the Annual General Meeting at which the term commences; and
 - (iv) if an equality of votes is returned in the ballot for any position, the Chair shall have the casting vote necessary to determine which of the candidates shall be declared elected. If the Chair is unwilling to exercise a casting vote, the issue shall be determined by lot.
- (f) The Board shall appoint a returning officer to conduct the entire Board nomination and election process. The returning officer shall be appointed at the Board meeting prior to sending out the call for nominations and shall not be a Director.

39.2 Election of Office Bearers

- (a) President Elect/ President

- (i) The President Elect will be elected by the Board members.
 - (ii) Board members wishing to nominate for President Elect should submit their nomination in writing forty five (45) days before the Board meeting at which the nomination of the President Elect will be voted on.
 - (iii) The President Elect for a particular year or other term under this Constitution will be elected as and when determined by the Board to ensure that, to the extent reasonably possible taking into account the expiry of the term of any then current President Elect, such office is not vacant (or is vacant for as short a time as reasonably possible).
 - (iv) The vote will be confidential and will be managed by the Company Secretary, or their nominated delegate.
 - (v) Each nomination can be supported by a written submission of no more than 300 words which will be circulated to all Board members no later than thirty (30) days before the Board meeting.
- (b) Vice Presidents and Treasurer
- (i) The Treasurer and Vice President will be elected by the Board members subject to **clause 37.2(e)**.
 - (ii) The Vice Presidents and the Treasurer for a particular year or other term under this Constitution will be elected as and when determined by the Board to ensure that, to the extent reasonably possible taking into account the expiry of the term of any then current Vice Presidents and the Treasurer (as applicable), such offices are not vacant (or are vacant for as short a time as reasonably possible). The term of the role of Vice President and Treasurer are defined in **clause 37.3**.
 - (iii) In the event that there are more candidates than positions, a simple vote will be taken at the Board meeting, with the candidates with the most votes being elected.

39.3 Election of the Ordinary Directors

- (a) One Ordinary Director position will be designated to be filled by an Aboriginal and/or Torres Strait Islander person who is eligible to be an Ordinary Member in accordance with **clause 6.5(a)**.
- (b) In the event that there is more than one nomination for this position, the Board will vote on their preferred candidate according to **clause 39.2(a)(iii)**.
- (c) Nominations can be received from any Voting Member, including Voting Members with specialist Board related skills

40. INDEPENDENT DIRECTOR

- (a) The Board may at any time resolve to elect up to three (3) Independent Directors to the Board to:
 - (i) fill a vacant position or positions as referred to in **39.3(a)**; and/or

- (ii) address a skills deficit and to bring a balance of skills and knowledge to the Board in light of the Board composition at that time.
- (b) Independent Directors do not need to be an ASHM member.
- (c) Independent Directors are not additional to the maximum number of Directors stipulated per **clause 36.1**.
- (d) In the event that the Board has resolved to appoint an Independent Director, the Secretary shall write to all of the Directors inviting them to nominate a candidate for Independent Director to fill the position or positions. Each Director shall only be entitled to nominate one (1) person for each position.
- (e) The Board can also request that the Secretary seek suitable candidates through a public or external expression of interest recruitment process and any director could choose to nominate one of these candidates if suitable.
- (f) For the purposes of **clause (e)**, the Board may determine what information it requires from candidates applying for the position of Director, and the Secretary will notify candidates of any such requirements.
- (g) The nominations of the Directors shall be collated by the Secretary and presented to the Board at least seven (7) days immediately preceding the meeting at which the election is to occur. The Board will elect the Independent Director to fill the position from the list of nominees prepared by the Secretary.
- (h) Each Independent Director appointed pursuant to this clause 40, shall take office immediately and will hold office until the end of the next Annual General Meeting. Following approval of the appointment of the Independent Director by Members under clause 36.2(c), such Independent Directors will hold office for as long as is specified in any terms of appointment specific to that Independent Director, as determined by the Board (subject to the earlier resignation or removal of the Independent Directors in accordance with this Constitution or the Act).

41. VACATION OF OFFICE

- (a) Any Director may retire from office on giving written notice to the Company at the Office of his intention to retire and the resignation shall take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Company).
- (b) The office of a Director shall become a casual vacancy if the Director:
 - (i) dies;
 - (ii) ceases to be a Voting Member;
 - (iii) becomes bankrupt or makes any arrangement or composition with creditors generally;
 - (iv) becomes prohibited from being a director of a company by reason of any order made under the Act;
 - (v) becomes of unsound mind or a person whose personal estate is liable to be dealt with in any way under the law relating to mental health;
 - (vi) resigns by notice in writing to the Company;

- (vii) has any Subscription or fees or any other monies due to the Company which have been due but are unpaid for a period in excess of six (6) months;
 - (viii) is absent without the permission of the Board from all meetings of the Board held during any consecutive period of four (4) months; or
 - (ix) is removed from office by the person or body who nominated the Director by notice in writing, which may be given without any reason being ascribed to it.
- (c) No Director is permitted to appoint an Alternate Director.
 - (d) In case of resignation of the President, the Board will vote on which of the Vice Presidents should take over as President until a new President is elected at the next Annual General Meeting.

The Board can decide whether to seek fill position created by the retiring director as per **clause 38.1**.

POWERS AND DUTIES OF DIRECTORS

42. POWERS OF DIRECTORS

- (a) The control, ultimate management and conduct of the Company shall be vested in the Board who shall exercise all such powers of the Company as are not by the Act or by this Constitution required to be exercised in any other manner.
- (b) The Board will specifically:
 - (i) control and manage the affairs of the Company;
 - (ii) exercise all functions as may be exercised by the Company other than those functions that are required by this Constitution to be exercised by a general meeting of Members;
 - (iii) perform all acts and do all things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Company; and
 - (iv) award any higher education qualifications that the Company is approved for and keep a register of such awards.

43. NEGOTIABLE INSTRUMENTS

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed as the case may be by:

- (a) any two (2) Directors; or
- (b) the chief executive officer of the Company and one (1) other employee who has received the appropriate delegated authority to do so by the Board.

44. CONFERMENT OF POWERS

- (a) The Board may from time to time confer upon any Director for the time being, or any other person as they may select, such of the powers exercisable under this Constitution by the Board as it may think fit for such time and to be exercised for such purposes and on such terms and conditions and with such restrictions as it may think expedient.
- (b) Powers conferred under this **clause 44** may be exercised concurrently with the powers of the Board in that regard and the Board may from time to time withdraw, revoke or vary all or any of such powers.

DIRECTORS' DISCLOSURE OF INTEREST

45. CONTRACTS

45.1 Entry into contracts

The Company may enter into contracts or arrangements with other companies or bodies in which a Director has an interest, provided it does so according to the usual commercial terms and conditions that apply to such contracts or arrangements.

45.2 Disclosure

A Director must disclose an interest in accordance with the Act and the Secretary must record all declarations in the minutes of the relevant meeting.

45.3 Participation in decision-making

A Director who has an interest in a contract or arrangement made by the Company and has disclosed this interest to the Board may, subject to compliance with section 195 and related provisions of the Act (including any requirement to obtain Board approval of the other Directors):

- (a) vote on the matter;
- (b) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
- (c) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- (d) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

45.4 Failure to disclose

A Director's failure to make disclosure under this **clause 45.2** does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.

45.5 Disclosure notice

A general notice given to the Board by a Director that the Director is an officer, a member of or otherwise interested in any specified corporation or firm stating the nature and the extent of the Director's interest in the corporation or firm shall, in relation to any matter involving the Company and that corporation or firm after the

giving of the notice, be a sufficient disclosure of the Director's interest, provided that the extent of the interest is no greater at the time of first consideration of the relevant matter by the Board than was stated in the notice.

PROCEEDINGS OF DIRECTORS

46. MEETINGS OF DIRECTORS

46.1 Frequency

The Board may meet together for the despatch of business, adjourn and otherwise regulate their meetings and proceedings as it thinks fit, provided that they shall meet together at regular intervals not less than four (4) times in each twelve (12) month period.

46.2 Convening meeting

A Director may at any time and the Secretary upon the request of a Director shall convene a meeting of the Board by giving at least forty eight (48) hours (or such other period as may be unanimously agreed upon by the Directors) notice of the meeting to all Directors, except a Director who the person convening the meeting reasonably believes to be outside Australia, excluding New Zealand.

46.3 Notice

Notice of a meeting of the Board need not be in writing.

46.4 Technology

A Board meeting may be convened or held using any technology consented to by a majority of Directors. The consent may be a standing one.

47. QUORUM

- (a) A majority of Directors in office and entitled to attend a meeting of the Board who are personally present (or in conference in accordance with **clause 46.4**) form a quorum and a quorum must be present at all times during the meeting.
- (b) A Director who is disqualified from voting on a matter shall be counted in the quorum despite that disqualification.
- (c) If within thirty (30) minutes of the time appointed for a meeting of the Board a quorum is not present, the meeting stands adjourned to the same place and at the same time on the same day in the following week.
- (d) If, at the adjourned meeting, a quorum is not present within thirty (30) minutes of the time appointed for the meeting, the meeting will be dissolved.

48. CHAIR

- (a) The President or, in the President's absence, a Vice President or the President Elect shall preside as chair. The Vice Presidents and President Elect shall determine between them which of them is to preside as Chair

in the President's absence. If they cannot agree, the determination will be made by lot.

- (b) If a meeting of the Board is held and the Chair is not present within ten (10) minutes after the time appointed for the holding of the meeting or, if present, does not wish to chair the meeting, then the other Directors present must elect one of their number to be Chair of the meeting.

49. VOTING

- (a) A resolution of the Board or at a meeting of a Committee constituted in accordance with **clause 51** must be passed by a majority of votes of the Directors or Committee members present at the meeting who vote on the resolution. A resolution passed by a majority of the votes cast by the Directors will for all purposes be taken to be a determination of the Board.
- (b) Each Director or Committee member shall have one (1) vote.
- (c) In case of an equality of votes at a meeting of the Board or of a Committee, the Chair shall not have a casting or deliberative vote.
- (d) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or the Committee, is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any member of the Board or Committee.

50. RESOLUTIONS BY DIRECTORS

- (a) The Board may pass a resolution without a Board meeting being held if the number of Directors that would be required to vote in favour at a meeting of Directors to pass the resolution sign a document containing a statement that they are in favour of the resolution set out or otherwise referred to in the document. For this purpose, signatures can be contained in more than one document.
- (b) An email transmission or other electronic communication which is received by the Company and which purports to have been sent by a Director shall, for the purposes of this **clause 50**, be taken to be in writing and signed by that Director at the time of the receipt of the email transmission or other electronic communication by the Company.
- (c) In addition, a Directors' meeting may be called or held and resolutions may be passed using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw consent within a reasonable period before the meeting or the putting of the resolution.
- (d) All resolutions of the Directors passed at a meeting of the Board where a quorum is present but where notice of the meeting has not been given as required to each Director, or any act carried out pursuant to such resolution, shall, provided each Director to whom notice was not given subsequently agrees to waive the same, be as valid as if notice of the meeting had been duly given to all Directors.

- (e) Resolutions passed at a meeting of the Board at which there is no quorum present are not valid.

51. COMMITTEES OF DIRECTORS

51.1 Committees

- (a) The Board may form and by instrument in writing delegate any of its powers to one or more Committees consisting of such Directors and other persons as are specified in the instrument except for:
 - (i) this power of delegation; and
 - (ii) a function which is a duty imposed on the Board by the Act or by any other law,

and may from time to time revoke such delegation by instrument in writing.

- (b) The Board may continue to exercise any function delegated.

51.2 Operation of all Committees

- (a) A Committee must, in exercise of the powers delegated to it, conform to any directions and restrictions that may be imposed on it by the Board. A power so exercised shall be taken to be exercised by the Board.
- (b) The meetings and proceedings of any Committee consisting of more than one person will be governed by the provisions for regulating the meetings and proceedings of the Board contained in this Constitution.
- (c) A minute of all the proceedings and decisions of every Committee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Act and this Constitution to be made entered and signed. A copy of these minutes shall be tabled at the next Board Meeting.

52. VALIDATION OF ACTS OF DIRECTORS

All acts done:

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

shall, even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Director or person or that they or any of them were disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Director and had been entitled to vote.

MINUTES

53. MINUTES

- (a) The Board must cause minutes to be kept in accordance with the Act for the purposes of recording:
 - (i) the names of the Directors present at each Board meeting and of Directors present at each meeting of any Committee;
 - (ii) all orders, resolutions and proceedings of general meetings and Board meetings and meetings of Committees; and
 - (iii) such matters as are required by the Act to be recorded in the record books of the Company including without limitation all declarations made or notices given by any Director of his interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.
- (b) Such minutes shall be signed by the Chair of the meeting, or the Chair of the next succeeding meeting and minutes which purport to be signed accordingly shall be received in evidence without any further proof as sufficient evidence that the matters and things recorded by such minutes actually took place or happened as recorded and of the regularity of such matters and things and that the same took place at a meeting duly convened and held.

SECRETARY

54. APPOINTMENT AND TENURE

- (a) There must be at least one Secretary (who is the Company Secretary for the purposes of the Act) appointed by the Board for a term and on conditions determined by the Board.
- (b) The Board may remove any Secretary so appointed and appoint a person who is not the chief executive officer to be the Secretary in their stead.
- (c) The Secretary must, as soon as practicable after being appointed as Secretary, lodge a notice of his or her address details with the Company.
- (d) The Secretary must keep minutes of:
 - (i) all appointments of Directors;
 - (ii) the names of the Directors present at a Board meeting or a general meeting; and
 - (iii) all proceedings at Board meetings and general meetings.

EXECUTION OF DOCUMENTS

55. EXECUTION OF DOCUMENTS

- (a) Without limiting the manner in which the Company may execute any contract, including as permitted under section 126 of the Act or as otherwise delegated by the Board, the Company may execute any agreement, deed or other document by:
 - (i) two Directors signing the same; or
 - (ii) one Director and one Secretary signing the same.
- (b) Nothing in this Constitution requires the Company to execute any agreement, deed or other document under common seal for the same to be effectively executed by the Company.

ACCOUNTS AND INSPECTION OF RECORDS

56. ACCOUNTS AND INSPECTION

- (a) The Board shall cause proper financial records to be kept and must distribute copies of the financial reports of the Company and a Director's report in accordance with the requirements of the Act.
- (b) The Board must also from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Company or any of them will be open to the inspection of Members.

57. CUSTODY OF BOOKS

Except as otherwise provided by this Constitution, the Secretary must keep in their custody or under their control all records, books and other documents relating to the Company.

58. INSPECTION OF BOOKS

- (a) The Directors must ensure that the minute books for general meetings are open for inspection by Members free of charge.
- (b) Subject to **clause 58(a)**, the Board may determine whether and to what extent, and at what times and places and under what conditions, the minute books, financial records and other documents of the company or any of them, will be open to inspection by Members other than Directors.
- (c) If a Member's request to inspect the minute books, financial records and other documents of the company are denied, then feedback will be provided to that Member on why the request was denied and this would be minuted at the respective board meeting.

- (d) Any Member has the right to inspect only those books, records or documents of the company as provided by law, or authorised by the Board
- (e) Notwithstanding **clause 58(d)** a previous Director has a right to inspect minute books and related papers for meetings of the Directors and committees of the Board for the period covering when they were a Director.

59. REGISTER OF MEMBERS

- (a) The Secretary must establish and maintain a Register specifying the name and address of each person or body corporate who is a Member together with the date on which the person became a Member.
- (b) The Register will be kept at the principal place of administration of the Company and will be open for inspection, free of charge, by any Member at any reasonable hour.

NOTICES

60. SERVICE OF NOTICES

- (a) A notice may be given by the Company to any Member by:
 - (i) serving it on the Member personally;
 - (ii) sending it by post to the Member or leaving it at the Member's address shown in the Register or otherwise the address supplied by the Member to the Company for the giving of notices; or
 - (iii) sending it to the electronic address supplied by the Member to the Company for the giving of notices.
- (b) Any Member who has not left at or sent to the Office their place of address or email address for inclusion in the Register as the place at which notices may be given to the Member shall not be entitled to receive any notice.
- (c) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and shall be deemed to have been effected on the day after the date of posting. Service of a notice to a Member outside Australia shall be deemed to have been made in the ordinary course of the post.
- (d) A notice may be given by the Company to the persons entitled to a share in consequence of the death, lunacy or bankruptcy of a Member by:
 - (i) service on the Member personally;
 - (ii) sending it by post addressed to the person by name or by the title of the representative of the deceased or lunatic or the assignee of the bankrupt or by any like description at the address, if any, within Australia supplied for the purpose by the person claiming to be entitled; and

- (iii) by giving the notice in any manner in which the same might have been given if the death, lunacy or bankruptcy had not occurred.
- (e) Evidence of service of a notice may be established by proving that the envelope containing the notice and stamped appropriately was properly posted and a certificate given by any Officer of the Company to that effect shall be conclusive evidence of service.

61. NOTICES OF GENERAL MEETING

Subject to **clause 60(b)**, notice of every general meeting must be given in any manner authorised by this Constitution to:

- (a) every Member; and
- (b) the auditor for the time being of the Company.

WINDING UP

62. WINDING UP

62.1 Winding Up

- (a) If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another institution or corporation which has:
 - (i) objects which are similar to the Objects of the Company;
 - (ii) a constitution which requires its income and property to be applied in promoting its objects;
 - (iii) a constitution which prohibits it from paying or distributing its income and property amongst its Members to an extent at least as great as imposed on the Company by **clause 5.2(b)**; and
 - (iv) which is endorsed as a DGR.
- (b) The identity of the corporation or institution is to be determined by the Members in writing at or before the time of dissolution and failing such determination being made, by application to the Supreme Court for determination.

62.2 Revocation of DGR Endorsement

In the event that the Company ever has its endorsement as a DGR revoked, the Company must transfer all remaining gifts, deductible contributions and any money received in respect of such gifts and contributions to another DGR, such DGR to be determined by the Members and failing such determination being made, by application to the Supreme Court for determination.

INDEMNITY

63. INDEMNITY

To the extent permitted by law every Officer (and former Officer) of the Company shall be indemnified out of the funds of the Company against all costs, expenses and liabilities incurred as such an Officer or employee (or former Officer or employee). However, no such Officer (or former Officer) shall be indemnified out of the funds of the Company under this **clause 63** unless:

- (a) it is in respect of a liability to another person (other than the Company or a related body corporate to the Company) where the liability to the other person does not arise out of conduct involving a lack of good faith; or
- (b) it is in respect of a liability for costs and expenses incurred:
 - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the Officer (or former Officer) or in which the Officer (or former Officer) is acquitted; or
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the Officer (or former Officer) under the Act.

64. PAYMENT OF INDEMNITY POLICY PREMIUM

- (a) To the extent permitted by law the Company may at the discretion of the Board enter into and/or pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Company against any liability incurred by such person in that capacity (whether in respect of acts or omissions prior to or after the date of the issue of the policy or both) except for:
 - (i) a liability arising out of conduct in good faith; or
 - (ii) a contravention of sections 182 or 183 of the Act.
- (b) The Board shall have the discretion to approve the terms and conditions of any such policy of insurance.
- (c) Where an Officer (or former Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of his actions or omissions, then the Company shall not be required to indemnify the Officer under **clause 63** except to the extent that the indemnity affected by the insurance policy does not fully cover the person's liability.

65. INDEMNITY TO CONTINUE

The indemnity granted by the Company contained in **clause 63** and **64** shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring prior to the date of the deletion or modification.