
Constitution of Open Minds Australia Limited

A company limited by guarantee

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Constitution of Open Minds Australia Limited

1 General

1.1 Name of Company

The name of the Company is Open Minds Australia Limited.

1.2 Liability of Members

The liability of Members is limited.

1.3 Replaceable Rules

The Replaceable Rules do not apply to the Company.

1.4 History

Open Minds was formerly called Queensland Wattle League for the Disabled.

2 Definitions and interpretation

2.1 Definitions

In this document:

Term	Definition
ACNC	means the Australian Charities and Not-for-profits Commission.
ACNC Act	means the <i>Australian Charities and Not-for-profits Commission Act 2012</i> (Cth).
Annual General Meeting	has the meaning set out in rule 7.1.
ASIC	means the Australian Securities and Investments Commission.
Board	means the board of directors of the Company.
Business Day	means a day that is not a Saturday, Sunday or public holiday where the Office is located.
Chair	means the chair of the Board.
Committee	means a committee to which powers have been delegated by the Board under rule 14.9.
Company	means Open Minds Australia Limited ACN 009 687 030.
Constitution	means the constitution of the Company.

Term	Definition
Corporations Act	means the <i>Corporations Act 2001</i> (Cth).
Director	means a person appointed or elected to the office of director of the Company.
Housing Act	means <i>Housing Act 2003</i> (Qld) and for the purposes of rule 4.2 a word or expression that is defined in the Housing Act has the same meaning.
Member	means Multicap Limited ACN 084 424 493 and any other member of the Company admitted under rule 5.5(a), and where the context requires means its Member Representative.
Members Present	means in connection with a meeting, the Member present in person at the venue or venues for the meeting or by proxy, by attorney and, where the Member is a body corporate, by representative.
Member Representative	has the meaning set out in 5.2(a).
Office	means the registered office of the Company.
Officer	for the purposes of rule 21.1, means a Director or Secretary of the Company or a person: <ul style="list-style-type: none"> (a) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the Company; (b) who has the capacity to affect significantly the Company's financial standing; or (c) under whose instructions or wishes the Board is accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the Board or the Company).
Register	means the register of Members of the Company established under the Corporations Act.
Registered Address	means the address of the Member specified in the Register or another other address notified by the Member to the Company as the place they will accept service of notices.
Replaceable Rules	means the replaceable rules under the Corporations Act and includes any replaceable rules that become or may become a provision of the Corporations Act.
Seal	means the common seal of the Company if any.
Secretary	means a person appointed as secretary of the Company and includes a person appointed to perform the duties of secretary.

2.2 Interpretation

In this document:

- (a) except as otherwise specified in this document or the context requires it, the singular includes the plural and vice versa.
- (b) a reference to a rule, schedule, annexure or party is a reference to a rule of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;
- (c) a reference to a party to a document or agreement includes the party's successors, permitted substitutes and permitted assigns;
- (d) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;
- (f) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (g) if any day on or by which a person must do something under this document is not a Business Day, then the person must do it on or by the next Business Day;
- (h) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity, whether or not it comprises a separate legal entity; and
- (i) a reference to 'month' means calendar month.

2.3 Headings

Headings are used for convenience only and do not affect the interpretation of the Constitution.

2.4 Application of the Corporations Act

- (a) The replaceable rules in the Corporations Act do not apply to the Company.
- (b) Where an expression is used in a manner consistent with a provision of the Corporations Act, the expression has the same meaning as in that provision.

2.5 Application of the ACNC Act

If the Company is registered as a charity by the Australian Charities and Not-for-profits Commission, the Company must comply with the ACNC Act.

3 Objects and powers

3.1 Objects of Company

The objects of the Company are:

- (a) to provide support and services to individuals in Australia suffering mental ill-health or incapacity and their dependants and families;
- (b) to also provide support and services to individuals in Australia for the relief of such other poverty, sickness, suffering, distress, misfortune, disability, destitution or helplessness as arouses pity or compassion in the community;
- (c) to educate the community in relation to the issues surrounding the above-mentioned challenges and the needs of individuals experiencing these challenges and their families and other support groups;
- (d) to advocate on behalf of individuals experiencing these challenges, for the improved provision of community support and services;
- (e) receive gifts, legacies and bequests, whether subject to special trusts or otherwise and to raise funds by public appeals and subscriptions or by other lawful means for the purposes of the Company;
- (f) to promote mutual trust and confidence between the Company and the Members in pursuit of these objects;
- (g) to utilise the resources of the Company including by way of financial support through donations, gifts, loans, credit or otherwise, the provision of staff, contractors, secondees or other personnel (with or without remuneration) and the donation, loan, hire or other provision of premises, resources and equipment or property of any kind, to assist any other charity registered with the ACNC which:
 - (i) has all or some objects similar to the objects of the Company; and
 - (ii) if the Company is endorsed as a public benevolent institution under section 30-45 of the *Income Tax Assessment Act 1997*, is another public benevolent institution;
- (h) to promote the objects of the Company in any manner the Board considers appropriate, and to do things incidental or conducive to the attainment of these objects; and
- (i) to do all that is necessary to enable these objects to be achieved.

3.2 Separate objects

Each of the objects in rule 3.1 is a separate object of the Company and must not be limited in its application by any other object.

3.3 Powers of the Company

The Company has all the powers of an individual and a body corporate, subject to rule 3.4.

3.4 No power to issue shares

The Company has no power to issue or allot shares.

4 Non-profit nature of the Company

4.1 Non-profit

- (a) The income and property of the Company must only be applied towards the promotion of the objects of the Company set out in this Constitution.
- (b) No income or property may be paid or transferred, directly or indirectly, to the Member except for payments to the Member:
 - (i) in return for services rendered by or goods supplied by the Member to the Company in the ordinary and usual course of business; or
 - (ii) as principal repayments of money lent by the Member, and interest payments if the interest does not exceed a commercial rate.
- (c) Nothing in this rule shall preclude, with the prior approval of the Board, payments made to any organisation (including the Member) where the making of such payments is to give effect to the Company's objects, and where the recipient of the payments is an entity of the kind referred to in rule 3.1(g).

4.2 Winding up

- (a) On the winding up or dissolution of the Company by any means and for any reason, each remaining community housing asset of the Company must be transferred:
 - (i) if the community housing asset is located in Queensland, under the Housing Act; or
 - (ii) if the community housing asset is located in another participating jurisdiction, under the corresponding law of that participating jurisdiction, and to the extent that the Housing Act or the corresponding law (as applicable) so permits, the housing agency, national provider, state provider or other entity to whom that community housing asset is to be transferred is to be nominated by the State.
- (b) Where property remains after the winding up or dissolution of the Company and satisfaction of all its debts and liabilities and any transfer pursuant to rule 4.2(a), it must not be distributed to Members of the Company, unless the distribution is in furtherance of the Company's objects and the Member is a charitable fund, authority or institution described in rule 4.2(c).
- (c) If the Company is wound up, subject to rule 4.2(d), any surplus assets must be given or transferred to another charitable fund, authority or institution, which has:
 - (i) objects similar to the objects of the Company; and
 - (ii) provisions in its constitution, either:
 - (A) prohibiting it from distributing its surplus among Members at all; or
 - (B) prohibiting it from distributing its surplus among Members at least to the extent as great as imposed on the Company by this constitution.
- (d) If the Company is endorsed as a deductible gift recipient then:
 - (i) upon the revocation of its endorsement as a deductible gift recipient; or

- (ii) upon its winding up,

any surplus assets must be transferred to another charitable fund, authority or institution described in rule 4.2(c) to which income tax deductible gifts can be made.

- (e) The charitable fund, authority or institution to receive property under rule 4.2(c) or 4.2(d) must be decided by the Members. If the Members do not wish to decide, or does not decide, the Directors must decide. If the Directors do not wish to decide, or do not decide, the decision must be referred to the Supreme Court of the state or territory in which the Company's registered office is located.

4.3 Limited liability on winding up

- (a) The liability of the Member is limited.
- (b) If the Company is wound up while the Member is a member of the Company, or within one year after the Member ceases to be a member of the Company, the Member must contribute to the assets of the Company for:
 - (i) the payment of the debts and liabilities of the Company contracted before the Member ceased to be a member of the Company;
 - (ii) the costs of winding up; and
 - (iii) the adjustment of the rights of the contributors among themselves.
- (c) The maximum liability of the Member under rule 4.3(b) is \$10.

5 Membership

5.1 Member

- (a) As at the time of adoption of this Constitution, the Members will be those listed in the Register.
- (b) While Multicap Limited is the sole Member:
 - (i) the Company is not required to hold general meetings (other than to pass resolutions required to be passed at a general meeting) but the Company must ensure it provides other opportunities and mechanisms to remain accountable to that sole member; and
 - (ii) rules 5.6 to 5.8 and 7 to 10 do not apply.
- (c) If there is more than one member of the Company:
 - (i) rule 6 automatically ceases to apply;
 - (ii) rules 5.6 to 5.8 and 7 to 10 are enlivened; and
 - (iii) subject to rule 5.1(c)(i) any reference to 'Member' applies to each Member of the Company.

5.2 Member Representative

- (a) If a Member is a body corporate, it must nominate one individual (**Member Representative**) to represent it in the Company.

- (b) A Member Representative must consent to the nomination in writing.
- (c) The Member Representative can exercise any of the rights and powers granted to the Member.
- (d) A body corporate Member may replace its Member Representative from time to time.

5.3 Classes

- (a) The class of membership of the Company is ordinary membership and any other class of membership that the Board determines in accordance with rule 5.3(b).
- (b) The Board may at any time:
 - (i) establish a new class of membership;
 - (ii) determine or change the existing classes of membership; and
 - (iii) set and amend the membership fee (if any) for each class of membership.

5.4 Register of Members

The Company must establish and maintain a Register.

5.5 Admission to membership

- (a) Subject to rule 5.5(c), the Board may from time to time admit in its absolute discretion any person to membership that is supportive of the Company's objects set out in rule 3.1.
- (b) The Board may admit or reject an application for membership without giving a reason.
- (c) For so long as Multicap Limited is a Member, the Board may not admit a new Member without the consent of Multicap Limited.

5.6 Entitlement to vote

- (a) Subject to this Constitution and any rights or restrictions for the time being placed on any Member or class or classes of Members:
 - (i) at meetings of Members or a class of Members, each Member entitled to attend and vote may:
 - (A) attend and vote in person; or
 - (B) be represented and vote by proxy, by attorney or (where the Member is a body corporate) by its Member Representative,
 - (ii) a Member may only vote by one of the permitted methods in rule 5.6(a)(i) although, without limiting rule 5.6(a)(ii), a Member may attend and participate in a meeting even though the Member has previously appointed a proxy or attorney in respect of that meeting; and
 - (iii) each Member has one vote both on a show of hands and a poll.
- (b) A Member is not entitled to vote at a general meeting or to be counted for the purpose of constituting a quorum unless all sums presently payable by the Member in respect of membership of the Company have been paid.

5.7 Notice by Members

Each Member must promptly notify the Secretary in writing of:

- (a) any change in their qualification (if any) to be a member of the Company; and
- (b) any change in their address or contact details.

5.8 Resignation and termination of membership

- (a) A Member ceases to be a member of the Company:
 - (i) no longer meets the qualification requirements (if any);
 - (ii) if that Member resigns as a Member by giving written notice to the Company – on the date the notice is received by the Company or the later date stated in the notice (if any);
 - (iii) in the case of a Member who is a natural person – on the date that that Member dies; or
 - (iv) in the case of a Member who is a body corporate – on the date of winding up or deregistration of the Member; or
 - (v) if the Member is terminated by the Board under rule 5.8(b) – on the date specified by the Board.
- (b) The Board may terminate a Member's membership if the Member:
 - (i) fails to notify the Company of a change in address or contact details and is unable to be contacted at the address in the Register for a period of two years;
 - (ii) becomes bankrupt or insolvent;
 - (iii) has conducted itself in a way that the Board considers to be injurious or prejudicial to the character or interests of the Company or may bring the Company into disrepute;
 - (iv) fails, by the date one month after payment falls due, to pay any membership fee set by the Board from time to time; or
 - (v) has conducted itself in a way the Board considers as being inconsistent with the objects of the Company.
- (c) The Board must give the Member written notice of its intention to terminate the Member's membership and the reason for the proposed termination.
- (d) If the reason set out in the notice under rule 5.8(c) remains unresolved, in the opinion of the Board, for one month after the date of the notice, the Member's membership is terminated.
- (e) The rights or privileges of membership may be reinstated at the absolute discretion of the Board.

6 Sole member resolutions

- (a) This rule 6 applies to resolutions which the Corporations Act, or this Constitution, contemplates be passed at a general meeting (except a resolution otherwise required by the Corporations Act to be passed at a general meeting) while Multicap Limited is the sole member of the Company.
- (b) The Company may pass a resolution without a general meeting being held if Multicap Limited, as the sole Member (including acting through its Member Representative):
 - (i) signs a document containing a statement that it is in favour of the resolution set out in the document; or
 - (ii) agrees to the resolution by sending an email or other electronic communication to that effect.
- (c) The resolution is passed when Multicap Limited or its Member Representative signs or when the electronic communication is received by the Company.
- (d) If the Company receives, by electronic transmission of any kind, a copy of a document or electronic communication from the Member Representative referred to in this rule 6 it is entitled to assume that the copy is a true copy.

7 Annual General Meeting

7.1 Annual General Meeting

The Company must hold a general meeting, to be called the Annual General Meeting, at least once in every calendar year.

7.2 Provisions about general meetings apply to the Annual General Meeting

The provisions of the Constitution about general meetings apply, with necessary changes, to Annual General Meetings.

8 General meetings

8.1 Calling a general meeting

- (a) General meetings of the Company may only be called by the Board.
- (b) General meetings will be held at the times and places and in the manner decided by the Board.

8.2 Notice of general meeting

- (a) At least 21 days' notice of a general meeting must be given to Members by the Board in the form and in the manner the Board decides, subject to the Corporations Act. The non-receipt of a notice of any general meeting by, or inadvertent failure to give notice of any general meeting to, a person entitled to notice does not invalidate the proceedings at or a resolution passed at that meeting.
- (b) Subject to the Corporations Act, if the meeting is to be held simultaneously with Members at two or more places the notice must set out details of the technology used to conduct the meeting.

8.3 Calling off a general meeting

By resolution of the Board any general meeting (other than a general meeting which has been requested by Members under rule 8.1(a)) may be cancelled or postponed before the date on which it is to be held.

8.4 Attendance at general meetings

- (a) The chair of a general meeting may exclude from the meeting any person:
 - (i) in possession of a pictorial-recording or sound-recording device;
 - (ii) in possession of a placard or banner;
 - (iii) in possession of an object considered by the chair to be dangerous, offensive or liable to cause disruption;
 - (iv) who refuses to produce or to permit examination of any object, or the contents of any object or container, in the person's possession;
 - (v) who fails to comply with any security, health, technology or other protocol required by the chair to be adhered to for the safety of attendees, to avoid disruption of any kind to the reasonable conduct of the meeting or to facilitate the use of technology associated with the meeting;
 - (vi) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
 - (vii) who is not a Member (or a proxy or attorney of a Member or Member Representative), a Director, Secretary or the auditor of the Company.
- (b) A person, whether or not a Member, who is invited to attend by the Board or the chair of the meeting, may be present.

9 Proceedings of meetings

9.1 Business of general meetings

- (a) The business of an Annual General Meeting is:
 - (i) to provide the opportunity for the Board to account to and report to the Members if required by law;
 - (ii) to receive and consider the financial and other reports required by law to be laid before each Annual General Meeting;
 - (iii) when relevant to elect Directors;
 - (iv) when relevant to appoint an auditor; and
 - (v) to transact any other business which the Directors determine, or which, under this document, the Corporations Act or the ACNC Act, is required to be transacted at any Annual General Meeting.
- (b) Any other business transacted at an Annual General Meeting and all business transacted at other general meetings is special business.

- (c) Except with the approval of the Board, with the permission of the chair of the meeting or under the Corporations Act, no person may move at any general meeting either:
 - (i) any resolution or any amendment of a resolution about any special business of which notice has been given under rule 8.2; or
 - (ii) any other resolution which does not constitute part of the special business of which notice has been given under rule 8.2.
- (d) The auditors and their representative may attend and be heard on any part of the business of a meeting concerning the auditors. The auditors or their representative, if present at the meeting, may be questioned by the Members Present, as a whole, about the audit.

9.2 Quorum

- (a) The quorum for a general meeting is two Members Present.
- (b) For the purpose of determining whether a quorum is present:
 - (i) a Member's proxy or Member's Representative is to be counted; but
 - (ii) a person may only be counted once, even if that person is a proxy or representative of more than one Member.
- (c) If a quorum is not present at the commencement of business of a general meeting, no business can be transacted except the election of a chair of the meeting and the adjournment of the meeting.

9.3 Adjournment in absence of quorum

If a quorum is not present within 30 minutes after the time specified for a general meeting, if convened on the request of Members, the request lapses and the meeting is dissolved, and in any other case the meeting is to be adjourned to the same day in the next week (or, where that day is not a Business Day, the Business Day next following that day) at the same time and place and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time specified for holding the meeting, the meeting is to be dissolved.

9.4 Chair

- (a) Subject to rules 9.4(b) and 9.4(c), the Chair must be chair at every general meeting.
- (b) If at any general meeting:
 - (i) the Chair is not present at the specified time for holding the meeting; or
 - (ii) the Chair is present but is unwilling to act as chair of the meeting,
 the deputy Chair must be chair at the meeting.
- (c) If at any general meeting:
 - (i) there is no Chair of the Board or deputy Chair of the Board;
 - (ii) the Chair of the Board and deputy Chair of the Board are not present at the specified time for holding the meeting; or

- (iii) the Chair of the Board and the deputy Chair of the Board are present but each is unwilling to act as chair of the meeting,

the Directors present may choose another Director as chair of the meeting and if no Director is present or if each of the Directors present is unwilling to act as chair of the meeting, a Member chosen by the Members Present may act as chair of the meeting.

9.5 Acting Chair

If during any general meeting the Chair acting under rule 9.4 is unwilling to act for any part of the proceedings, the Chair may withdraw from the chair during the relevant part of the proceedings and may nominate any person who immediately before the general meeting was a Director or who has been nominated for election as a Director at the meeting to be acting chair of the meeting during the relevant part of the proceedings. Upon the conclusion of the relevant part of the proceedings the acting chair is to withdraw and the Chair is to retake the chair.

9.6 General conduct of meeting

- (a) Except as required by law, the general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as decided by the chair of the meeting.
- (b) The chair of a general meeting may at any time he or she considers it necessary for the proper and orderly conduct of the meeting demand the cessation of 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.
- (c) The chair of a general meeting may require the adoption of any procedure which is in the chair's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.
- (d) Any determination by the chair of a general meeting in relation to matters of procedure (including any procedural motions moved at, or put to, the meeting) or any other matter arising directly or indirectly from the business is final (including any procedural motions moved at, or put to, the meeting). Any challenge to a right to vote (whether on a show of hands or on a poll) or to a determination to allow or disregard a vote may only be made at the meeting and may be determined by the chair of the meeting, whose decision is final.
- (e) Nothing in this Constitution limits the Company's power to pass a resolution without a general meeting in accordance with the Corporations Act.

9.7 Postponing or cancelling a meeting

- (a) By resolution of the Board any general meeting (other than a general meeting which has been requested by Members under rule 8.1(a)) may be cancelled or postponed before the date on which it is to be held.
- (b) The Chair may at any time before a meeting:
 - (i) postpone a meeting;
 - (ii) cancel the meeting; or
 - (iii) change the place for a general meeting,

if he or she considers that the meeting has become unnecessary, or the venue would be unreasonable or impractical or a change is necessary in the interests of conducting the meeting efficiently.

9.8 Adjournment and postponement by the chair

- (a) The chair of a general meeting may at any time during the course of the meeting:
 - (i) adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question, resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting; and
 - (ii) for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for any period or periods he or she decides without effecting an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the chair otherwise allows.
- (b) Where the chair of a general meeting considers that:
 - (i) there is not enough room for the number of Members who wish to attend the meeting; or
 - (ii) a postponement is necessary in light of behaviour of persons present or for any other reason so that the business of the meeting can be properly carried out,

the chair of the meeting may postpone the meeting before it has started, whether or not a quorum is present.
- (c) A postponement under rule 9.8(b) is to another time, which may be on the same day as the meeting, and may be to another place (and the new time and place is taken to be the time and place for the meeting as if specified in the notice which called the meeting originally).
- (d) If the chair of a general meeting exercises a right of adjournment and postponement of a meeting under this rule, that person has the sole discretion to decide whether to seek the approval of the Members Present to the adjournment and, unless that person exercises that discretion, no vote may be taken by the Members Present in respect of the adjournment.
- (e) No business may be transacted at any adjourned or postponed meeting other than the business left unfinished at the meeting from which the adjournment or postponement took place.
- (f) Where a meeting is postponed or adjourned under rule 9.7, notice of the adjourned or postponed meeting must be given to the Members.
- (g) Where a meeting is postponed or adjourned under rule 9.8 for 30 days or more, notice of the adjourned or postponed meeting must be given to the Members as in the case of an original meeting. Otherwise, it is not necessary to give any notice of an adjournment or postponement or of the business to be transacted at an adjourned or postponed meeting.

9.9 Voting

- (a) Unless a poll is demanded, each question submitted to a general meeting must be decided by a show of hands of the Members Present and entitled to vote.
- (b) Subject to rule 9.9(c), in the case of an equality of votes, the chair has, both on a show of hands and at a poll, a casting vote in addition to the vote or votes to which the chair of a general meeting may be entitled as a Member or as a proxy, attorney or, if applicable, a duly appointed corporate representative of a Member.
- (c) On a show of hands, where the chair of a general meeting has two or more appointments that specify different ways to vote on a resolution, the chair of the meeting must not vote as a proxy but has a casting vote in the case of an equality of votes cast by Members entitled to vote at the meeting.
- (d) At any meeting, unless a poll is demanded, a declaration by the chair of the meeting that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the book to be kept of the proceedings of the Company signed by the chair of that or the next succeeding meeting, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

9.10 When poll demanded

- (a) A poll may be demanded:
 - (i) before a vote 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) A poll may only be demanded by the chair of a meeting.
- (c) No poll may be demanded on the election of a chair of a meeting.

9.11 Taking a poll

- (a) If a poll is demanded under rule 9.10, it may be taken and the result of the poll reported in the manner and at the time the chair of the meeting directs, and the result of the poll is deemed to be the resolution of the meeting at which the poll was demanded.
- (b) The demand for a poll may be withdrawn.
- (c) In the case of any dispute about the admission or rejection of a vote, the chair's decision is final.

9.12 Continuation of business

A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting immediately and without adjournment.

9.13 Special meetings

Rules about general meetings apply to any special meeting of any class of Members held under this document or the Corporations Act.

10 Votes of Members

10.1 Voting rights

- (a) The entitlement of Members to vote on a show of hands and on a poll is as set out in rule 5.6.
- (b) If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law about mental health, his committee or trustee or other person who has the management of his estate may exercise any rights of the Member about a general meeting as if the committee, trustee or other person were the Member.
- (c) A Member whose membership fee (if any) is more than one month in arrears at the date of the general meeting is not entitled to vote at that meeting.
- (d) Subject to this rule 10.1, where a person may vote in more than one capacity, that person is entitled only to one vote on a show of hands.
- (e) If the person appointed as proxy has two or more appointments that specify different ways to vote on the resolution, the proxy must not vote on a show of hands.

10.2 Appointment of proxies

- (a) Any Member entitled to vote at a general meeting may appoint one proxy.
- (b) For the appointment of a proxy to be effective, the document appointing the proxy (and the power of attorney, if any, under which it is signed or proof of the power of attorney to the satisfaction of the Board) duly stamped (if necessary) must be received:
 - (i) at the Office; or
 - (ii) at the place or electronic address specified in the notice of meeting,
at least 48 hours (or a lesser period as the Board may decide and stipulate in the notice of meeting) before the time for holding the meeting or adjourned meeting or poll at which the person named in the document proposes to vote.
- (c) No document appointing a proxy is, except as set out in this rule, valid after the expiration of 12 months after the date of its execution. Any Member may deposit at the Office a document duly stamped (if necessary) appointing a proxy and the appointment is valid for all or any stipulated meetings of the Company until revocation.

10.3 Validity of vote

- (a) A vote given as required by the terms of a proxy document or power of attorney is valid despite:
 - (i) the previous death, unsoundness of mind, liquidation, administration or incapacity of the principal; or

- (ii) the revocation of the proxy document or power of attorney in respect of which the vote is given,

if no written notice of the death, unsoundness of mind, liquidation, administration or incapacity or revocation has been received by the Secretary at least 48 hours before the meeting or any adjourned meeting.

- (b) A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes on the resolution for which the proxy is proposed to be used.

10.4 Form and execution of proxy document

- (a) A document appointing a proxy must be in writing in the form from time to time required by the Board and signed by the Member appointing the proxy or his or her duly appointed attorney. If the appointor is a body corporate, the appointment must be signed by a duly authorised officer, in a form acceptable to the Board.
- (b) The proxy document is deemed to include the right to demand or join in demanding a poll and (except to the extent to which the proxy is specifically directed to vote for or against any proposal) the power to act generally at the meeting for the person giving the proxy.
- (c) A document appointing a proxy, unless the contrary is stated, is valid for any adjournment of the meeting, as well as for the meeting to which it relates. Any duly signed proxy which is incomplete may be completed by the Secretary on authority from the Board and as permitted by the Corporations Act and the Board may authorise completion of the proxy by the insertion of the name of any Director as the person in whose favour the proxy is given.

10.5 Board to issue forms of proxy

- (a) The Board may issue with any notice of general meeting of Members or any class of Members, forms of proxy for use by the Members.
- (b) Each form must enable the Member to write in the proxy's name. It may provide that if the Member leaves this blank, the proxy is to be a person named on the form.
- (c) The form may include the names of any of the Directors, or of any other person, as a suggested proxy.
- (d) The forms must allow the Member to direct the proxy to vote for or against (or abstain from voting on) any proposed resolution.

10.6 Attorneys of members

A Member may appoint an attorney to act on the Member's behalf at all or specified meetings of the Company. The power of attorney or proof of the power of attorney must be delivered to the Office or elsewhere as directed, with evidence to the satisfaction of the Board of the due execution of the power of attorney. The attorney may appoint a proxy for the Member.

11 The Board

11.1 Directors

The Board will consist of not less than three and not more than five Directors.

11.2 Appointment and removal of Directors

The Member may appoint and remove any individual as a Director of the Company as it determines using any process it deems appropriate.

11.3 Qualification for membership of the Board

All Directors must be natural persons.

11.4 Casual vacancies

- (a) The Board has power to appoint a qualified person as a Director either to fill a casual vacancy on the Board or as an addition to the existing Directors but so that the total number of Directors must not exceed the number fixed under this Constitution.
- (b) Any person appointed under this rule holds office until the sole Member or Members (as the case may be) remove the Director under rule 11.2.

11.5 Appointment of Chair

The Directors must elect a Director of the Company to act as Chair and may elect a deputy Chair and may remove the Chair or deputy Chair (if any) from those positions.

11.6 Remuneration of Directors

- (a) The Member may determine that a Director be paid a fee for their service as a Director and/or paid or reimbursed for travelling or other expenses properly incurred in connection with the business or affairs of the Company.
- (b) Subject to the Corporations Act, a Director may also be engaged by the Company in any other capacity (other than auditor) and may be appointed in that capacity on such terms as to remuneration, tenure of office and otherwise as has been approved by the Member.

12 Vacation of office

12.1 Resignation

A Director may resign from the Board by written notice delivered to the Company. The resignation takes effect when the notice is received by the Secretary, or on a later date specified in the notice.

12.2 Removal

A Director may be removed from office under rule 11.2.

12.3 Disqualification

In addition to any circumstances in which the office of a Director becomes vacant or a Director is required to resign, is removed or is disqualified from being a director under the Corporations Act or other relevant legislation, the office of a Director is vacated upon a Director:

- (a) becoming an insolvent under administration, suspending payment to creditors, or compounding with or assigning the Director's estate for the benefit of creditors;

- (b) becoming a person of unsound mind or whose estate is administered under laws about mental health;
- (c) being absent from meetings of the Board for three consecutive calendar months without leave of absence from the Board where the Board has not, within 14 days of having been served by the Secretary with a notice giving particulars of the absence, resolved that leave of absence be given; or
- (d) dying.

13 Exercise of voting power in other corporations

The Board may exercise the voting power conferred by the shares in or membership of any corporation owned by the Company at the Board's discretion (including voting in favour of any resolution appointing any of the Directors as directors of that corporation). A Director may vote in favour of the exercise of those voting rights even if the Director is, or may be about to be appointed, a director of that other corporation and may be interested in the exercise of those voting rights.

14 Proceedings of the Board

14.1 Procedures about Board meetings

- (a) The Board may meet together, upon each Director being given reasonable notice, for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- (b) Until otherwise decided by the Board, 50% of the Directors appointed to the Board at the date of the meeting of the Board, rounded up to the nearest whole number, will form a quorum for a meeting of the Board.
- (c) Notice is considered given to a Director, and all Directors are considered to have consented to the method of giving notice, if notice is sent by mail, personal delivery or by electronic mail to the usual place of residence or electronic address of the Director (if any electronic address is notified to the Company) or at any other address given to the Secretary by the member subject to the right of the Director to withdraw the consent within a reasonable period before a meeting.

14.2 Meetings by telephone or other means of communication

- (a) The Board may meet either in person or by any other form of technology agreed or consented to by all Directors.
- (b) All persons participating in the meeting must be able to hear and be heard by all other participants.
- (c) Each Director, by consenting to be a Director (or by reason of the adoption of this Constitution), consents to the use of each of the following technologies for holding a Board meeting:
 - (i) video;
 - (ii) telephone;
 - (iii) any other technology that permits each Director to communicate with every other Director; or

- (iv) any combination of these technologies.
- (d) A Director may withdraw the consent given under this rule in accordance with the Corporations Act.
- (e) A meeting conducted by telephone or other form of technology is deemed to be held at the place agreed upon by the Directors attending the meeting, if one or more of the Directors present at the meeting is at that place for the duration of the meeting. All proceedings of the Board conducted in that manner are as valid and effective as if conducted at a meeting at which all of the participating Directors were physically present in the one location.

14.3 Votes at meetings

- (a) Questions arising at any Board meeting are decided by a majority of votes.
- (b) The chair of that Board meeting has a casting vote if the votes are equal.

14.4 Convening of meetings

A meeting of the Board must be convened if:

- (a) called by the Chair or the Board at any time, or
- (b) called by the Secretary, upon the request of any Director.

14.5 Chair

If the Chair is not present at the time specified for holding the meeting (or, if being present, the Chair refuses to act as chair of the meeting), the deputy Chair will chair the meeting and if the deputy Chair is absent or unwilling to act as chair the Directors present may choose one of their number to be chair of the meeting.

14.6 Powers of meetings

A meeting of the Board (including any adjourned meeting) at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

14.7 Powers of the Board and the Chief Executive Officer

- (a) The business of the Company is managed by the Board, which may exercise all powers of the Company that are not, by the law or this Constitution, required to be exercised by the Company in general meeting.
- (b) The Board may, on the terms and conditions and with any restrictions as it determines, delegate to the Chief Executive Officer any of the powers exercisable by it and may at any time withdraw, suspend or vary any of those powers conferred on the Chief Executive Officer. Giving powers to the Chief Executive Officer does not prevent the exercise of those powers by the Board.

14.8 Appointment of Advisory Panel

The Board may appoint an Advisory Panel consisting of any person the Board thinks fit. Advisors will report directly to the Board. The Board may establish terms of reference for the operation of the Advisory Panel.

14.9 Appointment of Committees

The Board may appoint Committees consisting of one or more Directors and any other person the Board thinks fit.

14.10 Delegation of powers to Committees

- (a) The Board may, subject to the law, delegate (and revoke the delegation of) any of its powers to one or more Committees consisting of one or more Directors or any other person the Board thinks fit.
- (b) A delegate of the Board may be authorised to sub-delegate any of the powers for the time being vested in the delegate.
- (c) Nothing in this rule 14.10 limits the power of the Board to delegate.

14.11 Proceedings of Committees

- (a) Committee proceedings are governed by the provisions in this document that apply to meetings and proceedings of the Board.
- (b) A Committee must follow instructions of the Board.
- (c) A Committee is under the control and direction of the Board and has no power in the management of the Company.

14.12 Validity of acts

- (a) Acts of the Board, a Committee or a Director, even if it is afterwards discovered that there was some defect in the appointment of any of the Directors or the Committee or a Committee member or that any of them were disqualified, are valid as if each person was duly appointed and qualified, and continued to be a Director or a member of the Committee (as the case may be).
- (b) If the number of Directors is reduced below the minimum number fixed under this document, the continuing Directors may act to increase the number of Directors to that number, or to seek an appointment of a new Director by the Member, but for no other purpose.

14.13 Resolution in writing

- (a) The Directors may pass a written resolution without a Board meeting being held.
- (b) A written resolution is passed when:
 - (i) all the Directors entitled to vote on the resolution agree to the resolution in the manner set out in rule 14.13(c); or
 - (ii) a majority of Directors entitled to vote on the resolution agree to the resolution in the manner set out in clause 14.13(c) provided:
 - (A) notice of the resolution has been given to all Directors entitled to vote on the resolution by email and text at their usual electronic address and mobile phone numbers;
 - (B) the notice requests an urgent response and includes a copy of this rule 14.13(c) or refers to its effect; and

- (C) no Director has responded within 24 hours of that notice being given that they do not support the resolution or that they wish the Directors to receive additional information or engage in further discussion on issues relating to the proposed resolution (or that Director has subsequently agreed to the resolution in the manner set out in clause 14.13(c).
- (c) Each director may agree to the resolution by:
 - (i) signing (including by electronic means) a single document or separate copies of a document setting out the resolution and containing a statement that they agree to the resolution, or
 - (ii) sending an email or other electronic communication confirming they agree to the resolution.
 - (d) A document produced by mechanical or electronic means under the name of a Director with their authority is deemed to be a document in writing signed by that Director.

15 Powers of the Board

15.1 General powers of the Board

- (a) The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred upon them by this document) may exercise all powers and do all things as are within the power of the Company and are not by this document or by Corporations Act directed or required to be exercised or done by the Company in general meeting.
- (b) The Board may make regulations and by-laws consistent with the Constitution, which in the opinion of the Board are necessary or desirable for the proper control, administration and management of the Company's finances, affairs and property, or are necessary for the convenience, comfort and well-being of the Members (including the terms of entry of Members to the Company's premises and any event or function sponsored, promoted, facilitated or conducted by the Company) and amend or rescind any regulations and by-laws.
- (c) A regulation or by-law of the Company made by the Board may be disallowed by the Company in a later general meeting.
- (d) A resolution or regulation made by the Company in general meeting cannot invalidate prior acts of the Board which would have been valid if that resolution or regulation had not been passed or made.
- (e) The Board may appoint and dismiss Officers and employees on the terms it thinks fit.

15.2 Wholly owned subsidiary

Subject to the Corporations Act, while the Company is a wholly owned subsidiary of another body corporate, a Director may act in the best interests of the other body corporate.

16 Company Secretary

- (a) The Secretary is to be appointed by the Board.

- (b) Only a natural person who has provided the Company with a signed consent may be Secretary.
- (c) The Secretary holds office on the terms and conditions the Board decides.

17 Duties of Directors

17.1 Duties of Directors

The Directors must comply with their duties as directors at law and with the duties described in Governance Standard 5 made under the ACNC Act.

17.2 Disclosure of interests

- (a) Subject to rule 17.2(b), a Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of his or her interest.
- (b) A Director with a material personal interest in a matter that relates to the affairs of the Company is not required to give notice in the following circumstances:
 - (i) if all of the following conditions are met:
 - (A) the Director has already given notice of the nature and extent of the interest and its relation to the affairs of the Company;
 - (B) if a person who was not a Director at the time the notice was given is appointed as a Director, the notice is given to that person; and
 - (C) the nature or extent of the interest has not materially increased above that disclosed in the notice; or
 - (ii) if the Director has given a standing notice of the nature and extent of the interest in accordance with the Corporations Act and that standing notice is still effective in relation to the interest; or
 - (iii) as otherwise permitted under this Constitution or the Corporations Act.
- (c) A Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a written resolution) must not, except as provided under rule 17.2(d):
 - (i) be present at the meeting while the matter is being discussed, or
 - (ii) vote on the matter.
- (d) A Director may still be present and vote if:
 - (i) their interest arises because they are a Member of the Company, and the other Members have the same interest;
 - (ii) 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;
 - (iii) their interest relates to a payment by the Company under rule 22, or any contract relating to an indemnity that is allowed under the Corporations Act;

- (iv) the ASIC makes an order allowing the Director to vote on the matter, or it is otherwise permitted under the Corporations Act; or
- (v) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - (A) 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
 - (B) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

17.3 Directors may contract with Company

- (a) A Director is not disqualified by the Director's office from contracting or entering into any arrangement with the Company or any other person either as buyer, seller or otherwise. No contract or arrangement with the Company or any other person by a Director or any contract or arrangement by or for the Company or any other person in which a Director is in any way interested may be avoided for that reason.
- (b) A Director need not account to the Company for any profit realised by any contract or arrangement, by reason of holding the office of or of the fiduciary relationship established by the office.
- (c) A Director interested in any contract or arrangement may, despite the interest, attest the affixing of the Seal to, or otherwise sign any document evidencing or otherwise connected with the contract or arrangement.

18 Execution of documents

18.1 Company Seal

The Company will not have a Seal.

18.2 Execution of documents

The Company may sign a document without a seal, including a deed, by having the document signed by:

- (a) two Directors; or
- (b) a Director and a Secretary.

18.3 Other ways of executing documents

Despite rule 18.2 any document including a deed may also be signed by the Company in any other manner permitted by law.

19 Minutes

19.1 Contents of minutes

The Board must ensure that minutes are duly recorded in books kept for the purpose in any manner it thinks fit and include:

- (a) the names of the Directors present at each meeting of the Company, the Board and of Committees; and
- (b) details of all resolutions and proceedings of general meetings of the Company and of meetings of the Board and Committees,

within one month after the relevant meeting is held.

19.2 Signing of minutes

The minutes of a meeting of the Board or of a Committee or of the Company, if signed by the chair of the meeting or by the chair of the next meeting, are prima facie evidence of the matters stated in the minutes.

20 Financial records

20.1 Keeping of financial records

- (a) The financial year of the Company begins on 1 July and ends at 30 June in the following calendar year.
- (b) Proper books and financial records must be kept recording the financial affairs of the Company. The Company must comply with the relevant accounting and auditing requirements of the Corporations Act.
- (c) The Board must distribute to all Members at the end of each financial year, copies of the financial report including a copy of the auditor's report and any other documentation as required by the Corporations Act.
- (d) The Board must lay before the Members at each annual general meeting the financial statements required under rule 20.1(c).

20.2 Appointment of auditor

The Company must appoint a qualified auditor as required by the Corporations Act. No Member may act as auditor of the Company.

20.3 Inspection of records of the Company

- (a) The Board may decide whether and to what extent, and at what time and place and under what conditions the financial records and other documents of the Company or any of them will be open to the inspection by Members other than the Board.
- (b) No Member other than a Director has the right to inspect any document of the Company except as set out in the Corporations Act or as authorised by the Board.

21 Notices

21.1 Service of notices

A notice may be given by the Company to a Member:

- (a) by leaving it at the Member's Registered Address;
- (b) by sending it by prepaid post to the Member's Registered Address; or
- (c) by sending it to the electronic address (if any) nominated by the Member.

21.2 When notice deemed to be served

- (a) A notice sent by post is considered served at the expiration of 48 hours after the envelope containing the notice is posted. It is sufficient to prove that the envelope containing the notice was properly addressed and posted.
- (b) A notice left at a Member's Registered Address is considered served when delivered.
- (c) A notice served on a Member by electronic means is considered served when the electronic message is sent.

21.3 Member not known at Registered Address

Where a Member does not have a Registered Address or where the Company has bona fide reason to believe that a Member is not known at the Member's Registered Address, all future notices are considered given to that Member if the notice is exhibited in the Office, for a period of 48 hours (and is considered served at the commencement of that period), until the Member informs the Company of a Registered Address.

21.4 Signature on notice

The signature on any notice given by the Company may be written or printed.

21.5 Reckoning of period of notice

Subject to the Corporations Act and this Constitution where a specified number of days' notice or notice extending over any period is required to be given, the day of service is excluded, and the day upon which the notice expires is included.

21.6 Notification of change of address

A Member must notify the Company of any change of his or her address or contact details and any new address must be entered in the Register. Upon entry it becomes the Member's Registered Address.

22 Indemnity, insurance and access

22.1 Indemnity in favour of Directors, Secretaries and other Officers

Subject to the Corporations Act and rule 22.2, the Company must indemnify each Director, Secretary and other Officer to the maximum extent permitted by law, against any Liability incurred by them because of their holding office as, and acting in the capacity of, Director, Secretary or other Officer of the Company, other than:

- (a) a liability owed to the Company or a related body corporate of the Company;
- (b) a liability for a pecuniary penalty order under section 1317G of the *Corporations Act 2001* (Cth) or a compensation order under section 1317H of the *Corporations Act 2001* (Cth); or
- (c) a liability owed to a person other than the Company or a related body corporate of the Company that did not arise out of conduct in good faith.

22.2 Indemnity for legal costs

The Company must indemnify each Director, Secretary and other Officer to the maximum extent permitted by law, against any liability for legal costs incurred by them in respect of a liability incurred by them because of their holding office as, and acting in the capacity of, Director, Secretary or other Officer of the Company other than for legal costs incurred:

- (a) in defending or resisting Proceedings, in which the Director, Secretary or other Officer is found to have a liability for which they could not be indemnified under rule 22.1;
- (b) in defending or resisting criminal Proceedings in which the Director, Secretary or other Officer is found guilty;
- (c) in defending or resisting Proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established (but this rule 22.2(c) does not apply to costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing Proceedings for the court order); or
- (d) in Proceedings for relief to the Director, Secretary or other Officer under the Corporations Act in which the court denies the relief.

22.3 Proceedings

For the purposes of rule 22.2, '**Proceedings**' includes the outcomes of the proceedings and any appeal about the proceedings.

22.4 Insurance for the benefit of Directors, Secretaries and other Officers

Subject to the Corporations Act, the Company may pay a premium for a contract insuring a person who is or has been a Director, Secretary or other Officer of the Company acting in that capacity against:

- (a) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
- (b) a liability arising from negligence or other conduct.

22.5 When insurance may not be provided by the Company

The Company must not pay, nor agree to pay, a premium for a contract insuring a person who is or has been a Director, Secretary or other Officer or an employee who is also an Officer of the Company, against a liability (other than one for legal costs) arising out of:

- (a) conduct involving a wilful breach of duty about the Company; or
- (b) a contravention of section 182 or section 183 of the *Corporations Act 2001* (Cth).

22.6 Access

- (a) A Director has a right of access to the financial records of the Company at all reasonable times.
- (b) Where the Board considers it appropriate, the Company may:
 - (i) give a Director or former Director access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents; and
 - (ii) bind itself in any contract with a Director or former Director to give that access.

23 Deductible gift recipient

If the Company is endorsed as a deductible gift recipient, the Company must notify the ATO of any changes to this constitution that may affect this endorsement.