



**CONSTITUTION
OF
Joblink Plus Limited**

Australian Company Number (ACN) 092 410 092
Australian Business Number (ABN) 124 990 95 112

A Company limited by guarantee

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Preliminary

1. Name of the Company

1.1 The name of the company is Joblink Plus Limited (ACN 092 410 092) (the **Company**).

2. Type of Company

2.1 The Company is a not-for-profit public Company limited by guarantee which is established to be, and to continue as, a charity.

3. Limited liability of Members

3.1 The liability of Members is limited to the amount of the guarantee in clause 4.

4. The guarantee

4.1 Each Member must contribute an amount not more than \$2 (the guarantee) to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:

4.2 debts and liabilities of the Company incurred before the Member stopped being a Member; or

4.3 costs of winding up.

5. Definitions

5.1 In this Constitution, words and phrases have the meaning set out in clauses 86, 87 and 88.

Charitable purposes and powers

6. Objective

6.1 The Company's objective is to pursue the following charitable purpose(s):

To believe in and provide support to all people, connecting them to the dignity and fulfilment made possible through education and meaningful work by:

- (a) adopting a person-centred, trauma-informed approach to assist program participants progress toward, achieve sustainable employment, and meet employer's specific needs;
- (b) deliver government contracts as per granted licenses in a professional and accountable manner to benefit the community; and
- (c) to create, administer, manage, and finance projects which aim to benefit the community and to undertake and pursue all such other similar, related, or compatible objects as may from time to time be considered appropriate by the Company.

7. Powers

7.1 Subject to clause 8, the Company has the following powers, which may only be used to carry out its purpose(s) set out in clause 6:

7.2 the powers of an individual; and

7.3 all the powers of a Company limited by guarantee under the Corporations Act.

8. Not-for-profit

The assets and income of the Company shall be applied solely in furtherance of its above-mentioned objects and no portion shall be distributed directly or indirectly to the Members of the Company provided that:

- (a) nothing contained in this Constitution will prevent the payment in good faith of remuneration to any Officer, employee or Member of the Company (including any firm or corporation in which any such Officer, employee or Member has an interest) in return for any services actually rendered or for any goods supplied to the Company in the ordinary and usual way of business, nor prevent the payment of interest, in good faith, on money borrowed by the Company from any Member, or reasonable and proper rent for the premises let by any Member to the Company;
- (b) except as provided by (a), a Director of the Company may be paid a fee, honorarium, or other remuneration for acting as a Director provided any necessary approval under any applicable law has been obtained; and
- (c) nothing contained in this Constitution will prevent the payment of bona fide compensation for services rendered or expenses incurred on behalf of the Company or any other reasonable amount of a similar character to those described in this clause.

9. Amending the Constitution

9.1 Subject to clause 9.2, the Members may amend this Constitution by passing a Special Resolution.

9.2 The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to no longer be a charity under Australian law.

Members

10. Composition of Members

10.1 Membership base must consist of a combination of both Director-Member and non-Director Members.

11. Number of Members

11.1 The Company must have at least seven and no more than thirteen Members.

11.2 The total number of Director-Members must at all times be at least one more than the total number of non-Director Members.

11.3 The number of non-Director Members must be no more than five at any given time.

12. Membership and register of Members

12.1 The Members of the Company are any person that the Directors allow to be a Member, in accordance with this Constitution.

12.2 The Company must establish and maintain a register of Members. The register of Members must be kept by the Company Secretary and must contain:

- (a) for each current Member:
 - (i) name;
 - (ii) address;
 - (iii) email address;
 - (iv) contact phone number;
 - (v) any alternative address nominated by the Member for the service of notices; and
 - (vi) date the Member was entered on to the register.
- (b) for each person who stopped being a Member in the last 7 years:
 - (i) name;
 - (ii) address;
 - (iii) email address;
 - (iv) contact phone number;
 - (v) any alternative address nominated by the Member for the service of notices; and
 - (vi) dates the Membership started and ended.

- 12.3 The Company must give current Members access to the register of Members.
- 12.4 Information that is accessed from the register of Members must only be used in a manner relevant to the interests or rights of Members and consistent with the restrictions in the Corporations Act.

13. Who can be a Member

- 13.1 A person who supports the purposes of the Company is eligible to apply to be a Member of the Company under clause 14.
- 13.2 In this clause, 'person' means an individual or incorporated body.

14. How to apply to become a Member

- 14.1 A person (as defined in clause 13) may apply to become a Member of the Company at the invitation of Directors by delivering to the Company an application for Membership form in such form as the Directors from time to time determine together with an entrance fee (if any) determined by the Directors (as set out in clause 18). The application form will include the following completed information:

- (a) a statement that the applicant wants to become a Member;
- (b) a statement that the applicant supports the purpose(s) of the Company; and
- (c) an agreement by the applicant to comply with the Company's Constitution, including paying the guarantee under clause 4 if required.

15. Directors decide whether to approve Membership

- 15.1 The Directors must consider an application for Membership within a reasonable time after the Company Secretary receives the application.
- 15.2 If the Directors approve an application, the Company Secretary must as soon as possible:
 - (a) enter the new Member on the register of Members; and
 - (b) write to the applicant to tell them that their application was approved, and the date that their Membership started (see clause 16).
- 15.3 If the Directors reject an application, the Company Secretary must write to the applicant as soon as possible to tell them that their application has been rejected but does not have to give reasons.
- 15.4 For the avoidance of doubt, the Directors may approve an application even if the application does not state the matters listed in clauses 14.1 (a) – 14.1 (c). In that case, by applying to be a Member, the applicant agrees to those three matters.

16. When a person becomes a Member

16.1 An applicant will become a Member when they are entered on the register of Members.

17. Certificates

17.1 A certificate of Membership of the Company may be issued by the Company to any Member. Such certificate shall remain the property of the Company and on demand in writing by the Company Secretary shall be returned to the Company.

18. Fees

18.1 Members shall pay annual Membership fees and such other fees in such amounts and at such times as the Directors may from time to time determine.

19. Membership not transferable

19.1 Membership of the Company shall not be transferable whether by operation of law or otherwise and all rights and privileges of Membership of the Company shall cease upon the person ceasing to be a member whether by resignation, death, winding-up or otherwise.

20. Variation of Members Rights

20.1 Consent or special resolution of Members in class

If at any time the Membership of the Company is divided into different classes of Members, the rights attached to any class may be varied or cancelled (unless otherwise provided by this Constitution or by the terms of grant of Membership of that class):

- (a) with the written consent of Members with at least 75 % of the votes in that class; or
- (b) by Special Resolution passed at a separate meeting of the class of Members whose rights are being varied or cancelled.

20.2 Rules applying to meetings of class Members

The provisions from time to time contained in this Constitution concerning meetings will apply, so far as they are capable of application and with the necessary changes, to every

meeting held under clause 20.1 but so that the necessary quorum shall be 2 Members of the class or a proxy or representative of such a Member. Any Member of the class present in person or by proxy or representative may demand a poll.

21. When a person stops being a Member

21.1 A person immediately stops being a Member if they:

- (a) die;
- (b) are wound up or otherwise dissolved or deregistered (for an incorporated Member);
- (c) have not responded within two months to a written request from the Company Secretary that they confirm in writing that they want to remain a Member;
- (d) do not pay their Membership fees within 3 months after the due date for payment of Membership fees (if any);
- (e) in the event that they are a Director, stop being a Director of the Company; or
- (f) in the event that the Members pass a Special Resolution at a general meeting for the removal of the Membership provided the Members abide by clause 28.

21.2 In the event that a Member stops being an Employee of the Company, they will automatically cease to be a Member unless, prior to the conclusion of the Member's final day of employment:

- 21.3 The apply to remain a Member; and
- 21.4 The Directors, by way of ordinary resolution, approve of the continuation of their membership.

22. Continuing rights, liabilities etc.

22.1 The termination of a Member's Membership (whether by resignation, expulsion or otherwise) shall not in any way prejudice, lessen or affect the rights, duties, liabilities, and obligations of a Member whether they:

- (a) arise under this Constitution or otherwise; and
- (b) are existing at the date of such termination or may arise or crystallise after that date out of or by reason of facts or circumstances occurring or in existence at or before the date of termination.

22.2 Without limiting the generality of clause 22.1, termination of a Member's Membership shall not relieve a Member from any obligation to record or account for or pay any levies or fees referred to in clauses 14 and 18.

Dispute resolution and disciplinary procedures

23. Dispute resolution

23.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this Constitution between a Member or Director and:

- (a) one or more Members;
- (b) one or more Directors; or
- (c) the Company.

23.2 A Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 24 until the disciplinary procedure is completed.

23.3 Those involved in the dispute must try to resolve it between themselves within 14 days of all involved parties having knowledge of the dispute.

23.4 If those involved in the dispute do not resolve it under clause 23.3, they must within 10 days of the failed attempt at resolution:

- (a) tell the Directors about the dispute in writing;
- (b) agree or request that a mediator be appointed; and
- (c) attempt in good faith to settle the dispute by mediation.

23.5 The mediator must:

- (a) be chosen by agreement of those involved; or
- (b) where those involved do not agree:
 - (i) for disputes between Members, a person chosen by the Directors; or
 - (ii) for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission (**ACNC**) or the president of the law institute or society in the state or territory in which the Company has its registered office.

23.6 A mediator chosen by the Directors under clause 23.5(b)((i)):

- (a) may be a Member or former Member of the Company;
- (b) must not have a personal interest in the dispute; and
- (c) must not be biased towards or against anyone involved in the dispute.

23.7 When conducting the mediation, the mediator must:

- (a) allow those involved a reasonable chance to be heard;
- (b) allow those involved a reasonable chance to review any written statements;
- (c) ensure that those involved are afforded procedural fairness; and
- (d) not make a decision on the dispute.

24. Disciplining Members

24.1 In accordance with this clause, the Directors may resolve to warn, suspend, or expel a Member from the Company if the Directors consider that:

- (a) the Member has breached this Constitution;

- (b) the Member's behaviour is causing, has caused, or is likely to cause harm to the Company; or
- (c) the Member has contravened any relevant applicable laws.

24.2 **At least 14 days before the Directors' meeting at which a resolution under clause 24.1 will be considered, the Company Secretary must notify the Member in writing:**

- (a) that the Directors are considering a resolution to warn, suspend or expel the Member;
- (b) that this resolution will be considered at a Directors' meeting and the date of that meeting;
- (c) what the Member is said to have done or not done;
- (d) the nature of the resolution that has been proposed; and
- (e) that the Member may provide an explanation to the Directors, and details of how to do so.

24.3 **Before the Directors pass any resolution under clause 24.1, the Member must be given a chance to explain or defend themselves by:**

- (a) sending the Directors a written explanation before that Directors' meeting; and/or
- (b) speaking at the meeting.

24.4 **After considering any explanation under clause 24.3, the Directors may:**

- (a) take no further action;
- (b) warn the Member;
- (c) suspend the Member's rights as a Member for a period of no more than 12 months;
- (d) expel the Member;
- (e) refer the decision to an unbiased, independent decision-maker on conditions that the Directors consider appropriate (however, the decision-maker can only make a decision that the Directors could have made under this clause); or
- (f) require the matter to be determined at a general meeting.

24.5 **The Directors cannot fine a Member.**

24.6 **The Company Secretary must give written notice to the Member of the decision under clause 24.4 as soon as possible.**

24.7 **Disciplinary procedures must be completed as soon as reasonably practical.**

24.8 **The Company cannot be held liable for any loss or injury suffered by the Member as a result of, or in connection with, any decision made in good faith under this clause.**

General meetings of Members

25. **General meetings called by directors**

25.1 **The directors may call a general meeting.**

25.2 If Members with at least 35% of the votes that may be cast at a general meeting make a written request to the Company for a general meeting to be held, the Directors must:

- (a) within 21 days of the Members' request, give all Members notice of a general meeting; and
- (b) hold the general meeting within 2 months of the Members' request.

25.3 The percentage of votes that Members have (in clause 25.2) is to be worked out as at midnight before the Members request the meeting.

25.4 The Members who make the request for a general meeting must:

- (a) state in the request any resolution to be proposed at the meeting;
- (b) sign the request; and
- (c) give the request to the Company.

25.5 Separate copies of a document setting out the request may be signed by Members if the wording of the request is the same in each copy.

26. General meetings called by Members

26.1 If the Directors do not call the meeting within 21 days of being requested under clause 25.2, 100% of the Members who made the request may call and arrange to hold a general meeting.

26.2 To call and hold a meeting under clause 26.1 the Members must:

- (a) Provide notice of the meeting as per clause 28;
- (b) Other than clause 28, which must be complied with, as far as possible follow the remaining procedures for general meetings set out in this Constitution;
- (c) call the meeting using the list of Members on the Company's Member register, which the Company must provide to the Members making the request at no cost; and
- (d) hold the general meeting within three months after the request was given to the Company.

26.3 The Company must pay the Members who request the general meeting any reasonable expenses they incur because the Directors did not call and hold the meeting.

27. Annual general meeting

27.1 A general meeting, called the annual general meeting, must be held:

- (a) within 18 months after registration of the Company; and
- (b) after the first annual general meeting, at least once in every calendar year.

27.2 Even if these items are not set out in the notice of meeting, the business of an annual general meeting may include:

- (a) a review of the Company's activities;
- (b) a review of the Company's finances;

- (c) any auditor's report;
- (d) the election of Directors; and
- (e) the appointment and payment of auditors, if any.

27.3 **Before or at the annual general meeting, the Directors must give information to the Members on the Company's activities and finances during the period since the last annual general meeting.**

27.4 The chairperson of the annual general meeting must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

28. Notice of general meetings

28.1 Notice of a general meeting must be given to:

- (a) each Member entitled to vote at the meeting;
- (b) each Director; and
- (c) the auditor (if any).

28.2 Notice of a general meeting must be provided in writing at least 21 days before the meeting.

28.3 Subject to clause 28.4, notice of a meeting may be provided less than 21 days before the meeting if:

- (a) for an annual general meeting, all the Members entitled to attend and vote at the annual general meeting agree beforehand; or
- (b) for any other general meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.

28.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:

- (a) remove a Director;
- (b) appoint a Director in order to replace a Director who was removed;
- (c) remove a Member; or
- (d) remove an auditor.

28.5 Notice of a general meeting must include:

- (a) the place, date, and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
- (b) the general nature of the meeting's business;
- (c) if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution; and
- (d) a statement that Members have the right to appoint proxies and that, if a Member appoints a proxy:

- (i) the proxy does not need to be a Member of the Company;
- (ii) the proxy form must be delivered to the Company at its registered address, or the address (including an electronic address) specified in the notice of the meeting; and
- (iii) the proxy form must be delivered to the Company at least 48 hours before the meeting.

28.6 If a general meeting is adjourned (put off) for one month or more, the Members must be given new notice of the resumed meeting.

29. Quorum at general meetings

29.1 For a general meeting to be held, at least 3 Members (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one Member).

29.2 No business may be conducted at a general meeting if a quorum is not present.

29.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of general meeting, the general meeting is adjourned to the date, time, and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:

- (a) if the date is not specified – the same day in the next week;
- (b) if the time is not specified – the same time; and
- (c) if the place is not specified – the same place.

29.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

30. Auditor's right to attend meetings

30.1 The auditor (if any) is entitled to attend any general meeting and to be heard by the Members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.

30.2 The Company must give the auditor (if any) any communications relating to the general meeting that a Member of the Company is entitled to receive.

31. Representatives of Members

31.1 An incorporated Member may appoint as a representative:

- (a) one individual to represent the Member at meetings and to sign circular resolutions under clause 38; and
- (b) the same individual or another individual for the purpose of being appointed or elected as a Director.

31.2 The appointment of a representative by a Member must:

- (a) be in writing;

- (b) include the name of the representative;
- (c) be signed on behalf of the Member; and
- (d) be given to the Company or, for representation at a meeting, be given to the chairperson before the meeting starts.

31.3 A representative has all the rights of a Member relevant to the purposes of the appointment as a representative.

31.4 The appointment may be standing (ongoing).

32. Using technology to hold meetings

32.1 The Company may hold a general meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate, including to hear and be heard.

32.2 Anyone using this technology is taken to be present in person at the meeting.

33. Chairperson for general meetings

33.1 The chairperson is entitled to chair general meetings.

33.2 The Members present and entitled to vote at a general meeting may choose a Director or Member to be the chairperson for that meeting if:

- (a) there is no chairperson or vice-chairperson; or
- (b) the chairperson or vice-chairperson is not present within 30 minutes after the starting time set for the meeting; or
- (c) the chairperson and vice-chairperson are present but say they do not wish to act as chairperson of the meeting.

34. Role of the Chairperson

34.1 The chairperson is responsible for the conduct of the general meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions (including to the auditor).

34.2 The chairperson does have a casting vote.

35. Adjournment of meetings

35.1 If a quorum is present, a general meeting must be adjourned if a majority of Members present direct the chairperson to adjourn it.

35.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

36. Members' resolutions and statements

36.1 Members with at least 35% of the votes that may be cast on a resolution may give:

- (a) written notice to the Company of a resolution they propose to move at a general meeting (Members' resolution); and/or

- (b) a written request to the Company that the Company give all of its Members a statement about a proposed resolution or any other matter that may properly be considered at a general meeting (Members' statement).
- 36.2 A notice of a Members' resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- 36.3 A request to distribute a Members' statement must set out the statement to be distributed and be signed by the Members making the request.
- 36.4 Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.
- 36.5 The percentage of votes that Members have (as described in clause 36.1) is to be worked out as at midnight before the request or notice is given to the Company.
- 36.6 If the Company has been given notice of a Members' resolution under clause (a), the resolution must be considered at the next general meeting held more than two months after the notice is given.
- 36.7 This clause does not limit any other right that a Member has to propose a resolution at a general meeting.

37. Company must give notice of proposed resolution or distribute statement

- 37.1 If the Company has been given a notice or request under clause 36:
- (a) in time to send the notice of proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, it must do so at the Company's cost; or
- (b) too late to send the notice of proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, then the Members who proposed the resolution or made the request must pay the expenses reasonably incurred by the Company in giving Members notice of the proposed Members' resolution or a copy of the Members' statement. However, at a general meeting, the Members may pass a resolution that the Company will pay these expenses.

- 37.2 The Company does not need to send the notice of proposed Members' resolution or a copy of the Members' statement to Members if:
- (a) it is more than 1,000 words long;
- (b) the Directors consider it may be defamatory or unlawful;
- (c) clause 37.1(b) applies, and the Members who proposed the resolution or made the request have not paid the Company enough money to cover the cost of sending the notice of the proposed Members' resolution or a copy of the Members' statement to Members; or
- (d) in the case of a proposed Members' resolution, the resolution does not relate to a matter that may be properly considered at a general meeting or is otherwise not a valid resolution able to be put to the Members.

38. Circular resolutions of Members

38.1 Subject to clause 38.3, the Directors may put a resolution to the Members to pass a resolution without a general meeting being held (a **circular resolution**).

38.2 The Directors must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to Members and set out the wording of the resolution.

38.3 Circular resolutions cannot be used:

- (a) for a resolution to remove an auditor, appoint a Director or remove a Director;
- (b) for passing a Special Resolution; or
- (c) where the Corporations Act, ACNC Act, or this Constitution requires a meeting to be held.

38.4 A circular resolution is passed if all the Members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 38.5 or clause 38.6.

38.5 Members may sign:

- (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution; or
- (b) separate copies of that document, as long as the wording is the same in each copy.

38.6 The Company may send a circular resolution by email to Members and Members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

Voting at general meetings

39. How many votes a Member has

39.1 Each Member has one vote.

40. Challenge to Member's right to vote

40.1 A Member or the chairperson may only challenge a person's right to vote at a general meeting at that meeting.

40.2 If a challenge is made under clause 40.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

41. How voting is carried out

41.1 Voting must be conducted and decided by:

- (a) a show of hands;
- (b) a vote in writing; or
- (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.

41.2 Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.

41.3 On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.

41.4 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

42. When and how a vote in writing must be held

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

- (a) at least five Members present;
- (b) Members present with at least 25% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded); or
- (c) the chairperson.

42.2 A vote in writing must be taken when and how the chairperson directs unless clause 42.3 applies.

42.3 A vote in writing must be held immediately if it is demanded under clause 42.1:

- (a) for the election of a chairperson under clause 33.2; or
- (b) to decide whether to adjourn the meeting.

42.4 A demand for a vote in writing may be withdrawn.

43. Appointment of proxy

43.1 A Member may appoint a proxy to attend and vote at a general meeting on their behalf.

43.2 A proxy does need to be a Member.

43.3 A proxy appointed to attend and vote for a Member has the same rights as the Member to:

- (a) speak at the meeting;
- (b) vote in a vote in writing (but only to the extent allowed by the appointment); and
- (c) join in to demand a vote in writing under clause 42.1.

43.4 An appointment of proxy (proxy form) must be signed by the Member appointing the proxy and must contain:

- (a) the Member's name and address;
- (b) the Company's name;
- (c) the proxy's name or the name of the office held by the proxy; and
- (d) the meeting(s) at which the appointment may be used.

43.5 A proxy appointment may be standing (ongoing).

43.6 Proxy forms must be received by the Company at the address stated in the notice under clause 28.5(d) or at the Company's registered address at least 48 hours before a meeting.

- 43.7 A proxy does not have the authority to speak and vote for a Member at a meeting while the Member is at the meeting.
- 43.8 Unless the Company receives written notice before the start or resumption of a general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Member:
 - (a) dies;
 - (b) is mentally incapacitated;
 - (c) revokes the proxy's appointment; or
 - (d) revokes the authority of a representative or agent who appointed the proxy.
 - (e) A proxy appointment may specify the way the proxy must vote on a particular resolution.

44. Voting by proxy

- 44.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a Member appointed as a proxy from voting as a Member on a show of hands).
- 44.2 When a vote in writing is held, a proxy:
 - (a) does not need to vote, unless the proxy appointment specifies the way they must vote;
 - (b) if the way they must vote is specified on the proxy form, must vote that way; and
 - (c) if the proxy is also a Member or holds more than one proxy, may cast the votes held in different ways.

Directors

45. Number of Directors

- 45.1 The Company must have at least four and no more than ten Directors.
- 45.2 The headcount of Directors is inclusive of the Executive Director(s).
- 45.3 The Company in a general meeting may by ordinary resolution increase or reduce the maximum or minimum number of Directors, provided that the minimum will not be less than four and the maximum will not be more than ten.

46. Directors must be a Member

- 46.1 A Director must be a Member of the Company.

47. Election and appointment of Directors

- 47.1 The Members may elect a Director by a resolution passed in a general meeting.

- 47.2 Each of the Directors must be appointed by a separate resolution, unless:

- (a) the Members present have first passed a resolution that the appointments may be voted on together; and
- (b) no votes were cast against that resolution.

47.3 A person is eligible for election as a Director of the Company if they:

- (a) are nominated by two Directors;
- (b) give the Company their signed consent to act as a Director of the Company; and
- (c) are not ineligible to be a Director under the Corporations Act or the ACNC Act.

47.4 The Directors may appoint a person as a Director to fill a casual vacancy if that person:

- (a) gives the Company their signed consent to act as a Director of the Company; and
- (b) is not ineligible to be a Director under the Corporations Act or the ACNC Act.

47.5 If the number of Directors is reduced to fewer than four or is less than the number required for a quorum, the continuing Directors may act for the purpose of increasing the number of Directors to four (or higher if required for a quorum) or calling a general meeting, but for no other purpose.

48. Election of Chairperson

The Directors must elect a Director as the Company's chairperson.

49. Election of Vice-Chairperson

The Directors must elect a Director as the Company's vice-chairperson.

50. Term of office

50.1 At each annual general meeting:

- (a) any Director appointed by the Directors to fill a casual vacancy; and
- (b) any Director who has been in office for 5 years since election with the exception of the Executive Director;

must retire.

50.2 Other than a Director appointed under clause 47.4, a Director's term of office starts at the end of the annual general meeting at which they are elected and ends at the end of the annual general meeting at which they retire.

50.3 Each Director must retire at least once every five years with the exception of the Executive Director(s).

50.4 A Director who retires under clause 50.1 may nominate for election or re-election.

51. Removal of Director

51.1 Subject to the Corporations Act, the Company in a general meeting convened on at least 21 days' notice may by Special Resolution remove any Director.

51.2 Subject to the Corporations Act, the Company in a general meeting convened on at least 21 days' notice may by ordinary resolution appoint another qualified person in place of a Director that has been removed.

52. When a Director stops being a Director

A Director stops being a Director if they:

- (a) give written notice of resignation as a Director to the Company;
- (b) die;
- (c) are removed as a Director by a Special Resolution of the Members;
- (d) stop being a Member of the Company;
- (e) are absent for three consecutive Directors' meetings without approval from the Directors; or
- (f) become ineligible to be a Director of the Company under the Corporations Act or the ACNC Act.

Powers of Directors

53. Powers of Directors

- 53.1 The Directors are responsible for managing and directing the activities of the Company to achieve the purpose(s) set out in clause 6.
- 53.2 The Directors may use all the powers of the Company except for powers that, under the Corporations Act or this Constitution, may only be used by Members.
- 53.3 The Directors must decide on the responsible financial management of the Company including:
 - (a) any suitable written delegations of power under clause 54; and
 - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 53.4 The Directors cannot remove a Director or auditor. Directors and auditors may only be removed as within clause 52 and 83.

54. Delegation of Directors' powers

- 54.1 The Directors may delegate any of their powers and functions to a committee, a Director, an employee of the Company (such as a chief executive officer) or any other person, as they consider appropriate.

- 54.2 The delegation must be recorded in the Company's minute book.

55. Payments to Directors

- 55.1 The Company may pay fees to a Director for acting as a Director.

- 55.2 The Company may:

- (a) pay a Director for work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done; or
- (b) reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Company.

- 55.3 Any payment made under clauses 55.1 and 55.2 must be approved by the Directors and is at all times subject to the terms of clause 8.

55.4 The Company may pay premiums for insurance indemnifying Directors, as allowed for by law (including the Corporations Act) and this Constitution.

56. Execution of documents

56.1 The Company may execute a document without using a common seal if the document is signed by:

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

Duties of Directors

57. Duties of Directors

57.1 The Directors must comply with their duties as Directors under all applicable laws, and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Company;
- (b) to act in good faith in the best interests of the Company and to further the charitable purpose(s) of the Company set out in clause 6;
- (c) not to misuse their position as a Director;
- (d) not to misuse information they gain in their role as a Director;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 58;
- (f) to ensure that the financial affairs of the Company are managed responsibly, and
- (g) not to allow the Company to operate while it is insolvent.

58. Conflicts of interest

58.1 A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) as soon as practicably possible:

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

58.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting and in the Company's Director Conflict of Interest Register.

58.3 Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) must not, except as provided under clauses 58.4:

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

58.4 A Director may still be present and vote if:

- (a) their interest arises because they are a Member of the Company, and the other Members have the same interest;
- (b) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company (see clause 81);
- (c) their interest relates to a payment by the Company under clause 80 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act;
- (d) the Australian Securities and Investments Commission (**ASIC**) makes an order allowing the Director to vote on the matter; or
- (e) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) Identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company; and
 - (ii) Says that they are satisfied that the interest should not stop the Director from voting or being present.

Directors' meetings

59. **When the Directors meet**

The Directors may decide how often, where and when they meet.

60. **Calling Directors' meetings**

60.1 A Director may call a Directors' meeting by giving reasonable notice to all of the other Directors.

60.2 A Director may give notice in writing or by any other means of communication that has previously been agreed to by all of the Directors.

61. **Chairperson for Directors' meetings**

61.1 The chairperson is entitled to chair Directors' meetings.

61.2 The vice-chairperson is entitled to chair Directors' meetings when the chairperson has given prior notice on unavailability to chair a meeting.

61.3 The Directors at a Directors' meeting may choose a Director to be the chairperson for that meeting if the chairperson and vice-chairperson is:

- (a) not present within 30 minutes after the starting time set for the meeting; or
- (b) present but does not want to act as chairperson of the meeting.

62. Quorum at Directors' meetings

62.1 Unless the Directors determine otherwise, the quorum for a Directors' meeting is a majority (more than 50%) of Directors.

62.2 A quorum must be present for the whole Directors' meeting.

63. Using technology to hold Directors' meetings

63.1 The Directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the Directors.

63.2 Any agreement in clause 63.1 may be a standing (ongoing) one.

63.3 A Director may only withdraw their consent to an agreement in 63.1 within a reasonable period before the meeting.

64. Passing Directors' resolutions

64.1 A Directors' resolution must be passed by a majority of the votes cast by Directors present and entitled to vote on the resolution.

65. Circular resolutions of Directors

65.1 The Directors may pass a circular resolution without a Directors' meeting being held.

65.2 A circular resolution is passed if all the Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 65.3 or clause 65.4.

65.3 Each Director may sign:

- (a) a single document setting out the resolution and containing a statement that they agree to the resolution; or
- (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.

65.4 The Company may send a circular resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

65.5 A circular resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in clause 65.3 or clause 65.4.

Committees of Directors

66. Committees of Directors

66.1 The Directors may, as far as is consistent with applicable laws, delegate any of their powers (but not their duties) to committees consisting of one or more Director-Members as they think fit, and the Directors may revoke that delegation.

66.2 The Directors may appoint individuals who are not Directors or Members to committees provided they hold relevant qualifications and/or experience.

66.3 As a minimum the Directors will establish a Finance Audit and Risk Committee.

- 66.4 A committee will conform to any directions and regulations that may be imposed upon it by the Directors in the exercise of its powers.
- 66.5 So far as they are capable of application and with the necessary changes, the provisions of the clauses for regulating the meetings and proceedings of the Directors govern the meetings and proceedings of committees of 2 or more Members to the extent that the same are consistent with any directions and regulations made by the Directors.
- 66.6 Where a committee consists of 2 or more Members, a quorum will be any 2 Members or such larger number as the committee itself determines.
- 66.7 Despite any delegation under this rule, the Directors may continue to exercise any function delegated.

Executive Director(s)

67. Appointment of Executive Director(s)

- 67.1 The Directors may appoint any person, including any existing directors, as an employer Executive Director:
 - (a) either for a fixed term or without any limitation as to the period for which the person appointed is to hold the office; and
 - (b) subject to this Constitution, on any terms and conditions that the Directors determine.

67.2 No employee other than the Chief Executive Officer can be appointed as a Director

68. Removal, suspension, replacement of an Executive Director

- 68.1 Subject to the provisions of any contract between an Executive Director and the Company, the Directors may remove or dismiss or suspend an Executive Director from that office and appoint another in his or her place or appoint a temporary substitute for the Executive Director while the Executive Director is suspended, absent or unable to act.

- 68.2 No Executive Director is entitled to attend or vote at any meeting of Directors while under suspension from office.

69. Executive Director ceasing to be a Director

- 69.1 Subject to the provisions of any contract between an Executive Director and the Company, an Executive Director is subject to the same provisions as to resignation and removal as the other Directors and will immediately cease to be the Executive Director if for any reason he or she ceases to hold the office of Director.

70. Executive Director ceasing to be an Employee

- 70.1 In addition to clause 69, if an Executive Director ceases to be an employee of the Company or a related body corporate of the Company, they may elect to either:
 - 70.2 Retire and cease to be a Director;
 - 70.3 Apply for a transfer from Executive Director to regular Director.

- 70.4 Upon receipt of an application in 70.1(b), the Directors must by a Director's resolution decide whether or not to approve of the transfer.
- 70.5 If the Directors under clause 70.2 decide to approve of the transfer, then the process shall have no impact on membership which shall continue as if the directorship was continuous and did not cease under clause 21(e).
- 70.6 A person ceasing to be a Director by virtue of this clause will not for that reason alone be rendered ineligible for appointment or election as a Director under any other clause.

71. Powers of an Executive Director

- 71.1 The Directors may entrust to and confer on an Executive Director such of the powers exercisable under this Constitution by the Directors as they think fit.
- 71.2 The Directors may so confer any such powers for the time and to be exercised for any objects and purposes and on any terms and conditions and with such restrictions as they think fit.
- 71.3 The Directors may confer such powers either collaterally with or to the exclusion of and in substitution for all or any of the powers of the Directors in that behalf, and may revoke, withdraw, alter, or vary all or any of the powers.
- 71.4 Notwithstanding any provision of this Constitution, an Executive Director will at all times and in all respects be subject to the decisions of the Company.

Company Secretary

72. Appointment and role of Company Secretary

- 72.1 The Company must have at least one Company Secretary, who may also be a Director.
- 72.2 A Company Secretary must be appointed by the Directors (after giving the Company their signed consent to act as Company Secretary of the Company) and may be removed by the Directors.
- 72.3 The Directors must decide the terms and conditions under which the Company Secretary is appointed, including any remuneration.
- 72.4 The role of the Company Secretary includes:
 - (a) maintaining a register of the Company's Members; and
 - (b) maintaining the minutes and other records of general meetings (including notices of meetings), Directors' meetings and circular resolutions.

Minutes and records

73. Minutes and records

- 73.1 The Company must, within one month, make and keep the following records:
 - (a) minutes of proceedings and resolutions of general meetings;
 - (b) minutes of circular resolutions of Members;

- (c) a copy of a notice of each general meeting;
- (d) a copy of a Members' statement distributed to Members under clause 37;
- (e) minutes of proceedings and resolutions of Directors' meetings (including meetings of any committees); and
- (f) minutes of circular resolutions of Directors.

73.2 **To allow Members to inspect the Company's records:**

- (a) the Company must give a Member access to the records set out in clause 73.1 (a) – (d); and
- (b) the Directors may authorise a Member to inspect other records of the Company, including records referred to in clause 73.1 (e) - (f) and clause 74.1.

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

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

73.4 **The Directors must ensure that minutes of the passing of a circular resolution (of Members or Directors) are signed by a Director within a reasonable time after the resolution is passed.**

74. Financial and related records

74.1 **The Company must make and keep written financial records that:**

- (a) correctly record and explain its transactions and financial position and performance; and
- (b) enable true and fair financial statements to be prepared and to be audited.

74.2 **The Company must also keep written records that correctly record its operations pursuant to the ACNC Act.**

74.3 **The Company must retain its records for at least 7 years.**

74.4 **The Directors must take reasonable steps to ensure that the Company's records are kept safe and secure.**

Notice

75. What is notice

75.1 Anything written to or from the Company under any clause in this Constitution is written notice and is subject to clauses 76 to 78, unless specified otherwise.

75.2 Clauses 76 to 78 do not apply to a notice of proxy under clause 43.6.

76. Notice to the Company

76.1 Written notice or any communication under this Constitution may be given to the Company, the Directors, or the Company Secretary by:

- (a) delivering it to the Company's registered office; or
- (b) posting it to the Company's registered office or to another address chosen by the Company for notice to be provided; or
- (c) sending it to an email address or other electronic address notified by the Company to the Members as the Company's email address or other electronic address; or
- (d) sending it to the fax number notified by the Company to the Members as the Company's fax number.

77. Notice to Members

77.1 Written notice or any communication under this Constitution may be given to a Member:

- (a) in person;
- (b) by posting it to, or leaving it at the address of the Member in the register of Members or an alternative address (if any) nominated by the Member for service of notices;
- (c) sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any);
- (d) sending it to the fax number nominated by the Member as an alternative address for service of notices (if any); or
- (e) if agreed to by the Member, by notifying the Member at an email or other electronic address nominated by the Member, that the notice is available at a specified place or address (including an electronic address).

77.2 If the Company does not have an address for the Member, the Company is not required to give notice in person.

78. When notice is taken to be given

78.1 A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs;
- (c) sent by email, fax, or other electronic method, is taken to be given on the business day after it is sent; and
- (d) given under clause 77.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

79. Company's financial year

The Company's financial year is from 1 July to 30 June, unless the Directors pass a resolution to change the financial year.

Indemnity, insurance, and access

80. Indemnity

80.1 The Company indemnifies each Officer of the Company out of the assets of the Company, to the relevant extent, against all losses and liabilities (including costs, expenses, and charges) incurred by that person as an Officer of the Company.

80.2 In this clause, 'Officer' means a Director or Company Secretary and includes a Director or Company Secretary after they have ceased to hold that office.

80.3 In this clause, 'to the relevant extent' means:

- (a) to the extent that the Company is not precluded by law (including the Corporations Act) from doing so; and
- (b) for the amount that the Officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).

80.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Company.

81. Insurance

81.1 To the extent permitted by law (including the Corporations Act), and if the Directors consider it appropriate, the Company may pay or agree to pay a premium for a contract insuring a person who is an Officer of the Company against any liability incurred by the person as an Officer of the Company.

82. Directors' access to documents

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

82.2 If the Directors agree, the Company must give a Director or former Director access to:

- (a) certain documents, including documents provided for or available to the Directors; and
- (b) any other documents referred to in those documents.

Auditors: Appointment and Removal

83. Auditors

The auditors of the Company will:

- (a) be appointed and may be removed as provided in the Corporations Law and subject to clause 53.4; and
- (b) perform the duties and have the rights and powers as may be provided in the Corporations Law.

Winding up

84. **Surplus assets not to be distributed to Members**

84.1 If the Company is wound up, any surplus assets must not be distributed to a Member or a former Member of the Company, unless that Member or former Member is a charity described in clause 85.1.

85. **Distribution of surplus assets**

85.1 Subject to the Corporations Act and any other applicable Act, and any court order, if the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus assets shall be transferred to another organisation with similar objects, which is charitable at law, to which income tax deductible gifts can be made and which also prohibit the distribution of any surplus assets to its Members to at least the same extent as the Company.

85.2 The decision as to the charity or charities to be given the surplus assets must be made by a Special Resolution of Members at or before the time of winding up. If the Members do not make this decision, the Company may apply to the Supreme Court to make this decision.

Definitions and interpretation

86. **Definitions**

In this Constitution:

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

86.2 **Company** means the Company referred to in clause 1.

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

86.4 **General meeting** means a meeting of Members and includes the annual general meeting, under clause 27.1.

86.5 **Member** means a Member of the Company.

86.6 **Registered charity** means a charity that is registered under the ACNC Act.

86.7 **Special Resolution** means a resolution:

- i. of which notice has been given under clause 28.5(c); and
- ii. that has been passed by at least 75% of the votes cast by Members present and entitled to vote on the resolution.

86.8 **Surplus assets** mean any assets of the Company that remain after paying all debts and other liabilities of the Company, including the costs of winding up.

87. **Reading this Constitution with the Corporations Act**

87.1 The replaceable rules set out in the Corporations Act do not apply to the Company.

87.2 While the Company is a registered charity, the ACNC Act and the Corporations Act override any clauses in this Constitution which are inconsistent with those Acts.

87.3 If the Company is not a registered charity (even if it remains a charity), the Corporations Act overrides any clause in this Constitution which is inconsistent with that Act.

87.4 A word or expression that is defined in the ACNC Act or Corporations Act or used in those Acts and covering the same subject, has the same meaning as in this Constitution.

88. Interpretation

In this Constitution:

- (a) the words 'including,' 'for example,' or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression; and
- (b) a reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).