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Constitution of Rare Voices Australia Ltd

ACN 156 254 303

**A Public Company Limited by Guarantee
Corporations Act 2001**

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Constitution

1. Definitions and interpretation

1.1 Definitions

In this Constitution, unless expressed or implied to the contrary:

Authenticated means the action of confirming the approval of a relevant person, individual to that person, which may include insertion of a signature, electronic or written, or other individual digital marker.

Board means the board of Directors.

Business Day means a day other than a Saturday, Sunday or public holiday in New South Wales.

Chair means the Director who is elected to this office under clause 15.7.

Company means the company described in clause 2.

Constitution means this constitution, including any amendments.

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

Digital Platform means any digital or virtual platform which can be used for the purposes of communication including, but not limited to, social media platforms, online portals and virtual teleconferencing platforms.

Directors means the members individually or collectively of the Company.

First Directors means the persons who are Directors at the time of adoption of this Constitution.

Law includes:

- (a) any law, regulation, authorisation, ruling, judgment, order or decree of any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity in Australia; and
- (b) any statute, regulation, proclamation, ordinance or by-law in Australia.

Member means a person admitted to membership of the Company in accordance with this Constitution.

Purposes means the purposes of the Company set out in clause 3.

Register means the register of Members kept in accordance with the Corporations Act.

Relevant Law means:

- (a) the *Australian Charities and Not-for-profits Commission Act 2012* (Cth);
- (b) the *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth);

- (c) the *Charities Act 2013* (Cth);
- (d) the Corporations Act;
- (e) the *Corporations Regulations 2001* (Cth); or
- (f) a Ruling.

Ruling means any:

- (a) class order or regulatory guide issued by the Australian Securities and Investments Commission;
- (b) public or private ruling issued by the Australian Taxation Office; or
- (c) Commissioner's interpretation statement issued by the Australian Charities and Not-for-profits Commission.

Special Resolution means, subject to any Relevant Law, a resolution:

- (a) of which notice has been given in accordance with clause 11; and
- (b) that has been passed by at least 75% of the votes cast by Members present in person or by proxy and entitled to vote on the resolution.

Transition Policy means the arrangements relating to the term of office of each of the first Directors under clause 1.1.

1.2 Application of the Corporations Act

- 1.2.1 The replaceable rules of the Corporations Act do not apply to the Company.
- 1.2.2 A word or expression that is defined in the Corporations Act or used in that Act and covering the same subject has the same meaning in this Constitution unless it is given a different meaning in this Constitution.

1.3 Inconsistency with Relevant Law

The Relevant Law prevails over any inconsistency with this Constitution.

1.4 Interpretation

In this Constitution, unless the context requires otherwise:

- 1.4.1 a person includes a firm, partnership or other unincorporated body, joint venture, association, corporation or other body corporate;
- 1.4.2 any legislation (including subordinate legislation) includes every amendment, re-enactment or replacement of the legislation and any subordinate legislation made under it;
- 1.4.3 this or any other document includes the document as varied or replaced regardless of any change in the identity of the parties;
- 1.4.4 any body (**Original Body**) which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the Original Body;

- 1.4.5 in general terms, a person holding or occupying an office or position includes a reference to any person who occupies or performs the duties of that office or person for the time being;
- 1.4.6 a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Constitution;
- 1.4.7 where a word or phrase is defined, another part of speech or grammatical form of that word or phrase has a corresponding meaning;
- 1.4.8 writing includes all modes of representing or reproducing words in a legible, permanent and visible form;
- 1.4.9 the singular includes the plural and vice-versa;
- 1.4.10 a gender includes every other gender;
- 1.4.11 the word **includes** in any form is not a word of limitation; and
- 1.4.12 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Constitution.

2. Name

The name of the Company is Rare Voices Australia Ltd.

3. Purposes

The purpose of the Company is to promote the best outcomes for Australians living with a rare disease including by:

- 3.1 providing a unified voice for people living with a rare disease;
- 3.2 collaboratively leading the development and implementation of rare disease policy at both state and national level;
- 3.3 developing and providing strategic input into planning for rare diseases at both state and national level, including engagement with the community, medical and scientific stakeholders, governments and industry;
- 3.4 advocating for the systemic implementation of services and support for people living with a rare disease;
- 3.5 developing the capacity of the rare disease sector;
- 3.6 supporting high quality collaborative research concerning rare diseases which positively impacts the lives of people living with a rare disease;
- 3.7 raising funds to support initiatives to assist in providing the best outcomes for people living with a rare disease;
- 3.8 operating as the national peak body for Australians living with a rare disease with all associated functions including promoting rare disease centres of excellence; and
- 3.9 engagement with relevant international rare disease organisations.

4. Powers

Subject to this Constitution and solely for carrying out the Purposes, the Company has the legal capacity and powers of an individual and all the powers of a body corporate under the Corporations Act other than the power to issue shares.

5. Member liability and guarantee

5.1 The liability of each Member is limited to the amount specified in clause 5.2.

5.2 Each Member undertakes to contribute a maximum of \$10 to the Company if it is wound up:

5.2.1 while the Member is a Member; or

5.2.2 within one year after that Member ceases to be a Member,

for:

5.2.3 the debts and liabilities of the Company contracted before that Member ceases to be a Member; and

5.2.4 the costs, charges and expenses of winding up.

6. Application of income and property**6.1 Promotion of Purposes**

6.1.1 The Company must apply all of its income and property solely towards the furtherance and promotion of the Purposes.

6.1.2 Except as provided in clause 6.2, the Company must not pay or transfer directly or indirectly any Company income or property to any of the Members (in their capacity as Members) or Directors.

6.2 Payments in good faith

6.2.1 Clauses 6.1 do not prevent payment in good faith to a Member or Director or to a firm of which a Member or Director is a partner:

(a) of remuneration for services to the Company (other than services as a Director or services on a Board committee);

(b) of reimbursement for expenses properly incurred on behalf of or for the Purposes at fair and reasonable rates or rates more favourable to the Company;

(c) for goods supplied to the Company in the ordinary course of business;

(d) of interest on money borrowed by the Company and rent for premises let to the Company, where:

(i) the interest or rent of the service has the prior approval of the Directors; and

- (ii) the amount payable is not more than an amount which commercially would be reasonably paid,

provided that any such payment to a Director must comply with clause 6.2.2.

6.2.2 The Company must not make any payment to a Director for goods or services rendered by that Director to the Company, unless:

- (a) the provision of those goods or services has the prior consent of the Directors;
- (b) the amount payable is on reasonable commercial terms or at rates more favourable to the Company; and
- (c) the payment has the prior approval of the Directors.

6.2.3 This clause does not prohibit indemnification of or payment of premiums on contracts of insurance for any Director to the extent permitted by a Relevant Law and this Constitution.

7. Membership

7.1 General

The Members are each person who is appointed as a Director immediately upon such appointment taking effect, for the duration of their tenure as a Director.

7.2 Member's rights generally

A Member has the right to receive notices of any general meeting, to attend and be heard at any general meeting and to one vote at any general meeting.

7.3 Not transferrable

Membership is not transferrable.

8. Cessation of Membership

8.1 Grounds for cessation

A person immediately ceases to be a Member if the person:

- 8.1.1 ceases to be a Director for any reason; or
- 8.1.2 resigns in writing to the Company.

8.2 Surviving liability

Any Member who ceases to be a Member remains liable for:

- 8.2.1 any monies which may be owing to the Company; and
- 8.2.2 in the case of the Company being wound up within one year of the date of cessation of Membership, the relevant contribution under clause 5.2.

9. Register of Members

- 9.1 The Company must establish and maintain a Register in accordance with the Corporations Act at its registered office or its principal place of business.
- 9.2 Each Member must give written notice to the Company of any change in his or her address. The latest address on the Register is deemed to be the Member's registered address.
- 9.3 Where a Member ceases to be a Member, their name must be removed from the Register forthwith.
- 9.4 Upon the removal of a Member's name from the Register:
- 9.4.1 the Member will forfeit all rights and privileges attached to membership and all rights which the Member may have against the Company arising out of the membership; and
 - 9.4.2 the Company will have no liability to such Member in respect of their removal from the Register.

10. General meetings

10.1 General meetings called by the Directors

- 10.1.1 The Directors may convene a general meeting at such time and place as the Directors think fit.
- 10.1.2 If any 2 Members who are entitled to vote 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.
- 10.2 The Members who make the request for a general meeting must:
- 10.2.1 state in the request any resolution to be proposed at the meeting;
 - 10.2.2 sign the request; and
 - 10.2.3 give the request to the Company.
- 10.3 Members may sign separate copies of a document setting out the request if the wording of the request is the same in each copy.

10.4 General meetings called by Members

- 10.4.1 If the Directors do not call the general meeting within 21 days of being requested under clause 10.1.2, 50% or more of the Members who made the request may call and arrange to hold a general meeting.
- 10.4.2 To call and hold a general meeting under clause 10.4.1, the Members must:
- (a) as far as possible, follow the procedures for general meetings set out in this Constitution;

- (b) call the general meeting using the list of Members on the Register, which the Company must provide to the Members making the request at no cost; and
- (c) hold the general meeting within 3 months after the request was given to the Company.

10.5 Annual general meeting

- 10.5.1 The Company must hold a general meeting called an annual general meeting at least once in every calendar year, at the time and place determined by the Directors.
- 10.5.2 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;
 - (e) the appointment and payment of auditor (if any); and
 - (f) any other business which may lawfully be transacted at a general meeting.
- 10.5.3 Before or at the annual general meeting, the Members must inform themselves of the Company's activities and finances during the period since the last annual general meeting.
- 10.5.4 The Chair 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.

11. Notice of general meetings

11.1 General

The Directors must give no less than 21 days' written notice, in accordance with clause 24, of a general meeting, to the Members, the Directors and the auditor (if any).

11.2 Shorter notice

- 11.2.1 Subject to clause 11.2.2, notice of a general 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.
- 11.2.2 Notice of a general meeting may not 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; or
- (c) remove an auditor.

11.3 Contents of notice

The notice of a general meeting must specify the following:

- 11.3.1 the place, the day and the hour of meeting (and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
- 11.3.2 the general nature of the meeting's business;
- 11.3.3 if applicable, a statement that a Special Resolution is to be proposed and the words of the proposed Special Resolution;
- 11.3.4 that a Member entitled to vote has the right to appoint a proxy and that, if a Member appoints a proxy:
 - (a) the proxy form must be delivered to the Company at the address specified in the notice of the meeting or at the Company's registered office; and
 - (b) the proxy form must be delivered to the Company at least 48 hours before the meeting.

11.4 Failure to receive notice

- 11.4.1 The accidental omission to give notice of a general meeting to any Member or the non-receipt of such notice by any Member does not invalidate any resolution passed at, or proceeding of, that meeting.
- 11.4.2 A person's attendance at a general meeting waives any objection that the person may have to:
 - (a) a failure to give notice or to the giving of a defective notice of the meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and
 - (b) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

12. Proceedings at general meetings

12.1 Quorum

- 12.1.1 No business may be transacted at a general meeting, except the adjournment of the general meeting, unless a quorum is present.
- 12.1.2 The quorum for a general meeting is half the number of Members, or if the number of Members is not a multiple of 2, then the odd number nearest to and greater than half the number of Members, who are entitled to vote and are present in person or by proxy or attorney.
- 12.1.3 If a quorum is not present within 30 minutes from the time appointed for a general meeting:

- (a) if convened on the requisition of Members, the general meeting will be dissolved; and
- (b) in any other case, the general meeting will be adjourned to the same day in the next week at the same time and place or at such other place as the Chair appoints. If at that adjourned general meeting a quorum is not present within 30 minutes from the time appointed for holding the general meeting, the Members present will be a quorum.

12.2 Chair

12.2.1 The Chair will be the Chair at every general meeting.

12.2.2 If at any general meeting the Chair is not present within 30 minutes after the time appointed for holding the meeting or is not willing to preside, the Deputy Chair will be the Chair at the meeting. If neither the Chair nor the Deputy Chair is present within 30 minutes after the time appointed for holding the meeting or is not willing to preside, the Members present in person or by attorney or proxy will choose a Director to preside as Chair.

12.2.3 At any time during a general meeting and in respect of any specific item or items of business, the Chair may elect to vacate the Chair in favour of another person nominated by the Chair (which person must be a Director). That person is to be taken to be the Chair of the meeting and will have all the powers of the Chair (other than the power to adjourn the meeting), during the consideration of that item of business or those items of business.

12.3 General conduct of proceedings

12.3.1 The Chair of a general meeting is responsible for the general conduct of the meeting and for deciding the procedures to be adopted at the meeting.

12.3.2 In particular, the Chair of a general meeting may:

- (a) require the adoption of any procedure which is, in the Chair's opinion, necessary or desirable for proper and orderly debate or discussion or for the proper and orderly casting or recording of votes at the meeting; and
- (b) terminate discussion or debate on any matter whenever the Chair considers it necessary or desirable for the proper conduct of the meeting.

12.3.3 A decision of the Chair on any matter under clause 12.3.2 is final.

12.4 Adjournment

12.4.1 The Chair of a general meeting may, with the consent of the Members entitled to vote at any meeting at which a quorum is present, and must, if so directed by a vote at any meeting at which a quorum is present, adjourn the meeting to another time or place (or both).

12.4.2 Only unfinished business may be transacted at any meeting resumed after an adjournment of a general meeting.

12.4.3 Where a general meeting is adjourned for one month or more, new notice of the adjourned general meeting must be given.

12.4.4 A poll cannot be demanded on any resolution concerning the adjournment of a general meeting except by the Chair.

12.5 Members' resolutions and statements

- 12.5.1 Any 2 Members who are entitled to vote 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**).
- 12.5.2 A notice of a Members' Resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- 12.5.3 A request to distribute a Members' Statement must set out the statement to be distributed and be signed by the Members making the request.
- 12.5.4 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.
- 12.5.5 If the Company has been given notice of a Members' Resolution under clause 12.5.1(a), the resolution must be considered at the next general meeting held more than 2 months after the notice is given.
- 12.5.6 This clause does not limit any other right that a Member has to propose a resolution at a general meeting.

12.6 Company must give notice of proposed resolution or distribute statement

- 12.6.1 If the Company has been given a notice or request under clause 12.5:
- (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.
- 12.6.2 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;
 - (c) clause 12.6.1(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.

12.7 Show of hands

Every item of business submitted to a general meeting will be decided in the first instance by a show of hands, or if the meeting is being held virtually, by some other method determined by the Chair. Those entitled to vote on a show of hands are the Members present in person or by attorney or proxy. The Chair will not have a casting vote if a vote on a show of hands is tied. If the vote is tied, the resolution is not passed.

12.8 Poll

- 12.8.1 The Chair or any 2 Members who may each cast a vote on a resolution and who are present in person or by attorney or proxy may demand a poll before or on the declaration of the result of a show of hands.
- 12.8.2 The poll will be taken in the manner and at the time and place as the Chair of the meeting directs, and either at once or after an interval or adjournment or otherwise.
- 12.8.3 The result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded.
- 12.8.4 The demand for a poll may be withdrawn.
- 12.8.5 If there is a dispute as to the admission or rejection of a vote, the Chair will finally determine that dispute.
- 12.8.6 The Chair will not have a casting vote. If the vote is tied, the resolution is not passed.

12.9 Demand for poll

The demand for a poll will 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 will be taken at the meeting and without adjournment.

12.10 Evidence of resolution

A declaration by the Chair that a resolution has been passed or lost (having regard to the majority required) and an entry to that effect in the books of the Company, signed by the Chair of that or the next succeeding meeting, will be conclusive evidence that the resolution has been passed or lost without proof of the number or proportion of the votes recorded in favour of or against the resolution.

12.11 Auditor's right to be heard

The auditor (if any) is entitled to:

- 12.11.1 attend any general meeting of the Company;
- 12.11.2 be heard at any general meeting of the Company on any part of the business of the meeting that concerns the auditor in their capacity as auditor, even if:
 - (a) the auditor retires at the general meeting; or
 - (b) the Members pass a resolution to remove the auditor from office; and
- 12.11.3 authorise a person in writing to attend and speak at any general meeting as the auditor's representative.

12.12 Meetings conducted by electronic means

12.12.1 The Company may hold a general meeting virtually via any Digital Platform or at 2 or more venues using any technology, so long as it gives the Members as a whole a reasonable opportunity to participate, including to hear and be heard.

12.12.2 Where the meeting is held at one or more physical venues:

- (a) a Member who participates in such a meeting is taken to be present in person at the meeting;
- (b) all provisions of this Constitution relating to general meetings apply, as far as they can and with any necessary changes, to such a meeting; and
- (c) the meeting is taken as held at the place determined by the Chair of the meeting, as long as at least one of the Members was at that place for the duration of the meeting.

12.12.3 If the technology used for a general meeting encounters a technical difficulty, whether before or during the meeting, and as a result a Member is not able to participate in the meeting, the Chair may:

- (a) allow the meeting to continue, if a quorum of Members remains able to participate in the meeting; or
- (b) adjourn the meeting either for a reasonable period to fix the technology or to another time and location that the Chair decides,

unless otherwise required by the Corporations Act.

12.13 Circular resolutions of Members

12.13.1 Subject to clause 12.13.3, the Directors may put a resolution to the Members to pass a resolution without a general meeting being held (**circular resolution**).

12.13.2 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.

12.13.3 Circular resolutions may not 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 or this Constitution requires a general meeting to be held.

12.13.4 A circular resolution is passed if a majority of the Members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clauses 12.13.5 or 12.13.6.

12.13.5 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.

12.13.6 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.

12.13.7 The single or several documents constituting the circular resolution under this clause 12.12.3 must be entered in the relevant book of minutes of the Company.

13. Proxy

13.1 General

Any Member may appoint a natural person as their proxy to vote on the Member's behalf at a general meeting. A proxy must be a Member.

13.2 Instrument appointing proxy

13.2.1 The Company must receive the instrument appointing a proxy (and an original or certified copy of the power of attorney, if any, under which it is signed) at:

- (a) the physical or electronic address specified in the notice of the meeting; or
- (b) the Company's registered office,

not less than 48 hours before the time for holding the general meeting or adjourned meeting or poll at which the person named in the instrument is to vote.

13.2.2 Unless the contrary is stated on it, an instrument appointing a proxy is valid for any adjournment of the general meeting to which it relates.

13.2.3 An appointment of a proxy may be a standing one.

13.3 Form of proxy

An instrument appointing a proxy must contain the following information:

- 13.3.1 the Member's name and address;
- 13.3.2 the Company name;
- 13.3.3 the type of membership held by the Member;
- 13.3.4 the proxy's name or the name of the office held by the proxy; and
- 13.3.5 the meetings at which the appointment may be used,

and be signed by the appointor.

13.4 Voting instructions

An instrument appointing a proxy may specify the way in which the proxy must vote on a particular resolution.

13.5 Authority

An instrument appointing a proxy is deemed to confer authority to demand or join in demanding a poll and will (except to the extent to which the proxy is specifically directed to vote for or against any proposal) include the power to act generally at the meeting for the person giving the proxy.

14. Attorneys

14.1 Appointment by Member

Any Member may, by duly executed power of attorney, appoint an attorney to act on the Member's behalf at all or certain specified meetings of the Company. That power of attorney must be produced for inspection at the Registered Office or any other place the Directors determine, together with evidence of its due execution, as required by the Directors, before the attorney will be entitled to appoint a proxy for the Member granting the power of attorney.

14.2 Appointment by Directors

The Directors may, by power of attorney, appoint any person whether nominated directly or indirectly by the Directors to be an attorney or attorneys of the Company. Such appointment may be for any purposes and with powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for periods and subject to any conditions as the Directors think fit. Any power of attorney may contain provisions for the protection and convenience of persons dealing with any attorney as the Directors think fit and may also authorise any attorney to sub-delegate all or any of the powers, authorities and discretions vested in them.

15. Board

15.1 Number and qualifications of Directors

- 15.1.1 The Board will consist of no less than 5 and no more than 9 Directors except for any period resulting from a casual vacancy.
- 15.1.2 The Board will comprise individuals who have the skills and experience determined by the Directors from time to time which are relevant to the pursuit of the Purposes.
- 15.1.3 Each candidate for election or appointment as Director must:
- (a) be eligible under the Relevant Law to be a Director; and
 - (b) give their prior written consent to be a Director.

15.2 Term of office generally

- 15.2.1 Except as provided in clause 15.5 (casual vacancies, and additional Directors), a Director will hold office from the end of the annual general meeting at which they are appointed until the end of the third annual general meeting following that appointment when they must retire (3 year term).
- 15.2.2 A retiring Director is eligible for re-election for a maximum of 3 consecutive terms.

15.2.3 A Director who has retired, after serving the maximum number of consecutive terms referred to in clause 15.2.2, is eligible for re-election to the Board following a period of not less than 3 years after their retirement.

15.2.4 Any term served as a First Director counts for the purposes of clauses 15.2.1 and 15.2.2.

15.3 Nominations Committee

15.3.1 There will be a standing committee of the Board called the Nominations Committee to assist and advise the Directors on the nomination of suitable candidates for appointment as Directors, including by receiving and proposing nominations of candidates, having regard to the composition of the Board described in clause 15.1.

15.3.2 The Nominations Committee will be chaired by a Director who is not Chair of the Board.

15.3.3 The Nominations Committee will comprise a minimum of 3 and a maximum of 4 Directors, including the Chair of the Board and the Director referred to in clause 15.3.2.

15.3.4 The Nominations Committee may engage an external consultant from time to time as considered necessary.

15.4 Appointment

15.4.1 Prior to an annual general meeting at which one or more Directors will retire, the Nominations Committee will:

- (a) identify and consider candidates for appointment to any forthcoming Director vacancy on the Board; and
- (b) make recommendations to the Board of at least one candidate for each vacancy who:
 - (i) meets the general criteria under clause 15.1.3; and
 - (ii) has relevant skills and experience, having regard to the requirements of the Company from time to time.

15.4.2 If the Board considers there are insufficient suitable candidates recommended by the Nominations Committee under clause 15.4.1 to fill all vacant positions, the Board may request the Nominations Committee to propose additional candidates.

15.4.3 The Board will approve for appointment one individual for each vacancy from among the field of candidates recommended by the Nominations Committee.

15.4.4 At the annual general meeting, the Members will appoint as Directors those individuals approved by the Board under clause 15.4.3.

15.5 Casual vacancies and additional Directors

15.5.1 The Directors may appoint a Director to fill a casual vacancy in the office of Director and may appoint additional Directors, subject to the maximum number of Directors.

- 15.5.2 Any Director so appointed will hold office until the end of the next annual general meeting.

15.6 Vacation of office of Director

A person ceases to be a Director if they:

- 15.6.1 by notice in writing to the Company resign from office;
- 15.6.2 die;
- 15.6.3 are removed as a Director by a resolution of the Members;
- 15.6.4 are absent from 3 consecutive Directors' meetings without the approval of the Directors;
- 15.6.5 become ineligible to be a Director under a Relevant Law; or
- 15.6.6 cease to hold office by reason of any order made under a Relevant Law.

15.7 Officers of the Board

- 15.7.1 The person holding the office of Chair on the date of adoption of this Constitution will continue to hold office until the end of the first annual general meeting after the adoption of this Constitution at which time they will retire as Chair.
- 15.7.2 If the office of Chair is vacant at the end of an annual general meeting, then at the first meeting of the Directors after that annual general meeting, the Directors will elect from among their number a Chair who will hold office until the next annual general meeting, after which the Chair will retire.
- 15.7.3 A retiring Chair will be eligible for re-election to that office for a maximum of 3 terms.
- 15.7.4 The Directors may from time to time determine other officers including a Deputy Chair whose appointment as Deputy Chair will be on the same terms as the position of Chair as set out in clauses 15.7.1, 15.7.2 and 15.7.3
- 15.7.5 The Directors may elect from among their number such other office bearers of the Board for such terms as the Directors determine.

16. Powers of the Directors

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

17. Proceedings of the Directors

- 17.1 The Directors may meet together to attend to business and adjourn and regulate their meetings as they decide.
- 17.2 A meeting of the Directors may be held virtually or using any technology consented to by all of the participating Directors (**Approved Technology**). The consent may be a standing one.

- 17.3 Where a meeting of Directors is held at 2 or more venues using Approved Technology:
- 17.3.1 a Director participating in the meeting is taken to be present in person at the meeting;
 - 17.3.2 all the provisions in this Constitution relating to meetings of Directors apply, so far as they can and with such changes as are necessary, to meetings using Approved Technology; and
 - 17.3.3 the meeting is taken to be held at the place decided by the Chair of the meeting, if at least one of the Directors was at that place for the duration of the meeting.
- 17.4 If the technology used for a meeting of Directors encounters a technical difficulty before or during the meeting, and as a result a Director is not being able to participate in the meeting, the Chair may:
- 17.4.1 allow the meeting to continue, if a quorum of Directors remains able to participate in the meeting; or
 - 17.4.2 adjourn the meeting either for a reasonable period to fix the technology or to another time and location as the Chair decides, unless required to do otherwise by the Corporations Act.
- 17.5 Calling meetings of Directors**
- 17.5.1 The Chair may convene a meeting of the Directors whenever he or she thinks fit.
 - 17.5.2 The secretary must, on the request of at least 2 Directors, convene a meeting of the Directors.
- 17.6 Notice of Directors' meetings**
- 17.6.1 Notice of a Directors' meeting must be given to each person who is a Director, except a Director on leave of absence approved by the Directors.
 - 17.6.2 Notice of a Directors' meeting:
 - (a) must specify the time and place of the meeting;
 - (b) need not state the nature of the business to be transacted at the meeting; and
 - (c) may be given in person or by post, telephone, or other electronic means including by uploading the notice to a Digital Platform commonly used by the Board and accessible to all Directors.
 - 17.6.3 The accidental omission to give notice of a meeting to, or the non-receipt of a notice of meeting by, a Director will not invalidate proceedings at a Directors' meeting.
 - 17.6.4 A Director's attendance at a Directors' meeting waives any objection that Director may have to a failure to be given notice of the meeting.
- 17.7 Quorum**
- 17.7.1 No business may be transacted at a Directors' meeting unless a quorum is present at the time the business is considered.

- 17.7.2 A quorum for a Directors' meeting is half the number of Directors, or if the number of Directors is not a multiple of 2, then the odd number nearest to and greater than half of the number of Directors.
- 17.7.3 If the number of Directors in office at any time is less than the minimum number fixed under this Constitution, then the remaining Directors:
- (a) must act as soon as possible to procure the appointment of additional Directors to satisfy the minimum number required under this Constitution; and
 - (b) until that has happened, may only act if and to the extent that there is an emergency requiring them to act.

17.8 Chair and voting

- 17.8.1 The Chair will be the Chair of the Directors' meetings.
- 17.8.2 If the Chair is not present at any Directors' meeting within 10 minutes after the time appointed for the meeting to begin or is present but is unwilling to act, the Deputy Chair will chair the meeting or they are not present or unwilling then the Directors present must elect another Director to be Chair of the meeting.
- 17.8.3 Except as provided by the Corporations Act, questions arising at any Directors' meeting will be decided by a majority of votes and each Director present will be entitled to one vote.
- 17.8.4 The Chair of a Directors' meeting will not have a casting vote in addition to any deliberative vote. If a majority of votes is not achieved, the resolution will not pass.

17.9 Circular resolutions of the Directors

- 17.9.1 The Directors may pass a circular resolution without a Directors' meeting being held.
- 17.9.2 A circular resolution is passed if a majority of the Directors (other than a Director on leave of absence approved by the Directors) entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clauses 17.9.3 or 17.9.4.
- 17.9.3 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.
- 17.9.4 The Company may send a circular resolution by email, or by any other electronic means including uploading the resolution to a Digital Platform accessible by the Directors, 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 or may indicate their acceptance of the resolution on the Digital Platform.
- 17.9.5 A circular resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in clauses 17.9.3 or 17.9.4.

17.9.6 A circular resolution should be tabled by the Chair at the next Board meeting immediately following it being passed.

17.10 Delegation by the Directors

17.10.1 The Directors may delegate any of their powers to:

- (a) individual Directors;
- (b) employees;
- (c) any other person, including as attorney or agent; or
- (d) committees consisting of such Directors, employees or such other individuals as the Directors think fit.

17.10.2 Any such delegations must be specified in writing and maintained in a register of delegated authorities.

17.10.3 The delegate must exercise the powers delegated in accordance with any directions of the Directors.

17.10.4 The exercise of a power by a delegate is as effective as if the Directors had exercised it.

17.10.5 The meetings and proceedings of any committee will be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Directors so far as applicable and so far as those provisions are not superseded by any other direction given by the Directors.

17.11 Validity of acts

An act done in good faith by any Directors' meeting, of any committee formed by the Directors or by any person acting as a Director is valid despite:

- 17.11.1 any defect in the election, appointment or tenure of a Director or person acting on any such committee;
- 17.11.2 the disqualification of any of them; or
- 17.11.3 the person not being entitled to vote.

18. Secretary

18.1 The Directors will appoint at least one secretary and may at any time suspend or remove a person from that office.

18.2 The secretary holds office on such terms and conditions (including as to remuneration) and with the powers, duties and authorities as determined by the Directors.

19. Minutes and records

19.1 Minutes to be kept

19.1.1 The Company must keep minute books in which it records, within one month, proceedings and resolutions of all meetings of the Company, the Directors and committees formed by the Directors.

19.1.2 The Company must ensure the minutes are Authenticated within a reasonable time by the Chair of the meeting or by the Chair of the next meeting.

19.2 Evidence of proceedings and resolutions

A minute that is recorded and Authenticated in accordance with clause 19.1 is evidence of the proceeding or resolution to which it relates, unless the contrary is proved.

20. Accounts

20.1 Books of account to be kept

The Directors will cause to be kept proper books of account in which will be kept true and complete accounts of the affairs and transactions of the Company. Proper books will not be deemed to be kept unless the books give a true and fair view of the state of the Company's affairs and explain its transactions.

20.2 Location of books of account

The books of account will be kept at the registered office or place or places as the Directors think fit and will be open to the inspection of the Directors during usual business hours.

21. Auditor

The Company will observe the provisions of the Relevant Laws in relation to the appointment, removal and resignation of an auditor.

22. Amendments to this Constitution

Subject to any provision in any Relevant Law to the contrary, the Company may vary, amend or repeal this Constitution by passing a Special Resolution.

23. Indemnity and access to records

23.1 Definitions

For the purposes of this clause 23:

Indemnified Loss means, in relation to any fact, matter or circumstance:

(a) all Loss arising out of or in connection with that fact, matter or circumstance; and

- (b) all legal and other professional expenses on a solicitor-client basis incurred in defending or resisting (or otherwise in connection with) proceedings, whether criminal, civil, administrative or investigatory in nature arising out of or connected with the fact, matter or circumstance.

Loss means damage, liability, action, loss, charge, cost or expense.

Officer means:

- (a) a Director;
- (b) a secretary; or
- (c) any other officer of the Company, and includes former officers, but does not include any auditor or agent of the Company.

23.2 Indemnity

23.2.1 Subject to clause 23.2.2, the Company must pay to a person who is or has been an Officer on demand an amount equal to all Indemnified Loss of the Officer as a result of or in connection with that person's role as an Officer.

23.2.2 To the extent permitted by Law, the Company may make a payment (whether by way of advance, loan or otherwise) to an Officer for the Officer's legal costs.

23.2.3 The obligation of the Company in clause 23.2.1:

- (a) is enforceable without the Officer having to first incur any expense or make any payment;
- (b) is a continuing obligation and is enforceable by the Officer even though the Officer may have ceased to be an officer of the Company;
- (c) applies to Loss incurred both before and after the date of the adoption of this Constitution; and
- (d) does not operate in respect of any liability of the Officer to the extent that liability is covered by insurance.

23.2.4 The obligation of the Company in clause 23.2 will not apply to the extent that:

- (a) the Company is not allowed by Law to indemnify an Officer against the Indemnified Loss;
- (b) an indemnity by the Company of the Officer against Indemnified Loss would, if given, be legally ineffective under any Law; or
- (c) the Company is not allowed by Law to make a payment for legal costs.

23.3 Insurance

To the extent allowed by Law, the Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been an Officer against a Loss incurred by the person as an Officer. Any premium will be paid in addition to any remuneration paid to a Director by the Company under this Constitution.

23.4 Access to documents

- 23.4.1 A person who is not a Director does not have the right to inspect any of the board papers, books, records or documents of the Company, except as:
- (a) allowed or required by any Law or as permitted pursuant to clause 23.4.2; or
 - (b) as authorised by the Directors or by resolution of the Members.
- 23.4.2 The Company may agree to provide continuing access for a specified period after a person ceases to be an Officer to board papers, books, records or documents of the Company and any relevant related bodies corporate which relate to the period during which the person was an Officer.

23.5 Agreement

The Company may enter into an agreement or deed with a person who is or has been an Officer about the matters referred to in this clause 23.

24. Notices

- 24.1 Anything written to or from the Company under any clause of this Constitution is a written notice and is subject to clauses 24.3 and 24.4, unless specified otherwise.
- 24.2 Clauses 24.3 and 24.4 do not apply to the delivery of proxy notices under clause 13.2.
- 24.3 A notice under this Constitution to the Company or the secretary must be in writing and may be delivered:
- 24.3.1 personally to the Company's registered office;
 - 24.3.2 by posting it by prepaid post to the Company's registered office or to another address chosen by the Company for the provision of notices;
 - 24.3.3 by electronic mail to the Company's email address notified by the Company to the Members as the Company's email address; or
 - 24.3.4 by any other Digital Platform notified by the Company to the Members as an appropriate platform for the provision of notices.
- 24.4 A notice under this Constitution to a Member must be in writing and may be delivered:
- 24.4.1 personally;
 - 24.4.2 by leaving it at the Member's address in the Register;
 - 24.4.3 by posting it by prepaid post to the Member's address in the Register;
 - 24.4.4 by electronic mail to the Member's email address (if any) in the Register; or
 - 24.4.5 by any other Digital Platform agreed to by the Company and the Member.
- 24.5 If the Member receiving the notice is a company, the notice or other communication may be delivered to the company's registered office.
- 24.6 A Member may change their address or email address by giving notice to the Company.

- 24.7 A notice or other communication is deemed delivered:
- 24.7.1 if delivered personally or left at the person's address, upon delivery;
 - 24.7.2 if posted within Australia to an Australian address using:
 - (a) express post, 2 Business Days after posting; or
 - (b) if using any other prepaid post, 6 Business Days after posting;
 - 24.7.3 if posted from a place to an address in a different country, 10 Business Days after posting;
 - 24.7.4 if delivered by electronic mail or uploaded to a Digital Platform, subject to clause 24.7.5, at the time the email or upload containing the notice left the sender's email system unless the sender receives notification that the notice was not received by the recipient; and
 - 24.7.5 if received after 5.00pm in the place it is received or on a day which is not a Business Day in the place it is received, at 9.00am on the next Business Day.

25. Distribution of property on winding-up or revocation

- 25.1 If the Company is wound up and the assets of the Company are more than sufficient:
- 25.1.1 to pay all of the debts and liabilities of the Company; and
 - 25.1.2 to pay the costs, charges and expenses of the winding up,
- the surplus assets must not be distributed to a Member or former Member unless that Member or former Member is a charity described in clause 25.2.
- 25.2 Instead, the surplus assets must be distributed to one or more charities:
- 25.2.1 with charitable purpose(s) similar to, or inclusive of, the Purposes; and
 - 25.2.2 which prohibits the distribution of its assets to its members to at least the same extent as this Constitution.
- 25.3 If the Company is endorsed as a deductible gift recipient under subdivision 30BA of the *Income Tax Assessment Act 1997* (Cth) at the time it is wound up, then in addition to the requirements under clause 25.2, the charity or charities to which the surplus assets are distributed must also be endorsed as a deductible gift recipient at the time the distribution is made.
- 25.4 The charity or charities to be given the surplus assets must be determined:
- 25.4.1 by a Special Resolution at or before the time of winding up; or
 - 25.4.2 if no such Special Resolution is passed, by a judge of the Supreme Court or such other court of competent jurisdiction.
- 25.5 If the Company's deductible gift recipient endorsement is revoked (whether or not the Company is to be wound up), any surplus gift funds must be transferred to one or more charities that meet the requirements of clause 25.2 and 25.3, as decided by the Directors.
- 25.6 For the purpose of this clause 25:



25.6.1 **gift funds** means:

- (a) gifts of money or property for the Purposes;
- (b) contributions made in relation to a fundraising event held for the Purposes;
and
- (c) money received by the Company because of such gifts and contributions;
and

25.6.2 **contributions** and **fundraising event** have the same meaning as in Division 30 of the *Income Tax Assessment Act 1997* (Cth).