



Spiritual Care Australia

## **CONSTITUTION OF SPIRITUAL CARE AUSTRALIA**

**A Public Company Limited by Guarantee**

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# INTRODUCTION

## 1. REPLACEABLE RULES EXCLUDED & APPLICATION OF THE CORPORATIONS ACT

1.1 The replaceable rules contained in the Act do not apply to the Company

1.2 This Constitution is to be interpreted subject to the Corporations Act.

## 2. DEFINITIONS AND INTERPRETATION

2.1 Definitions in this Constitution:

1. ACNC means the Australian Charities and Not-for-Profits Commission;
2. ACNC Act means the Australian Charities and Not-for-Profits Commission Act 2012 (Cth);
3. Act means the Corporations Act 2001 (Cth) and includes any amendment or re-enactment of it or any legislation passed in substitution for it;
4. ASIC means the Australian Securities & Investments Commission;
5. Associate Member means a member of the Company admitted as such pursuant to clause 9 of the Constitution;
6. Board means the Board of Directors for the time being of the Company or not less than a quorum and who are exercising their powers as such as provided for by this Constitution;
7. "By-laws" means by-laws of the Company made by the Board pursuant to the Constitution and for the time being in force.
8. "Certified Member" means a member of the Company admitted as such as provided by clause 9;
9. "Chief Executive Officer" means the person or persons for the time being appointed and employed as such pursuant to clause 20
10. "Company" means Spiritual Care Australia, a company limited by guarantee to be registered without "Limited" in its name pursuant to section 150 of the Corporations Act.
11. "Constitution" means the constitution of the Company, as amended.
12. "Corporations Act" means the Corporations Act 2001 (Cth)
13. "Director" means a director of the Company duly appointed under this Constitution
14. "Life Member" means a member of the Company admitted as such as provided by clause 9
15. "Member" means a member of the Company appearing as such in the Register and includes Member, Associate Member, Organisational Member, Certified Member, Advanced Certified member, Student Member, Life Member and Retired Member as provided by clause 9.
16. "Organisational Member" means a member which is a body corporate and admitted as such as provided by clause 9.
17. "Practitioner" means someone engaged in chaplaincy, pastoral and spiritual care.

18. "Register" means the register of Members to be kept pursuant to the Corporations Act.
19. "Retired Member" means a member of the Company admitted as such as provided by clause 9.
20. "Representative" means a representative of an Organisational Member appointed pursuant to section 250D of the Corporations Act.
21. "Secretary" means the person or persons for the time being appointed by the Board as secretary of the Company pursuant to clause 20.
22. "Student Member" means a member of the Company admitted as such as provided by clause 9.

## 2.2 Interpretation

1. In this Constitution, a reference to:
  - (a) One gender includes the others;
  - (b) The singular includes the plural and the plural includes the singular' and
  - (c) A person includes a body corporate;
2. Unless the contrary intention appears in this Constitution:
  - (a) An expression in this Constitution has the same meaning as in the Act; and
  - (b) If an expression is given different meanings for the purposes of different provisions of the Act, the expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as that provision in the Act;
3. "including" and similar expressions are not words of limitation.

## 3. OBJECTS OF THE COMPANY

- 3.1 The objects for which the Company is established, the priority of which is at the discretion and direction of the Board, are:
  - 3.1.1 To promote the wellbeing of Australians by the provision of chaplaincy, pastoral and spiritual care;
  - 3.1.2 To protect the public by:
    - 3.1.2.1 providing for the registration of chaplains, pastoral and spiritual care practitioners;
    - 3.1.2.2 approving courses of study, training programs and requirements for improved practice in chaplaincy, pastoral and spiritual care in Australia;
    - 3.1.2.3 providing opportunities for the professional development through education and training of registered chaplains, pastoral and spiritual care providers in Australia.
  - 3.1.3 To conduct and encourage research into chaplaincy, pastoral and spiritual care in Australia.
  - 3.1.4 To act as a coordinating, advising and liaising body for Members who provide chaplaincy, pastoral and spiritual care.
  - 3.1.5 To generally do any such other things as may contribute to the attainment of any of these objects.
- 3.2 The Company will not be prevented or restricted from carrying out its objects by reason only that in doing so it incidentally assists or benefits any other person.

## 4. POWERS OF THE COMPANY

The Company may exercise the powers set out in clauses 4.1 – 4.3 below solely for the purpose of carrying out the objects set out in clause 3 provided that the exercise of these powers is permitted by the Corporations Act:

- 4.1 exercise any power;
- 4.2 take any action; and
- 4.3 engage in any conduct or procedure, which, under the Corporations Act a company limited by guarantee may exercise, take or engage in if authorized by its constitution.

## 5. RESTRICTIONS ON DISTRIBUTIONS AND PAYMENTS TO MEMBERS AND DIRECTORS

### 5.1 Distributions to Members

The income and property of the Company, however derived:

- 5.1.1 must be applied solely towards the promotion of the objects of the Company as set out in this Constitution; and
- 5.1.2 must not be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to any Member except as otherwise provided in this clause 4.

### 5.2 Payment to Directors

The Directors will not be paid any remuneration for their services in their capacity as Directors.

### 5.3 Authorised Payments

Nothing in clauses 5.1 or 5.2 prevents:

- 5.3.1 payment in good faith of remuneration to any Director or Member in return for:
  - 5.3.1.1 services rendered to the Company in a professional or technical capacity, if the Board considers that the provision of the service is on reasonable commercial terms and such payment has the prior approval of the Board;
  - 5.3.1.2 goods supplied in the ordinary and usual course of business;
- 5.3.2 payment of reasonable and proper rent for premises demised if let by a Member or Director;
- 5.3.3 payment of interest at a commercial rate, but not exceeding 12% per annum on money borrowed from any Member or Director;
- 5.3.4 reimbursement for out-of-pocket expenses incurred in carrying out the duties of a Director, where payment does not exceed an amount previously approved by the Board; or
- 5.3.5 payment as an employee of the Company, where the terms of employment have been approved by the Board.

## 6 LIMITED LIABILITY

The liability of the Members is limited.

## 7 LIMIT OF CONTRIBUTION BY MEMBERS IN WINDING UP

- 7.1 Each Member undertakes to contribute an amount as required, not exceeding \$20 to the property of the Company, in the event of its being wound up while the Member's membership is current or within one year after the Member ceases to be a Member, if required for payment:
- 7.1.1. of the debts and liabilities of the Company contracted before the Member ceases to be a Member;
  - 7.1.2. of the costs, charges and expenses of winding up;
  - 7.1.3. for adjustment of the rights of the contributories among themselves.

## 8 EXCESS PROPERTY ON WINDING UP

- 8.1 If, on the winding up or dissolution of the Company, any property remains after satisfaction of the Company's debts and liabilities, that property will not be paid to or distributed among the Members but will be given or transferred to one or more institutions having objects similar to the objects of the Company and which prohibits the distribution of income and property among its members to an extent at least as great as is imposed on the Company under or by virtue of clause 5. The institution or institutions will be determined by the Members at or before the time of dissolution having regard to clause 8.2 and in default of such determination by the Supreme Court of Victoria upon application for determination.
- 8.2 The institutions, organisations and objects referred to in clause 8.1 will be confined to institutions, organisations and objects approved by the Commissioner of Taxation ("Commissioner") as a charitable institution for the purposes of any Commonwealth Taxation Act.

## 9 MEMBERSHIP

- 9.1 Classes of Membership  
The Company has the following classes of Membership:
- 9.1.1 Member;
  - 9.1.2 Certified and Certified Advanced Member;
  - 9.1.3 Associate Member;
  - 9.1.4 Student Member;
  - 9.1.5 Organisational Member;
  - 9.1.6 Life Member;
  - 9.1.7 Retired Member.

## 9.2 Eligibility and application for membership

- 9.2.1 Membership at Member level is open to any natural person who is working in chaplaincy, pastoral and spiritual care and meets such other minimum requirements the Board may from time to time determine pursuant to this Constitution.
- 9.2.2 Student Membership is open to any natural person who is studying or otherwise beginning a career in chaplaincy, pastoral and spiritual care and meets such other minimum requirements the Board may from time to time determine pursuant to this Constitution.
- 9.2.3 Certified Membership is open to any natural person with advanced standing in the field of chaplaincy, pastoral and spiritual care as determined by the Board from time to time.
- 9.2.4 Associate Membership is open to any natural person that has an interest in or commitment to promoting encouraging or assisting wellbeing through chaplaincy, pastoral and spiritual care and is not eligible for any other designated class of membership.
- 9.2.5 Organisational Membership is open to any body corporate that has an interest in or commitment to promoting, encouraging or assisting social welfare through chaplaincy, pastoral and spiritual care.
- 9.2.6 Life Membership – see 9.3 below
- 9.2.7 Retired Membership is open to any natural person who is no longer active in chaplaincy, pastoral and spiritual care in Australia, but wishes to remain involved with the Company and has previously been a Member.
- 9.2.8 Every applicant for Membership must complete an application for Membership in the form approved by the Board and lodge the application form, the application fee (if any) and the first annual subscription with the Secretary. The application must contain:
  - 9.2.8.1 the full name and address of the applicant;
  - 9.2.8.2 details establishing the applicant's eligibility for Membership;
  - 9.2.8.3 if the applicant is a body corporate, the full name and address of the natural person nominated to be the applicant's Representative;
  - 9.2.8.4 the applicant's consent to be bound by and observe the provisions of the Constitution;
  - 9.2.8.5 such other information as the Board requires.

## 9.3 Life Members

The Company may from time to time recognise outstanding service to chaplaincy, pastoral and spiritual care in general, or the Company in particular by conferring Life Membership.

- 9.3.1 Life Members will be natural persons:
  - 9.3.1.1 who have been a Member of the Company for a minimum of 5 years;
  - 9.3.1.2 have demonstrated an outstanding contribution to chaplaincy, pastoral and spiritual care and the national interests of the Company;
  - 9.3.1.3 who are invited by the Board or any general meeting of the Company to become a Life Member; and
  - 9.3.1.4 who agree in writing to become Life Members.

9.3.2 The Company may consider inviting persons who have not been a member for at least five (5) years to be Life Members where the person has made outstanding contributions to chaplaincy, pastoral and spiritual care over a sustained period at a national level.

9.3.3 Any nomination for Life Membership must be lodged with the Secretary no later than six (6) months before the Annual General Meeting.

#### 9.4 Processing of Membership Applications

9.4.1 Every application for Membership will, unless it is impractical to do so, be considered by the Board at its first regular meeting following the lodging of the application. The Board may, in its absolute discretion, accept or reject an application for Membership and will (through the Secretary or otherwise) advise the applicant of its decision, but is not bound to give any reason for the rejection of any application based on the standards of membership. The Board's decision will be final and binding on the applicant and will not be subject to any review.

9.4.2 When a person has their application for Membership rejected, or has not otherwise been accepted to become a Member in accordance with clause 9.4.1, the Secretary will, as soon as is practicable, send to the applicant a refund for payment of the entrance fee (if any) and first annual subscription fee (if any) to the address provided on the application form.

9.4.3 Every person who, is eligible to become a Member in accordance with this clause and:

9.4.3.1 agrees in writing to become a Member;

9.4.3.2 pays the application fee or annual subscription as required under clause 11; and

9.4.3.3 whose application for Membership has been approved by the Board in accordance with clause 9.4.1, becomes a Member.

9.4.4 The Board may authorise the Secretary, or other person, to receive and give preliminary acceptance to applications for Membership, but all such applications and acceptances will be subject to final acceptance by the Board.

#### 9.5 Conduct of Members

9.5.1 At all times, each Member:

9.5.1.1 must apply such a standard of care and quality to all services provided by the Member as is consistent with the standards set out by the Company from time to time; and

9.5.1.2 is responsible for notifying the Company of any acts, omissions or events by or in relation to the Member which relate to matters under this clause 9.5.1 or which otherwise affect or may affect the Member's compliance with the Constitution.

9.5.2 No Member may, without the prior written authority of the Board or the Board's duly authorised delegate, purport to speak on behalf of or represent the Company at any meeting, consultation, forum or other gathering.

#### 9.6 Dispute Resolution and Disciplinary Procedures

9.6.1 Dispute resolution

9.6.1.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or director and:

9.6.1.2 one or more directors, or

9.6.1.3 the company.

9.6.2 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 10 until the disciplinary procedure is completed.



- 9.6.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 9.6.4 If those involved in the dispute do not resolve it under clause 9.6.3, they must within 10 days:
  - 9.6.4.1 tell the directors about the dispute in writing
  - 9.6.4.2 agree or request that a mediator be appointed, and
  - 9.6.4.3 attempt in good faith to settle the dispute by mediation.
- 9.6.5 The mediator must:
  - 9.6.5.1 be chosen by agreement of those involved, or
  - 9.6.5.2 where those involved do not agree:
    - 9.6.5.2.1 for disputes between members, a person chosen by the directors, or
    - 9.6.5.2.2 for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the company has its registered office.
- 9.6.6 A mediator chosen by the directors under clause 9.6.5.2.1:
  - 9.6.6.1 may be a member or former member of the company
  - 9.6.6.2 must not have a personal interest in the dispute, and
  - 9.6.6.3 must not be biased towards or against anyone involved in the dispute.
- 9.6.7 When conducting the mediation, the mediator must:
  - 9.6.7.1 allow those involved a reasonable chance to be heard
  - 9.6.7.2 allow those involved a reasonable chance to review any written statements
  - 9.6.7.3 ensure that those involved are given natural justice, and
  - 9.6.7.4 not make a decision on the dispute.

## 10 DISCIPLINING MEMBERS

- 10.1 In accordance with this clause, the directors may resolve to warn, suspend or expel a member from the company if the directors consider that:
  - 10.1.1 the member has breached this constitution, or
  - 10.1.2 the member's behaviour is causing, has caused, or is likely to cause harm to the company.
- 10.2 At least 14 days before the directors' meeting at which a resolution under clause 10.1 will be considered, the secretary must notify the member in writing:
  - 10.2.1 that the directors are considering a resolution to warn, suspend or expel the member
  - 10.2.2 that this resolution will be considered at a directors' meeting and the date of that meeting

- 10.2.3 what the member is said to have done or not done
- 10.2.4 the nature of the resolution that has been proposed, and
- 10.2.5 that the member may provide an explanation to the directors, and details of how to do so.
- 10.3 Before the directors pass any resolution under clause 10.1, the member must be given a chance to explain or defend themselves by:
  - 10.3.1 sending the directors a written explanation before that directors' meeting, and/or
  - 10.3.2 speaking at the meeting.
- 10.4 After considering any explanation under clause 10.3, the directors may:
  - 10.4.1 take no further action
  - 10.4.2 warn the member
  - 10.4.3 suspend the member's rights as a member for a period of no more than 12 months
  - 10.4.4 expel the member
  - 10.4.5 refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause), or
  - 10.4.6 require the matter to be determined at a general meeting.
- 10.5 The directors cannot fine a member.
- 10.6 The secretary must give written notice to the member of the decision under clause 10.4 as soon as possible.
- 10.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 10.8 There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.
- 10.9 The Board may by resolution censure, suspend or expel a Member if the Member:
  - 10.9.1 is in breach of any of its obligations under clauses 9.5.1 or 9.5.2; or
  - 10.9.2 wilfully refuses or neglects to comply with any provision of the Constitution; or
  - 10.9.3 is guilty of any conduct which in the opinion of the Board is unbecoming of a Member or prejudicial to the interests of the Company.
- 10.10 A resolution of the kind referred to in clause 10.9 has no effect unless:
  - 10.10.1 the Member affected by the resolution is given at least one week's notice of the Board's intention to consider the resolution and the substance of what is alleged against the Member; and
  - 10.10.2 the Board meets to consider the resolution within 21 days after giving the Member notice under clause 10.10.1; and
  - 10.10.3 at the Board meeting which considers the resolution and before the passing of the resolution, the Member is given reasonable opportunity to give an oral or written explanation or defence.
- 10.11 A Member who is the proposed subject of a resolution of the kind referred to in clause 10.9 may by written notice lodged with the Secretary at least 24 hours before the scheduled time of the Board meeting at which the resolution is to be considered, elect to have the question dealt with by the Members in general meeting.

- 10.11.1 if a Member elects to have the question dealt with by the Members in general meeting, the Board must call a general meeting to consider the resolution to censure, suspend or expel the Member. Such resolution will be effective if passed by at least two-thirds of those present and voting (such vote to be taken by ballot), and the Member will be censured, suspended or expelled accordingly.
- 10.11.2 the decision of the Board or of the Members in general meeting, as the case may be, in relation to any resolution will be final and binding on the Member and cannot be challenged or reviewed.
- 10.12 Cessation of Membership  
Membership ceases if:
- 10.12.1 the Member dies or, in the case of a Member which is not a natural person, the Member is liquidated or dissolved;
- 10.12.2 the Member gives written notice of resignation to the Secretary;
- 10.12.3 the Member fails to pay the annual subscription or other fees or amounts payable by the Member to the Company and such amounts remain unpaid for a period of 12 months; or
- 10.12.4 the Board passes a resolution for the expulsion of the Member pursuant to clause 10.1 or 10.9.
- 10.13 Changes to classes of Membership
- 10.13.1 The Board may dissolve any present or future class or classes of Membership and may create new or further class or classes of Membership.
- 10.13.2 The Board may temporarily or permanently close any class of Membership.
- 10.14 Membership not transferable  
Membership is not transferable.
- 10.15 Representatives
- 10.15.1 Subject to 10.15.2, an Organisational Member must exercise its rights and powers as a Member solely by its Representative as agent.
- 10.15.2 A Organisational Member may, by written notice to the Secretary, remove the Member's Representative and appoint another person in his or her place.

## 11 FEES AND SUBSCRIPTIONS

- 11.1 All Members, regardless of their class of Membership must pay such application fee, annual subscription and levies or contributions as the Board determines.
- 11.2 The Board may determine the amount of the application fee, levies, contributions and annual subscription payable by Members or, if there is more than one class of Membership, the amounts payable for each class.
- 11.3 The annual subscription is payable in advance on the date determined by the Board and no subsequent resignation, suspension, termination or forfeiture of Membership by a Member exempts the Member from payment of the current year's subscription or entitles the Member to any pro-rata reimbursement of the annual subscription or any other fee.
- 11.4 No Member (and no Representative of a Member) will be entitled to attend, speak and vote at a general meeting of the Company if the Member's annual subscription is overdue at the date of the meeting.

## 12 MEETINGS

### 12.1 Annual general meetings

12.1.1 An annual general meeting of the Company will be held at least once in every calendar year in accordance with the requirements of the Corporations Act and at such times and places as the Board determines.

12.1.2 The ordinary business to be conducted at an annual general meeting will be:

12.1.2.1 to receive and consider the accounts, balance sheets and the reports of the Directors and of the auditors and of any other documents required by law to be laid before the meeting;

12.1.2.2 to elect Directors in place of those retiring or ceasing to hold office;

12.1.2.3 to appoint auditors of the Company; and

12.1.2.4 to transact any other business which under the Constitution or the Corporations Act ought to be transacted at an annual general meeting.

12.1.3 No business will be transacted at an annual general meeting other than:

12.1.3.1 the ordinary business referred to in clause 12.1.2; and

12.1.3.2 any special business set out in the notice of meeting.

### 12.2 Special Business

For the purpose of this clause 12, "special business" means any business transacted at an annual general meeting other than the items of ordinary business referred to in clause 12.1.2 and all business transacted at any other general meeting of the Company.

### 12.3 Convening of other general meetings

The Board may, when it thinks fit, convene a general meeting and must convene a general meeting on a requisition of Members under the Corporations Act.

### 12.4 Notice of general meetings

12.4.1 Subject to the Corporations Act, and to the Constitution, not less than 21 calendar days notice of a general meeting must be given to the Members, Directors and auditors of the Company, specifying the place, day and hour of the meeting and in the case of special business the general nature of that business.

12.4.2 Subject to the Corporations Act, notice of general meetings of the Company specifying the matters referred to in clause 12.4.1 may be given:

12.4.2.1 by advertisement published in any daily national newspaper circulating throughout Australia; and/or

12.4.2.2 by posting the same to the Members at their respective addresses shown in the Register or to such other address as the Member has supplied to the Company as the Member's address for the giving of notices; and/or

12.4.2.3 by any other means the Board may decide.

12.4.3 Any notice by advertisement will be deemed to have been served on the day the newspaper containing the advertisement is published.

- 12.4.4 Any notice sent by post will be deemed to have been received at the expiration of 48 hours after the notice has been posted.
- 12.4.5 The accidental omission to give notice of a general meeting to, or the non-receipt of any such notice by, any of the required recipients will not invalidate any resolution passed at any such meeting.

#### 12.5 Postal ballots

Subject to the Corporations Act, the Board may, if it thinks fit, submit any question or resolution to the vote of all Members entitled to a vote at a general meeting of the Company by means of a postal ballot in such form and returnable in such manner as the Board decides. A resolution approved by a majority or specific majority of the Members voting by such ballot will have the same standing as a resolution carried by such a majority or specific majority at a duly constituted general meeting of the Company competent to pass such a resolution.

## 13 PROCEEDINGS AT GENERAL MEETINGS

### 13.1 Quorum

- 13.1.1 For a general meeting, not less than 30 Members present in person, by proxy or in the case of Organisational Members, by Representative and entitled to vote will constitute a quorum.
- 13.1.2 No business will be transacted at the general meeting unless a quorum is present at the commencement of business.
- 13.1.3 If within half an hour from the time appointed for any general meeting a quorum is not present, the meeting, if convened upon the requisition of Members, will be dissolved. In any other case it will stand adjourned to the same day in the next week at the same time and place, or to such other day and such other time and place as the Board determines. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present (being not less than 10) will be a quorum.
- 13.1.4 A Member is to be taken to be present at a general meeting if the Member is present in person or by proxy, attorney or Representative.

### 13.2 Chair

The president of the Company will chair every general meeting of the Company. If there is no president, or if the president is not present at the scheduled time of the meeting, the vice-president will chair the meeting. If both president and vice president are not present, the members of the Board present at the general meeting must choose a Director present to chair the meeting. If no president, vice-president or Director is present the Members present will elect one of their number to chair the meeting.

### 13.3 Adjournment of meeting

The chair may, with the consent of any meeting at which a quorum is present (and must if directed by the meeting), adjourn the meeting from time to time and from place to place, but no business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting will be given as in the case of an original meeting. Except as provided, it is not necessary to give notice of an adjournment or the business to be transacted at an adjourned meeting.

### 13.4 Entitlement to Vote

- 13.4.1 Subject to clauses 11.4 and 13.4.2, Members (or Representatives of Members) having the right to vote may vote in person or by one proxy (who must be a Member or the Representative of a Member) or by attorney or, in the case of an Organisational Member, by Representative. On a show of hands and on a poll every Member (having the right to vote) present, in person, by proxy, attorney or Representative, is entitled to one vote.

- 13.4.2 Un-financial Members are ineligible to vote at general meetings.
- 13.5 Poll  
At any general meeting, a resolution put to the vote of the meeting will be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- 13.5.1 by the chair of the meeting;
- 13.5.2 by at least 10 financial Members present in person, by proxy or by Representative; or
- 13.5.3 by any 3 Directors.  
Unless a poll is so demanded, a declaration by the chair that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company will be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.
- 13.6 Manner of taking poll  
A poll, duly demanded, will be taken in such a manner and either at once or after an interval of adjournment or otherwise as the chair of the meeting directs. The result of the poll will be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a chair or on a question of adjournment must be taken immediately.
- 13.7 Casting vote by chair  
If there is an equality of votes at a meeting, whether on a show of hands or on a poll, the chair of that meeting will be entitled to a second or casting vote.
- 13.8 Proxies
- 13.8.1 The instrument appointing a proxy must be in writing signed by the appointor or the appointor's attorney duly authorised in writing or, if the appointor is a corporation, either signed or sealed by an officer or attorney duly authorised.
- 13.8.2 The instrument appointing a proxy must be lodged at the registered office of the Company or such other place as is specified for that purpose in the notice convening the meeting:
- 13.8.2.1 not less than 48 hours before the scheduled time for the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
- 13.8.2.2 in the case of a poll, not less than 24 hours before the scheduled time for the meeting. In default, the instrument of proxy will not be treated as valid.
- 13.8.3 The instrument appointing a proxy will confer authority to demand or join in demanding a poll. A Member may instruct his or her proxy to vote in favour of or against any proposed resolutions. Unless otherwise instructed the proxy may vote as the proxy thinks fit.
- 13.8.4 The instrument appointing a proxy may be in a standard form or in such form as the Board approves, which meets the requirements of the Corporations Act.

"[NAME OF COMPANY]

I ..... of .....  
being a member of [Name of company] appoint ..... of  
..... or failing him /her ..... of  
.....

(both of whom are members of the Company) as my proxy to vote for me on my behalf at the annual general meeting or general meeting, as the case may be, of the Company to be held on the ..... day of ..... and at any adjournment of that meeting.

My proxy is authorised to vote \*in favour of/\*against the following resolutions: ..

Signed:.....

Dated: this ..... day of .....20..

Note: If the member wishes to vote for or against any resolution the member must instruct his/her proxy accordingly. Unless otherwise instructed, the proxy may vote as the proxy thinks fit.

\*Strike out whichever is not desired."

13.8.5 A vote given in accordance with the terms of an instrument of proxy or attorney will be valid regardless of the previous death or unsoundness of mind of the principal or the revocation of the instrument or of the authority under which the instrument was executed, provided that no written notice of such death, unsoundness of mind or revocation has been received by the Company at its registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.

## 14 MINUTES OF PROCEEDINGS

- 14.1 Minutes of all proceedings of general meetings and of meetings of Directors must be entered, within one month after the relevant meeting is held, in books kept for that purpose and must be signed by the chair of the meeting at which the meeting took place or by the chair of the next succeeding meeting.
- 14.2 Any minute so entered and purporting to be so signed will be prima facie evidence of the proceedings to which it relates.
- 14.3 Where minutes have been so entered and signed then, unless the contrary is proved:
  - 14.3.1 the meeting will be deemed to have been duly convened and held;
  - 14.3.2 all proceedings that are recorded in the minutes as having taken place at the meeting will be deemed to have duly taken place; and
  - 14.3.3 all appointments of officers or auditors that are recorded in the minutes as having been made at the meeting will be deemed to have been validly made.

## 15 BOARD OF DIRECTORS

- 15.1 Number of Directors
  - 15.1.1 Subject to clause 15.1.2, the Board consists of **not less than 9** and not more than 12 Directors. Each Board position is to be filled by resolution of the Members pursuant to clause 15.12 or (in the case of casual vacancies) by the Board pursuant to clause 15.5.

15.1.2 The Board may increase or decrease the number of Board positions, provided that the number will not be less than the minimum number of directors provided for in clause 15.1.1.

## 15.2 Office Bearers

15.2.1 The office bearers of the Company will consist of a president, vice president, secretary, treasurer, and such other office bearers as the Board in its discretion appoints. Every office bearer must be a Director.

15.2.2 Each office bearer position becomes vacant at the beginning of the first meeting of the Board after each annual general meeting of the Company.

15.2.3 The president is not entitled to hold office for more than 3 terms unless his or her reappointment is, on each occasion, approved by not less than 75% of other Board members.

15.2.4 When an office bearer position becomes vacant under clause 15.2.2 or because its holder retires or ceases to be a Director, the Board must at the Board meeting where that vacancy arises (or otherwise at the first reasonable opportunity) elect from among its number a replacement to hold the vacant office. The person so appointed may hold office up to and including the day of the annual general meeting following that appointment and is eligible to be re-appointed.

15.2.5 On a Board resolution to fill a vacant office:

15.2.5.1 each Director present in person is entitled to one vote;

15.2.5.2 no Director may appoint another as his or her proxy;

15.2.5.3 election of the office bearer will be by majority of votes cast;

15.2.5.4 subject to paragraphs 15.2.5.1 - 15.2.5.3 the Board will determine the method of election of office bearers.

## 15.3 Qualification of Directors

No person is eligible to be appointed or act as a director of the Company unless:

15.3.1 that person is over the age of 18 years:

15.3.2 that person is not prohibited or disqualified or otherwise prevented from acting as a director of the Company under the Corporations Act; and

15.3.3 in the case of an elected director, that person is an existing Member or representative of an Organisational Member, involved in chaplaincy, pastoral and spiritual care in Australia.

## 15.4 Nominations

Any person, except a retiring elected director or a director appointed to fill a casual vacancy, seeking to be elected as a director at an annual general meeting of the Company must lodge a written nomination in a form approved by the board at the office, prior to the annual general meeting at which the election is to take place. Such form must:

15.4.1 In the case of the nomination of a Representative of an Organisational Member:

15.4.1.1 nominate the Representative as a director:

15.4.1.2 include any supporting or clarifying information prescribed by the board:

15.4.1.3 be submitted and validly executed by the nominating Organisational Member:

15.4.1.4 be signed by the nominee signifying the nominee's consent to the nomination: and



- 15.4.1.5 be lodged with the Secretary at least 30 days before the annual general meeting at which the election is to take place: and
- 15.4.2 In the case of any other eligible nominee:
  - 15.4.2.1 nominate the person as a director:
  - 15.4.2.2 include any supporting or clarifying information prescribed by the board:
  - 15.4.2.3 be signed by the nominator and a seconder (both of whom must be Members);
  - 15.4.2.4 be signed by the nominee signifying the nominee's consent to the nomination; and
  - 15.4.2.5 be lodged with the Secretary at least 30 days before the annual general meeting at which the election is to take place.
- 15.5 **Power of board to fill casual vacancies, etc**  
The Board may appoint a qualified person as a member of the Board, either to fill a casual vacancy or as an addition to the Board, but so that the total number of directors shall not at any time exceed the maximum number fixed or determined by or pursuant to this Constitution. Any director so appointed will hold office only until the conclusion of the next following annual general meeting of the Company but will, subject to the Corporations Act and the Constitution, be eligible for re-election at such meeting, but will not be taken into account in determining the number of directors who are to retire by rotation at such meeting.
- 15.6 **Directors may act, notwithstanding vacancy**  
The continuing Directors may continue to act, regardless of any vacancy in their body, but if the number falls below the minimum number referred to in clause 15.1 the Board must not, except in the case of emergencies, or for the purpose of filling vacancies, or convening a general meeting of the Company, act while the number is below the minimum.
- 15.7 **Company to fill vacancies**  
The Company at any general meeting at which any Directors retire by rotation in accordance with clause 15.11 may fill the vacancies created by such retirement and also any other vacancies by electing eligible persons to fill those vacancies.
- 15.8 **Ballots for election of Directors**
  - 15.8.1 If the number of eligible persons nominating for election as Directors at any general meeting of the Company exceeds the number of vacancies, the Board may issue balloting lists at the general meeting, and each Member present in person, by proxy, attorney or representative will be entitled to vote for any number of such candidates not exceeding the number of vacancies.
  - 15.8.2 Clause 15.8.1 does not limit the power of the Board to conduct postal ballots pursuant to clause 12.5.
- 15.9 **Unfilled vacancies in respect of directors**  
If at any general meeting at which an election of Directors ought to take place, the place of any elected Director who retires by rotation, vacates office, or otherwise ceases to hold office by virtue of any provisions in the Constitution or the Corporations Act is not filled, the Board may fill any such vacancy as a casual vacancy pursuant to clause 15.5.
- 15.10 **Continuing Directors**  
The Directors holding office on the date this Constitution is adopted by the Company continue in office until they retire by rotation as provided for in clause 15.11 or otherwise cease to be a Director as provided for in clause 15.13.
- 15.11 **Retirement of Directors by rotation**

15.11.1 At each annual general meeting of the Company, 4 of the Directors, or if their number is not a multiple of 4 then the number nearest to 4, will retire from office, but will, subject to the Constitution and the Corporations Act be eligible for re-election.

15.11.2 The 4 or nearest number to 4 to retire at the annual general meeting to be held in each year will be the Directors who have been longest in office. As between two or more Directors who have been in office an equal length of time the Director or Directors to retire will, in default of agreement between them, be determined by lot drawn at least 5 days before the annual general meeting.

15.11.3 For the purpose of determining the length of time a Director has been in office:

- a) subject to clause 15.11.3(b), a person is deemed to have commenced holding office on the date of that person's most recent election or appointment to office;
- b) a person who has been appointed pursuant to clause 15.5 to fill a casual vacancy holds office in place of the Director who most recently held that Board position and must retire on the date on which the Director who most recently held that Board position would have been required to retire under this clause 15.11.

15.11.4 A retiring Director will act as a Director throughout the annual general meeting at which he or she retires.

## 15.12 Appointment of Directors by Members

15.12.1 No person, (other than a retiring Director or a Director appointed under clause 15.5) will be eligible for election by the Members at any annual general meeting of the Company unless that person is nominated in accordance with clauses 15.12.2, 15.12.3 and 15.12.4.

15.12.2 Any Organisational Member may nominate its Representative for election to a Board position.

15.12.3 A nomination under clause 15.12.2 must be:

- 15.12.3.1 in writing;
- 15.12.3.2 in the form approved by the Board;
- 15.12.3.3 signed by the Member and (if the Member is not also the nominee) signed by the nominee;
- 15.12.3.4 lodged with the Secretary at least 30 days before the annual general meeting at which the election is to take place.

15.12.4 A nomination by a Member will not be valid, nor will the Member (or the Member's Representative) be included on the lists to be prepared under clauses 15.12.5 and 15.12.6, if at the time of nomination or subsequently the Member or the Member's Representative ceases to be involved in chaplaincy, pastoral and spiritual care in Australia.

15.12.5 A list of the names of each person nominated in accordance with the constitution, together with the name of the Member of whom the nominee is Representative (if any), must be posted in a conspicuous place in the registered office of the Company for at least 7 days immediately preceding the annual general meeting.

15.12.6 If the number of eligible persons nominated for election by the Members as directors at any general meeting of the Company exceeds the number of vacancies, the Board will issue balloting lists at the general meeting, and each Member present in person or by proxy or Representative (and not ineligible to vote in accordance with clause 13.4.2 or clause 11.4) will be entitled to vote for any number of such candidates not exceeding the number of vacancies.

15.12.7 Clause 15.12.6 does not in any way limit the power of the Board to conduct postal ballots pursuant to clause 12.5.

15.12.8 If at any general meeting at which an election of Directors ought to take place, the place of any elected Director who retires by rotation, vacates office, or otherwise ceases to hold office

by virtue of any of the provisions of the Constitution or the Corporations Act is not filled, the Board may fill such vacancy as a casual vacancy pursuant to clause 15.5.

15.13 Ceasing to be a Director

The office of a Director will immediately become vacant if the Director:

15.13.1 becomes prohibited from being or ceases to be a director by virtue of the Corporations Act or any order made under the Corporations Act;

15.13.2 dies;

15.13.3 resigns his or her office by two (2) months' notice in writing to the registered office of the Company;

15.13.4 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

15.13.5 is absent for 3 consecutive ordinary meetings of the Board without permission from the Board;

15.13.6 holds any office of profit under the Company or receives any payment from the Company except as permitted under and in accordance with the Constitution;

15.13.7 ceases to be the Representative of a Member, which is deemed to be the case if:

15.13.7.1 the Director ceases to be either an employee or an officer of the Member; or

15.13.7.2 the Member becomes insolvent, enters administration or makes any arrangement or composition with its creditors generally;

15.13.8 is removed from office by resolution of the Members pursuant to the Corporations Act;

15.13.9 retires by rotation and is not then re-elected.

## 16 POWERS AND DUTIES OF THE BOARD

16.1 Duties of directors

The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in Governance Standard 5 of the regulations made under the ACNC Act which are:

16.1.1 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

16.1.2 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 3

16.1.3 not to misuse their position as a director

16.1.4 not to misuse information they gain in their role as a director

16.1.5 to disclose any perceived or actual material conflicts of interest in the manner set out in clause 17.

16.1.6 to ensure that the financial affairs of the company are managed responsibly, and

16.1.7 not to allow the company to operate while it is insolvent.

- 16.2 General powers of the Board
- 16.2.1 The management of the business and affairs of the Company is vested in the Board.
- 16.2.2 In addition to the specific powers conferred on the Board by the Constitution, the Board may exercise all powers of the Company, which are not by the Corporations Act or by the Constitution required to be exercised by the Company in general meeting, subject to the Constitution and of the Corporations Act, or to such resolution or regulation, not being inconsistent with those provisions, as may be passed or made by the Company in general meeting. However, no such resolution or regulation will invalidate any prior act of the Board, which would have been valid if such resolution or regulation had not been passed or made.
- 16.3 Control and investment of Company's funds
- 16.3.1 The Board will control the Company's funds and manage the Company's financial affairs.
- 16.3.2 All cheques and other negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 members of the Board or in such other manner as the Board determines.
- 16.4 Borrowing and security
- The Board may, with the approval of a general meeting, exercise all the powers of the Company to raise or borrow money and to secure its repayment in such manner and on such terms and conditions as it thinks fit, including but not limited to the issue of bonds, debentures, or other securities charged on all or any part of the undertaking assets or rights of the Company, including its unpaid subscriptions.
- 16.5 Power to make By-laws
- 16.5.1 Subject to clauses 16.5.3, 16.5.4 and 16.5.5 the Board has power to make, amend and repeal all such By-laws as it deems necessary or desirable for the proper conduct and management of the Company, the regulation of its affairs, and the furtherance of its objectives.
- 16.5.2 Without limiting the power of the Board under clause 16.5.1, the Board may make, amend and repeal By-laws which:
- 16.5.2.1 define the rights and benefits, duties, obligations and status of Members and, if at any time there is more than one class of Membership the respective rights and benefits, duties, obligations and status of each class of Membership;
  - 16.5.2.2 regulate all matters relating to applications for, and admission to, Membership not otherwise provided for in the Constitution;
  - 16.5.2.3 define the functions and/or activities to be performed by any committee referred to in clause 18.1 and regulate the conduct and management of its affairs;
  - 16.5.2.4 define the functions and/or activities to be performed by any advisory committee referred to in clause 18.2 and regulate the conduct and management of its affairs;
  - 16.5.2.5 define and regulate the procedure and order of business of general meetings of the Company, meetings of the Board and of any committee, to the extent to which this is not provided for in the Constitution;
  - 16.5.2.6 define and regulate the functions, duties and responsibilities of any officer of the Company to the extent to which they are not provided for in the Constitution.

- 16.5.3 No By-law will be inconsistent with, nor will it affect a repeal or modification of anything contained in the Constitution.
- 16.5.4 Any By-law made by the Board may be set aside by a special resolution of a general meeting of the Company.
- 16.5.5 By-laws are binding upon all Members. A book containing the By-laws will be kept in such place as the Board directs.

## 17 PROCEEDINGS OF THE BOARD

### 17.1 Meetings

- 17.1.1 The Board may meet for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit. A Director may request a meeting at any time, and the Secretary must on the requisition of at least 4 Directors, convene a meeting of the Board.
- 17.1.2 It will not be necessary to give notice of a Board meeting to a Director whom the Secretary, when giving the notice to the other Directors, reasonably believes to be outside Australia.

### 17.2 Voting

Subject to the Constitution, questions arising at any Board meeting will be decided by a majority of votes and a determination by a majority of the Directors present will for all purposes be deemed a determination of the Directors. In case of an equality of votes, the chair of the meeting has a second or casting vote.

### 17.3 Quorum

The quorum necessary for the transaction of the business of the Board will be a majority (more than 50%) of directors and not less than five (5) directors.

### 17.4 Chair

The president will preside as chair at every meeting of the Board. If there is no president, or if at any meeting the president is not present within 10 minutes after the scheduled time for the meeting, or is unwilling to preside, the vice--president will chair the meeting. If no president or vice--president is present at the meeting, then the Directors present may choose one of their number to chair the meeting.

### 17.5 Validity of acts

- 17.5.1 The continuing members of the Board may act regardless of any vacancy in the Board. If and so long as the number of Directors is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of the Board, the continuing member or members of the Board may act for the purpose of increasing the number of members of the Board to that number or of summoning a general meeting of the Company, but for no other purpose.
- 17.5.2 All acts done by any meeting of the Board, by any committee, by any advisory committee or by any Director will, regardless that it is later discovered that there was some defect in the appointment of any such Board, committee, advisory committee or Director, or that the Directors or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director, committee member or advisory committee member (as the case may be).

### 17.6 Circulatory resolutions and use of technology

- 17.6.1 A resolution in writing signed by all the Directors entitled to receive notice of Board meetings will be as valid and effectual as if it had been passed at a meeting of the Directors duly convened and held, provided that the Directors signing the resolution would constitute a quorum and would have power to pass such resolution at a Board meeting. Any such resolution may consist of several documents in similar form each signed by one or more Directors. Any such document sent by a Director by facsimile transmission or other means of communication approved by the Directors, will be deemed to have been signed by such Director and to suffice for the purpose of this clause.

- 17.6.2 The contemporaneous linking together by telephone, videoconferencing or any other technology of a number of the Directors not less than a quorum will be deemed to constitute a meeting of the Directors and all the provisions in this Constitution as to meetings of the Directors will apply to such meetings by such technology as long as the following conditions are met:
- 17.6.2.1 all the Directors for the time being entitled to receive notice of a meeting of the Board will be entitled to notice of such meeting and to be linked by the relevant technology for the purposes of the meeting;
  - 17.6.2.2 notice of any such meeting may be given by telephone, facsimile, e-mail or other form of technology;
  - 17.6.2.3 each of the Directors taking part in such meeting must be able to hear each of the other Directors taking part in the meeting; and
  - 17.6.2.4 at the commencement of the meeting each Director must acknowledge his or her presence for the purpose of a meeting of the Directors to all the other Directors taking part.
- 17.6.3 A meeting of Directors held using a form of technology in accordance with clause 17.6.2 is deemed to have been held at the place determined by the chair of the meeting, provided that at least one of the Directors who took part in the meeting was at that place for the duration of the meeting.

## 18 COMMITTEES AND ADVISORY COMMITTEES

### 18.1 Committees

The Board may delegate any of its powers or functions (not being duties imposed on the Board as the Directors by the Corporations Act or the general law) to one or more committees consisting of at least one Board member plus such Member or Members as the Board thinks fit. Any committee so formed must conform to any regulations or directions that may be made or given by the Board, and otherwise has power to co-opt any Member or Members. All members of such committees have one vote. The president will ex officio be a member of each such committee.

### 18.2 Advisory Committees

18.2.1 The Board may appoint one or more advisory committees including State advisory committees consisting of at least one Board member plus such Members or persons as the Board thinks fit.

18.2.2 Such advisory committees:

18.2.2.1 will act in an advisory capacity only;

18.2.2.2 must conform to any regulations or directions that may be made or given by the Board and otherwise has power to co-opt any person.

18.2.3 All members of such advisory committees have one vote.

18.2.4 The president will ex officio be a member of each such advisory committee.

### 18.3 Regulation of committees and advisory committee

18.3.1 Each committee or advisory committee will elect a chair of the committee.

18.3.2 Subject to the Constitution and any regulations, directions or By-laws, every committee or advisory committee may meet and adjourn as it thinks proper. Questions arising at any meeting will be determined by a majority of votes of the members present, and in the case of an equality of votes the chair of the committee will have a second or casting vote.

18.4 Validity of acts

All acts done by any meeting of the Board, by any committee, by any advisory committee or by any director will, even if it is later discovered that there was some defect in the appointment of the Board, committee, advisory committee or director, or that the directors or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director, committee member or advisory committee member (as the case may be).

## 19 INTEREST OF DIRECTORS

19.1 Subject to clauses 19.2 and 19.3, a Director who has a material personal interest in a matter:

19.1.1 that relates to the affairs of the Company must give the other Directors notice of the interest unless otherwise provided in section 191(2) of the Corporations Act;

19.1.2 that is being considered at a Directors' meeting must not be present while the matter is being considered at the meeting, or vote on the matter, unless permitted to do so under section 195 of the Corporations Act;

19.1.3 will not be counted in the quorum in a meeting where that matter will be discussed.

19.2 Clause 19.1 does not apply to an interest of a Director which the Director has as a Member in common with other Members.

19.3 Clause 19.1 does not apply if the Board has passed a resolution that:

19.3.1 specifies the Director, the interest and the matter, and

19.3.2 states that the Directors voting for the resolution are satisfied that the interest should not disqualify the Director from considering or voting on the matter.

19.4 Nothing contained in this clause 19 will prohibit or restrict a Director being present at, being counted in a quorum or from voting at any meeting of the Board in circumstances where it is not unlawful or is permissible to do so under the Corporations Act.

19.5 No act of the Board or the Company (including any contract, agreement or arrangement entered into by the Company) will be void or voidable by reason only of a failure of the Directors or any of them to comply with:

19.5.1 clauses 19.1 to 19.4 inclusive; or

19.5.2 Division 2 of Part 2D.1 of the Corporations Act.

## 20 CHIEF EXECUTIVE OFFICER AND SECRETARY

20.1 The Board must appoint a Secretary and may appoint a Chief Executive Officer and may, at the Board's discretion, appoint the same person to both offices. The Board may appoint a Registrar as the Board deems necessary in its discretion.

20.2 The Board will decide the terms and conditions of the Chief Executive Officer's or Registrar's appointment (if one is appointed), but the Chief Executive Officer or Registrar will at all times be subject to and will act in accordance with any directions given by the Board.

- 20.3 The Board may delegate exclusively or non-exclusively any of its powers or functions (not being duties imposed on the Board as the Directors by the Corporations Act or the general law) as the Board thinks fit. In the absence of a Chief Executive Officer, the functions that the Chief Executive Officer would otherwise fulfil may be fulfilled by the Secretary.
- 20.4 The Board may dismiss any Chief Executive Officer, any Registrar and any Secretary and make new appointments.

## 21 BRANCHES

- 21.1 Subject to this Constitution, the Board may establish branches of the Company in a State, Territory or Region in Australia on such terms and conditions and with such constitution, functions and powers as the Board determines or approves.
- 21.2 The Board may consistent with the objects of the Company approve, prescribe, vary or revoke rules and regulations for the establishment, conduct and management of such branches, including, but not limited to:
- 21.2.1 membership of branches;
  - 21.2.2 meetings of branches;
  - 21.2.3 finances and accounts of branches;
  - 21.2.4 management committees and office bearers of branches;
  - 21.2.5 the objects, functions and capacity of branches;
  - 21.2.6 the disbandment of branches; and
  - 21.2.7 the provisions of the constitution of branches.

## 22 OFFICERS' INDEMNITY, INSURANCE AND ACCESS

- 22.1 In this clause 22:
- 22.1.1 "Officer" means every person who is or has at any time been:
    - 22.1.1.1 a Director or Secretary; or
    - 22.1.1.2 a person:
      - 22.1.1.2.1 who makes, or participates in making, decisions that affect the whole, or a substantial part, of the affairs of the Company; or
      - 22.1.1.2.2 who has the capacity to affect significantly the Company's financial standing; or
    - 22.1.1.3 in accordance with whose instructions or wishes the Directors are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the Directors);
  - 22.1.2 "duties of the Officer" includes, in any particular case where the Directors consider it appropriate, duties arising by reason of the appointment, nomination or secondment (in any capacity) of an Officer by the Company or, where applicable, a subsidiary of the Company, to any other corporation;



22.1.3 "to the relevant extent" means:

22.1.3.1 to the extent the Company is not precluded by law from doing so;

22.1.3.2 to the extent and for the amount that the Officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, in particular, an insurer under any insurance policy); and

22.1.3.3 where the liability is incurred in or arising out of the conduct of the business of another corporation, or in the discharge of the duties of the Officer in relation to another corporation, to the extent and for the amount that the Officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation;

22.1.4 "liability" means all liabilities, losses, damages, costs, charges, expenses and penalties of any kind including, but not limited to, liability for negligence, also for legal costs incurred in defending any proceedings (whether civil, criminal, judicial or administrative) or appearing before any court, tribunal, government authority or otherwise.

22.2 The Company will indemnify each Officer out of the assets of the Company to the relevant extent against any liability incurred by the Officer in or arising out of the conduct of the business of the Company, or in or arising out of the discharge of the duties of the Officer.

22.3 Where the Directors consider it appropriate, and to the extent to which the Company is not precluded by law from doing so, the Company may execute a deed of indemnity in such terms as the Directors consider appropriate, in favour of any Officer.

22.4 Where the Directors consider it appropriate, and to the extent to which the Company is not precluded by law from doing so, the Company may:

22.4.1 make payments of amounts by way of premium in respect of any contract effecting insurance on behalf, or in respect of, an Officer against any liability incurred by the Officer in, or arising out of, the conduct of the business of the Company, or in or arising out of, the discharge of the duties of the Officer; and

22.4.2 bind itself in any deed (in such terms as the Directors consider appropriate) with any Officer to make the payments.

22.5 Where the Directors consider it appropriate, the Company may:

22.5.1 upon receiving a request in writing delivered to the Secretary, give a Director or former Director access to various Company papers, including documents provided or available to the Directors and other papers referred to in those documents; and

22.5.2 bind itself in a deed (in such terms as the Directors consider appropriate) with a Director or former Director to give that access.

22.6 Nothing contained in clause 22.5, or in any deed entered into between the Company and any Director or former Director pursuant to that clause will in any way exclude, limit or restrict the right of access to the Company's books conferred on such persons by the Corporations Act.

## 23 EXECUTION OF DOCUMENTS

23.1 The Company may execute documents (including any deed or negotiable instrument) by affixing the Company's common seal to that document.

23.2 If the Company has a common seal:

23.2.1 the Directors will provide for the safe custody of the seal;

- 23.2.2 the seal will be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the seal; and
- 23.2.3 every document to which the seal is affixed must be signed by a Director and be countersigned by another Director, a secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.
- 23.3 The Company may execute documents (including any deed or negotiable instrument) without affixing a common seal to those documents if the document is signed by:
  - 23.3.1 two Directors; or
  - 23.3.2 a Director and the Secretary.

## 24 ACCOUNTS AND AUDIT

- 24.1 The Board will, in accordance with the requirements of the ACNC Act and any additional requirements of the Corporations Act that may apply from time to time:
  - 24.1.1 ensure that all usual and proper books of accounts and other records are kept, and
  - 24.1.2 ensure that a statement of financial position and statement of financial performance are prepared and presented to each annual general meeting of the Company, made up to a date not more than 5 months before the date of the meeting, or such other date as prescribed by the ACNC Act or the Corporations Act.
- 24.2 The Board will appoint a properly qualified auditor or auditors, whose duties will be regulated in accordance with the Corporations Act.

## 25 FINANCIAL YEAR

- 25.1 The company's financial year is from 1 January until 31 December (the calendar year) unless the directors pass a resolution to change the financial year.

## 26 AMENDMENT OF CONSTITUTION

No modification or repeal of this Constitution or any provision of this Constitution will be effective unless it is passed as a special resolution in accordance with the Corporations Act or any applicable provision of the ACNC Act.

WE, the persons whose names and addresses are listed below and listed in the application to register the Company, agree to be bound by the terms of this Constitution