

**Item 5**

**Attachment 1**

**Summary of changes to the current constitution**

## Australian Rural Leaders Foundation Constitution key changes

This table sets out key changes in the proposed constitution. The proposed constitution is based on the ACNC model clauses, with particular clauses from the current constitution included to reflect how the Australian Rural Leaders Foundation currently operates.

Clause	Subject	Explanation
<b>Clause 9.1(c)</b>	Directors as members	Directors will be members for as long as they are directors.
<b>Clause 9.1, 9.2</b>	Members	Categories of members was simplified, and the category of Governor Members has been grandfathered, so no new applicants.
<b>Clause 16</b>	Disciplinary procedures	ARLF has adopted the ACNC dispute resolution procedures.
<b>Clause 17</b>	Disciplining Members	ARLF has adopted the ACNC disciplining members clause.
<b>Clause 18</b>	Members right to call meetings	A group of 10 members or members with at least 5% of votes can call a general meeting. There was no minimum under the old constitution. This clause meets the requirements of the Corporations Act and the ACNC model rules.

<b>Clause 19</b>	Procedure if directors fail to call a meeting	Following on from above, this clause sets out what members do next to call a meeting if directors fail to hold the meeting. This clause also includes a requirement to pay the expenses members incur.
<b>Current clause 20 (f)</b>	Annual General Meeting	We removed the clause specifically stating that special resolutions can be included as business in an AGM. This is addressed by the Corporations Act and does not need to be specifically included here.
<b>Clause 21</b>	Notice of general meeting	This clause provides for expanded options on providing notice such as allowing for notice under 21 days in certain circumstances. These provisions are from the ACNC model.

<b>Clause</b>	<b>Subject</b>	<b>Explanation</b>
<b>Clause 27</b>	Role of Chairperson	Chairperson no longer has a casting vote. The current constitution allows for a casting vote.
<b>Clause 29</b>	Members' motions	This new clause provides for members to propose motions. A group of at least 10 members or members with 5% of votes may propose a resolution.
<b>Clause 39.3, 39.4</b>	Director eligibility	Makes clear that to be eligible you either need to be an existing director or be nominated by board committee and then that recommendation then accepted by the board. Cannot be an employee.
<b>Current clause 39 and new clause 39.3 (c)</b>	Director nominations	The previous clause 39 relating to the nominations process was removed. Director nominations will be made in accordance with policy outside of the constitution as per 39.3.

<b>Clause 40</b>	Election of Chairperson	This clause as amended to refer to the board charter in relation to the term of the chair. .
<b>Clause 41</b>	Term of office and transitional provisions	At least two directors must retire each year. Director terms of three years. Maximum three consecutive terms.
<b>Clause 41.6</b>	Retirement of directors	This clause was revised to allow a three-year break after director retirement to be waived by special resolution.
<b>Clause 44</b>	Delegation of Directors Powers	Adoption the ACNC delegation clauses for simplicity.
<b>Current clause 11.8</b>	Code of conduct	This clause has been removed from the Delegation of Directors' powers. Policies created are binding on members and directors under clause 60.2.
<b>Clause 49</b>	When Directors meet	Adopted the ACNC model terms.
<b>Clause</b>	<b>Subject</b>	<b>Explanation</b>
<b>Current clause 12</b>	Committees	This clause has been removed and replaced with model ACNC clause.
<b>Current clause 14</b>	CEO	CEO clause removed – not in ACNC model.
<b>Current clause 15</b>	Secretary	Adopted ACNC model clause.
<b>Clause 71.3</b>	DGR revocation clause	This clause adds a deductible gift recipient revocation clause. This clause requires that if the company is wound up, surplus gift funds must be given to a similar body. This clause is required as ARLF holds DGR status.



**CONSTITUTION  
OF  
Australian Rural Leadership  
Foundation Limited**

Australian Company Number (ACN) 056 874 787  
Australian Business Number (ABN) 80 056 874 787 A  
company limited by guarantee

## Company limited by guarantee

### 1. Name of the company

The name of the Company is Australian Rural Leadership Foundation Ltd (the Company).

### 2. Type of Company

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

### 3. Limited liability of Members

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

### 4. The guarantee

Each Member must contribute an amount not more than \$10 (the guarantee) to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:

- (a) debts and liabilities of the Company incurred before the Member stopped being a Member; or
- (b) costs of winding up.

## Charitable purposes and powers

### 5. Objects

The Company's Objects are to pursue the following charitable purpose(s):

- (a) identifying, developing and supporting committed regional leaders to become inspired and highly effective at regional, state, national and international levels to help increase economic, social and environmental benefits for people, communities and industries of Australia and the region;
- (b) enhancing the level of leadership ability and skills of people engaged in or supporting industries and communities through the design, planning and delivery of leadership education programs;
- (c) promoting industries and community leadership skills and ability within rural industries and communities in Australia and the region;
- (d) providing a forum for sharing of ideas, experience and skills about Australian and international issues in relation to regional industries and community leadership;
- (e) developing methods and materials for the development, education and training of leadership skills and ability in regional industries and communities;
- (f) raising funds and institute processes and structures that enable the Company to undertake and implement these Objects; and

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Limited

- (g) undertake any other actions or activities necessary, incidental or conducive to advance these Objects and the conduct of the business activities of the Company.

**6. Powers**

Subject to clause 7, the Company has the following powers, which may only be used to carry out its purpose(s) set out in clause 5:

- (a) the powers of an individual; and
- (b) all the powers of a company limited by guarantee under the Corporations Act.

**7. Not-for-profit**

7.1 The Company must not distribute any income or assets directly or indirectly to its Members, except as provided in clauses 8.2 and 71.

7.2 Clause 7.1 does not stop the Company from doing the following things, provided they are done in good faith:

- (a) paying a Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Company; or
- (b) making a payment to a Member in carrying out the Company's charitable purpose(s).

**8. Amending the constitution**

8.1 Subject to clause 8.2, the Members may amend this constitution by passing a Special Resolution.

8.2 The Members must not pass a Special Resolution that amends this constitution if passing it causes the Company to no longer be a charity.

## Members

**9. Membership and register of Members**

9.1 The Company has the following categories of Members:

- (a) Fellows, being a person who has successfully completed eligible leadership programs conducted by the Company;
- (b) Honorary Fellows, being a person that has provided meritorious service to:
  - i. the Company as Patron, Chair, Director, or Chief Executive; or
  - ii. the broader community and industry in pursuing the Objects;
- (c) Directors, being a person appointed to the Board from time to time in accordance with this constitution, and for so long as they remain a Director; and
- (d) such other category of Member as may be created by the Board in accordance with this constitution and the Policies.

9.2 In addition to the categories of Members in clause 9.1, the Company also has existing Governor Members, being a category of membership no longer open for new applicants.

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Limited

- 9.3 All Members, including Governor Members, have the right to attend, speak at and vote at General Meetings.
- 9.4 The Company must establish and maintain a register of Members. The register of Members must be kept by the Secretary and must contain:
- (a) for each current Member:
    - i. name;
    - ii. address;
    - iii. any alternative address nominated by the Member for the service of notices; and
    - iv. date the Member was entered on to the register.
  - (b) for each person who stopped being a Member in the last 7 years:
    - i. name;
    - ii. address;
    - iii. any alternative address nominated by the Member for the service of notices; and
    - iv. dates the membership started and ended.
- 9.5 The Company must give current Members access to the register of Members.
- 9.6 Information that is accessed from the register of Members must only be used in a manner relevant to the interests or rights of Members.

**10. Who can be a Member**

- 10.1 A person who supports the purposes of the Company is eligible to apply to be a Member of the Company subject to clauses 11 and 12.
- 10.2 In this clause, 'person' means an individual or incorporated body.

**11. How to apply to become a Member**

A person may apply to become a Member of the Company by writing to the Secretary stating that they:

- (a) want to become a Member;
- (b) support the purpose(s) of the Company;
- (c) agree to comply with the Company's constitution and Policies, including paying the guarantee under clause 4 if required;
- (d) meet the criteria relevant to the category of membership for which they are applying (provided that in accordance with clause 9.2, a person can not apply to become a Governor Member); and
- (e) agree to pay the fee determined to apply to the Member.

**12. Directors decide whether to approve membership**

- 12.1 The Directors must consider an application for membership within a reasonable time after the Secretary receives the application.
- 12.2 If the Directors approve an application, the Secretary must as soon as possible: (a) enter the new Member on the register of Members; and

- (b) write to the applicant to tell them that their application was approved, and the date that their membership started (see clause 13).
- 12.3 If the Directors reject an application, the Secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons.
- 12.4 For the avoidance of doubt, the Directors may approve an application even if the application does not state the matters listed in clause 11. In that case, by applying to be a Member, the applicant agrees to those matters.

### 13. When a person becomes a Member

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

### 14. When a person stops being a Member

A person immediately stops being a Member if they:

- (a) die;
- (b) are wound up or otherwise dissolved or deregistered (for an incorporated member);
- (c) resign, by writing to the Secretary giving 14 days notice;
- (d) are expelled under clause 17; or
- (e) have not responded within three months to a written request from the Secretary that they confirm in writing that they want to remain a Member.

### 15. Member Fees

The Board may determine from time to time any fees payable for membership including for different categories of membership.

## Disciplinary procedures

### 16. Dispute resolution

- 16.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a Member or Director and:
  - (a) one or more Members; (b) one or more Directors; or (c) the Company.
- 16.2 A Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 17 until the disciplinary procedure is completed.
- 16.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 16.4 If those involved in the dispute do not resolve it under clause 16.3, they must within 10 days:
  - (a) tell the Directors about the dispute in writing;
  - (b) agree or request that a mediator be appointed by the Directors; and (c) attempt in good faith to settle the dispute by mediation.
- 16.5 The mediator must:
  - (a) be chosen by agreement of those involved; or (b) where those involved do not agree:

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Limited

i. for disputes between Members, a person chosen by the Directors; or ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the Company has its registered office.

- 16.6 A mediator chosen by the Directors under clause 16.5(b)(i):
- (a) may be a Member or former Member of the Company;
  - (b) must not have a personal interest in the dispute; and
  - (c) must not be biased towards or against anyone involved in the dispute.
- 16.7 When conducting the mediation, the mediator must:
- (a) allow those involved a reasonable chance to be heard;
  - (b) allow those involved a reasonable chance to review any written statements; (c) ensure that those involved are given natural justice; and (d) not make a decision on the dispute.

**17. Disciplining Members**

- 17.1 In accordance with this clause, the Directors may resolve to warn, suspend or expel a Member from the Company if the Directors consider that:
- (a) the Member has breached this constitution; or
  - (b) the Member's behaviour is causing, has caused, or is likely to cause harm to the Company.
- 17.2 At least 14 days before the Directors' meeting at which a resolution under clause 17.1 will be considered, the Secretary must notify the Member in writing:
- (a) that the Directors are considering a resolution to warn, suspend or expel the Member;
  - (b) that this resolution will be considered at a Directors' meeting and the date of that meeting;
  - (c) what the Member is said to have done or not done;
  - (d) the nature of the resolution that has been proposed; and
  - (e) that the Member may provide an explanation to the Directors, and details of how to do so.
- 17.3 Before the Directors pass any resolution under clause 17.1, the Member must be given a chance to explain or defend themselves by:
- (a) sending the Directors a written explanation before that directors' meeting; and/or
  - (b) speaking at the meeting.
- 17.4 After considering any explanation under clause 17.3, the Directors may:
- (a) take no further action;
  - (b) warn the Member;
  - (c) suspend the Member's rights as a Member for a period of no more than 12 months;
  - (d) expel the Member;
  - (e) refer the decision to an unbiased, independent 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 (f) require the matter to be determined at a General Meeting.
- 17.5 The Directors cannot fine a Member.
- 17.6 The Secretary must give written notice to the Member of the decision under clause 17.4 as soon as possible.
- 17.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 17.8 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.

## General meetings of Members

### 18. General meetings called by Directors

- 18.1 The Directors may call a General Meeting.
- 18.2 If a group of at least 10 Members, or Members with at least 5% of the votes that may be cast at a General Meeting, make a written request to the Company for a General Meeting to be held, the Directors must:
- (a) within 21 days of the Members' request, give all Members notice of a General Meeting; and
  - (b) hold the General Meeting within 2 months of the Members' request.
- 18.3 The percentage of votes that Members have (in clause 18.2) is to be worked out as at midnight before the Members request the meeting.
- 18.4 The Members who make the request for a General Meeting must:
- (a) state in the request any resolution to be proposed at the meeting;
  - (b) sign the request; and
  - (c) give the request to the Company.
- 18.5 Separate copies of a document setting out the request may be signed by Members if the wording of the request is the same in each copy.

### 19. General meetings called by Members

- 19.1 If the Directors do not call the meeting within 21 days of being requested under clause 18.2, 50% or more of the Members who made the request may call and arrange to hold a General Meeting.
- 19.2 To call and hold a meeting under clause 19.1 the Members must:
- (a) as far as possible, follow the procedures for General Meetings set out in this constitution;
  - (b) call the meeting using the list of Members on the Company's Member register, which the Company must provide to the Members making the request at no cost; and
  - (c) hold the General Meeting within three months after the request was given to the Company.
- 19.3 The Company must pay the Members who request the General Meeting any reasonable expenses they incur because the Directors did not call and hold the meeting.

## 20. Annual General Meeting

- 20.1 A General Meeting, called the Annual General Meeting, must be held:
- (a) within 18 months after registration of the Company; and
  - (b) after the first Annual General Meeting, at least once in every calendar year.
- 20.2 Even if these items are not set out in the notice of meeting, the business of an Annual General Meeting may include:
- (a) a review of the Company's activities;
  - (b) a review of the Company's finances;
  - (c) any auditor's report;
  - (d) the election of Directors; and
  - (e) the appointment and payment of auditors; if any.
- 20.3 Before or at the Annual General Meeting, the Directors must give information to the Members on the Company's activities and finances during the period since the last Annual General Meeting.
- 20.4 The Chairperson of the Annual General Meeting must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

## 21. Notice of General Meetings

- 21.1 Notice of an Annual General Meeting must be given to:
- (a) each Member entitled to vote at the meeting; (b) each Director; and
  - (c) the auditor (if any).
- 21.2 Notice of a General Meeting must be provided in writing at least 21 days before the meeting.
- 21.3 Subject to clause 21.4, notice of a meeting may be provided less than 21 days before the meeting if:
- (a) for an Annual General Meeting, all the Members entitled to attend and vote at the Annual General Meeting agree beforehand; or
  - (b) for any other General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 21.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a Director;
  - (b) appoint a Director in order to replace a Director who was removed; or (c) remove an auditor.
- 21.5 Notice of a General Meeting must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
  - (b) the general nature of the meeting's business;
  - (c) if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution;
  - (d) where applicable, any notice of motion received from any Member or Director; and

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Limited

- (e) a statement that Members have the right to appoint proxies and that, if a Member appoints a proxy:
  - i. the proxy does not need to be a Member of the Company; ii. the proxy form must be delivered to the Company at its registered address or the address (including an electronic address or facsimile number) specified in the notice of the meeting; and
  - iii. the proxy form must be delivered to the Company at least 48 hours before the meeting commencement time.

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

**22. Quorum at General Meetings**

22.1 For a General Meeting to be held, at least five (5) Members (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a proxy of more than one Member).

22.2 No business may be conducted at a General Meeting if a quorum is not present.

22.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of General Meeting, the General Meeting is adjourned to the date, time and place that the Chairperson specifies.

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

**23. Auditor's right to attend meetings**

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

23.2 The Company must give the auditor (if any) any communications relating to the General Meeting that a Member of the Company is entitled to receive.

**24. Representatives of Members**

24.1 An incorporated Member may appoint as a representative:

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

24.2 The appointment of a representative by a Member must:

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

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

24.4 The appointment may be standing (ongoing).

**25. Using technology to hold meetings**

- 25.1 The Company may hold a General Meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 25.2 Anyone using this technology is taken to be present in person at the meeting.

**26. Chairperson for General Meetings**

- 26.1 The elected Chairperson is entitled to chair General Meetings.
- 26.2 The Members Present and entitled to vote at a General Meeting may choose a Director or Member to be the Chairperson for that meeting if:
- (a) there is no elected Chairperson;
  - (b) the elected Chairperson is not present within 30 minutes after the starting time set for the meeting; or
  - (c) the elected Chairperson is present but says they do not wish to act as Chairperson of the meeting.

**27. Role of the Chairperson**

- 27.1 The Chairperson is responsible for the general conduct of the General Meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 27.2 The Chairperson may require the adoption of any procedure which in his or her opinion is necessary or desirable for proper and orderly debate or discussion or the proper and orderly casting or recording of votes.
- 27.3 The Chairperson does not have a casting vote.

**28. Adjournment of meetings**

- 28.1 If a quorum is present, a General Meeting must be adjourned if a majority of Members Present direct the Chairperson to adjourn it.
- 28.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

## **Members' resolutions and statements**

**29. Members' resolutions and statements**

- 29.1 A group of at least 10 Members, or Members with at least 5% of the votes that may be cast on a resolution may give:
- (a) written notice to the Company of a resolution they propose to move at a General Meeting (Members' resolution); and
  - (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).
- 29.2 A notice of a Members' resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- 29.3 A request to distribute a Members' statement must set out the statement to be distributed and be signed by the Members making the request.

- 29.4 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.
- 29.5 The percentage of votes that Members have (as described in clause 29.1) is to be worked out as at midnight before the request or notice is given to the Company.
- 29.6 If the Company has been given notice of a Members' resolution under clause 29.1(a), the resolution must be considered at the next General Meeting held more than two months after the notice is given.
- 29.7 This clause does not limit any other right that a Member has to propose a resolution at a General Meeting.

**30. Company must give notice of proposed resolution or distribute statement**

- 30.1 If the Company has been given a notice or request under clause 29:
- (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.
- 30.2 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 30.1(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.

**31. Circular resolutions of Members**

- 31.1 Subject to clause 31.3, the Directors may put a resolution to the Members to pass a resolution without a General Meeting being held (a circular resolution).
- 31.2 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.
- 31.3 Circular resolutions cannot be used:
- (a) for a resolution to remove an auditor, appoint a Director or remove a Director;
  - (b) for passing a Special Resolution; or
  - (c) where the Corporations Act or this constitution requires a meeting to be held.

- 31.4 A circular resolution is passed if the required majority of the Members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 31.5 or clause 31.6.
- 31.5 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.
- 31.6 The Company may send a circular resolution by email to Members and Members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

## Voting at General Meetings

### 32. How many votes a Member has

Each Member has one vote.

### 33. Challenge to Member's right to vote

- 33.1 A Member or the Chairperson may only challenge a person's right to vote at a General Meeting at that meeting.
- 33.2 If a challenge is made under clause 33.1, the Chairperson must decide whether or not the person may vote. The Chairperson's decision is final.

### 34. How voting is carried out

- 34.1 Voting must be conducted and decided by:
- (a) a show of hands;
  - (b) a vote in writing; or
  - (c) another method chosen by the Chairperson that is fair and reasonable in the circumstances.
- 34.2 Before a vote is taken, the Chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 34.3 On a show of hands, the Chairperson's decision is conclusive evidence of the result of the vote.
- 34.4 The Chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

### 35. When and how a vote in writing must be held

- 35.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) at least five Members Present;
  - (b) Members Present with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded); or (c) the Chairperson.
- 35.2 A vote in writing must be taken when and how the Chairperson directs, unless clause 35.3 applies.

35.3 A vote in writing must be held immediately if it is demanded under clause 35.1: (a) for the election of a Chairperson under clause 26.2; or (b) to decide whether to adjourn the meeting.

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

### **36. Appointment of proxy**

36.1 A Member may appoint a proxy to attend and vote at a General Meeting on their behalf.

36.2 A proxy does not need to be a Member.

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

- (a) speak at the meeting;
- (b) vote in a vote in writing (but only to the extent allowed by the appointment); and
- (c) join in to demand a vote in writing under clause 35.1.

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

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

36.5 A proxy appointment may be standing (ongoing).

36.6 Proxy forms must be received by the Company at the address stated in the notice under clause 21.5(e) or at the Company's registered address at least 48 hours before a meeting.

36.7 A proxy does not have the authority to speak and vote for a Member at a meeting while the Member is at the meeting.

36.8 Unless the Company receives written notice before the start or resumption of a General Meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Member:

- (a) dies;
- (b) is mentally incapacitated;
- (c) revokes the proxy's appointment; or
- (d) revokes the authority of a representative or agent who appointed the proxy.

36.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.

### **37. Voting by proxy**

37.1 A proxy is entitled to vote on a show of hands unless the proxy holds two or more appointments that specify different ways of voting.

37.2 When a vote in writing is held, a proxy:

- (a) does not need to vote, unless the proxy appointment specifies the way they must vote;
- (b) if the way they must vote is specified on the proxy form, must vote that way; and

- (c) if the proxy is also a Member or holds more than one proxy, may cast the votes held in different ways.

## Directors

### 38. Number of Directors

The Company must have at least three and no more than nine Directors, one of which must be a Fellow.

### 39. Election and appointment of Directors

- 39.1 The Members may elect a Director by a resolution passed in a General Meeting.
- 39.2 Each of the Directors up for election at an Annual General Meeting must be appointed by a separate resolution, unless:
  - (a) the Members Present have first passed a resolution that the appointments may be voted on together; and
  - (b) no votes were cast against that resolution.
- 39.3 A person is eligible for election as a Director of the Company if they are:
  - (a) an existing Director subject to this constitution; or
  - (b) nominated in accordance with any Policy in place for Director nominations; and
  - (c) recommended to the Board by the Board committee responsible for considering Director nominations and with that recommendation then accepted by the Board.
- 39.4 Notwithstanding clause 39.3, a person is not eligible for election as a Director of the Company if they:
  - (a) are ineligible to be a Director under the Corporations Act or the ACNC Act;
  - (b) are an employee of the Company; or
  - (c) do not give the Company their signed consent to act as Director of the Company.
- 39.5 The Directors may appoint a person as a Director to fill a casual vacancy or as an additional Director if that person:
  - (a) is not an employee of the Company;
  - (b) gives the Company their signed consent to act as a Director of the Company; and
  - (c) is not ineligible to be a Director under the Corporations Act or the ACNC Act.
- 39.6 A Director filling a casual vacancy for any period will not be treated as a term or any part of a term for the purposes of clauses 41.6.
- 39.7 A Director filling a casual vacancy must retire at the next AGM but can seek reelection at the same AGM.
- 39.8 If the number of Directors is reduced to fewer than three or is less than the number required for a quorum, the continuing Directors may act for the purpose of increasing the number of Directors to three (or higher if required for a quorum) or calling a General Meeting, but for no other purpose.

### 40. Election of Chairperson

The Directors must elect a Director as the Company's elected Chairperson for the term specified in the Board Charter.

#### 41. Term of office

- 41.1 At each Annual General Meeting:
- (a) any Director appointed by the Directors to fill a casual vacancy must retire; and
  - (b) at least two of the remaining Directors must retire.
- 41.2 The Directors who must retire at each Annual General Meeting under clause 41.1(b) will be the Directors who have been longest in office since last being elected. Where Directors were elected on the same day, the Director(s) to retire will be decided by lot unless they agree otherwise.
- 41.3 Other than a Director appointed under clause 39.5, a Director's term of office starts at the end of the Annual General Meeting at which they are elected and ends at the end of the Annual General Meeting at which they retire.
- 41.4 Each Director must retire at least once every three years.
- 41.5 A Director who retires under clause 41.1 may nominate for election or re-election, subject to clause 41.6.
- 41.6 A Director who has served three consecutive terms as an elected Director is not eligible to be a Director for a period of three years following the end of their third term, unless by Special Resolution of the Members.

#### 42. When a Director stops being a Director

A Director stops being a Director if they:

- (a) give written notice of resignation as a Director to the Company;
- (b) die;
- (c) are removed as a Director by a resolution of the Members;
- (d) become an employee of the Company;
- (e) stop being a Member of the Company;
- (f) are a representative of a Member, and that Member stops being a Member;
- (g) are a representative of a Member, and the Member notifies the Company that the representative is no longer a representative;
- (h) are absent for 3 consecutive Directors' meetings without leave of absence from the Board; or
- (i) become ineligible to be a Director of the Company under the Corporations Act or the ACNC Act.

## Powers of Directors

#### 43. Powers of Directors

- 43.1 The Directors are responsible for managing and directing the activities of the Company to achieve Objects.
- 43.2 The Directors may use all the powers of the Company except for powers that, under the Corporations Act or this constitution, may only be used by Members.
- 43.3 The Directors must decide on the responsible financial management of the Company including:
- (a) any suitable written delegations of power under clause 6; and

- (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

43.4 Without limiting clause 42, the Directors cannot remove a Director or auditor. Directors and auditors may only be removed by a Members' resolution at a General Meeting.

#### **44. Delegation of Directors' powers**

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

44.2 The delegation, including delegations set out in Policies, must be recorded in the Company's minute book.

#### **45. Payments to Directors**

45.1 The Company must not pay fees to a Director for acting as a Director.

45.2 The Company may:

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

45.3 Any payment made under clause 45.2 must be approved by the Directors.

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

#### **46. Execution of documents**

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

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

## **Duties of Directors**

#### **47. 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:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Company;
- (b) to act in good faith in the best interests of the Company and to further the charitable purpose(s) of the Company set out in clause 5;
- (c) not to misuse their position as a Director;
- (d) not to misuse information they gain in their role as a Director;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 48;

- (f) to ensure that the financial affairs of the Company are managed responsibly;  
and
- (g) not to allow the Company to operate while it is insolvent.

#### **48. Conflicts of interest**

- 48.1 A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):
- (a) to the other Directors; or
  - (b) if all of the Directors have the same conflict of interest, to the Members at the next General Meeting, or at an earlier time if reasonable to do so.
- 48.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting and the Register of Interests.
- 48.3 Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) must not, except as provided under clauses 48.4:
- (a) be present at the meeting while the matter is being discussed; or (b) vote on the matter.
- 48.4 A Director may still be present and vote if:
- (a) their interest arises because they are a Member of the Company, and the other Members have the same interest;
  - (b) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company (see clause 68);
  - (c) their interest relates to a payment by the Company under clause 67 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act;
  - (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the Director to vote on the matter; or
  - (e) the Directors who do not have a material personal interest in the matter pass a resolution that:
    - (i) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company, and
    - (ii) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

### **Directors' meetings**

#### **49. When the Directors meet**

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

#### **50. Calling Directors' meetings**

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

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

**51. Chairperson for Directors' meetings**

51.1 The Chairperson is entitled to chair Directors' meetings.

51.2 The Directors at a Directors' meeting may choose a Director to be the Chairperson for that meeting if there is no Chairperson or the Chairperson is:

- (a) not present within 15 minutes after the starting time set for the meeting; or
- (b) present but does not want to act as Chairperson of the meeting.

**52. Quorum at Directors' meetings**

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

52.2 A quorum must be present for the entire Directors' meeting.

**53. Using technology to hold Directors' meetings**

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

53.2 The Directors' agreement may be a standing (ongoing) one.

53.3 A Director may only withdraw their consent within a reasonable period before the meeting.

**54. Passing Directors' resolutions**

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

**55. Circular resolutions of Directors**

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

55.2 A circular resolution is passed if all the Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 55.3 or clause 55.4.

55.3 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.

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

55.5 A circular resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in clause 55.3 or clause 55.4.

**56. Validity of acts of Directors**

Everything done at a Directors meeting, or by a person acting as a Director, is valid even if it is discovered later that there was some defect in the appointment, election or qualification of any of them or that any of them was disqualified or had vacated office.

## Secretary

### 57. Appointment and role of Secretary

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

## Minutes and records

### 58. Minutes and records

- 58.1 The Company must, within one month, make and keep the following records:
  - (a) minutes of proceedings and resolutions of General Meetings;
  - (b) minutes of circular resolutions of Members;
  - (c) a copy of a notice of each General Meeting; and
  - (d) a copy of a Members' statement distributed to Members under clause 29.
- 58.2 The Company must, within one month, make and keep the following records: (a) minutes of proceedings and resolutions of Directors' meetings (including meetings of any Committees); and
  - (b) minutes of circular resolutions of Directors.
- 58.3 To allow Members to inspect the Company's records:
  - (a) the Company must give a Member access to the records set out in clause 58.1; and
  - (b) the Directors may authorise a Member to inspect other records of the Company, including records referred to in clause 58.2 and clause 59.1.
- 58.4 The Directors must ensure that minutes of a General Meeting or a Directors' meeting are signed within a reasonable time after the meeting by: (a) the Chairperson of the meeting; or (b) the Chairperson of the next meeting.
- 58.5 The Directors must ensure that minutes of the passing of a circular resolution (of Members or Directors) are signed by a Director within a reasonable time after the resolution is passed.

### 59. Financial and related records

- 59.1 The Company must make and keep written financial records that:
  - (a) correctly record and explain its transactions and financial position and performance; and
  - (b) enable true and fair financial statements to be prepared and to be audited.
- 59.2 The Company must also keep written records that correctly record its operations.
- 59.3 The Company must retain its records for at least 7 years.

- 59.4 The Directors must take reasonable steps to ensure that the Company's records are kept safe.

## Policies and By-laws

### 60. Making a Policy or By-law

- 60.1 The Directors may pass a resolution to make Policies or by-laws to give effect to this constitution.
- 60.2 Members and Directors must comply with Policies and by-laws as if they were part of this constitution.

## Notice

### 61. What is notice

- 61.1 Anything written to or from the Company under any clause in this constitution is written notice and is subject to clauses 62 to 64, unless specified otherwise.
- 61.2 Clauses 62 to 64 do not apply to a notice of proxy under clause 36.6.

### 62. Notice to the Company

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

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

### 63. Notice to Members

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

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

**64. When notice is taken to be given**

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs;
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent; and
- (d) given under clause 63.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

**65. Defects in meeting notices**

The non-receipt of a notice convening, cancelling or postponing any meeting, or the accidental omission to give a notice of that kind to, a person entitled to receive it, does not invalidate the meeting, any resolution passed at the meeting or at a postponed meeting, or the cancellation of a meeting .

## Financial year

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

## Indemnity, insurance and access

**67. Indemnity**

- 67.1 The Company indemnifies each officer of the Company out of the assets of the Company, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Company.
- 67.2 In this clause, 'officer' means a Director, Secretary, employee or auditor appointed by the Company and includes a Director, Secretary, employee or auditor appointed by the Company after they have ceased to hold that office.
- 67.3 In this clause, 'to the relevant extent' means:
- (a) to the extent that the Company is not precluded by law (including the Corporations Act) from doing so; and
  - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 67.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Company.

**68. Insurance**

To the extent permitted by law (including the Corporations Act), and if the Directors consider it appropriate, the Company may pay or agree to pay a premium for a contract

insuring a person who is or has been an officer of the Company against any liability incurred by the person as an officer of the Company.

**69. Directors' access to documents**

- 69.1 A Director has a right of access to the financial records of the Company at all reasonable times.
- 69.2 If the Directors agree, the Company must give a Director or former Director access to:
- (a) certain documents, including documents provided for or available to the Directors; and
  - (b) any other documents referred to in those documents.

## Winding up

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

If the Company is wound up, any Surplus Assets must not be distributed to a Member or a former Member of the Company, unless that Member or former Member is a charity described in clause 71.1.

**71. Distribution of Surplus Assets**

- 71.1 Subject to the law, any Surplus Assets that remain after the Company is wound up must be distributed to one or more charities:
- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 5; and
  - (b) which also prohibit the distribution of any Surplus Assets to its Members to at least the same extent as the Company.
- 71.2 The decision as to the charity or charities to be given the Surplus Assets must be made by a Special Resolution of Members at or before the time of winding up. If the Members do not make this decision, the Company may apply to the Supreme Court to make this decision.
- 71.3 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 hold deductible gift recipient endorsements and meet the requirements of clause 71.1, as decided by the Directors.
- 71.4 For the purpose of this clause:
- (a) 'gift funds' means: i gifts of money or property for the principal purpose of the Company ii contributions made in relation to a fund-raising event held for the principal purpose of the Company; and iii money received by the Company because of such gifts and contributions; and
  - (b) 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the *Income Tax Assessment Act 1997* (Cth).

**72. Patron**

The Board may invite eminent persons to be a Patron for a period of up to three years and otherwise such conditions as the Board may think fit.

## Definitions and interpretation

### 73. Definitions

In this constitution:

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

**Board** means the board of Directors acting collectively under this constitution; **Board**

**Charter** means a Policy defining the respective roles, responsibilities and authorities of the Board (both individually and collectively) and management in setting the direction, the management and the control of the Company as determined by the Board from time to time; **Company**

means the company referred to in clause 1;

**Chairperson** means a person elected by the Directors to be the Company's chairperson under clause 40;

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

**Director** means a Director of the Company and a Member of the Board, as appointed in accordance with this constitution;

**General Meeting** means a meeting of Members and includes the Annual General Meeting of the Company;

**Governor Members** means a category of Members who at the date of this constitution are known as Governor Member;

**Member** means a person admitted to the Company as a Member under clause 11;

**Member Present** means, in connection with a **General Meeting**, a **member present** in person, by representative or by proxy at the venue or venues for the meeting;

**Objects** means the objects of the Company set out in clause 5;

**Policy** means a policy made by the Board from time to time and **Policies** has the corresponding meaning;

**Registered Charity** means a charity that is registered under the ACNC Act; **Register of Interests** means the register of conflicts declared by Directors and maintained by the Secretary;

**Secretary** means a person appointed as secretary of the Company by the Board;

**Special Resolution** means a resolution required to be passed by at least 75% of the votes cast by Members Present and entitled to vote on the resolution; and **Surplus**

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

### 74. Reading this constitution with the Corporations Act

- 74.1 The replaceable rules set out in the Corporations Act do not apply to the Company.
- 74.2 While the Company is a Registered Charity, the ACNC Act and the Corporations Act override any clauses in this constitution which are inconsistent with those Acts.
- 74.3 If the Company is not a Registered Charity, the Corporations Act overrides any clause in this constitution which is inconsistent with that Act.
- 74.4 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 as in this constitution.

### 75. Interpretation

PROPOSED CONSTITUTION OF Australian Rural Leadership Foundation  
Limited

In this constitution:

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

DRAFT

**CONSTITUTION**  
**AUSTRALIAN RURAL LEADERSHIP FOUNDATION**  
**LIMITED**  
**ACN: 056 874 787**

# Contents

<b>1. Definitions and Interpretations</b> .....	6
<b>1.1 Definitions</b> .....	6
<b>1.2 Interpretation</b> .....	7
<b>1.3 Corporations and ACNC Law</b> .....	8
<b>1.4 Headings</b> .....	9
<b>2. Company limited by guarantee</b> .....	9
<b>2.1 Status of Company</b> .....	9
<b>2.2 Limited Liability</b> .....	9
<b>2.3 Contribution of Members on winding up</b> .....	9
<b>3. Objects</b> .....	9
<b>4. Powers</b> .....	10
<b>5. Income and Property of Company</b> .....	10
<b>5.1 Sole Purpose</b> .....	10
<b>5.2 Payments to Members</b> .....	10
<b>6. Membership</b> .....	10
<b>6.1 Categories of Members and right to attend and vote</b> .....	10
<b>6.2 Admission of Members</b> .....	11
<b>6.6 General</b> .....	12
<b>6.7 Cessation</b> .....	12
<b>6.8 Resignation</b> .....	12
<b>6.9 Forfeiture of Rights</b> .....	13
<b>7. Standards and Discipline of Members</b> .....	13
<b>7.1 Jurisdiction</b> .....	13
<b>7.2 Professional Standards Policies</b> .....	13
<b>8. Fees and Subscriptions</b> .....	14
<b>8.2 Non-Payment of Fees</b> .....	14
<b>8.3 Deferral or reduction of subscriptions</b> .....	14
<b>9. General Meetings</b> .....	14
<b>9.1 Annual General Meeting</b> .....	14
<b>9.2 Power to convene General Meeting</b> .....	15
<b>9.3 Notice of a General Meeting</b> .....	15
<b>9.4 No other business</b> .....	15
<b>9.5 Cancellation or postponement of General Meeting</b> .....	15
<b>9.6 Written notice of cancellation or postponement of General Meeting</b> .....	16
<b>9.7 Contents of notice postponing General Meeting</b> .....	16
<b>9.8 Number of clear days for postponement of General Meeting</b> .....	16
<b>9.9 Business at postponed General Meeting</b> .....	16
<b>9.10 Representative, proxy or attorney at postponed General Meeting</b> .....	16
<b>9.11 Non-receipt of notice</b> .....	17
<b>9.12 Right to appoint proxy</b> .....	17

9.13 Form of proxy .....	17
9.14 Attorney of Member .....	17
9.15 Lodgment of proxy or attorney documents .....	17
9.16 Authority given by appointment .....	17
9.17 Proceedings at General Meeting .....	18
9.18 Adjourned meeting .....	19
9.19 Chair to preside over General Meetings .....	19
9.20 Conduct of General Meetings .....	19
9.21 Adjournment of General Meeting .....	19
9.22 Notice of adjourned meeting .....	20
9.23 Questions decided by majority .....	20
9.24 Equality of votes .....	20
9.25 Declaration of results .....	20
9.26 Poll .....	20
9.27 Objection to voting qualification .....	21
9.28 Chair to determine any poll dispute .....	21
9.29 Votes of Members .....	21
9.30 Election of Directors .....	21
10. Directors .....	22
10.1 Number of Directors .....	22
10.2 Transitional Provisions .....	22
10.3 Eligibility .....	22
10.4 Nomination for election .....	23
10.5 Term of office of Directors generally .....	23
10.6 Office held until end of meeting .....	24
10.7 Elected Director elected at General Meeting .....	24
10.8 Maximum term of office for Directors .....	24
10.9 Casual vacancy in ranks of Elected Directors .....	24
10.10 Removal of Director .....	24
10.11 Vacation of office .....	25
10.12 Alternate Director .....	25
11. Powers and Duties of the Board .....	25
11.1 Board to manage the Company .....	25
11.2 Specific powers of the Board .....	25
11.3 Time, etc .....	25
11.4 Appointment of attorney .....	26
11.5 Provisions in power of attorney .....	26
11.6 Delegation of powers .....	26
11.7 Duties of the Board .....	26
11.8 Code of Conduct and Board Charter .....	27
12. Committees .....	27
12.1 Committees .....	27
12.2 Powers delegated to Committees .....	28
12.3 Committee meetings .....	28

<b>13. Proceedings of the Board</b> .....	28
<b>13.1 Board meetings</b> .....	28
<b>13.2 Questions decided by majority</b> .....	28
<b>13.3 Chair's casting vote</b> .....	28
<b>13.4 Quorum</b> .....	28
<b>13.5 Effect of vacancy</b> .....	28
<b>13.6 Convening meetings</b> .....	29
<b>13.7 Election of Chair</b> .....	29
<b>13.8 Circulating resolutions</b> .....	29
<b>13.9 Validity of acts of Directors</b> .....	30
<b>13.10 Directors' Interests</b> .....	30
<b>13.11 Minutes</b> .....	30
<b>13.12 Telecommunication Meetings of the Board</b> .....	30
<b>13.13 Conduct of Telecommunication Meeting</b> .....	31
<b>14. Chief Executive</b> .....	31
<b>14.1 Appointment of Chief Executive</b> .....	31
<b>14.2 Powers, duties and authorities of Chief Executive</b> .....	31
<b>14.3 Suspension and removal of Chief Executive</b> .....	31
<b>14.4 Delegation by Board to Chief Executive</b> .....	31
<b>14.5 Chief Executive to attend meetings</b> .....	32
<b>15. Company Secretary</b> .....	32
<b>15.1 Appointment of Company Secretary</b> .....	32
<b>15.2 Suspension and removal of Company Secretary</b> .....	32
<b>15.3 Powers, duties and authorities of Company Secretary</b> .....	32
<b>16. Policies</b> .....	32
<b>16.1 Making and amending Policies</b> .....	32
<b>16.2 Effect of Policies</b> .....	33
<b>17. Inspection of Records</b> .....	33
<b>17.1 Right of the Members to Inspect Records</b> .....	33
<b>18. Accounts</b> .....	33
<b>18.1 Accounting Records</b> .....	33
<b>18.2 Auditor</b> .....	33
<b>19. Service of Documents</b> .....	33
<b>19.1 Document includes notice</b> .....	33
<b>19.2 Methods of service on a Member</b> .....	33
<b>19.3 Methods of service on the Company</b> .....	34
<b>19.4 Post</b> .....	34
<b>19.5 Facsimile or electronic transmission</b> .....	34
<b>20. Indemnity</b> .....	34
<b>20.1 Indemnity of officers</b> .....	34
<b>20.2 Insurance</b> .....	35
<b>20.3 Deed</b> .....	35
<b>21. Winding Up</b> .....	35
<b>21.1 Contributions of Members on winding up</b> .....	35

21.2 Excess property on winding up.....	35
22. Amendments to Constitution.....	36
23. Patron.....	36
SCHEDULE 1 .....	36

# 1. Definitions and Interpretations

## 1.1 Definitions

In this Constitution unless the context requires otherwise:

- (a) **ACNC Law** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the *Australian Charities and Not-for-profits Commission Regulation 2013*;
- (b) **AGM** or **Annual General Meeting** means the Annual General Meeting of the Company required to be held by the Company in each calendar year under the Corporations Act;
- (c) **Board** means the board of Directors acting collectively under this Constitution;
- (d) **Chief Executive** means a person appointed as chief executive of the Company by the Board pursuant to clause **14**;
- (e) **Chair** means the person elected as the Chair of the Company under clause **13.7(a)** or any person appointed to chair a meeting of the Company or a meeting of the Board pursuant to this Constitution;
- (f) **Charitable Purpose** means the purposes of advancing education, as defined by the *Charities Act 2013* (Cth), in rural communities and as set out in the Objects;
- (g) **Committee** means a committee established by the Board under this Constitution;
- (h) **Commonwealth** means the Commonwealth of Australia;
- (i) **Company** means the Australian Rural Leaders Foundation Limited ACN: 056 874 787;
- (j) **Company Secretary** means a person appointed as a company secretary of the Company by the Board under clause **15**;
- (k) **Conflicts Register** means the register of conflicts declared by Directors and maintained by the Company Secretary in accordance with clause **13.10(d)** and **15.4**;
- (l) **Constitution** means this Constitution as amended from time to time, and a reference to a particular clause is a reference to a clause of this Constitution;
- (m) **Corporations Act** means the *Corporations Act 2001 (Cth)* as modified and amended from time to time and includes any regulations made under and any exemption or modification to the Corporations Act applying to the Company;
- (n) **Delegations Register** means a register of delegations made by the Board in accordance with clause **15.4** and maintained by the Company Secretary;
- (o) **Director** means a director of the Company and includes Elected Directors and Fellow Directors;
- (p) **Director** means a director of the Board;
- (q) **Elected Director** means a Director elected under clause **9.30**;

- (r) **Fellow Director** means an Elected Director elected by the Fellow Members under clause **9.30(c)**;
- (s) **Fellow Member** means a Fellow Member pursuant to clause **6.1(a)**;
- (t) **First Elected Directors** means the persons referred to in clause **1.2** of **Schedule 1**;
- (u) **First Fellow Director** means the person referred to in clause **1.3** of **Schedule 1**;
- (v) **General Meeting** means a general meeting of Members and includes the AGM;
- (w) **Member** means a person admitted to the Company as an member under clause **6**;
- (x) **Nominations Committee** means the nominations committee appointed pursuant to clause **12.1**;
- (y) **Objects** means the objects of the Company in clause **3**;
- (z) **Patron** means any person appointed as a Patron of the Company in accordance with clause **23**;
- (aa) **Policy** means a policy made under clauses **6.3, 7.2** and **16.1(a)**;
- (bb) **Register of Members** means the membership register maintained by the Company Secretary pursuant to clause **6.6(a)** and clause **15.4**;
- (cc) **Registered Charity** means a charity that is registered under the ACNC Law;
- (dd) **Special Resolution** means a resolution that must be passed by a majority of at least 75% of votes cast by Voting Members at the relevant General Meeting in accordance with this Constitution and/or the Corporations Act;
- (ee) **State** means the States of Australia, which shall be deemed to include each of the Northern Territory and the Australian Capital Territory;
- (ff) **Telecommunications Meeting** means a meeting held by telephone, video, any other technology (or any combination of these technologies), which permits each Director at a meeting of the Board to communicate with any other participant;
- (gg) **Terms of Reference** means a terms of reference for any Committee established in accordance with clause **12.1**;
- (hh) **Transitional Provisions** means the provisions referred to at clause **10.2** and as set out at Schedule **1** to this Constitution; and
- (ii) **Voting Member** means, in relation to a General Meeting, those Members present in person or by proxy and entitled to vote.

## 1.2 Interpretation

In this Constitution unless the context requires otherwise:

- (a) a reference to the Company is a reference to the Australian Rural Leadership Foundation Limited ACN 056 874 787 a not for profit public company limited by guarantee which is a Registered Charity and operates for the Charitable Purpose;

- (b) a reference to a Member present at a General Meeting means the Member present in person or by proxy;
- (c) a reference to a document or instrument includes any amendments made to it from time to time and, unless the contrary intention appears, includes a replacement;
- (d) words importing any gender include all other genders;
- (e) the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (f) a reference to an organisation includes a reference to its successors;
- (g) the singular includes the plural and vice versa;
- (h) a reference to a law includes regulations and instruments made under it;
- (i) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by a State or the Commonwealth or otherwise;
- (j) the words include, includes, including and for example are not to be interpreted as words of limitation;
- (k) where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Board; and
- (l) writing and written includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise.

### **1.3 Corporations and ACNC Law**

In this Constitution:

- (a) unless the context requires otherwise, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the ACNC or Corporations Act as applicable;
- (b) the provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company;
- (c) in the event that any of the provisions in this Constitution are in breach of any of the provisions of the ACNC or the Corporations Acts then the provisions will be read down to the extent that they will comply with the those acts and any provision that is in breach of those acts will be deemed to be struck out and will not form part of this Constitution; and
- (d) in the event that the ACNC or the Corporations Acts permit an act to be done, a decision to be made or a meeting to be held in a way that is more convenient for

the Company or the Board or is more favourable to the Members or the Board than as required or permitted by this Constitution then the Board may, but will not be obliged to, make the decision, take the action, give the notice or hold the meeting or do the particular thing as permitted and in the time and in the manner permitted by the those Acts as applicable.

#### **1.4 Headings**

Headings are inserted for convenience and do not affect the interpretation of this Constitution.

## **2. Company limited by guarantee**

### **2.1 Status of Company**

The Company is limited by guarantee.

### **2.2 Limited Liability**

Members have no liability in that capacity except as set out in this clause 2.

### **2.3 Contribution of Members on winding up**

- (a) Each Member must contribute to the Company's property if the Company is wound up while they are a Member or within one year after their membership ceases.
- (b) The contribution is for:
  - (i) payment of the Company's debts and liabilities contracted before their membership ceased;
  - (ii) the costs of winding up; and
  - (iii) adjustment of the rights of the contributories among themselves, and such amount not to exceed \$10.00.

## **3. Objects**

**3.1** The Objects of the Company are to pursue the Charitable Purpose by:

- (a) identifying, developing and supporting committed regional leaders to become inspired and highly effective at regional, state, national and international levels to help increase economic, social and environmental benefits for people, communities and industries of Australia and the region;
- (b) enhancing the level of leadership ability and skills of people engaged in or supporting industries and communities through the design, planning and delivery of leadership education programs;
- (c) promoting industries and community leadership skills and ability within rural industries and communities in Australia and the region;

- (d) providing a forum for sharing of ideas, experience and skills about Australian and international issues in relation to regional industries and community leadership;
- (e) developing methods and materials for the development, education and training of leadership skills and ability in regional industries and communities;
- (f) raising funds and institute processes and structures that enable the Company to undertake and implement these Objects; and
- (g) undertake any other actions or activities necessary, incidental or conducive to advance these Objects and the conduct of the business activities of the Company.

## **4. Powers**

**4.1** Solely for furthering the Objects under clause **3**, the Company, in addition to the any other powers it has under the Corporations Act, has the legal capacity and powers of a company limited by guarantee as set out under section 124 of the Corporations Act and as a charity, established for the Charitable Purpose and registered under the ACNC Law.

## **5. Income and Property of Company**

### **5.1 Sole Purpose**

The income and property of the Company will only be applied towards the promotion of the Objects of the Company and the Charitable Purpose.

### **5.2 Payments to Members**

No income or property will be paid or transferred directly or indirectly to any Member except for payments to a Member:

- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company;
- (b) as reimbursement for expenses properly incurred on behalf of the Company; or
- (c) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent; or
- (d) of reasonable rent for premises let to the Company by them.

## **6. Membership**

### **6.1 Categories of Members and right to attend and vote**

As at the Date of this Constitution, Members of the Company shall fall into one of the following categories:

- (a) Fellows:

- (i) being any persons or person who have participated in and successfully completed leadership programs conducted by the Company that establish eligibility for fellowship; and
  - (ii) who have the right to attend, speak at and vote at General Meetings of the Company;
- (b) Honorary Fellows:
- (i) being any persons who have:
    - A. provided meritorious service to the Company as Patron, Chair, Director or Chief Executive;
    - B. provided meritorious service to the broader community and industry in pursuing the Objects;
  - (ii) who have the right to attend, speak and vote at General Meetings of the Company;
  - (iii) Honorary Fellowship is the highest honour that can be bestowed by the Company on a person.
- (c) Governor Members:
- (i) being any persons who have:
    - A. provided meritorious service to the Company not less than five (5) untied scholarships;
    - B. provided to the Company not less than ten tied scholarships;
    - C. provided a significant donation deemed by the Board to warrant governor membership;
    - D. provided significant partnership support to the Company deemed by the Board to warrant Governor Membership; and
  - (d) who have the right to attend, speak and vote at General Meetings of the Company; or
  - (e) such other category of Member as may be created by the Board in accordance with this Constitution and the Policies.

## **6.2 Admission of Members**

A person will become a Member, and the Board will direct the Company Secretary to record their name in the Register of Members kept by the Company, only upon meeting the criteria applicable to the relevant category of membership set out in this Constitution and the Policies and provided the Member has submitted an application, which is accepted by the Board, in which the Member undertakes to:

- (a) be bound by this Constitution, the Policies (including Policies specific to the relevant category of Membership);

- (b) pay the fees and subscriptions determined to apply to the Member under clause 8;  
and
- (c) support the Company in the encouragement and promotion of its Objects.

**6.3** Subject to this Constitution the Policies of the Company will set out:

- (a) the categories of Membership which exist;
- (b) the criteria to be met by each category of Member; and
- (c) the procedure for suspending or cancelling Membership.

**6.4** A Member agrees to comply with this Constitution and the Policies and support the Company and the Objects.

**6.5** A Member is entitled to any benefits of Membership prescribed to apply to Members in the Constitution and Policies.

#### **6.6 General**

- (a) The Company Secretary must keep a register of all Members in accordance with the Corporations Act.
- (b) No Member whose Membership ceases has any claim against the Company or the Directors for damages or otherwise arising from cessation or termination of Membership.
- (c) Membership is personal to each Member. No Member shall, or purport to, assign the rights comprising or associated with Membership to any other person and any attempt to do so shall be void.
- (d) A Member must not act in a manner unbecoming of a Member or prejudicial to the Objects and interests of the Company.

#### **6.7 Cessation**

A person ceases to be a Member on:

- (a) resignation;
- (b) death;
- (c) the termination of their Membership according to this Constitution or the Policies;  
and
- (d) without limiting the foregoing, that Member no longer meeting the requirements for membership according to clause **6.3** and as set out in the Policies.

#### **6.8 Resignation**

For the purposes of clause **6.7(a)**, a Member may resign as a Member of the Company by giving 14 days written notice to the Board.

## **6.9 Forfeiture of Rights**

A Member who ceases to be a Member shall forfeit all right in and claim upon the Company or the Directors for damages or otherwise, or claim upon the property of the Company including its intellectual property rights.

# **7. Standards and Discipline of Members**

## **7.1 Jurisdiction**

All Members will be subject to, and submit unreservedly to, the jurisdiction, procedures, penalties and appeal mechanisms of the Company whether under the Policies or under this Constitution.

## **7.2 Professional Standards Policies**

- (a) The Board may make a Policy or Policies:
  - (iv) for the hearing and determination of:
    - A. grievances by any Member who feels aggrieved by a decision or action of the Company; and
    - B. disputes between Members relating to the conduct or administration of the Company;
    - C. complaints by a member of the public;
  - (v) for the discipline of Members;
  - (vi) for the formation and administration of an appeals tribunal which must be independent of any party before it on the matter which is the subject of the appeal in question; and
  - (vii) for the termination of Members.
- (b) The Board in their sole discretion may refer an allegation (which in the opinion of the Board is not vexatious, trifling or frivolous) by a complainant (including a Director or a Member) that a Member has:
  - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the Policies or any other resolution or determination of the Board or any duly authorised Committee; or
  - (ii) acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of the Company; or
  - (iii) prejudiced the Company or brought the Company or themselves into disrepute;

for investigation or determination either under the procedures set down in the Policies or by such other procedure and/or by persons as the Board considers appropriate.

## **8. Fees and Subscriptions**

**8.1** The Board must determine from time to time:

- (a) the amount (if any) payable by an applicant for Membership;
- (b) the amount of the annual subscription fee payable by each Member, or any category of Members;
- (c) any other amount to be paid by each Member, or any category of Members, whether of a recurrent or any other nature;
- (d) the payment method and the due date for payment; and
- (e) Each Member must pay to the Company the amounts determined under this clause 8 in accordance with this clause **8.1(d)**.

### **8.2 Non-Payment of Fees**

The right of a Member to attend and vote at a General Meeting is suspended while the payment of any subscription or other amount determined under clause 8 is in arrears greater than 30 days.

### **8.3 Deferral or reduction of subscriptions**

- (a) The Board may defer the obligations of a Member to pay a subscription or other amount, or reduce (including to zero) the subscription or other amount payable by a Member, if the Board is satisfied that:
  - (i) there are reasonable grounds for doing so;
  - (ii) the Company will not be materially disadvantaged as a result; and
  - (iii) the Member agrees to pay the deferred or (if greater than zero) the reduced subscription or other amount within a time fixed by the Board.
- (b) If the Board defers or reduces a subscription or other amount payable by a Member under this clause **8.3**, that Member will retain their rights to attend and vote at a General Meeting, unless otherwise specified by the Board.

## **9. General Meetings**

### **9.1 Annual General Meeting**

AGMs of the Company are to be held:

- (a) according to the Corporations Act;
- (b) the ACNC Law; and
- (c) at a date and venue determined by the Board.

## **9.2 Power to convene General Meeting**

- (a) The Board may convene a General Meeting when they think fit and must do so if required by the Corporations Act or the ACNC Law as applicable.
- (b) The Members eligible to vote may convene a General Meeting, which must comply with the requirements of the Corporations Act or the ACNC Law as applicable

## **9.3 Notice of a General Meeting**

- (a) Notice of a General Meeting of Members must be given:
  - (i) to all Members entitled to attend the General Meeting, the Board, and the auditor of the Company; and
  - (ii) in accordance with clause **19**, the ACNC Law and the Corporations Act as applicable.
- (b) At least 45 days prior to the proposed date of the AGM, the Company Secretary will request from Members notices of motions and any requests for questions to be answered by the Board, which must be received no less than 28 days prior to the AGM.
- (c) At least 21 days notice of the time and place of a General Meeting must be given, together with:
  - (i) all information required to be included in accordance with the Corporations Act;
  - (ii) in the case of a proposed Special Resolution, the intention to propose the Special Resolution and the terms of the proposed Special Resolution;
  - (iii) where applicable, any notice of motion received from any Voting Member or Director in accordance with the Corporations Act;
  - (iv) where applicable, information on a question and answer session to be held in accordance with the ACNC Law; and
  - (v) where applicable, a list of all nominations recommended to the Members by the Nominations Committee for positions to be elected at the relevant General Meeting.

## **9.4 No other business**

No business other than that stated in the notice of meeting may be transacted at a General Meeting.

## **9.5 Cancellation or postponement of General Meeting**

Where a General Meeting (including an AGM) is convened by the Board, it may, if it thinks fit, cancel the meeting or postpone the meeting to another date and time as determined by the Board. This clause does not apply to a General Meeting convened by:

- (a) Members according to the Corporations Act;
- (b) the Board at the request of Members; or (c) a court.

#### **9.6 Written notice of cancellation or postponement of General Meeting**

Notice of the cancellation or postponement of a General Meeting must state the reasons for doing so and be given to:

- (a) each Member entitled to attend the General Meeting; and
- (b) each other person entitled to notice of a General Meeting under the Corporations Act.

#### **9.7 Contents of notice postponing General Meeting**

A notice postponing a General Meeting must specify:

- (a) the new date and time for the meeting;
- (b) the place where the meeting is to be held, which may be either the same as or different to the place specified in the notice originally convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to hold the meeting in that manner.

#### **9.8 Number of clear days for postponement of General Meeting**

The number of clear days from the giving of a notice postponing a General Meeting to the date specified in that notice for the postponed meeting must not be less than the number of clear days notice of that General Meeting required to be given by clause 9.22 or the Corporations Act.

#### **9.9 Business at postponed General Meeting**

The only business that may be transacted at a postponed General Meeting is the business specified in the notice originally convening the meeting.

#### **9.10 Representative, proxy or attorney at postponed General Meeting**

Where:

- (a) by the terms of an instrument appointing a proxy or attorney that appointed person is authorised to attend and vote at a General Meeting on behalf of the appointing Member to be held on a specified date or at a General Meeting or General Meetings to be held on or before a specified date; and
- (b) the date for the meeting is postponed to a date later than the date specified in the instrument,

then that later date is substituted for the date specified in the instrument appointing that appointed person, unless the appointing Member notifies the Company in writing to the contrary at least 48 hours before the time at which the postponed meeting is to be held.

### **9.11 Non-receipt of notice**

The non-receipt of a notice convening, cancelling or postponing a General Meeting by, or the accidental omission to give a notice of that kind to, a person entitled to receive it, does not invalidate any resolution passed at the General Meeting or at a postponed meeting or the cancellation or postponement of the meeting.

### **9.12 Right to appoint proxy**

- (a) A Voting Member entitled to attend a General Meeting of the Company is entitled to appoint a person as their proxy to attend the meeting in their place in accordance with the Corporations Act.
- (b) A proxy may be revoked by the appointing Member at any time by notice in writing to the Company.

### **9.13 Form of proxy**

The instrument appointing a proxy may be in form determined by the Board from time to time provided it complies with the requirements under the Corporations Act.

### **9.14 Attorney of Member**

A Member may appoint an attorney to act on the Member's behalf at all or any meetings of the Company.

### **9.15 Lodgment of proxy or attorney documents**

- (a) A proxy or attorney of a Voting Member may vote at a General Meeting or adjourned or postponed meeting (as the case may be) only if the instrument appointing the proxy or attorney, and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed, are received by the Company:
  - (i) at the office, the facsimile number at the office or at such other place, facsimile number or electronic address specified for that purpose in the notice of meeting; and
  - (ii) at least 48 hours before the scheduled commencement time for the meeting or adjourned or postponed meeting (as the case may be) at which the person named in the instrument proposes to vote. The scheduled commencement time being the time as specified in the notice of meeting.
- (b) An undated proxy is taken to be dated on the day that it is received by the Company.

### **9.16 Authority given by appointment**

- (a) Unless the terms of the appointment specify to the contrary, an appointment by a Voting Member confers authority on a proxy, attorney:

- (i) to agree to a General Meeting being convened by shorter notice than is required by the Corporations Act or by this Constitution;
  - (ii) to speak to any proposed resolution; and
  - (iii) to demand or join in demanding a poll on any resolution.
- (b) Unless the terms of the appointment specify to the contrary, even if the instrument of appointment refers to specific resolutions and directs the proxy or attorney on how to vote on those resolutions, the appointment is taken to confer authority:
- (i) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion; (ii) to vote on any procedural motion; and (iii) to act generally at the meeting.
- (c) Unless the terms of the appointment specify to the contrary, if the instrument of appointment refers to a specific meeting to be held at a specified time or venue and the meeting is postponed or adjourned or changed to another venue, then the appointment confers authority to attend and vote:
- (i) at the postponed or adjourned meeting; or (ii) at the new venue.
- (d) An appointment of a proxy may be a standing proxy — that is, the appointment under the proxy remains valid until it is revoked by the Voting Member that made the appointment.
- (e) The instrument appointing a proxy may provide for the Chair to act as proxy in the absence of any other appointment or if the person or persons nominated fails or fail to attend the meeting.
- (f) The instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution.
- (g) If a proxy is appointed to vote on a particular resolution by more than one Voting Member and the instruments appointing the proxy direct the proxy to vote on the resolution in different ways, then the proxy must not vote on a show of hands taken on the resolution.

### **9.17 Proceedings at General Meeting**

- (a) Number for a quorum

The number of Members who must be present in person and eligible to vote for a quorum to exist at a General Meeting is five (5).

- (b) Requirement for a quorum

An item of business may not be transacted at a General Meeting unless a quorum is present at the commencement of, and remains throughout, the General Meeting.

- (c) Quorum and time

If, within 30 minutes after the time appointed for a General Meeting, a quorum is not present, the meeting:

- (i) if convened by, or on requisition of, Members, is dissolved; and
- (ii) in any other case stands adjourned to such other day, time and place as the Chair determines.

### **9.18 Adjourned meeting**

If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, those members then present shall constitute a quorum.

### **9.19 Chair to preside over General Meetings**

- (a) The Chair is entitled to preside as chair at General Meetings.
- (b) If a General Meeting is convened and there is no Chair, or the Chair is not present within 15 minutes after the time appointed for the meeting, or is unable or unwilling to act, the following may preside as Chair (in order of entitlement):
  - (i) a Director (or other person) chosen by a majority of the Directors present; or
  - (ii) the only Director present; or
  - (iii) a Voting Member who is chosen by a majority of the Voting Members present.

### **9.20 Conduct of General Meetings**

- (a) The Chair of the General Meeting:
  - (i) has charge of the general conduct of the meeting and of the procedures to be adopted;
  - (ii) may require the adoption of any procedure which in his or her opinion is necessary or desirable for proper and orderly debate or discussion or the proper and orderly casting or recording of votes; and
  - (iii) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the Chair considers it necessary or desirable for the proper conduct of the meeting.
- (b) A decision by the Chair under this clause **9.20** is final.

### **9.21 Adjournment of General Meeting**

- (a) The Chair may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting.
- (b) The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and place agreed by vote of the Voting Members present.

- (c) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

### **9.22 Notice of adjourned meeting**

- (a) It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for 30 days or more.
- (b) Where a meeting is adjourned for 30 days or more, at least the same period of notice as was originally required for the meeting must be given for the adjourned meeting.

### **9.23 Questions decided by majority**

Subject to the requirements of the Corporations Act and except in the case of a Special Resolution, a resolution is carried if a simple majority of the votes cast on the resolution are in favour of the resolution.

### **9.24 Equality of votes**

Where an equal number of votes are cast in favour of and against the resolution, the Chair may exercise a casting vote in addition to the Chair's deliberate vote.

### **9.25 Declaration of results**

- (a) At any General Meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is properly demanded and the demand is not withdrawn.
- (b) A declaration by the Chair that a resolution has on a show of hands been lost or carried or lost or carried unanimously, or by a particular majority and an entry to that effect in the minutes of the meetings of the Company, is conclusive evidence of the fact.
- (c) Neither the Chair nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded for or against the resolution.

### **9.26 Poll**

- (a) If a poll is properly demanded in accordance with the Corporations Act or by the Chair of the meeting, it must be taken in the manner and at the date and time directed by the Chair, and the result of the poll is the resolution of the meeting at which the poll was demanded.
- (b) A poll demanded on the election of a Chair or on a question of adjournment must be taken immediately.
- (c) A demand for a poll may be withdrawn.

- (d) A demand for a poll does not prevent the General Meeting continuing for the transaction of any business other than the question on which the poll was demanded.

### **9.27 Objection to voting qualification**

- (a) An objection to the right of a person to attend or vote at a General Meeting (including an adjourned meeting):
  - (i) may not be raised except at that meeting; and
  - (ii) must be referred to the Chair, whose decision is final.
- (b) A vote not disallowed under the objection, is valid for all purposes.

### **9.28 Chair to determine any poll dispute**

If there is a dispute about the admission or rejection of a vote, the Chair must decide on the dispute and the Chair's decision is final.

### **9.29 Votes of Members**

- (a) At a General Meeting, on a show of hands and on a poll, each of the Voting Member shall have the votes set out in this clause **9.29**.
- (b) Each Voting Member will receive one vote.
- (c) The Voting Members shall be:
  - (i) Honorary Fellows;
  - (ii) Fellows;
  - (iii) Governors; and
  - (iv) such other person in a category of Membership which has been granted voting rights pursuant to this Constitution and the Policies.

### **9.30 Election of Directors**

- (a) Elections for Elected Directors shall be by ballot in accordance with this clause **9.30** at the relevant General Meeting on papers prepared by the Company Secretary.
- (b) The ballot for an election to fill one or more Elected Director positions will be conducted in accordance with the following procedure:
  - (i) if at the close of nominations for an election to fill one or more Elected Director positions the number of nominees is equal to or less than the number of positions to be filled, then no election is to take place and those eligible nominees will be taken to be elected to fill one or more of the Elected Director positions; and
  - (ii) if at the close of nominations for an election to fill one or more Elected Director positions there are more nominees than the number of positions to be filled, a ballot will be conducted in the manner determined by the Directors and the nominee/s who receives the highest number of votes will be elected

to fill the Elected Director positions. If two or more eligible nominees get the same number of votes and at the relevant time there is only one Elected Director position to be filled the Chair may exercise a casting vote in addition to the Chair's deliberate vote.

- (c) There will be one Elected Director position reserved for the position of Fellow Director which will be filled in accordance with the following procedure:
  - (i) if at the close of nominations for an election to fill the Fellow Director position the number of nominees is equal to or less than the one position to be filled, then no election is to take place and that eligible nominees will be taken to be elected to fill the Fellow Director position;
  - (ii) if at the close of nominations for an election to fill the Fellow Director position there are more nominees than the number of positions to be filled, a ballot of Fellow Members will be conducted in the manner determined by the Board and the nominee who receives the highest number of votes will be elected to fill the Fellow Director position. If two or more eligible nominees get the same number of votes the Chair may exercise a casting vote;
  - (iii) For the avoidance of doubt and subject to any directions from the Directors, the position of Fellow Director will be voted on by Fellow Members only following the referral of Fellow Director candidates to the Nominations Committee and recommendations to the Members of the Board.

## 10. Directors

### 10.1 Number of Directors

- (a) There must be not less than three (3) and no more than nine (9) Directors on the Board one of which shall be a Fellow Director.
- (b) The First Elected Directors and First Fellow Director shall be as set out in the Transitional Provisions.

### 10.2 Transitional Provisions

In relation to the election and appointment of Directors at and from the Date of this Constitution, the Transitional Provisions will be in force until such time as they have no effect.

### 10.3 Eligibility

- (a) For the period from the Date of this Constitution a person who is an employee of the Company, (a **Disqualifying Position**) may not hold office as a Director.
- (b) A Director who accepts a Disqualifying Position must notify the other Directors of that fact immediately and is deemed to have vacated office as a Director with the position to be filled as a casual vacancy.
- (c) An Elected Director need not be a Member of the Company.

- (d) The Board must strive to ensure that the Board has an appropriate balance of skills and experience having regard to the nature of the business and affairs of the Company. The Board may determine position or role descriptions or necessary qualifications for Director positions and shall advise the Nominations Committee of such role description and qualifications and in making a recommendation to the Board the Nominations Committee must take account of any Policy determined by the Board.

#### **10.4 Nomination for election**

- (a) At least 90 days prior to the proposed date of the Annual General Meeting at which a resolution or resolutions will be proposed to fill a vacancy in an Elected Director position, the Company Secretary will request from Members nominations (which comply with this clause **10.4**) for elections to positions falling vacant, which must be received no less than 60 days prior to the AGM.
- (b) The request from the Company Secretary to Members for nominations will include any recommendation regarding the desired skills required to fill an Elected Director position.
- (c) Any Member may nominate a person to fill a vacancy in an Elected Director position that is to be the subject of an election at the next AGM.
- (d) A nomination must:
  - (i) be in the form required by the Board or this Constitution;
  - (ii) signed by the nominee;
  - (iii) signed by the nominator and seconder, both of whom must be Members and be accompanied by the name of three (3) referees who can be contacted by the Nominations Committee; and
  - (iv) be submitted to the Nominations Committee appointed by the Board to administer nominations for the Company;
- (e) The Nominations Committee shall make recommendations to the Board in accordance with the Policies and requirements at the time of the Board and for the avoidance of doubt the primary function of the Nominations Committee is to ensure the appropriate skill sets are satisfied when making recommendations to the Board.
- (f) The Board shall provide its recommendations regarding nominations for Elected Directors to the Members at the time the notice of the General Meeting is given to the Members.

#### **10.5 Term of office of Directors generally**

Subject to clauses, **10.1**, **10.3**, **10.8** and **10.9**, an Elected Director will hold office for a term of three (3) years.

### **10.6 Office held until end of meeting**

A retiring Elected Director holds office until the end of the General Meeting at which that Elected Director retires but, subject to the requirement of this Constitution, including clause **10.8**, is eligible for re-election.

### **10.7 Elected Director elected at General Meeting**

- (a) At a General Meeting:
  - (i) at which an Elected Director retires; or
  - (ii) at the commencement of which there is a vacancy in the office of an Elected Director, there will be a vote of the Voting Members conducted in accordance with clause **9.30** to fill the vacancy.
- (b) Subject to clauses **10.8** and **10.10**, an Elected Director elected under this clause **10.7** takes office at the end of the meeting at which they are elected for a period of three (3) years.

### **10.8 Maximum term of office for Directors**

- (a) A Director may not serve more than three (3) consecutive terms as a Director.
- (b) For the purpose of clause **10.8(a)**, service:
  - (i) by a person filling a casual vacancy in an Elected Director position under clause **10.9(b)** for any period will not be treated as a term or any part thereof; and
  - (ii) by a First Elected Director in accordance with the Transitional Provisions will be treated as a term.
- (c) A Director who has served a maximum term in accordance with clause **10.8(a)** shall not be eligible to be a Director for three (3) years following the completion of their maximum term.

### **10.9 Casual vacancy in ranks of Elected Directors**

- (a) The Board may at any time appoint a person to fill a casual vacancy (as caused pursuant to clause **10.11**) in the rank of the Directors.
- (b) A person appointed under clause **10.9(a)** holds office until the next Annual General Meeting at which time they can offer themselves for re-election.

### **10.10 Removal of Director**

- (a) Subject to the provisions of the Corporations Act, the Company may in General Meeting by ordinary resolution remove any Director prior to the expiration of that Director's term of office.

- (b) Unless otherwise resolved at a General Meeting, a Director removed in accordance with clause **10.10(a)** cannot be re-appointed as a Director within three (3) years from the date of their removal.

### **10.11 Vacation of office**

The office of a Director becomes vacant when the Corporations Act says it does and also if the Director:

- (a) is removed in accordance with clause **10.10(a)**;
- (b) becomes an ineligible director in accordance with the Corporations Act or the ACNC Law;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (d) resigns from office by notice in writing to the Company;
- (e) accepts appointment to, or becomes the holder of, a Disqualifying Position as set out in clause **10.3** and does not resign from that position within 30 days;
- (f) is not present at three (3) consecutive Board meetings without leave of absence from the Board; or
- (g) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Corporations Act or the ACNC Law.

### **10.12 Alternate Director**

A Director cannot appoint an alternate.

## **11. Powers and Duties of the Board**

### **11.1 Board to manage the Company**

The Board is to manage the Company's business and may exercise those of the Company's powers that are not required, by the Corporations Act or the ACNC Law or by this Constitution, to be exercised by the Company in General Meeting.

### **11.2 Specific powers of the Board**

Without limiting clause **11.1**, the Board may exercise all the Company's powers to borrow or raise money, to charge any property or business or give any other security for a debt, liability or obligation of the Company or of any other person and in all cases to do all things necessary in pursuance of the Company's Objects.

### **11.3 Time, etc**

Subject to the Corporations Act, where this Constitution requires that something be done by a particular time, or within a particular period, or that an event is to occur or a

circumstance is to change on or by a particular date, the Board may at its absolute discretion extend that time, period or date as they think fit.

#### **11.4 Appointment of attorney**

The Board may appoint any person to be the Company's attorney for the purposes, with the powers, authorities and discretions, for the period and subject to the conditions they think fit.

#### **11.5 Provisions in power of attorney**

A power of attorney granted under clause **11.4** may contain any provisions for the protection and convenience of persons dealing with the attorney that the Board thinks fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

#### **11.6 Delegation of powers**

- (a) Without limiting clause **11.4** the Board may, by resolution or by power of attorney or writing under seal, delegate any of its powers to the Chief Executive or any employee of the Company or any other person as they think fit.
- (b) Any delegation by the Board of its powers:
  - (i) must specify the powers delegated, any restrictions on, and conditions attaching to, the exercise of those powers and the period during which that delegation is to be in force;
  - (ii) may be either general or limited in any way provided in the terms of the delegation;
  - (iii) need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position;
  - (iv) must be entered into the Delegations Register which shall be maintained by the Company Secretary; and (v) can be revoked at any time.
- (c) If exercising a power depends on a person's opinion, belief or state of mind, then that power may be exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.
- (d) Any power exercised by a delegate is as effective as if it had been exercised by the Board.

#### **11.7 Duties of the Board**

The Board must comply with their duties as Directors under the Corporations Act, the common law and in accordance with the duties described in the ACNC Law as follows:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the Company;
- (b) to act in good faith in the best interests of the Company and to further the Charitable Purpose;
- (c) not to misuse their position as a Director;
- (d) not to misuse information they gain in their role as a Director;
- (e) to disclose any perceived or actual material conflicts of interest in accordance with clause **13.10**;
- (f) to ensure that the financial affairs of the Company are managed responsibly; and
- (g) not to allow the Company to operate while it is insolvent.

### **11.8 Code of Conduct and Board Charter**

The Board must:

- (a) adopt a code of conduct and Board charter for Directors of the Board; and
- (b) periodically review the code of conduct and Board charter in light of the general principles of good corporate governance and the requirements of the ACNC Law but in any event such review must be conducted annually.

## **12. Committees**

### **12.1 Committees**

- (a) The Board may appoint Committees as it sees fit and may delegate any of their powers to Committees consisting of those persons they think fit (including Directors, individuals and consultants), and may vary or revoke any delegation.
- (b) The Committees may include, but will not be limited to:
  - (i) Finance, Audit and Risk Committee;
  - (ii) Nominations Committee; and
  - (iii) any other Committee that the Board in its discretion determines to appoint;
- (c) The Committees formation and functions will be set out in the Policies as determined by the Board from time to time and the Board will approve the terms of reference in respect of each Committee with the terms of reference reviewed as required but in any event no less than annually;
- (d) Each Committee specified in this clause or constituted by the Board in accordance with this clause, will comprise persons as determined by the Board and with the Chair of the Committee appointed by the Board.

## **12.2 Powers delegated to Committees**

- (a) A Committee must exercise the powers delegated to it according to the terms of the delegation and set out in the relevant Terms of Reference and any directions of the Board.
- (b) A Committee must act in accordance with the Terms of Reference of that Committee as determined by the Board.
- (c) Powers delegated to and exercised by a Committee are taken to have been exercised by the Board.

## **12.3 Committee meetings**

Unless otherwise determined by the Board, Committee meetings are governed by the provisions of this Constitution dealing with Board meetings, as far as they are capable of application as set out at clause 13.

# **13. Proceedings of the Board**

## **13.1 Board meetings**

- (a) Subject to clause 13.1(b), the Board may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.
- (b) The Board must meet at least four (4) times in each calendar year.

## **13.2 Questions decided by majority**

A question arising at a Board meeting is to be decided by a majority of votes of the Directors present in person and entitled to vote. Each Director present has one vote on a matter arising for decision by the Board.

## **13.3 Chair's casting vote**

The Chair of the meeting will have a casting vote in addition to the Chair's deliberate vote.

## **13.4 Quorum**

The quorum necessary for the transaction of business at a meeting will be a majority of the total number of Directors or such greater number as may be fixed by the Board.

## **13.5 Effect of vacancy**

- (a) The continuing Directors may act despite a vacancy in their number.
- (b) However, if the number of Directors is reduced below the number required for a quorum, the remaining Directors may act only for the purpose of filling the vacancies to the extent necessary to bring their number up to that required for a quorum or to convene a General Meeting.

### 13.6 Convening meetings

- (a) A Director may, and the Company Secretary on the request of a Director must, convene a Board meeting.
- (b) Notice of a meeting of the Board must be given individually to each Director (except a Director on leave of absence approved by the Board). Notice of a meeting of the Board may be given in person, or by post or by telephone, facsimile or other electronic means.
- (c) A Director may waive notice of a meeting of the Board by giving notice to that effect to the Company in person or by post or by telephone, facsimile or other electronic means.
- (d) A person who attends a meeting of the Board waives any objection that person may have in relation to a failure to give proper notice of the meeting.
- (e) The non-receipt of a notice of a meeting of the Board or the accidental omission to give notice of a meeting to a person entitled to receive notice does not invalidate anything done (including the passing of a resolution) at a meeting of the Board.

### 13.7 Election of Chair

- (a) The Board may elect one of their number to be the Chair by a majority vote.
- (b) The Director elected to be Chair under clause **13.7(a)** will remain Chair for the duration of their term of office as Director and shall Chair any meeting of the Board unless the resolution electing a person as the Chair specifies a fixed term for the appointment.
- (c) Despite clause **13.7(b)**, if:
  - (i) there is no person elected as Chair; or
  - (ii) the Chair is not present within fifteen (15) minutes after the time appointed for the holding of the meeting; or (iii) the Chair is unwilling to act, the Directors present may elect one of their number to be Chair of the meeting.

### 13.8 Circulating resolutions

- (a) The Board may pass a resolution without a Board meeting being held if notice in writing of the resolution is given to all Directors and a majority of the Directors, subject to the quorum set out at clause **13.4** being satisfied, vote in favour of the resolution and sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of the document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy. A facsimile transmission or other document produced by electronic means under the name of a Director with the Director's authority is taken to be a document signed by the

Director for the purposes of clause **13.8(a)** and is taken to be signed when received by the Company in legible form.

- (c) The resolution is passed when the last Director required to achieve a majority signs and submits the resolution pursuant to this clause **13**

### **13.9 Validity of acts of Directors**

Everything done at a Board meeting or a Committee meeting, or by a person acting as a Director or as a member of a Committee, is valid even if it is discovered later that there was some defect in the appointment, election or qualification of any of them or that any of them was disqualified or had vacated office.

### **13.10 Directors' Interests**

- (a) A Director shall declare to the Board any material personal interest or related party transaction (**Conflict of Interest**), as defined by the Corporations Act, as soon as practicable after that Director becomes aware of their Conflict of Interest in the matter.
- (b) Where a Director declares a Conflict of Interest, that Director must absent himself or herself from discussion of such matter unless otherwise determined by the Board and shall not be entitled to vote in respect of such matter.
- (c) In the event of any uncertainty in this regard, the issue shall immediately be determined by a vote of the Board or, if this is not possible, the matter shall be adjourned or deferred to the next meeting.
- (d) The Conflict of Interest shall be entered into the Conflicts Register which shall be maintained by the Company Secretary and disclosed to Members by way of a standing notice.

### **13.11 Minutes**

The Board must cause minutes of meetings to be made and kept according to the Corporations Act.

### **13.12 Telecommunication Meetings of the Board**

- (a) A Board Meeting may be held by means of a Telecommunication Meeting, provided that:
  - (i) the number of Directors (as applicable) participating is not less than a quorum required for a Board Meeting (as applicable); and
  - (ii) the meeting is convened and held in accordance with the Corporations Act.
- (b) All provisions of this Constitution relating to a meeting apply to a Telecommunication Meeting in so far as they are not inconsistent with the provisions of this clause **13.12**.

### **13.13 Conduct of Telecommunication Meeting**

The following provisions apply to a Telecommunication Meeting of the Board:

- (a) all persons participating in the meeting must be linked by telephone, audio-visual or other instantaneous means for the purpose of the meeting;
- (b) each of the persons taking part in the meeting must be able to hear and be heard by each of the other persons taking part at the commencement of the meeting and each person so taking part is deemed for the purposes of this Constitution to be present at the meeting;
- (c) at the commencement of the meeting each person must announce his or her presence to all other persons taking part in the meeting;
- (d) a person may not leave a Telecommunication Meeting by disconnecting his or her telephone, audio-visual or other communication equipment unless that person has previously notified the Chair;
- (e) a person may conclusively be presumed to have been present and to have formed part of a quorum at all times during a Telecommunication Meeting unless that person has previously notified the Chair of leaving the meeting; and
- (f) a minute of proceedings of a Telecommunication Meeting is sufficient evidence of the proceedings and of the observance of all necessary formalities if the minute is certified to be a correct minute by the Chair.

## **14. Chief Executive**

### **14.1 Appointment of Chief Executive**

The Board will appoint a Chief Executive.

### **14.2 Powers, duties and authorities of Chief Executive**

- (a) The Chief Executive holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated by the Board.
- (b) The exercise of those powers and authorities, and the performance of those duties, by the Chief Executive are subject at all times to the control of the Board.

### **14.3 Suspension and removal of Chief Executive**

Subject to the terms and conditions of the appointment, the Board may suspend or remove the Chief Executive from that office.

### **14.4 Delegation by Board to Chief Executive**

The Board may delegate to the Chief Executive the power (subject to such reservations on the power as are decided by the Board) to conduct the day-to-day management and control of the business and affairs of the Company. The delegation will include the power and responsibility to:

- (a) develop business plans, budgets, strategies, policies, processes and codes of conduct for consideration by the Board and to implement them to the extent approved by the Board;
- (b) manage the financial and other reporting mechanisms of the Company;
- (c) approve and incur expenditure subject to specified expenditure limits and delegations entered into the Delegations Register;
- (d) any other powers and responsibilities which the Board consider appropriate to delegate to the Chief Executive.

#### **14.5 Chief Executive to attend meetings**

- (a) The Chief Executive is entitled to attend all meetings of the Company, meetings of the Board and any Committees and may speak on any matter, but does not have a vote; and
- (b) The Board may exclude the Chief Executive where the Board determines such exclusion is in the best interest of the Company

## **15. Company Secretary**

### **15.1 Appointment of Company Secretary**

The Board will appoint the Company Secretary.

### **15.2 Suspension and removal of Company Secretary**

The Board may suspend or remove a Company Secretary from that office at any time.

### **15.3 Powers, duties and authorities of Company Secretary**

A Company Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated to them by the Board.

**15.4** The Company Secretary shall establish and maintain the Delegations Register, the Conflict Register and the Register of Members.

## **16. Policies**

### **16.1 Making and amending Policies**

- (a) In addition to the Policies made pursuant to clause **6.3** and **7.2**, the Board may from time to time make Policies:
  - (i) that are required to be made under this Constitution; and
  - (ii) which in their opinion are necessary or desirable for the control, administration and management of the Company's affairs and may amend, repeal and replace those Policies.

- (b) The Policies referred to in clauses **6.3**, **7.2** and **16.1(a)** take effect 28 days after the service of the Policy on the Members and shall be in force and effect on and from that date.

## **16.2 Effect of Policies**

A Policy:

- (a) is subject to this Constitution;
- (b) must be consistent with this Constitution; and
- (c) when in force, is binding on all Members and has the same effect as a provision of this Constitution.

# **17. Inspection of Records**

## **17.1 Right of the Members to Inspect Records**

A Member does not have the right to inspect any document of the Company (including registers kept by the Company) except as set out in the Corporations Act or the ACNC Law.

# **18. Accounts**

## **18.1 Accounting Records**

The Board will cause proper accounting and other records to be kept and will distribute copies of financial statements as required by the Corporations Act and the ACNC Law.

## **18.2 Auditor**

A properly qualified auditor or auditors shall be appointed or removed by the Board in accordance with Corporations Act and the remuneration of such auditor or auditors fixed and duties regulated in accordance with the Corporations Act and the ACNC Law.

# **19. Service of Documents**

## **19.1 Document includes notice**

In this clause **19**, document includes a notice.

## **19.2 Methods of service on a Member**

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register of Members or an alternative address nominated by the Member; or

- (c) by sending it to a facsimile number or electronic address nominated by the Member.

### **19.3 Methods of service on the Company**

A Member may give a document to the Company:

- (a) by delivering it to the registered office of the Company (the **Registered Office**);
- (b) by sending it by post to the Registered Office; or
- (c) by sending it to a facsimile number or electronic address nominated by the Company.

### **19.4 Post**

A document sent by post if sent to an address:

- (a) in Australia, may be sent by ordinary post; and
- (b) outside Australia, or sent from an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the fifth business day after the date of its posting.

### **19.5 Facsimile or electronic transmission**

If a document is sent by facsimile or electronic transmission, delivery of the document is taken to:

- (a) be effected by properly addressing and transmitting the facsimile or electronic transmission; and
- (b) have been delivered on the business day following its transmission.

## **20. Indemnity**

### **20.1 Indemnity of officers**

- (a) This clause **20** applies to every person who is or has been:
  - (i) a Director, Chief Executive, or Company Secretary of the Company;
  - (ii) an Auditor appointed by the Company; and
  - (iii) to any other officers, employees, former officers or former employees of the Company or of its related bodies corporate as the Board in each case determines.
- (b) Each person referred to in paragraph **20.1(a)** is referred to as an **Indemnified Officer** for the purposes of the rest of clause **20**.
- (c) The Company will indemnify each Indemnified Officer out of the property of the Company against:

- (i) every liability that the Indemnified Officer incurs as an officer of the Company or of a related body corporate of the Company; and
- (ii) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the Indemnified Officer becomes involved as an officer of the Company or of a related body corporate of the Company,

unless:

- (iii) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (iv) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

## **20.2 Insurance**

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring an Indemnified Officer against liability that the Indemnified Officer incurs as an officer of the Company or of a related body corporate of the Company including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

## **20.3 Deed**

The Company may enter into a deed with any Indemnified Officer or a deed poll to give effect to the rights conferred by clause **20.1** on the terms the Board thinks fit (as long as they are consistent with clause this clause **20**).

# **21. Winding Up**

## **21.1 Contributions of Members on winding up**

- (a) Each Member must contribute the amounts set out in clause **2.3** on winding up of the Company.

## **21.2 Excess property on winding up**

- (a) If on the winding up or dissolution of the Company, and after satisfaction of all its debts and liabilities, any property remains, that property must be given or transferred to another body or bodies:
  - (i) having objects similar to those of the Company; and
  - (ii) whose constitution prohibits (or each of whose constitutions prohibit) the distribution of its or their income and property among its or their members to an extent at least as great as is imposed under this Constitution.

- (b) That body is, or those bodies are, to be determined by the Voting Members at or before the time of dissolution or, failing that determination, by a judge who has or acquires jurisdiction in the matter.

## **22. Amendments to Constitution**

**22.1** This Constitution may be amended or repealed in accordance with this Constitution and the Corporations Act and the ACNC Law.

**22.2** Amendments to this Constitution will be made by Special Resolution passed at either an Annual General Meeting or a General Meeting.

**22.3** A Special Resolution amending, adopting or repealing the Constitution takes effect:

- (a) If no later date is specified in the Special Resolution, then on the date on which the resolution is passed; or
- (b) On a later date specified in, or determined in accordance with, the Special Resolution.

**22.4** The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to cease being a charity.

## **23. Patron**

**23.1** The Board may invite eminent persons to be a Patron for a period of three (3) years and otherwise such conditions as the Board may think fit.

## **SCHEDULE 1**

### **1. Transitional Provisions**

#### **1.1 Definitions**

In these Transitional Provisions to the Constitution unless the context requires otherwise:

- (a) **“First Elected Directors”** means the persons referred to in clause 1.2 who shall take office pursuant to their appointment to the Board; and
- (b) **“First Fellow Director”** will be the person referred to in clause 1.3 who shall take office pursuant to that person’s appointment to the Board.

**1.2** The First Elected Directors will be the directors of the Board of the Company elected or in office from the conclusion of the 2015 Annual General Meeting.

**1.3** The First Fellow Director will be the Fellow Director elected or in office from the conclusion of the 2015 Annual General Meeting.

- 1.4** The First Elected Directors and the First Fellow Director will serve until the expiry of their respective terms of office pursuant to the constitutional provisions which applied at the time of their election.
- 1.5** On expiry of the terms of office for each First Elected Director and First Fellow Director, the vacant position will be filled as set out in clause **9.30** of this Constitution.
- 1.6** These Transitional Provisions will cease to have effect on the expiry of the term of office for the last remaining First Elected Director pursuant to clause **1.2** or First Fellow Director pursuant to clause **1.3** as the case may be