

**Yourtoolkit.com Limited**

**Constitution  
&  
By Laws**

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# **1 Key Organisational Information**

## **1.1 Definitions and Interpretation**

Schedule 1 applies and forms part of this Constitution to assist in its interpretation.

## **1.2 Name and nature of the Organisation**

- (a) The name of the Organisation is as set out in Item 1 of Schedule 2.
- (b) The Organisation is a public company limited by guarantee under the Act which is established to be and continue as a charity.
- (c) The liability of each Member is limited to the amount of the undertaking in this paragraph. Each Member undertakes to contribute an amount not exceeding the amount set out in Item 2 of Schedule 2 to the property of the Organisation if the Organisation is wound up:
  - (i) at a time when that person is a Member; or
  - (ii) within one year of the time that person ceased to be a Member,for or towards:
  - (iii) payment of the debts and liabilities of the Organisation contracted before that person ceased to be a Member;
  - (iv) payment of the costs, charges and expenses of winding up the Organisation; and
  - (v) adjustment of the rights of the contributions among Members.

## **1.3 Interaction with Act**

The replaceable rules in the Act do not apply to the Organisation.

## **1.4 Objects, purpose, power and limitations**

- (a) The purpose of the Organisation is set out in Item 3(a) of Schedule 2.
- (b) The objects of the Organisation are set out in Item 3(b) of Schedule 2.
- (c) The Organisation has all the powers of a corporation incorporated under the Act.
- (d) The Organisation:
  - (i) will only apply the income and property of the Organisation in promoting the objects of the Organisation; and
  - (ii) must not transfer its assets and engagements to, or amalgamate with any corporation, association or organisation which does not, to the same extent as this Constitution:
    - (A) restrict the application of its income and property and prohibit the making of distributions to its Members; and
    - (B) have objects similar to the objects of the Organisation under this Article.

## **1.5 No distribution to Members**

- (a) Subject to Article 1.5(b), the Organisation must not make any payment or distribution or apply any part of the income or property of the Organisation, to any Member, including by way of dividend, surplus on winding up or otherwise.
- (b) Article 1.5(a) does not prevent the Organisation, with the approval of the Board acting in good faith (including through delegation of power to the CEO and to management), paying:
  - (i) reasonable remuneration to a Member who is an employee of the Organisation;
  - (ii) subject to Article 5.9, reasonable remuneration to a Member who is a Director of the Organisation;

- (iii) reasonable remuneration in consideration for services rendered or goods supplied by a Member to the Organisation in the ordinary course of business;
- (iv) interest, at a reasonable rate based on commercial “arm’s length” terms, on money borrowed by the Organisation from a Member;
- (v) reasonable rent or licence fees based on commercial “arm’s length” terms, for premises equipment or property leased or licensed to the Organisation by a Member;
- (vi) out-of-pocket expenses properly and reasonably incurred by a Member at the request of the Organisation and for, or on behalf of, the Organisation;
- (vii) out of pocket expenses properly and reasonably incurred by a Member in his/her capacity as a Director, in connection with the affairs of the Organisation and as approved by the Board; or
- (viii) any other reasonable amount of similar character to those described in this Article 1.5(b).

## **2 Members**

### **2.1 Classes of membership**

The:

- (a) Class or various Classes of Membership and status within a Class;
  - (b) restrictions (if any) in the number of Members or the number of Members within a Class or status within a Class;
  - (c) qualifications for admission to a Class or status within a Class; and
  - (d) rights attached to being a Member in a Class,
- are as prescribed in the By-laws from time to time.

### **2.2 Applications**

- (a) Subject to Article 2.1 and the By-laws, a person may apply for Membership in the manner prescribed in this Article.
- (b) An applicant for Membership must:
  - (i) sign and deliver to the Organisation an application in the Applicable Form including specification as to the Class of Membership being applied for; and
  - (ii) pay any Fees with respect to that application,
 as specified in the By-laws.
- (c) The Board, including as may be applicable on recommendation of management or a committee of the Board constituted with terms of reference including such purpose, may determine whether an applicant may become a Member.
- (d) The Board is not required to give any reason for the approval or rejection of any application to become a Member.
- (e) If an application to become a Member is accepted, the Organisation must:
  - (i) give written notice of the acceptance to the applicant including details of the Class of Membership and the rights that are then attached to that Class;
  - (ii) request payment of any outstanding amount owing for any Fees incidental to such Membership; and
  - (iii) upon payment in full of Fees, enter the applicant’s name in the Register as a Member of the relevant Class.

- (f) If an application to become a Member is rejected, the Organisation must:
  - (i) give written notice of the rejection to the applicant; and
  - (ii) refund in full any Fees paid to the Organisation by the applicant when applying for Membership.
- (g) The Board may, at its discretion, determine to close offering Membership, either generally or with respect to any particular Class or Classes, to new applicants.

### **2.3 No transfers**

Membership, and the rights of being a Member, are personal to the Member and are not transferable whether by operation of law or otherwise.

### **2.4 Ceasing to be a Member**

- (a) A person will cease to be a Member if:
  - (i) that person resigns in accordance with Article 2.5;
  - (ii) that person is expelled under Article 2.6; or
  - (iii) a Cessation Event occurs in respect of that person.
- (b) The estate of a deceased Member is not released from any accrued liability prior to their death in respect of that person being a Member.

### **2.5 Resignation**

- (a) A member may resign as a Member by giving the Organisation notice in writing.
- (b) Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Organisation.
- (c) A Member is not released from any accrued liability in respect of their Membership merely by giving notice of resignation.

### **2.6 Expulsion or suspension**

- (a) Subject to this Article 2.6, the Board may resolve to:
  - (i) expel a Member; or
  - (ii) suspend a Member:
    - (A) for such period; and
    - (B) from enjoying such rights and privileges of Membership, as the Board may determine and give written notice of to the Member;
- (b) The Board may only act under Article 2.6(a) if:
  - (i) an Expulsion Event occurs in respect of the Member; and
  - (ii) other than in the case of non-payment by the Member of Fees or other moneys owing to the Organisation, the Organisation gives that Member at least 10 Business Days' notice in writing:
    - (A) stating the Expulsion Event and that the Member is liable to be expelled; and
    - (B) informing the Member of the Member's right under Article 2.6(c)(i).
- (c) Other than in the case of non-payment by the Member of Fees or other moneys owing to the Organisation, before passing any resolution under Article 2.6(a), the Board:
  - (i) must allow the Member to give to the Board, either orally or in writing, any explanation or defence of the Expulsion Event; and

- (ii) may adopt other procedures to aid the resolution of any complaint against the Member, including the appointment of complaints committees, conciliators and mediators if and as the Board may determine is appropriate in all the circumstances of the matter.
- (d) Where a resolution is passed under Article 2.6(a), the Organisation must give the Member, notice (“Discipline Notice”) in writing of the expulsion or suspension, within 10 Business Days of the resolution.
- (e) Other than in the case of non-payment by the Member of Fees or other moneys owing to the Organisation, a member may, by notice in writing to the Organisation within 10 Business Days of issue of a Discipline Notice, request that a resolution to negate that expulsion (but not suspension) of that Member under Article 2.6(a) be moved at the next annual general meeting of the Organisation.
- (f) If a request under Article 2.6(e) is made, the Board must table at the annual general meeting of the Organisation an invitation for that meeting to move a resolution to overturn the decision of the Board to expel the Member concerned.
- (g) A Board resolution for expulsion under Article 2.6(a) is deemed to take effect:
  - (i) if the Member does not give a notice under Article 2.6(e), on the date of that Board resolution;
  - (ii) if the Member gives notice under Article 2.6(e), as an immediate suspension of Membership and Member rights, and as an expulsion of Membership effective from the conclusion of the next annual general meeting, unless the resolve of that annual general meeting is to overturn the resolution of the Board to expel the Member.
- (h) The Board may reinstate an expelled or suspended Member on any terms and at any time as the Board determines, including as a pre-condition, a requirement that all amounts due but unpaid by the expelled or suspended Member to the Organisation are paid.

## **2.7 Variation of Classes and Class rights**

Subject to the Act, this Constitution and the By-laws the Organisation may:

- (a) vary or cancel rights attached to being a Member of a Class; or
- (b) convert all Members from an existing Class to another Class.

## **2.8 Suspension of Member rights for non-payment of fees**

Without limiting any other provision of this Constitution or the By-laws, and without limiting any right of recovery for unpaid Fees at law, if a Member has not paid any Fees which are past due and payable, all rights attaching to that Member’s Membership at the absolute discretion of the Board are suspended until payment of the outstanding Fee is paid.

# **3 Fees**

## **3.1 Fees**

- (a) The Organisation may require the payment of fees or levies by Members in the amounts and at the times as the By-laws prescribe.
- (b) The Organisation may make Fees payable for Members of Classes of Membership, for different amounts and at different times.
- (c) Pursuant to Article 3.1(a), the Organisation may, from time to time, give notice to Members or to any particular Member or Class of Members:
  - (i) revoking, compromising or postponing Fees;
  - (ii) extending the time for payment of Fees;
  - (iii) allowing for payment of Fees by instalments or with discount; or



- (iv) stipulating the amount, the time, the method and the place of payment of Fees.

### **3.2 Interest**

- (a) A Member must pay to the Organisation:
  - (i) interest at the rate prescribed in the By-laws on any Fees which are not paid on, or before, the time appointed for payment, from the time appointed for payment to the time of the actual payment; and
  - (ii) expenses incurred by the Organisation, including legal and internal administration expenses, because of the failure to pay, or late payment of, that amount.
- (b) The Board may waive payment of all or any part of an amount payable under Article 3.2(a).

## **4 Proceedings of Members**

### **4.1 Who can call meetings of Members**

- (a) Subject to the Act, the Board may call a meeting of Members at a time and place as the Board resolves in accordance with Part 2G.2 of the Act, notwithstanding the operation of Part 1.6 of the Act.
- (b) The Board must call and arrange to hold a general meeting on the request of Members made in accordance with the Act notwithstanding the operation of Part 1.6 of the Act.
- (c) The Members may call and arrange to hold a general meeting in accordance with Part 2G.2 of the Act, notwithstanding the operation of Part 1.6 of the Act.
- (d) Division 4 of Part 2G.2 of the Act also applies to the Organisation, notwithstanding the operation of Part 1.6 of the Act.
- (e) The provisions of Article 16.2 relating to general meetings may also apply.

### **4.2 Annual General Meeting**

- (a) The Organisation must hold an AGM as required by, and in accordance with, the Act.
- (b) The business of an AGM may include any of the following, even if not referred to in the notice of the meeting:
  - (i) the consideration of the annual financial report, the Directors' report and the auditor's report for the Organisation;
  - (ii) the appointment of the auditor of the Organisation upon terms recommended by the Board; and
  - (iii) the election of Directors.

### **4.3 How to call meetings of Members**

- (a) The Organisation must give not less than the Prescribed Notice of a meeting of Members.
- (b) Notice of a meeting of Members must be given to each Member, each Director, the Company Secretary and any auditor of the Organisation in the manner set out in Article 13.
- (c) Subject to Article 4.11(h), a notice of a meeting of Members must:
  - (i) set out 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);
  - (ii) state the general nature of the business of the meeting; and
  - (iii) set out or include any other information or documents specified by the Act (notwithstanding the operation of Part 1.6 of the Act).

- (d) Subject to the Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid merely because a person does not receive notice of the meeting or the Organisation inadvertently does not give notice of the meeting to a person or there may be a non-material irregularity in the calling of the meeting or the notice of the meeting.

#### **4.4 Right to attend, speak and vote at Member meetings**

- (a) Subject to Article 4.8 and any limitation on the rights attaching to Membership of any Class of Member, each Member, the Directors, the Company Secretary and any auditor of the Organisation (on any part of the affairs of the Organisation that concerns the auditor in his/her capacity as auditor) is entitled to attend and speak at any meeting of Members.
- (b) Subject to Article 4.8 and any limitation on the rights attaching to Membership of any Class of Members, each Member, is entitled to vote at any meeting of Members.

#### **4.5 Meeting at more than one place**

- (a) A meeting of Members may be held in two or more places linked together by any technology that:
- (i) gives the Members as a whole in those places a reasonable opportunity to participate in proceedings;
  - (ii) enables the chair of the meeting to be aware of proceedings in each place; and
  - (iii) enables the Members in each place to vote on a show of hands and on a poll.
- (b) If a meeting of Members is held in two or more places under Article 4.5(a):
- (i) a Member present at one of the places is taken to be present at the meeting; and
  - (ii) the chair of that meeting may determine at which place the meeting is taken to have been held.

#### **4.6 Quorum**

- (a) Subject to Article 4.6(e), a quorum for a meeting of Members or any Class of Members is that number of Members entitled to vote at that meeting as specified in Item 4 of Schedule 2.
- (b) In determining whether a quorum for a meeting of Members is present:
- (i) where a person is present as a Member entitled to vote at the Meeting and as a proxy or attorney of another Member entitled to vote at the Meeting, that person is counted separately for each appointment provided that there is at least four other Members entitled to vote at the meeting present; and
  - (ii) where a person is present as a proxy or attorney for more than one Member each of whom is entitled to vote at the meeting, that person is counted separately for each appointment provided that there is at least four other Members entitled to vote at the meeting present.
- (c) A quorum for a meeting of Members must be present at the commencement of the meeting. If a quorum is present at the commencement of a meeting of Members, it is taken to be present throughout the meeting unless the chair of the meeting otherwise determines.
- (d) If a quorum is not present within 30 minutes after the time appointed for a meeting of Members:
- (i) if the meeting was called under Article 4.1(b) or Article 4.1(c), the meeting is dissolved; and
  - (ii) for any other meeting, the meeting is adjourned to the date, time and place as the meeting chair may appoint, or failing any such appointment, to the same day in the next week at the same time and place as the meeting adjourned.
- (e) If a quorum is not present within 30 minutes after the time appointed for an adjourned meeting of Members:
- (i) if there are not less than 50% of the number of Members present as represent a quorum under Item 4 of Schedule 2, then they shall constitute a quorum; and

(ii) otherwise, the meeting is dissolved.

#### **4.7 Chair**

(a) The Chair must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of Members.

(b) If at a meeting of Members:

(i) there is no Chair;

(ii) the Chair is not present within 15 minutes after the time appointed for the holding of a meeting of Members; or

(iii) the Chair is present within that time but is not willing or able to chair all or part of that meeting,

then the Deputy Chair, or in default of the Deputy Chair, another Board member, or a Member, elected by majority vote of Board members present will chair all or part of the meeting of Members.

(c) Subject to Article 4.7(a), if at a meeting of Members:

(i) a chair of that meeting has not been elected by the Board members under Article 4.7(b); or

(ii) the chair elected by the Board members is not willing or able to chair all or part of a meeting of Members,

then the Members present must elect a Member, present and willing to act, to chair that meeting.

#### **4.8 General conduct of meetings**

(a) Subject to the Act and any relevant provisions in the By-laws, the chair of a meeting of Members is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting and rulings by the chair on such matters made in good faith shall be prima facie binding on the meeting and its Members.

(b) The chair of a meeting of Members must give those entitled to attend and speak at such meetings a reasonable opportunity to ask questions and make comments at the meeting (including the auditor (if any)).

(c) The chair of a meeting of Members may delegate any power conferred by this Article 4.8 to any person.

(d) The powers conferred on the chair of a meeting of Members under this Article 4.8 do not limit any powers conferred at law upon a chair of a meeting.

#### **4.9 Resolutions of Members**

(a) Subject to the Act and other than for Special Resolutions, a resolution of Members is passed if more votes are cast in favour of the resolution by Members entitled to vote on the resolution than are cast against the resolution.

(b) Unless a poll is requested in accordance with Article 4.10, a resolution put to the vote at a meeting of Members is to be decided on a show of hands.

(c) A declaration in good faith by the chair of a meeting of Members that a resolution has been passed on a show of hands, passed by a particular majority, or not passed, and an entry to that effect in the minutes of the meeting, is sufficient evidence of that fact, unless proved incorrect.

#### **4.10 Polls**

(a) A poll may be demanded on any resolution at a meeting of Members except:

(i) the election of a chair of that meeting; or

(ii) the adjournment of that meeting.

- (b) A poll on a resolution at a meeting of Members may be demanded by:
  - (i) at least five Members present and entitled to vote on that resolution; or
  - (ii) the chair of that meeting.
- (c) A poll on a resolution at a meeting of Members may be demanded:
  - (i) before a vote on that resolution is taken; or
  - (ii) before, or immediately after, the result of the vote on that resolution on a show of hands is declared.
- (d) A demand for a poll may be withdrawn.
- (e) A poll demanded on a resolution at a meeting of Members must be taken in the manner and at the time and place the chair directs.
- (f) The result of a poll demanded and taken on a resolution of a meeting of Members is a resolution of that meeting.
- (g) A demand for a poll on a resolution of a meeting of Members does not prevent the continuance of that meeting or that meeting dealing with any other business pending the taking of the poll or the declaration of the result of the poll.

#### **4.11 Adjourned, cancelled and postponed meetings**

- (a) Subject to the Act, the chair of a meeting of Members:
  - (i) may; and
  - (ii) must, if the Members present with a majority of votes that may be cast at that meeting agree or direct the chair to do so,  
adjourn a meeting of Members to any day, time and place.
- (b) No person other than the chair of a meeting of Members may adjourn that meeting.
- (c) Notice of an adjourned meeting is only required if the period of adjournment exceeds the Prescribed Period.
- (d) Only business left unfinished is to be transacted at a meeting of Members resumed after an adjournment.
- (e) Subject to the Act and this Article 4.11, the Board may at any time postpone or cancel a meeting of Members by giving notice, not less than 3 Business Days before the time at which the meeting was to be held, to each person to whom the notice of the meeting was required to be given.
- (f) A general meeting called under Article 4.1(b) must not be cancelled by the Board without the consent of the Members who requested the meeting.
- (g) A general meeting called under Article 4.1(c) must not be cancelled or postponed by the Board without the consent of the Members who called the meeting.
- (h) A notice adjourning or postponing a meeting of Members must set out the place, date and time for the revised meeting (and if the revised meeting is to be held in two or more places, the technology that will be used to facilitate this).

#### **4.12 Number of votes**

- (a) Subject to this Constitution and any rights or restrictions attached to a Class of Membership as prescribed in the By-laws, on a show of hands at a meeting of Members, every Member present has one vote, and on a poll at a meeting of Members, every Member present in person or by proxy has one vote.
- (b) In the case of an equality of votes on a resolution at a meeting of Members, the chair of that meeting has a casting vote on that resolution both on a show of hands and on a poll, in addition to any vote the chair of the meeting has in respect of that resolution.
- (c) A Member present at a meeting of Members is not entitled to vote on any resolution, whether in person or by proxy or attorney, while that Member is the subject of suspension under Article 2.6 or their Member rights are under suspension under Articles 2.8.
- (d) A Member is not entitled to vote, whether in person or by proxy or attorney, on a resolution at a meeting where that Member's vote is prohibited by the Act or an order of a court of competent jurisdiction.
- (e) The Organisation must disregard any vote on a resolution purported to be cast by a Member present at a meeting of Member where that person is not entitled to vote on that resolution, including by reason of Article 4.12(c) or (d).
- (f) The authority of a proxy or attorney for a Member to speak or vote at a meeting of Members is suspended while the Member who appointed the proxy or attorney is present in person at that meeting.

#### **4.13 Objections to qualification to vote**

- (a) An objection to the qualification of any person to vote at a meeting of Members may only be made:
  - (i) before that meeting, to the Board; or
  - (ii) at that meeting (or any resumed meeting if that meeting is adjourned), to the chair of that meeting.
- (b) Any objection under Article 4.13(a) must be decided by the Board or the chair of the meeting of Members (as the case may be), whose decision, made in good faith, is final and conclusive.

#### **4.14 Proxies and attorneys**

- (a) A Member, who is entitled to attend and cast a vote at a meeting of Members, may vote on a show of hands and on a poll:
  - (i) in person;
  - (ii) by not more than one proxy; or
  - (iii) by not more than one attorney.
- (b) A proxy or attorney of a Member must be a Member.
- (c) A Member may appoint a proxy or attorney for:
  - (i) all meetings of Members; or
  - (ii) any one or more specified meetings of Members.
- (d) An instrument appointing a proxy is valid if it is signed by the Member making the appointment and contains:
  - (i) the name and address of that Member;
  - (ii) the name of the Organisation;
  - (iii) the name of the proxy or the name of the office held by the proxy; and

- (iv) the meeting(s) of Members at which the proxy may be used.
- (e) The chair of a meeting of Members may determine that an instrument appointing a proxy is valid even if it contains only some of the information specified in Article 4.14(d).
- (f) An instrument appointing a proxy or an attorney must be substantially in a form as may be prescribed in the By-laws or such other form as the chair of the meeting may accept from time to time.
- (g) Subject to the Act, the decision of the chair of a meeting of Members made in good faith as to the validity of an instrument appointing a proxy or attorney is final and conclusive.
- (h) Unless otherwise provided in the Act (notwithstanding the operation of Part 1.6 of the Act) or in the appointment, a proxy or attorney may:
  - (i) agree to a meeting of Members being called by shorter notice than is required by the Act or this Constitution;
  - (ii) agree to a resolution being either or both proposed and passed at a meeting of Members of which notice of less than the Prescribed Period is given;
  - (iii) speak on any resolution at a meeting of Members on which the proxy or attorney may vote;
  - (iv) vote at a meeting of Members (but only to the extent allowed by the appointment) on any resolution with respect to which the appointing Member may vote;
  - (v) demand or join in demanding a poll on any resolution at a meeting of Members on which the proxy or attorney may vote; and
  - (vi) attend and vote at any meeting of Members (at which the appointing Member may attend and vote) which is rescheduled or adjourned.
- (i) Unless otherwise provided in the Act (notwithstanding the provisions of Part 1.6 of the Act) or in the appointment, a proxy or attorney may vote on:
  - (i) any amendment to a resolution on which the proxy or attorney may vote;
  - (ii) any motion not to put that resolution or any similar motion; and
  - (iii) any procedural motion relating to that resolution, including a motion to elect the chair of a meeting of Members, vacate the chair or adjourn that meeting,
 to the extent to which the appointing Member would be entitled to vote, even if the appointment does or does not direct the proxy or attorney how to vote on that resolution.
- (j) A proxy or an attorney for a Member cannot vote on a show of hands if they hold two or more appointments of proxy or attorney that specify different ways of voting.
- (k) With a notice of meeting of Members, the Organisation must send a form of proxy to Members in respect of that meeting of Members. The form of proxy is to be compliant with that prescribed in the By-laws and it must only provide for the Member:
  - (i) to appoint a proxy of the Member's choice, but may specify who is to be appointed as proxy if the Member does not choose; and
  - (ii) to vote for or against each resolution, and may also provide for the Member to abstain from voting on one or more resolutions.
- (l) If the name of the proxy or the name of the office of the proxy in a proxy form of a Member is not filled in, the proxy of that Member is:
  - (i) the person specified by the Organisation in the form of proxy in the case that the Member does not specify another person; or
  - (ii) if no person is so specified, the chair of that meeting.

- (m) A Member entitled to vote at a meeting of Members may specify the manner in which their proxy or attorney is to vote on a particular resolution at a meeting of Members but, unless specified, the proxy or attorney may vote as he or she thinks fit.
- (n) Subject to Article 4.14(j) and the provisions of this Article 4.14 generally, a proxy or attorney:
  - (i) does not need to vote, unless the appointment specifies the way they must vote;
  - (ii) if the way they must vote is specified, they must vote in that way; and
  - (iii) if the proxy or attorney is also a Member, or holds proxy or attorney for more than one Member, may cast the votes held on a poll or ballot in different ways.
- (o) An appointment of proxy or attorney for a meeting of Members is effective only if the Organisation receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) not less than 48 hours before the time scheduled for commencement of that meeting (or any adjournment of that meeting).
- (p) Unless the Organisation has received notice in writing before the time scheduled for the commencement or resumption of a meeting of Members, a vote cast at that meeting by a person appointed by a Member as a proxy or attorney is, subject to this Constitution, valid even if, before the person votes, the appointment Member:
  - (i) dies; or
  - (ii) is mentally incapacitated; or
  - (iii) revokes the appointment of that person; or
  - (iv) revokes the authority under which the person was appointed by a third party.

## **5 Directors**

### **5.1 Number and Qualification of Directors**

- (a) The Organisation must have not less than nor more than the number of Directors specified in Item 5(a) and 5(b) of Schedule 2.
- (b) If the number of Directors is below the minimum fixed by this Constitution the Board must not act except for appointing one or more additional Directors or to call, and arrange to hold, a meeting of Members for the purpose of electing a Director or Directors to ensure the Organisation has at least the minimum number of Directors required by this Article.
- (c) A Member Elected Director must be a Member, or the Nominee of a corporate Member, who is entitled to unrestricted voting rights of a Member at an AGM, and each Director must be entitled to be director of a corporation registered under the Act and not be ineligible to be a director under the ACNC Requirements.
- (d) Article 16.5 may also have application.

### **5.2 Board Composition**

- (a) The Board may comprise a combination of Member Elected Directors and Board Appointed Directors.
- (b) The Organisation must have not less than and not more than the number of Member Elected Directors as is specified in Items 5(c) and 5(d) of Schedule 2.
- (c) The Organisation may have up to that number of Board Appointed Directors as is specified in Item 5(e) of Schedule 2.

- (d) Notwithstanding paragraphs (b) and (c), the majority of the Board must be comprised of Member Elected Directors and if for any reason at any time it does not, then the Board and the Organisation must promptly do all things reasonably within their powers in accordance with this Constitution to deliver that outcome.

### **5.3 Appointment of Member Elected Directors by Members**

- (a) Subject to Article 5.2(b), Member Elected Directors may be elected at general meetings of Members and are usually elected at the AGM of the Organisation.
- (b) A Member entitled to vote at a general meeting of Members may nominate a Member who is eligible under Article 5.1 to be a Member Elected Director.
- (c) The By-laws may prescribe the form and procedure to be followed with respect to:
  - (i) the nomination of a Member Elected Director;
  - (ii) the manner of presentation to the Members in general meeting of any such nomination for consideration by that meeting; and
  - (iii) the manner in which voting for Member Elected Directors will occur at the general meeting of Members, subject nevertheless to the Act.
- (d) Subject to Article 5.5(c) a Member Elected Director will be appointed for a term commencing on the date of the general meeting at which they were elected and ending on the date determined in accordance with Article 5.5(a).

### **5.4 Appointment of Board Appointed Directors**

- (a) Subject to Article 5.2(c), the Board of Directors may resolve to appoint Board Appointed Directors from time to time.
- (b) A Board Appointed Director will be appointed for a term commencing on the date of appointment in accordance with this Article 5.4 and ending on the date determined in accordance with Article 5.5(b).
- (c) A Board Appointed Director appointed at a meeting of the Board will be taken to have been appointed on the date of that meeting or such other date as shall be the resolve of that meeting of the Board.

### **5.5 Retirement and re-appointment of Directors**

- (a) Member Elected Director  
Subject to this Article and to Schedule 3 (Transitional Provisions), a Member Elected Director must retire at the third AGM after the date of their election by the Members.
- (b) Board Appointed Director  
Subject to this Article, a Board Appointed Director must retire by at least the closure of the next meeting of the Board following the third anniversary of their appointment by the Board.
- (c) Casual Appointments (Member Elected Directors)  
Subject to this Article, if a Member Elected Director vacates or is removed from office for any reason, then the Board may resolve to appoint another person as a Member Elected Director in the place of that Member Elected Director who is no longer continuing in office PROVIDED THAT the term of that appointment will only be until the next AGM following the appointment, at which AGM the appointee must retire from office.
- (d) Subject to Article 5.6, a Director (including a Member Elected Director appointed under Article 5.5(c)) will be eligible for re-appointment (as applicable) at the expiration of their term of office.



## **5.6 Maximum term for a Director**

- (a) Subject only to Articles 5.6(b) and 6.3, no Director (other than the Chief Executive Officer, if a Director) may serve as a Director for more than the number of years in total specified in Item 6 of Schedule 2.
- (b) In the case of a person appointed to fill a casual vacancy on the Board as a Member Elected Director under Article 5.5(c), the period between the appointment of that person as a Director and the next AGM following that appointment, will not be counted as a Term or part of a Term and will not be included in determining whether a Director has served as a Director for the purposes of Article 5.6(a) or, in the case of the Chair for the purposes of Article 6.3(c).
- (c) For the purposes of this Article, any prior period of office served by a Director will not be counted towards the Director's maximum term of office if at least a continuous period of 3 years has elapsed during which the person was not a Director.

## **5.7 Vacation of office of Director**

- (a) A Director may resign from office by giving the Organisation notice in writing.
- (b) Subject to the Act (notwithstanding the operation of Part 1.6 of the Act) and Article 5.7(c), the Members in general meeting, by ordinary resolution, at any time may remove any Member Elected Director or Board Appointed Director from office, and the Board, by resolution, at any time may remove any Board Appointed Director from office.
- (c) A Director automatically ceases to be a Director if the Act so provides or if that Director:
  - (i) dies;
  - (ii) becomes of unsound mind or a person whose property is liable to be dealt with under a law relating to mental health;
  - (iii) is absent without the consent of the Board from all meetings of the Board held during a period of 3 months and the other Directors resolve that his or her office be vacated;
  - (iv) resigns or is removed from office under this Constitution;
  - (v) becomes ineligible to be a Director either under this Constitution, the By-laws, the Act, the ACNC Requirements or otherwise at law;
  - (vi) becomes an undischarged bankrupt;
  - (vii) ceases to be a Member (in the case of a Member Elected Director).

## **5.8 No Alternate Directors**

A Director may not appoint a person as his or her alternate Director.

## **5.9 Payment to Directors prohibited**

- (a) Subject to Article 5.9(b) the Organisation must not pay any fees to a Director (other than the CEO if the CEO is a Director and the fees are in accordance with his/her contract of engagement with the Organisation) for performing his or her duties and responsibilities as a Director unless the Members in general meeting have approved the payment or the Members in general meeting have approved payment of fees to Directors, at the discretion of the Board, with a maximum annual pool or cap amount for all Directors in any one year, and the payment, when aggregated with any other remuneration to Directors in that Financial Year, is within that annual pool or cap amount.
- (b) A payment of the kind referred to in Article 1.5(b) may be made to a Director if that payment has been approved by the Board.

## **5.10 Skills, experience and attributes of Directors**

### **(a) General skills, experience and attributes**

When Members are nominating Member Elected Directors, when the Members are electing Member Elected Directors and when the Board is making casual appointees under Article 5.5(c) or appointing Board Appointed Directors, they are encouraged to have regard to the skills, experience and attributes of the Board as a whole, and those skills, experience and attributes that are best likely to lead the Organisation in the pursuit of its strategies and objects and to assure the proper governance oversight of management. Without limitation or prescription, those skills, experience and attributes of the Board as a whole to which Members and the Board should have regard include:

- (i) an understanding of and relevant experience in the needs of women and children experiencing domestic violence or financial abuse;
- (ii) relevant experience and qualifications with respect to financial and accounting matters;
- (iii) relevant business, professional, legal and governance experience, skills and acumen;
- (iv) experience in the governance and management of not for profit, charitable or community based organisations; and
- (v) diversity of experience and perspective.

### **(b) Board Skills Matrix (or similar)**

From time to time the Board (including via a Board committee with delegated authority for this purpose) should determine, in its judgement, and communicate to the Members, at or around the time when nominations for Member Elected Directors are open:

- (i) the nature of the skills, experience and attributes that the Board (as a whole) desirably should have to meet the Organisation's strategic objectives and needs (including by way of guidance only, to those listed in (a) above);
- (ii) any "gap" in the desired skills, experience and attributes of the existing and continuing Directors so as to assist Members in identifying prospective nominees, and to assist Members in the exercise of their voting for Member Elected Directors.

### **(c) Background Information on proposed Member Elected Directors and Board Appointed Directors**

Any proposed nominee for the election or appointment as a Director must provide background career and personal information as to their skills, experience and attributes to the Board (including via a Board committee with delegated authority for that purpose) as provided for in the By-laws. This information, or a succinct summary of it, is to be provided by the Board (or its committee) to the Members, including at or about the time of election of Member Elected Directors so as to assist Members in the exercise of their voting for Member Elected Directors.

## **5.11 Consents and Undertakings**

Each Director and the Secretary must sign, complete and deliver to the Organisation such forms of consent, contact information and undertakings to observe and comply with the Act, the ACNC Requirements, the Constitution and the By-laws, as may be prescribed in the By-laws, as a precondition to their taking office as a Director. Article 16.5 may also have application.

## **6 Officers and Officeholders**

### **6.1 Chair and Deputy Chair**

- (a) Subject to this Article 6.1, the Board:
- (i) shall elect a Director as Chair of the Board for a term of three years (or such shorter period determined by the Board), or until the relevant person ceases to be a Director; and
  - (ii) may elect a Director as Deputy Chair, for a term of three years (or such shorter period determined by the Board) or until the relevant person ceases to be Director.
- (b) The Board may remove:
- (i) the Chair as chair of the Board, and/or
  - (ii) the Deputy Chair as deputy chair of the Board,
- by Board resolution at any time.
- (c) A Director must not be elected as the Chair for more than the number of years in total specified in Item 7(a) of Schedule 2 and must not be elected as the Chair if the term of appointment as Chair would result in the Director serving on the Board (whether as a Director or the Chair) for more than the number of years in total specified in Item 7(b) of Schedule 2 (or such longer period where Article 5.6(b) applies).
- (d) The Chair must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of the Board.
- (e) If:
- (i) there is no Chair; or
  - (ii) the Chair is not present within 15 minutes after the time appointed for the holding of a meeting of the Board; or
  - (iii) the Chair is present within that time but is not willing or able to chair all or part of that meeting,

then the Deputy Chair, or in default of the Deputy Chair, one of the Directors present elected by those present, will chair the meeting.

### **6.2 Chief Executive Officer**

- (a) The Board may appoint a person as the CEO, for any period of appointment not exceeding 5 years (although such period of appointment may be renewed from time to time, so that the aggregate tenure of office of the CEO may exceed 5 years), and on any terms (including as to remuneration) or otherwise as the Board resolves.
- (b) Subject to any agreement between the Organisation and the CEO, the Board may remove or dismiss or suspend the CEO at any time, with or without cause.
- (c) The Directors may delegate such of their powers (including the power to delegate) to the CEO as provided in Article 7.3.
- (d) Subject to any agreement between the Organisation and the CEO the Board may:
- (i) revoke or vary the appointment of the CEO;
  - (ii) revoke or vary any power delegated to the CEO; and/or
  - (iii) suspend the appointment of the CEO or suspend the delegation of powers to the CEO for such period and on such terms as the Board may determine in good faith.
- (e) The CEO must exercise the powers delegated to him or her in accordance with any lawful directions of the Board.

- (f) The lawful exercise of a delegated power by the CEO is as effective as if the Board exercised the power.
- (g) Subject to Article 6.2(i), the CEO is not a Director and has no inherent power or right to attend, speak or vote at meetings of the Board;
- (h) The CEO is not entitled to hold office as a Member Elected Director.
- (i) The Board may appoint the CEO as a Board Appointed Director and if it does the following shall apply:
  - (i) the CEO will cease to be a Director if the CEO is removed, dismissed for any reason or otherwise resigns as CEO;
  - (ii) the CEO is not entitled to attend, speak or vote as a Director at any meeting of the Board if the CEO is under suspension from office;
  - (iii) the Board may require the CEO to absent themselves from a meeting or part of a meeting of the Board if the chair of the meeting believes in good faith that there may be a conflict of interest for the CEO to be in attendance, including where the Board may wish to discuss matters pertaining to CEO or management performance, succession of remuneration.

### **6.3 Secretary**

- (a) The Organisation must have at least one Secretary as required by the Act.
- (b) A Secretary for the Organisation may be appointed by the Board for any period and on any terms (including as to remuneration) as the Board resolve.
- (c) Subject to any agreement between the Organisation and the Secretary, the Board may remove or dismiss a Secretary at any time, with or without cause, and may revoke or vary the appointment of a Secretary.
- (d) The Board will determine the role, duties and responsibilities of the Secretary and to whom the Secretary will account, including as may be provided for in the By-laws.

### **6.4 Indemnity and insurance**

- (a) To the extent permitted by law, the Organisation must indemnify each Relevant Officer against:
  - (i) a Liability of that person; and
  - (ii) Legal Costs of that person.
- (b) To the extent permitted by the law, the Organisation may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- (c) To the extent permitted by the law, the Organisation may pay, or agree to pay, a premium for a contract insuring a Relevant Officer against:
  - (i) a Liability of that person; and
  - (ii) Legal Costs of that person.
- (d) To the extent permitted by law, the Organisation may enter into an agreement or deed with:
  - (i) a Relevant Officer; or
  - (ii) a person who is, or has been, an officer of the Organisation or a related body corporate of the Organisation,
 under which the Organisation must do all or any of the following:
  - (iii) keep books of the Organisation and allow that officer, and his or her advisers, access to those books on the terms agreed;
  - (iv) indemnify that officer against any Liability of that officer;

- (v) make a payment (whether by way of advance, loan or otherwise) to that officer in respect of Legal Costs of that officer; and
- (vi) keep that officer insured in respect of any act or omission by that officer, while a Relevant Officer or an officer of the Organisation or a related body corporate of the Organisation, on the terms agreed (including as to payment of all or part of the premium for a contract of insurance).

## **7 Powers of the Organisation and Board**

### **7.1 General powers**

- (a) Subject to this Constitution, the Organisation may exercise, in any manner permitted by the Act and the ACNC Requirements (as applicable), any power which a public company limited by guarantee may exercise in order to achieve the objects and strategic focus of the Organisation.
- (b) The Board is responsible for the sound governance of the Organisation.
- (c) Subject to this Constitution, the business of the Organisation is to be managed by, or under the direction of, the Board, and the Board may exercise all the powers of the Organisation except any powers that the Act, the ACNC Requirements (as applicable) or this Constitution requires the Organisation to exercise in General Meeting or only with the approval of Members in General Meeting.

### **7.2 Execution of Documents**

- (a) If the Organisation has a common seal:
  - (i) the Organisation may execute a document if that seal is fixed to the document and the fixing of that seal is countersigned by:
    - (A) two Directors; or
    - (B) a Director and a Secretary; or
    - (C) a Director and another person appointed by the Board for that purpose.
  - (ii) particulars of the use of the common seal (including the reasons for its use, its counter-signatories and the date of its use) will be promptly recorded in the Organisation's corporate secretarial records.
- (b) The Organisation may execute a document without a common seal if the document is signed by:
  - (i) two Directors; or
  - (ii) a Director and a Secretary; or
  - (iii) a Director and another person appointed by the Board for that purpose.
- (c) The Board may resolve, generally or in a particular case:
  - (i) that any signature on certificates or cards for Membership, or other common use documents approved of by the Board, may be affixed by mechanical, electronic or other means;
  - (ii) to delegate the power to execute documents on behalf of the Organisation to officers of the Organisation;
  - (iii) to grant and execute power(s) of attorney to execute documents and to do such things on behalf of and in the name of the Organisation to such person or persons, as the Board may determine.
- (d) Negotiable instruments may be signed, drawn, accepted, endorsed or otherwise executed by or on behalf of the Organisation in the manner, and by the persons, as the Board determines resolves.

### **7.3 Committees and delegates**

- (a) Subject to this Constitution, the Board may delegate any of its powers (including power to sub-delegate within the scope of any power delegated) to a committee of the Board, the CEO or an employee of the Organisation.
- (b) The Board may revoke or vary any power delegated under Article 7.3(a).
- (c) A committee or delegate must exercise the powers delegated in accordance with any directions of the Board.
- (d) The proper exercise of a delegated power by the committee or delegate is as effective as if the Board exercised the power itself.
- (e) Any delegation of the Board of any of its powers must be recorded in the Board's minute book.

### **7.4 Attorney or agent**

- (a) The Board may appoint any person to be attorney or agent of the Organisation for any purpose, for any period and on any terms (including as to remuneration) as the Board resolves.
- (b) The Board may delegate any of their powers (including the power to delegate) to an attorney or agent.
- (c) The Board may revoke or vary:
  - (i) an appointment under Article 7.4(a); or
  - (ii) any power delegated to an attorney or agent.

### **7.5 Duties of Directors**

- (a) The Directors must comply with their duties as directors under the law, including the duties imposed on directors and officers under the Act and the ACNC Requirements (as applicable).
- (b) The provisions of Article 16.2 also have relevance in this respect.

### **7.6 Conflicts of Interest**

- (a) A Director must disclose the nature and extent of any actual or perceived material conflict of interest (direct or indirect, personal or duty) in a matter that is being considered at a meeting of the Board (or that is proposed in a circular resolution):
  - (i) to the other Directors;
  - (ii) if all of the Directors have the same conflict of interest, to the Members at the next meeting of Members, or at an earlier time if reasonable to do so.
- (b) The disclosure of a conflict of interest by a Director must be recorded in the minutes of the relevant meeting.
- (c) Each Director who has a material conflict of interest (direct or indirect, personal or duty) in a matter that is being considered at a meeting of the Board (or that is proposed in a circular resolution) must not, except as provided under Article 7.6(d):
  - (i) be present at the meeting while the matter is being deliberated; or
  - (ii) vote on the matter.

- (d) A Director may still be present and vote if:
  - (i) their interest arises because they are a Member of the Organisation, and the other Members have the same interest;
  - (ii) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Organisation;
  - (iii) their interest relates to a payment by the Organisation under an indemnity provided in accordance with Article 6.4 or any contract relating to an indemnity that is allowed under the Act;
  - (iv) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter; or
  - (v) the Directors who do not have a material personal interest in the matter pass a resolution that:
    - (A) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Organisation; and
    - (B) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

## **8 Proceedings of Board**

### **8.1 Written resolutions of the Directors**

- (a) The Directors may pass a resolution, without a meeting of the Board being held, if a copy of the proposed resolution is sent to all Directors and not less than an Absolute Special Majority of Directors, entitled to vote on the resolution, assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of documents referred to in Article 8.1(a) may be used for assenting to by Directors if the wording of the resolution and the statement is the same in each copy.
- (c) A Director may signify assent to a document under Article 8.1(a) by signing the document or by notifying the Organisation of that assent in a manner permitted by Article 13.3.
- (d) Where a Director signifies assent to a document under Article 8.1(c) other than by signing the document, the Director must, by way of confirmation, sign the document before, or at, the next Board meeting attended by that Director.
- (e) The resolution the subject of a document under this Article is not invalid if a Director does not comply with Article 8.1(d).

### **8.2 Meetings of the Board**

- (a) The Directors may meet, adjourn and otherwise regulate their Board meetings as they think fit.
- (b) A meeting of the Board may be held, including remotely at more than one venue, using any technology consented to by all Directors.
- (c) The consent of the Directors under Article 8.2(b) may be for all meetings of the Board or for any one or more specified meetings and a Director may within a reasonable period before a meeting by written notice to the Organisation, withdraw a consent previously given.
- (d) If a meeting of the Directors is held in two or more places linked together by any technology:
  - (i) a Director present at one of the places is taken to be present at the meeting unless and until that Director states to the chair of the meeting that he or she is discontinuing participation in the meeting; and
  - (ii) the chair of that meeting may determine at which place the meeting will be taken to have been held.

### **8.3 Who can call meetings of the Board**

- (a) The Chair, the Deputy Chair or any 2 other Directors jointly may call a meeting of the Board at any time.
- (b) On a request under Article 8.3(a), a Secretary (or another acting in the role of the Secretary) must call a meeting of the Board.

### **8.4 How to call meetings of the Board**

- (a) Subject to Article 8.4(e)), notice of a meeting of the Board must be given to each Director.
- (b) A notice of meeting of the Directors must:
  - (i) set out 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); and
  - (ii) state the general nature of the business of the meeting.
- (c) Subject to Article 8.4(e), not less than 24 hours notice of a meeting of the Board must be given, unless an Absolute Special Majority of Directors agree otherwise.
- (d) A Director may waive notice of a meeting of the Board by notice in writing to the Organisation to that effect.
- (e) In the case of an emergency or other corporate urgency, a meeting may be called on short notice, without formal notice of meeting, at the behest of the Chair, the Deputy Chair or the CEO.

### **8.5 Quorum**

- (a) Subject to the Act, a quorum for a meeting of the Board is the greater of 50% of the total number of Directors and 2 Directors.
- (b) A quorum for a meeting of the Board must be present at all times during the meeting PROVIDED THAT a person who has declared a conflict of interest and has absented themselves (or abstained from deliberating and voting) on a matter before the meeting will still be counted as being present for the purposes of a quorum.

### **8.6 Resolutions of the Board**

- (a) A resolution of the Board, other than a resolution requiring an Absolute Special Majority or a Special Resolution, is passed if more votes are cast in favour of the resolution than against it.
- (b) Subject to the Act and this Article 8.6, each Director has one vote on a matter arising at a meeting of the Board.
- (c) Subject to the Act, in case of an equality of votes on a resolution at a meeting of the Board, the chair of that meeting has a casting vote on that resolution in addition to any vote the chair of the meeting has in his or her capacity as a Director, except where there are only 2 Directors entitled to vote on the resolution.

## **9 Board Committees**

### **9.1 Board may establish Committees**

The Board may on its own resolution constitute committees of the Board to assist it in the performance of its responsibilities.

### **9.2 Terms of Reference and Governance**

The terms of reference, governance arrangements, and meeting processes and accountability requirements of Board committees will be determined by the By-laws or by the Board at the time of establishment of the relevant committee.



### **9.3 Review**

The Board may from time to time:

- (a) review and vary the matters referred to in Article 9.2; and
- (b) resolve to terminate the ongoing constitution of a Board committee.

## **10 By-laws**

### **10.1 By-laws**

In addition to the provisions of this Constitution including Article 10.6 and Schedule 4, and subject to Article 10.3, By-laws may from time to time be prescribed to govern and/or regulate By-law Matters.

### **10.2 By-law Matters**

By-law matters include:

- (a) any matter of a nature authorised by this Constitution to be capable of being the subject of a By-law;
- (b) any matter pertinent to:
  - (i) Membership;
  - (ii) Fees;
  - (iii) meetings of Members;
  - (iv) rights, responsibilities and conduct of Members;
  - (v) procedures concerning nomination, voting on and election of Member Elected Directors
  - (vi) governance and management of the Organisation;
  - (vii) policies, procedures, protocols and practices of the Organisation.

### **10.3 No conflict with Constitution**

No By-law may conflict with a provision of this Constitution and if it does:

- (a) the By-law is either void or will be read down to the extent of such conflict; and
- (b) the provisions of this Constitution will prevail.

### **10.4 Making of By-laws**

- (a) Other than as provided in Article 10.6, By-laws may be made, varied or revoked by resolution of the Board passed with not less than an Absolute Special Majority of the Board.
- (b) Other than as provided in Article 10.6, By-Laws, and any variation to or revocation of them, will become effective on the date so determined by the Board at the time of their making or in the absence of such a determination, 30 days after the Board resolution.
- (c) Within 7 days of the Board making, varying or revoking a By-Law, a copy of the By-Law (or its variation or revocation, as applicable) must be published on the Organisation's website to inform Members thereof.

### **10.5 Force and Effect of By-Laws**

By-Laws will have contractual force and effect between Members inter se, between the Organisation and the Members, and between the Organisation and its officers, in the same manner as if the By-laws had constitutional force and effect in their own right.

### **10.6 Current By-Laws upon adoption of Constitution**

The By-laws to apply from the Effective Date of adoption of this Constitution are set out or described in Schedule 4.

## **11 Records**

### **11.1 Financial Year**

The financial year of the Organisation ends on 30 June in each year.

### **11.2 Accounts**

The Board, through the Secretary and the CEO, shall cause proper accounts, books and records to be kept, in accordance with accepted Australian accounting standards consistently applied for like bodies corporate to the Organisation and otherwise as may be required under the Act or the ACNC Requirements (as applicable) with respect to:

- (a) all sums of money received or expended by the Organisation and the matter in respect of which the receipt or expenditure takes place;
- (b) all financial transactions of the Organisation;
- (c) the assets and liabilities of the Organisation; and
- (d) the Organisation's operations.

### **11.3 Books, accounts and records**

The accounts, books and records shall be kept at the office of the Organisation or such other place from time to time determined by the Board and are open to inspection by the Directors and must be retained in accordance with the Act.

### **11.4 Audit**

The Board shall cause the accounts to be audited annually by the Auditor.

### **11.5 Minutes**

- (a) The organisation must, within one month, make and keep the following records:
  - (i) minutes of proceedings and resolutions of meetings of Members or Directors' meetings (including meetings of any committees);
  - (ii) minutes of circular resolutions of Directors;
  - (iii) a copy of a notice of each meeting of Members or Directors' meetings; and
  - (iv) a copy of any members' statement distributed to members in accordance with Article 4.1(d).
- (b) The Directors must ensure that minutes of a meeting of Members or a Directors' meeting are signed within a reasonable time after the meeting by:
  - (i) the chair of the meeting; or
  - (ii) the chair of the next meeting.
- (c) Records of minutes of meetings of Members are open for inspection by Members.

## **12 Alterations to Constitution**

No new Article or provision shall be added to this Constitution nor shall any of the Articles or provisions contained herein be amended, altered or rescinded unless:

- (a) a Special Resolution of Members in general meeting so to do is passed; and
- (b) the provisions of the Act, the ACNC Requirements (as applicable) and this Constitution are complied with.

## **13 Notices**

### **13.1 Notice to Members**

- (a) Subject to Article 13.1(b), the Organisation may give notice to a Member:
- (i) by hand delivery;
  - (ii) by sending it by prepaid post to the address of the Member in the Register or the alternative address (if any) nominated by that Member;
  - (iii) by sending it to the fax number or electronic or digital address (if any) nominated by that Member; or
  - (iv) with an Absolute Special Majority of the Board, by advertisement in accordance with Article 13.1(c).
- (b) If the address of any Member in the Register is not within Australia (and its Territories) and that Member does not nominate an alternative address within Australia (and its Territories), unless otherwise specified by the Corporations Act, the Organisation may (in addition to any method of service specified in Article 13.1(a)) give a notice to that Member by:
- (i) posting it on the Organisation's internet website (if any); or
  - (ii) advertisement in accordance with Article 13.1(c).
- (c) Any notice allowed to be given by the Organisation to Members by advertisement is sufficiently advertised if advertised:
- (i) in a newspaper published on most days and generally circulating in Western Australia; or
  - (ii) in electronic form on an online media portal reasonably approved of by the Board and which is generally available and accessible to members of the public in Western Australia (even if a subscription fee is payable).

### **13.2 Notice to Directors**

The Organisation may give notice to a Director:

- (a) by hand delivery;
- (b) by sending it by prepaid post to the usual residential address of that person or the alternative address (if any), including a post office box address, nominated by that person;
- (c) by sending it to the fax number or electronic or digital address (if any) nominated by that person; or
- (d) by any other means agreed between the Organisation and that person.

### **13.3 Notice to the Organisation**

A person may give notice to the Organisation:

- (a) by leaving it at the registered office of the Organisation;
- (b) by sending it by prepaid post to the registered office of the Organisation;
- (c) by sending it to the fax number at the registered office of the Organisation;
- (d) by sending it to the electronic or digital address (if any) nominated by the Organisation for that purpose; or
- (e) by any other means permitted by the Act.

### **13.4 Time of service**

- (a) A notice sent by prepaid post to an address within Australia is taken to be given:
  - (i) in the case of a notice of meeting, two Business Days after it is posted; or
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (b) A notice sent by prepaid post to an address outside Australia is taken to be given:
  - (i) in the case of a notice of meeting, four Business Days after it is posted; or
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (c) A notice sent by fax or electronic or digital means is taken to be given on the Business Day it is sent, provided that the sender's transmission report shows that the whole notice was sent to the correct fax number or electronic or digital address.
- (d) The giving of a notice by prepaid post is sufficiently proved by evidence that the postage was paid and the notice:
  - (i) was addressed to the correct address of the recipient; and
  - (ii) was placed in the post.

### **13.5 Signatures**

The Board may decide, generally or in a particular case, that a notice given by the Organisation be signed by mechanical, electronic or other means.

## **14 Winding up**

### **14.1 Transfer of surplus**

Subject to the Act, the ACNC Requirements (as applicable) and any other applicable laws or court orders, on a winding up of the Organisation, the Members by Special Resolution must determine one or more companies, associations or institutions whose constitutions:

- (a) require them to pursue only objects similar to those in Article 1.4 and to apply their income in promoting those objects;
- (b) prohibit them from making payments or distributions to their members to at least the same extent as in Article 1.5; and
- (c) if companies, prohibit them from paying fees to their directors other than with the prior approval of the company's shareholders or members, and require their boards to approve all other payments the company may make to their directors,

to whom the liquidator must give or transfer any surplus assets or property on winding up in accordance with a distribution plan also determined by Special Resolution of Members.

### **14.2 Application to Court**

If the Members fail to make a determination under Article 14.1 within 20 Business Days of the winding up of the Organisation, the liquidator must make an application to the Court with appropriate jurisdiction to make that determination.

## **15 Transitional Provisions**

### **15.1 Transitional Arrangements**

The Transitional Provisions shall apply in accordance with their terms as if set out in this Constitution in full.

### **15.2 Transitional Provisions Paramount**

In the case of any inconsistency between the Transitional Provisions and any other provision of this Constitution or the By-laws, the Transitional Provisions will prevail.

### **15.3 Continuance of Transitional Provisions**

The Transitional Provisions shall have continuing force and effect in accordance with their terms.

## **16 Special ACNC Related Provisions**

### **16.1 ACNC Requirements**

- (a) The provisions of Articles 16.1, 16.2 and 16.4 apply to the extent that the ACNC Requirements have application to the Organisation.
- (b) The provisions of Article 16.3 have application to the extent to which deductible gift recipient (“DGR”) status has application to the Organisation.

### **16.2 General Meetings**

- (a) For as long as the law permits or requires, the Directors:
  - (i) must, despite the fact that the provisions of the Act dealing with members’ meetings may not be directly applicable, ensure that the Organisation holds meetings of Members (including AGMs) in accordance with this Constitution and the Act (but subject to Article 16.2(b));
  - (ii) must ensure that the Governance Standards under the ACNC Requirements, in particular Governance Standard 2 relating to accountability to members, are complied with.
- (b) If there is any inconsistency between the Act and this Constitution with respect to the calling and holdings of members’ meeting then, to the extent permitted by law, the provisions of this Constitution will prevail.

### **16.3 Ensuring Director Duties are complied with**

The Organisation must ensure the Directors comply with the requirements described in Governance Standard 5 under the ACNC Requirements which are to ensure the directors:

- (i) 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 Organisation;  
act in good faith in the best interests of the Organisation and to further the objects in Article 1.4;
- (ii) do not misuse their position as a Director;  
do not misuse information that they gain in their role as a Director;
- (iii) disclose any actual or perceived conflicts of interest (including any material conflicts of interest);
- (iv) ensure that the financial affairs of the Organisation are managed responsibly; and
- (v) do not allow the Organisation to operate while insolvent.

#### **16.4 Loss of deductible gift recipient endorsement**

- (a) If the Organisation is endorsed as a deductible gift recipient for the purpose of operating one or more funds, authorities or institutions and the endorsement for one or more such fund, authority or institution is revoked (**DGR Revoked Entity**), then the Organisation must:
  - (i) satisfy all liabilities of such DGR Revoked Entity from that particular DGR Revoked Entity's assets; and
  - (ii) ensure that the following assets of such DGR Revoked Entity remaining after the payment of all liabilities in accordance with Article 16.4(a)(i) are distributed to one or more Eligible Recipients having similar objects or purposes to and having the same deductible gift recipient endorsement as the particular DGR Revoked Entity:
    - (A) deductible gifts of money or property received for the purpose of the DGR Revoked Entity;
    - (B) deductible contributions made in relation to an eligible fundraising event held to raise funds for the purpose of the DGR Revoked Entity; and
    - (C) money received by the Organisation because of such deductible gifts and contributions.
- (b) The decision about which Eligible Recipient is (or which Eligible Recipients are) to receive the funds distributed in accordance with Article 16.4(a)(ii) is to be determined by a resolution of the Members.
- (c) For the purposes of Article 16.4 **Eligible Recipient** means an organisation that:
  - (i) has objects or purposes similar to the objects in Article 1.4;
  - (ii) has a governing document which requires its income and property to be applied in promoting its objects and agrees to use any distribution provided to it by the Organisation to further such objects or purposes;
  - (iii) is registered as a charity under the ACNC Requirements; and
  - (iv) by law or its constituent rules, is prohibited from distributing, and does not distribute, its income and property amongst its members (either while it is operating or upon winding up) to an extent at least as great as is imposed upon the Organisation

#### **16.5 Director Eligibility**

- (a) A person is not entitled to become or remain a Director if the person has been disqualified within the last 12 months under the ACNC Requirements from entitlement to hold office in an ACNC regulated entity;
- (b) should any such disqualification apply to a Director then that Director will immediately give written notice thereof to the Organisation.
- (c) By their acceptance of office, Directors undertake to complete all requisite ACNC Requirements (as applicable) concerning their appointment to office and declare that there are no current ACNC Requirements that would cause Article 16.5(a) or (b) to apply to them.

# Schedule 1

## Definitions and interpretation

### 1. Definitions

In this Constitution:

**“Absolute Special Majority”** in the context of a Board resolution means a resolution passed by not less than 75% of the total number of Directors holding office at the time of the resolution.

**“AGM”** means the Annual General Meeting of Members.

**“Act”** means the Corporations Act 2001 (Commonwealth).

**“ACNC Requirements”** means any legislative or regulatory requirements applying under the Australian Charities and Not-for-Profits Commission Act 2012 and related enactments or promulgations.

**“Applicable Form”** has the meaning ascribed to it in the By-laws.

**“Board”** means the Directors meeting from time to time as a board of directors of the Organisation.

**“Board Appointed Director”** means a Director appointed pursuant to Article 5.4.

**“Business Day”** means a day except a Saturday, Sunday or public holiday in Western Australia.

**“By-Laws”** means by-laws of the Organisation in the terms of Article 10.

**“By-Law Matters”** means matters of the nature mentioned in Article 10.2 which may be the subject of a By-Law.

**“Cessation Event”** means, in respect of a Member:

- (a) the death or bankruptcy of that Member or liquidation, external administration or dissolution of a Member in the case of a corporation;
- (b) that Member becoming of unsound mind or a person whose property is liable to be dealt with under a law relating to mental health.

**“Chair”** means a person elected as chair of the Board under Article 6.1.

**“CEO”** means the person appointed for the time being under Article 6.2, being an employee (whether full-time or part-time) of the Organisation or a related body corporate of the Organisation.

**“Class”** means a class of Membership as prescribed in the By-Laws.

**“Director”** means a director of the Organisation for the time being.

**“Effective Date”** has the meaning given in Schedule 3.

**“Expulsion Event”** means, in respect of a Member:

- (a) that Member has been convicted within the preceding 5 years in criminal proceedings brought in connection with a contravention of the law where the penalty for the offence may be incarceration for a period in excess of 12 months, but excluding any “spent conviction”;
- (b) that Member has failed to pay any Fees or other money owing to the Organisation and those Fees or other moneys remain outstanding for at least 40 Business Days after written notice of demand for payment has been issued to the Member; or
- (c) the Board determines that in its opinion exercised in good faith:

- (i) the conduct of that Member is unbecoming of a Member; or
- (ii) that the continued Membership of the Member may be prejudicial to the objects, interests or reputation of the Organisation; or
- (iii) the Member is in material or persistent breach of the By-laws or this Constitution.

“**Fees**” means a fee or levy payable by Members under Article 3.1.

“**Financial Year**” means 1 July in one year to 30 June (inclusive) in the next succeeding year, or such other period as may be prescribed in the By-Laws.

“**General Meeting**” means a general meeting of Members duly called and held in the terms of Article 4.1 and includes an AGM and an extraordinary general meeting;

“**Legal Costs**” for a person, means legal costs incurred by that person in defending an action for a Liability of that person.

“**Liability**” of a person, means a liability incurred by that person as an officer of the organisation or a related body corporate of the Organisation.

“**Member**” means a person (natural or corporate) whose name is entered in the Register as a member of the Organisation and “**Membership**” has a corresponding meaning.

“**Member Elected Director**” means a Director appointed pursuant to Article 5.3.

“**Nominee**” means the designated nominee of a corporate Member in the terms of By-Law 3.3.

“**Organisation**” has the meaning in Article 1.2(a);

“**Prescribed Notice**” means the Prescribed Period of notice or any shorter period of notice for a meeting allowed under the Act.

“**Prescribed Period**” means 21 days.

“**Register**” means the register of Members kept under the Act.

“**Relevant Officer**” means a person who is, or has been, a Secretary, a Chief Executive Officer, a Director or another person who has held office in the Organisation and would be defined as an “officer” in the terms of the Act.

“**Secretary**” means the company secretary of the Organisation for the time being.

“**Special Resolution**” has the meaning ascribed to it in the Act.

“**Term**” means the term of office of each Director in accordance with these Articles.

“**Transitional Provisions**” means those provisions of this Constitution appearing in Schedule 3.

## 2. Interpretation

(a) In this Constitution:

- (i) a reference to a meeting of Members includes a meeting of any class of Members;
- (ii) a Member is taken to be present at a meeting of Members if the Member is present in person or by proxy or attorney; and
- (iii) a reference to a notice or document in writing includes a notice or document given by fax or other form of written communication.

(b) In this Constitution, headings are for convenience only and do not affect interpretation. Unless the context indicates a contrary intention:



- (i) words importing the singular include the plural (and vice versa);
  - (ii) words indicating a gender include any other gender and any non-specific gender affiliations;
  - (iii) the word “person” includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
  - (iv) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
  - (v) the word “**includes**” in any form is not a word of limitation.
- (c) Unless the context indicates a contrary intention, in this Constitution:
- (i) a reference to an Article or a Schedule, is to an article or a schedule of this Constitution;
  - (ii) a reference in a Schedule to a paragraph is to a paragraph of that Schedule;
  - (iii) a Schedule is part of this Constitution; and
  - (iv) a reference to this Constitution, is to this Constitution (and where applicable any of its provisions) as modified or repealed from time to time.
- (d) Unless the context indicates a contrary intention, in this Constitution, a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it.
- (e) Unless the context indicates a contrary intention, in this Constitution:
- (i) an expression that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision;
  - (ii) an expression that is defined in Section 9 of the Act has the same meaning as in that Section.

### **3. Exercise of powers**

Where this Constitution confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty must be performed, from time to time, as the occasion requires.

### **4. Severing invalid provisions**

If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that does not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.

## Schedule 2

### Key Information

**1. Name of the Organisation (refer Article 1.2(a))**

Yourtoolkit.com Limited

**2. Amount of Member's guaranteed contribution (refer Article 1.2(c))**

ONE DOLLAR (\$)

**3. Purpose and Objects of Organisation (refer Article 1.4)**

(a) Purpose: to support women and their children facing, or having faced, domestic violence and/or financial abuse:

(b) Objects:

(i) to act as the trustee of the Financial Toolbox Women at Risk Trust established by Trust Deed dated 8 August 2019 between the Organisation and Benjamin Fong ("Trust Deed")

(ii) further to the objective in paragraph (i):

(A) to exercise all powers and responsibilities conferred upon the Organisation under the Trust Deed in furtherance of the Principal Purpose under the Trust Deed;

(B) to build women's financial knowledge and skills to give them independence and freedom of choice throughout their lives;

(C) to provide information and support (including through digitally enabled means) as to pathways for women facing, or having faced, domestic violence and/or financial abuse to build and develop resilience, knowledge and self-confidence;

(D) to partner, cooperate and/or co-venture with government, community and other agencies and organisations which have objects and philosophies complementary to those of the Organisation in furtherance of these objectives.

(E) to undertake and do all and anything else necessary or desirable in furtherance of these objects.

**4. Quorum of Members for Meetings (refer Article 4.6)**

(a) General meetings of Members

The lesser of 20 Members with unrestricted voting rights and 5% of the total number of Members with unrestricted voting rights at the time the relevant meeting is held.

(b) Class meeting of designated Membership Classes

The lesser of 10 Class Members with unrestricted Class voting rights, and 5% of the total number of Members in that Class with unrestricted voting rights at the time the relevant meeting is held.

**5. Number of Directors (refer Article 5)**

(a) Maximum number of Directors

Nine (9) (or 10 if the CEO is appointed under Article 6.4(h))

(b) Minimum number of Directors

Six (6)

(c) (Minimum number of Member Elected Directors

Four (4)

- (d) Maximum number of Member Elected Directors  
Six (6)
- (e) Maximum number of Board Appointed Directors  
Three (3) (or 4 if the CEO is appointed under Article 6.4(h)).
- 6. Maximum term as a Director exclusive of the CEO if appointed under Article 6.4(h) (refer Article 5.7)**  
9 years (\*)
- 7. Maximum periods for service as Chair (refer Article 6.3(c))**
  - (a) Maximum term as Chair – 6 years(\*)
  - (b) Maximum total combined years of appointment as a Director and as the Chair – 12 years(\*)
- (\*) PROVIDED THAT on recommendation of the Board (passed by an Absolute Special Majority) and by resolution of Members in General Meeting, these maxima may be extended for a further period of 12 months in circumstances where it is considered to be in the best interests of the Organisation and its succession planning to do so.

## Schedule 3

### Transitional Provisions

1. For the purposes of these Transitional Provisions:
  - (a) “Effective Date” means the later of the date of registration of the Organisation under the Act and the date of adoption of this Constitution by the Members.
  - (b) Terms uniquely defined in the Constitution and used in these Transitional Provisions will have those defined meanings.
2. Subject to paragraph 1(b) preceding, from the Effective Date the existing constitution that previously applied to the Organisation is of no further force or effect.
3. With respect to those holding constitutionally recognised office as at the Effective Date, the following provisions shall apply:
  - (a) Subject to paragraph 3(f) below, the Directors listed in column 1 of Table A:
    - (i) shall be deemed to be either a Member Elected Director or a Board Appointed Director on and from the Effective Date as indicated in column 2 of Table A against each of their names;
    - (ii) shall be deemed to retire or their appointment to office terminated as at the time listed in column 3 of Table A against each of their names (without prejudice to their opportunity to be re-elected or re-appointed to office, subject to the provisions of the Constitution).
    - (iii) shall be deemed to have first commenced their appointment as a director at the AGM in the year set next to their name.
  - (b) Any person holding office as a Director immediately prior to the Effective Date and whose name does not appear in Table A shall be deemed to have retired from such office as at the Effective Date.

<b>Table A</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Name of Director</b>	<b>Member Elected Director (ED) or Board Appointed Director (AD)</b>	<b>Deemed date of scheduled retirement from office</b>
Elisa Fear (2022)	ED	AGM 2025
John McCarthy (2022)	ED	AGM 2025
Richard Burnell (2022)	ED	AGM 2024
Nadia Mansour (2022)	ED	AGM 2024
Vivan Wang (2022)	ED	AGM 2023
Yvonne Kallane (2022)	ED	AGM 2023
Steven Cole (2022)	AD	AGM 2023
	AD	
	AD	

- (c) Subject to paragraph 3(e) below, the persons holding office as Chair and Deputy Chair respectively immediately before the Effective Date will continue to hold office respectively as Chair and Deputy Chair on and from the Effective Date until the first Board meeting following the next AGM held after the Effective Date.
- (d) Subject to paragraph 3(e) below, the persons holding office as Chief Executive Officer and Secretary immediately before the Effective Date will continue to hold such offices on and from the Effective Date.
- (e) It is a condition precedent to each Director and the Secretary holding office as such on and from the Effective Date that they respectively have executed a consent or approval to act in such role in accordance with any regulatory requirements of the Act.
- (f) Subject to Article 5.7, a Director listed in Table A may hold office as such until at least the date mentioned in column 3 of Table A against their name notwithstanding Article 5.6.

4. With respect to Membership

- (a) Members holding the class of membership noted in column 1 of Table B immediately prior to the Effective Date shall be deemed to hold the class of membership noted in column 2 of Table B on and from the Effective Date until 30 June next following the Effective Date without any additional Fee or Fee adjustment on account of that change of class of Membership.

<b>Table B</b>	
<b>Column 1</b>	<b>Column 2</b>
<b>Pre-Effective Date Class of Membership</b>	<b>Membership Class on and from Effective Date</b>
Member	Full Member

## Schedule 4

### By-Laws

#### 1. Introduction

- 1.1 These By-laws have been adopted by the Board pursuant to Article 10.4 of the Constitution.
- 1.2 These By-laws have effect from the Effective Date.
- 1.3 Should any By-law conflict with a provision of the Constitution, then in the terms of Article 10.4 of the Constitution, that By-law will be either void or read down to the extent of such conflict, and the provisions of the Constitution will prevail.
- 1.4 Words and phrases defined in the Constitution and used in these By-laws have the meanings accorded to them in the Constitution.
- 1.5 Where a power is conferred on the Board under these By-laws, the Board may resolve to delegate that power to the CEO.
- 1.6 In these By-laws the following words have the meanings set opposite them:  
“Applicable Form” means a form referred to in these By-laws which has been approved by the Board for the relevant functional purpose in these By-laws.

#### 2. Governance Charter

- 2.1 The terms of the Governance Charter adopted by the Board and prevailing as at the Effective Date apply on and from the Effective Date as having the force and effect of By-laws duly adopted by the Board.
- 2.2 A copy of the Constitution, these By Laws and the Governance Charter are to be available for inspection and reference by Members and others including on the Organisation’s web-site.

#### 3. Membership

- 3.1 (a) Membership of the Organisation is available in the following classes:
  - Full Member
  - Corporate Member
  - Honorary Member
- (b) For the purposes of Article 2.1(b) of the Constitution, the Board by Absolute Special Resolution may determine any limits on the number of Members in a Class of Membership.
- 3.2 The rights, privileges and obligations attaching to each Class of Membership are as follows:
  - (a) Full Member  
Subject to payment of all applicable Fees from time to time levied with respect to that Membership, a Full Member is entitled:
    - (i) to vote, and to participate and speak (in accordance with rulings of the meeting chair) at meetings of Members and meeting of that Class of Member;
    - (ii) to nominate a person as a new Member to the Organisation and to nominate a qualifying Member for consideration for election as a Member Elected Director;
    - (iii) to stand for office as a Director;

- (iv) to receive all information required by the Constitution, these By-laws or the Act to be forwarded to Members of that Class of Membership;
- (v) to receive such publications and communications as the Organisation may from time to time determine is appropriate or desirable to forward to Members of that Class of Membership;
- (vi) to exercise such other rights and privileges determined from time to time by the Board to be accorded to Members of that Class of Membership.

(b) Corporate Members

Subject to payment of all applicable Fees from time to time levied with respect to that Membership, and subject to the reservations and exclusions below, a Corporate Member is entitled to nominate a natural person, who would otherwise be eligible for Full Membership, to exercise all the same rights and privileges set out in By-law 3.2(a)(i)-(vi) above for a Full Member:

(c) Honorary Members

Subject to any conditions of Membership as are determined from time to time by the Board to apply to the Honorary Member, an Honorary Member is entitled to all the same rights and privileges set out in By-law 3.2(a)(i)-(vi) above for a Full Member.

3.3 Membership of the respective Classes of Membership is available to the following persons (natural or corporate) who have completed all administrative requirements as set out in the By-laws for their application and approval of Membership subject to the following:

- (a) Full Membership is only available to persons 18 years of age or over and which at the discretion of the Board have relevant interest in the pursuit of the objects of the Organisation;
- (b) Corporate Membership is only available at the discretion of the Board to corporate entities with relevant interest in the pursuit of the objects of the Organisation, and who propose a nominee to exercise its Membership rights on its behalf, and which Nominee has personally undertaken to the Organisation in the terms of By-Laws 3.5 as if they were themselves a Member;
- (c) Honorary Membership is only available to persons nominated by the Board for such Membership and who in the opinion of the Board have provided outstanding and special service to the Organisation or in the pursuit of the Organisation's objects.

3.4 All applications for Membership must be:

- (a) completed substantially in the Applicable Form relevant to the Class of Membership being applied for;
- (b) accompanied by such information as is required by the Organisation to reasonably verify that the applicant meets the requirements for Membership of the relevant Class set out in these By-law;
- (c) accompanied by payment of any Fees applicable to that application and Membership;
- (d) signed by the applicant; and
- (e) signed by an existing qualifying Member as the nominator of the applicant for Membership to verify the applicant's good character and suitability for Membership,

PROVIDED THAT the Board may at its discretion:

- (f) waive strict compliance with any aspect or aspects of the foregoing;
- (g) require the provision of such further information from the applicant, which it considers it is appropriate so to do in the interests of the Organisation and the integrity of its Membership.

- 3.5 Without limiting By-law 3.4, the Applicable Form to be signed by an applicant under By-law 3.4 must include an undertaking by the applicant, conditional upon the applicant becoming a Member:
- (a) in the terms of Article 1.2(c) of the Constitution; and
  - (b) to observe and comply with the provisions of the Constitution and the By-laws to the extent to which they have application to a person who is a Member of the Class of Membership applied for.

#### **4. Fees and Interest**

- 4.1 Fees may be for all or any of the following and in such amounts as determined from time to time by the Board.
- (a) Membership annual subscription fee
  - (b) other (as determined by the Board)
- 4.2 All Fees must be paid by the date notified in the Organisation's invoice for the same, or if no date is notified, within a reasonable time of the Organisation's invoice for the same.
- 4.3 As at and from the Effective Date, the Fees are the same as those applying immediately prior to the Effective Date.
- 4.4 Subject to By-law 4.5, around the commencement of each Financial Year after the Effective Date, the Board by resolution duly passed, after consultation with management as part of the Organisation's budgetary process, will set the Fees then applicable for the forthcoming Financial Year and will communicate the same to the Members by notice under Article 11 of the Constitution.
- 4.5 Other than with the approval of the Members in general meeting, no Fee for annual Membership subscription may be increased under these By-laws by more than 20% of the amount of the Fee that applied for the Financial Year immediately prior to the proposed increase.
- 4.6 Unless payment is waived under Article 3.2(b) of the Constitution, the prescribed rate of interest in the terms of Article 3.2 of the Constitution is 10% per annum simple interest.
- 4.7 If any GST is chargeable in connection with a Fee, then unless stated to the contrary at the time of determination of that Fee, the amount of that GST is to be included in the Fee and is to be payable by the Member or person to whom the Organisation's tax invoice for the Fee is rendered.

#### **5. Applicable Forms**

- 5.1 The management of the Organisation may from time to time propose to the Board Applicable Forms in order to best manage and administer functions to be undertaken in the terms of these By-laws.
- 5.2 The Board may by resolution approve, with or without amendment, any such proposed Applicable Forms.
- 5.3 Upon such approval by the Board, the relevant form will then be the prescribed Applicable Form for the purposes of these By-laws and the Constitution (as applicable).
- 5.4 Without limitation, Applicable Forms may relate to any or all of the following functions and requirements:
- (a) Constitution
    - (i) Article 2.2 – Application
    - (ii) Article 2.6 – Expulsion or Suspension
    - (iii) Article 4.14(f) & (j) – Proxy form
    - (iv) Article 5.3(b) & (c) – Nomination of Member Elected Director



- (v) Article 5.11 – Directors' and Secretary's consent and undertakings
- (b) By-laws
  - (i) By-law 3.4 – Application for Membership

## **6. Miscellaneous**

### 6.1 General conduct of meetings of Members (Article 4.8)

No special By-laws apply.

### 6.2 Nomination of Member Elected Directors (Article 5.3(c)(i))

- (a) Refer By-law 5.4(a)(iv) and (v) for the Applicable Form
- (b) Refer By-law 2 Governance Charter

### 6.3 Presentation of nominations for Member Elected Directors to Membership (Article 5.3(c)(ii))

- (a) The Board will approve at its discretion the manner in which it is proposed for nominations for Member Elected Directors to be presented to Members.

The Board will act impartially and in good faith in exercising its discretion with a view to the Members being presented with adequate, timely but succinct information to enable them to make a reasonably informed judgement when exercising their vote.

- (b) Nominees for Member Elected Directors may provide a brief statement to the Organisation concerning their candidature for office at least 21 days before the scheduled date of the issue of election/voting papers to Members provided the Board is satisfied that the statement is not offensive to, or likely to offend, the Organisation or any Member of it. If the Board is not so satisfied the Board reserves the right to censor any portion of the statement that the Board (in good faith) considers to be offensive to, or likely to offend, the Organisation or any Member of it.

### 6.4 Manner in which voting for Member Elected Directors is to occur (Article 5.3(c)(iii))

- (a) Subject to the Act, the Board will approve at its discretion the manner in which voting for Member Elected Directors is to occur.
- (b) The Board will act impartially and in good faith in exercising its discretion to ensure integrity and probity of process.
- (c) In exercising its discretion the Board may place due reliance on advice and recommendations from its legal representatives and/or its Member registry provider as to what is good governance practice for such processes for a membership organisation with a membership base of the size of the Organisation.

### 6.5 Directors Consents and Undertakings (Article 5.11)

Refer By-law 5.4(a)(vi) for the Applicable Form

### 6.6 Secretary (Article 6.5(c))

Refer to By-law 2 Governance Charter.

### 6.7 Board Committees Terms of Reference and Governance

Refer to By-law 2 Governance Charter.