

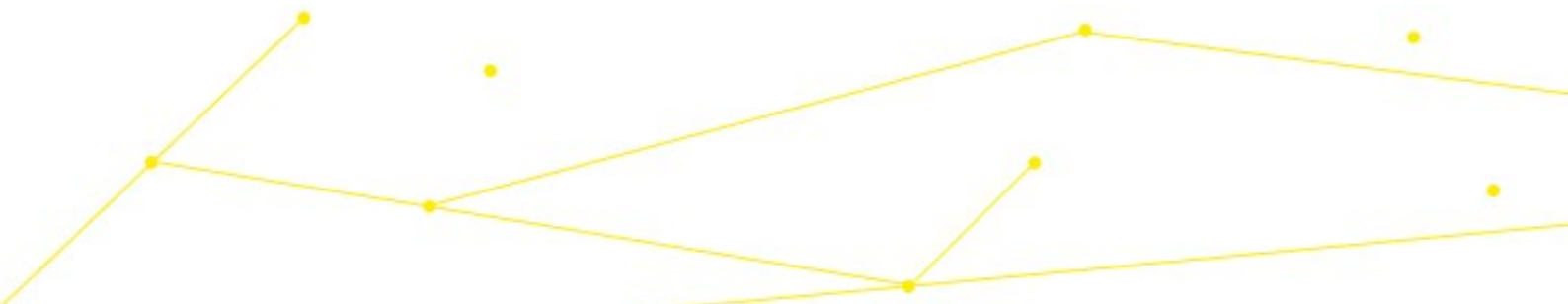


Supporting the arts in regional Victoria

Constitution of Regional Arts Victoria

ACN 005 556 025

Approved and adopted by a special resolution of members at
the Annual General Meeting held on 2 May 2024.



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Constitution

of

Regional Arts Victoria

ACN 005 556 025

Introduction

1 Replaceable rules excluded

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

2 Definitions and interpretation

2.1 Definitions

In this constitution:

- (1) **Act** means the *Corporations Act 2001* (Cth) and includes any amendment or re-enactment of it or any legislation passed in substitution for it;
- (2) **auditor** means any person appointed for the time being to perform the duties of an auditor of the Company;
- (3) **business day** means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the place where the Company has its registered office;
- (4) **Company** means Regional Arts Victoria ACN 005 556 025;
- (5) **co-opted director** means a director of the Company that has been appointed by the board of directors and not elected by the members;
- (6) **directors** means the directors for the time being of the Company or the directors assembled as a board, and includes co-opted directors and elected directors;
- (7) **elected director** means a director of the Company that has been elected by the members;
- (8) **organisation member** means a member which is a body corporate;
- (9) **Register** means the register of members to be kept pursuant to the Act;
- (10) **representative** means a person authorised to act as a representative of a body corporate pursuant to section 250D of the Act; and
- (11) **secretary** means any person appointed to perform the duties of secretary of the Company and any person appointed to act temporarily as secretary.

2.2 Interpretation

- (1) Reference to:
 - (a) one gender includes the others;
 - (b) the singular includes the plural and the plural includes the singular; and
 - (c) a person includes a body corporate.
- (2) Except so far as the contrary intention appears in this constitution:
 - (a) an expression has in this constitution the same meaning as in the Act; and
 - (b) if an expression is given different meanings for the purposes of different provisions of the Act, the expression has, in a provision of this constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.
- (3) “Including” and similar expressions are not words of limitation.
- (4) Headings and any table of contents or index are for convenience only and do not form part of this constitution or affect its interpretation.

3 Objects

3.1 The objects for which the Company is established are:

- (1) to foster the practice, the development and the enjoyment of the arts across Victoria;
- (2) to enhance the capacity of the Company’s members to develop and sustain their arts practice and audiences;
- (3) to facilitate, create, curate, tour, produce or present artistic programs to regional and remote communities for all ages and across all artforms;
- (4) to expand knowledge and awareness of the work of the Company’s members and of Victoria’s regional arts via quality marketing and communications; and
- (5) to be a leading advocacy voice, fostering regional cultural leadership and advocating for regional arts at local, state, national and international forums.

3.2 The Company must pursue charitable purposes only and must apply its income in promoting those purposes.

4 Powers

4.1 The Company has all the powers of an individual and a body corporate but does not have the power to issue shares.

4.2 Despite rule 4.1 the powers of the Company are ancillary to and exercisable only to pursue the objects of the Company set out in rule 3.

5 Public Fund

5.1 The Company has established and will maintain a public fund. It is intended that the public will contribute to the public fund.

- 5.2 Donations will be deposited into the public fund listed on the Register of Cultural Organisations. These monies will be kept separate from other funds of the Company and will only be used to further the Company's objects. Investment of monies in the fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.
- 5.3 The fund will be administered by a management committee or its subcommittee, as appointed by the directors, a majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the cultural objectives of the Company.
- 5.4 No monies or assets in the public fund will be distributed to members or officers of the Company, except as reimbursement of out-of-pocket expenses incurred on behalf the public fund or proper remuneration for services rendered to the Company.
- 5.5 The Department responsible for the administration of the Register of Cultural Organisations will be notified of any proposed amendments or alterations to this clause 5 to assess the effect of any amendments on the public fund's continuing entitlement to endorsement as a deductible gift recipient.
- 5.6 Receipts for gifts to the public fund must state:
- (1) the name of the public fund;
 - (2) the Australian Business Number of the Company;
 - (3) the fact that the receipt is for a gift; and
 - (4) any other matter required to be included on the receipt pursuant to the requirements of the *Income Tax Assessment Act 1997*.
- 5.7 If, upon the first occurrence of:
- (1) the winding up or dissolution of the public fund; and
 - (2) the public fund ceasing to be endorsed as a deductible gift recipient,

there remains after satisfaction of all its debts and liabilities, any property or funds, the property or funds shall not be paid to or distributed amongst the Company's members, but shall be given or transferred to some other charitable fund, authority or institution having objects similar to the objects of the public fund, and whose rules shall prohibit the distribution of its or their income among its or their members, such fund, authority or institution to be eligible for tax deductibility of donations under Subdivision 30-B, section 30-100, of the *Income Tax Assessment Act 1997* and listed on the Register of Cultural Organisations maintained under that Act.

6 Application of income and property

- 6.1 The income and property of the Company, from wherever it is derived, must be applied solely towards the promotion of the objects of the Company set out in rule 3.

7 No distribution to members

- 7.1 No portion of the income or property of the Company may be paid directly or indirectly, by way of dividend, bonus or otherwise to the members of the Company.
- 7.2 Rule 7.1 does not prevent:
- (1) the payment in good faith of remuneration to any officer, servant or other member of the Company in return for services rendered or goods supplied to the Company;

- (2) the payment of interest at a rate not exceeding 12% per annum on money borrowed from any member of the Company;
- (3) the payment of reasonable and proper rent by the Company to a member of the Company for premises leased by the member to the Company; or
- (4) the reimbursement of expenses properly incurred by any member on behalf of the Company.

8 Limited liability

8.1 The liability of the members is limited.

9 Guarantee

9.1 Every member of the Company undertakes to contribute an amount not exceeding \$50 to the property of the Company in the event of its being wound up while the member is a member or within 1 year after the member ceases to be a member, if required for payment:

- (1) of the debts and liabilities of the Company (contracted before the member ceases to be a member);
- (2) of the costs, charges and expenses of winding up; and
- (3) for the adjustment of the rights of the contributories among themselves.

Membership

10 Number of members

10.1 The number of members for which the Company proposes to be registered is unlimited.

11 Membership

11.1 The members of the Company are:

- (1) the current members of the Company as at the date of adoption of this constitution; and
- (2) any other persons the directors admit to membership in accordance with this constitution.

12 Categories of membership

12.1 The categories of membership are:

- (1) ordinary members;
- (2) associate members; and
- (3) life members.

12.2 Additional categories of members, if recommended by the directors, may be created from time to time by the members in general meeting.

13 Status of current members

13.1 With effect from the date of adoption of this constitution:

- (1) any member of the Company that is a body corporate will be an ordinary member;
- (2) any member of the Company who is an individual holding an “associate membership” or “affiliate membership” will be an associate member;
- (3) any member of the Company who is an individual and has been previously granted a “life membership” will be a life member; and
- (4) any individual who is a member of the Company and is not described in rules 13.1(2) to 13.1(3) inclusive will be:
 - (a) an ordinary member, provided that they satisfy the criteria set out in rule 14.1;
 - (b) an associate member if they do not satisfy rule 14.1 but do satisfy rule 15.

13.2 Any person or body corporate who is a member of the Company as at the date of adoption of this constitution:

- (1) is not required to pay an annual subscription until 1 June next occurring after the date of adoption of this constitution; and
- (2) must otherwise comply with this constitution from the date of adoption.

14 Application for ordinary membership

14.1 Any individual who:

- (1) is not less than 18 years of age at the date of application; and
- (2) ordinarily resides in the State of Victoria,

may apply for ordinary membership of the Company.

14.2 Any body corporate which:

- (1) either:
 - (a) is incorporated in the State of Victoria, Australia; or
 - (b) has its principal place of business in the State of Victoria, Australia; and
- (2) has the promotion of regional arts or cultural pursuits as a primary or principal focus;

may apply for ordinary membership of the Company.

15 Application for associate membership

- 15.1 Any individual who is not less than 18 years of age at the date of application may apply for associate membership of the Company.
- 15.2 A body corporate may not apply for associate membership of the Company.
- 15.3 Despite anything in this constitution to the contrary, an associate member:
- (1) has the right to receive notices of and to attend and be heard at any general meeting; but
 - (2) has no right to vote at any general meeting.

16 Form of application

- 16.1 An application for membership must be:
- (1) In a form approved by the directors;
 - (2) signed by the applicant; and
 - (3) accompanied by any other documents or evidence as to qualification for the type of membership applied for which the directors require.
- 16.2 If the applicant is a body corporate it must nominate 1 person (**nominated representative**) to represent it in the Company. The application form must:
- (1) state the name and address of the nominated representative; and
 - (2) be signed by the nominated representative.

17 Admission to membership

- 17.1 The directors, or their delegate, must consider an application for membership as soon as practicable after its receipt and determine, in their discretion, the admission or rejection of the applicant.
- 17.2 The directors need not give any reason for the rejection of an application.
- 17.3 If an application for membership is rejected, the secretary must notify the applicant in writing.
- 17.4 If an applicant is accepted for membership, the secretary must:
- (1) notify the applicant in writing; and
 - (2) request payment of the annual subscription, determined in accordance with rule 21.
- 17.5 The applicant becomes a member upon payment of the annual subscription. The name and details of the member must be entered in the Register.
- 17.6 If payment of the annual subscription is not received within 2 months after the date of the giving of the notice referred to in rule 17.4, the directors may revoke their acceptance of the applicant for membership.

18 Notification by members

- 18.1 Each member must promptly notify the secretary in writing of any change in their qualification to be a member of the Company.
- 18.2 Each organisation member must promptly notify the secretary in writing of any change in the person nominated as its nominated representative under rule 16.2.
- 18.3 A person nominated as a nominated representative must consent to the nomination in writing.

19 Life membership

- 19.1 If, in the opinion of the directors, a member has made, over a period of years, a significant contribution to the Company, the directors may nominate the member as a life member of the Company.
- 19.2 A member nominated under rule 19.1 must be notified of their nomination and asked to accept or reject their nomination. If accepted, that member will automatically become a life member, with effect from the date on which they accept their nomination.
- 19.3 Despite rule 19.1, a body corporate may not be nominated or become a life member.
- 19.4 A life member has all the rights and privileges of ordinary membership and is otherwise subject to this constitution.

20 Register of members

- 20.1 The Company must keep a Register in accordance with the Act.
- 20.2 The following must be entered in the Register in respect of each member:
- (1) the full name of the member;
 - (2) the residential address, and email address, if any, of the member;
 - (3) the category of membership;
 - (4) the date of admission to and cessation of membership;
 - (5) the date of last payment of the member's annual subscription;
 - (6) in the case of an organisation member, the full name, address, and email address, if any, of its nominated representative; and
 - (7) such other information as the directors require.
- 20.3 Each member and nominated representative must notify the secretary in writing of any change in that person's name, address, or electronic mail address within 1 month after the change.

Annual subscription

21 Annual subscription

- 21.1 The annual subscription payable by a member of the Company is the sum the directors determine from time to time.

- 21.2 All annual subscriptions, in respect of:
- (1) new members are due and payable upon acceptance as a member, in accordance with clause 17.5; and
 - (2) current members, are due and payable between July and September each year.
- 21.3 If a person is admitted to membership of the Company during the months of January to June inclusive the directors may reduce the annual subscription payable by the applicant in any manner they see fit.
- 21.4 No annual subscription is payable by any life member.

22 Unpaid annual subscriptions

- 22.1 If:
- (1) the annual subscription of a member remains unpaid for 2 months after it becomes payable; and
 - (2) a notice of default is given to the member following a resolution of the directors to do this;
- the member ceases to be entitled to any of the rights or privileges of membership but these may be reinstated on payment of all arrears if the directors see fit.

Cessation of membership

23 Resignation

- 23.1 A member may resign from membership of the Company by giving written notice to the secretary.
- 23.2 The resignation of a member takes effect on the date of receipt of the notice of resignation or any later date provided in the notice.

24 Failure to pay

- 24.1 If a member has not paid all arrears of annual subscriptions under rule 21 or, if paid, the member's rights and privileges are not reinstated:
- (1) the member remains liable for all the obligations and liabilities of membership until the expiration of 6 months after the date of notification under rule 22.1(2); and

25 Cessation of membership

- 25.1 A member who is an individual ceases to be a member:
- (1) on the death of the member; or
 - (2) if the member is expelled under rule 26.
- 25.2 An organisation member ceases to be a member:
- (1) if it is wound up or is otherwise dissolved or deregistered; or
 - (2) if it is expelled under rule 26.

25.3 A life member ceases to be a member:

- (1) if the member is an individual, in accordance with rule 25.1; or
- (2) if the directors, for any reason, request in writing the resignation of the member and the member does not resign within 2 months after the request is sent.

26 Disciplining members

26.1 If any member:

- (1) wilfully refuses or neglects to comply with the provisions of this constitution; or
- (2) is guilty of any conduct which, in the opinion of the directors, is unbecoming of a member or prejudicial to the interest of the Company;

the directors may resolve to censure, suspend or expel the member from the Company and, in the case of expulsion, to remove the member's name from the Register.

26.2 At least 1 week before the meeting of the directors at which a resolution of the nature referred to in rule 26.1 is passed the directors must give to the member notice of:

- (1) the meeting;
- (2) what is alleged against the member; and
- (3) the intended resolution.

26.3 At the meeting and before the passing of the resolution, the member must have an opportunity of giving orally or in writing any explanation or defence the member sees fit.

26.4 A member may, by notice in writing lodged with the secretary at least 24 hours before the time for holding the meeting at which the resolution is to be considered by the directors, elect to have the question dealt with by the Company in general meeting and in that event, a general meeting of the Company must be called for that purpose.

26.5 If at the meeting a resolution to the same effect as the resolution which was to be considered by the directors is passed by a majority of 2/3 of those present and voting (and the vote must be taken by secret ballot), the member concerned must be punished in the manner resolved and in the case of a resolution for expulsion the member is expelled and the member's name must be removed from the Register.

26.6 If any member ceases to be a member under rule 26.5, the directors may reinstate the member and restore the name of that member to the Register upon and subject to any terms and conditions they see fit.

27 Effect of cessation of membership

27.1 If any member ceases to be a member under this constitution, the member remains liable to pay to the Company for any money which, at the time of the member ceasing to be a member, the member owes to the Company on any account and for any sum not exceeding \$50 for which the member is liable under rule 9 of this constitution.

Meetings of members

28 Circulating resolutions

- 28.1 This rule 28 applies to resolutions which the Act, or this constitution, requires or permits to be passed at a general meeting, except a resolution under section 329 of the Act to remove an auditor.
- 28.2 The Company may pass a resolution without a general meeting being held if all the members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 28.3 Separate copies of a document may be used for signing by members if the wording of the resolution and statement is identical in each copy.
- 28.4 The resolution is passed when the last member signs.
- 28.5 If the Company receives by electronic mail a copy of a document referred to in this rule 28 it is entitled to assume that the copy is a true copy.

29 Calling of general meeting

- 29.1 A majority of directors may call a general meeting whenever they see fit.
- 29.2 Except as permitted by law, a general meeting, to be called the **annual general meeting**, must be held at least once in every calendar year.
- 29.3 Except as provided in the Act, no member or members may call a general meeting.

30 Amount of notice of meeting

- 30.1 Subject to the provisions of the Act as to short notice, at least 21 days' notice of a general meeting must be given in writing to those persons who are entitled to receive notices from the Company.

31 Persons entitled to notice of general meeting

- 31.1 Written notice of a meeting of the Company's members must be given individually to:
- (1) each member entitled to vote at the meeting;
 - (2) each director; and
 - (3) the Company's auditor.
- 31.2 The Company is only required to give notice of general meetings to those persons entitled to receive notice under this constitution and the Act.

32 How notice is given

- 32.1 The Company may give the notice of meeting to a member:
- (1) personally;
 - (2) by sending it by post to the address for the member in the Register or the alternative address (if any) nominated by the member;

- (3) by sending it by other electronic means nominated by the member; or
- (4) by notifying the member in accordance with rule 32.2.

32.2 If the member nominates:

- (1) an electronic means (**nominated notification means**) by which the member may be notified that notices of meeting are available; and
- (2) an electronic means (**nominated access means**) the member may use to access notices of meeting;

the Company may give the member notice of the meeting by notifying the member (using the nominated notification means):

- (3) that the notice of meeting is available; and
- (4) how the member may use the nominated access means to access the notice of meeting.

33 When notice is given

33.1 A notice of meeting sent by post is taken to be given 3 days after it is posted.

33.2 Except as provided by rule 33.3, a notice of meeting given to a member under rule 32.1(3) is taken to be given on the business day after it is sent.

33.3 A notice of meeting given to a member under rule 32.1(3) is not effective if:

- (1) in the case of service by electronic mail, the Company's computer reports that delivery has failed; or
- (2) in either case the addressee notifies the Company immediately that the notice was not fully received in a legible form.

33.4 A notice of meeting given to a member under rule 32.1(5) is taken to be given on the business day after the day on which the member is notified that the notice of meeting is available.

33.5 A certificate signed by a manager, secretary or other officer of the Company that the notice was posted or given in accordance with this rule 33 is conclusive evidence of the matter.

34 Period of notice

34.1 Subject to the Act and this constitution where a specified number of days' notice or notice extending over any period is required to be given, the day of service is excluded, and the day upon which the notice expires is included.

35 Contents of notice

35.1 A notice of a general meeting must:

- (1) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used);
- (2) state the general nature of the meeting's business;
- (3) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;

- (4) be worded and presented in a clear, concise and effective manner; and
- (5) contain a statement setting out the following information:
 - (a) that the member has a right to appoint a proxy; and
 - (b) that the proxy need not be a member of the Company.

36 Notice of adjourned meeting

- 36.1 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.

37 Accidental omission to give notice

- 37.1 The accidental omission to give notice of any general meeting to or the non-receipt of the notice by any person entitled to receive notice of a general meeting under this constitution does not invalidate the proceedings at or any resolution passed at the meeting.

38 Postponement of general meeting

- 38.1 The directors may postpone the holding of any general meeting whenever they see fit (other than a meeting requisitioned by members as provided by the Act) for not more than 42 days after the date for which it was originally called.
- 38.2 Whenever any meeting is postponed (as distinct from being adjourned under rule 40.3 or rule 41.3) the same period of notice of the meeting must be given to persons entitled to receive notice of a meeting as if a new meeting were being called for the date to which the original meeting is postponed.

39 Technology

- 39.1 The Company may hold a meeting of its members at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

40 Quorum

- 40.1 The quorum for a meeting of the Company's members is 10 members and the quorum must be present at all times during the meeting.
- 40.2 In determining whether a quorum is present, individuals attending as proxies, attorneys or body corporate representatives are counted. However, if a member has appointed more than 1 proxy, attorney or representative, only 1 of them is counted. If an individual is attending both as a member and as a proxy, attorney or body corporate representative, the individual is counted only once.
- 40.3 If a quorum is not present within 30 minutes after the time for the meeting set out in the notice of meeting:
 - (1) where the meeting was called by the members or upon the requisition of members, the meeting is dissolved; or
 - (2) in any other case, the meeting is adjourned to the date, time and place the directors specify. If the directors do not specify 1 or more of those things, the meeting is adjourned to:

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

40.4 If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

41 Chair at general meetings

41.1 The chair of the Company, if present, presides as chair at every general meeting.

41.2 Where a general meeting is held and:

- (1) there is no chair of the Company; or
- (2) the chair is not present within 30 minutes after the time appointed for the holding of the meeting or is unwilling to act;

the vice-chair of the Company if present presides as chair of the meeting or, if the vice-chair is not present or is unwilling to act, the directors present may appoint 1 of their number to be chair of the meeting and in default of their doing so the members present may appoint any 1 of their number to be chair of the meeting.

41.3 The chair may, at any time during the meeting, adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place. In exercising this discretion, the chair may, but need not, seek the approval of the members present. Unless required by the chair, no vote may be taken or demanded by the members present in respect of any adjournment.

41.4 The chair of the meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at that meeting. The rulings of the chair of a meeting on all matters relating to the procedure and conduct of the meeting are final and no motion of dissent from those rulings may be accepted.

41.5 The chair of the meeting may in their absolute discretion refuse admission to, or require to leave and remain out of the meeting, any person who is not a member, director or auditor of the Company.

41.6 A secretary who is not a member is entitled to be present and to speak at any general meeting.

41.7 The auditor of the Company from time to time and any assistant of the auditor who is not a member is entitled to be present and to speak at any general meeting on any part of the meeting's business that concerns the auditor in the capacity as auditor of the Company.

41.8 Any professional adviser of the Company (including, without limitation, a solicitor or financial adviser), at the request of any director, is entitled to be present and, at the request of the chair, to speak at any general meeting. However, subject to the Act and this constitution, the Company is not obliged to send a notice of meeting to any professional adviser.

42 Business at adjourned meetings

42.1 Only unfinished business is to be transacted at a meeting resumed after an adjournment.

Proxies and body corporate representatives

43 Who can appoint a proxy

- 43.1 A member who is entitled to attend and cast a vote at a meeting of the Company's members may appoint an individual or a body corporate as the member's proxy to attend and vote for the member at the meeting. The proxy need not be a member.

44 Rights of proxies

- 44.1 A proxy appointed to attend and vote for a member has the same rights as the member:

- (1) to speak at the meeting;
- (2) to vote (but only to the extent allowed by the appointment); and
- (3) to participate in a poll, but only where permitted by rule 57.3.

- 44.2 If a proxy is only for a single meeting it may be used at any postponement or adjournment of that meeting, unless the proxy states otherwise.

- 44.3 A proxy's authority to speak and vote for a member at a meeting is suspended while the member is present at the meeting.

- 44.4 A proxy may be revoked at any time by notice in writing to the Company.

45 When proxy form must be sent to all members

- 45.1 If the Company sends a member a proxy appointment form for a meeting or a list of persons willing to act as proxies at a meeting:

- (1) if the member requested the form or list – the Company must send the form or list to all members who ask for it and who are entitled to appoint a proxy to attend and vote at the meeting; or
- (2) otherwise – the Company must send the form or list to all its members entitled to appoint a proxy to attend and vote at the meeting.

46 Appointing a proxy

- 46.1 An appointment of a proxy is valid if it is signed or otherwise electronically authenticated (as referred to in regulation 2G.2.01 of the *Corporations Regulations 2001* and in rules 46.2 and 46.3) by the member making the appointment and contains the following information:

- (1) the member's name and address;
- (2) the Company's name;
- (3) the proxy's name or the name of the office held by the proxy; and
- (4) the meetings at which the appointment may be used.

An appointment may be a standing one.

- 46.2 An electronically authenticated appointment of a proxy must in addition to rule 50.1:
- (1) include a method of identifying the member; and
 - (2) include an indication of the member's approval of the information communicated.
- 46.3 If the electronically authenticated appointment of a proxy is done through either email or internet-based voting:
- (1) the member must be identified by personal details such as the member's name, personal address and date of birth; and
 - (2) the member's approval must be communicated by a form of security protection (for example, the entering of a confidential identification number such as a shareholder registration number or holder identification number).
- 46.4 An undated appointment is taken to have been dated on the day it is given to the Company.
- 46.5 An appointment may specify the way the proxy is to vote on a particular resolution. If it does:
- (1) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
 - (2) if the proxy has 2 or more appointments that specify different ways to vote on the resolution – the proxy must not vote on a show of hands;
 - (3) if the proxy is the chair – the proxy must vote on a poll, and must vote that way; and
 - (4) if the proxy is not the chair – the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.
- If a proxy is also a member, this rule 46.5 does not affect the way that the person can cast any votes the person holds as a member.
- 46.6 An appointment does not have to be witnessed.
- 46.7 A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.

47 Form of proxy sent out by Company

- 47.1 A form of proxy sent out by the Company may be in a form determined by the directors but must:
- (1) enable the member to specify the manner in which the proxy must vote in respect of a particular resolution; and
 - (2) leave a blank for the member to fill in the name of the person primarily appointed as proxy.
- 47.2 The form may provide that if the member leaves it blank as to the person primarily appointed as proxy or if the person or persons named as proxy fails or fail to attend, the chair of the meeting is appointed proxy.
- 47.3 Despite rule 47.1 an instrument appointing a proxy may be in the following form or in a form that is as similar to the following form as the circumstances allow:

Regional Arts Victoria
ACN 005 556 025 (**Company**)

I/We, _____ of _____, being a member/members of the Company, appoint _____ of _____ or, in their absence, _____ of _____ as my/our proxy to vote for me/us on my/our behalf at the *annual general/*general meeting of the company to be held on _____ and at any adjournment of that meeting.

† This form is to be used *in favour of/*against the resolution.

Signed on _____ .

* Strike out whichever is not desired.

† To be inserted if desired.

48 Receipt of proxy documents

48.1 For an appointment of a proxy for a meeting of the Company's members to be effective, the following documents must be received by the Company at least 48 hours before the meeting:

- (1) the proxy's appointment; and
- (2) if the appointment is signed or otherwise authenticated by the appointor's attorney – the authority under which the appointment was signed or authenticated or a certified copy of the authority.

48.2 If a meeting of the Company's members has been adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.

48.3 The Company receives an appointment or authority:

- (1) when it is received at any of the following:
 - (a) the Company's registered office; or
 - (b) a place, or electronic mail address specified for the purpose in the notice of meeting.
- (2) if the notice of meeting specifies other electronic means by which a member may give the document – when the document given by those means is received by the Company and complies with rules 46.2 and 46.3.

48.4 An appointment of a proxy is ineffective if:

- (1) the Company receives either or both the appointment or authority at an electronic address; and
- (2) a requirement (if any) in the notice of meeting that:
 - (a) the transmission be verified in a way specified in the notice; or
 - (b) the proxy produce the appointment and authority (if any) at the meeting;is not complied with.

49 Validity of proxy vote

- 49.1 A proxy who is not entitled to vote on a resolution as a member may vote as a proxy for another member who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.
- 49.2 Unless the Company receives written notice of one of the following matters before the start or resumption of the meeting at which the proxy votes, a vote cast by the proxy will be valid even if:
- (1) the appointing member dies;
 - (2) the member is mentally incapacitated;
 - (3) the member revokes the proxy's appointment; or
 - (4) the member revokes the authority under which the proxy was appointed by a third party;
- before the proxy votes.
- 49.3 A proxy is not revoked by the member attending and taking part in the meeting unless the member actually votes at the meeting on a resolution for which the proxy is proposed to be used.

50 Organisation member representative

- 50.1 A body corporate who is an organisation member may appoint an individual as a representative to exercise all or any of the powers the body corporate may exercise:
- (1) at meetings of the Company's members;
 - (2) at meetings of creditors or debenture holders;
 - (3) relating to resolutions to be passed without meetings; or
 - (4) in the capacity of a member's proxy appointed under rule 43.

The appointment may be a standing one. Members must notify the Company of any change of the name and/or details of their representative.

- 50.2 The appointment may set out restrictions on the representative's powers. If the appointment is to be by reference to a position held, the appointment must identify the position.
- 50.3 A body corporate may appoint more than 1 representative but only 1 representative may exercise the body's powers at any one time.
- 50.4 Unless otherwise specified in the appointment, the representative may exercise, on the body corporate's behalf, all of the powers that the body could exercise at a meeting or in voting on a resolution.

51 Attorney of member

- 51.1 An attorney for a member may do whatever the member could do personally as a member, but if the attorney is to vote at a meeting of members or a class of members the instrument conferring the power of attorney or a certified copy of it must be produced to the Company at least 48 hours before the meeting, in the same way as the appointment of a proxy.

Voting at meetings of members

52 How vote may be exercised

- 52.1 Subject to rules 53 and 54 at any general meeting of members, each ordinary member and each life member present has 1 vote on a show of hands and on a poll.
- 52.2 The vote may be exercised in person or by proxy, body corporate representative or attorney.

53 Voting disqualification

- 53.1 A member is not entitled to vote at a general meeting if:
- (1) the annual subscription of the member; or
 - (2) in the case of a person who is a nominated representative, the annual subscription of the organisation member for which they are the nominated representative;
- is more than 1 month in arrears at the date of the meeting or the postponed or adjourned meeting.

54 Objections to right to vote

- 54.1 A challenge to a right to vote at a meeting of members:
- (1) may only be made at the meeting; and
 - (2) must be determined by the chair, whose decision is final.
- 54.2 A vote not disallowed following the challenge is valid for all purposes.

55 How voting is carried out

- 55.1 A resolution put to the vote at a meeting of the Company's members must be decided on a show of hands unless a poll is demanded.
- 55.2 On a show of hands, a declaration by the chair is conclusive evidence of the result. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against.
- 55.3 Unless otherwise required by this constitution or the Act, all resolutions of the Company are ordinary resolutions which are resolutions passed by more than 50% of the votes cast by members entitled to vote on the resolutions.

56 Matters on which a poll may be demanded

- 56.1 A poll may be demanded on any resolution.
- 56.2 A demand for a poll may be withdrawn.

57 When a poll is effectively demanded

- 57.1 Subject to rule 57.3, at a meeting of the Company's members, a poll may be demanded by:
- (1) at least 3 members entitled to vote on the resolution;

- (2) a member or members with at least 5% of the votes that may be cast on the resolution on a poll; or
- (3) the chair.

57.2 The poll may be demanded:

- (1) before a vote is taken;
- (2) before the voting results on a show of hands are declared; or
- (3) immediately after the voting results on a show of hands are declared.

57.3 If a proxy has been appointed for one or more members, that proxy cannot demand a poll regardless of whether the proxy:

- (1) is acting for one or more members who would otherwise be entitled to vote on the resolution; or
- (2) is acting for a member or members with 5% (or more) of the votes that may be cast on the resolution on a poll,

but the proxy may participate in a poll if a poll is otherwise demanded in accordance with rule 57.1.

58 When and how polls must be taken

- 58.1 A poll demanded on a matter other than the election of a chair or the question of an adjournment must be taken when and in the manner the chair directs.
- 58.2 A poll on the election of a chair or on the question of an adjournment must be taken immediately.
- 58.3 The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.
- 58.4 The result of the poll is the resolution of the meeting at which the poll was demanded.

59 Chair's casting vote

- 59.1 In the case of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting has a casting vote in addition to any vote they may have in their capacity as a member or proxy.
- 59.2 The chair has a discretion both as to use of the casting vote and as to the way in which it is used.

Annual general meeting

60 Business of an annual general meeting

- 60.1 The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:
 - (1) the consideration of the annual financial report, directors' report and auditor's report;
 - (2) the election of directors;

- (3) the appointment of the auditor; and
- (4) the fixing of the auditor's remuneration.

All other business transacted at an annual general meeting and all business transacted at any other general meeting is special business.

- 60.2 The business of the annual general meeting also includes any other business which under this constitution or the Act ought to be transacted at an annual general meeting.
- 60.3 The chair of the annual general meeting must allow a reasonable opportunity for the members as a whole at the meeting to ask questions about or make comments on the management of the Company.
- 60.4 If the Company's auditor or the auditor's representative is at the meeting, the chair of an annual general meeting must:
- (1) allow a reasonable opportunity for the members as a whole at the meeting to ask the auditor or that representative questions relevant to the conduct of the audit, the preparation and content of the auditor's report, the accounting policies adopted by the Company in relation to the preparation of the financial statements and the independence of the auditor in relation to the conduct of the audit; and
 - (2) allow a reasonable opportunity for the auditor or their representative to answer written questions submitted to the auditor under section 250PA of the Act.

61 Resolutions proposed by members

- 61.1 A member may not at any meeting move any resolution relating to special business unless:
- (1) members with at least 5% of the votes that may be cast on the resolution have given the Company notice of the resolution or the requirements of section 249N of the Act have otherwise been satisfied, and 2 months' notice has elapsed since the notice was given; or
 - (2) the resolution has previously been approved by the directors.

Appointment of directors

62 Number of directors and initial directors

- 62.1 The number of directors must be not less than 6 nor more than 12, which must be made up of:
- (1) a maximum of 6 elected directors; and
 - (2) up to 6 additional co-opted directors.
- 62.2 The Company in general meeting may by resolution increase or reduce the number of directors referred to in rule 62.1 but the number may not be reduced below 6.
- 62.3 As at the date of adoption of this constitution, the persons named in Schedule 1 are all of the current directors of the Company.

63 Directors' qualifications and co-option

- 63.1 A person that is co-opted as, or is nominated to become, a director does not, at the time the co-option is made or nomination is submitted, need to be a member of the Company. Upon becoming

a director that person must immediately become a member (if that director is not already a member of the Company) and must retain their membership during their tenure as a director of the Company. The board of directors may resolve to waive any annual subscription that would otherwise be payable by co-opted directors.

- 63.2 To be eligible to become a director of the Company, a candidate must have one or more of the following skills and/or expertise in the following areas:
- (1) governance;
 - (2) regional community and cultural services development;
 - (3) arts, arts practice or arts administration;
 - (4) business/financial management;
 - (5) legal expertise in a non-profit organisation;
 - (6) regional economic and/or tourism development;
 - (7) human resources management;
 - (8) information technology communications;
 - (9) risk management/insurance; and
 - (10) marketing/fundraising.
- 63.3 At all times a majority of the directors of the Company must ordinarily reside in Victoria.
- 63.4 From time to time the directors of the Company may, by special resolution, determine additional criteria for a person to be eligible to become a director of the Company. Any additional criteria imposed under such a resolution will apply from the next annual general meeting of the Company following that resolution.
- 63.5 If, at any time, the directors determine by an ordinary resolution that the current board of directors as a whole lacks one or more of the skills and/or areas of expertise specified in rule 63.2, then:
- (1) subject to rule 63.5(2), the directors may ask one or more individuals who the directors consider possesses those skills and/or expertise to consider becoming a co-opted director of the Company;
 - (2) a person who is asked to be a co-opted director must not be a person who is not eligible to be appointed as an elected director of the Company during the period referred to in rule 64.5; and
 - (3) if the individual so asked agrees to act as a co-opted director of the Company, the directors may by ordinary resolution appoint that individual as a co-opted director of the Company.
- 63.6 Co-opted directors who are appointed under rule 63.5(3) take office immediately after the passing of the resolution.
- 63.7 Co-opted directors who are appointed under rule 63.5(3) will continue to serve as a director of the Company until the earlier of:
- (1) the date that is three (3) years after the date that the director takes office under rule 63.6, at which time the co-opted director is automatically removed as a director of the Company;

- (2) the co-opted director resigns as a director of the Company by giving notice in writing to the board of directors; or
- (3) the co-opted director is removed as a director of the Company by:
 - (a) an ordinary resolution of the board of directors; or
 - (b) an ordinary resolution of the members (whether passed at a general meeting of the Company or otherwise).

64 Election of elected directors

- 64.1 Subject to the *Corporations Act 2001* (Cth), the elected directors are to be elected by postal ballot, the results of which will be announced at each annual general meeting of the Company.
- 64.2 An elected director takes office at the conclusion of the annual general meeting at which their election is announced and holds office until the termination of the third annual general meeting that is held after their appointment (each such period a **Term**).
- 64.3 There will be a rotational system for the election of elected directors so that at each annual general meeting approximately one-third of the elected directors (being those who have served approximately 3 years since they were elected) must retire from office. A retiring elected director may stand for re-election as a director subject to rule 64.5.
- 64.4 An elected director may not serve more than three consecutive Terms.
- 64.5 If a person has served three consecutive Terms, they will be eligible to be appointed as an elected director for further Terms only if they have not been an elected director of the Company for at least three years.

65 Nomination for election

- 65.1 Each candidate for election as an elected director must:
 - (1) be proposed by an ordinary member, or a life member, or the nominated representative of an ordinary organisation member; and
 - (2) be seconded by another ordinary member, or another life member, or the nominated representative of another ordinary organisation member;both of which must be (or represent) fully paid ordinary members of the Company at the time of nomination.
- 65.2 No ordinary member, life member or nominated representative of an organisation member may propose more than 1 person as a candidate for election as an elected director but may second more than 1 nomination.
- 65.3 A nomination of a candidate for election as an elected director must:
 - (1) be in writing;
 - (2) be signed by the candidate;
 - (3) include:
 - (a) the candidate's full name and residential address; and

- (b) details of how the candidate otherwise satisfies the qualifications and eligibility criteria under rule 63 (including, if relevant, a copy of the candidate's curriculum vitae); and
 - (4) be signed by the proposer and seconder.
- 65.4 A nomination of a candidate for election must be received at the registered office of the Company not later than 5pm on the day which is not less than 45 days prior to the annual general meeting at which the election of the candidate would take effect.
- 65.5 The directors of the Company will review the nomination of each candidate that is received in accordance with rule 65.4. The directors will, by ordinary resolution, determine whether each candidate meets the qualifications and eligibility criteria established under rule 63, including to ensure that that the board of directors as a whole has (and continues to have) a suitable mix of the skills and/or areas of expertise specified in rule 63.2. The directors' determination on the eligibility of a candidate is final and cannot be appealed or disputed.
- 65.6 If the number of candidates for election as directors is equal to or less than the number of vacancies on the board, those candidates will be declared to have been duly elected as elected directors by the chair of the annual general meeting.
- 65.7 If the number of candidates for election as elected directors is greater than the number of vacancies on the board, a ballot must be held for the election of the candidates.

66 Ballot for election of elected directors

- 66.1 Not less than 30 days prior to the annual general meeting at which the election of candidates would take effect, the directors must:
- (1) cause to be prepared a ballot instrument with a list of the approved candidates' names in alphabetical order together with the proposers' and seconders' names;
 - (2) appoint a current director of the Company, who is not standing for election or re-election as a director, to act as the returning officer for the ballot; and
 - (3) send a ballot instrument that complies with rule 66.2 to each member who is entitled to vote on the appointment of directors of the Company;
- 66.2 Upon being appointed, the returning officer should:
- (1) prepare a list of all the current members of the Company who are entitled to vote on the appointment of elected directors. Any person becoming a member of the Company not less than 30 days prior to the annual general meeting at which the election of the candidate would take effect is not entitled to vote on the appointment of elected directors; and
 - (2) write to all candidates following the close of nominations providing them with a list of all of the candidates as they will appear on the ballot instrument, the arrangements for voting, information regarding the appointment of scrutineers, the day and time of counting the votes and any other information as the returning officer determines and
 - (3) ensure the system by which the ballot will be conducted satisfies the requirements that:
 - (a) only one vote may be made by each member; and
 - (b) voting is anonymous.
- 66.3 Unless otherwise determined by the directors, voting is to be conducted on the following basis:

- (1) there will be a single round of voting using a first-past-the-post voting method;
- (2) the ballot will be conducted on a multiple selection basis, namely that each member who is entitled to vote may cast a vote for as many candidates as there are vacant elected director positions; and
- (3) the candidates who receive the highest total number of votes will be appointed to fill each of the vacant director positions.

66.4 A ballot instrument must:

- (1) contain the directions for voting;
- (2) show the names of the candidates seeking appointment as an elected director in alphabetical order;
- (3) provide clear and concise direction as to the manner in which the vote is to be recorded;
- (4) be initialled by the returning officer or be individually identifiable;
- (5) in the case of a postal ballot, be accompanied by an envelope addressed to the returning officer with spaces on the back for the member to print their name and address, and a space for the member's signature; and
- (6) provide instructions on how the ballot instrument is to be returned to the returning officer and the date for the close of the ballot.

66.5 The ballot will be closed at 5pm on the day that is 7 days prior to the annual general meeting at which the election of the candidates will take effect. Any ballots received after this time will not be included in the ballot.

66.6 In the case of an electronic ballot:

- (1) A ballot instrument must be received by the returning officer prior to the close of the ballot in the form and manner specified in the ballot instructions.
- (2) On receipt of a ballot instrument, the returning officer must, if satisfied that a member of that name is included on the register of members of the Company and is eligible to vote on the appointment of directors, accept the ballot instrument and without opening or viewing the instrument, make written note to indicate that the member has voted.
- (3) The returning officer must at all times ensure the security of the ballot and the ballot instruments.
- (4) Any ballot instruments rejected by the returning officer (including those received by the returning officer after the date for the close of the ballot) should, insofar as is practicable, remain unopened or unviewed, as the case may be.

66.7 In the case of a postal ballot:

- (1) An envelope containing the completed ballot paper is to be received by the returning officer prior to the close of the ballot. It can be posted or delivered. On receipt of an envelope, the returning officer must, if satisfied that a member of that name is included on the register of members of the Company and is eligible to vote on the appointment of directors, accept the ballot paper in the envelope without opening the envelope and make written note to indicate that the member has voted.
- (2) The returning officer must at all times ensure the security of the returned postal vote envelopes.

- (3) Envelopes rejected by the returning officer (including those received by the returning officer after the date for the close of the ballot) should remain unopened.
- (4) At the close of the postal ballot, the returning officer is to open each envelope that has been determined as acceptable, extract the ballot paper (without unfolding it) and place it in a ballot box.

66.8 At the appointed time and place for the counting of the ballot:

- (1) the returning officer, any other polling officials appointed by the returning officer (not being candidates themselves) and any scrutineers appointed on behalf of candidates are entitled to be present;
- (2) a scrutineer is not entitled to assist the returning officer in the counting of ballot instruments. A candidate may not act as a scrutineer but each candidate is otherwise entitled to appoint a single scrutineer (who need not be a member) to be present at the count and to represent the candidate;
- (3) the returning officer will remove the ballot instruments from the ballot box or electronic holding system, examine each ballot instrument for formality and conduct the count with the assistance of any polling officers;
- (4) for the purposes of the ballot, a vote is to be regarded as informal (and therefore not counted) if it:
 - (a) has not been completed in accordance with the directions on it;
 - (b) has not been initialled by the returning officer or contain the individual identification marker; or
 - (c) contains a mark or writing which, in the returning officer's opinion, would enable the member to be identified (such as their name, address or member number); and
- (5) the counting of votes and the election of candidates will be determined in accordance with rule 66.3. In the event that two or more candidates have an equal number of votes, the returning officer will conduct a draw by means of placing the names of the two candidates into a hat or similar receptacle and drawing a single name. The candidate whose name is drawn will then be deemed to have been elected.

66.9 Promptly after the completion of the count, the returning officer must advise the directors and each candidate in writing of:

- (1) the results of the ballot;
- (2) the number of ballot instruments rejected and the reason for the rejection;
- (3) the number of votes received by each candidate;
- (4) the number of formal votes that were counted in the ballot;
- (5) the number of informal votes; and
- (6) the total number of votes cast.

66.10 The results of the election will then be announced to members by the chair at the annual general meeting.

- 66.11 All documents and records (including the list of members entitled to vote and all ballot instruments and envelopes) are to be kept by the returning officer for a period of one month after the annual general meeting and then destroyed.
- 66.12 Any challenge by a candidate to the result of the election must be made in writing to the returning officer within 7 days of the announcement of the results of the election at the annual general meeting. Challenges will be determined by the conducting of a re-count within 14 days of the date of the challenge. The procedure described in rules 66.9 to 66.11 will apply again (with any necessary modifications) to the re-count and all informal or rejected ballot instruments will again be considered by the returning officer as part of that re-count.

67 Time that appointment or retirement takes effect

- 67.1 Elected directors who are appointed with effect from the date of a meeting of members take office immediately after the end of the meeting.
- 67.2 Elected directors who retire at a meeting of members continue to hold office until the end of the meeting.

68 Office bearers

68.1 The office bearers of the Company are:

- (1) the chair;
- (2) the vice-chair;
- (3) the treasurer; and
- (4) the secretary.

69 First office bearers and subsequent election at board meeting

- 69.1 The first office bearers of the Company are the individuals holding those offices as the date of the adoption of this constitution. They hold office until the end of the first meeting of the directors held after the next annual general meeting of the Company.
- 69.2 Subsequent office bearers are elected by the directors at the first meeting of the directors held after the adoption of this constitution and hold office until the end of the first meeting of the directors held after the next annual general meeting.
- 69.3 The directors present must appoint 1 of their number to act as chair of the meeting for the purpose of the election.

70 Eligibility and nomination

- 70.1 Only directors may be office bearers. Any director is eligible for election to any office bearer position.
- 70.2 Each director standing for election as an office bearer must be proposed by another director.
- 70.3 If a director stands for election for more than 1 position as an office bearer, separate nominations must be received in respect of each position.

- 70.4 A nomination may be:
- (1) in writing, received by the secretary not less than 24 hours prior to the board meeting at which the election is to take place and signed by the candidate and the proposer; or
 - (2) made orally at the meeting, provided that the candidate is present and consents to the nomination.

71 Election procedure – office bearers

- 71.1 The election of the office bearers is held in the order in which the positions are listed in rule 68.1.
- 71.2 If there is only 1 candidate for election to any office bearer position that person is declared elected to that position.
- 71.3 If there is more than 1 candidate for election to any office bearer position a ballot must be held among the candidates. The candidate receiving the greatest number of votes cast in their favour is declared elected to that position.
- 71.4 In the case of an equality of votes in respect of any position a further ballot must be held immediately but if there is still an equality of votes the successful candidate must be determined by lot.
- 71.5 If a director is elected to a position as office bearer then their nomination, if any, for any other position must be treated as withdrawn before the election is held in respect of the other position or positions.
- 71.6 Subject to this rule 71 a ballot is conducted in the manner the directors determine.

Appointment of directors between AGMs

72 Casual vacancies and additional directors

- 72.1 The Company in general meeting may by resolution and the directors may at any time appoint a person qualified to be a director, but only:
- (1) to fill a casual vacancy left by an elected director who resigns or is removed under rules 86 or 87 respectively or whose office is vacated in accordance with rule 88; or
 - (2) as an addition to the existing number of co-opted directors, but so that the total number of co-opted directors does not at any time exceed the number fixed in accordance with this constitution and provided that rule 63 is complied with.
- 72.2 Any director appointed under rule 72.1(1) to fill a casual vacancy left by an elected director holds office until the termination of the next annual general meeting of the Company and is then eligible for re-election- as an elected director at that annual general meeting.

73 Insufficient directors

- 73.1 In the event of a vacancy or vacancies in the office of a director, the remaining directors may act, but if the number of remaining directors is not sufficient to constitute a meeting of directors, they may act only for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or convening a general meeting of the Company.

Powers of directors

74 Validation of acts of directors and secretaries

- 74.1 An act done by a director or secretary of the Company is effective even if their appointment, or the continuance of their appointment is invalid because the Company, the director or secretary did not comply with this constitution or any provision of the Act.
- 74.2 Rule 74.1 does not deal with the question whether an effective act by a director or secretary:
- (1) binds the Company in its dealings with other people; or
 - (2) makes the Company liable to another person.
- 74.3 Where a person whose office as director of the Company is vacated under a provision of the Act purports to do an act as a director of the Company, that act is as valid, in relation to a person dealing with the Company in good faith and for value and without actual knowledge of the matter because of which the office was vacated, as if the office had not been vacated.

75 General business management

- 75.1 The business of the Company is to be managed by or under the direction of the directors.
- 75.2 The directors may exercise all the powers of the Company except any powers that the Act or this constitution requires the Company to exercise in general meeting.
- 75.3 A rule made or resolution passed by the Company in general meeting does not invalidate any prior act of the directors which would have been valid if that rule or resolution had not been made or passed.

76 Borrowing powers

- 76.1 Without limiting the generality of rule 75, but subject to rule 7, the directors may exercise all the powers of the Company to borrow money, to charge any property or business of the Company and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

77 Appointment of attorney

- 77.1 The directors may appoint any person or persons to be the attorney or attorneys of the Company for the purposes, with the powers and discretions (being powers and discretions vested in or exercisable by the directors), for the period and subject to the conditions they see fit.
- 77.2 A power of attorney may contain the provisions for the protection and convenience of persons dealing with the attorney that the directors see fit and may also authorise the attorney to delegate all or any of the powers and discretions vested in the attorney.

78 Negotiable instruments

- 78.1 Any 2 directors may sign, draw, accept, endorse or otherwise execute a negotiable instrument.
- 78.2 The directors may determine that a negotiable instrument, including a class of negotiable instrument, may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

79 Delegation to committee of directors

- 79.1 The directors may delegate any of their powers to a committee of directors and revoke the delegation.
- 79.2 A committee must exercise the powers delegated to it in accordance with any directions of the directors. The exercise of the power by the committee is as effective as if the directors had exercised it.
- 79.3 The meetings and proceedings of any committee of directors are governed by the provisions in this constitution regulating the meetings and proceedings of the directors.

80 Delegation generally

- 80.1 For managing any affairs of the Company in any specified locality the directors may:
- (1) establish any local committees, boards or branches;
 - (2) appoint any members of the Company or any nominated representative of an organisation member to be a member of the local committee, board or branch;
 - (3) appoint any managers or agents, fix their remuneration and delegate to them any of the powers vested in the directors; and
 - (4) authorise the members for the time being of the local committee, board or branch to fill any vacancies on it and to act despite vacancies.
- 80.2 In the exercise of delegated powers, any committee formed (including a committee of directors and a local board or branch) or person or persons appointed to the committee must conform to any regulations that may be imposed by the directors. The committee may be authorised to sub-delegate any of the powers vested in it.
- 80.3 A local committee, board or branch may remove any person appointed under rule 80.1(3) and may revoke or vary the delegation but no person dealing in good faith and without notice of the revocation or variation is affected by it.

Executive officer

81 Power to appoint

- 81.1 The directors may appoint any person, not being a director, to the position of executive officer for the period and on the terms (including as to remuneration) the directors see fit.

82 Not a member of the board

- 82.1 The executive officer is not a member of the board of the Company but may attend meetings of the directors except where the directors otherwise request.

83 Powers

- 83.1 The directors may, upon terms and conditions and with any restrictions they see fit, confer on an executive officer any of the powers that the directors can exercise.
- 83.2 Any powers so conferred may be concurrent with, or to the exclusion of, the powers of the directors.

84 Withdrawal of appointment or powers

84.1 The directors may revoke or vary:

- (1) an appointment; or
- (2) any of the powers conferred on an executive officer.

85 Temporary appointments

85.1 If an executive officer becomes incapable of acting in that capacity the directors may appoint any other person, not being a director, to act temporarily as executive officer.

Removal and resignation of directors

86 Removal of directors

86.1 The Company may by resolution remove a director from office.

87 Resignation of director

87.1 A director may resign as a director of the Company by giving a written notice.

88 Vacation of office of director

88.1 In addition to any other circumstances in which the office of a director becomes vacant under the Act, the office of a director becomes vacant if the director:

- (1) becomes bankrupt or suspends payment or compounds with their creditors;
- (2) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (3) is not present (either personally or by an alternate director) at 3 consecutive meetings of directors without special leave of absence from the directors and the directors declare their seat to be vacant;
- (4) ceases to be qualified as a director under rule 63;
- (5) becomes disqualified from being a director under the Act or any order made under the Act;
- (6) is removed from office in accordance with rule 86; or
- (7) resigns from office in accordance with rule 87.

Directors' interests

89 Prohibition on being present or voting

89.1 Except where permitted by the Act a director who has a material personal interest in a matter that is being considered at a meeting of directors:

- (1) must not be counted in a quorum;

- (2) must not vote on the matter; and
- (3) must not be present while the matter is being considered at the meeting.

89.2 If a director who has a material personal interest in a matter that is being considered at a meeting of the directors is not prohibited by the Act from being present at the meeting and voting, the director may be present, be counted in the quorum and may be heard but may not vote on the matter.

89.3 A director who is interested in any matter may, despite that interest, witness the fixing of the seal to any document evidencing or otherwise connected with that matter.

90 Director to disclose interests

90.1 A director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company must, as soon as practicable after the relevant facts have come to the director's knowledge, declare the nature of the interest at a meeting of the directors or by written notice to the secretary of the Company.

90.2 A director who holds any office or possesses any property by which, whether directly or indirectly, duties or interests might be created in conflict with their duties or interests as director must declare at a meeting of the directors of the Company or by written notice to the secretary of the Company the fact and the nature, character and extent of the conflict.

90.3 For the purposes of rules 90.1 and 90.2, a director's interest or any conflict must be disregarded if it arises from or relates solely to:

- (1) a guarantee to be given by the director (or by persons including the director or by a body corporate of which the director is a member or officer) in respect of a loan to the Company; or
- (2) the position of the director as a director of a related body corporate.

91 Effect of interest in contract

91.1 Subject to the Act, if a director has an interest in a contract or proposed contract with the Company (other than as a member), or a conflicting interest or duty in relation to any other matter being considered by the directors, and the director discloses the nature and extent of the interest or duty at a meeting of the directors or by written notice to the secretary of the Company:

- (1) the contract may be entered into; and
- (2) if the disclosure is made before the contract is entered into:
 - (a) the director may retain benefits under the contract even though the director has an interest in the contract;
 - (b) the Company cannot avoid the contract merely because of the existence of the interest; and
 - (c) the director is not disqualified from the office of director.

91.2 For the purposes of rule 91.1 **contract** includes an arrangement, dealing or other transaction.

92 Standing notice of interest

92.1 A director who has an interest in a matter may give the other directors standing notice of the nature and extent of the interest in the matter. The notice may be given at any time and whether or not the matter relates to the affairs of the Company at the time the notice is given.

92.2 A notice under the above rule may be given:

- (1) at a directors' meeting (either orally or in writing); or
- (2) to the other directors individually in writing.

92.3 If the standing notice is given to the other directors individually in writing:

- (1) the notice is effective when it has been given to every director; and
- (2) the notice must be tabled at the next directors' meeting after it is given.

92.4 The director must ensure that the nature and extent of the interest is recorded in the minutes of the meeting at which the standing notice is given or tabled.

93 Other interests

93.1 Without limiting rule 90 or rule 91 a director may to the extent permitted by the Act:

- (1) hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with the office of director;
- (2) be interested in any operation, undertaking or business undertaken or assisted by the Company or in which the Company is or may be interested.

94 Extension of meaning of "Company"

94.1 For the purposes of rules 90, 91 and 92 **Company** includes any subsidiary of the Company and any other company in which the Company or any subsidiary of the Company is or becomes a shareholder or is otherwise interested.

95 Other directorships and shareholdings

95.1 A director of the Company may be or become a director, officer, employee or member of any company promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable for any remuneration or benefits received as a director, officer, employee or member of the other company.

95.2 Subject to the Act:

- (1) the directors of the Company may exercise the voting power conferred by the shares or other interest held by the Company in another company in favour of a resolution appointing themselves or any of them as directors or other officers of the other company;
- (2) any director of the Company may vote at a meeting of directors of the Company in favour of a resolution that the Company exercises its voting power conferred by the shares or other interest held by the Company in the other company to appoint that director as a director or other officer of the other company;

- (3) any director of the Company may be appointed as representative of the Company and may vote at a general meeting of the other company in favour of a resolution appointing that director as a director or other officer of the other company; and
- (4) a director of the Company who is also a director of the other company may vote as a director of the other company in whatever manner they see fit, including voting in favour of a resolution appointing the director to any other office in the other company and a resolution appointing any other directors of the Company as directors or other officers of the other company.

Directors' meetings

96 Circulating resolutions

- 96.1 The directors may pass a resolution without a directors' meeting being held if all the directors entitled to vote on the resolution (except a director absent from Australia who has not left contact details acceptable to the directors, at which they may be given notice) sign a document containing a statement that they are in favour of the resolution set out in the document.
- 96.2 Separate copies of a document may be used for signing by directors if the wording of the resolution and statement is identical in each copy.
- 96.3 The resolution is passed when the last director signs.
- 96.4 A scanned document sent via email addressed to or received by the Company and purporting to be signed or sent by a director for the purpose of this rule 96 must be treated as a document in writing signed by that director.

97 Meetings of directors

- 97.1 The directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they see fit.

98 Calling directors' meetings

- 98.1 A director may at any time, and a secretary must on the requisition of a director, call a meeting of the directors.

99 Notice of meeting

- 99.1 Reasonable notice of every directors' meeting must be given to each director except that it is not necessary to give notice of a meeting of directors to any director who:
 - (1) has been given special leave of absence; or
 - (2) is absent from Australia and has not left a contact details acceptable to the directors at which they may be given notice.
- 99.2 Any notice of a meeting of directors may be given in writing or orally, and whether by telephone, electronic mail or any other means of communication.

100 Waiver of notice

- 100.1 All resolutions of the directors passed at a meeting where a quorum is present but where notice of meeting has not been given to each director, or any act carried out under any of the resolutions, is

as valid as if notice of meeting had been given to all directors if each director to whom notice was not given subsequently agrees to waive the notice.

101 Technology meeting of directors

- 101.1 A directors' meeting may be held using telephone or, if consented to by all directors, other technology. The consent may be a standing one. A director may only withdraw the consent within a reasonable period before the meeting.
- 101.2 If a directors' meeting is held using any technology and all the directors take part in the meeting, they must be treated as having consented to the use of the technology for that meeting.
- 101.3 The following provisions apply to a technology meeting:
- (1) each of the directors taking part in the meeting must be able to hear and be heard by each of the other directors taking part in the meeting; and
 - (2) at the commencement of the meeting each director must announce their presence to all the other directors taking part in the meeting.
- 101.4 If the secretary is not present at a technology meeting 1 of the directors present or another person nominated by them present at the meeting must take minutes of the meeting.
- 101.5 A director may not leave a technology meeting by disconnecting their link to the meeting unless that director has previously notified the chair of the meeting.
- 101.6 A director is conclusively presumed to have been present and to have formed part of a quorum at all times during a technology meeting unless that director has previously obtained the express consent of the chair to leave the meeting.

102 Chairing directors' meetings

- 102.1 The chair is the chair of all meetings of the directors.
- 102.2 At a meeting of directors if:
- (1) no chair has been elected as provided by rule 71; or
 - (2) the chair is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act;
- the vice-chair is the chair of the meeting, but if:
- (3) no vice-chair has been elected as provided by rule 71; or
 - (4) the vice-chair is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act;
- the directors present must elect a director present to chair the meeting.

103 Quorum

- 103.1 The quorum for a directors' meeting is 50% of the current directors entitled to vote plus 1 or a greater number determined by the directors. The quorum must be present at all times during the meeting.

104 Passing of directors' resolutions

- 104.1 A resolution of the directors must be passed by a majority of the votes cast by directors entitled to vote on the resolution.
- 104.2 The chair has a casting vote if necessary in addition to any vote they have as a director. The chair has discretion both as to whether or not to use the casting vote and as to the way in which it is used.

Remuneration of directors

105 No directors' remuneration

- 105.1 No director may receive any remuneration for their services in their capacity as a director of the Company.

106 Directors' expenses

- 106.1 Despite rules 7 and 105 the Company may permit payments to directors in the following circumstances:
- (1) for the payment of out-of-pocket expenses incurred in carrying out the duties of a director where the payments do not exceed an amount previously approved by the board;
 - (2) for any service rendered to the Company in a professional or technical capacity where the provision of that service has the prior approval of the board and the amount payable is approved by a resolution of the board and is on reasonable commercial terms; or
 - (3) as an employee of the Company where the terms of employment have been approved by a resolution of the board.
- 106.2 The directors must approve all payments the Company makes to its directors.

107 Financial benefit

- 107.1 The Company must not provide any financial benefit to a director or any related party of a director, other than in accordance with rule 106.1.
- 107.2 The Company must not make loans to directors or provide guarantees or security for obligations undertaken by directors other than obligations which were undertaken by the director solely in promotion of the objects of the Company.

Secretary

108 Appointment of secretary

- 108.1 If an executive officer is appointed under rule 81, the executive officer will also be the secretary of the Company. If an executive officer is not appointed under rule 81, then the directors must appoint a person to act as the secretary.
- 108.2 The directors may appoint a person as an acting secretary or as a temporary substitute for a secretary.

109 Terms of office of secretary

- 109.1 A secretary of the Company holds office on the terms and conditions (including as to remuneration) that the directors determine.

Indemnity and insurance

110 Indemnity

- 110.1 To the extent permitted by the Act, the Company indemnifies:

- (1) every person who is or has been an officer of the Company; and
- (2) where the board of directors considers it appropriate to do so, any person who is or has been an officer of a related body corporate of the Company;

against all losses, liabilities, costs, charges and expenses incurred by that person in their capacity as an officer of the Company or of the related body corporate (as the case may be). This indemnity includes, without limitation:

- (3) a liability for negligence; and
- (4) a liability for reasonable legal costs on a solicitor client basis including in respect of civil or criminal proceedings except to the extent prohibited by section 199A(3) of the Act.

- 110.2 The indemnity does not extend to and is not an indemnity against any amount in respect of which the indemnity would otherwise be illegal, void or unenforceable or not permitted by law and does not operate in respect of any liability of the officer to the extent that liability is covered by insurance.

- 110.3 In accordance with section 199A of the Act, the Company must not indemnify a person against:

- (1) any of the following liabilities incurred as an officer of the Company:
 - (a) a liability owed to the Company or a related body corporate;
 - (b) a liability for a pecuniary penalty order under section 1317G of the Act or a compensation order under section 1317H of the Act; or
 - (c) a liability that is owed to someone other than the Company or a related body corporate and did not arise out of conduct in good faith; or
- (2) legal costs incurred in defending an action for a liability incurred as an officer of the Company if the costs are incurred:
 - (a) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under rule 110.3(1);
 - (b) in defending or resisting criminal proceedings in which the person is found guilty;
 - (c) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the Court to have been established; or
 - (d) in connection with proceedings for relief to the person under the Act in which the Court denies the relief.

Rule 110.3(2)(c) does not apply to costs incurred in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for a court order.

- (3) For the purposes of rule 110.3(2) the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

110.4 An officer must:

- (1) give notice to the Company promptly on becoming aware of any Claim against the officer that may give rise to a right to be indemnified by the Company;
- (2) take such action as the Company reasonably requests to avoid, dispute, resist, appeal against, compromise or defend any Claim or any adjudication of a Claim;
- (3) not make any admission of liability in respect of or settle any Claim without the prior written consent of the Company;
- (4) allow the Company or its insurers to assume the conduct, negotiation or defence of any Claim and, on request by the Company, render all reasonable assistance and co-operation to the Company or its insurers in the conduct of any Claim, including giving the Company or its insurers any document, authority or direction that the Company or its insurers may reasonably require for the prosecution or advancement of any counterclaim or cross-claim;
- (5) on request by the Company or its insurers, do everything necessary or desirable which the Company reasonably requests to enable the Company or its insurers (so far as it is possible) to be subrogated to and enjoy the benefits of the officer's rights in relation to any counterclaim or cross-claim or any claims against any third party and render such assistance as may be reasonably requested by the Company or its insurers for that purpose; and
- (6) notify any Claim to an insurer or any other person who may be liable to indemnify the officer in respect of that Claim and promptly take all reasonable steps to enforce all the officer's rights against the insurer or other person.

110.5 In rule 110.4 **Claim** means:

- (1) any writ, summons, cross-claim, counterclaim, application or other originating legal or arbitral process against an officer as an officer of the Company;
- (2) any hearing, complaint, inquiry, investigation, proceeding or application commenced or originating against an officer as an officer of the Company; or
- (3) any written or oral demand or threat that might result in the officer reasonably believing that any such process, hearing, complaint, inquiry, investigation, proceeding or application referred to in rule 110.5(1) or 110.5(2) may be initiated.

110.6 If an officer of the Company becomes personally liable for the payment of any sum primarily due from the Company, and the officer may be indemnified under rule 110.1, the directors may, despite the interest (if any) of the directors or any of them, execute or cause to be executed a mortgage, charge or security over or affecting the whole or any part of the assets or undertaking of the Company by way of indemnity to secure the officer so becoming liable from any loss in respect of that liability.

111 Insurance

111.1 The Company may pay or agree to pay a premium in respect of a contract insuring a person who is or has been an officer of the Company or a related body corporate of the Company against any

liability incurred by the person as an officer of the Company or a related body corporate except a liability (other than one for legal costs) arising out of:

- (1) conduct involving a wilful breach of duty in relation to the Company; or
- (2) a contravention of section 182 or 183 of the Act.

112 Director voting on contract of indemnity or insurance

112.1 Despite anything in this constitution, a director is not precluded from voting in respect of any contract or proposed contract of indemnity or insurance, merely because the contract indemnifies or insures or would indemnify or insure the director against a liability incurred by the director as an officer of the Company or of a related body corporate.

113 Liability

113.1 An officer of the Company is not liable for the act, neglect or default of any other officer or for joining in any act or for any other loss, expense or damage which arises in the execution of the duties of their office unless it arises through their own negligence, default, breach of duty or breach of trust.

114 Meaning of “officer”

114.1 For the purposes of rules 110, 111, 112 and 113, **officer** means a director or secretary, or a member of a local committee, board or branch appointed under rule 80.1.

Winding up

115 Winding up

115.1 Subject to rule 5.7, if the Company is wound up or dissolved, the amount that remains after such winding up or dissolution and the satisfaction of all debts and liabilities will be transferred to another organisation with similar objects and purposes which is not carried on for the profit or gain of its members as determined by the members of the Company.

115.2 If the members do not make the necessary determination under rule 115.1, the Company may apply to the Supreme Court to determine the organisation or organisations to whom the transfers are to be made.

Minutes

116 Minutes to be kept

116.1 The directors must keep minutes in which they record within 1 month:

- (1) proceedings and resolutions of meetings of the Company’s members;
- (2) proceedings and resolutions of directors’ meetings (including meetings of a committee of directors);
- (3) resolutions passed by members without a meeting; and
- (4) resolutions passed by directors without a meeting.

- 116.2 The directors must ensure that minutes of a meeting are signed within a reasonable time after the meeting by 1 of the following:
- (1) the chair of the meeting; or
 - (2) the chair of the next meeting.
- 116.3 The directors must ensure that minutes of the passing of a resolution without a meeting are signed by a director within a reasonable time after the resolution is passed.
- 116.4 Without limiting rule 116.1 the directors must record in the minute books:
- (1) all appointments of officers;
 - (2) the names of the directors present at all meetings of directors and the Company;
 - (3) in the case of a technology meeting, the method by which the meeting was held;
 - (4) all orders resolutions and proceedings of general meetings and of meetings of the directors and of committees formed by the directors;
 - (5) proxy votes exercisable and exercised in respect of each resolution at a meeting; and
 - (6) all other matters required by the Act to be recorded in the minute books, including each notice and standing notice given by a director of a material personal interest in a matter that relates to the affairs of the Company.

Inspection of records

117 Rights of inspection

- 117.1 The directors of the Company, or the Company by a resolution passed at a general meeting, may authorise a member to inspect books of the Company.
- 117.2 A member other than a director does not have the right to inspect any document of the Company, other than the minutes for the meetings of its members and for resolution of members passed without meetings, except as provided by law or authorised by the directors or by the Company in general meeting.
- 117.3 Directors have the rights of inspection and access provided by section 198F of the Act.

118 Confidential information

- 118.1 Except as provided by the Act, no member (not being a director) is entitled to require or receive any information concerning the business, trading or customers of the Company or any trade secret, secret process or other confidential information of or used by the Company.

Accounts, audit and records

119 Accounts

- 119.1 The directors must cause proper accounting and other records to be kept in accordance with the Act.

119.2 The directors must distribute copies of every financial statement (including every document required by law to be attached to it) as required by the Act.

120 Audit

120.1 Subject to the Act, a registered company auditor must be appointed.

120.2 The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.

Execution of documents

121 Common seal

121.1 The Company may, but need not, have a common seal.

122 Use of common seal

122.1 If the Company has a common seal the directors must provide for its safe custody.

122.2 The common seal may not be fixed to any document except by the authority of a resolution of the directors or of a committee of the directors duly authorised by the directors.

122.3 The Company executes a document with its common seal if the fixing of the seal is witnessed by:

- (1) 2 directors of the Company;
- (2) a director and a company secretary of the Company; or
- (3) a director and any other person authorised by the directors for that purpose.

123 Execution of documents without common seal

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

- (1) 2 directors of the Company; or
- (2) a director and a company secretary of the Company.

123.2 Nothing in rule 123.1 prohibits the Company from executing documents by any other means permitted by law.

124 Execution of document as a deed

124.1 The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with rule 124 or rule 125.

125 Execution – general

125.1 The same person may not sign in the dual capacities of director and secretary.

125.2 A director may sign any document as director, with or without the common seal, although the document relates to a contract, arrangement, dealing or other transaction in which they are

interested and their signature complies with the requirements of this constitution as to execution despite their interest.

- 125.3 Rules 124 and 125 do not limit the ways in which the directors may authorise documents (including deeds) to be executed on behalf of the Company.

Notices

126 Notices other than notices of meeting

- 126.1 Any notice by the Company to a member may be given in the same way as a notice of meeting may be given under rule 32, and the time the notice is taken to be given is the same as provided in the case of a notice of meeting by rule 33.

Inadvertent omissions

127 Formalities omitted

- 127.1 If some formality required by this constitution is inadvertently omitted or is not carried out the omission does not invalidate anything, including any resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the directors that the omission has directly prejudiced any member financially. The decision of the directors is final and binding on all members.

Alterations

128 Alterations

- 128.1 If the Company is endorsed as an income tax exempt fund, a tax concession charity or a deductible gift recipient by the Australian Taxation Office, before making any alterations to this constitution (in particular rules 3, 5, 6, 7, and rule 115) the directors must consider:
- (1) whether those alterations may affect the entitlement of the Company to that endorsement; and
 - (2) whether, as a term of the endorsement, the Company is required to notify the Australian Taxation Office or any other government authority of the alterations to this constitution.

Signing

129 Signing

- 129.1 Adopted as the constitution of the Company by special resolution passed by its members at an annual general meeting on the date specified below.



.....
Signature of chairperson

Sue Hunt

.....
Name of chairperson (please print)

02/05/2024

.....
Date of adoption

Schedule 1 – Current Directors

First Name of director	Surname of director	Type of director under this Constitution	Date of first appointment or election	Current term expires
Hisham	Moustafa	Co-Opted Director	2022	2025
Sue	Hunt	Co-Opted Director	2022	2025
Karla	Conway	Elected Director	2024	2027
Debra	Jefferies	Elected Director	2024	2027
Tom	Molyneux	Elected Director	2023	2026
Richard	Hull	Elected Director	2024	2027
Rebecca	Hosking	Co-Opted Director	2023	2026
Mark	Avery	Elected Director	2023	2026
Rohan	Morris	Elected Director	2023	2026