



CONSTITUTION OF

The Spiers Centre Inc.

Charity ABN 60 848 523 312

An association incorporated pursuant to the Associations
Incorporation Act 2015 (WA)

PRELIMINARY MATTERS

1. Name

The name of the association is The Spiers Centre Inc.

2. Type of entity

The association is a not-for-profit association incorporated under the *Associations Incorporation Act 2015* (WA).

3. Definitions

In this Constitution, unless the contrary intention appears, words and phrases have the following meaning:

- (a) **ACNC** means the Australian Charities and Not-for-profits Commission.
- (b) **ACNC Act** means the Australian Charities and Not-for-profits Commission Act 2012 (Cth).
- (c) **Administrative Tribunal** means the State Administrative Tribunal of Western Australia.
- (d) **Annual General Meeting** means a general meeting of members called under clause 14.4.
- (e) **Association** means The Spiers Centre Inc.
- (f) **Associations Act 2015** means the *Associations Incorporation Act 2015* (WA).
- (g) **Association's books** means the association's registers, minutes, documents, securities, financial records, financial statements and financial reports as defined in Section 62 of the Associations Act, however compiled, stored or recorded.
- (h) **Board** means the group of people, called directors, who are responsible for the management of the affairs of the association.
- (i) **Board meeting** means a meeting of the directors.)
- (j) **Chairperson** means the person elected by the board to hold this office.
- (k) **Charitable Collections Act** means the *Charitable Collections Act 1946* (WA).
- (l) **Chief Executive Officer (CEO)** means the person appointed by The Spiers Centre to assume responsibility for day-to-day management and operations of The Spiers Centre, and includes a person appointed by The Spiers Centre as acting CEO.
- (m) **Circular resolution** means a resolution that is passed without a face-to-face general meeting or board meeting being held.
- (n) **Clause** means a clause of this constitution.
- (o) **Commissioner** means the person designated as the Commissioner from time to time under the Associations Act.
- (p) **Constitution** means this document as amended from time to time.
- (q) **Corporations Act** means the *Corporations Act 2001* (Cth).
- (r) **Department** means the Western Australian government department principally assisting with the administration of the Associations Act, currently the Western Australian Department of Commerce.
- (s) **Deputy Chairperson** means the person who will preside over board and general meetings in the Chairperson's absence.
- (t) **Director** means a member of the board appointed under clause 21.
- (u) **Ex-officio** means a person who holds a position on the board, or committee, but is not entitled to move or second motions or amendments, or to cast a vote.
- (v) **Financial records** means:
 - (i) Invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers,
 - (ii) Documents of prime entry such as sales day books, purchase day books, sales returns day books, purchases returns day books, bank books, cash receipts books, cash payments books, petty cash receipts books, petty cash payments books and journals, and
 - (iii) Working papers and other documents needed to explain:

- (A) The methods by which financial statements are prepared, and
 - (B) Adjustments to be made in preparing financial statements.
- (w) **Financial report** refers to the financial report for a financial year of the association and comprises:
 - (i) The financial statements for the financial year of the association,
 - (ii) The notes to the financial statements for the financial year of the association, and
 - (iii) The declaration about the financial statements and notes made by the board of the association.
- (x) **Financial statements** means:
 - (i) If the association uses the cash basis of accounting:
 - (A) A statement of receipts and payments for the financial year,
 - (B) A reconciled statement of bank account balances as at the end of the financial year, and
 - (C) A statement of assets and liabilities as at the end of the financial year.
 - (ii) If the association uses the accrual basis of accounting:
 - (A) A statement of income and expenditure for the financial year, and
 - (B) A balance sheet.
- (y) **Financial year** means a period of twelve (12) months commencing on 1 July and ending on 30 June each year.
- (z) **General meeting** means a meeting of the members of the association to which all members are invited to attend, and is either:
 - (i) an annual general meeting, or
 - (ii) a special general meeting.
- (aa) **Member** means a person or organisation that is a financial member of the association.
- (bb) **Minutes** means a permanent and detailed record of the deliberations of, and resolutions adopted at, general meetings and board meetings and may include a hardcopy or an authorised softcopy documentation of those deliberations and resolutions.
- (cc) **Model rules** means the template set of rules for incorporated associations established under the associations regulations.
- (dd) **Ordinary resolution** means a resolution at a meeting that:
 - (i) Is not a special resolution, and
 - (ii) Is passed by the votes of more than 50% of the persons who are entitled to cast a vote at that meeting.
- (ee) **Organisational member** means a member of the association that is a corporation, incorporated association or other form of body corporate.
- (ff) **Quorum** means the number of persons required to be present in order to conduct a meeting.
- (gg) **Registered Charity** means an organisation that is registered as a charity under the ACNC Act.
- (hh) **Secretary** means the person responsible for preparing agendas and taking correct minutes of board and general meetings.
- (ii) **Special general meeting** means any general meeting of members that is not an annual general meeting.
- (jj) **Special resolution** means a resolution proposed at a meeting and passed by the votes of not less than seventy five (75) % of the persons who are entitled to cast a vote at that meeting.
- (kk) **Surplus property** means the property remaining when the association is wound up or cancelled after satisfying:
 - (i) The debts and liabilities of the association, and
 - (ii) The costs, charges and expenses of winding up the association, but does not include books relating to the management of the association.
- (ll) **The Spiers Centre** means The Spiers Centre Inc.
- (mm) **Tier 2 association** means an association that, in a financial year:

- (i) Has a revenue of more than \$250,000 but less than \$1,000,000, or
- (ii) Has been declared by the Commissioner to be a Tier 2 association.

Tier 2 associations must prepare financial reports that give a true and fair view of the association in accordance with Australian Accounting Standards that is reviewed by a professional accounting body holding a public practicing certificate.

- (nn) **Tier 3 association** means an association that, in a financial year, has revenue of \$1,000,000 or more or such other amount that is prescribed from time to time under section 64(3) of the Associations Act.

Tier 3 associations must prepare financial reports that give a true and fair view of the association in accordance with Australian Accounting Standards which is audited by a professional accounting body holding a public practicing certificate.

- (oo) **Treasurer** means the person overseeing the financial activities of the association.

3.1. Relationship between constitution and Associations Act

The Associations Act overrides any provision in this constitution which is inconsistent with the Associations Act.

3.2. Interpretation

In this constitution:

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

OBJECT, PURPOSES AND POWERS

4. Object and purposes

The association's object is to pursue the following charitable purposes:

To relieve the poverty, misfortune and distress of individuals and families in the northern suburbs of Perth. In pursuing this, we aim to make a positive difference to the lives of individuals, families and the community through the provision of a range of practical and innovative services.

5. Powers

Subject to the Associations Act, the association may do all things necessary to lawfully pursue its objects and charitable purposes. These include the power to operate bank accounts; make investments; apply for funding; employ or terminate staff or otherwise alter an existing contractual arrangement; and appoint consultants.

6. Not-for-profit

6.1. Property and income

The property and income of the association shall be applied solely to promoting its object and purposes and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in promoting such object and purposes.

6.2. Permitted payments

Provided it is done in good faith, clause 6.1 does not prevent the association from:

- (a) Paying a member for goods or services they have provided, or expenses they have properly incurred at fair and reasonable rates, or

- (b) Making payment to a member in carrying out the association's objects and charitable purposes.

MEMBERS – MEMBERSHIP REQUIREMENTS

7. Number, qualifications and liability of members

7.1. Number

The association shall have a minimum of six (6) members with full voting rights.

7.2. Qualifications

- (a) Subject to clause 7.2(b) and except for staff members, any other person who supports the objects and charitable purposes of the association is eligible to apply for membership.
- (b) The association must comply with all legal and regulatory obligations that apply to the association when assessing eligibility of an applicant to become a member.
- (c) A person under the age of fifteen (15) years cannot belong to a class of members that has voting rights.

7.3. Liability

- (a) Members are to pay any membership fees set by the association.
- (b) Members are not liable to pay, by reason of the person's membership, any other debts incurred by or on behalf of the association, including the costs of winding up of the association.

8. Becoming a member

8.1. Application

- (a) A person who wishes to become a member (applicant) shall:
 - (i) Make a written application to the association on the association's membership application form, and
 - (ii) Be proposed and seconded for membership by two current members (nominees).
- (b) The membership application form shall be signed by the applicant and the nominees.
- (c) The membership application form shall specify the applicable class of membership applied for by the applicant.
- (d) An applicant becomes a member if:
 - (i) They meet all membership qualifications under clause 7.2,
 - (ii) They complete and forward a membership application form to the Secretary under clause 8.1(a)(i),
 - (iii) The board approves their membership application, and
 - (iv) They pay any membership fees due under clause 11.
- (e) When the requirements of clause 8.1(d) have been fulfilled the person becomes a member, is entitled to exercise all the rights and privileges of a member and is bound by this constitution.

8.2. Consideration of membership application

- (a) The board shall consider and decide whether to approve or reject a membership application.
- (b) Subject to clause 8.2(c), a membership application shall be considered and decided in the order in which it was received.
- (c) When considering a membership application, the board may seek clarification of any matter or further information in support of the application, and may delay its decision to allow for that material to be provided.
- (d) The board shall not approve a membership application unless the applicant:
 - (i) meets all the membership qualifications under clause 7.2, and
 - (ii) makes a written membership application under clause 8.1(a)(i).

- (e) The board may refuse to accept a membership application even if the applicant has applied in writing and meets all membership qualifications under clause 7.2.
- (f) As soon as is practicable after a decision is made under clause 8.2(a) the board shall give written notification to the applicant of the outcome of the membership application.
- (g) The board is not obliged to provide reasons to the applicant or to any other person for its decision to accept or reject a membership application.

If the applicant's membership application is rejected by the board, the applicant may request that their membership application, accompanied by with a brief document prepared by the applicant in support of their membership application, be put in the form of an ordinary resolution to the next occurring general meeting of the association.

9. Members register

9.1. Content of members register

- (a) The association shall maintain and keep updated a members register which shall contain:
 - (i) The full names of each member,
 - (ii) The contact postal, residential or email addresses of each member,
 - (iii) The class of membership held by each member, and
 - (iv) The date upon which a person became a member.
- (b) Within twenty eight (28) days after a change in membership the CEO, on behalf of the Secretary, shall ensure that a membership change is recorded in the members register.
- (c) The CEO, on behalf of the Secretary, shall ensure that the members register is kept and maintained at such place as the board decides.
- (d) The CEO, on behalf of the Secretary, will cause the name of a member who dies or who ceases to be a member to be deleted from the members register.

9.2. Inspection and copying of members register

- (a) A member shall be entitled to inspect the members register free of charge at such time and place as is mutually convenient to the association and the member.
- (b) A member shall contact the CEO to request to inspect the members register.
- (c) A member may make a copy of details from the members register but has no right to remove the members register.
- (d) A member may make a request in writing to the CEO for a copy of the members register for which the association may charge a reasonable fee, which is to be determined by the board from time to time.
- (e) The board may require a member who requests a copy of the members register under clause 9.2(d) to provide a statutory declaration to the CEO setting out the purpose of the request and declaring that the purpose is connected with the association's affairs.

9.3. Prohibited use of information on members register

A member shall not use or disclose the information on the members register:

- (a) To gain access to information that a member has deliberately denied to them (for example, in relation to a social, family or legal difference or dispute involving the latter member),
- (b) To contact, send material to the association or a member for the purpose of advertising for political, religious, charitable or commercial purposes, or
- (c) For any other purpose unless the use of the information:
 - (i) Is approved by the board, and
For a purpose directly connected:
 - (A) To the association's affairs, or
 - (B) To the provision of information to the Commissioner under the Associations Act.

10. Classes of members

10.1. Classes of members

- (a) The membership of the association consists of:
 - (i) Ordinary members (including individuals and organisational nominated delegate), and
 - (ii) Associate members where the association has created such a category of membership as provided in clause 10.1(b).
- (b) The association may have any category of associate members determined by resolution of members at a general meeting, including honorary membership, social membership or life membership etc.
 - (A) A volunteer of director who has served the association for more than ten (10) years will have honorary life membership conferred on them by the board,
 - (B) A person who has distinguished themselves in community service may be invited to be patron or vice-patron of the association.
- (c) A member under the age of fifteen (15) years cannot be a member.
- (d) No member can belong to more than one class of members.
- (e) An ordinary member has rights of a member, including:
 - (i) The right to vote,
 - (ii) Other rights and benefits determined by the board, or
 - (iii) Other rights and benefits determined by resolution of the members at a general meeting.
- (f) An associate member does not have a right to vote but has all other rights of a member referred to in clauses 10.1 (e)(ii) and 10.1 (e)(iii).

11. Membership fees

11.1. Annual membership fee

- (a) The board may from time to time determine the annual membership fee, if any, to be paid by each member.
- (b) Each member shall pay the annual membership fee to the association as and when decided by the board.
- (c) If a person fails to pay the annual membership fee to the association within three months after the due date, the person ceases to be a member.
- (d) If a person ceases to be a member under clause 11.1(c) and subsequently pays all the member's outstanding fees to the association, the board may, if it considers fit and at its sole discretion, reinstate the members' rights and privileges from the date on which the outstanding fees are paid, including the right to vote.

12. Termination of membership

12.1. Circumstances when membership terminates

- (a) A member's membership terminates if the member:
 - (i) Ceases to be a member under clause 11.1 (c),
 - (ii) Resigns as a member under clause 12.2,
 - (iii) Is expelled as a member under clause 12.3, or
 - (iv) Dies.
- (b) The association shall keep a record of:
 - (i) The date on which member's membership terminates under clause 12.1 (a) and
 - (ii) The reason the member's membership terminates within twenty eight (28) days after the change occurs and retain this information for a period of one year after a person's membership terminates.

12.2. Resignation of member

- (a) A member who has paid all membership fees may resign as a member by giving written notice of their resignation to the Secretary.
- (b) The member's resignation is effective as at:
 - (i) The time of receipt by the Secretary of the person's written notice of resignation, or
 - (ii) If a later time is stated in the notice, at that later time.
- (c) Despite their resignation, any member who resigns from the association remains liable to pay any outstanding membership fees to the association.
- (d) The outstanding fees referred to in clause 12.2(c) may be recovered as a debt due by the member to the association.

12.3. Suspension or expulsion of member

- (a) The association may, by board resolution, suspend or expel a member from membership if:
 - (i) The member refuses or neglects to comply with this constitution, or
 - (ii) The member's conduct or behaviour is detrimental to the interests of the association.
- (b) The Secretary shall, not less than twenty eight (28) days before the board meeting at which the suspension or expulsion resolution is to be considered, give written notice to the member:
 - (i) Of the proposed suspension or expulsion and the grounds on which it is based,
 - (ii) Of the date, place and time of the board meeting at which the suspension or expulsion resolution is to be considered,
 - (iii) That the member, or the member's representative, may attend the board meeting at which the suspension or expulsion resolution is to be considered, and
 - (iv) That the member, or the member's representative, may address the board at the board meeting at which the suspension or expulsion resolution is to be considered and shall be given a full and fair opportunity to state the member's case orally, in writing, or both.
- (c) At the board meeting at which the suspension or expulsion resolution is to be considered the board shall:
 - (i) Give the member, or the member's representative, a full and fair opportunity to state the member's case orally,
 - (ii) Give due consideration to any written statement submitted by the member, and
 - (iii) Determine whether or not the member should be:
 - (A) Expelled as a member, or
 - (B) Suspended as a member, and if so, the period of the member's suspension.
- (d) Once the board has decided to suspend or expel a member, the member is immediately suspended or expelled.
- (e) Within seven (7) days of the board meeting at which the suspension or expulsion resolution is considered, the Secretary shall ensure that the member is informed in writing of the board's decision and the reasons for the board's decision.

12.4. After suspension of member

- (a) If a member's membership is suspended under clause 12.3 the CEO, on behalf of the Secretary, shall record in the members register within twenty eight (28) days of the date of suspension:
 - (i) The suspended member's name,
 - (ii) The date on which the member's suspension takes effect, and
 - (iii) The length of the suspension determined by the board under clause 12.3(c)(iii)(b).
- (b) A suspended member cannot exercise any rights or privileges of a member, including voting rights, during the period of suspension.
- (c) Upon the expiry of the suspension period, the CEO, on behalf of the Secretary, shall record in the members register that the member is no longer suspended within twenty eight (28) days of that expiration date.

12.5. Member's right of appeal against suspension or expulsion

Within fourteen (14) days of receiving notice of the board's decision under clause 12.3(c), an expelled or suspended member may appeal the board's suspension or expulsion decision by giving written notice of the expelled or suspended member's intention to seek:

- (a) An appeal of the board's suspension or expulsion decision, and
- (b) The appointment of a mediator under clause 35.

12.6. Reinstatement of member

If the board's decision to suspend or expel a member is revoked, any act performed by the board or members in general meeting during the period that the member was suspended or expelled from membership under clause 12.3, is deemed to be valid, notwithstanding the member's inability to exercise their rights or privileges of a member, including the right to vote, during that suspension period.

ANNUAL GENERAL MEETING AND SPECIAL GENERAL MEETING

13. General meeting

13.1. Definition

A general meeting is a meeting of the members of the association.

13.2. Types of general meeting

There are two types of general meetings, namely:

- (a) An annual general meeting, and
- (b) A special general meeting.

14. Annual general meeting

14.1. Purpose of annual general meeting

An annual general meeting is:

- (a) A general meeting of all the members that is to be held once during each calendar year.
- (b) Called to conduct the following business:
 - (i) Confirmation of the minutes of the previous annual general meeting,
 - (ii) Confirmation of the minutes of any special general meeting held since the previous annual general meeting (if the minutes of that special general meeting have not yet been confirmed),
 - (iii) Elect or appoint directors,
 - (iv) Receive the financial statements for the previous financial year,
 - (v) Receive
 - (A) The review report on the financial statements for the previous financial year (if any), or
 - (B) The auditor's report on the financial statements for the previous financial year (if any, and
 - (vi) Discussion of, and voting on, ordinary and special resolutions.

14.2. Date, time and place of annual general meeting

The association's financial year will be the period of twelve (12) months commencing on 1 July and ending on 30 June of each year.

An annual general meeting shall be held on a date, and at a time and place, decided by the board.

14.3. Financial statements and reports and annual general meetings

- (a) As a tier 2 association:
 - (i) Within six (6) months from the end of a financial year the association shall prepare a financial report for the financial year.
 - (ii) It shall ensure that the financial report is reviewed and that a review report is prepared and presented for consideration by the annual general meeting, and,
 - (iii) if :
 - (A) A majority (more than 50%) of members present at a general meeting pass a resolution to this effect, or
 - (B) The Commissioner directs the association to do so, it shall ensure:
 - (1) That its financial statements for the relevant financial year are audited, and
 - (2) That a copy of the Auditor's report is submitted to the annual general meeting.
 - (iv) As required by the Associations Regulations and the ACNC, lodge the annual return with the Commissioner and the ACNC.
- (b) As a tier 3 association:
 - (i) Within six (6) months from the end of a financial year the association shall prepare a financial report for the financial year.
 - (ii) The association shall ensure that:
 - a. The financial report is audited and that an audit report is prepared, and
 - b. Copies of the auditor's report is submitted to the annual general meeting.
 - (iii) As required by the association's regulations and the ACNC, lodge the annual return with the Commissioner and the ACNC.

14.4. Holding annual general meeting

- (a) The association shall hold an annual general meeting each calendar year:
 - (i) Within six (6) months after the end of the financial year, or
 - (ii) Within a longer period if the Commissioner so allows.
- (b) If the association requires the approval from the Commissioner to hold its annual general meeting within a longer period under Clause 14.4(a)(ii) the Secretary shall ensure that application is made to the Commissioner for such approval no later than four (4) months after the end of the financial year.
- (c) The notice calling for an annual general meeting shall specify that it is an annual general meeting of the association and shall comply with Clause 14.1.

14.5. Special general meeting

- (a) Any meeting of members that is not an annual general meeting is called a special general meeting.
- (b) A special general meeting:
 - (i) Shall have a specific purpose,
 - (ii) Is often called to deal with business that cannot wait until the annual general meeting, and
 - (iii) May consider a range of matters, including matters that shall be decided by a special resolution.
- (c) The manner of calling, the quorum and procedure of a special general meeting are the same as for an annual general meeting, although the business to be conducted will be different.

14.6. Calling annual general meeting or special general meeting

- (a) An annual general meeting or special general meeting may be called by:
 - (i) The board, at any time, or
 - (ii) At least fifty (50) % of the total number of members entitled to vote at an annual general

meeting or special general meeting.

- (b) Members may call an annual general meeting or special general meeting under Clause 14.6(a)(ii) by forwarding a notice in writing to the Secretary or, in the absence of the Secretary, to the Chairperson.

14.7. Members call for annual general meeting or special general meeting

- (a) In the event that members request an annual general meeting or special general meeting to be held under Clause 14.6(a)(ii) the board shall:
 - (i) Within twenty one (21) days of the member's request, forward notice of a an annual general meeting or special general meeting to all members, and
 - (ii) Hold the annual general meeting or special general meeting within two (2) months of the member's request.
- (b) The percentage of votes of members set out in Clause 14.6(a)(ii) is to be calculated as at midnight before the day upon which the members request the annual general meeting or special general meeting to be called.
- (c) A request by the members for an annual general meeting or special general meeting to be held under Clauses 14.6(a)(ii) and 14.6(b) shall:
 - (i) State the purpose of the annual general meeting or special general meeting,
 - (ii) Be signed by no more than twenty (20) % of the members entitled to vote at an annual general meeting or special general meeting, and
 - (iii) Be lodged with the Secretary or, in the absence of the Secretary, with the Chairperson.
- (d) Separate copies of a document setting out the request by the members for an annual general meeting or special general meeting to be held under Clauses 14.6(a)(ii) and 14.6(b) may be signed by members if the wording of the request is the same in each copy of the request.

14.8. Failure to hold annual general meeting or special general meeting requested by members

- (a) If the board does not call the annual general meeting or special general meeting requested by members under Clauses 14.6(a)(ii) and 14.6(b) within twenty one (21) days of being requested, a majority (being more than 50%) of the percentage of members who made the request under 14.6(a)(ii) and 14.7(c)(ii), may call and arrange to hold an annual general meeting or special general meeting.
- (b) To call and hold an annual general meeting or special general meeting under Clause 14.8(a), the members shall:
 - (i) As far as possible, follow the procedures for an annual general meeting or special general meeting set out in this Constitution,
 - (ii) Call the annual general meeting or special general meeting using the list of members on the members register, which the association shall provide at no cost to the members making the request, and
 - (iii) Hold the annual general meeting or special general meeting within three months after the request for an annual general meeting or special general meeting to be held under Clauses 14.6(a)(ii) and 14.6(b) was lodged with the Secretary or, in the absence of the Secretary, with the Chairperson.
- (c) The association shall pay the members calling and holding the annual general meeting or special general meeting under Clauses 14.8(a) and 14.8(b) any reasonable expenses incurred by them because the board did not call and hold the annual general meeting or special general meeting under Clause 14.7.

14.9. Quorum at annual general meeting or special general meeting

- (a) Ten (10) members or fifty (50) % of the membership, whichever is less, present in person or by proxy and entitled to vote shall constitute a quorum for an annual general meeting or special general meeting.

- (b) Subject to Clauses 14.9(c) and 14.9(d), no business shall be conducted at an annual general meeting or special general meeting unless a quorum of members entitled to vote is present at the time the annual general meeting or special general meeting considering that item.
- (c) If, within half an hour of the time appointed for the commencement of an annual general meeting or special general meeting, a quorum is not present:
 - (i) In the case of a special general meeting, the meeting lapses, or
 - (ii) In the case of an annual general meeting, the meeting is to stand adjourned to:
 - (A) The same time and day in the following week, and
 - (B) The same place unless another place is specified by the Chairperson at the time of the adjournment or by written notice given to the members before the day to which the meeting is adjourned.
- (d) If at the adjourned annual general meeting or special general meeting a quorum is not present within half an hour of the time appointed for the commencement of the meeting, the members present are to constitute a quorum.

14.10. Notice of, and motions at, annual general meeting or a special general meeting

- (a) The Secretary shall ensure that each member is given at least:
 - (i) Fourteen (14) days' notice of a general meeting, or
 - (ii) Twenty one (21) days' notice of a general meeting if a special resolution is proposed to be moved at that general meeting.
- (b) The notice of an annual general meeting or special general meeting shall specify:
 - (i) The place, date and time of the annual general meeting or special general meeting,
 - (ii) That the member is entitled to attend and vote at the annual general meeting or special general meeting, and
 - (iii) The particulars and order of the business to be conducted at the annual general meeting or special general meeting.
- (c) The notice of an annual general meeting or special general meeting or any notice of motion must be issued in the manner set out in Clauses 36 and 37.

14.11. Using technology to hold annual general meeting or special general meeting

- (a) An annual general meeting or special general meeting may take place:
 - (i) Where the members are physically present together, or
 - (ii) By the use of any technology (such as video or teleconferencing) that is agreed to by all members, if it reasonably allows each member to participate fully in discussions and decisions as they happen in the annual general meeting or special general meeting and provided that the participation of each member is made known to all other members in attendance.
- (b) A member who participates in an annual general meeting or special general meeting as set out in Clause 14.11(a).
 - (i) Is deemed to be present at the annual general meeting or special general meeting, and
 - (ii) Continues to be present at the annual general meeting or special general meeting for the purposes of establishing a quorum, until the member notifies the other members that they are no longer taking part in the annual general meeting or special general meeting.

14.12. Conducting annual general meeting or special general meeting

- (a) The Chairperson shall normally act as Meeting Chair of each annual general meeting or special general meeting.
- (b) The members at an annual general meeting or special general meeting may elect a director other than the Chairperson to be the Meeting Chair for that annual general meeting or special general meeting if the Chairperson is:
 - (i) Not present within 30 minutes after the starting time set for the annual general meeting or special general meeting, or

- (ii) Present but does not want to act as Meeting Chair of the annual general meeting or special general meeting.
- (c) The annual general meeting or special general meeting cannot conduct business unless the quorum specified in Clause 14.9 is present.
- (d) At an annual general meeting or special general meeting at which the quorum specified in Clause 14.9 is present, the Meeting Chair may adjourn the annual general meeting or special general meeting with the consent of a majority (more than 50%) of the members present.
- (e) No business shall be conducted at a rescheduled annual general meeting or special general meeting other than the unfinished business from the adjourned annual general meeting or special general meeting.
- (f) When an annual general meeting or special general meeting is adjourned for fourteen (14) days or more, the Secretary shall ensure that notice of the adjourned annual general meeting or special general meeting is given to the members in accordance with Clause 14.10 as if that general meeting was a new annual general meeting or special general meeting.
- (g) If, within half an hour of the time appointed for the annual general meeting or special general meeting the quorum specified in Clause 14.9 is not present, the annual general meeting or special general meeting is to stand adjourned to the same time, day and place in the following week.
- (h) The Secretary shall ensure that minutes of the resolutions and proceedings of all annual general meetings or special general meetings are recorded and maintained together with a record of the names of persons present at each annual general meeting or special general meeting.
- (i) The Auditor is entitled to attend any annual general meeting or special general meeting and to be heard by the members on any part of the business of the annual general meeting or special general meeting that concerns the Auditor in the capacity of Auditor.
- (j) The association shall give the Auditor any communications relating to the annual general meeting or special general meeting that a member is entitled to receive.

ANNUAL GENERAL MEETING AND SPECIAL GENERAL MEETING – RESOLUTIONS

15. Ordinary and special resolutions

15.1. Definitions

- (a) There are two types of member's resolutions, namely:
 - (i) An ordinary resolution, and
 - (ii) A special resolution.
- (b) An ordinary resolution:
 - (i) Is a resolution that is not a special resolution as described in 15.1(c), and
 - (ii) Shall:
 - (A) Be passed at an annual general meeting or special general meeting at which a quorum is present, and
 - (B) Be supported by the votes of a majority (more than 50%) of the members present, in person or by proxy, and entitled to vote at the annual general meeting or special general meeting.
- (c) A special resolution:
 - (i) shall be necessary to:
 - (A) Amend the name of the association,
 - (B) Amend the constitution,
 - (C) Affiliate the association with another body,
 - (D) Transfer the incorporation of the association,
 - (E) Amalgamate the association with one or more other incorporated associations,
 - (F) Voluntarily wind up the association,

- (G) Cancel the incorporation of the association, or
 - (H) Request that a statutory manager be appointed to the association, and
- (ii) shall:
- (A) Be passed at an annual general meeting or special general meeting at which the quorum specified in Clause 14.9 is present, and
 - (B) Be supported by the votes of not less than seventy five (75) % of the members present, in person or by proxy, and entitled to vote at the annual general meeting or special general meeting.

15.2. Notice of special resolution

For a special resolution to be passed by the members at an annual general meeting or special general meeting:

- (a) Members shall receive notice of the special resolution twenty one (21) days (in accordance with clause 14.10(a)(ii)) before the date of the annual general meeting or special general meeting.
- (b) The notice of the special resolution shall:
 - (i) Be in writing,
 - (ii) Include the place, date and time of the general meeting where it is proposed that the special resolution be put,
 - (iii) Include the intention to propose a special resolution, and
 - (iv) Set out the wording of the proposed special resolution.
- (c) If notice is not given in accordance with Clause 15.2(b) the special resolution shall have no effect.

ANNUAL GENERAL MEETING AND SPECIAL GENERAL MEETING – VOTING

16. Voting conditions at annual general meeting and special general meeting

16.1. Number of votes per member at annual general meeting and special general meeting

- (a) Each member has one vote at an annual general meeting and special general meeting.

16.2. Entitlement to vote at annual general meeting and special general meeting

- (a) A member or their proxy is not entitled to vote at any annual general meeting or special general meeting unless all money due and payable to the association by the member or their proxy has been paid.
- (b) A member is only entitled to vote at an annual general meeting or special general meeting if the member's name is recorded in the members register as at the date the notice of the general meeting was sent out.

16.3. Organisational members and organisational representatives – voting at annual general meeting and special general meeting

- (a) An organisational member shall appoint a person to represent the organisational member at annual general meetings and special general meetings (organisational representative).
- (b) An organisational representative has authority to represent the organisational member:
 - (i) If appointed for a particular annual general meeting or special general meeting, until the conclusion of that annual general meeting or special general meeting, or
 - (ii) Otherwise, until the appointment of the organisational representative is revoked by the organisational member and notice of this revocation is given by the organisational member to the Secretary.

16.4. Voting procedure at annual general meeting and special general meeting

- (a) Voting at an annual general meeting and special general meeting shall be conducted and decided by:

- (i) A show of hands,
 - (ii) A vote in writing, or
 - (iii) Another method chosen by the Meeting Chair that is fair and reasonable in the circumstances.
- (b) Before a vote is taken, the Meeting Chair shall state whether any proxy votes have been received and, if so, how the proxy votes shall be cast.
 - (c) The Meeting Chair's decision is conclusive evidence of the result of the vote.
 - (d) The Meeting Chair and the minutes of the annual general meeting and special general meeting do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.
 - (e) In the case of an equality of votes at an annual general meeting or special general meeting, the Meeting Chair is entitled to exercise a second or casting vote.

16.5. When and how a vote in writing shall be held at annual general meeting and special general meeting

- (a) A vote in writing may be demanded on any resolution instead of, or after, a vote by a show of hands by:
 - (i) At least five (5) members present, or
 - (ii) The Meeting Chair.
- (b) A vote in writing shall be taken when and how the Meeting Chair directs.
- (c) A vote in writing shall be held immediately if it is demanded under Clause 16.5(a)
 - (i) For the election of a Meeting Chair under Clause 14.2(b) or
 - (ii) To decide whether to adjourn the annual general meeting or special general meeting.

17. Proxies at annual general meeting and special general meeting

17.1. Annual general meeting and special general meeting requirements

- (a) A member may appoint a proxy to attend and vote at an annual general meeting or special general meeting on their behalf.
- (b) The appointed proxy must be a member.
- (c) No member, other than the Chairperson, may hold more than two (2) proxy votes at an annual general meeting or special general meeting.
- (d) A proxy appointed to attend and vote for a member has the same rights as the member to:
 - (i) Speak at the annual general meeting or special general meeting,
 - (ii) Cast a vote in writing (but only to the extent allowed by the proxy's appointment), and
- (e) An appointment of proxy, using an agreed form, shall be signed by the appointing member and shall contain:
 - (i) The appointing member's name and address,
 - (ii) The association's name,
 - (iii) The proxy's name or the name of the office held by the proxy, and
 - (iv) The annual general meeting(s) and special general meeting(s) at which the appointment may be used by the proxy.
- (f) At least forty eight (48) hours before the annual general meeting or special general meeting for which the proxy relates is scheduled to commence, proxy forms shall be received by the association at the address stated in the notice of the annual general meeting or special general meeting, or at the association's registered address.
- (g) A proxy does not have the right to speak or vote for a member at an annual general meeting or special general meeting while the member is present at the annual general meeting or special general meeting.
- (h) A member may specify the way the proxy shall vote on a particular resolution.
- (i) When a vote in writing is held, a proxy does not need to vote, unless the proxy form appointment specifies the way they shall vote.

17.2. Determining whether ordinary resolution carried at annual general meeting and special general meeting

- (a) Unless a poll is demanded, if a question arising at an annual general meeting or special general meeting is determined by general agreement or a show of hands, a declaration shall be made by the Meeting Chair of the annual general meeting or special general meeting that the ordinary resolution has been:
 - (i) Carried unanimously,¹
 - (ii) Carried by a majority (more than 50%) of members present, or
 - (iii) Lost.
- (b) If the declaration relates to a special resolution then all items under clause 15.1(c) and 15.2 must be fulfilled. The minutes must also state that a special resolution has been determined.
- (c) A declaration made under Clause 17.2(a) shall be entered into the minutes.

17.3. Poll at annual general meeting and special general meeting

- (a) At an annual general meeting or special general meeting, a poll on any question may be demanded by either:
 - (i) The Meeting Chair, or
 - (ii) At least three members present in person or by proxy.
- (b) If a poll is demanded at an annual general meeting or special general meeting, the poll shall be taken in a manner as the Meeting Chair directs and a declaration by the Meeting Chair of the result of the poll is evidence of the matter so declared.
- (c) If a poll is demanded at a an annual general meeting or special general meeting, the poll shall be taken:
 - (i) Immediately in the case of a poll which relates to electing a Meeting Chair to chair the an annual general meeting or special general meeting,
 - (ii) Immediately in the case of a poll which relates to adjourning the annual general meeting or special general meeting, or
 - (iii) In any other case, in the manner and time before the close of the annual general meeting or special general meeting as the Meeting Chair directs.

BOARD AND DIRECTORS

18. Board role and powers

18.1. Role

The governing body of the association is to be called the board. The board shall control and manage the association's affairs and take all reasonable steps to ensure the association complies with its obligations under the Associations Act, this constitution and all other applicable laws.

18.2. Powers

Subject to the Associations Act, this constitution and any lawful resolution passed by the association in general meeting, the board:

- (a) May exercise all powers and functions as may be exercised by the association, other than those powers and functions that are required by this constitution to be exercised by a general meeting, and
- (b) Has power to perform all acts and do all things as appear to the board to be necessary or desirable for the proper management of the association's business and affairs.

19. Number of directors, composition and qualifications

19.1. Number of directors on board

The board shall have no fewer than four (4) and no more than eight (8) directors (including office bearers) plus the CEO (ex-officio).

The board may co-opt members for a prescribed period where particular expertise is required to complement board expertise. Co-opted members will not have the right to vote at board meetings.

19.2. Composition of board

- (a) The directors shall include:
 - (i) The Chairperson,
 - (ii) The Deputy Chairperson,
 - (iii) The Secretary,
 - (iv) The Treasurer,
(collectively called the office bearers), and
 - (v) At no more than four (4) additional directors.
- (b) A director is not entitled to hold more than one office bearer position at any time.

19.3. Qualifications of directors

- (a) A director shall be:
 - (i) A natural person (i.e. a human being),
 - (ii) Aged over 18, and
 - (iii) A member.
- (b) A person cannot be a director if:
 - a. They are a current employee of the association,
 - b. In the previous five years, they have been convicted of, or imprisoned for:
 - (A) An indictable offence under the laws of any state or territory of the Commonwealth of Australia in relation to the promotion, formation or management of a body corporate,
 - (B) An offence involving fraud or dishonesty punishable by imprisonment for a period of three (3) months or more under the laws of any state or territory of the Commonwealth of Australia, or
 - c. They are:
 - (A) Bankrupt, or
 - (B) Unless the person has obtained the consent of the Commissioner, a person whose affairs are under insolvency laws.
 - d. Unless they have obtained the consent of the Commissioner, a person who has committed a breach of the following director's duties:
 - (A) Duty of care and diligence,
 - (B) Duty of good faith and proper purpose,
 - (C) Duty to not improperly use their position,
 - (D) Duty to ensure that the association does not incur a debt while insolvent, or
 - (E) Duty to not improperly use information gained while a director.
- (c) A director who has been suspended as a member under Clause 12.3 cannot act in the position of a director until their period of suspension as a member has expired.

20. Directors duties

20.1. General directors' duties

Directors shall comply with their duties as directors under legislation and common (judge-made) law and shall:

- (a) Exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the association,
- (b) Act in good faith in the best interests of the association,
- (c) Act for a proper purpose,
- (d) Act to further the charitable objects and purposes of the association,
- (e) Act in the best interests of the association,
- (f) Not misuse information gained in their role as a director,
- (g) Disclose any perceived or actual material conflicts of interest,
- (h) Ensure that the financial affairs of the association are managed responsibly, and
- (i) Not allow the association to operate while insolvent.
- (j) Not improperly use:
 - (i) Information obtained because they are or were a director, or
 - (ii) Their position of director, to:
 - a. Gain an advantage for themselves or another person, or
 - b. Cause detriment to the association.

20.2. Directors conflict of interest

- (a) A director shall disclose to all the directors present at the board meeting the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at the board meeting.
- (b) Disclose the nature and extent of the interest at the next general meeting of the association.
- (c) The disclosure of a conflict of interest by a director shall be recorded in the minutes of the board meeting.
- (d) Each director who has a material personal interest in a matter that is being considered at a board meeting (or that is proposed in a board circular resolution) shall not, except as provided under Clause 21.2(d):
 - (i) Be present at the board meeting while the matter is being discussed, or
 - (ii) Vote on the matter.
- (e) A director may still be present and vote if:
 - (i) Their interest relates to an insurance contract that insures, or would insure, the director against liabilities incurred by the director as a director,
 - (ii) The directors who do not have a material personal interest in the matter pass a resolution that:
 - (A) Identifies the director, the nature and extent of the director's interest in the matter and how it relates to the association's affairs, and
 - (B) States that those directors who do not have a material personal interest in the matter are satisfied that the director's material personal interest in the matter should not prevent the director from being present at the board meeting while the matter is being discussed or from voting on the matter.

21. Appointment of directors

21.1. Nomination for appointment as directors

- (a) A member who wishes to be a director shall be nominated by two (2) other members as a candidate for election as a director.
- (b) Nominations for election as a director shall close at least twenty eight (28) days before the annual general meeting.
- (c) The Secretary must ensure a notice is sent, calling for nominations for election as a director and specifying the date for the close of nominations, to all members at least fourteen (14) days before the date for the close of nominations.
- (d) Nominations for election as director shall be:
 - (i) In writing, and

- (ii) Delivered to the Secretary on or before the date for the close of nominations.
- (e) A member may only be nominated for one (1) director position prior to the annual general meeting.
- (f) If a nomination for election as a director is not made in accordance with Clauses 21.1(a) to 21.1(e) the nomination shall be invalid and the member shall not be eligible for election as a director.

21.2. Methods

Directors shall be appointed to the board by:

- (a) Election at an annual general meeting, or
- (b) Appointment by the board to fill a casual vacancy under Clause 21.4.

21.3. Election of directors at an annual general meeting

- (a) Subject to this constitution, the procedure for the election of directors at the annual general meeting shall be decided by the board.
- (b) If the number of valid nominations received under Clause 21.1 is equal to the number of director vacancies to be filled, the member nominated will be regarded as being elected as a director at the annual general meeting.
- (c) If the number of valid nominations exceeds the number of director vacancies to be filled, elections for the director vacancies shall be conducted at the annual general meeting.
- (d) If there are not enough valid nominations to fill the number of director vacancies, the candidates nominated (if any) shall be deemed to be elected as directors and further nominations may be received from the floor of the annual general meeting.
- (e) Where the number of nominations as directors from the floor exceeds the remaining number of director vacancies, elections for those director positions shall be conducted.
- (f) A list of candidates for election as directors, with their names in alphabetical order, together with the names of the members who nominated each candidate, shall accompany the notice of the annual general meeting.
- (g) Each member present and eligible to vote at the annual general meeting may vote for one candidate for each director vacancy.
- (h) A member who nominates for election or re-election as a director may vote for themselves.
- (i) If, an insufficient number of nominations are received from the floor for the number of vacancies on the board that remain, each relevant position on the board is declared vacant by the Meeting Chair and Clause 21.4(b) applies.

21.4. Appointment of directors by board to fill a casual vacancy

- (a) A casual vacancy occurs in board membership and that position of director becomes vacant if:
 - (i) A director ceases to be a member,
 - (ii) A director dies,
 - (iii) A director becomes disqualified from holding a position under Clause 19.3(b),
 - (iv) A director becomes permanently incapacitated by mental or physical ill-health,
 - (v) A director resigns as a director,
 - (vi) A director is removed as a director,
 - (vii) A director is absent from more than:
 - (A) Three (3) consecutive board meetings without a good reason, or
 - (B) Three (3) board meetings in the same financial year without tendering an apology to the Meeting Chair of each of those board meetings, and the board has resolved to declare the position of director vacant, or
 - (viii) The association fails to fill a director vacancy under Clause 21.3.
- (b) If there is a casual vacancy within the meaning of Clause 21.3(i) the continuing directors may:
 - (i) Appoint a member to fill that director vacancy until the conclusion of the next annual general meeting, and

- (ii) Subject to Clause 21.3(i), continue to act despite the vacant position on the board.
- (c) If the number of directors is less than the number fixed under Clause 24.5 as the quorum for board meetings, the continuing directors may act only to:
 - (i) Increase the number of directors on the board to the number required for a quorum, or
 - (ii) Call a special general meeting.

21.5. Term of office

- (a) Directors shall be appointed to serve an initial term of three years.
- (b) Retiring directors will be eligible to re-nominate for a further two year term. A director may then re-nominate for additional terms of two years.
- (c) At each annual general meeting the following directors shall retire:
 - (i) Any director appointed by the directors to fill a casual vacancy, and
 - (ii) Directors who have reached the end of their term.
- (d) A director's term of office starts on the date at which they were elected, and ends on the date on which they retire, are expelled or suspended or where membership is terminated.
- (e) A director who retires under Clause 21.5(c) may nominate for election or re-election.

22. Resignation and removal of directors

22.1. Resignation

- (a) A director may resign from the board by giving written notice of resignation to the Secretary, or if the director is the Secretary, to the Chairperson.
- (b) The director's resignation is effective:
 - (i) At the time the notice is received by the Secretary or Chairperson under Clause 22.1(a) or
 - (ii) If a later time is stated in the notice, at the later time.

22.2. Removal

- (a) A director may only be removed from his or her position on the board by ordinary resolution at a general meeting if a majority (more than 50%) of the members present and eligible to vote at the general meeting vote in favour of the director's removal.
- (b) The director who faces removal is to be allowed a full and fair opportunity at the general meeting to review the proposed ordinary resolution, and state their case as to why they should not be removed from their position on the board.
- (c) If all directors are removed by ordinary resolution at a general meeting, the members shall, at the same general meeting, elect an interim board. The interim board shall, within two (2) months, hold a general meeting for the purpose of electing a new board.

22.3. Assets and records of director who ceases to be a director

Upon ceasing to be a director, outgoing directors are responsible for transferring all relevant assets and association's books to the new board within fourteen (14) days of ceasing to be a director.

23. Office bearers

23.1. Election of office bearers by board

An office bearer shall:

- (a) Be elected by the board, and
- (b) Remain as an office bearer for as long as the board deems fit.

23.2. Chairperson

- (a) The board must elect a director as the Chairperson.
- (b) The Chairperson:
 - (i) Must ensure that they consult with the Secretary regarding the business to be conducted

- at each board meeting and each general meeting,
- (ii) May call board meetings under Clause 24,
- (iii) May chair board meetings under Clause 24.1(c)(i),
- (iv) May chair annual general meetings and special general meetings,
- (v) Must ensure that the minutes of general meetings or board meetings are reviewed and signed as correct, and
- (vi) Must carry out any other duties required of the Chairperson by this constitution.

23.3. Secretary

The Secretary shall ensure the:

- (a) Maintenance of a current delegation of authority,
- (b) Co-ordination of correspondence of the association,
- (c) Calling and holding of general meetings and board meetings,
- (d) In consultation with the Chairperson, preparation of notices of general meetings and board meetings and the details of business to be conducted at each such meetings,
- (e) Maintenance of the members register,
- (f) Maintenance of the record of office bearers,
- (g) Maintenance of the minutes,
- (h) Safe custody of the association's books (with the exception of the accounting records),
- (i) Safe custody and management of the association's record-keeping systems in hardcopy form, electronic form or a combination of forms, taking into account:
 - (i) The nature of information to be stored and retrieved,
 - (ii) The security and access of files and information (particularly computer records), and
 - (iii) The length of time that the records should be kept (minimum of 7 years or otherwise as required by other Acts or Regulations),
- (j) Recording of full and correct minutes of board meetings and general meetings and their maintenance in the minutes,
- (k) Compliance with all ACNC reporting requirements, including the following:
 - (i) Forwarding an annual information statement to the ACNC, and
 - (ii) Forwarding a financial report to the ACNC as per the following:
 - (A) If the association has an annual revenue of more than \$250,000 but less than \$1 million (medium ACNC charity), the association shall submit to the ACNC an ACNC financial report that is either:
 - (1) Reviewed, or
 - (2) Audited.
 - (B) If the association has an annual revenue of \$1 million or more (large ACNC charity), the association shall submit an audited ACNC financial report to the ACNC.
- (l) Compliance with all reporting obligations to the Department of Commerce as varied from time to time.
- (m) Performance of any other duties required of the Secretary by this constitution.

23.4. Treasurer

The Treasurer shall ensure the:

- (a) Collection of all moneys payable to the association are collected and the issuing of receipts in the name of the association for those monies,
- (b) Payment of all monies received by the association into the account or accounts of the association as the board may direct from time to time,
- (c) Timely payment of the expenses of the association from the funds of the association with the authority of the board or a general meeting,
- (d) Taking out by the association of all necessary insurances,
- (e) Maintenance by the association of financial records that comply with the requirements of

Clause 29.3,

- (f) Safe custody of financial records and any other relevant association records in hardcopy form, electronic form or a combination of forms, taking into account:
 - (i) The nature of information to be stored and retrieved,
 - (ii) The security and access of files and information (particularly computer records), and
 - (iii) The length of time that the records should be kept (minimum of 7 years or otherwise as required by other Acts or Regulations),
- (g) Co-ordination of the preparation of the financial statements prior to their submission to the annual general meeting,
- (h) Co-ordination of the preparation of the reviewed financial report prior to its submission to the annual general meeting,
- (i) Co-ordination of the preparation of the Auditor's report prior to its submission to the annual general meeting,
- (j) Assistance of the reviewer or Auditor in performing their functions, and
- (k) Performance of any other duties required of the Treasurer by this constitution.

23.5. Record of office bearers

- (a) The Secretary or a person authorised by the board shall ensure that a record of office bearers is maintained.
- (b) The record of office bearers shall include:
 - (i) Each office bearer's full name,
 - (ii) Current postal, residential or email addresses for each office bearer,
 - (iii) Details of the office held by each office bearer,
 - (iv) Dates of appointment of each office bearer to their respective office, and
 - (v) If applicable, dates of cessation of the appointment of each office bearer to their respective office.
- (c) The record of office bearer shall be kept and maintained at such place as the board decides.

BOARD MEETINGS

24. Calling and conducting board meetings

24.1. Calling board meetings

- (a) The board shall hold no less than six (6) board meetings in any one calendar year.
- (b) The board shall determine the place and time of all board meetings.
- (c) A board meeting may be called by:
 - (i) The Chairperson, or
 - (ii) Any two directors,by giving notice as per clause 24.2(a) to all other directors.

24.2. Notice

- (a) The Secretary shall ensure that each director is given at least forty eight (48) hours' notice of each board meeting.
- (b) Notice of a board meeting shall specify the general nature of the business to be transacted at the board meeting.

24.3. Using technology to hold board meeting

- (a) Board meeting may take place:
 - (i) Where the directors are physically present together, or
 - (ii) By the use of any technology (such as video or teleconferencing) that is agreed to by all directors, if it reasonably allows each director to participate fully in discussions and

decisions as they happen in the board meeting and provided that the participation of each director is made known to all other directors in attendance.

- (b) A director who participates in a board meeting as set out in Clause 24.3(a):
 - (i) Is deemed to be present at the board meeting, and
 - (ii) Continues to be present at the board meeting for the purposes of establishing a quorum, until the director notifies the other directors that they are no longer taking part in the board meeting.

24.4. Conducting board meetings

- (a) The Chairperson shall normally act as Meeting Chair of each board meeting.
- (b) The Deputy Chairperson will be the Meeting Chair for that board meeting if the Chairperson is:
 - (i) Not present within 30 minutes after the starting time set for the board meeting, or
 - (ii) Present but does not want to act as Meeting Chair of the board meeting.
- (c) The board cannot conduct business unless the quorum specified in Clause 24.5 is present.
- (d) Subject to this constitution, the directors present at the board meeting are to determine the procedure and order of business to be followed at the board meeting.
- (e) All directors have the right to attend and vote at board meeting.
- (f) All members, or other guests, may attend board meetings if invited by the board, but the member or guest shall not have any right to:
 - (i) Comment without invitation,
 - (ii) Vote,
 - (iii) Be provided with copies of any agenda, minutes of meetings, or documents presented at such board meeting.
- (g) The Secretary, or such person authorised by the board from time to time, shall ensure that minutes of the resolutions and proceedings of all board meetings are recorded and maintained together with a record of the names of persons present at each board meeting.
- (h) The CEO will be an ex-officio member of the board and will attend all meetings unless excused by the board.

24.5. Quorum for board meeting

- (a) The quorum for a board meeting shall be 50% of all directors or three (3) directors, two of whom must be office bearers.
- (b) A quorum must be present for the entire board meeting.

25. Board resolutions

25.1. Voting

- (a) Each director present at a board meeting has one vote.
- (b) A question arising at a board meeting is to be decided by a majority (more than 50%) of votes, but, if there is an equality of votes, the Meeting Chair of the board meeting is entitled to exercise a second or casting vote.
- (c) Decisions at a board meeting may be made by general agreement or by way of a show of hands.

25.2. Board circular resolutions

- (a) The board may pass a circular resolution without a board meeting being held (Board Circular Resolution).
- (b) A board circular resolution is passed if all the directors entitled to vote on the resolution agree to the resolution in the manner set out in Clause 25.2(c).
- (c) The association may send a board circular resolution by email to the directors and the directors may agree to the board circular resolution by sending a reply email to that effect, including the text of the board circular resolution in their reply.
- (d) A board circular resolution is passed when the last director agrees to the board circular

resolution.

- (e) Such resolutions must be ratified at the next board meeting.

26. Remuneration of directors

26.1. Travelling and other expenses

The association may pay a director's travelling and other expenses properly incurred, such as:

- (a) Attending board meeting or committee meeting,
- (b) Attending any general meeting, and
- (c) In connection with the association's business.

26.2. No other remuneration

Directors shall not receive any remuneration for their services as directors other than as described at Clause 26.1.

COMMITTEES AND OTHER DELEGATION

27. Committees and delegation

27.1. Establishment

- (a) The board may establish committees from time to time to assist with the conduct of the association's objects and charitable purposes.
- (b) Committees may comprise (in such numbers as the board determines) members and non-members.
- (c) All committees will include at least one director and will be chaired by a director.
- (d) Subject to this constitution, committee members shall determine the procedure to be followed at committee meetings.

27.2. Delegation

- (a) The board may delegate, in writing, to any or all of the committees, any authority, power or functions, and may cancel any authority, powers or functions, as the board sees fit from time to time.
- (b) Despite any delegation under Clause 27.2(a), the board may continue to exercise all its functions, including any function that has been delegated to a committee and remains responsible for the exercise of those functions at all times.

27.3. Delegation to others

- (a) The board may delegate, in writing, to any person any authority, power or function and may cancel any authority, powers or functions, as the board sees fit from time to time.
- (b) Despite a delegation under this clause, the board may continue to exercise all its functions, including any delegated functions, and at all times remains responsible for the exercise of those functions.

FINANCES

28. Payment of income or property to members

28.1. Not permitted

Subject to Clause 28.2, none of the income or property of the association may be paid directly or indirectly, by way of dividend, bonus or otherwise, to a member.

28.2. Permitted payments

- (a) Clause 28.1 does not prevent:
 - (i) Subject to Clause 28.2(b) the payment in good faith of remuneration to any member, director, officer or employee in return for any services actually rendered to the association or for goods supplied to the association in the ordinary and usual course of business,
 - (ii) The payment of reasonable and proper rent by the association to a member for premises leased to the association by the member, or
 - (iii) The reimbursement of out-of-pocket expenses for travel and accommodation incurred on behalf of the association by any member or director in connection with the member or director's functions as a member or director.
- (b) Before a payment proposed to a member or director under Clause 28.2(a)(i) can be made, the payment must first be authorised by the members by way of an ordinary resolution.

29. Funds

29.1. Source of funds

- (a) The funds of the association may be derived from:
 - (i) Annual membership fees,
 - (ii) Donations,
 - (iii) Fundraising activities,
 - (iv) Grants,
 - (v) Interest, and
 - (vi) Any other sources approved by the board.
- (b) The association shall, as soon as practicable:
 - (i) Deposit all money received to the credit of the association's bank account, without deduction, and
 - (ii) After receiving any money, issue an appropriate receipt.

29.2. Control of funds

- (a) The funds of the association shall be kept in an account in the name of the association in a financial institution determined by the board.
- (b) The association shall use its funds in carrying out the association's objects and charitable purposes.
- (c) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the association shall be signed by:
 - (i) Any two directors, or
 - (ii) One director and another person authorised by the board.
- (d) All expenditure above the maximum amount set by the board from time to time shall be approved or ratified at a board meeting.

29.3. Financial records

- (a) The association shall keep financial records that:
 - (i) Correctly record and explain its transactions, financial position and performance, and
 - (ii) Enable true and fair financial statements to be prepared.
- (b) The association shall retain its financial records for at least seven (7) years after the transactions covered by the financial records are completed.

BINDING THE ASSOCIATION

30. Use of common seal

- (a) The association may decide to have a common seal on which its corporate name appears in legible characters.
- (b) If the association does decide to have a common seal under Clause 30(a):
 - (i) The CEO shall ensure its safe custody, and
 - (ii) It shall only be used under resolution of the board.
- (c) The association shall sign off on a document without using a common seal (if any) if the document is signed by two directors.
- (d) The association shall sign off on a document using its common seal (if any), if the fixing of the common seal is witnessed by
 - (i) One director and another person authorised by the board.
- (e) The Secretary shall ensure that every use of the common seal is recorded in the minutes.

MINUTES, BOOKS AND RECORDS

31. Minutes

31.1. Taking of minutes

- (a) The association shall keep minutes of the resolutions and proceedings of all annual general meeting, special general meeting and board meeting together with a record of the names of persons present at each general meeting and board meeting.

31.2. Review and signing of minutes

- (a) The Chairperson shall ensure that the minutes of an annual general meeting, special general meeting or board meeting are reviewed and signed as correct by:
 - (i) The Meeting Chair of the annual general meeting, special general meeting or board meeting to which those minutes relate, or
 - (ii) The Meeting Chair of the next succeeding annual general meeting, special general meeting or board meeting.
- (b) When minutes have been entered and signed as correct under Clause 31.2(a) they are:
 - (i) To be entered in the minute book, and
 - (ii) Until the contrary is proved, evidence that:
 - (A) The annual general meeting, special general meeting or board meeting to which they relate was duly called and held,
 - (B) All proceedings recorded as having taken place at the annual general meeting, special general meeting or board meeting did in fact take place at the meeting, and
 - (C) All appointments or elections purporting to have been made at the annual general meeting, special general meeting or board meeting were validly made.

31.3. Inspection of minutes

- (a) The minutes of an annual general meeting or special general meeting may be inspected by a member under Clause 32.3.
- (b) The minutes of board meetings may be inspected by a member under Clause 32.3 unless the board determines that the minutes of board meeting generally, or the minutes of a specific board meeting, are not to be made available for inspection by a member.

32. Records

32.1. Inspecting record of office bearers

- (a) Any member is able to inspect the record of office bearers free of charge, at such time and place as is mutually convenient to the association and the member.

- (b) The member may make a copy of details from the record of office bearers, but has no right to remove the record of office bearers for that purpose.

32.2. Custody of association's books

- (a) Except as otherwise decided by the board from time to time:
 - (i) The Secretary shall be responsible for ensuring the maintenance and control of the association's books (except for the association's financial records).
 - (ii) The Treasurer is responsible for ensuring the custody and maintenance of the association's financial records and securities.
 - (A) The board shall be responsible for ensuring the maintenance and control of the association's books including the association's financial records and securities.
- (b) The association's books shall be retained for at least 7 years.

32.3. Inspecting association's books

- (a) Subject to this constitution, a member is able to inspect the association's books free of charge at such time and place as is mutually convenient to the association and the member.
- (b) A member shall contact the Secretary to request to inspect the association's books.
- (c) The member may copy details from the association's books but has no right to remove the association's books for that purpose.

32.4. Prohibition on use of information in association's books and record of officeholders

A member shall not use or disclose information in the association's books and record of officeholders except for a purpose:

- (a) That is directly connected with the affairs of the association, or
- (b) Related to a requirement of the associations Act to provide information to the Commissioner.

32.5. Returning the association's books

Outgoing directors are responsible for transferring all relevant assets and association's books to the new board within fourteen (14) days of ceasing to be a director.

DISPUTES

33. Disputes arising under constitution

- (a) This clause applies to:
 - (i) Disputes between members, and
 - (ii) Disputes between the association and one or more members that arise under the constitution or relate to the constitution.
- (b) In this Clause 33, the term member includes any former member whose membership ceased not more than six (6) months before the dispute occurred
- (c) The parties to a dispute shall attempt to resolve the dispute between themselves within fourteen (14) days of the dispute coming to the attention of each party.
- (d) If the parties are unable to resolve the dispute, any party to the dispute may initiate a procedure under this Clause 33 by giving written notice to the Secretary of the parties to, and details of, the dispute.
- (e) The association shall hold a board meeting within twenty eight (28) days after the Secretary receives notice of the dispute under Clause 33(d) for the board to determine the dispute.
- (f) At the board meeting to determine the dispute, all parties to the dispute shall be given a full and fair opportunity to state their respective cases orally, in writing, or both.
- (g) The Secretary shall inform the parties to the dispute of the board's decision and the reasons for the decision within 7 days after the board meeting referred to in Clause 33(e).
- (h) If any party to the dispute is dissatisfied with the decision of the board, they may elect to initiate further dispute resolution procedures as set out in the constitution.

34. Mediation

- (a) This Clause 34 applies:
 - (i) Where a person is dissatisfied with a decision made by the board under Clause 33(g) or
 - (ii) Where a dispute arises between a member or more than one member and the association and any party to the dispute elects not to have the matter determined by the board.
- (b) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Clause 33(c) or a party to a dispute is dissatisfied with a decision made under Clause 33(g) a party to a dispute may:
 - (i) Provide written notice to the Secretary identifying the parties to, and the details of, the dispute, and
 - (ii) Agree to, or request the appointment of, a mediator to resolve the dispute.
- (c) The Secretary shall then ensure that a mediator is appointed to resolve the dispute who shall be:
 - (i) A person chosen by agreement between the parties to the dispute, or
 - (ii) In the absence of agreement between the parties to the dispute, a mediator appointed by the board.
- (d) Where the dispute relates to a proposal for the suspension or expulsion of a member this Clause 34 does not apply until the procedure under Clause 12 in respect of the proposed suspension or expulsion has been completed.
- (e) The party or parties requesting the mediation shall pay the costs of the mediation.
- (f) The mediator can be a member provided the member is not a party to the dispute.
- (g) The parties to the dispute shall attempt to settle the dispute by mediation in good faith.
- (h) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least five (5) days before the date of the mediation.
- (i) The mediator, in conducting the mediation, shall:
 - (i) Give the parties to the mediation every opportunity to be heard,
 - (ii) Allow all parties to consider any written statement submitted by any party, and
 - (iii) Ensure that natural justice is accorded to the parties to the dispute throughout the mediation.
- (j) The mediation shall be confidential.
- (k) Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.

35. Inability to resolve dispute

If a dispute cannot be resolved under the procedures set out in Clauses 33 and 34, any party to the dispute may apply to the Administrative Tribunal to determine the dispute in accordance with the associations Act or otherwise at law.

SERVICE OF NOTICES

36. Legal requirements

A notice or other communication in relation to this constitution has no legal effect unless it is in writing and given as follows:

- (a) Delivered by hand to the nominated address of the addressee,
- (b) Sent by post to the nominated postal address of the addressee, or
- (c) Sent by e-mail or any other method of electronic communication (including facsimile transmission) to the nominated electronic address of the addressee.

37. Service on members

Any notice given to a member under this constitution shall be sent to the member's address as

recorded in the members register.

INDEMNITY AND INSURANCE

38. Indemnity

- (a) The association shall indemnify each director out of the assets of the association against all losses and liabilities (including costs, expenses and charges) incurred by that person as a director:
 - (i) When the association is not prevented by law from doing so, and
 - (ii) For an amount for which the director is not entitled to indemnity from another party (including an insurer under an insurance policy).
- (b) The indemnity in Clause 38(a) is a continuing obligation and is enforceable by a director even though that person is no longer a director of the association.

39. Director's insurance

To the extent permitted by law, and if the board consider it appropriate, the association may pay or agree to pay a premium for a contract insuring a person who is or has been a director against any liability incurred by the director.

40. Insurance covering workers, volunteers and visitors

The association shall ensure that appropriate insurance is obtained for:

- a) The association's workers,
- b) The association's volunteers, and
- c) The association's visitors.

OCCUPATIONAL SAFETY AND HEALTH

41. Safe and healthy working environment

The association is aware of its obligation to provide a safe and healthy working environment for its employees, contractors, volunteers and visitors and to remain familiar with the requirements of the *Occupational Safety and Health Act 1984* (WA) and the *Occupational Safety and Health Regulations 1996* (WA) and any amendments to these legal instruments made from time to time (OSH Laws).

42. Occupational Safety and Health obligations

The association shall ensure that:

- (a) Where required, it obtains workers compensation insurance for its workers.
- (b) Where required, it obtains insurance to cover its:
 - (i) Contractors,
 - (ii) Volunteers, and
 - (iii) Visitors.
- (c) It complies with its obligations under the OSH laws.

CONSTITUTION AND BY-LAWS

43. Constitution

43.1. Binding

This constitution imposes a legally binding obligation upon the association and upon each member to observe all of its Clauses.

43.2. Amendment

- (a) The association may amend the constitution or replace it with a new constitution by passing a special resolution.
 - (i) The association shall not pass a special resolution amending the constitution if passing it causes the association to no longer be a charity.
- (b) An amendment to the constitution changing:
 - (i) The association's name, or
 - (ii) The association's object or purposes,does not become effective until:
 - (A) The required documents are lodged with the Commissioner, and
 - (B) The Commissioner's written approval to the changes is received by the association.

43.3. Copies

- (a) The association shall maintain a current copy of the constitution at all times.
- (b) The association shall provide, free of charge, a copy of the constitution then in force, to each member at the time their membership commences.

WINDING UP, CANCELLATION AND DISTRIBUTION OF SURPLUS PROPERTY

44. Cessation of activities, winding up and cancellation of incorporation

- (a) The association may cease its activities and have its incorporation cancelled in accordance with the associations Act if the members resolve by special resolution that the association is to:
 - (i) Apply to the Commissioner seeking the cancellation of the association's incorporation, or
 - (ii) Appoint a liquidator to wind up the association's affairs.
- (b) If the association has outstanding debts or any other outstanding legal obligations, or is a party to any current legal proceedings, the association must be wound up under Clause 44(a)(ii) before cancellation of incorporation can take place.

45. Surplus assets not to be distributed to members

If the association is wound up, any surplus assets must not be distributed to a member or a former member, unless that member or former member is an entity described in Clause 44.

46. Distribution of surplus assets

- (a) Subject to the Associations Act, any other applicable law and any court order, any surplus assets that remain after the association is wound up shall be distributed to one or more not-for-profit organisations that:
 - (i) Possess an object and charitable purposes similar to, or inclusive of, the object and charitable purposes of the association as set out in Clause 4, and
 - (ii) Which also prohibit the distribution of any surplus assets to its members to at least the same extent as the association.
- (b) The decision as to the not-for-profit organisation or organisations to receive the surplus assets of the association shall be made by a special resolution of members at or before the time of winding up.
- (c) If the members do not make the decision set out in Clause 46(b) the association may make application to the Courts of Western Australia and request that the courts make this decision.