



**Constitution of
Wellways Australia Limited
ACN 093 357 165**

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Constitution of Wellways Australia Limited

1. Interpretation and Definition

1.1 Definitions

In this Constitution:

Act means the Corporations Act 2001 (Cth);

Advocacy Member means a Member admitted to membership of the Company under clause 2.2.

Board or **Board of Directors** means the Directors of the Company;

Company means Wellways Australia Limited;

Constitution means this Constitution as altered or added to from time to time and any reference to a clause by number is a reference to the clause of that number in this Constitution;

Department means Department of Human Services Victoria;

Directors means and includes the directors for the time being duly acting as such;

General Member means a Member that is entitled to vote at general meetings of the Company;

Honorary Life Member means a member who has been admitted to life membership under clause 2.6;

Life Governor means a member who has been admitted as a Life Governor under clause 2.7;

Member means any member for the time being of the Company who has paid the annual subscription as determined by the Board

Office means the registered office for the time being of the Company;

Ordinary Member means a person admitted to membership under clause 2.4; and includes any Honorary Life Member and Life Governor;

Person includes a company, corporation, partnership, unincorporated association and institution;

Register means the Register of members prepared pursuant to clause 2.9;

Seal means the common seal of the Company;

Secretary means any person appointed to perform the duties of the Secretary of the Company and includes any honorary secretary; and

Year means calendar year;

1.2 Interpretation

- (a) Every member shall be bound to further to their best ability the objects, interests, influence and standing of the Company and shall observe this Constitution and the rules and regulations of the Company in force from time to time.
- (b) Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, email and other modes of representing or reproducing words in a visible form.
- (c) Words or expressions contained in this Constitution shall be interpreted in accordance with the provisions of the Corporations Law.
- (d) Words importing the singular number only include plural and vice versa.
- (e) Words importing the masculine gender include the female gender.
- (f) The headings shall not affect the construction of this Constitution.
- (g) The word "month" means calendar month and the word "year" means 12 months.

1.3 Replaceable rules

Each of the provisions of the sections or sub-sections of the Corporations Law which would but for this clause 1.3 apply to the Company as a replaceable rule within the meaning of the Corporations Law are displaced and do not apply to the Company except insofar as they are repeated in this Constitution.

1.4 Objects and Purposes

The objects for which the Company is established are to provide treatment, rehabilitation and other support services to persons with a mental illness, psychosocial disabilities, physical impairments or disabilities or any other serious illness, for the purposes of assisting such persons to better develop community, domestic, social and workplace related skills and participation, or alleviating their pain and suffering, and the Company may engage in any activities which help to advance or further promote such objects and purposes.

2. Membership

2.1 Membership Unlimited

The number of members of the Company is unlimited.

2.2 Procedure for obtaining membership

- (a) Any person shall be eligible to be a Member of the Company provided he shall comply with the conditions laid down in clause 2.2(b) hereof and that the membership application is approved by the Board.
- (b) To obtain membership an applicant shall:

- (i) Sign and fill in a membership application form in a form approved by the Board.
- (ii) Lodge the membership application form with the Secretary.
- (iii) Pay the annual subscription determined from time to time in accordance with this Constitution.

At the next meeting of the Board after receipt of any application for membership and subject to the requirements set out in this clause such application shall be considered by the Board which shall thereupon determine the question of admission or rejection of the application. In no case shall the Board be required to give any reason for the rejection of an application.

2.3 Categories of Membership

To the extent permitted by law, the Board may from time to time divide the membership of the Company into different categories of membership and determine the rights and obligations attaching to each category of membership. At the date of this Constitution, the membership of the Company shall consist of the following categories of members:

- (a) Ordinary Member;
- (b) Honorary Life Member;
- (c) Life Governor; and
- (d) Advocacy Member.

The membership fee for each category shall be determined from time to time by the Board.

2.4 Ordinary Members

Ordinary Members who are financial as at the date being two months prior to the date fixed for a general meeting including the annual general meeting shall be entitled to attend and vote at any general meeting of the Company.

2.5 Advocacy Members

- (a) Subject to clause 2.5(b), each Advocacy Member is entitled to attend, but not vote at, any general meeting of the Company.
- (b) Any Advocacy Member who, two months prior to the date fixed for a general meeting, has not paid all amounts owing in respect of the Member's annual subscription, will not be entitled to attend at that general meeting.

2.6 Honorary Life Members

- (a) The Directors may at their discretion annually elect as Honorary Life Members such persons as they may consider to be entitled to honorary life membership by reason of special services rendered to the Company.

- (b) Any person elected to honorary life membership shall be exempted from payment of any further subscription but shall nevertheless have the same voting rights as an Ordinary Member.

2.7 Life Governor

- (a) Every person who shall donate to the funds of the Company either in one donation or by instalments of such amount or amounts as the Directors shall from time to time determine shall be a Governor for his life.
- (b) Any person elected as a Life Governor shall be exempted from payment of any further subscription but shall nevertheless have the same voting rights as an Ordinary Member.
- (c) Any Life Governor may resign by notice in writing sent by post or delivered to the Secretary and then shall cease to be a Life Governor.

2.8 Subscriptions

- (a) Annual membership will be from 1 July to 30 June in each Year.
- (b) The annual subscription of the Company for each category of membership shall be such sum as shall from time to time be fixed by the Board.

2.9 Register of members

Upon receipt of an advice from the Board that an application for membership has been approved the Secretary shall cause to be entered in the Register the name and address of the applicant, such particulars being those supplied by the Member on his application for membership. The Secretary shall hold all signed applications and produce them to the Returning Officer if required to verify the identity of any person voting at any election or meeting of the Company.

2.10 Contribution by Member

Every Member of the Company undertakes to contribute to the property of the Company in the event of the same being wound up while he is a Member or within one year after he ceases to be a Member for payment of the debts and liabilities of the Company (contracted before he ceases to be a Member) and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves such amount as may be required not exceeding \$1:00.

3. Cessation of Membership

3.1 Resignation of membership

A Member may at any time by giving notice in writing to the Secretary resign his membership of the Company, but shall be liable for:

- (a) any arrears of annual subscription;
- (b) all arrears on any account due and unpaid owing to the Company; and
- (c) a sum not exceeding \$1:00 for which he is liable as a Member of the Company under clause 2.10 of this Constitution.

3.2 Expulsion, censuring, fining, suspension of a Member

The Board shall have power to censure, fine, suspend or expel a Member from the Company if a Member:

- (a) wilfully refuses or neglects to comply with the provisions of the Constitution of the Company; or
- (b) is guilty of any conduct which in the opinion of the Board is unbecoming of a Member or prejudicial to the interest of the Company;

Provided that:

- (a) at least 7 days before the meeting of the Board at which a resolution for his expulsion is passed the Member shall have had notice of such meeting and of what is alleged against him and of the intended resolution for expulsion and;
- (b) he shall at such meeting and before the passing of such resolution have had an opportunity of giving orally or in writing any explanation or defence he may think fit.

4. General Meetings

4.1 Annual general meeting

The Company must hold an annual general meeting of the Company on a date nominated by the Board and in accordance with the Act.

4.2 Calling of general meeting when requested by members

- (a) The Directors of the Company must call and arrange to hold a general meeting on the request of:
 - (i) General Members with at least 5% of the votes that may be cast at the general meeting; or
 - (ii) at least 100 General Members who are entitled to vote at the general meeting.
- (b) The request to hold a general meeting must:
 - (i) be in writing; and
 - (ii) state any resolution to be proposed at the meeting; and
 - (iii) be signed by the General Members making the request; and
 - (iv) be given to the Company.

4.3 Notice period

Subject to the Act, the Company must give 21 days notice of general meetings and annual general meetings.

4.4 Notice of general meetings

Written notice of a general meeting must be given as provided in this Constitution and otherwise as permitted by the Act to:

- (a) every General Member except those members for whom the Company has no registered address or other address for the giving of notices to them;
- (b) every director; and
- (c) the auditor or auditors for the time being of the Company;

and no other person shall be entitled to receive notices of general meetings.

4.5 Content of notice of general meetings

A notice of a general meeting must:

- (a) specify the place, date and time for the meeting;
- (b) state the general nature of the business to be transacted at the meeting;
- (c) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution; and
- (d) contain a statement of:
 - (i) each General Member's right to appoint a proxy; and
 - (ii) the fact that a proxy must be a Member of the Company.

4.6 Content of notice of annual general meeting

It is not necessary for the notice of an annual general meeting to state that the business to be transacted at the meeting includes:

- (a) the consideration of the financial statements and the reports of the Directors and auditor (if any);
- (b) the appointment and fixing of the remuneration of the auditors; and
- (c) any other business which, under this Constitution or the Act, is required to be transacted at an annual general meeting.

4.7 Nature of business

All business will be special that is transacted at a general meeting, with the exception of:

- (a) the consideration of the accounts, balance sheets, and the report of the Directors and auditors; and
- (b) the election of the auditors (if any).

4.8 Notice of adjourned meeting

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 30 days or more.

4.9 Failure to give notice

Any resolution passed at a meeting is not invalidated by:

- (a) the accidental omission to give notice of a meeting to any Member or non-receipt of that notice by a Member; or
- (b) the accidental omission to send out the instrument of proxy to a person entitled to receive notice or non-receipt of that instrument.

5. Proceedings at General Meetings

5.1 Use of technology

The Company may hold a general meeting at 2 or more venues using any technology that gives members a reasonable opportunity to participate.

5.2 Quorum

- (a) Except as otherwise provided in this Constitution, the quorum for a general meeting of the Company is 2 General Members (present in person or by proxy) and the quorum must be present at all times during the meeting.
- (b) No business will be transacted at any general meeting unless a quorum of Ordinary Members is present at the time when the meeting proceeds to business.
- (c) For the purpose of determining whether a quorum is present:
 - (i) each person attending as a proxy, or as a validly appointed attorney of a General Member, is deemed to be an Ordinary Member; and
 - (ii) if an individual person is attending both as a General Member and as a proxy, attorney or representative, they may be counted only once.

5.3 Effect of no quorum

If a quorum is not present within half an hour after the time appointed for the meeting:

- (a) if the meeting was convened on the requisition of General Members, the meeting must be dissolved; or
- (b) in any other case:
 - (i) the meeting will be adjourned to the date, time and place, that the Directors specify (or if the Directors do not specify such details, the meeting is adjourned to the same day in the next week at the same time and place) except that if the meeting is adjourned for 30 days or more, notice of the resumed meeting must be given; and

- (ii) if at a meeting resumed pursuant to clause 5.3(b)(i) a quorum is not present within half an hour after the time appointed for the meeting:
 - (A) 2 General Members constitute a quorum; or
 - (B) if 2 General Members are not present the meeting shall be dissolved.

5.4 Chairperson of general meeting

The President shall be entitled to preside as chairperson at every general meeting of the Company.

5.5 Vacancy in chair

Where a general meeting is held and:

- (a) there has been no President elected; or
- (b) the President declines to act or is not present within 15 minutes after the time appointed for the holding of the meeting,

then the Vice-President shall be the chairperson or if the Vice-President is not present or is present but declines to act then some other director shall be chosen and if no director be present or if all Directors present decline to take the chair then the General Members present must elect one of their number to be chairperson of the meeting or part of the meeting (as the case may be).

5.6 Adjournment

The chairperson must adjourn a general meeting if the General Members present with a majority of votes at the general meeting agree or direct that the chairperson must do so.

5.7 Adjourned meetings

- (a) Only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (b) A resolution passed at a meeting resumed after an adjournment is passed on the day it was in fact passed.

6. Voting At General Meetings

6.1 Voting

- (a) A resolution put to the vote at a general meeting must be decided on a show of hands unless a poll is demanded.
- (b) Before a vote is taken, the chairperson must inform the general meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) On a show of hands, a declaration by the chairperson is conclusive evidence of the result provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chairperson nor

the minutes need to state the number or proportion of the votes recorded in favour or against the resolution.

6.2 Voting Rights

At a general meeting:

- (a) each General Member entitled to vote may vote in person or by proxy or attorney;
- (b) on a show of hands, each General Member has one vote; and
- (c) on a poll, each General Member has one vote.

6.3 Voting by poll

- (a) A poll may be demanded by:
 - (i) the chairperson;
 - (ii) General Members with at least 5% of the votes that may be cast on the resolution on a poll; or
 - (iii) at least 5 General Members who are entitled to vote on the resolution.
- (b) A poll may be demanded:
 - (i) before a vote is taken; or
 - (ii) before or immediately after the voting results on a show of hands are declared.
- (c) The demand for a poll may be withdrawn.
- (d) If a poll is duly demanded, it must be taken in such manner and, subject to clause 6.3(f), either immediately or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll is the resolution of the meeting at which the poll was demanded.
- (e) A poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.
- (f) The demand for a poll does not prevent a meeting continuing for the transaction of any business other than the question on which a poll has been demanded.

6.4 Casting vote of chair

In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded has a casting vote (in addition to any vote that the chairperson may have had as a General Member).

6.5 Question of Procedure

At all meetings where questions of order and procedure shall arise the ruling of the chairperson of the meeting shall be accepted as final.

7. Proxies

7.1 Who can appoint a proxy

A General Member who is entitled to attend and vote at a general meeting may appoint a person as that General Member's proxy to attend and vote for that Member at a meeting of the Company. A proxy must be a General Member of the Company.

7.2 Execution and form of proxies

An instrument appointing a proxy:

- (a) may be contained in a facsimile;
- (b) must be in writing under the hand of the appointer or of an attorney duly authorised in writing;
- (c) may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument;
- (d) is deemed to confer authority to demand or join in demanding a poll; and

must (except in the case of proxies appointed under power of attorney), as nearly as the circumstances permit, be in the following form or in such other form as the Directors prescribe:

Wellways Australia Limited

("the Company")

I/, _____ of

_____,

being a General Member of the Company, appoint

.....

of.....

.... Or, failing him

.....

of.....

.... As my proxy to vote for me on my behalf at the
*annual general/*general meeting of the Company to be
held on theday of..... 20
.....and at any adjournment of that meeting.

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

Signed this day of
20...

Notes

- (1) In the event of the General Member desiring to vote for or against any resolution he shall instruct his proxy accordingly. Unless otherwise instructed, the proxy may vote as he thinks fit.
- (2) *Strike out whichever is not desired.

7.3 Lodgement of proxies

- (a) If a General Member appoints a proxy, the following documents must be given to the Company at the Office or at the place specified for the purpose in the notice calling the general meeting:
 - (i) the proxy's appointment; and
 - (ii) if the appointment is signed by the appointor's attorney, the authority under which the form was signed or a copy of the authority certified by a person authorised to take a statutory declaration.
- (b) The proxy's appointment is valid for a meeting if the appointment and any authority are given to the Company at least 48 hours before the general meeting at which the proxy is to be used or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll.

7.4 Validity of proxy vote

A vote cast in accordance with the terms of an instrument of proxy or of a power of attorney is valid if no notice in writing of:

- (a) the previous death of the appointing Member;
- (b) the revocation of the proxy's appointment;
- (c) the revocation of the authority under which the proxy was appointed by a third party;

has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used or exercised.

8. The Board of Directors

8.1 Number of Directors

The number of directors shall be such number being not less than the minimum number required by the Act or not more than twelve from time to time determined by the Board.

8.2 Director Qualification

A Director must be a General Member.

8.3 Term of appointment

(a) Each director will hold office for a period of three years unless the director sooner vacates office pursuant to this Constitution.

(b) At all times any retiring Directors shall be eligible for re-election but shall be subject to the nomination process as set out in this Constitution.

8.4 Election to fill vacancies

The election of Directors shall take place in the following manner:

- (a) Any 2 General Members of the Company shall be at liberty to nominate any other General Member to serve as a director.
- (b) The nomination, which must be in writing and signed by the General Member and his proposer and seconder must be lodged with the Secretary at least 21 days before the date set for the election.
- (c) A list of the candidates' names in alphabetical order, with the proposers' and seconders' names, must be posted in a conspicuous place in the registered office of the Company for at least 14 days immediately preceding the date set for the election.
- (d) A voting paper must be prepared (if necessary) containing the names of the candidates in alphabetical order, and each General Member shall be entitled to vote for any number of such candidates not exceeding the number of vacancies.
- (e) The Secretary must send a notice of the election and a voting paper to each General Member on the Register. The notice of the election must include instructions to the Member to fill in the voting paper and sign it, and forward it to the Company by post, courier or facsimile transmission so that it reaches the Secretary on or before 5.00p.m. on the date set for the election.
- (f) In case there shall not be sufficient number of candidates nominated:
 - (i) all nominees shall be deemed to have been elected;
 - (ii) the vacancies may be filled at the annual general meeting then being held provided that a motion to do so is carried by a two thirds majority of those present;
 - (iii) if such a motion is not carried the vacancies may be filled by the Board.

8.5 Conduct of Elections

- (a) The election of Directors must be held at least 2 clear working days immediately prior to the date set for the annual general meeting.
- (b) The Directors must appoint a Returning Officer to conduct the election. The Secretary of the Company must supply to the Returning Officer a correct list of names and addresses of all General Members of the Company in accordance with the Register together with the number of the membership ticket of each Member before the time of the election of Directors for the ensuing Year.

- (c) When questions of order or procedure arise during the conduct of the election, the decision of the Returning Officer shall be final.
- (d) Voting must be by post. General Members who wish to vote must fill in the voting paper and sign it and forward it to the Company by post, courier or facsimile transmission so that it reaches the Secretary on or before 5.00p.m. on the date set for the election.
- (e) After the close of voting all such votes must be handed to the Returning Officer who must proceed to count the votes cast and announce the results which will be confirmed by the Returning Officer at the annual general meeting.
- (f) The Directors including those elected pursuant to this clause 8.5 must meet prior to the next annual general meeting for the purpose of appointing a President and Vice-President pursuant to clause 10.1.

8.6 Appointment to fill casual vacancy

The Board may at any time appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing Directors but so that the total number of Directors shall not at any time exceed the number fixed in accordance with this Constitution. The Board may expressly resolve not to fill a casual vacancy. Any director appointed to fill a casual vacancy shall hold office only until the end of the term of the departing Board member but shall be eligible to stand for re-election.

8.7 Vacation of office of Director

The office of a Board member shall become vacant if the Board member:

- (a) becomes bankrupt suspends payment or makes any arrangement or composition with his creditors.
- (b) by notice in writing to the Company resigns his office.
- (c) by reason of any provision of the Act his office is vacated or he becomes prohibited from being a director.
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the Act relating to mental health;
- (e) is permanently incapacitated from performing his duties.
- (f) is absent without permission of the Directors from four consecutive meetings of Directors.
- (g) ceases to be a General Member of the Company.

9. Powers and Duties of the Board

9.1 General Powers of Directors

The management of the business and affairs of the Company shall be vested in the Board. The Board may exercise all the powers and do all such acts and things

as the Company is by this Constitution or otherwise authorised to exercise and do and which are not by this Constitution or the Act required to be exercised by the Company in general meetings.

9.2 Acts of Directors valid notwithstanding defect in appointment

All acts done by any meeting of the Board or by any person acting as a director of the Board shall except insofar as this clause is effected by the provisions of the Act and notwithstanding that it be afterwards discovered that there was some defect in the appointment of any person acting as aforesaid be as valid as if every such person had been duly appointed.

9.3 Board may borrow, charge issue debentures etc. on behalf of the Company

The Board may exercise all powers of the Company to borrow money and to mortgage or charge its property or any part thereof, and to issue debentures and other securities whether outright or as a security for any debt, liability or obligation of the Company.

9.4 Execution of cheques etc.

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 Directors or in such other manner as the Board from time to time determines.

9.5 Directors may grant a Power of Attorney

- (a) The Directors may appoint any person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors) for such period and subject to such conditions as they think fit.
- (b) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.

10. Proceedings of the Board of Directors

10.1 President and Vice-President

The Board shall appoint one of its number to the position of President and one of its number to the position of Vice President.

10.2 Convening Director's meetings

The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit. A Board member may at any time and the Secretary shall on the requisition of a director summon a meeting of the Board.

10.3 Board Minutes

The Board shall cause minutes to be made -

- (a) of all appointments of officers and servants;
- (b) of names of Directors of the Board present at all meetings of the Company and of the Board; and
- (c) of all proceedings at all meetings of the Company and of the Board.

Such minutes shall be signed by the Chairperson of the meeting at which the proceedings were held or by the Chairperson of the next succeeding meeting.

10.4 Determination of questions at Board Meetings

- (a) subject to this Constitution questions arising at any meeting of the Board shall be decided by a majority of votes of Directors present and voting and any such determination by a majority of the Directors shall for all purposes be deemed a determination of the Board.
- (b) in case of an equality of votes the Chairperson of the meeting shall have a second or casting vote.

10.5 Director cannot vote in a contract he is interested in

A director of the Board shall not vote in respect of any contract or any proposed contract with the Company in which he is interested in or any matter arising thereof or if he does so vote his vote shall not be counted.

10.6 Quorum necessary for the Board to conduct business

The quorum necessary for the transaction of the business of the Board shall be a majority of the total number of directors other than any on leave of absence.

10.7 Vacancies in Board of Directors so less than required quorum at meeting

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

10.8 President to be Chairperson at the Meeting

The President shall preside as Chairperson at every meeting of the Board, or if there is no President, or if at any meeting he is not present within 10 minutes after the time appointed for holding the meeting, the Vice President shall be Chairperson or if the Vice-President is not present at the meeting then the members of the Board may choose one of their number to be Chairperson of the Meeting.

10.9 Acts of Directors or the Board of Directors

All acts done by any meeting of the Board or by any director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Board or Directors, or that the Directors or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

10.10 Circular minutes

(a) If:

- (i) all of the Directors (other than any Director on leave of absence approved by the Directors, any Director who disqualifies himself or herself from considering the resolution in question and any Director who would be prohibited by the Act from voting on the resolution in question) sign or consent to a written resolution; and
- (ii) the directors who sign or consent to the resolution would have constituted a quorum at a meeting of Directors held to consider that resolution,

then the resolution is taken to have been passed by a meeting of the Directors.

(b) A Director may consent to a resolution by:

- (i) signing the document containing the resolution (or a copy of that document);
- (ii) giving to the Company at its registered office a written notice (including by fax or other electronic means) addressed to the secretary or to the chairperson of Directors signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
- (iii) telephoning the Secretary or the chairperson of directors and signifying assent to the resolution and clearly identifying its terms.

10.11 Telephone and other meetings

Without limiting the power of the Directors to regulate their meetings as they think fit, a meeting of Directors or committee of Directors may be held where one or more of the Directors is not physically present at the meeting, provided that:

- (a) all Directors consent to the calling and the holding of the meeting by means of telephone or other form of communication;
- (b) all Directors participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously by means of the agreed form of communication;
- (c) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed on or laid down from time to time by the Directors of the Company and such notice does not specify that Directors are required to be present in person;
- (d) in the event that a failure in communications prevents clause 10.11(b) from being satisfied by that number of Directors which constitutes a quorum, then the meeting will be suspended until clause 10.11(b) is satisfied again. If clause 10.11(b) is not satisfied within 15 minutes from the time the meeting was interrupted, the meeting will be deemed to have terminated; and
- (e) any meeting held where one or more of the Directors is not physically present will be deemed to be held at the location specified in the notice of meeting provided a director is present at that location. If no director is present at the location specified, the meeting will be deemed to be held at the location where the chairperson of the meeting is located.

11. Secretary

The Secretary shall be appointed by the Board for such term, upon such conditions as it thinks fit, and any Secretary so appointed may be removed by it.

Nothing herein shall prevent the Board from appointing a Member of the Company as Honorary Secretary.

12. Chief Executive Officer

The Board may appoint a Chief Executive Officer for a term and at such remuneration as the Board shall from time to time determine. The Chief Executive Officer may also be Secretary of the Company if the Board so desires and any additional secretarial staff which may be required by the Chief Executive Officer may be appointed by the Board.

13. Seal

The Board shall provide for the safe custody of the Seal which shall only be used by the authority of the Directors of the Board or of a sub-committee of the Board authorised by the Directors in that behalf. Every instrument to which the Seal is affixed shall be signed by a director and shall be countersigned by the Secretary or by a second director or by some other person appointed by the Board for that purpose.

14. Assets and Income

The assets and income of the Company whencesoever derived shall be applied solely towards the promotion of the objects of the Company and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to the members of the Company provided that nothing herein contained shall prevent the payment in good faith of directors' fees / remuneration payable to directors in respect of their directorship, or remuneration to any officers or employees of the Company or to any Member thereof or any other person in return for any service actually rendered to the Company nor prevent payment of interest at a rate not exceeding interest at the rate for the time being charged by Bankers in Melbourne for overdrawn accounts on money lent or reasonable and proper rent, remuneration or return for the premises demised, let or licensed by any Member to the Company.

15. Accounts

- (a) The Board shall cause proper accounting and other records to be kept and shall report to members for a financial Year by either:
 - (i) sending members copies of:
 - (A) the financial report for the Year; and
 - (B) the Directors' report for the Year; and
 - (C) the auditor's report on the financial report; or
 - (ii) sending members a concise financial report for the Year that complies with sub-section 2 of section 314 of the Act.
- (b) The Board shall cause to be made out and laid before each annual general meeting:
 - (i) the financial report; and
 - (ii) the Directors' report; and

- (iii) the auditor's report

for the last financial Year that ended before the annual general meeting.

- (c) The Directors shall determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of members other than Directors, and a Member other than a director does not have the right to inspect any document of the Company except as provided by the Act or authorised by the Directors or by the Company in general meeting.

16. Branches and other Subsidiary Bodies

The Directors shall have the power to make by-laws regulating the establishment and conduct of branches, support groups, services and other subsidiary bodies and may vary and interpret such by-laws.

17. Audit

A properly qualified registered Auditor or Auditors shall be appointed and his or their duties regulated in accordance with Section 327 of the Act.

18. Notice

Any notice required by law or by or under this Constitution to be given to any Member may be given either by:

- (a) serving it on the Member personally;
- (b) sending it by post to the Member at the Member's registered address, or to the address, if any, supplied by the Member for the giving of notices; or
- (c) sending it to the email address (or other electronic means), if any, nominated by the Member.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been given in the case of a notice of a meeting on the day after the date of its posting, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

Where a notice is sent by email, service of the notice shall be deemed to be effected when the Company's email server shows that the email has been sent to the Member's nominated email address.

19. Indemnity

19.1 Scope of Indemnity

In addition to any other indemnity provided to an officer of the Company in accordance with the Act, and to the extent permitted by the Act:

- (a) every officer of the Company will be indemnified out of the assets of the Company against any liability incurred by them in relation to the execution of their office;

- (b) no officer of the Company is liable for any loss or damage incurred by the Company in relation to the execution of his or her office;
- (c) every officer of the Company will be indemnified out of the assets of the Company against any liability which he or she incurs:
 - (i) in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted;
 - (ii) in connection with any application in relation to any such proceedings in which relief is granted under the Act to the officer by the Court; and
- (d) every officer of the Company will be indemnified out of the assets of the Company against any liability to another person (other than the Company) where the liability is incurred by the officer in their capacity as an officer of the Company, provided that this indemnity will not apply where the liability arises out of conduct involving a lack of good faith.

19.2 Insurance

In addition to the payment of any other insurance premium by the Company in accordance with the Act, and to the extent permitted by the Act, the Company may pay a premium in respect of a contract insuring an officer of the Company against a liability:

- (a) incurred by the officer of the Company in his or her capacity as officer, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Act; or
- (b) for costs and expenses incurred by that officer of the Company in defending proceedings, whatever their outcome.

19.3 Interpretation

In clauses 19.1 and 19.2:

- (a) "proceedings" means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act in their capacity as an officer of the Company (including proceedings alleging that they were guilty of negligence, default, breach of trust or breach of duty in relation to the Company); and
- (b) "officer" has the meaning given to that term in section 9 of the Act.

20. Winding Up

Subject to the Act and any other applicable legislation, if the Company is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets must be transferred to one or more registered public benevolent institutions (within the meaning of the Income Tax Assessment Act 1997) that is a not-for-profit entity with objects and purposes similar to the Company, and to which income tax deductible gifts can be made:

- (a) gifts of money or property for the principal purpose of the Company (including the 'Gift Fund' in Clause 23);
- (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the Company; and
- (c) money received by the Company because of such gifts and contributions.

The decision as to the institution or institutions to be given the surplus assets must be made by an ordinary resolution of members passed at a general meeting of the Company. If the members do make this decision, the Company may apply to a court of competent jurisdiction to make this decision.

For the avoidance of doubt, any other assets that remain from the winding up of the Company (after the satisfaction of all debts and liabilities) must be transferred to one or more registered public benevolent institutions (within the meaning of the Income Tax Assessment Act 1997) that is a not-for-profit entity with objects and purposes similar to the Company, and to which income tax deductible gifts can be made.

21. Variation or Amendment of Constitution

This Constitution may be varied or amended from time to time in accordance with the Act.

22. By Laws

The Board has the power to make by-laws regulating the conduct of the Company.

23. Gift Fund

- (a) The Company will maintain for the principal purpose of the Company a fund, called the Gift Fund, to which gifts of money or property for that purpose will be made and to which any money received by the Company because of such gifts is to be credited and the Gift Fund will not receive any other money or property.
- (b) The Company will use gifts made to the Gift Fund and any money received because of such gifts for the principal purpose of the Company only.
- (c) At the first occurrence of either the winding up of the Gift Fund or the revocation of the Company's endorsement under Sub-division 30-BA of the Income Tax Assessment Act 1997, the Company will transfer any surplus assets of the Gift Fund to such fund, authority or institution that is charitable and to which gifts can be deducted under Division 30 of the *Income Tax Assessment Act 1997* as is nominated by the Board.
- (d) Any other provisions which from time to time are required in order to maintain the status of the Company as a Company to which gifts can be deducted under the *Income Tax Assessment Act 1997* are deemed to form part of this Constitution.