

Constitution

Barkuma Incorporated



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Constitution

1. Name

The name of the incorporated association is Barkuma Incorporated (**Association**).

2. Definitions

Act means the *Associations Incorporation Act 1985* (SA);

Board means the board of management of the Association;

Board Member means a member of the Board;

Chairperson means the person appointed to the position of chairperson by the Board from time to time;

Chief Executive Officer means the person employed to be the chief executive officer of the Association from time to time;

Clients has the meaning given in clause 4(a);

Commission has the same meaning as set out in the Act;

Constitution means this constitution as amended from time to time;

Deputy Chairperson means the person appointed to the position of deputy chairperson by the Board from time to time;

DGR means a deductible gift recipient within the meaning of the *Income Tax Assessment Act 1997* (Cth);

Finance Director means the person appointed to the position of finance director by the Board from time to time;

General Meeting means a general meeting of Members of the Association convened in accordance with this Constitution;

Member means a member of the Association in accordance with the membership categories set out in clause 6.1 and having the rights set out in that clause;

Month means a calendar month;

Principal Purpose has the meaning given in clause 4(a);

Public Officer means the person appointed to the position of public officer of the Association in accordance with clause 7.1(d) from time to time;

Register means the register of Members as set out in clause 6.7;

Secretary means the person appointed to the position of secretary by the Board from time to time;

Special Resolution has the same meaning as set out in the Act;

Termination Event means:

- (a) if a Member is an individual:
 - (1) the death or bankruptcy of that Member; or
 - (2) that Member becoming of unsound mind; or
 - (3) that Member becoming a person whose property is liable to be dealt with under a law about mental health; or
- (b) if a Member is a body corporate:
 - (1) the deregistration or other dissolution of that Member; or
 - (2) that Member becoming insolvent, or otherwise being unable to pay its debts as and when they fall due.

3. Interpretation

In this Constitution, unless the context otherwise requires:

- (a) headings do not affect interpretation;
- (b) singular includes plural and plural includes singular;
- (c) reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;
- (d) reference to a person includes a corporation, joint venture, association, government body, firm and any other entity; and
- (e) unless otherwise defined, a word or phrase which is given a special meaning by the Act shall, where the context permits, have the same meaning in this Constitution except that to the extent of any inconsistencies between meanings in this Constitution and the Act, the special meaning given by this Constitution shall prevail.

4. Objects of the Association

- (a) The principal purpose of the Association is to:
 - (1) establish, equip and maintain for the benefit of persons with an intellectual disability or other disabilities (**Clients**) the following services:
 - (A) employment services;
 - (B) accommodation services (including crisis and specialised, long and short term accommodation);

- (C) training services;
 - (D) personal support services;
 - (E) community access services; and
 - (F) from time to time, any other services as are considered by the Board to be beneficial for Clients and/or desirable by the Association;
- (2) provide Clients with the support they require to enjoy quality lifestyles of their choice and enable their inclusion into the community;
 - (3) advocate for Clients and promote the inclusion of Clients with disabilities into the workforce by providing the highest quality support service to individual employers and employees. From time to time the Association may be required to provide services to Clients with different disabilities as part of maintaining services to Clients with an intellectual disability, in keeping with applicable Australian Government policies;
 - (4) to establish and maintain commercial enterprises for the benefit of Clients; and
 - (5) to do all such other things as may be incidental to the attainment of the above objects

(Principal Purpose).

- (b) Without limiting clause 4(a), the Principal Purpose will be furthered by means and activities, including:
 - (1) employing staff and undertaking activities to effectively maintain, develop and expand, where appropriate, the services, facilities and standards of the Association to further the Principal Purpose;
 - (2) the acquisition of land or buildings or other facilities, or for structural alterations or improvements to buildings, facilities or landscaping of the Association to further the Principal Purpose;
 - (3) investing in other property or assets for the benefit of the Association to further the Principal Purpose;
 - (4) raising money and encouraging contributions, both through donations from the public and through government assistance to further the Principal Purpose; and
 - (5) such further ancillary means and activities, as are in the opinion of the Board in the furtherance of the Principal Purpose.

5. Powers of the Association

- (a) The Association shall have all the powers conferred to it by section 25 of the Act to further the objects of the Association.

- (b) Without limiting the Association's powers, the Association shall be entitled to hold real or personal property, open and operate bank accounts, invest funds, and enter into any necessary or desirable contracts.
- (c) The powers of the Association may be exercised by the Board in accordance with clause 7.

6. Membership

6.1 Types

- (a) The membership of the Association shall consist of the following types of Members:
 - (1) ordinary Members, being:
 - (A) persons approved by the Board as being ordinary members; and
 - (B) persons who were an ordinary member, honorary member, life member or a family member as at the date this Constitution was adopted,

who are entitled to attend and vote at General Meetings and otherwise exercise all rights as a Member;
 - (2) corporate Members, being:
 - (A) persons approved by the Board as being corporate members; and
 - (B) persons who have donated or contributed to the Association such amount as is determined by the Board from time to time,

who are entitled to attend and vote at General Meetings and otherwise exercise all rights as a Member; and
 - (3) associate Members, being persons approved by the Board who are entitled to attend at any meetings of Members, but who do not have any rights to call any meetings of Members or to cast any votes at any meetings of Members.
- (b) The Board may, from time to time, determine:
 - (1) the various types of membership of the Association;
 - (2) any restriction in the number of Members, including the number of Members within each type;
 - (3) the eligibility criteria for each new type of membership; and
 - (4) the rights attached to being a Member in each type of membership.
- (c) If the Board creates a new type of membership of the Association, it must cause this Constitution to be amended so it contains a description of each type of membership and sets out the eligibility criteria for each type of membership.

6.2 Eligibility and applications for membership

- (a) A person is eligible for membership of the Association if they:
 - (1) state that they support the objects of the Association;
 - (2) agree to be bound by this Constitution;
 - (3) apply for a type of membership of the Association in accordance with clause 6.1; and
 - (4) are proposed by one Member and seconded by another Member.
- (b) All applications for membership shall be made in writing, signed by the applicant and the proposer and seconder, accompanied by an application fee determined in accordance with clause 6.3(a) and must be provided to the Chief Executive Officer or their nominee.
- (c) Upon the acceptance of the application by the Chief Executive Officer, the application will be provided to the Board for its consideration and, if thought appropriate, its approval. If the Board approves the application, then upon payment of the first annual subscription or completion of such other terms as may be applicable to the applicant, the applicant shall be a Member.
- (d) The Board does not have to give reasons for declining to approve an application for membership.
- (e) If an application for membership is not approved, any application fee shall be refunded to the applicant.

6.3 Subscriptions

- (a) The application fee payable by each applicant for membership shall be such sum (if any) as the Board shall determine from time to time.
- (b) The subscription fees for membership shall be such sum (if any) as the Board shall determine from time to time. If a person applies for membership after July 1 in any year, the Board may reduce the annual subscription payable by that person in such proportion as the Board thinks fit.
- (c) The subscription fees shall be payable annually in advance on 1 July or at such other time that the Board determines.
- (d) Any Member whose subscription is outstanding for more than two months after the due date for payment shall cease to be a Member, provided always that the Board may reinstate such person's membership upon payment of all arrears on such terms as it thinks fit.
- (e) Notwithstanding that a person ceases to be a Member under clause 6.3(d), that person remains liable for all the obligations and liabilities of membership for eight months after the date that the annual subscription fee in respect of that person was payable.

6.4 Resignations

- (a) A Member may resign from membership of the Association by giving written notice to the Chief Executive Officer, Secretary or Public Officer of the Association. Such resignation is deemed to take effect from receipt by the Association of the notice of resignation or such later date as is provided in the notice.
- (b) Any resigning Member shall be liable for any outstanding subscriptions which may be recovered as a debt due to the Association.

6.5 Expulsion of a Member

- (a) The Board may resolve to expel that Member if the Board considers that that Member's conduct:
 - (1) reflects unfavourably on the Association; or
 - (2) is detrimental to the interests of the Association.
- (b) Particulars of the charge shall be communicated to the Member at least one month before the meeting of the Board at which the matter will be determined.
- (c) The Member shall be afforded an opportunity to be heard or to make written submissions no earlier than two weeks following the communication referred to in clause 6.5(b) and no later than one week prior to the meeting of the Board to consider the Member's expulsion.
- (d) The determination of the Board shall be communicated to the Member, and in the event of an adverse determination, then subject to clause 6.5(e) below, that Member's membership shall automatically cease 14 days after the Board has communicated its determination to the Member.
- (e) It shall be open to a Member to appeal the expulsion to the Association at a General Meeting. The intention to appeal must be communicated to the Chief Executive Officer, Secretary or Public Officer of the Association within 14 days after the determination of the Board has been communicated to the Member.
- (f) In the event of an appeal under clause 6.5(e) above, the appellant's membership of the Association shall not be terminated unless the determination of the Board to expel the Member is upheld by way of a majority resolution in a General Meeting after the appellant has been heard by the Members, and in such event, membership will be terminated at the date of the General Meeting at which the determination of the Board is upheld.

6.6 Cessation of membership

A Member ceases to be a Member immediately upon any Termination Event occurring in respect of the Member.

6.7 Register

- (a) A Register must be kept and must contain:

- (1) the name and address of each Member, including the Australian company number or Australian business number if that Member is a body corporate;
 - (2) the contact phone number and email address (if applicable) of each Member;
 - (3) the voting or non-voting status of the Member in accordance with the class of membership held by that Member;
 - (4) the date on which each Member was admitted to the Association and the type of membership; and
 - (5) if applicable, the date of and reason(s) for termination of membership.
- (b) Each Member must notify the Secretary in writing of any change in that person's name, address, telephone or email address within 14 days after the change.

7. The Board

7.1 Powers and duties

- (a) The affairs of the Association shall be managed and controlled by a Board which, in addition to any powers and authorities conferred by this Constitution, may exercise all such powers and do all such things as are within the objects of the Association provided that such actions are not required by the Act or by this Constitution to be done by the Association in General Meeting or otherwise be approved by the Members.
- (b) The Board has the management and control of the funds and other property of the Association.
- (c) The Board shall have authority to interpret the meaning of this Constitution and any other matter relating to the affairs of the Association on which this Constitution are silent.
- (d) The Board shall appoint a Public Officer as required by the Act. Any change in the Public Officer of the Association shall be notified to the Commission within one Month after the change or such other time as required by the Act.

7.2 Appointment

- (a) The Board shall be comprised of the Board Members in office at the date this Constitution is adopted. The total number of Board Members must be at least 4 and not more than 9.
- (b) The Board may appoint a Board Member to each of the following roles:
 - (1) Chairperson;
 - (2) Deputy Chairperson;
 - (3) Secretary;
 - (4) Finance Director; and

- (5) such other roles as the Board determines from time to time.
- (c) A person is only eligible for appointment as a Board Member if:
 - (1) the person is a natural person;
 - (2) the person is a Member;
 - (3) the person is not prohibited under the Act from being a Board Member;
 - (4) the Board has determined that the person:
 - (A) fulfils any Board Member eligibility criteria set by the Board from time to time; and
 - (B) upon appointment of the person as a Board Member, will fulfil the Board composition requirements set by the Board (if any) having regard to the Association's competency requirements.
- (d) The following Board Members shall automatically retire at the end of each annual General Meeting:
 - (1) any Board Member for whom this would be the third annual General Meeting since their appointment or last election (whichever is later);
 - (2) any Board Member appointed by the Board since the last annual General Meeting; and
 - (3) if no Board Members are required to retire in accordance with clause 7.2(d)(1) or 7.2(d)(2), at least one Board Member selected in accordance with clause 7.2(e).
- (e) The Board Member who must retire under clause 7.2(d)(3) is the Board Member who has been longest in office since their appointment or their last election (whichever is later). If two or more Board Members became Board Members on the same day, or were last re-elected on the same day, they may agree who retires. If they do not agree, they may select who retires by lot or other random method selected by the Board.
- (f) A retiring Board Member shall be eligible to stand for re-appointment without nomination provided such Board Member is not disqualified or prohibited by the Act or this Constitution from being re-appointed.
- (g) Notice of all persons seeking election to the Board shall be given to all Members of the Association with the notice calling the meeting at which the election is to take place.
- (h) The Board may appoint a person to fill a casual vacancy, and such a Board Member shall hold office until the next annual General Meeting of the Association and shall be eligible for election to the Board without nomination.
- (i) Clauses 7.2(c) to 7.2(h) do not apply to the Chief Executive Officer subject to sections 29 and 30 of the Act.

7.3 Proceedings of Board

- (a) The Secretary must, on the requisition of a Board Member, convene a Board meeting.
- (b) The notice of the Board meeting must be given to each Board Member at least 48 hours before the meeting or at another time determined by Board resolution, except:
 - (1) all Board Members may waive in writing the required period of notice for a particular meeting; and
 - (2) the person is not required to give a notice of a meeting of Board Members to a Board Member who is out of Australia or who has been given leave of absence by the Board.
- (c) A Board meeting may be called or held using any technology consented to by all the Board Members. The consent may be a standing one. A Board Member may only withdraw their consent within a reasonable period before the meeting. The Board may otherwise regulate its meetings as they think fit. A Board Members' meeting may be held by the Board Members communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- (d) The Board may pass a resolution without a Board meeting being held if all the Board Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (e) Identical copies of the document may be distributed for signing by different Board Members and taken together will constitute one and the same document.
- (f) The resolution is passed when the last Board Member signs the document.
- (g) The Board shall meet together for the dispatch of business at least bi-monthly.
- (h) Questions arising at any meeting of the Board shall be decided by a majority of votes of Board Members present (whether physically or by electronic means) and voting, and in the event of equality of votes the Chairperson shall have a second or casting vote.
- (i) A quorum for a meeting of the Board shall be half of the Board Members. The quorum must be present at all times during the meeting.
- (j) A Board Member having a direct or indirect pecuniary interest in a contract or proposed contract with the Association must disclose the nature and extent of that interest to the Board as required by the Act, and shall not vote with respect to that contract or proposed contract. The Board Member must also disclose the nature and extent of his or her interest in the contract at the next annual General Meeting of the Association.
- (k) If there are not enough Board Members to form a quorum as a result of a Board Member having an interest which disqualifies them from voting under clause 7.3(j), then one or more of the Board Members (including those who have the disqualifying interest in the matter) may call a General Meeting and the Members may pass a resolution at the General Meeting to deal with the matter.

7.4 Disqualification of Board Members

The office of a Board Member shall become vacant if a Board Member is:

- (a) or becomes bankrupt;
- (b) disqualified from being a Board Member by the Act;
- (c) expelled as a Member under this Constitution (if applicable);
- (d) permanently incapacitated by ill health; or
- (e) absent without apology from more than 3 consecutive Board meetings or 3 General Meetings in a financial year.

7.5 Remuneration

- (a) The Board Members must be paid by way of fees for their services the amounts (if any) determined from time to time by the Association in General Meeting.
- (b) A Board Member may be paid a fee in return for any extra services actually rendered to the Association in a professional or technical capacity (other than within his or her ordinary duties as a Board Member).
- (c) Each Board Member may be reimbursed for out-of-pocket expenses reasonably and properly incurred by the Board Member in connection with Association business (including travel and accommodation expenses) in accordance with Association policies in place at the time the expense is incurred. Alternatively, the Association may pay such amounts on the Board Member's behalf.
- (d) The fees, reimbursements and payments set out in clauses 7.5(a), 7.5(b) and 7.5(c) may only be paid to the Board Member by the Association, or on behalf of the Association, if such fee, reimbursement or payment is:
 - (1) reasonable remuneration for work done by the Board Member on behalf of the Association; or
 - (2) incidental to activities carried on by the Association in accordance and consistently with its objects; or
 - (3) is otherwise able to be paid under the Act.
- (e) Fees payable in accordance with this clause may be paid either by fixed sum or salary determined by the Board.

7.6 Indemnity

- (a) To the maximum extent permitted by the Act and any other applicable laws, the Association:
 - (1) must indemnify each person who is or has been an officer of the Association against any liability incurred by the person as an officer of the Association; and

- (2) may pay a premium for a contract insuring an officer of the Association against that liability.
 - (b) To the maximum extent permitted by the Act and any other applicable laws, the Association may enter into an agreement or deed with an officer of the Association under which the Association must do all or any of the following:
 - (1) keep a set of the Association's books (including minute books) and allow the officer and the officer's advisers access to the books for any period agreed;
 - (2) indemnify the officer against any liability incurred by the officer as an officer; and
 - (3) keep the officer insured for any period agreed in respect of any act or omission by the officer while an officer.
 - (c) Nothing in this clause 7.6 is to be read or construed as the Association indemnifying an officer from any liability incurred by that officer as an officer of the Association of which an officer cannot be indemnified under the Act or any other applicable laws. Any such matters that cannot be the subject of an indemnity under the Act or any other applicable laws are severed and excluded from the operation of this clause 7.6.
 - (d) In clause 7.6, 'officer' has the same meaning as it has in the Act.
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8. The Seal

- (a) The Association may have a common seal upon which its corporate name shall appear in legible characters.
 - (b) The seal shall not be used without the express authorisation of the Board, and every use of the seal shall be recorded in the minute book of the Association. The affixing of the seal shall be witnessed by at least two Board Members, or a combination of the Chief Executive Officer and a Board Member in the event that the Chief Executive Officer is not a Board Member.
 - (c) If the Association has a seal, then it must be kept in the custody of the Secretary or any other person the Board thinks fit.
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9. General Meetings

9.1 Annual General Meetings

- (a) The Board shall call an annual General Meeting in accordance with the Act and this Constitution.
 - (b) An annual General Meeting shall be held once in every calendar year by the Association and within six months after the end of its financial year.
 - (c) The order of the business at each General Meeting shall be:
 - (1) the confirmation of the minutes of the previous annual General Meeting and of any special General Meeting held since that meeting;
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- (2) the consideration of the accounts and reports of the Board and the auditor's report (if auditor's report is required);
- (3) the election of Board Members;
- (4) the remuneration of Board Members;
- (5) the appointment of the auditor (if any);
- (6) any other business requiring consideration by the Association in General Meeting.

9.2 Special General Meetings

- (a) The Board may call a special General Meeting of the Association at any time.
- (b) Upon a requisition in writing of not less than 10% of the total number of ordinary Members and corporate Members of the Association, the Board shall, within one month of the receipt of the requisition, convene a special General Meeting for the purpose specified in the requisition.
- (c) Every requisition for a special General Meeting shall be:
 - (1) signed by the relevant Members;
 - (2) state the purpose of the meeting; and
 - (3) clearly and fully express the intended business of the meeting.
- (d) If a special General Meeting is not convened within one month, as required by clause 9.2(b) above, the requisitionists, or at least 50% of their number, may convene a special General Meeting. Such a meeting shall be convened in the same manner as nearly as practical as a meeting convened by the Board, and for this purpose the Board shall ensure that the requisitionists are supplied free of charge with particulars of the Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting shall be borne by the Association.

9.3 Notice of General Meetings

- (a) Subject to clause 9.3(b), at least 14 days' notice of any General Meeting shall be given to Members. The notice must specify:
 - (1) the nature of the business to be transacted;
 - (2) one or more places (if any) and/or one or more technologies (if any) through which the Member will be able to attend; and
 - (3) the date and time for the meeting.
- (b) Notice of a meeting at which a Special Resolution is to be proposed shall be given at least 21 days prior to the date of the meeting.
- (c) A notice of meeting:

- (1) may be given by the Association to any Member by:
 - (A) serving the notice personally;
 - (B) sending the notice by post to the Member's address appearing in the Register;
 - (C) sending the notice by email or other electronic means to the Member's email or electronic address appearing in the Register; or
 - (D) by making the notice available by electronic means and notifying the Member by any of the methods set out in clauses 9.3(c)(1)(A) to 9.3(c)(1)(C) that the notice is available and how the Member may access the notice.
- (2) is deemed to be given by the Association and received by the Member:
 - (A) if by delivery in person, when delivered to the addressee;
 - (B) if by post, two business days from and including the date of postage;
 - (C) if by email or other electronic means, when transmitted to the addressee, or
 - (D) if made available in accordance with clause 9.3(c)(1)(D), when the notice would have been deemed to be received by the Member in accordance with clauses 9.3(c)(2)(A) to 9.3(c)(2)(C) depending on how the notice was given in accordance with clauses 9.3(c)(1)(A) to 9.3(c)(1)(C) (as applicable),

but if the delivery or receipt is on a day which is not a business day or is after 5:00 pm in the place of receipt it is deemed to be given on the succeeding business day.

- (d) Subject to clause 9.3(e) and the Act, the Board may:
 - (1) postpone a General Meeting;
 - (2) cancel a General Meeting, other than a General Meeting which the Board is required to convene and hold under the Act; or
 - (3) change the place (whether physical or by electronic means) of a General Meeting.
- (e) The Board may postpone, cancel or change the place of a General Meeting if notice is given to all persons entitled to receive notice of the meeting at least two business days prior to the time of the General Meeting as specified in notice of meeting.

9.4 Proceedings at General Meetings

- (a) General Meetings may be held:
 - (1) at any one or more places;

- (2) using any one or more technologies determined by the Board; or
 - (3) by way of combination of clauses 9.4(a)(1) and clause 9.4(a)(2).
- (b) Where Members attend a General Meeting by way of electronic means which, by itself or in conjunction with other arrangements gives Members a reasonable opportunity to participate in proceedings and enables Members to vote, then:
 - (1) Members present by way of electronic means will be taken to be present at the General Meeting for all purposes and entitled to exercise all rights; and
 - (2) the inability of one or more Members to attend, or continue to attend, a General Meeting held in accordance with clause 9.4(a), due to technical difficulties or otherwise, shall not affect the validity of the General Meeting or any business conducted at the General Meeting.
- (c) The quorum for the transaction of business at any General Meeting shall be five Members, present personally (whether physically or by electronic means) or by proxy.
- (d) If within 30 minutes after the time appointed for the meeting a quorum of Members is not present (whether physically or by electronic means), a meeting convened upon the requisition of Members shall lapse. In any other case, the meeting shall stand adjourned to the same day in the next week, at the same time and place (whether physically or by electronic means) and if at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting the Members present (whether physically or by electronic means) shall form a quorum.
- (e) Subject to clause 9.4(f), the Chairperson shall preside as chairperson at a General Meeting of the Association.
- (f) If the Chairperson is not present (whether physically or by electronic means) within five minutes after the time appointed for holding the meeting, or he or she is present but declines to take or retires from the chair, then the Deputy Chairperson or Finance Director shall preside (as agreed by the Board Members present at that meeting).
- (g) If the Deputy Chairperson or Finance Director elected to preside a meeting in accordance with clause 9.4(f) is not present (whether physically or by electronic means) within five minutes after the time appointed for holding the meeting, or he or she is present but declines to take or retires from the chair, the Members may choose a Board Member or one of their own number to chair the meeting.
- (h) The Chairperson may temporarily vacate the chair at a General Meeting in favour of another person present at any time and for any reason that the Chairperson sees fit, and must do so if the Members are voting on the Chairperson's election or re-election as a Board Member.
- (i) Subject to the terms of this Constitution regarding adjournment of meetings, the Chairperson's ruling on all matters relating to the order of business, procedure and conduct of the General Meeting is final and no motion of dissent from a ruling of the Chairperson may be accepted.
- (j) The Chairperson may, in his or her absolute discretion, refuse any person admission to a General Meeting or expel the person from the General Meeting and not permit

them to return (whether physically or by electronic means), if the Chairperson reasonably considers that the person's conduct is inappropriate. Inappropriate conduct in a General Meeting includes, but is not limited to:

- (1) the use of offensive or abusive language which is directed to any person, object or thing;
 - (2) attendance at the meeting while under the influence of any kind of drug, or using or consuming any drug at the meeting, including any alcoholic substance; or
 - (3) possession of any article, including a recording device or other electronic device or a sign or banner, which the Chairperson considers is dangerous, offensive or disruptive or likely to become so.
- (k) The Chairperson must adjourn a General Meeting if the Members present with a majority of votes at the meeting agree or direct the Chairperson to do so. The Chairperson may adjourn the meeting to any place, date and time.

9.5 Voting at General Meetings

- (a) Subject to this Constitution, every ordinary Member and corporate Member of the Association has only one vote at a meeting of the Association.
- (b) Subject to this Constitution, a question for decision at a General Meeting, other than a Special Resolution, must be determined by a majority of Members who vote in person (whether physically or by electronic means) or, where proxies are allowed, by proxy, at that meeting.
- (c) A question for decision by Special Resolution shall be determined in accordance with the requirements of the Act.
- (d) Unless a poll is demanded by the Chairperson or at least five Members, a question for decision at a General Meeting must be determined by a show of hands.
- (e) The demand for a poll may be withdrawn.
- (f) A Member being a body corporate shall be entitled to appoint one person, who shall not be a Member of the Association, to represent it at a particular General Meeting or at all General Meetings of the Association. That person shall be appointed by the corporate Member by a resolution of its Board, which may be authenticated under its seal. Such a person shall be deemed to be a Member of the Association for all purposes until the authority to represent the corporate Member is revoked.

9.6 Poll at general meetings

- (a) If a poll is demanded, it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.
- (b) A poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

9.7 Special and ordinary resolutions

- (a) A Special Resolution shall be passed in accordance with the Act.
- (b) An ordinary resolution is a resolution passed by a simple majority of Members entitled to vote who are present (whether physically or by electronic means) at a General Meeting.

9.8 Proxies

- (a) A Member shall be entitled to appoint in writing a natural person, who need not be a Member, to be their proxy, and to attend and vote on the appointing Member's behalf (whether physically or by electronic means) at any General Meeting of the Association.
- (b) At each General Meeting, each Member entitled to vote may vote in person (whether physically or by electronic means) or by proxy. A Member which is a body corporate, body politic or incorporated association may appoint an individual as a representative.
- (c) Subject to the terms of their appointment, a person attending as a proxy, or as representing a corporation which is a Member (whether physically or by electronic means), has all the powers of the Member that appointed that person as proxy or representative, except where expressly stated to the contrary.
- (d) A document appointing a proxy must be in writing, in any form permitted by the Corporations Act and signed by the Member making the appointment.
- (e) A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.
- (f) Before the time for holding the meeting or adjourned meeting at which a proxy proposes to vote, the document appointing the proxy must be deposited with the Associations. This document must either be:
 - (1) received at the office of the Association or electronic address specified for that purpose in the notice convening the meeting not less than 24 hours before the time for holding the meeting; or
 - (2) produced to the chairperson of the meeting before the proxy votes.
- (g) If a General Meeting has been adjourned, an appointment received by the Association at least 24 hours before the resumption of the meeting is effective for the resumed part of the meeting.
- (h) A proxy document is invalid if it is not deposited or produced prior to a meeting or a vote being taken as required by this Constitution.
- (i) A vote given in accordance with the terms of a proxy document or power of attorney is valid despite the occurrence of any one or more of the following events if no intimation in writing of any of those events has been received by the Association before the commencement of the meeting or adjourned meeting at which the document is used:

- (1) the previous death or unsoundness of mind of the principal; or
- (2) the revocation of the proxy.

9.9 Resolutions in writing

- (a) A resolution in writing signed by all Members entitled to vote on the resolution is to be treated as a determination of the Members passed at a meeting of the Members duly convened and held.
- (b) A resolution in writing may consist of several documents in like form, each signed by one or more Members and if so signed it takes effect on the latest date on which a Member signs one of the documents.
- (c) If a resolution in writing is signed by a proxy of a Member, it must not also be signed by the appointing Member and vice versa.
- (d) In relation to a resolution in writing, a document generated by electronic means which purports to be a resolution of Members is to be treated as a resolution in writing and a document bearing an electronic signature is to be treated as signed.

10. Minutes

- (a) Proper minutes of all proceedings of General Meetings of the Association and of meetings of the Board, shall be entered within one month after the relevant meeting in minute books kept for the purpose.
- (b) The minutes kept pursuant to this clause must be confirmed by the Members or Board Members (as relevant) at a subsequent meeting.
- (c) The minutes kept pursuant to this clause shall be signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the next succeeding meeting at which the minutes are confirmed.
- (d) Where minutes are entered and signed they shall, until the contrary is proved, be evidence that the meeting was convened and duly held, that all proceedings held at the meeting shall be deemed to have been duly held, and that all appointments made at a meeting shall be deemed to be valid.

11. Dispute resolution

- (a) The dispute resolution procedure set out in this clause applies to disputes under this Constitution between:
 - (1) a Member and another Member; and
 - (2) a Member and the Association.
- (b) The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.

- (c) If the parties are unable to resolve the dispute at the meeting the parties may choose to meet and discuss the dispute before an independent third person agreed to by the parties.
- (d) In this clause, 'Member' includes any person who was a Member not more than six months before the dispute occurred.

12. Financial reporting

12.1 Financial year

The first financial year of the Association shall be the period ending on the next 30 June following incorporation, and thereafter a period of 12 months commencing on 1 July and ending on 30 June of each year.

12.2 Accounts to be kept

The Association shall keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association in accordance with the Act.

12.3 Prescribed Association

If the Association is a 'prescribed association' under the Act:

- (a) the accounts, together with the auditor's report on the accounts, the Board's statement and the Board's report, shall be laid before Members at the annual General Meeting;
- (b) the annual return shall be lodged with the Commission within six months after the end of each financial year. It must be accompanied by a copy of the accounts, the auditor's report, the Board's statement, and the Board's report;
- (c) the Members shall appoint a person to be auditor of the Association at each annual General Meeting;
- (d) the auditor shall hold office until the next annual General Meeting and is eligible for re-appointment; and
- (e) if an appointment is not made at an annual General Meeting, the Board shall appoint an auditor for the current financial year.

13. Gift Fund

- (a) The Association may establish a gift fund for the purposes of achieving the Principal Purpose of the Association as outlined in clause 4.
- (b) All gifts of money, property or any other assets will comprise the gift fund and will be accounted for separately from any other funds received by the Association.

- (c) On dissolution, any assets remaining after the payment of any debts or liabilities attributable to the gift fund shall be transferred to a similar organisation in accordance with clause 15 of this constitution.

14. Prohibition against securing profits for Members

- (a) The income and capital of the Association shall be applied exclusively to the promotion of its objects and no portion shall be paid or distributed directly or indirectly to Members or their associates except as bona fide remuneration of a Member for services rendered or expenses incurred on behalf of the Association.
- (b) Nothing in this clause prevents the Association from making a payment which is not prohibited under the Act.

15. Winding up and DGR endorsement revocation

- (a) The Association may be wound up in the manner provided for in the Act.
- (b) In the event a Special Resolution for the winding up of the Association is passed by the Members, the Board must take all appropriate steps to wind up the Association.
- (c) Upon the winding up or dissolution of the Association, all property (including gift funds) whether real or personal remaining after payment of all debts and legal liabilities shall be transferred to one or more charities approved by the Association, provided that:
 - (1) such charities have objects that are similar to, or inclusive of, the Principal Purpose of the Association;
 - (2) the governing rules of such charities prohibit the distribution of income and property to the charity's members to at least the same extent as the Association; and
 - (3) such charities are DGRs.
- (d) If the Association's DGR endorsement is revoked (whether or not the Association is wound up or dissolved in accordance with this clause 15), any surplus gift funds must be transferred to one or more charities that meet the requirements of clause 15(c)(1), clause 15(c)(2) and 15(c)(3), as determined by the Board.
- (e) For the purpose of this clause 15:
 - (1) 'gift funds' means:
 - (A) gifts of money or property for the Principal Purpose of the Association;
 - (B) contributions made in relation to a fund-raising event held for the Principal Purpose of the Association, and

- (C) money received by the Association because of such gifts and contributions; and
 - (2) 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the *Income Tax Assessment Act 1997* (Cth).
 - (f) A Member is not liable to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of a winding up of the Association.
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16. Amendment of Constitution

- (a) This Constitution may be altered (including an alteration to the Association's name) by Special Resolution of the Members. This includes rescission or replacement by substitute rules. Subject to clause 16(b), any alteration of this Constitution comes into force at the time the Special Resolution is passed.
- (b) Any alteration of the name of the Association does not come into force until the alteration is registered by the Commission. The alteration shall be registered with the Commission, as required by the Act.
- (c) This Constitution shall bind the Association and every Member to the same extent as if they have respectively signed and sealed them, and agreed to be bound by all of the provisions thereof.