

Constitution of Australian College of Optometry

ACN 004 235 250

A public company limited by guarantee

As adopted on 30 May 2024

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Constitution

Australian College of Optometry ACN 004 235 250

1. Preliminary

1.1 Definitions

ACNC Legislation means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the *Australian Charities and Not-for-profits Commission Regulations 2022* (Cth), to the extent they apply to ACO at the relevant time.

ACO means Australian College of Optometry ACN 004 235 250.

ACO Honorarium Policy means the policy for Director Honoraria determined by the Board from time to time.

Adoption Date means the date the adoption of this constitution by the Members became effective.

Appeal Notice means a notice given in accordance with rule 5.2.

Appointed Director has the meaning given in rule 6.1(c).

Auditor means a person appointed as the auditor of ACO.

Board means the Directors acting as a board of directors.

Business Day means a day that is not a Saturday, Sunday or public holiday in Melbourne, Victoria.

Chair means the chair of the relevant meeting under rule 9.6 or 11.2 (as the case may be).

Chairperson means the Director referred to in rule 6.2.

Chief Executive Officer means a person appointed chief executive officer of ACO under rule 8.2.

Company Secretary means the person appointed as company secretary of ACO under rule 8.3.

Corporations Act means the *Corporations Act 2001* (Cth).

Director means a director of ACO.

Endowment Fund means each of:

- (a) the Beresford Cambridge Bequest Trust (ABN 79 283 474 189);

- (b) the NVRI Governors Endowment Fund trust (ABN 80 291 559 489); and
- (c) the Schulz Laubman Schultz Endowment Fund trust (ABN 75 428 827 548),

and any other similar fund of which ACO is a trustee as identified or determined by the Board from time to time.

General Meeting means a meeting of Members.

Honorary Life Member means a person entered in the Register of Members from time to time as an honorary life member in accordance with rule 4.4.

Honorary Member means a person in the Register of Members from time to time as an honorary member in accordance with rule 4.5.

Member means a member of ACO.

Member Director has the meaning given in rule 6.1(b).

Officer means:

- (a) each person who is or has been a Director or Company Secretary; and
- (b) other officers and former officers of ACO as determined by the Board from time to time.

Ordinary Member means a person entered in the Register of Members from time to time as an ordinary member in accordance with rule 4.3.

Register of Members means the register of Members maintained under section 169 of the Corporations Act.

Registered Office means the registered office of ACO.

Tax Acts means the *Income Tax Assessment Act 1936* (Cth) and the *Income Tax Assessment Act 1997* (Cth).

Voting Member means:

- (a) a Member who has paid up any applicable membership fees; and
- (b) a Member of any class that the Board determines has the right to vote,

and who is not, at the relevant time, suspended or otherwise disqualified from voting under this constitution.

1.2 Interpretation

In this constitution:

- (a) a word or expression, not otherwise defined, has the same meaning as in the ACNC Legislation or the Corporations Act as applicable;

- (b) headings are for convenience only and do not affect the interpretation of this constitution;
- (c) the singular includes the plural and vice versa;
- (d) a gender includes each other gender;
- (e) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (f) the meaning of general words is not limited by specific examples introduced by **includes, including** or similar expressions;
- (g) a reference to a person includes an individual, a partnership, a corporation or other corporate body, a joint venture, a firm, a trust, an association (whether incorporated or not) and a government agency or authority;
- (h) a reference to an individual is to a natural person;
- (i) a reference to a Member being present at a General Meeting includes a Member present in person or by proxy;
- (j) a period of time dating from a given day or the day of a given act or event is to be calculated exclusive of that day.

1.3 The Corporations Act and the ACNC Legislation

- (a) This constitution is subject to the Corporations Act and the ACNC Legislation.
- (b) The replaceable rules for a company under the Corporations Act do not apply to ACO.
- (c) While ACO is a registered charity (as defined under and for the purposes of the Tax Acts), if a rule in this constitution is inconsistent with the Tax Acts or would prevent ACO from complying with a provision of the Tax Acts, this constitution will not apply to the extent of that inconsistency or to the extent it would prevent compliance with the Tax Acts.

2. Nature of ACO

2.1 No distribution to Members

- (a) ACO's income and property must be applied solely towards pursuing ACO's objects.
- (b) ACO must not directly or indirectly pay to any Member or any person claiming through that Member, in any way, any of the property or income of ACO.
- (c) Rule 2.1(a) does not prevent ACO from doing any of the following things, provided they are done in good faith and with the approval of the Directors:
 - (1) the payment of salary, wages, allowances and other remuneration at fair and reasonable rates to any Member for goods and services or in respect of employment of that Member;
 - (2) making a payment to a Member in pursuing ACO's charitable objects;

- (3) paying a sum permitted to be paid under Chapter 2E of the Corporations Act (related party transactions);
- (4) paying a sum permitted to be paid under rule 6.13 (Honoraria and expenses of directors); or
- (5) paying a sum under rule 15 (indemnity and insurance).

2.2 Liability of Members

Each Member undertakes to contribute a maximum of \$50.00 to the property of ACO if ACO is wound up while the person is a Member or within one year after the person ceases to be a Member, for the payment of:

- (a) the debts and liabilities of ACO;
- (b) the costs, charges and expenses of any winding up; and
- (c) the adjustment of the rights of Members among themselves.

2.3 Revocation of DGR endorsement

- (a) If ACO's endorsement as a deductible gift recipient is revoked other than in circumstances where ACO is, or is to be, wound up or dissolved, ACO must transfer to another entity or entities in Australia to which income tax deductible gifts can be made, any surplus of the following assets of ACO:
 - (1) gifts of money or property that have been received and are held by ACO for the objects of ACO;
 - (2) contributions made in relation to an eligible fundraising event held by ACO for the objects of ACO;
 - (3) money received by ACO because of such gifts and contributions.
- (b) For the purposes of rule 2.3(a):
 - (1) the Members must identify the entity or entities as soon as practicable after the revocation; or
 - (2) if the Members do not wish to decide or do not decide, the Directors must identify the entity or entities as soon as practicable after the revocation; or
 - (3) if the Directors do not wish to decide or do not decide, ACO may apply to the Supreme Court of Victoria for determination.
- (c) For the purposes of rule 2.3(a), the assets of ACO do not include any monies or property held in an Endowment Fund.

2.4 Winding up

- (a) If ACO is wound up or dissolved, the Members have no right to participate in any distribution or payment of the assets or property of ACO.

- (b) If, on the winding up or dissolution of ACO, any property remains after satisfaction of all its debts and liabilities, such property must be given or transferred to an entity or entities:
 - (1) which has objects similar to the objects of ACO;
 - (2) whose constituent documents prohibit distributions or payments to its members to at least the same extent as set out in rule 2.1; and
 - (3) which is a deductible gift recipient.
 - (c) For the purposes of rule 2.4(b):
 - (1) the Members must identify the entity or entities at the time of the winding up or dissolution; or
 - (2) if the Members do not wish to decide or do not decide, the Directors must identify the entity or entities at the time of the revocation; or
 - (3) if the Directors do not wish to decide or do not decide, ACO may apply to the Supreme Court of Victoria for determination.
 - (d) For the purposes of rule 2.4(b), the assets of ACO do not include any monies or property held in an Endowment Fund.
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3. Objects and powers

3.1 Objects

- (a) The primary object of ACO is to promote the prevention or control of diseases in human beings by:
 - (1) providing affordable eye care;
 - (2) advancing and promoting eye and vision care;
 - (3) supporting the education, training and development of optometrists;
 - (4) formulating, adopting, encouraging and promoting high standards of optometric practice, and standards of ethical and professional conduct for the optometry profession;
 - (5) encouraging and fostering research into optometry and the visual sciences; and
 - (6) undertaking such other public charitable activities, consistent with its prevailing tax status, as the Directors may determine from time to time.
- (b) To pursue its primary object, ACO may, amongst other things:
 - (1) provide comprehensive public health eye care services through an integrated service model that includes health promotion and prevention, community education, primary care and specialist services, and referral pathways to ophthalmology and other appropriate health care;

- (2) undertake research aimed at preservation of sight, prevention of blindness, improvements in vision care and treatment, and graduate education;
 - (3) enter into agreements, affiliations and co-operations with universities, research groups and other institutions to advance the study and research of optometry, the provision of optometric care and the visual sciences generally and assist the education of optometrists and students pursuing courses of study in optometry or otherwise advance the interests and activities of ACO;
 - (4) provide teaching, resources, facilities, educational awards and the setting of professional standards, the provision of advice and support services to the optometry profession and to Members;
 - (5) engage and work with Commonwealth, State / Territory, and local governments or any person concerned with or interested in the provision of health services which will advance, assist or otherwise facilitate the training of current and future generations of optometrists or the provision of optometric services or research; and
 - (6) actively raise and/or solicit funds from the public.
- (c) ACO may pursue other objects that are incidental or ancillary to, or which further or aid, but are not inconsistent with, its primary object in rule 3.1(a).

3.2 Powers under this constitution

- (a) ACO may do anything which, under the Corporations Act, a company limited by guarantee may do, if authorised by its constitution.
- (b) ACO may do things in any manner permitted by the Corporations Act or the ACNC Legislation.
- (c) If, under this constitution, a person may do a particular act or thing, the person does the act or thing at that person's discretion.
- (d) Subject to an express term to the contrary:
 - (1) if this constitution confers a power, the person may exercise the power as necessary and for the period the person holds the office; and
 - (2) if this constitution imposes a duty, the person must perform the duty as necessary and for the period the person holds the office.
- (e) If this constitution confers power on a person or body to delegate a function or power, the person or body may:
 - (1) delegate concurrently or to the exclusion of that person's or body's performance or exercise of that function or power;
 - (2) delegate generally; or
 - (3) limit the delegation in the manner that the person or body sets out in the delegation.

- (f) The delegation need not be to a specified person but may be to any person holding, occupying or performing the duties of, a specified office or position.
- (g) The delegation may include the power to delegate.
- (h) If the person's action depends upon the opinion, belief or state of mind of that person, the delegate has the same capacity to act upon the delegate's opinion, belief or state of mind.
- (i) A delegate's action is taken as the act of the person who delegated the power or function.
- (j) Subject to an express term to the contrary:
 - (1) if this constitution confers a power to do a particular act or thing, the power includes the power to repeal, rescind, revoke, amend or vary that act or thing.
 - (2) if this constitution confers a power to do a particular act or thing about a particular matter, the power includes a power to do that act or thing:
 - (A) for some only of those matters;
 - (B) for a particular class or particular classes of those matters; and
 - (C) to make different provision for different matters or different classes of matters.
 - (3) if this constitution confers a power to appoint a person to an office or position, the power includes a power:
 - (A) to appoint a person to act in the office or position until another person is appointed;
 - (B) subject to any contract between ACO and the person, to remove or suspend the person appointed; and
 - (C) to appoint another person temporarily in the place of:
 - (i) a person removed or suspended; or
 - (ii) an incapacitated or absent holder of an office or position.

4. Members

4.1 Membership

The Members of ACO are:

- (a) all persons who were Members of ACO as at the Adoption Date; and
- (b) any individual the Board or its nominee admits as a Member under rule 4.7, 4.4(b) or 4.5(c).

excluding any person who has ceased to be a Member.

4.2 Classes of membership

- (a) The classes of membership of ACO are:
 - (1) Ordinary Membership;
 - (2) Honorary Life Membership; and
 - (3) Honorary Membership.
- (b) The Board may:
 - (1) establish additional classes of membership and prescribe qualifications to become, and rights (including any voting rights), privileges and obligations of, persons who become a Member of that class; and/or
 - (2) change the membership class of a Member.
- (c) An individual may be a Member in only one class of membership.

4.3 Ordinary Membership

- (a) Ordinary Members are those individuals who:
 - (1) were a Member, other than a Member in the Honorary Life Membership or Honorary Membership class, on the Adoption Date; or
 - (2) are eligible to be admitted to this class under rule 4.3(b), apply for membership under rule 4.6, and are admitted to this class under rule 4.7;and who remain a Member in this class.
- (b) An individual is eligible to be admitted to the Ordinary Membership class if the individual is:
 - (1) 18 years of age or over;
 - (2) either:
 - (A) is currently registered to practice optometry in Australia;
 - (B) holds a qualification in optometry that would enable that person to obtain registration as an optometrist in Australia; or
 - (C) has a special interest in optometry, vision sciences, public health or an allied field; and
 - (3) an individual who is, in the opinion of the Board, of good standing and, in the case of an individual who engages in the practice of optometry, does so in a way that conforms to the standards of optometric practice, ethical and professional conduct acceptable to ACO.
- (c) Any individual admitted as an Ordinary Member must be entered in the Register of Members as an Ordinary Member.

4.4 Honorary Life Membership

- (a) Honorary Life Members are those individuals who:
 - (1) were a Member in this class on the Adoption Date; or
 - (2) are admitted to this class under rule 4.4(b),and who remain a Member in this class.
- (b) The Board may admit an individual as an Honorary Life Member in recognition of distinguished and honourable service to ACO or the profession of optometry.
- (c) Except as otherwise determined by the Board, an Honorary Life Member is:
 - (1) entitled to notice of, and to attend and to vote at, a General Meeting; and
 - (2) not required to pay any annual membership fees.
- (d) Any individual admitted as an Honorary Life Member must be entered in the Register of Members as an Honorary Life Member.

4.5 Honorary Membership

- (a) Honorary Members are those individuals who:
 - (1) were a Member in this class on the Adoption Date; or
 - (2) are eligible to be admitted to this class under rule 4.5(b), apply for membership under rule 4.6, and are admitted to this class under rule 4.5(c).and who remain a Member in this class.
- (b) An individual is eligible to be admitted to the Honorary Membership class if the individual:
 - (1) has been a Member for at least 30 consecutive years;
 - (2) is 65 years of age or more; and
 - (3) has retired from the full-time practice of optometry.
- (c) The Board must admit an individual who is eligible for admission as an Honorary Member and who applies for admission in that class.
- (d) Except as otherwise determined by the Board, an Honorary Member is:
 - (1) entitled to notice of, and to attend and to vote at, a General Meeting; and
 - (2) not required to pay any annual membership fees.
- (e) Any individual admitted as an Honorary Member must be entered in the Register of Members as an Honorary Member.

4.6 Application for membership

- (a) An application for membership must be made in a form approved by the Board from time to time. Each application must contain:
 - (1) an undertaking by the applicant to be bound by this constitution as they exist from time to time;
 - (2) the residential address, postal address, telephone number and electronic mail address (if any) of the applicant and every place at which the applicant practices optometry;
 - (3) evidence of the applicant's qualification for the class of membership; and
 - (4) the signature of the applicant or other form of authentication.
- (b) An application for membership must be accompanied by the applicable membership fee and must be lodged with ACO.

4.7 Admission to membership

- (a) The Board must:
 - (1) for Ordinary Membership, determine whether or not to approve each application for membership as soon as reasonably practicable after its receipt;
 - (2) for Honorary Life Membership made by an individual who has been nominated by a Member as eligible, and who is eligible, for admission to that class under rule 4.4(a), approve that application for membership as soon as reasonably practicable after its receipt; or
 - (3) for Honorary Membership made by an individual who has been nominated by a Member as eligible, and who is eligible, for admission to that class under rule 4.5(b), approve that application for membership as soon as reasonably practicable after its receipt.
- (b) The Board may require an applicant or nominee to give further information before dealing with the admission of an applicant or nominee for membership.
- (c) Subject to rule 4.7(d), an individual becomes a Member upon the Board approving the application or nomination under rule 4.7(a) and entering the person's details in the Register of Members.
- (d) The Board must not enter a person's details in the Register of Members at any time during the period between the date fixed under rule 6.5(b)(2) and the day after the holding of (including after any postponement or adjournment) or cancellation of the Annual General Meeting the subject of that notice.
- (e) Subject to rule 4.5(c), the Board may refuse any application for membership at its discretion and is not required to give reasons for any such refusal.

4.8 Notification by Members

Each Member must promptly notify ACO in writing of any change in the Member's qualification to be a Member and, within one month after the change, any change in the details about the Member previously provided to ACO.

4.9 Fees and charges

- (a) The Board may set fees and other charges to be paid by each Membership class.
- (b) All fees and other charges are due and payable on dates determined by the Board.
- (c) Annual membership fees are payable in respect of the period from 1 January to 31 December provided that annual membership fees paid by any person who becomes a Member after 30 November in any year will be deemed to have been paid in respect of the following year.

4.10 Register of Members

The Board must keep a Register of Members which contains the following information about each Member:

- (a) the name of the Member;
- (b) the residential address, postal address and electronic mail address for notices last notified by the Member;
- (c) the class of membership;
- (d) the date of becoming a Member; and
- (e) in the case of former Members, the date of ceasing to be a Member.

4.11 Rights and obligations

- (a) Every Member must further, to the best of the Member's ability, the objects, influence and interests of ACO.
- (b) Every Member must observe this constitution.
- (c) A Member who has been suspended in accordance with rule 5.1 is not eligible to participate in the activities of ACO, or enjoy the rights as a Member, during the period of suspension.
- (d) The rights of Members are personal and are not transferable.

5. Disciplining of Members and cessation of membership

5.1 Disciplining of Members

- (a) Any Member who:
 - (1) ceases to satisfy the criteria for admission to the Member's class of membership;

- (2) breaches any provision of this constitution;
- (3) in the opinion of the Board, has engaged in any act, practice or conduct which has or may:
 - (A) bring discredit on ACO or the profession of optometry; or
 - (B) lower the status of ACO or the profession of optometry; or
- (4) is, or becomes, disqualified from practising optometry in Australia for any period,

may be suspended or expelled as a Member by Special Resolution of the Board.

- (b) Where the Board suspends a Member:
 - (1) the Board must determine the period of the suspension;
 - (2) the Member may not exercise any rights or discretions of membership whilst the suspension remains in effect;
 - (3) all of the Member's duties and obligations of membership remain binding upon the Member whilst the suspension remains in effect; and
 - (4) the suspension may be lifted early by the Board (in its absolute discretion).
- (c) Where a Member is expelled under this rule 5.1, the member is not entitled to any pro-rata refund of monies paid to ACO.
- (d) The Board must notify any Member who is the subject of a proposed suspension or expulsion under rule 5.1(a) by giving at least 7 days' written notice the relevant Board meeting including reasons for the proposed suspension or expulsion (as applicable).
- (e) The Member the subject of a notice referred to in rule 5.1(d) must be given procedural fairness in the matter, including a reasonable opportunity to provide a written submission (not exceeding 1,000 words and not containing anything defamatory) and/or speak at the meeting, but the Member is not entitled to be present at the voting.
- (f) Where the Board resolves to suspend or expel a Member under rule 5.1(a):
 - (1) the Board must notify the Member promptly in writing;
 - (2) a suspension or expulsion, is provisional and does not have effect unless:
 - (A) the Member does not give the Chairperson an Appeal Notice within time; or
 - (B) the Member gives the Chairperson an Appeal Notice within time but the General Meeting resolves to affirm the suspension or expulsion under rule 5.2(b).

5.2 Appeals

- (a) Any Member, who is:
- suspended or expelled, under rule 5.1(a), may appeal the Board's decision by written notice to the Chairperson within seven days after the date the Board gives notice to the Member under rule 5.1(f) (**Appeal Notice**).
- (b) If an Appeal Notice is given under rule 5.2 within time:
- (1) the Board must arrange for a General Meeting to be held within 30 days after the receipt of the Appeal Notice to consider whether or not to affirm the proposed suspension or expulsion;
 - (2) the Member who gave the Appeal Notice must be given procedural fairness in the matter, including a reasonable opportunity to provide a written submission (not exceeding 1,000 words and not containing anything defamatory) and/or speak at the General Meeting;
 - (3) where a majority of the Members present and entitled to vote at the General Meeting resolve to affirm the proposed suspension or expulsion, the suspension or expulsion has effect at the end of the General Meeting; and
 - (4) unless the proposed fine, suspension or expulsion is affirmed under rule 5.2(b)(3), it has no effect and no further disciplinary action may be taken against the Member in relation to the particular conduct or circumstances which gave rise to the initial proposal.

5.3 Cessation of membership

- (a) An individual ceases to be a Member if the individual:
- (1) resigns by giving written notice to the Company Secretary;
 - (2) dies, becomes bankrupt, makes a composition with, or assigns the individual's estate for the benefit of, the person's creditors;
 - (3) is expelled under rule 5.1; or
 - (4) becomes, in the reasonable opinion of the Directors, uncontactable, and the Directors, as a consequence, determine that the individual's membership ceases.
- (b) If an individual ceases to be a Member, the Board must promptly update the Register of Members.
- (c) If an individual ceases to be a Member, that individual remains liable to pay to ACO any money which they owe to ACO and any amount for which that individual has guaranteed under rule 2.2.

6. Board

6.1 Composition of the Board

- (a) Subject to this constitution (including the transitional provisions set out in the Schedule), the Board must, as far as practicable, consist of at least seven but no more than nine directors. It is the intention that the Board consist, as far as practicable, of an odd number of directors (namely, 7 or 9 directors).
- (b) Voting Members may elect other Voting Members as Directors in accordance with rules 6.4 and 6.10 (**Member Director**) and, subject to rule 6.11, a majority of Directors must be Member Directors.
- (c) The Board may appoint an individual, whether they are a Member or not, to be a Director, subject to the requirements in rules 6.1(a) and 6.1(b) (**Appointed Director**).
- (d) The Board may appoint:
 - (1) a Voting Member to fill a casual vacancy in the office of a Member Director; or
 - (2) an individual, whether they are a Member or not, to fill a casual vacancy in the office of an Appointed Director,

in accordance with rule 6.11.

6.2 Chairperson

The Board may from time to time appoint and remove a Member Director as Chairperson. A Chairperson is ordinarily appointed for a period of 12 months or 24 months, unless determined otherwise by the Board.

6.3 Eligibility

- (a) To be eligible to be elected or appointed as a Director, an individual must:
 - (1) be at least 18 years old;
 - (2) be a Voting Member, to be elected as a Member Director; and
 - (3) not be otherwise ineligible or disqualified from holding office under this constitution or the Corporations Act or any other applicable legislation (including the ACNC Legislation).
- (b) The following persons are ineligible to be elected or appointed as a Director:
 - (1) any current or former Auditor of ACO;
 - (2) any partner or employee or employer of any current or former Auditor;
 - (3) subject to rule 6.4(e), a Company Secretary or any person who is employed by ACO; and
 - (4) the Chief Executive Officer of ACO.

- (c) A Director may hold any other office or position of profit with ACO (other than as Auditor, Company Secretary, as an employee or Chief Executive Officer of ACO) together with the role as Director on the conditions as determined by the Board.

6.4 Election of Member Directors

- (a) Subject to this constitution, the Member Directors are:
 - (1) elected at each Annual General Meeting; or
 - (2) appointed by the Board to fill a casual vacancy in accordance with rule 6.11(a).
- (b) Only Voting Members are entitled to Vote for Member Directors.
- (c) Each Voting Member shall be entitled to vote for no more than the number of Board positions to be filled at the election.
- (d) A person standing for election as a Member Director must be a Voting Member and must be nominated by at least two other Voting Members.
- (e) A Company Secretary or person employed by ACO may stand for election as a Member Director, but must resign from their appointment or employment in the event they are elected as a Director, to be eligible to be appointed as a Director.

6.5 Nomination of Member Directors

- (a) A nomination for Member Director must be in the form which the Board approves from time to time (**Nomination Form**).
- (b) The Chairperson must, at least 35 days before the Annual General Meeting:
 - (1) appoint a polling day, being at least seven days before the Annual General Meeting;
 - (2) fix a date and time by when Nomination Forms must be received; and
 - (3) cause all Voting Members to be given written notification of the matters in rules 6.5(b)(1) and 6.5(b)(2).
- (c) Notice under rule 6.3(b)(3) shall be given:
 - (1) unless the circumstances in rule 6.5(c)(2) applies, electronically to a Voting Member; or
 - (2) by post to a Voting Member (where, as at the date of giving notice, the Voting Member has notified the Company Secretary that the Voting Member requests to receive communications by post).
- (d) The returning officer for any election conducted under this rule shall be the Company Secretary or other person appointed by the Board.

- (e) Where at the close of nominations, the number of candidates for Member Directors nominated:
 - (1) does not exceed the number of persons required to be elected, the returning officer shall declare the persons so nominated to be duly elected; or
 - (2) exceeds the number of persons to be elected, a ballot must be held for the election of Member Directors in accordance with 6.6(a).
- (f) In the event there are insufficient number of candidates for Member Directors properly nominated, the remaining Member Director(s) may be filled by appointment by the Board as a casual vacancy in accordance with rule 6.11(a).

6.6 Ballot

- (a) If a ballot is required:
 - (1) The returning officer must send to all Voting Members, at least 14 days before the polling day, a ballot in such form as approved by the Board containing the names of all candidates in alphabetical order by surname.
 - (2) The returning officer must cause a copy of the ballot to be made available to each Voting Member either:
 - (A) unless the circumstances in rule 6.6(a)(2)(B) applies, electronically to the Voting Member; or
 - (B) by post to the Voting Member (where, as at the date of sending the ballots, the Voting Member has notified the Company Secretary that the Voting Member requests to receive communications by post).
 - (3) Each Voting Member to whom a ballot has been sent electronically, and who wishes to vote, must do so in accordance with the instructions provided with the ballot and by no later than 12 noon in Melbourne, Australia on the polling date.
 - (4) Each Voting Member to whom a ballot has been sent by post, and who wishes to vote, must do so in accordance with the instructions provided with the ballot and cause the ballot to be returned to the returning officer by no later than 12 noon in Melbourne, Australia on the polling date.
 - (5) Upon a voter making and transmitting to the returning officer a declaration in writing that they have not received a ballot or that the ballot received or returned by them has been lost, spoiled or destroyed and that they have not already voted, the returning officer may issue a new ballot to such voter.
- (b) At the close of the ballot, the returning officer must examine the returned electronic and paper ballots and must exclude any ballots which:
 - (1) do not comply with the directions or requirements for completing the ballot;
 - (2) are duplicates;
 - (3) have been returned by persons not eligible to vote; or

- (4) have been returned after 12 noon in Melbourne, Australia on the polling date.
- (c) In counting the votes:
- (1) each candidate may nominate in writing one scrutineer to be present during the taking of the poll;
 - (2) the returning officer, who may appoint two scrutineers to assist them in the taking of the poll, must ensure all eligible votes are counted prior to the next Annual General Meeting;
 - (3) in case of equality of votes, the returning officer shall decide by lot in the presence of at least two scrutineers, or if there be no scrutineers, two assistants appointed by the Chairperson, which candidate shall be elected;
 - (4) where any question arises as to the validity or regularity of any vote, the decision of the returning officer shall be final and binding; and
 - (5) the returning officer shall report the result of the election to the Annual General Meeting.
- (d) The returning officer may destroy the ballots three months after the polling date unless the Board directs otherwise.

6.7 Term of Directors

- (a) A Director holds office for the term they are appointed or elected, unless they earlier vacate, resign or are removed in accordance with this constitution.
- (b) Subject to rule 6.7(d), each Member Director and Appointed Director elected or appointed under rule 6.1 holds office for a period of:
- (1) in the case of an individual appointed to replace a Director under rule 6.10, for a term ending on the same date as the term of the Director that the individual is replacing;
 - (2) in the case of an individual appointed by the Board to fill a casual vacancy in the office of a Member Director under rule 6.11(a), until the conclusion of the next Annual General Meeting; and
 - (3) in all other cases, three years,
- save that the period of the term shall be reduced or extended (as the case may be) to the date of the Annual General Meeting in the financial year in which their term would otherwise expire, at which time the Director is deemed to have retired from office.
- (c) Subject to rule 6.7(e), a retiring Director is eligible to be re-elected or re-appointed, as the case may be, and subject to the requirements of this constitution a retiring Appointed Director may stand for election as a Member Director.
- (d) An individual may only serve as a Director for a maximum term of nine years (whether consecutively or otherwise), save that the period of the term shall be reduced or extended (as the case may be) to the date of the Annual General Meeting in the

financial year in which the Director has first served as a Director for the maximum term, at which time the Director is deemed to have retired from office.

- (e) An individual may not be elected or appointed as a Director once they have served their maximum term as a Director in accordance with rule 6.7(d).

6.8 Vacation of Director

A Director vacates the office of a Director if they:

- (a) die;
- (b) resign in accordance with rule 6.9;
- (c) are removed in accordance with rule 6.10;
- (d) fail to attend three consecutive Board meetings without leave from the Board;
- (e) become of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (f) become bankrupt or insolvent or make any arrangement or composition their creditors generally;
- (g) are convicted on an indictment of an offence and the Board does not within one month after that conviction resolve to confirm the Director's election or appointment (as the case may be); or
- (h) cease to be eligible to be a Director under this constitution or become prohibited from being a director of a company under the Corporations Act or any other applicable legislation (including the ACNC Act).

6.9 Resignation of Director

A Director may resign by written notice to ACO.

6.10 Removal of Director

- (a) ACO may at a General Meeting:
 - (1) by resolution of Voting Members remove a Director; and
 - (2) if the individual removed was a Member Director, the Voting Members may elect another individual in that Director's place.
- (b) Notice of intention to move the resolution referred to in rule 6.10(a) must be given to ACO at least two months before the General Meeting is to be held except if a General Meeting is called after the notice of intention is given under this rule.
- (c) ACO must give the Director a copy of the notice as soon as practicable after it is received.

- (d) The Director is entitled to put their case to Voting Members by:
 - (1) giving ACO a written statement for circulation to Voting Members (not exceeding 1,000 words and not containing anything defamatory); and
 - (2) speaking to the motion at the General Meeting (whether or not the Director is a Member), but the Director is not entitled to be present at the voting, unless they are and then only in their capacity as a Voting Member, on the resolution referred to in rule 6.10(a).
- (e) The written statement in rule 6.10(d)(1) is to be circulated by ACO to Voting Members by:
 - (1) sending a copy to everyone to whom notice of the General Meeting is sent, if there is time to do so; or
 - (2) if there is not sufficient time, having the statement distributed to Voting Members attending the General Meeting and having it read out at the meeting before the resolution is voted on.
- (f) The Director's statement does not have to be circulated to Voting Members if it is more than 1,000 words long or defamatory.
- (g) Subject to rule 6.11(b), an individual elected or appointed as a Director to replace the Director removed under this rule holds office for the period specified in rule 6.7(b)(1).

6.11 Casual vacancies

- (a) The Board may appoint an individual qualified and eligible to be a Member Director under this constitution, to fill a casual vacancy (however occurring, including arising out of rule 6.10) in the office of a Member Director.
- (b) An individual appointed by the Board to be a Member Director under rule 6.11(a) holds office for the period specified in rule 6.7(b)(2), and, subject to this constitution, is eligible for election.
- (c) The Board may appoint a person qualified and eligible to be an Appointed Director under this constitution to fill a casual vacancy (however occurring, including arising out of rule 6.10).
- (d) An individual appointed by the Board to be an Appointed Director under rule 6.11(c) holds office for:
 - (1) in the case of an appointment arising out of rule 6.10, the period specified in rule 6.7(b)(1); and
 - (2) in all other cases, the period specified in rule 6.7(b)(3).

6.12 Insufficient Directors

If the number of Directors is reduced below the minimum number fixed under rule 6.1(a), the continuing Directors may act for the purpose of appointing additional Director(s) or calling a General Meeting but for no other purpose.

6.13 Honoraria and expenses of Directors

- (a) A Director may be provided with an honorarium for their services as a Director, as determined by the Board only in accordance with the ACO Honorarium Policy.
- (b) A copy of the ACO Honorarium Policy must be made available for inspection to Members upon written request.
- (c) Subject to the Corporations Act, a Director who performs services in a professional or technical capacity in addition to those provided as part of their ordinary duties as a Director, may be remunerated for those services as determined by the Board which may either be in addition to or in substitution of the honorarium, if any, provided under rule 6.13(a).
- (d) Subject to the Corporations Act and rule 6.13(e), a Director may be reimbursed travelling and other expenses properly incurred in:
 - (1) attending Board meetings or any meetings of a committee of the Board;
 - (2) attending any General Meeting; or
 - (3) connection with ACO's business.
- (e) The Board must first approve any payment or payments proposed to be made to a Director which will exceed an aggregate of \$5,000 in a three-month period.
- (f) ACO must not make loans to Directors or provide guarantees or security for obligations undertaken by Directors except as may be permitted by the Corporations Act.

7. Director's interests

7.1 Prohibition on being present or voting

Subject to the Corporations Act, a Director who has a material personal interest in a matter that is being considered at a Board meeting must not:

- (a) vote on the matter; or
- (b) be present while the matter is being considered at the meeting.

7.2 Existence of interest

- (a) Subject to the Corporations Act, a Director, or a body or entity in which a Director has a direct or indirect interest, may:
 - (1) enter into any agreement or arrangement with ACO or any related body corporate;
 - (2) hold any office in or act in a professional capacity (other than Auditor) with ACO or any related body corporate;
 - (3) be interested in any agreement or arrangement of ACO, any related body corporate or other body corporate promoted by ACO; and

- (4) receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with ACO or any related body corporate, or from holding an office in or acting in a professional capacity with ACO or any related body corporate;
- (b) The fact a Director enters into any relationship or transaction contemplated under rule 7.2(a) does not:
 - (1) disqualify the Director;
 - (2) void or render voidable a contract or arrangement; or
 - (3) require the Director to account to ACO for any profit arising from the relationship or transaction.
- (c) A Director may exercise the voting rights conferred by the interest held by ACO in any other body corporate in such manner and in all respects as the Director thinks fits (including voting in favour of any resolution appointing the Director as a director or other officer in the other body corporate).

7.3 Disclosure of interest

- (a) A Director who has a material personal interest in a matter that relates to the affairs of ACO must, unless an exception in the Corporations Act applies, provide written notice of the interest to the other Directors:
 - (1) with details of the nature and extent of the interest and the relation of the interest to the affairs of ACO; and
 - (2) at a Board meeting as soon as practicable after the Directors becomes aware of their interest.
- (b) A notice under 7.3(a), may be a standing notice and will be effective from the time that it is given to the Board, and it must be tabled at the next Board meeting after it is given.

8. Responsibilities of the Board

8.1 Powers of the Board

- (a) The Board is responsible for the overall governance, management and strategic direction of ACO.
- (b) The Board may exercise all of the powers of ACO except any powers that required by the Corporations Act or this constitution to be exercised by ACO in General Meeting.
- (c) Without limiting rule 8.1(b), the Board may exercise all the powers of ACO to:
 - (1) borrow money, to charge any property or business of ACO or give any other security for a debt, liability or obligation of ACO or of any other person; and
 - (2) invest any of the moneys of ACO not immediately required upon such securities as it thinks fit.

8.2 Chief Executive Officer

The Board:

- (a) may appoint a person to the position of Chief Executive Officer for the period, and on the terms (including as to remuneration), as the Board determines;
- (b) may confer on the Chief Executive Officer any of the powers that the Board may exercise; and
- (c) subject to the terms of appointment, may revoke, terminate or vary:
 - (1) the appointment of the Chief Executive Officer; or
 - (2) any of the powers conferred on the Chief Executive Officer.

8.3 Company Secretary

- (a) The Board must appoint one or more persons as Company Secretary upon such terms, including remuneration, powers, duties and authority as the Board determines.
- (b) At least one Company Secretary must ordinarily reside in Australia.
- (c) The Board may suspend, remove or terminate the appointment of a Company Secretary, subject to any agreement between ACO and that Company Secretary.

8.4 Appointment of attorney

The Board may appoint any person or persons to be an attorney of ACO for:

- (a) any period; and
- (b) for the purposes and with the powers, authorities and discretions vested in or exercisable by the Board under this constitution.

8.5 Delegation of powers

- (a) The Board may delegate any of its powers (other than this power of delegation) to:
 - (1) a Director;
 - (2) the Chief Executive Officer or any other employee of ACO; or
 - (3) any other person(s) or committee.
- (b) A delegate must exercise the powers delegated to it under any directions of the Board and such exercise of power is the same as if the Board exercised it.
- (c) No delegation under this rule shall prevent the exercise or discharge by the Board of any of its powers, authorities, duties or functions.

8.6 Negotiable Instruments

- (a) Any two Directors may sign, draw, accept, endorse or otherwise execute a negotiable instrument.
 - (b) The Board may determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.
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9. Board meetings

9.1 Circulating resolutions

- (a) The Board may pass a resolution without a Board meeting provided:
 - (1) a copy of the resolution is given to all Directors, together with notice by a Company Secretary; and
 - (2) a majority of Directors entitled to vote on the resolution, sign a document (including by any electronic means) containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by Director if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is deemed passed at a meeting of the Board held on the day and at the time the document was signed by the last Director constituting a majority of Directors.
- (d) The Chairperson does not have a casting vote in relation to resolutions under this rule 9.1.

9.2 Meetings of the Board

- (a) The Board may make its own policies and procedures in relation to the convening and conduct of meetings of the Board and for the transaction of business at those meetings.
- (b) A meeting of the Board may be called:
 - (1) by the Chairperson; or
 - (2) upon written requisition of two or more Directors, and a Company Secretary must on the requisition of two or more Directors, convene a meeting of the Board.
- (c) The Board must meet at least four times in a calendar year.

9.3 Notice of Board meetings

- (a) All Directors must be given at least two days' notice of a meeting of the Board together with an agenda for that meeting unless otherwise agreed by all Directors or the circumstances reasonably warrant shorter notice.

- (b) Notice of every Board meeting must be given to each Director, except that:
 - (1) it is not necessary to give notice of a meeting of the Board to a Director who has been given special leave of absence; and
 - (2) failure to give or receive that notice will not invalidate anything done or any resolution passed at the meeting provided the failure occurred by accident or inadvertent error, or the Director who failed to receive notice attended the meeting or waived notice of the meeting either before or after the meeting
- (c) A notice of a meeting of the Board may be given in writing or orally, or by telephone or any other electronic means.

9.4 Conduct of Board meetings

- (a) A Board meeting may be called and held:
 - (1) in person;
 - (2) by telephone;
 - (3) by audio-visual linkup; and/or
 - (4) using any other virtual meeting technology.
- (b) The linking together by telephone, audio-visual or other virtual meeting technology that gives the meeting participants as a whole a reasonable opportunity, at the same time, to participate constitutes a meeting of the Board. All the provisions of this constitution relating to a meeting of the Board apply to such meetings so far as they are not inconsistent with the provisions of this rule 9.4(b).
- (c) A Director participating in a meeting by telephone, audio-visual linkup or other virtual meeting technology is taken to be present in person at the meeting.
- (d) A meeting conducted by telephone, audio-visual linkup or other virtual meeting technology will be deemed to be held at the place agreed on by the Directors attending that meeting provided at least one of the Directors present at the meeting was at that place for the duration of the meeting.
- (e) An original document, or a photocopy, facsimile or electronic copy of that document, which is in the possession of, or has been seen by, all Directors attending the Board meeting before, or at the time of, that meeting, is deemed to be a document tabled at that meeting.
- (f) The Directors may adjourn meetings of the Board as they determine.
- (g) A Director is not entitled to appoint any person as a proxy or alternate director to attend or participate in any meeting of the Board for, or on behalf of, the Director.

9.5 Quorum

- (a) A quorum for a Board meeting consists of a majority of the total number of the Directors that comprise the Board and are entitled to vote at the meeting.

- (b) The quorum must exist at all times during the meeting.

9.6 Chair of Board meetings

- (a) Subject to rule 9.6(b), the Chairperson must chair Board meetings.
- (b) If the Chair (including any acting Chair) is:
 - (1) not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (2) not willing or unable to act as Chair for the meeting,

then the Directors present must elect another Director who is present and willing to act as Chair of the meeting.

9.7 Resolutions of the Board

- (a) Questions arising at a meeting of the Board are to be decided by a majority of votes of Directors present and entitled to vote.
- (b) Any resolution properly passed at a Board meeting, at which a quorum is present, will be deemed to be a determination by all the Directors for the purposes of this constitution.
- (c) The Chair does not have a casting vote in relation to resolutions under this rule 9.7.

9.8 Committees of the Board

- (a) The Board may, by resolution, constitute and appoint such committees as it thinks fit from time to time in accordance with any terms of references approved by the Board.
- (b) The Board may approve terms of reference from time to time in relation to the composition, procedures, powers and duties of committees appointed by the Board.
- (c) Each committee appointed by the Board:
 - (1) may exercise the powers delegated to it by the Board from time to time. No delegation shall prevent the exercise or discharge by the Board of any of its powers, authorities, duties or functions;
 - (2) only acts in an advisory capacity to the Board; and
 - (3) must consist of at least one Director.
- (d) The Board may appoint and remove members of committees in its absolute discretion.

9.9 Validity of acts of Directors

An act done by a Director, the Board or a committee of Directors (as the case may be) is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a Director or member of the Board or committee of Directors;
- (b) the person appointed to one of those positions or acting as a Director was disqualified or had vacated office; or
- (c) the person not being entitled to vote or act,

if that circumstance was not known by the person or the Directors or committee (as the case may be) when the act was done.

10. General Meetings

10.1 Annual General Meetings

- (a) ACO must hold a general meeting (to be called the Annual General Meeting) every calendar year and within five months after the end of its financial year and otherwise in accordance with the Corporations Act.
- (b) The ordinary business of an Annual General Meeting may include:
 - (1) receiving and considering the annual financial report of ACO and reports of the Board and of the Auditor;
 - (2) electing Directors;
 - (3) appointing the Auditor;
 - (4) fixing the remuneration of the Auditor; and
 - (5) to transact any other business which, under this constitution or the Corporations Act, ought to be transacted at an Annual General Meeting.
- (c) The Chair of the Annual General Meeting must allow a reasonable opportunity for the Voting Members as a whole at the meeting to:
 - (1) ask questions about or make comments on the management of ACO; and
 - (2) ask the Auditor questions about the audit and the Auditor's report, if the Auditor is present.

10.2 Convening and attending General Meetings

- (a) The Board may call and arrange to hold a General Meeting at a date, time and location(s) resolved by the Board in writing.

- (b) Members may:
 - (1) requisition the holding of a General Meeting only in accordance with the Corporations Act and the Board must call a General Meeting as soon as practicable after receiving that requisition; and
 - (2) call and arrange to hold a General Meeting only in accordance with the Corporations Act.
- (c) For each General Meeting:
 - (1) each Voting Member may attend and speak at the General Meeting;
 - (2) each Director is entitled to attend and speak at the General Meeting;
 - (3) the Auditor is entitled to attend the General Meeting and speak on any part of the business of the General Meeting that concerns the Auditor in their capacity as Auditor; and
 - (4) each proxy of a Voting Member may only attend a General Meeting in accordance with this constitution and the Corporations Act.

10.3 Notice of General Meetings

- (a) Subject to the Corporations Act, at least 21 days' notice (excluding the day on which notice is given or taken to be given but including the day of the General Meeting) must be given of a General Meeting.
- (b) Written notice of a General Meeting must be given in accordance with rule 14 and to each person entitled to receive notice under the Corporations Act including:
 - (1) each Voting Member;
 - (2) each Director; and
 - (3) the Auditor.
- (c) A notice calling a General Meeting must comply with the Corporations Act and must:
 - (1) set out:
 - (A) if there is only one location at which Voting Members may physically attend the meeting, the date, time and location for the meeting;
 - (B) if there are two or more locations at which Members may physically attend the meeting, the date and time for the meeting at each location, and the main location for the meeting; and
 - (C) if virtual meeting technology is to be used in holding the meeting, sufficient information to allow Voting Members to participate in the meeting by means of the virtual meeting technology;
 - (2) state the general nature of the Meeting's business;

- (3) if a Special Resolution is to be proposed at the General Meeting, set out an intention to propose a Special Resolution and state the resolution;
- (4) if a Voting Member is entitled to appoint a proxy, contain a statement that the Voting Member has a right to appoint a proxy who is also a Voting Member of ACO; and
- (5) be worded and presented in a clear, concise and effective manner.

10.4 Cancellation or postponement of a General Meeting

- (a) The Board may cancel, postpone or change the location(s) of a General Meeting by giving notice, at least three Business Days before the time the meeting was to be held, to each person entitled to be given notice of a General Meeting.
- (b) The Board may not cancel or postpone a General Meeting under rule 10.4(a) that was:
 - (1) requisitioned by Members in accordance with rule 10.2(b)(1), without the consent of the Members who requisitioned the General Meeting;
 - (2) called by Members in accordance with rule 10.2(b)(2), without the consent of the Members who called the General Meeting.
- (c) A notice of cancellation, postponement or change of location of a General Meeting must specify:
 - (1) the reasons for the cancellation, postponement or change of location; and
 - (2) if the General Meeting is postponed:
 - (A) the postponed date and time for holding the General Meeting;
 - (B) the location(s) for holding the General Meeting which may be either the same as or different from the location(s) specified in the notice calling the General Meeting; and
 - (C) if virtual meeting technology is to be used in holding the meeting, sufficient information to allow Voting Members to participate in the meeting by means of the virtual meeting technology.
- (d) The period from the date of giving notice of postponement of a General Meeting and the holding a postponed General Meeting must not be less than the period required by this constitution and the Corporations Act.
- (e) The only business that may be transacted at a postponed General Meeting is the business specified in the original notice calling the General Meeting.
- (f) Where:
 - (1) an instrument of proxy or power of appointment authorises a proxy to attend and vote at a General Meeting to be held on a specified date or at a General Meeting or General Meetings to be held on or before a specified date; and

- (2) the date for holding the General Meeting is postponed to a date later than the date specified in the instrument of proxy or power of appointment,

that later date is substituted for, and applies to the exclusion of the date specified in the instrument of proxy or power of appointment, unless the Voting Member appointing the proxy gives notice to ACO to the contrary at least 48 hours before the time of the holding of the postponed General Meeting.

- (g) A resolution passed at a General Meeting or at a postponed meeting or the cancellation or postponement of a meeting is not invalidated because of:
 - (1) the non-receipt of a notice of a General Meeting or cancellation or postponement of a General Meeting by; or
 - (2) the accidental omission to give notice of a General Meeting or cancellation or postponement of a General Meeting to,

a person entitled to receive notice.

11. Proceedings at General Meetings

11.1 Quorum

- (a) The quorum of a General Meeting or an adjourned General Meeting is 15 Voting Members and the quorum must be present at all times during the meeting.
- (b) In determining whether a quorum is present at a General Meeting:
 - (1) persons attending as proxies are to be counted;
 - (2) if a Voting Member has appointed more than one proxy, only one of them is to be counted;
 - (3) if an individual is attending both as a Voting Member and as a proxy, that person is to be counted only once; and
 - (4) if an individual is attending as a proxy for more than one Voting Member, that person is to be counted only once.
- (c) If a quorum is not present within 30 minutes after the time appointed for the General Meeting:
 - (1) where the meeting was convened by Members under the Corporations Act or on the requisition of Members, the meeting is dissolved; and
 - (2) in any other case, the meeting is adjourned to:
 - (A) a date, time and place(s) specified by the Board;
 - (B) if the date is not specified, the same day the following week;
 - (C) if the time is not specified, the same time; and
 - (D) if the place(s) is not specified, the same place(s).

- (d) If no quorum is present at the adjourned General Meeting within 30 minutes after the time appointed for the adjourned General Meeting, the Chair may, in their absolute discretion, either:
 - (1) declare the meeting dissolved; or
 - (2) deem that those Voting Members present in person form a quorum and may transact the business for which the meeting was called.

11.2 Chair of General Meetings

- (a) Subject to rule 11.2(b), the Chairperson must chair the General Meeting.
- (b) If the Chair (including any acting Chair) is:
 - (1) not present within 15 minutes after the time appointed for the holding of the meeting; or
 - (2) not willing or unable to act as chair for the meeting,then the following person may act as Chair of the meeting (in order of precedence):
 - (3) a Director chosen by a majority of Directors present;
 - (4) the only Director present;
 - (5) a person (whether a Member or not) chosen by a majority of the Directors present; or
 - (6) a Voting Member chosen by a majority of Voting Member present in person or by proxy.

11.3 Conduct of General Meetings

- (a) The Chair of a General Meeting is responsible for the general conduct of each General Meeting.
- (b) The Chair may at any time the Chair considers necessary or desirable for the proper and orderly conduct of the meeting:
 - (1) impose a limit on the time that a person may speak on a motion or other item of business and terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Voting Members present in person or by proxy; and
 - (2) adopt any procedures for casting or recording votes at the meeting whether on a show of hands or on a poll, including the appointment of scrutineers.

- (c) The Chair may take any action the Chair considers appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting and may refuse permission to attend, or require to leave and remain out of, the meeting any person:
 - (1) in possession of a photographic, video, audio or audio-visual recording device;
 - (2) in possession of a placard or banner;
 - (3) in possession of an article considered by the Chair to be dangerous, offensive or liable to cause disruption;
 - (4) who refuses to produce or permit examination of any article, or the contents of any article, in the person's possession;
 - (5) who behaves or threatens to behave in a dangerous, offensive or disruptive way; or
 - (6) who is not entitled to receive notice of the meeting.
- (d) The Chair may delegate the powers conferred by rule 11.3(c) to any person the Chair thinks fit.
- (e) Any decision of the Chair of a General Meeting is final.

11.4 Use of technology

- (a) The Board may determine to hold a meeting using, or with the assistance of, any virtual meeting technology that gives the Voting Members as a whole a reasonable opportunity to participate.
- (b) If a meeting is to be held using virtual meeting technology in accordance with rule 11.4(a):
 - (1) the Board may prescribe policies and procedures in relation to the manner in which the meeting is to be conducted; and
 - (2) the Board may communicate such policies and procedures (or instructions on how they can be accessed) to Members by posting them on the ACO's website.
- (c) The inability of one or more Voting Members to access, or to continue to access virtual meeting technology shall not affect the validity of a meeting, or any business conducted at a meeting, provided that sufficient Voting Members are able to participate in the meeting as are required to constitute a quorum.
- (d) A meeting held by or using virtual meeting technology will be deemed to be held at the place determined by the Board.
- (e) A person participating in a meeting by virtual meeting technology is taken to be present in person at the meeting.
- (f) Nothing in this rule 11.4 is to be taken to limit the powers conferred on the Chair of the meeting.

11.5 Adjournment of General Meetings

- (a) The Chair may, with the consent of the Voting Members at the meeting, adjourn the meeting or any business, motion, resolution or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place(s).
- (b) The Chair must adjourn a General Meeting if the Voting Members present in person, or by proxy, with a majority of votes at the meeting agree or direct that the Chair must do so.
- (c) If any General Meeting is adjourned for 14 days or more, a notice of the adjournment must be given to the Voting Members in the same manner as notice was or ought to have been given of the original meeting.
- (d) In respect of any adjourned meeting:
 - (1) only unfinished business may be transacted at the meeting from which the adjournment took place; and
 - (2) the resumed meeting may only be adjourned by the Chair.

12. Voting at General Meetings

12.1 Members' resolutions

The Members may only propose a resolution to be moved at a General Meeting in accordance with the Corporations Act.

12.2 Decisions at General Meetings

- (a) All resolutions submitted to a General Meeting shall be decided by a simple majority of votes except where a greater majority is required by this constitution or the Corporations Act.
- (b) At a General Meeting a resolution put to the vote of the meeting is decided on a show of hands unless a poll is demanded in accordance with rule 12.3.
- (c) Unless a poll is duly demanded, a declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (d) The Chair does not have a casting vote in relation to resolutions under this rule 12.

12.3 Poll

- (a) A poll may be demanded (before or on the declaration of the result of the show of hands) by:
 - (1) the Chair; or
 - (2) at least three Voting Members present in person or by proxy.

- (b) The Chair may decide in each case the manner in which a poll is taken provided that a poll demanded:
 - (1) on the election of a Chair or on a question of adjournment shall be taken immediately without adjournment; and
 - (2) on any other question shall be taken at such a time as the Chair of the meeting directs.
- (c) The demand for a poll does not prevent a meeting continuing for transacting any business except the question on which a poll has been demanded.
- (d) The demand for a poll may be withdrawn.

12.4 Voting rights

- (a) Only Voting Members shall be entitled to vote at a General Meeting.
- (b) Subject to this constitution, the Corporations Act and any rights or restrictions attached to any class of Members, at a General Meeting, each Voting Member present in person or by proxy has one vote on a show of hands and one vote on a poll.
- (c) If a person is attending as a proxy for one or more Voting Member:
 - (1) that person is not entitled to vote as a proxy on a show of hands (but the person may vote on a show of hands in their capacity as a Voting Member in their own right); and
 - (2) that person is entitled to one vote per proxy on a poll, in addition to any vote the person has as a Voting Member in their own right.

12.5 Objections to right to vote

- (a) A challenge to a right to vote at a General Meeting:
 - (1) may only be made at the General Meeting or adjourned meeting at which the vote objected to is given or tendered; and
 - (2) must be determined by the Chair whose decision is final.
- (b) A vote not disallowed following the objection is valid for all purposes.

12.6 Appointment of proxies

- (a) A Voting Member may appoint any other Voting Member as that Member's proxy to attend a cast a vote at any General Meeting of ACO.
- (b) Any proxy appointed under this rule must be appointed in accordance with the Corporations Act and will have the rights set out in the Corporations Act.
- (c) An instrument appointing a proxy must be in writing signed by the appointor or the appointor's attorney or other person duly authorised in writing and in such form as approved by the Board from time to time.

- (d) An appointment received at an electronic mail address will be taken to be signed by the Voting Member or proxy, as applicable, if the appointment has been authenticated under the Corporations Act.
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13. Accounts and records

13.1 Auditor

- (a) If required by law, the Board must appoint one or more persons as Auditor of ACO unless the Voting Members at General Meeting have appointed an Auditor.
- (b) The Auditor is entitled to receive notice of, attend, and be heard at General Meetings.

13.2 Financial records

- (a) The Board must cause proper financial records to be prepared, dealt with and kept as required under the ACNC Legislation, any other applicable legislation or this constitution.
- (b) Without limiting rule 13.2(a), the financial records must be kept:
 - (1) in a manner which will enable them to be conveniently and properly audited;
 - (2) for seven years after the completion of the transactions or operations to which they relate; and
 - (3) at the Registered Office or at any other place determined by the Board and must always be open to inspection by all members of the Board.
- (c) The Board must ensure that ACO complies with its annual financial reporting requirements required by applicable legislation.

13.3 Inspection of books and records

- (a) A Member may:
 - (1) only make a request for inspection of the books of ACO, including its financial records, in writing delivered to ACO at its Registered Office; and
 - (2) after inspecting the financial records, only make a request for permission to copy them, in writing delivered to ACO at its Registered Office specifying the financial records the Member wishes to copy.
- (b) Subject to applicable legislation:
 - (1) a majority of the Board or the Voting Members may, by Special Resolution, decide whether and to what extent and at what times and places and under what conditions a Member may inspect the books of ACO, including its financial records; and
 - (2) the Board must consider the request to copy financial records at the next meeting and may (but need not) consent to the request or any part of the request on any terms as they determine.

- (c) This rule 13.3 does limit any right of Directors or former Directors to inspect the books of ACO under law.

13.4 Audit

- (a) The financial statements of ACO must be audited by the Auditor as required and in accordance with the ACNC Act and any other applicable legislation.
- (b) The financial statements of ACO put before a General Meeting will be conclusive except for any error identified within three months after the date of that meeting.
- (c) If any error is identified within the period referred to in rule 13.4(b), the financial statements must be corrected and are conclusive once corrected.

13.5 Minutes

- (a) The Board must cause minutes of all proceedings and resolutions of General Meetings and meetings of the Board and its committees to be entered in books kept for that purpose, within one month of the relevant meeting being held.
- (b) The minutes must be signed within a reasonable time by the Chair of the meeting or by the Chair of the next meeting.
- (c) The minutes recorded and signed under this rule is evidence of the proceeding or resolution to which it relates, unless the contrary is proved.

13.6 Members' access to minutes

- (a) The Board must ensure that the minute books for General Meetings are open for inspection by Members free of charge.
- (b) If requested by a Member in writing, the Board must ensure ACO sends a copy of any minutes or extract of minutes of a General Meeting requested within 14 days after the request or, if the Board determines that payment should be made for the copies, within 14 days after ACO receives the payment.

14. Notices

14.1 Service of notices to Members

- (a) ACO may give a notice to a Member by:
 - (1) serving it personally;
 - (2) sending it by post to the address for the Member in the Register of Members or other address nominated by the Member;
 - (3) sending it by facsimile or electronic email address nominated by the Member;
or
 - (4) sending it by other electronic means nominated by the Member.
- (b) A certificate in writing signed by a Director or Company Secretary stating that a notice was sent is prima facie evidence of service.

14.2 Service of notices to Directors

ACO may give a notice to a Director by:

- (a) serving it personally;
- (b) sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person;
- (c) sending it by facsimile or electronic mail address nominated by that person; or
- (d) by any other means agreed between ACO and that person.

14.3 Service of notices to ACO

A person may give a notice to ACO by:

- (a) leaving it at the Registered Office;
- (b) sending it by post to the Registered Office;
- (c) sending it by facsimile to the Registered Office;
- (d) sending it to the electronic mail address (if any) nominated by ACO for that purpose; or
- (e) by any other means prescribed by the Corporations Act or other applicable legislation.

14.4 Time of service

- (a) A notice sent by post:
 - (1) to an address within Australia is taken to be given one Business Day after it is posted; and
 - (2) to an address outside Australia is taken to be given five Business Days after it is posted.
- (b) A notice sent by facsimile or to an electronic mail address, or by other electronic means, is taken to be given on the Business Day it is sent, provided that:
 - (1) in the case of facsimile, the sender's transmission report shows that the whole notice was sent; or
 - (2) in the case of electronic mail or other electronic means, the notice is not rejected or returned within two hours of sending.
- (c) A notice served on a person personally is taken to be given on the day served.

14.5 Signatures

A notice required to be signed under this constitution may be satisfied by electronic communication of the notice in any manner permitted by the Corporations Act relating to electronic transmissions or in any other manner approved by the Board from time to time.

15. Indemnity and insurance

15.1 Indemnity

To the extent permitted by the Corporations Act and applicable law, ACO indemnifies:

- (a) every person who is or has been an Officer of ACO; and
- (b) where the Board considers it appropriate:
 - (1) any person who is, or has been, an Officer of a related body corporate of ACO, and
 - (2) any person who is, or has been, a member of any committee of the Board,

against any liability:

- (c) other than legal costs, incurred by that person in the person's capacity as an Officer of ACO or of the related body corporate to any other person (except ACO or a related body corporate) unless the liability arises out of conduct involving a lack of good faith, wilful misconduct, gross negligence, reckless misbehaviour or fraud; and
- (d) for legal costs, incurred by the person in his or her capacity as Officer of ACO.

15.2 Payments and advances to Officers

- (a) Subject to this constitution (including rule 6.13(e)), the Corporations Act, or any other applicable legislation:
 - (1) ACO may pay all costs, losses and expenses which any Officer might incur or become liable to pay by reason of any contract entered into or act or thing done by them as such a person or in any way in discharge of their duties; and
 - (2) the Board may determine that ACO pay, by way of a loan, advance or other type of payment and on whatever terms the Board determines, legal costs of the type referred to in rule 15.1(d) that are reasonably incurred, or reasonably anticipated to be incurred.
- (b) Any amounts paid by ACO under rule 15.2(a)(1) to an Officer in relation to a liability incurred by the person in their capacity as Officer must be repaid if:
 - (1) that liability is or becomes a liability excluded by the Corporations Act or any other applicable legislation;
 - (2) a court determines that the person is not entitled to be indemnified by ACO for that liability; or
 - (3) the liability is covered by insurance and the person receives payment from an insurer in respect of that liability or an insurer pays, discharges or satisfies that liability directly.

15.3 Insurance

- (a) Subject to this constitution (including rule 6.13(e)), ACO may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring an Officer against liability incurred by the person in that person's capacity as an Officer, including a liability for legal costs, except where:
 - (1) ACO is prohibited by the Corporations Act or any other applicable legislation from paying or agreeing to pay such a premium; or
 - (2) the payment of such a premium would otherwise be illegal, void, unenforceable or not permitted by law.
- (b) In the case of a Director, any premium paid under this rule 15.3 is paid in addition to honorarium paid to that Director by ACO under this constitution.

Schedule – Transitional Provisions

1. Continuation of Officers

- (a) Subject to paragraphs 1(b) and 1(c) of this Schedule, this constitution must be interpreted in a way that every Director, Chairperson, Auditor, the Chief Executive Officer and Company Secretary in office in that capacity immediately before the Adoption Date continues in office subject to, and is taken to have been elected or appointed under, this constitution.
- (b) The Director appointed by the University of Melbourne shall:
 - (1) continue to hold office as a Director until 1 January 2025; and
 - (2) not be counted as a Director for the purposes of determining the composition of the Board under rule 6.1(a) of this constitution.
- (c) On the Adoption Date, the Executive Committee shall cease and, subject always to those persons named in paragraph 2 of this Schedule continuing to hold the offices in paragraph 2 of this Schedule, each member of the Executive Committee shall be deemed to have vacated their office.

2. Named Officers

The following persons hold the following offices as at the Adoption Date, where specified below, until the Annual General Meeting to be held in the year specified below (if applicable), subject to the terms of this constitution, and may be re-elected or appointed, as the case may be:

- (a) Chairperson: Sophie Koh until 2024 Annual General Meeting
- (b) Chief Executive Officer: Peter Haydon
- (c) Company Secretary: Tracy Weimar
- (d) Member Director: Lauren Ayton until 2025 Annual General Meeting
- (e) Member Director: Darrell Baker until 2024 Annual General Meeting
- (f) Member Director: Rodney Hodge until 2024 Annual General Meeting
- (g) Member Director: Michelle Waugh until 2025 Annual General Meeting
- (h) Member Director: Roman Serebrianik until 2025 Annual General Meeting
- (i) Appointed Director: Sayuri Grady until 2024 Annual General Meeting
- (j) Appointed Director: Denise Gronow until 2024 Annual General Meeting
- (k) Appointed Director: Theodora Elia-Adams until 2024 Annual General Meeting
- (l) Director appointed by the University of Melbourne: Bruce Thompson until 1 January 2025

3. Member Directors elected at 2024 Annual General Meeting

For the avoidance of doubt, each Member Director elected at the 2024 Annual General Meeting shall:

- (a) be elected for a term of two years and retire at the 2026 Annual General Meeting and subject to the terms of this constitution, may be re-elected or appointed, as the case may be; and
- (b) otherwise continue in office subject to, and is taken to have been elected under, this constitution.