

CONSTITUTION
OF
Arcadians Theatre Group

Australian Business Number (ABN) 40 001 519 035

Australian Company Number (ACN) 001 519 035

A company limited by guarantee

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Preliminary

1. Name of the company

The name of the **company** is Arcadians Theatre Group (the Company)

The **company** is a not-for-profit public Australian Company, Limited by Guarantee with deductible gift recipient status for the whole organisation.

Definitions and interpretations

2. Definitions

In this constitution:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (C10).

business day means a day on which banks are open for business, excluding Saturdays, Sundays and public holidays in the location of the **company's** registered office.

company means the company referred to in clause 1.

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

President means an individual elected by the members, eligible to vote, as its chairperson under clause 50.

Secretary is the Public Officer and is elected by the Members eligible to vote at an Annual General Meeting.

Life Members mean those individuals who have rendered distinguished service to the Company and who have been nominated and confirmed in accordance with the procedures set out within this Constitution and the **By-Laws**.

Full members mean those members:

- Having paid full membership for the financial year and entitled to vote.
- **Life Members** as endorsed by Full members at an Annual General Meeting.

General members mean other categories of members not Full Members or Life Members as defined in the By-Laws of the Company.

Members mean Full members and general members.

By-Laws means the document that governs the general operations of the Company and includes the following:

Power to Make and Amend By-laws

- a) **Board Authority**
 The Board may, by resolution passed at a duly convened meeting or by unanimous written resolution, make, amend, repeal and replace by-laws (the “By-laws”) for the governance, management and administration of the Company, including without limitation procedures for:
- i. calling, holding and conducting meetings of Members and Directors;
 - ii. appointment, removal and duties of officeholders (including the Public Officer or Secretary);
 - iii. admission, suspension and removal of Members;
 - iv. establishing committees (and their composition, powers and procedures);
 - v. fees, levies and other charges; and
 - vi. any other matter which, under this Constitution or the Corporations Act 2001 (Cth), may properly be prescribed by By-laws.
- b) **Subordination and Consistency**
 All By-laws are subordinate to this Constitution and to any mandatory provision of the Corporations Act 2001 (Cth). To the extent of any inconsistency between a By-law and this Constitution or the Corporations Act, this Constitution or the Act (as the case may be) shall prevail and the By-law shall be void to that extent.
- c) **Publication and Effect**
 A copy of the current By-laws must be kept at the Company’s registered office and made available to any Member (without charge) on request. By-laws take effect on the date on which the resolution making them is passed (or such later date as the resolution may specify) and bind the Company and each Member, Director and officer as if set out in this Constitution.

Company Policies mean those documents approved by the Board to regulate how members interact with other members and the public; these documents are reviewed on a scheduled basis.

general meeting means a meeting of members, including an annual general meeting.

Director’s meeting means a meeting of the Board of Directors held regularly, as described in the By-Laws, to decide Company business.

Full members present means, in connection with a **general meeting**, **full members present** in person, present by use of audio- or audio-visual technology per clause 25, or by proxy at the meeting.

Full members’ resolution has the meaning given by clause 34(a).

Full members’ statement has the meaning given by clause 34(b).

registered charity means a charity registered under the **ACNC Act**.

special resolution means a resolution:

- i. of which notice has been given under clause 27(d), and
- ii. that has been passed by at least 75% of the votes cast by **full members present**.

surplus assets mean any **company** assets that remain after paying all the **company's** debts and other liabilities, including the costs of winding up.

virtual meeting platform means any technology or combination of technologies that allows all members to participate in a meeting, including by asking questions verbally and in writing, without being physically present at the meeting.

3. **Reading this constitution with the Corporations Act**

The replaceable rules set out in the **Corporations Act** do not apply to the **company**.

While the **company** is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution that are inconsistent with those Acts, as they apply to a **registered charity**.

If the **company** is not a **registered charity** (even if it remains charitable), the **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.

A word or expression that is defined in the **Corporations Act** or used in that Act and covering the same subject has the same meaning as in this constitution.

4. **Members signing documents**

Where the constitution says that members must sign a document, that member may:

- (a) sign a physical form of the document by hand, or
- (b) sign an electronic form of the document in a way that identifies each person and indicates their intention.

Members may also sign separate copies of a physical or electronic document if each copy has the same wording.

5. **Interpretation**

In this constitution:

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

Charitable purposes and powers

6. **Purpose**

The **company's** purposes or objects are:

The **company's** object is to pursue the following charitable purpose(s):

- i. To support the establishment of a theatre and/or theatre complex at Wollongong in the State of New South Wales for the benefit of the Community.
- ii. To foster and encourage the provision of live theatre in the Community.
- iii. To assist in the training and education of members of the Community in live theatre including but not limited to performance, production, direction, set design and construction, lighting and sound, irrespective of ethnicity, gender or age.
- iv. To promote the cultural activity of the Community.
- v. To subscribe to, become a member of and cooperate with any other club, association or organisation, whether incorporated or not, whose objects are altogether or in part similar to those of the **company**, provided that the **company** shall not subscribe to or support with its funds any club, association or organisation which does not prohibit the distribution of its income and property among its members to an extent at least as great as that imposed on the **company** under or by virtue of Clause 3 of this Constitution.
- vi. To buy, sell and deal in all kinds of apparatus and all kinds of provision, liquid and solid, required by the members of the **company** or persons frequenting the **company's** property.
- vii. To purchase, take on lease or in exchange, hire and otherwise acquire any lands, buildings, easements or property, real and personal, and any rights or privileges which may be requisite for the purposes of, or capable of being conveniently used in connection with, any of the objects of the **company**. Provided that, in the case the **company** shall take or hold any property which may be subject to any trusts, the **company** shall only deal with the same in such manner as is allowed by law having regard to such trusts.
- viii. To enter into any arrangements with any Government or authority, supreme, municipal, local or otherwise that may seem conducive to the **company's** objects or any of them; and to obtain from any such Government or authority any rights, privileges and concessions which the **company** may think it desirable to obtain; and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions.
- ix. To appoint, employ, remove or suspend such managers, clerks, secretaries, servants, work persons and other as may be necessary or convenient for the purposes of the **company**.
- x. To construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which may seem calculated directly or indirectly to advance the **company's** interests, and to contribute to, subsidise, or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control thereof.
- xi. To invest and deal with the money of the **company** not immediately required in such manner as may be permitted by law for the investment of trust funds.

- xii. To borrow or raise or secure the payment of money in such manner as the **company** may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the **company** in any way of the **company's** property (both present and future), and to purchase, redeem or pay off any such securities.
- xiii. To make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments.
- xiv. In furtherance of the objects of the **company** to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of **company**.
- xv. To take or hold mortgages, liens and charges to secure payment of the purchase price of any unpaid balance of the purchase price of any part of the **company's** property of whatsoever kind sold by the **company** or any money due to the **company** from purchasers and others.
- xvi. To take any gift of property whether subject to any special trust or not, for any one or more of the objects of the **company** but subject always to the proviso in paragraph (g) of this Clause 2.
- xvii. To take such steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the **company** in the shape of donations, annual subscriptions or otherwise.
- xviii. To print and publish any newspapers, periodicals, books or leaflets that the **company** may think desirable for the promotion of its objects.
- xix. To do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the company.

7. Powers

Subject to clause 8, the **company** has all the powers of a company limited by guarantee under the **Corporations Act**.

The **company** may only use its powers to carry out the purpose(s) it has set out in clause 6.

8. Not-for-profit

The income and assets of the **company** must be applied solely to carry out its purpose(s) as stated in clause 6.

The **company** must not distribute any income or assets directly or indirectly to its members, except as provided in clause 91 or the following, as long as these actions are done in good faith:

- (a) paying a member for goods or services they have provided, or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**,
or

- (b) making a payment to a member in furtherance of the **company's** charitable purpose(s).

9. Amending the constitution

The full members may amend this constitution by passing a **special resolution**. However, the full members must not pass a **special resolution** that amends this constitution if doing so means the **company** would no longer be a charity.

The **company** must give notice of any amendment to its regulators as required.

Any amendment to this constitution will take effect from the date of the **special resolution**, or from any later date specified in the resolution.

Members

10. Membership

The **members** of the **company** are those:

- (a) listed on the application for incorporation of the **company** with their consent, and who are members at the time of adopting this constitution
- (b) any other person admitted as a **member**, in accordance with this constitution,

and have not since ceased to be a member.

Membership categories fall into **full members** and **general members**; detail of which are listed in the By-Laws of the company, current at the time this Constitution is approved.

Full members are the only **members** eligible to vote at a general meeting or on special resolutions.

11. Register of members

The secretary must keep a register of **members** which includes the following information:

- (a) for each **member** continuing financial status:
 - i. name
 - ii. any address nominated by the member for the service of notices like a postal address or an email address, and
 - iii. any phone number
 - iv. date the membership started, and
 - v. category of membership

- (b) for each person not a financial **member** for that year and regarded as a Past Member:
 - i. name
 - ii. any address nominated by the **member** for the service of notices like a postal address or an email address, and
 - iii. any phone number
 - iv. dates the membership started and ended.
 - v. Category of membership
 - (c) The Register will contain the information of Past members for at least seven years.

12. How to become a member

Any person, who supports the purposes of the **company**, can apply in writing to become a **member** of the **company** by filling out an application form as described in the By-Laws.

Any person over the age of 6 years can apply to become a **general member** of the **company**. Persons under the age of 16 will require parental or guardian consent to become a **general member**. Level of membership is determined by the payment of fees as set out in the By-Laws.

The directors must consider all applications for membership within a reasonable period after they are received.

The directors may accept an application to become a member by passing a resolution at a **directors' meeting**.

If the application is accepted, the secretary must add the applicant to the **register of members**. The date the applicant is first added to the **register of members** is the day they became a **member**.

The directors may refuse to accept a membership application. If they do so, the directors or secretary may write to the applicant about the decision and the reasons for it.

13. Members' rights

- (i) A **full member** can:
 - (a) Attend, speak, and vote at **general meetings**
 - (b) raise a dispute and have a dispute dealt with using clause 18
 - (c) ask the directors to call a **general meeting** under clause 23

- (d) put forward resolutions at **general meetings**, under clause 34
 - (e) be made a director (if the member is eligible to be a director) under clause 46
 - (f) inspect the **company's** records under clause 79
 - (g) look at the members' register free of charge under clause 79.
- (ii) A **general member** can attend and speak at **general meetings** but cannot vote on any matter.

14. **Members' responsibilities**

A **member** must:

- (a) follow the **company's** constitution and company policies as set down from time to time
- (b) let the **company** know if they change their details, and
- (c) treat other members, staff, volunteers, ~~and~~ directors and public with respect.

15. **Transfer of membership**

Members can transfer their membership between full and general member status and its associated rights as set out in the By-Laws.

16. **Membership fees**

The directors may decide to set or change a joining fee and/or annual membership fee, and the time within which a **member** must pay, as described in the By-Laws.

A **member** that has not paid the required membership fee in accordance with this clause may not exercise any of the rights associated with their membership, including the right to exercise any vote they may have at a meeting of **members**.

17. **How to stop being a member**

A **member** immediately stops being a member if they:

- (a) die
- (b) become mentally incapacitated or become a person or estate liable to be dealt with in any way under laws relating to mental health

- (c) become bankrupt
- (d) resign, by writing to the secretary
- (e) are expelled under clause 22, or
- (f) have not responded within three months to a written request from the secretary to confirm in writing that they want to remain a member.

A **Member** becomes a **Past member** if they fail to pay any required membership fee in accordance with clause 17 within one month of the due date. Such **member** may be reinstated to **previous member** status on payment of the appropriate annual membership fee.

Dispute resolution and disciplinary procedures

18. Dispute resolution

The Board may regulate the conduct of the Members and in doing so may:

- (a) make **by-laws**, develop Company **Policies** and issue codes of conduct for the continuation of sound practice; and
- (b) investigate the conduct of any Member and provide sanctions for those Members who do not comply with the rules of any such by-law or code of conduct.

This procedure applies to disputes or grievances under this constitution between a member or director and:

- (a) one or more members, or
- (b) one or more directors, or
- (c) the **company** itself.

A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 22, until that disciplinary procedure is completed.

Those involved in the grievance must try to resolve it between themselves either within 14 days of becoming aware of it, or within a timeframe agreed on by those involved. If it cannot be resolved within 14 days or within a timeframe agreed on by those involved, they must:

- (d) inform the **company's** directors in writing who will take steps to resolve the grievance within a reasonable timeframe
- (e) agree or request that a mediator be appointed, and
- (f) attempt in good faith to settle the issue through mediation.

19. Choosing a mediator

Those involved in the grievance must either:

- (a) agree on the choice of mediator, or
- (b) where there is no agreement, consent to the following applying:
 - i. for grievances between members, the Board will choose the mediator, or
 - ii. for other grievances, the president of the law institute or society in the state or territory in which the **company** has its registered office will choose the mediator.

A mediator chosen by the Board:

- (c) may not be a current or former member of the **company**
- (d) must not have a personal interest in the dispute, and
- (e) must be unbiased.

20. During mediation

When conducting the mediation, the mediator must:

- (a) allow those involved a reasonable chance to be heard
- (b) allow those involved a reasonable chance to review any written statements
- (c) ensure the mediation is conducted in a manner free from bias, and
- (d) not make a decision on the dispute.

Each party must:

- (e) do their best to resolve the grievance at the mediation conference, and
- (f) bear the costs of mediation as agreed between the parties.

The terms of any agreement reached between the parties must be provided to the **company**.

21. Disciplining members

In accordance with this clause, directors may resolve to warn, suspend, or expel a member from the **company** if they believe:

- (a) the member has breached this constitution or By-Laws, or

- (b) the member's behaviour is causing, has caused, or is likely to cause, harm to the **company**.

At least 14 days before the **directors' meeting** at which such a resolution will be considered, the secretary must notify the member in writing:

- (c) that the directors are considering a resolution to warn, suspend or expel the member
- (d) that this resolution will be considered at a directors' meeting, the date of which must also be provided
- (e) the claims made against the member
- (f) the nature of the resolution that is to be proposed at the meeting, and
- (g) that the member may provide an explanation to the directors, as well as how the member can do so.

Before the directors pass any resolution, the member must be given a chance to explain or defend themselves by:

- (h) sending the directors a written explanation prior to that directors' meeting, and/or
- (i) speaking at the meeting.

After considering any explanation provided, the directors may:

- (j) take no further action
- (k) warn the member
- (l) suspend the member's rights for a period of no more than 12 months
- (m) expel the member
- (n) require the matter to be determined at a **general meeting**, or
- (o) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate. This independent person can only make a decision that the directors themselves can make under this clause.

The secretary must give written notice to the member of the directors' decision as soon as possible.

The directors cannot fine a member.

Disciplinary procedures must be completed confidentially and as soon as reasonably possible.

There will be no liability for any loss or injury the member suffers due to any decision made in good faith under this clause.

General meetings of members

22. Directors can call a general meeting

Unless required to do so by law, the **company** is not required to hold an **annual general meeting**. The directors may call a **general meeting**.

A **general meeting**, called the **Annual General meeting**, must be held:

- (a) At least once in every calendar year. And
- (b) Within three months of the end of the financial year.

The business of an annual **general meeting** may include:

- (c) a review of the **company's** activities
- (d) a review of the **company's** finances
- (e) any auditor's report
- (f) the election of directors, and
- (g) the appointment and payment of auditors, if any.

Before or at the **annual general meeting**, the directors must give information to the **members** on the **company's** activities and finances during the period since the last annual **general meeting**.

The President or Chairperson of the annual **general meeting** must give **members** a reasonable opportunity at the meeting to ask questions or make comments about the management of the **company**.

Despite clause 26, for an **annual general meeting**, notice must be provided 21 days before the meeting unless all **members** entitled to attend and vote agree otherwise, but not if a resolution will be moved to:

- (h) remove a director
- (i) appoint a director to replace a director who has been removed, or
- (j) remove an auditor.

23. How a member can call a meeting

Only full Members, acting for a proper purpose, can request that the directors call a **general meeting**, by sending a written request to the **company** that:

- (a) states any resolution to be proposed at the meeting, and

- (b) is signed, in accordance with clause 5, by at least 5% of full members who can cast votes at a **general meeting** (calculated as of midnight the day before the meeting is requested).

The directors must:

- (c) within 21 days of the members' request, give all members notice of a **general meeting**, and
- (d) hold the **general meeting** within two months of the members' request.

24. **If the directors do not call a meeting**

If the directors do not call the meeting within 21 days of being requested to under clause 23, 50% or more of the members who made the request may call a **general meeting**.

The members must:

- (a) as far as possible, follow the procedures for a **general meeting** as set out in this constitution,
- (b) call the meeting using the list of members on the **company's** member register, which the **company** must provide to members making the request at no cost, and
- (c) hold the **general meeting** within three months of the request being given to the **company**.

The **company** must reimburse the members who request the **general meeting** for any reasonable expenses they incur because the directors did not call and hold the meeting.

25. **Using technology to hold meetings**

The **company** may hold a hybrid or virtual-only **general meeting** or meeting of the Board of Directors using an appropriate **virtual meeting platform**.

Anyone using this platform is accepted as being present in person at the meeting.

If the **general meeting** is held using only a **virtual meeting platform**, then

- (a) the meeting location is taken to be the registered office of the **company**, and
- (b) the meeting time is taken to be the time at the **company's** registered office.
- (c) Voting by eligible voters is by visual show of hand or polling technology

If the **general meeting** is held at more than one physical venue (whether it is also held using a **virtual meeting platform**), then:

- (d) the meeting location is taken to be the main physical venue of the meeting, as set out in the notice of the meeting, and
- (e) the meeting time is taken to be the time at the main physical venue of the meeting, as set out in the notice of the meeting.

26. **When notice of a general meeting must be given**

The notice of a **general meeting** must be given at least 21 days before the meeting to:

- (a) each member entitled to vote at the meeting
- (b) each director, and
- (c) the auditor (if any).

The notice of a **general meeting** may be provided less than 21 days before the meeting date if members with at least 95% of the votes that may be cast at the meeting agree beforehand but not if a resolution will be moved to:

- (d) remove a director
- (e) appoint a director to replace a director who has been removed, or
- (f) remove an auditor, if any.

27. **What the notice must include**

The notice of a **general meeting** must be in writing and include:

- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, hybrid or virtually, the **virtual meeting platform** that will be used)
- (b) a statement regarding the member's right to request documents be sent to them in electronic or physical form or request to not be sent documents
- (c) the general nature of the meeting's business
- (d) if applicable, that a **special resolution** will be proposed, as well as the wording of the proposed resolution, and
- (e) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
 - i. the proxy does not need to be a member

- ii. the proxy form must be delivered to the **company** at either its registered address, or the address (including an electronic address) specified in the notice of the meeting, and
- iii. the proxy form must be delivered to the **company** at least 48 hours before the meeting.

28. **Quorum at general meetings**

For a **general meeting** to be held, at least 20 Full members (a quorum) must be present (in person or by proxy).

When determining if there is a quorum, a person may only be counted once even if a proxy of more than one member).

29. **Quorum must be present**

No business can be conducted at a **general meeting** if there is not a quorum present. A quorum must be present for the whole **general meeting**.

If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to a date, time and place of the **President's** or chairperson's choosing. If the **President** or chairperson does not specify one or more of those things, the meeting is adjourned to:

- (a) if no date is specified – the same day in the next week
- (b) if no time is specified – the same time, and
- (c) if no venue or **virtual meeting platform** is specified – the same venue and **virtual meeting platform**.

If no quorum is present at this resumed meeting within 30 minutes after the starting time set for that meeting, then the meeting is cancelled.

30. **Right of non-members to attend meetings**

The President or Chairperson of a **general meeting** may invite any person to attend and address a **general meeting**.

If the **company** has an auditor, then the auditor must be given any communications relating to the **general meeting** that a member is entitled to receive. The auditor is also entitled to attend and address a **general meeting**, including by sending a written statement.

31. **Choosing a chairperson for a general meeting**

The **President** is entitled to chair **general meetings**, and in their absence, the Vice President.

The **members** present who are entitled to vote at a **general meeting** may choose a director or member to be the chair for that meeting if:

- (a) there is no **President** or Vice President,
- (b) the **President** or Vice President is not present within 30 minutes of the starting time set for the meeting,
- (c) the **President** is present but does not wish to act as the meeting's chair.

32. **Role of the President in a general meeting**

The **President** is responsible for the conduct of the **general meeting**.

The **President** must give members a reasonable opportunity to make comments and ask questions (including to the auditor if there is one).

The **President** does not have a casting vote.

33. **Adjournment of meetings**

If a quorum is present, a **general meeting** must be adjourned if the majority of members in attendance direct the **President** to do so.

Only unfinished business may be dealt with at a meeting resumed after an adjournment.

If a **general meeting** is adjourned for one month or more, the members must be given new notice of the resumed meeting.

Members' resolutions and statements

34. **Full Members may propose resolutions and give statements**

Full Members with at least 5% of the votes that may be cast on a resolution may give:

- (a) written notice signed by the **Full members** to the **company** of a resolution they propose to move for a proper purpose at a **general meeting (members' resolution)**, with the wording of the resolution set out in full, and/or
- (b) a written request to the **company** that the **company** give all its members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting (members' statement)**. The request must set out the statement to be distributed and be signed by the members.

The calculation for the percentage of votes that **Full members** have is to be based on the situation as of midnight before the request or notice is given to the **company**.

This clause does not limit any other right that a **member** has to propose a resolution for discussion at a **general meeting**.

35. Members' resolutions and statements must be considered

If the **company** has been given notice of a **members' resolution** for a proper purpose under clause 34, the resolution must be considered at the next **general meeting** held no more than two months after the notice is given.

36. Company must give notice of proposed resolution and/or distribute statement

The **company** must give all its **members** notice of the **members' resolution** or a copy of the **members' statement** at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a **general meeting**.

The **company** is responsible for the cost of giving **members** notice of the resolution or a copy of the **members' statement** if the **company** receives it in time to send it out to members with the notice of meeting.

If the **company** does not receive it in time to send it out with the notice of meeting, then the **members** requesting the meeting must meet the reasonable expenses that the **company** incurs when giving **members** notice of the **members' resolution** or a copy of the **members' statement**. At a **general meeting**, the **Full members** may pass a resolution that the **company** will pay these expenses.

The **company** does not need to send the notice of proposed **members' resolution** or a copy of the **members' statement** to members if:

- (a) it is more than 1,000 words long
- (b) the directors consider that it may be defamatory
- (c) if the **members** making the request are to bear the expenses of sending the notice out—unless the **members** give the **company** a sum that would meet all reasonable expenses that it would incur in giving the notice, or
- (d) in the case of a proposed **members' resolution**, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the members.

37. Resolutions without meetings

Full members may pass a resolution without holding a **general meeting**, unless it is for the following:

- (a) a resolution to remove an auditor or remove a director
- (b) a special resolution, or
- (c) where the **Corporations Act** or this constitution requires a meeting to be held.

A resolution is passed if all the **members** entitled to vote on the resolution sign (in the way set out in clause 4) or agree to the resolution.

Alternatively, the **company** may send a resolution by email to members, and members may agree to it by sending a reply email to that effect and including the text of the resolution in their reply.

The directors must notify the auditor as soon as possible that a resolution has or will be put to members and set out the wording of the resolution.

Voting at general meetings

38. Number of votes for each Full member and Life Member

Each **Full member** and Life Member has one vote.

39. Challenge to member's right to vote

A member or the **President** may only challenge a person's right to vote at the time of the **general meeting**. The **President** must then decide whether the person may vote. The **President's** decision is final.

40. How voting is conducted

Voting must be conducted and decided by:

- (a) a show of hands
- (b) a vote in writing, or
- (c) another method chosen by the **President** that is fair and reasonable in the circumstances.

Before a vote is taken, the **President** must note whether any proxy votes have been received and, if so, how the proxy votes will be cast.

If there is a show of hands, the **President's** decision is conclusive evidence of the result of the vote.

The **President** and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

41. When and how a vote in writing must be held

A vote in writing may be demanded on any resolution instead of, or after, a vote by a show of hands by:

- (a) at least five **members present** who are entitled to vote on the relevant resolution,
- (b) the **President** of the meeting.

A written vote must be conducted at the **President's** direction, but must be held immediately if it is demanded for the following:

- (c) for the election of a **President** under clause 31, or
- (d) to decide whether to adjourn the meeting.

A demand for a vote in writing may be withdrawn.

42. What is a proxy

A **Full member** may appoint a proxy to attend and vote at a **general meeting** on their behalf. The **Full member** can decide how long the appointment is for. For example, it can be for a set number of meetings, or for a duration of time or standing (ongoing).

A proxy is preferably a member but does not need to be.

43. What a proxy can and can't do

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

- (a) speak at the meeting
- (b) vote in writing (but only to the extent allowed by the appointment), and
- (c) demand a vote in writing under clause 41.

A proxy is not entitled to vote on a show of hands (but this does not prevent a **member** appointed as a proxy from voting as a **member** on a show of hands).

A proxy does not have the authority to speak and vote for a **Full member** at a meeting while the **Full member** is at the meeting.

When a vote in writing is held, a proxy:

- (d) does not need to vote, unless the proxy appointment specifies the way they must vote
- (e) must vote in the way specified on the proxy form, if applicable, and
- (f) may cast votes in different ways (if the proxy is also a **Full member** or holds more than one proxy).

44. How to appoint a proxy

An appointment of proxy (via proxy form as provided in the **By-Laws**) must be signed by the **full member** appointing the proxy and must contain:

- (a) the member's name and address
- (b) the **company's** name

- (c) the proxy's name or the name of the office held by the proxy, and
- (d) the length of the appointment, measured as a set number of meetings, or for a duration of time or standing (ongoing).

Proxy forms must be delivered by post, electronically, or in person to the **company** at the addresses stated in the notice under clause 27(e), or at the **company's** registered address, at least one hour prior to the use of the proxy.

Unless the **company** receives written notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:

- (e) dies
- (f) is mentally incapacitated
- (g) revokes the proxy's appointment.

A proxy appointment may specify the way the proxy must vote on a particular resolution.

Directors

45. Number of directors

The **company** must have at least five and no more than fifteen directors.

46. Who can be a director

An individual can nominate to be a **company** director if they:

- (a) are a full member,
- (b) are 18 years of age or older
- (c) are nominated in writing by two members entitled to vote
- (d) have a director identification number
- (e) give the **company** their signed consent to act as a **company** director, and
- (f) are not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.

47. How to become a director

The initial directors are the individuals who were directors at the time of adopting this constitution.

Nominations to become a director must be submitted on the prescribed nomination form in the By-Laws and be received by the Secretary 10 days prior to the general meeting where the election will take place.

The members may elect a director by a resolution passed at a **general meeting**. Each appointment must be by separate resolution.

If there are multiple nominations for the same position, an election in writing will be conducted.

48. What happens if there is a casual vacancy

The directors may appoint an individual as a director to fill a casual vacancy, or as an additional director, if that individual meets the eligibility requirements set out in clause 46.

49. What happens if there are too few directors

If the number of directors is reduced to fewer than five, or is less than the number required for a quorum, the continuing directors may act but only:

- (a) in an emergency
- (b) for the purpose of increasing the number of directors to five or the number required to form a quorum, or
- (c) to call a general meeting.

50. Election of President

Full members must elect the **President** at the **Annual General meeting** for a term prescribed in the **By-Laws**. To be eligible to stand for **President**, the **full member** must have served on the Board at some time for a period of no less than one year.

The **President's** responsibilities include:

- (a) managing board meetings, including setting the agenda
- (b) ensuring directors receive accurate, timely, and clear information
- (c) ensuring effective communication with **members**, and
- (d) managing disputes to ensure the **company** is run effectively.

51. Term of office

If appointed during a meeting, a director's term of office starts at the end of the meeting.

If retiring during a meeting, a director's term of office ends at the conclusion of the meeting at which they retire.

Subject to clauses 52 and 53, a director holds office for 1 year from the date of appointment but may stand again for election in consecutive years.

The Company will maintain a register of directors which includes their contact details, the date they started as a director and the date they ended their term as a director.

52. **How to stop being a director**

A director stops being a director if they:

- (a) resign in writing
- (b) die
- (c) stop being a member
- (d) are appointed for a term of office and are not reappointed,
- (e) are removed from office under clause 53,
- (f) are disqualified from being a director under the **Corporations Act** or the **ACNC Act**.

53. **How to remove a director**

The **Full members** may remove a director by passing a resolution in a **general meeting**. The process is as follows:

- (a) The **Full members** must provide notice of intention to move a resolution to remove a director at least 2 months before the meeting is to be held.
- (b) The **company** must provide a copy of the notice to the director as soon as practicable after it is received.
- (c) The director can give the **company** a written statement to circulate to the members and speak to the motion at the meeting.
- (d) The **members** eligible to vote must pass a resolution with a simple majority present at the meeting to remove the director.

54. **How to appoint and remove an auditor**

The members may appoint an auditor by passing a resolution at a **general meeting**. The members may remove an auditor by passing a resolution in a **general meeting**.

The Company will present at the **Annual General Meeting** an audited financial report prepared by the **Auditor**.

Powers of directors

55. Powers of directors

Directors, on behalf of the **members**, oversee the running of the **company** to carry out the purpose(s) set out in clause 6. The directors make decisions about the affairs of the **company** and manage or set the direction for managing the business of the **company**. Directors should act with reasonable care and diligence in their role.

Directors may use all the powers of the **company** except for powers that, under the **Corporations Act** or this constitution, may only be used by **members**.

The directors must decide on the responsible financial management of the **company** including:

- (a) any suitable written delegations of power under clause 56, and
- (b) how money will be managed – including how electronic transfers must be authorised, signed off or otherwise approved.

Directors may borrow or raise money, charge any property or business of the **company** or give any other security for a debt, liability or obligation of the **company**.

Directors cannot remove a director or auditor. Directors and auditors may only be removed by a resolution passed at a **general meeting**.

56. Delegation of directors' powers

The directors can pass a resolution to delegate any of their powers and functions to:

- (a) a committee of directors
- (b) a particular director
- (c) any other individual, as they consider it appropriate to do so.

The **company** must keep appropriate records of any delegations of powers by recording the directors' resolution in the meeting minutes.

The delegate must:

- (d) follow the directors' directions when using the delegated powers
- (e) report to directors on their exercising of their delegated power.

57. **Payments to directors**

The **company** must not pay directors' fees (also called sitting fees). However, this does not stop the **company** from making the following types of payments:

- (a) paying a director for work they do for the **company** other than as a director, as long as the payment amount is no more than a reasonable fee for the work completed, or
- (b) reimbursing a director for expenses they've properly incurred for work in connection with the **company's** affairs.

Any payment made under this clause must be fair and reasonable to the **company** and approved by the directors in accordance with clause 62.

58. **Execution of documents**

The **company** may execute a document without using a common seal if the document is signed by:

- (a) two directors of the **company**
- (b) a director and the secretary, or
- (c) some other combination of individuals appointed by the board for that purpose.

Documents can be signed in a physical form by hand or by signing an electronic form of the document using an electronic means that identifies the individual and indicates the individual's intention and consent to the terms of signing.

Only authorised people can execute documents for the **company**.

59. **Validity**

An act carried out by a director, or by a meeting of directors, or by a committee attended by a director, is not invalid just because:

- (a) of a defect in the appointment of the director
- (b) the individual is disqualified from being a director or has vacated office, or
- (c) the individual is not entitled to vote,

if that circumstance was not known by the individual or the directors or committee, when the act was carried out.

Duties of directors

60. Governance Standards

As the **company** is a **registered charity**, its directors must take reasonable steps to ensure that the **company** complies with the ACNC's Governance Standards and, if applicable, ACNC External Conduct Standards.

61. Duties of directors

The directors must comply with their duties:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the **company**
- (b) to act in good faith in the best interests of the **company**, and to further the charitable purpose(s) of the **company** set out in clause 6
- (c) to not misuse their position as a director
- (d) to not misuse information they gain in their role as a director
- (e) to disclose any perceived or actual conflicts of interest in the manner set out in clause 62
- (f) to ensure that the financial affairs of the **company** are managed responsibly, and
- (g) to not allow the **company** to operate while it is insolvent.

62. Conflicts of interest

A director who has or thinks that they may have a conflict of interest in a **company** matter must let the other directors know.

The conflict of interest, including the nature and extent of the interest and the relationship of the interest to the **company**, must also be recorded in the register of interests.

Each director who has a conflict of interest must not:

- (a) be present at the meeting while the matter is being voted on, or
- (b) vote on the matter,

unless

- (c) their interest arises because they are a member of the **company**, and the other members have the same interest

- (d) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the **company** (see clause 87)
- (e) their interest relates to a payment by the **company** under clause 86 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**
- (f) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or
- (g) the directors who do not have a material personal interest in the matter pass a resolution that:
 - i. identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the **company**, and
 - ii. says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

63. When the directors meet

The directors may decide how, where, when and how often they meet.

64. Calling directors' meetings

A director may call a directors' meeting by giving reasonable notice to all other directors, or by the secretary giving notice of the meeting to all directors. The notice can be in writing or by any other means of communication that has previously been agreed to by all directors.

65. Chairperson for directors' meetings

The **President** must chair directors' meetings.

The directors at a directors' meeting may choose another director to chair that meeting if the **President**:

- (a) is not present within 30 minutes after the starting time set for the meeting, or
- (b) is present but does not want to act as **chairperson** of the meeting.

Where the votes on a proposed resolution are equal, the chair of the meeting can have a second or casting vote.

66. Quorum at directors' meetings

The quorum for a directors' meeting constitutes the majority of directors.

A quorum must always be present during a directors' meeting.

If a directors' meeting cannot maintain a quorum due to one or more directors' having a conflict of interest that prevents them from being present when a matter is voted upon directors must put the matter to the **members** at the next **general meeting**, or at an earlier time if it is reasonable to do so.

Full members can pass an ordinary resolution to deal with the matter.

67. Using technology to hold directors' meetings

The directors may hold their meetings by using any **virtual meeting platform**, as long as the majority of directors agree to its use.

The directors' agreement on the platform to use can be an ongoing one.

A director may only withdraw their consent to use the agreed-to platform within a reasonable period before the meeting.

68. Passing directors' resolutions at a meeting

A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

69. Resolutions of directors without a meeting

A resolution can be passed without a meeting if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution by:

- (a) signing a single document setting out the resolution and containing a statement that they agree to the resolution,
- (b) signing separate copies of that document, as long as the wording of the resolution is the same in each copy, or
- (c) replying to an email from the **company** setting out the resolution.

The resolution is passed when the majority of director signs or otherwise agrees to the resolution.

Secretary

70. Appointment of secretary

The **company** must have at least one secretary, who may also be a director.

The secretary must be at least 18 years old.

The secretary must give the **company** their signed consent to become a secretary before being appointed by directors.

The directors must decide the terms and conditions under which the secretary is appointed.

The initial secretary is the individual who was secretary at the time this Constitution was adopted.

71. **Role of secretary**

The secretary is responsible for the following:

- (a) maintaining a register of the **company's** members (see clause 11)
- (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), directors' meetings and resolutions, and
- (c) notifying the relevant regulator of applicable changes, such as the resignation or appointment of a director, change of address, or change to the constitution.
- (d) Appointing other Board members to act in their place on occasions

72. **How to stop being a secretary**

The secretary stops being secretary if they:

- (a) resign in writing to the **company**,
- (b) are removed by resolution of the directors
- (c) are disqualified from managing corporations under the **Corporations Act** or the **ACNC Act**, or
- (d) die.

Financial matters

73. **Funds**

The **company's** money must be deposited into a **company** bank account. The directors may decide to maintain a 'petty cash' fund for minor and incidental expenses. Withdrawals or deposits from this fund must be recorded.

The **company** may derive or generate funds from joining and annual subscription fees, donations, grants, fundraising, interest, and any other sources approved by the directors under clause 55.

74. **Company's financial year**

The **company's** financial year is from 1 January to 31 December unless the directors pass a resolution to change the financial year.

Minutes and records

75. **Records of members' meetings**

The **company** must, within one month, make and keep the following records:

- (a) minutes of proceedings and resolutions of **general meetings**
- (b) minutes of any other resolutions of members
- (c) a copy of a notice of each **general meeting**, and
- (d) a copy of any **members' statement** distributed to members under clause 36.

76. **Records of directors' meetings**

The **company** must, within one month, make and keep the following records:

- (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
- (b) minutes of any other resolutions of directors.

77. **Signing minutes**

The directors must ensure that minutes of a **general meeting** or a directors' meeting are signed. This can be done by signing a physical form of the minutes by hand, or by signing an electronic form of the minutes within a reasonable time after the meeting. The minutes can be signed by:

- (a) the chair of the meeting, or
- (b) the chair of the next meeting.

The directors must ensure that minutes of the passing of a resolution passed without a meeting (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

78. **Financial and related records**

The **company** must make and keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance, and

- (b) enable true and fair financial statements to be prepared and to be audited.

The **company** must also keep written records that correctly record its operations.

Records may be kept in physical or electronic format.

79. **Inspecting the register of members**

The **company** must allow members (and non-members upon payment of a fee) to inspect the register of members. To inspect the register, the person must submit their request in writing with their name, address and the purpose of their request.

Information that is accessed from the **register of members** must only be used in a manner relevant to the interests or rights of members.

80. **Inspection of records**

To allow **members** to inspect the **company's** records where the request is made in good faith and for a proper purpose:

- (a) the **company** must give a member access to the records set out in clause 75, and
- (b) the directors may authorise a member to inspect other records of the **company**, including records referred to in clause 76 and clause 78, which may be in redacted form only.

81. **How long records must be kept for**

The **company** must retain its records for at least seven years.

The directors must take reasonable steps to ensure that the **company's** records are kept safe.

Notice

82. **What is notice**

Anything written to or from the **company** under any clause in this constitution is written notice and is subject to clauses 83 to 85 unless specified otherwise.

Clauses 83 to 85 do not apply to a notice of proxy under clause 44.

83. **Notice to the company**

Written notice or any communication under this constitution may be given to the **company**, the directors or the secretary by:

- (a) delivering it to the **company's** registered office

- (b) posting it to the **company's** registered office or to another address the **company** chooses for notice to be provided to, or
- (c) sending it to an email address the **company** has notified members as being the **company's** email address.

84. Notice to members

Written notice or any communication under this constitution may be given to a **member**:

- (a) in person
- (b) by sending it to the email address of the **member** (if any) nominated by the **member** for service of notices, or
- (c) by posting it to, or leaving it at, the postal address of the **member** (if any) nominated by the **member** for service of notices, or
- (d) by notifying the **member** via an email address they nominate that the notice is available for access via a website, in electronic form or at a specified place or address, if the **member** agrees to this method.

If a **member** elects to receive documents in physical form or electronic form, the **company** must take reasonable steps to send documents in the preferred manner.

85. When notice is taken to be given

If a notice is:

- (a) delivered in person, or left at the recipient's physical address, then it is taken to be given on the day it is delivered
- (b) sent by post, then it is taken to be given on the seventh **business day** after it is posted to the recipient's address, and postage costs are paid for
- (c) sent by email, or other electronic method, then it is taken to be given when it is sent, unless the sender receives an automated message that the notice has not been delivered, and
- (d) given under clause 84(d) , then it is taken to be given on the **business day** after notification of the notice being available is sent.

If the delivery or receipt of a notice is not on a **business day**, or is after 5pm on a **business day**, it is deemed to be received at 9am the following **business day**.

Indemnity, insurance and directors' access

86. Indemnity

The **company** indemnifies each officer out of the **company's** assets – to the extent permitted by law (including the **Corporations Act**) – against all losses and liabilities (including costs, expenses and charges) that individual incurs as an officer.

In this clause and clause 87, 'officer' means a director or secretary, and includes a director or secretary after they have ceased to hold that office.

The indemnity is a continuing obligation and is enforceable by an officer:

- (a) even if that individual is no longer an officer, and
- (b) is enforceable without that individual first having to incur any expense or make any payment.

87. Insurance

To the extent permitted by law (including the **Corporations Act**), and if the directors consider it appropriate, the **company** may pay or agree to pay a premium for a contract that insures a current or former **company** officer against any liability they incur in that role for a period of 10 years after the director has left office.

88. Directors' access to documents

A director has a right to access the **company's** financial records at all reasonable times.

The directors may resolve to give a director or former director access to other records, including documents provided for, or available to, the directors.

Winding up

89. Winding up voluntarily

If permitted by law, the **members** may pass a **special resolution** at a **general meeting** to wind up the **company** voluntarily.

90. Surplus assets not to be distributed to members

If the **company** is wound up, any **surplus assets** must not be distributed to a **member** or a former **member** of the **company**, unless that **member** or former **member** is a charity which meets the requirements in clause 91.

91. Distribution of surplus assets

Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** that remain after the **company** is wound up must be distributed to one or more charities:

- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6,
- (b) to which income tax-deductible gifts can be made, and
- (c) which also prohibit the distribution of any **surplus assets** to its members to at least the same extent as the **company**.

The decision as to the charity or charities to be given the **surplus assets** must be made by the directors before the time of winding up-

92. Liability of members limited to the guarantee

Each member must contribute an amount not more than \$10 (the guarantee) to the property of the **company** if the **company** is wound up:

- (a) while they are a member, or within 12 months after they cease being a member, and
- (b) if at the time of winding up, the debts and liabilities the **company** incurred before they stopped being a member, exceed the **company's** assets. These debts and liabilities also include any costs incurred in winding up the **company**.

The liability of each member is limited to the amount of the guarantee.

93. Endorsement as a deductible gift recipient

If the organisation is endorsed as a deductible gift recipient and that endorsement is revoked, any surplus assets of the gift fund remaining after the payment of liabilities attributable to it, shall be transferred to a fund, authority or institution to which income tax-deductible gifts can be made.