

K&L GATES

Constitution

Council on the Ageing WA Limited
ABN 79 970 893 100

a company limited by guarantee

K&L Gates
Perth office
Ref: 0908483.00009

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Constitution of Council on the Ageing WA Limited

A company limited by guarantee

1. Nature of the Company

- (a) This Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.
- (b) The name of the Company is Council on the Ageing WA Limited.
- (c) The Company is the successor in title to the Incorporated Association.
- (d) The Company does not have the power to issue shares.

2. Definitions and interpretation

2.1 Definitions

The following definitions apply in this Constitution unless the context requires otherwise:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)* and any regulations made under that statute;

Alternate Director means a person of a Director's choosing who sits on the Board in lieu of a Director in the event a Director cannot attend a meeting;

Board means the Board of Directors of the Company from time to time;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Perth, Western Australia;

Chair means the chair of the Board appointed under clause 14.4;

Chairperson means a person acting as the chairperson of a meeting of the Board or a general meeting, as the case may be, under this Constitution;

Company means Council on the Ageing WA Limited;

Constitution means this constitution as amended, supplemented or replaced from time to time;

Corporations Act means the *Corporations Act 2001 (Cth)* and any regulations made under that statute;

COTA Australia means COTA Australia Limited (ACN 118 911 541);

Director means a person appointed or elected to the office of director of the Company;

Financial Year means the 12 month period ending on 30 June;

Incorporated Association means Council on the Ageing WA Inc ABN 79 970 893 100;

Individual Member means a Member in the Membership class set out in clause 5.3(c);

Insolvency Event means, in relation to a person, any one or more of the following events or circumstances:

- (a) a winding up, dissolution, liquidation, provisional liquidation, administration or bankruptcy;
- (b) having a controller (as defined in the Corporations Act), receiver, receiver and manager, administrator, liquidator (whether provisional or otherwise) or analogous person appointed to it or any of its property;
- (c) being unable to pay any of its debts as and when due and payable or being deemed to be insolvent under any provision of the Corporations Act or any other law;
- (d) seeking protection from its creditors under any law, entering into a compromise, moratorium, assignment, composition or arrangement with, or for the benefit of, any of its members or creditors; or
- (e) any analogous event or circumstance to those described in paragraphs (a) to (d) under any law;

Managing Director means a person who, for the time being, has been duly appointed and holds office as a managing Director;

Meeting Technology means any technology approved by the Directors that is reasonable to use for the purpose of holding a meeting at more than one physical venue or virtually or by a combination of those methods and otherwise satisfies the requirements of this Constitution and the Corporations Act;

Member means a member of the Company entered in the Register (and includes the Voting Member, Individual Members and Organisational Members), and **Membership** has the corresponding meaning;

Objects means the objects of the Company as set out in clause 3;

Office means the registered office of the Company;

Organisational Member means a Member in the Membership class set out in clause 5.3(b);

Present means, in connection with a meeting, a Member being present in person or by proxy, attorney or Representative, and includes being present at a different venue from the venue at which other Members are participating in the same meeting or virtually where the meeting is held using Meeting Technology, providing the pre-requisites for a valid meeting as set out in this Constitution and the Corporations Act are observed;

Register means the register of Members;

Registration means registration of the Company as a company by the Australian Securities and Investments Commission;

Representative means a natural person nominated by an organisation in accordance with clause 5.7;

Secretary means a person appointed to the office of secretary of the Company from time to time;

Small Company Limited By Guarantee has the meaning given to that term in section 45B of the Corporations Act;

Special Resolution has the meaning given to that term in section 9 of the Corporations Act;

Tax Act means the *Income Tax Assessment Act 1997* (Cth); and

Voting Member means the Member under clause 5.1, which has voting rights under clause 5.6(a).

2.2 Interpretation

In this Constitution, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;
- (c) headings are used for convenience only and do not affect the interpretation of this Constitution;
- (d) other grammatical forms of a defined word or expression have a corresponding meaning;
- (e) a reference to a document is to that document as amended, novated, supplemented, extended or restated from time to time;
- (f) if something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day;
- (g) "person" includes a natural person, partnership, body corporate, association, joint venture, governmental or local authority, and any other body or entity whether incorporated or not;
- (h) "month" means calendar month and "year" means 12 consecutive months;
- (i) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) is to that statute as amended, consolidated, re-enacted or replaced from time to time;
- (j) "include", "for example" and any similar expressions are not used, and must not be interpreted, as words of limitation;
- (k) money amounts are stated in Australian currency unless otherwise specified;
- (l) a reference to any agency or body that ceases to exist, is reconstituted, renamed or replaced, or has its powers or functions removed (**defunct body**) is to the agency or body that performs most closely the powers or functions of the defunct body; and
- (m) any expression in a provision of this Constitution that relates to a particular provision of the Corporations Act has the same meaning as in that provision of the Corporations Act.

2.3 Replaceable rules

The replaceable rules contained in the Corporations Act are displaced under section 135(2) of the Corporations Act and do not apply to the Company.

2.4 Compliance with legislation

- (a) This Constitution is subject to the Corporations Act and where there is any inconsistency between a clause of this Constitution and the Corporations Act which is not permissible under the Corporations Act, the Corporations Act prevails to the extent of the inconsistency.
- (b) While the Company is registered under the ACNC Act, this Constitution is also subject to the ACNC Act. Where there is any inconsistency between a clause of this Constitution and the Corporations Act or the ACNC Act (as applicable) which is not permissible under those Acts, those Acts prevail to the extent of the inconsistency, and if there is any doubt, the highest standard applies.

2.5 Transitional

Everything done under this Constitution of the Company continues to have the same operation and effect after the adoption of any successor Constitution as if properly done under that Constitution.

3. Objects and powers of the Company

- (a) The Objects for which the Company is established are to:
 - (i) provide assistance and relief to older Western Australians, including those who are experiencing poverty, sickness, suffering, distress, misfortune, disability or helplessness;
 - (ii) advance the rights, needs and interests of older Western Australians in all their diversity, giving priority to those most disadvantaged or in need of help;
 - (iii) provide advocacy and leadership on behalf of and for older people to inform and influence policy as well as the services affecting them;
 - (iv) collaborate and/or partner with seniors' organisations, service providers, government at all levels and the business sector to improve the health, safety and well-being outcomes of older people;
 - (v) develop and deliver programs and services that benefit and empower older Western Australians; and
 - (vi) support and promote research into matters concerning older people.
- (b) The Company has all the powers of a company set out in the Corporations Act.
- (c) The Company may use its powers to do:
 - (i) anything which it considers will advance or achieve the Objects; and
 - (ii) all other things that are incidental or conducive to carrying out the Objects.

4. Assets and income of the Company

- (a) Subject to clause 4(b), all assets, income and profits of the Company must be applied solely towards the promotion of the Objects, and no portion of the Company's assets, income or profits may be:
 - (i) paid or distributed directly or indirectly by way of dividend, bonus or otherwise to any Member; or
 - (ii) paid as fees or otherwise to any Director except in accordance with clause 4(b).
- (b) Nothing in this Constitution prevents the Company from making a payment approved by the Members or the Board:
 - (i) if the Member is charitable with similar objects to the Objects, of surpluses or profits;
 - (ii) for out-of-pocket expenses properly incurred by a Director in attending meetings of Directors, general meetings and committee meetings and otherwise performing duties as Director;
 - (iii) as bona fide compensation for a service rendered to the Company by a Director or Member in a professional or technical capacity (other than in the capacity as a Director), where the amount payable is commercially reasonable;
 - (iv) in good faith to any Member for goods supplied in the ordinary course of business;
 - (v) of reasonable remuneration payable to the Managing Director and any other executive Directors in accordance with clause 11.7(b); and
 - (vi) in respect of the indemnification of, or payment of premiums on contracts of insurance for, any Director, in accordance with clause 22.

5. Membership

5.1 Sole Voting Member

The Company will have one Voting Member, which subject to clause 5.2, is COTA Australia.

5.2 Change of Voting Member

- (a) If the Voting Member ceases to be the Voting Member under clause 6.4, then the vacating Voting Member has the power to admit a new Voting Member to the Company, so long as that Voting Member:
 - (i) is a body corporate;
 - (ii) has similar objects to the Objects and is charitable; and
 - (iii) has a constitution which:

- (A) requires it to apply its income and property towards its objects; and
 - (B) prohibits it from paying its income and its property to its members to at least the extent set out in clause 4.
- (b) If the Voting Member does not admit a new Voting Member under clause 5.2(a), then the Board has the ability to admit a new Voting Member to the Company, so long as that Voting Member satisfies the requirements in clauses 5.2(a)(i) to 5.2(a)(iii).

5.3 Non-voting Members

- (a) In addition to the Voting Member, there will be the following additional Membership classes:
- (i) Organisational Members; and
 - (ii) Individual Members.
- (b) Organisational Members:
- (i) must be organisations;
 - (ii) must be one of the following:
 - (A) an international, national or multi-state organisation of older people, carers and service users;
 - (B) a research, academic or similar institution active in policy areas of relevance to the needs of older Australians; or
 - (C) an organisation (whether not-for-profit or for-profit) involved in the provision of goods and services to older Australians; and
 - (iii) must support the Objects.
- (c) Individual Members:
- (i) must be natural persons over the age of 18 years;
 - (ii) must be of sound mind; and
 - (iii) must support the Objects.

5.4 Membership requirements and undertaking

- (a) Notwithstanding anything else in this Constitution, any member of the Incorporated Association immediately before Registration (**Existing Member**) will be eligible to be admitted as a Member, as follows:
- (i) Existing Members who are organisations will be eligible to be admitted as Organisational Members; and
 - (ii) Existing Members who are individuals will be eligible to be admitted as Individual Members.

- (b) Every Member must:
 - (i) except for the Voting Member:
 - (A) meet the relevant eligibility criteria under clause 5.3, and any eligibility criteria determined by the Board from time to time; and
 - (B) be approved for membership in accordance with clause 6.1; and
 - (ii) fulfil their obligations under this Constitution.
- (c) Every Member undertakes to the best of their ability to:
 - (i) comply with this Constitution and any regulations, policies or standards of the Company in force from time to time; and
 - (ii) promote the Objects, interests and standing of the Company.

5.5 Liability of Members and undertaking

- (a) The liability of Members is limited to the amount of the guarantee in clause 5.5(b).
- (b) Each Member undertakes to contribute an amount of \$10 to the property of the Company if the Company is wound up while the Member is a Member or within one year after the Member ceases to be a Member, for:
 - (i) payment of the Company's debts and liabilities incurred before the time at which the Member ceased to be a Member;
 - (ii) the costs, charges and expenses of winding up; and
 - (iii) for the adjustment of rights of the contributories among themselves.

5.6 Members - rights

- (a) The Voting Member has the right to vote at all general meetings of the Company in accordance with this Constitution.
- (b) Every Member has the right to:
 - (i) receive notices from the Company;
 - (ii) attend, request the convening of at and be heard at all general meetings of the Company in accordance with this Constitution, but only the Voting Member has rights to vote;
 - (iii) be elected to, or hold office on, the Board; and
 - (iv) subject to the Board's discretion, be appointed or have its Representative appointed, as applicable to any committee, working party or similar representative body of the Company or the Board, with or without a determinative vote.

5.7 Representatives

- (a) A Member that is an organisation must by notice in writing to the Secretary appoint a natural person to act as its Representative in all matters as permitted by the Corporations Act and subject to any restrictions on the Representative's powers imposed by the Member.
- (b) A Member may at any time by notice in writing to the Secretary replace its Representative.
- (c) A certificate executed by the appointing Member is rebuttable evidence of the appointment or removal (as applicable) of a Representative.
- (d) Subject to this Constitution, a Representative is entitled to:
 - (i) exercise at a general meeting all the powers which its appointing Member could exercise if it were a natural person; and
 - (ii) be counted towards a quorum on the basis that the Member will be deemed Present at a general meeting by its Representative.
- (e) Where:
 - (i) a Representative's appointment has been revoked; and
 - (ii) the Secretary has not received written notice of the revocation prior to a general meeting,any vote given at the relevant meeting in accordance with the terms of instrument appointing the Representative is valid.
- (f) If written notice of the appointment of a Representative has not been received in accordance with clause 5.7(a) the Chairperson of a general meeting may allow a Representative to vote on the condition that they subsequently establish their status as a Representative within a period prescribed by, and to the satisfaction of, the Chairperson of the general meeting.

6. Fees, application for and cessation of Membership

6.1 Application for Membership

- (a) Every application for Membership of the Company must:
 - (i) be in the form approved by the Board for that purpose from time to time and signed by the applicant;
 - (ii) include the applicant's name, address, occupation (if applicable); and
 - (iii) be submitted to the Secretary at the Office or in any other way approved by the Board from time to time.
- (b) Within a reasonable period of receipt of a Membership application, the Board will consider the application and will, in its absolute discretion without having to provide reasons:

- (i) approve or reject the applicant and (if applicable) determine the class of Membership; or
 - (ii) decide to request an applicant to supply any evidence of eligibility that the Board considers reasonably necessary.
- (c) An applicant will only be admitted to Membership of the Company if the Directors by resolution approve that applicant to Membership.
- (d) If the Board rejects a Membership application, the Secretary must, as soon as practicable, notify the applicant in writing that the application has been rejected.
- (e) If the Board approves a Membership application, the Secretary must, as soon as practicable, notify the applicant in writing of the approval for Membership and the class of Membership.
- (f) The Secretary must, within 30 days after a Membership application is approved by the Directors, enter the applicant's name in the Register in accordance with clause 7.

6.2 Membership fees

There will be no entrance fee for Membership or annual fee payable by the Members.

6.3 No transfer of Membership

A right, privilege or obligation of a person by reason of Membership:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates upon the cessation of Membership.

6.4 Cessation of Membership

- (a) A Member will cease to be a Member:
- (i) if the Member resigns by notice in writing to the Secretary, on the date that the notice is received by the Secretary;
 - (ii) except in the case of the Voting Member, if, in the Board's reasonable opinion, either:
 - (A) the Member's status or conduct renders it undesirable that the Member continue to be a Member, including (without limitation) if the Member brings the reputation of the Company into disrepute; or
 - (B) the Member no longer meets the applicable criteria for Membership in clause 5.3 or 5.4(b)(i)(A),and both of the following requirements are met:
 - (C) 75% of the Directors entitled to vote at a Board meeting vote in favour of terminating the Membership of the Member; and

- (D) the Member has been given at least 14 days' notice of the resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed;
- (iii) where the Member is an individual, if the Member:
 - (A) dies;
 - (B) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health; or
- (iv) where the Member is an organisation, if it is deregistered or otherwise ceases to be an organisation; or
- (v) if the Member is the subject of an Insolvency Event.
- (b) Any Member ceasing to be a Member:
 - (i) will have its name removed from the Register; and
 - (ii) will remain liable for and must pay to the Company all fees and any other amounts which were due to the Company at the date of ceasing to be a Member.

7. Register of Members

- (a) The Secretary must keep and maintain a Register containing:
 - (i) the name and address of each Member;
 - (ii) the class of Membership of each Member;
 - (iii) the date on which each Member's name was entered into the Register;
 - (iv) the name and date of appointment of each Representative; and
 - (v) any other information required by law.
- (b) The Register is available for inspection free of charge by any Member upon request.
- (c) A Member may make a copy of entries in the Register.

8. General meetings

8.1 Annual general meetings

- (a) Except where the Company only has one Member, the Company may, at the discretion of the Board, hold an annual general meeting once in each calendar year and no later than 5 months after the end of each Financial Year.
- (b) If the Company is required by the Corporations Act to hold an annual general meeting, the annual general meeting must be held at the place that the Board sets for the meeting.

8.2 Business at annual general meeting

Even if these items are not set out in the notice of meeting under clause 8.6, the business of an annual general meeting may include:

- (a) reviewing the Company's activities and finances since the last preceding annual general meeting;
- (b) confirming the minutes of the last preceding annual general meeting and of any other general meeting held since the last annual general meeting;
- (c) unless for the preceding Financial Year the Company was a Small Company Limited By Guarantee, considering the annual report; Directors' report; and the auditor's report (if any);
- (d) electing Directors;
- (e) (where relevant) appointing the auditor and fixing the remuneration of the auditor; and
- (f) transacting any other business which under this Constitution, the ACNC Act or the Corporations Act may properly be brought before the meeting.

8.3 Power of Directors to convene general meeting

- (a) The Board may convene a general meeting of the Members whenever it thinks fit, at any place it thinks fit.
- (b) The Board must, in accordance with clause 8.4, convene a general meeting of Members on the request of the Voting Member.
- (c) The Board may cancel or postpone any general meeting or change its venue by giving notice to all persons to whom the notice of the original meeting was given, but may not cancel a general meeting which was called or requested by persons other than the Directors, without the prior written consent of those persons.

8.4 Power of Members to convene a general meeting

- (a) The Voting Member may call, and arrange to hold, a general meeting.
- (b) As far as reasonably practicable, a general meeting under this clause 8.4 must be called in the same way in which general meetings of the Company are called.
- (c) The Voting Member calling the general meeting must pay the expenses of calling and holding it under this clause 8.4.

8.5 Holding meetings of Members

- (a) Subject to any applicable law, the Company may hold a meeting of Members:
 - (i) at a physical venue;
 - (ii) at one or more physical venues and virtually using Meeting Technology;
 - (iii) virtually, using Meeting Technology only; or

- (iv) in any other way permitted by the Corporations Act.
- (b) The Company must give the Members entitled to attend the meeting, as a whole, a reasonable opportunity to participate in the meeting, however it is held.
- (c) A Member, or a proxy, attorney or representative of a Member, who attends the meeting (whether at a physical venue or virtually by using Meeting Technology) is taken for all purposes to be Present at the meeting while so attending.
- (d) If, before or during a meeting of Members, any technical difficulty occurs, such that the Members as a whole do not have a reasonable opportunity to participate, the Chairperson of the meeting may:
 - (i) adjourn the meeting until the technical difficulty is remedied; or
 - (ii) subject to the Corporations Act, where a quorum remains Present and able to participate, continue the meeting.
- (e) Where a general meeting is held only virtually using Meeting Technology:
 - (i) the place for the meeting is taken to be the address of the Office; and
 - (ii) the time for the meeting is taken to be the time at that place.

8.6 Notice of general meetings

- (a) Written notice of a general meeting must be given in accordance with this Constitution to:
 - (i) every Member;
 - (ii) every Director; and
 - (iii) the auditor (if any).
- (b) Notice of general meetings must be provided to Members at least 21 days before the meeting is to be held.
- (c) Subject to clause 8.6(d), the Company may call, on shorter notice than that specified in clause 8.6(b) a general meeting (including an annual general meeting), if the Voting Member agrees prior to the general meeting.
- (d) The Company cannot call a general meeting on shorter notice than that specified in clause 8.6(b) if a resolution will be moved at the meeting to:
 - (i) remove a director;
 - (ii) appoint a Director in place of a Director removed under clause 8.6(d)(i); or
 - (iii) remove an auditor.

8.7 Content of notice of general meetings

A notice of a general meeting must:

- (a) specify:

- (i) if there is only 1 venue at which Members who are entitled to physically attend the meeting may do so, the date, time and place for the meeting;
- (ii) if there are 2 or more venues at which Members who are entitled to physically attend the meeting may do so, the date and time for the meeting at each venue, and the main venue for the meeting as specified in the notice;
- (iii) if Meeting Technology is to be used in holding the meeting, sufficient information to allow Members to participate in the meeting by means of the technology;
- (iv) at least 1 of the following:
 - (A) a place for the purposes of lodging proxy appointments and proxy appointment authorities, as referred to in clause 10.5; and
 - (B) sufficient information to allow Members to comply with clause 10.5 by electronic means;
- (b) state the general nature of the business to be transacted at the general meeting;
- (c) if a Special Resolution is to be proposed at the general meeting, set out an intention to propose the Special Resolution and state the resolution;
- (d) contain a statement of:
 - (i) each Member's right to appoint a proxy; and
 - (ii) the fact that a proxy need not be a Member of the Company; and
- (e) contain any other information required by law.

8.8 Quorum

- (a) No business may be transacted at a general meeting unless a quorum of the Voting Member is Present at the time when the meeting proceeds to business.
- (b) Quorum for a general meeting will be the Voting Member.

8.9 If a quorum not Present

If a quorum is not Present within 15 minutes after the time appointed for the general meeting in the notice:

- (a) where the meeting is convened on the requisition of the Voting Member, the meeting must be automatically dissolved (subject to clause 8.12(a)); and
- (b) in any other case:
 - (i) the meeting stands adjourned to a day and at a time and place as the Directors decide or, if no decision is made by the Directors, to the same day in the next week at the same time and place; and
 - (ii) if no quorum is Present at the resumed meeting within 15 minutes after the time appointed for the meeting, the meeting must be dissolved.

8.10 Chairperson of general meeting

- (a) Subject to clause 8.10(b), the Chair must preside as Chairperson at every general meeting.
- (b) If the Chair is not present (in person or virtually, as applicable) within 15 minutes after the time appointed for the meeting or is unwilling to act as Chairperson:
 - (i) the Directors present must elect by a majority vote a Director to be Chairperson of the meeting; or
 - (ii) if none of the Directors present wish to act, or in the absence of all Directors, the Members Present must elect by a majority vote one of their number to be Chairperson of the meeting.
- (c) The Chairperson of a general meeting may, for any of item of business or discrete part of the meeting, vacate the chair in favour of another person nominated by the Chairperson (**Acting Chairperson**). Where an instrument of proxy appoints the Chairperson as proxy for the part of the meeting for which an Acting Chair has been nominated, the instrument of proxy is taken to be in favour of the Acting Chairperson for the relevant part of the meeting.
- (d) The Chairperson of a general meeting:
 - (i) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
 - (ii) may take any action or require the adoption of any procedure which in the Chairperson's opinion is necessary or desirable for proper and orderly debate or discussion (including limiting the time that a person may speak, or terminating debate or discussion, on a motion or other item of business before the meeting), the proper and orderly casting or recording of votes at the general meeting, and the safety of persons attending the meeting (including refusing admission to any person, or requiring any person to leave and remain out of, the meeting); and
 - (iii) subject to clause 8.12, may at the Chairperson's sole discretion at any time during the course of the meeting adjourn the meeting or may adjourn any business, motion, question or resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting.
- (e) A decision by the Chairperson under clause 8.10(d) is final.

8.11 Right of officers and advisers to attend general meeting

- (a) A Director who is not a Member is entitled to be present and to speak at any general meeting.
- (b) A Secretary who is not a Member is entitled to be present and, at the request of the Chairperson of the general meeting, to speak at any general meeting.
- (c) Any other person (whether a Member or not) required or invited by the Directors to attend any general meeting is entitled to be present and, at the request of the Chairperson of the general meeting, to speak at that general meeting.

8.12 Adjournments

- (a) The Chairperson may, and must if directed to do so by the general meeting, adjourn a general meeting from time to time and from place to place.
- (b) Only business left unfinished at the meeting which was adjourned may be transacted at a meeting resumed after an adjournment.
- (c) A resolution passed at a meeting resumed after an adjournment is passed on the day it was in fact passed.
- (d) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting. In all other cases it is not necessary to give notice of the adjourned meeting.

8.13 Written resolutions of Member

It satisfies any requirement in this Constitution or the Corporations Act that a resolution or Special Resolution be passed by the sole Voting Member recording the resolution or Special Resolution and signing the record. The Representative of the Voting Member appointed under clause 5.7 may sign a resolution referred to in this clause 8.13.

8.14 Irregularities

Subject to any applicable law, a notice of, or act, matter or thing done or resolution passed at, a general meeting is not invalidated by:

- (a) the inability of any person entitled to receive notice of a general meeting under this clause 8 to access a document, including a notice of a general meeting or a proxy form (except for the Voting Member); or
- (b) the non-receipt of document, notice of a general meeting or proxy form by, or a failure to give a document, notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this clause 8 (except the for the Voting Member) if:
 - (i) the non-receipt or failure occurred by accident or error; or
 - (ii) before or after the meeting, the person:
 - (A) has waived or waives their right to receive notice of that meeting under this clause 8; or
 - (B) has notified or notifies the Company in writing of the person's agreement to that act, matter, thing or resolution.

9. Voting at general meetings

9.1 Voting

- (a) All resolutions at a general meeting will be determined by the vote of the Voting Member, either by proxy, attorney or Representative.

9.2 Objection to qualification to vote

- (a) An objection to a person's right to vote at a general meeting:
 - (i) may only be raised at the general meeting or adjourned meeting at which the vote objected to is tendered; and
 - (ii) must be determined by the Chairperson of the meeting, whose decision is final.
- (b) A vote allowed after an objection is valid for all purposes.

9.3 Votes counted in error

If any vote is counted which ought not to have been counted or might have been rejected, the error will not invalidate the resolution unless the error is:

- (a) detected at the same general meeting; and
- (b) of sufficient magnitude, in the opinion of the Chairperson, as to invalidate the resolution.

10. Proxies

10.1 Appointment of proxies

- (a) A Member or Representative who is entitled to attend and vote at a general meeting may appoint a person as that Member's or Representative's proxy to attend and vote for that Member or Representative at a general meeting.
- (b) A proxy need not be a Member of the Company.

10.2 Rights of proxies

A proxy appointed to attend and vote at a general meeting for a Member or Representative in accordance with this clause 10 has the same rights as the Member or Representative to:

- (a) speak at the meeting;
- (b) vote (to the extent allowed by the appointment); and
- (c) demand, or join in a demand, for a poll.

10.3 Form of proxy

- (a) An instrument appointing a proxy is valid if it is in the form specified by the Directors from time to time and is:
 - (i) signed by or on behalf of the Member or Representative making the appointment; and
 - (ii) contains the following information:
 - (A) the Member's or Representative'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 meetings at which the appointment may be used.
- (b) The proxy form must, for each resolution, provide for the Member or Representative to direct the proxy to vote for or against the resolution or to abstain from voting on the resolution.
- (c) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution, and the proxy must vote in the matter specified.
- (d) A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.
- (e) An instrument appointing a proxy confers authority to demand or join in demanding a poll.
- (f) An instrument appointing a proxy will not be valid after 12 months from the date of its execution, unless it is expressly stated to be a standing appointment or to extend for a longer period.

10.4 Where proxy is incomplete

- (a) No instrument appointing a proxy is treated as invalid merely because:
 - (i) it does not contain the address of the appointor or proxy;
 - (ii) it is not dated; or
 - (iii) in relation to any or all resolutions, it does not contain an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not indicate the name of the proxy, the instrument is treated as given in favour of the Chairperson of the general meeting.

10.5 Lodgement of proxies and appointments

- (a) An instrument appointing a proxy is not treated as valid unless:
 - (i) the instrument; and
 - (ii) either:
 - (A) the power of attorney or other authority (if any) under which the instrument is signed; or
 - (B) a copy of that power or authority certified in a manner acceptable to the Directors,

are lodged not less than 48 hours (or any shorter period as the Directors may permit) before the time for holding the meeting:

- (iii) at the place specified for that purpose in the notice of the meeting or, if none, at the Office; or
 - (iv) by the electronic means specified for that purpose in the notice of the meeting.
- (b) An instrument appointing a proxy to act for a Member or Representative at all meetings of the Company or at all meetings for a specified period is not treated as valid unless:
 - (i) the instrument of appointment or a certified copy of it, duly signed by hand or electronically authenticated in accordance with clause 10.5(c); and
 - (ii) any evidence as to the validity and non-revocation of that authority as may be required by the Directors,are lodged not less than 48 hours (or any shorter period as the Directors may permit) before the time for holding the meeting:
 - (iii) at the place or electronic address specified for that purpose in the notice of the meeting or, if none, at the Office; or
 - (iv) by the electronic means specified for that purpose in the notice of the meeting.
- (c) For the purposes of this clause 10.5:
 - (i) any document given by the electronic means specified in the notice of the meeting is duly lodged at the time the electronic communication is received by the Company; and
 - (ii) subject to any applicable law, instead of signing or executing an instrument of appointment, a Member or Representative may electronically authenticate the appointment of a proxy, provided that:
 - (A) the Member or Representative is identified by personal details as required by the Company;
 - (B) the Member's or Representative's approval of the information communicated to the Company is accompanied by a personal identification number or any other numbers provided by the Company; and
 - (C) the Member or Representative complies with any other requirements of the Company.

10.6 Validity of proxy vote

- (a) A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:
 - (i) the revocation of the relevant instrument or of the authority under which the instrument was executed; or
 - (ii) the revocation of the power of attorney,

if no notice in writing of the revocation has been received by the Company at the Office before the commencement of the general meeting or adjourned meeting at which the instrument or power of attorney is used.

- (b) A proxy is not revoked by the appointing Member or Representative attending and taking part in the general meeting, unless the Member or Representative actually votes on the resolution for which the proxy is proposed to be used.

11. Board of Directors

11.1 Number of Directors

- (a) There must be:

- (i) at least 3 Directors; and
- (ii) not more than 11 Directors,

in office at all times, unless the Company resolves otherwise in general meeting in accordance with the Corporations Act.

- (b) At all times, at least 2 Directors must ordinarily reside in Western Australia.

11.2 Initial Directors

On the date of Registration, the persons nominated in the application for Registration and who have provided the Company with consents to act will be the initial Directors.

11.3 Term of office

Each Director will hold office until they vacate office or is removed under this Constitution.

11.4 Appointment and removal of Directors

- (a) Subject to the Corporations Act, the Voting Member may by resolution appoint or remove a Director from office.
- (b) Subject to the Corporations Act, the Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the number of existing Directors, provided the total number of Directors does not exceed the maximum number specified in clause 11.1.

11.5 Director qualifications

- (a) A Director is not required to be a Member.
- (b) A person must give the Company a signed written consent to act as a Director before being appointed as a Director.
- (c) A Director must not be ineligible to be a Director under the Corporations Act or the ACNC Act.

11.6 Vacation of office of Director

In addition to the circumstances in which the office of a Director becomes vacant:

- (a) under the Corporations Act or the ACNC Act; or
- (b) because of a resolution under clause 11.4(a);

the office of a Director becomes vacant if the Director:

- (c) becomes physically or mentally incapable of performing the Director's duties and the Board resolves that his or her office be vacated for that reason;
- (d) is the subject of an Insolvency Event;
- (e) is one of the 2 Directors ordinarily residing in Western Australia referred to in clause 11.1(b), and ceases to reside in Western Australia and that causes the Board composition to no longer comply with that clause;
- (f) subject to the Corporations Act, resigns by notice in writing to the Company;
- (g) dies;
- (h) ceases to be eligible under clause 11.5(a);
- (i) is absent from meetings of the Directors for a continuous period of 6 months without special leave of absence from the Directors and the Board resolves that his or her office be vacated; or
- (j) subject to clause 12.6, without the prior or subsequent consent of the other Directors, is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the Director's interest as required by the Corporations Act or the ACNC Act and the Board resolves that his or her office be vacated.

11.7 Remuneration and payments to Directors

- (a) No payment will be made to any Director other than a payment allowed under clause 4(b) or 11.7(b).
- (b) Clause 11.7(a) does not apply to the remuneration of the Managing Director and any other executive Directors. Remuneration payable by the Company and any entity under its control to the Managing Director and any other executive Directors will be calculated on a commercial basis and fixed by the Board from time to time but must not be a distribution of, commission on, or a percentage of, profits or operating revenue.

12. Powers and duties of Directors

12.1 General management power

- (a) Subject to any applicable law and this Constitution, the Directors are responsible for managing the business of the Company and may exercise all powers of the Company which are not required to be exercised by the Company in a general meeting by the Corporations Act or this Constitution.
- (b) Without limiting clause 12.1(a), the Directors may exercise all the powers of the Company to:

- (i) borrow or raise money;
- (ii) grant security over any property or business of the Company or all or any of its uncalled capital;
- (iii) pay interest on any debt due by the Company; and
- (iv) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

12.2 Appointment of attorneys and representatives

- (a) The Directors may, by power of attorney or by general or specific appointment, appoint any person or persons to be an attorney or representative of the Company with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- (b) An appointment under clause 12.2(a) may be made on terms for the protection and convenience of persons dealing with the attorney or representative as the Directors think fit and may also authorise the attorney or representative to delegate all or any of the powers, authorities and discretions vested in the attorney or representative.

12.3 Committees

- (a) The Directors may create a committee or committees consisting of any number of Directors, Members or other persons (including, without limitation, employees or volunteers of the Company) as they think fit.
- (b) The Directors may delegate any of their powers to a committee other than the power of delegation. In that case:
 - (i) the committee must exercise those powers in accordance with any direction of the Directors; and
 - (ii) a power exercised in accordance with clause 12.3(b)(i) is taken to be exercised by the Directors.
- (c) If the Board does not delegate any of its powers to a committee, that committee will act as an advisory committee only.
- (d) Clauses 14.1, 14.2, 14.4 and 14.5 apply to any committee as if each reference in those clauses to the Directors was a reference to the members of the committee and each reference to a meeting of Directors were to a meeting of the committee.
- (e) Minutes of all the proceedings and decisions of every committee must be made, entered and signed in the same manner in all respects as minutes of proceedings of the Directors are required by the Corporations Act to be made, entered and signed.

12.4 Negotiable instruments and electronic payments

- (a) All negotiable instruments of the Company are to be executed by the persons and in the manner determined by the Directors from time to time.

- (b) All electronic payments by the Company are to be made or authorised in the manner determined by the Directors from time to time.

12.5 By-laws

- (a) The Directors have the power to make by-laws regulating the establishment, organisation and conduct of the Company and its committees, provided such by-laws are not inconsistent with this Constitution or the Corporations Act.
- (b) To the extent any by-laws are inconsistent with this Constitution, they are void.
- (c) All by-laws made and in force from time to time are binding on the Member, and the Members agree to comply with all by-laws.

12.6 Interested Directors

- (a) A Director:
 - (i) may hold another position (except as auditor) in the Company or any related body corporate on terms as to remuneration, tenure and otherwise that the Directors think fit;
 - (ii) may be employed by the Company or act in a professional or technical capacity (except as auditor) on behalf of the Company;
 - (iii) is not disqualified, merely because he or she is a Director, from contracting with the Company in any respect including, but not limited to:
 - (A) selling property to, or purchasing property from, the Company;
 - (B) lending money to the Company with or without interest or security;
 - (C) guaranteeing the repayment of money borrowed by the Company for a commission or profit; or
 - (D) underwriting or guaranteeing the subscription for securities in any related body corporate or other body corporate promoted by the Company or in which the Company is interested as a shareholder or otherwise, for a commission or profit.
- (b) The Directors may exercise the voting rights conferred by shares in any body corporate held or owned by the Company in the manner that they think fit.
- (c) A contract or arrangement made by the Company with a Director or in which a Director is in any way directly or indirectly interested may not be avoided merely because the Director is a party to or interested in it.
- (d) A Director who has a material personal interest in a matter that relates to the affairs of the Company may:
 - (i) be counted in a quorum at a Directors' meeting considering the matter;
 - (ii) not be present while the matter is being considered at the meeting; and
 - (iii) not vote on the matter,

except where this is prohibited by any applicable law.

- (e) The Directors may make regulations requiring the disclosure of interests that a Director, and any person considered by the Directors as related to or associated with the Director, may have in any matter concerning the Company. Any regulations made under this Constitution bind all Directors.

12.7 Company is a registered charity

Without limiting any other provision of this Constitution, while the Company is registered as a charity under the ACNC Act, the Directors must:

- (a) comply with their duties as directors under the Corporations Act and at law and with the duties described in governance standard 5 set out in Division 45 of the Australian Charities and Not-for-profits Commission Regulations 2013 (Cth) (**ACNC Regulations**); and
- (b) ensure that the Company complies with all the requirements under the ACNC Act and with the governance standards set out in ACNC Regulations.

13. Managing Director

13.1 Power to appoint Managing Director

- (a) The Directors may appoint a Director to the office of Managing Director for the period and on the terms they think fit, including the grant of power for the Managing Director to delegate all or part of his or her authorities to another Director during any temporary absence. Subject to the terms of any agreement entered into in a particular case, the Directors may at any time revoke any appointment of a Managing Director.
- (b) The Managing Director's appointment automatically terminates if the Managing Director ceases for any reason to be a Director.

13.2 Delegation of powers to Managing Director

- (a) The Directors may, on the terms and conditions and with any restrictions as they think fit, confer on the Managing Director any of the powers exercisable by them.
- (b) Any powers so conferred may be concurrent with the powers of the Directors.
- (c) Subject to the terms of any agreement between the Managing Director and the Company, the Directors may at any time withdraw or vary any of powers conferred on the Managing Director under clause 13.2(a).

14. Proceedings of Directors

14.1 Calling and holding Directors' meetings

- (a) The Board or a Director may call a Directors' meeting by giving reasonable notice to each Director.
- (b) The Directors may adjourn and otherwise regulate their meetings as they think fit.

- (c) Reasonable notice of the place, date and hour of every meeting of the Directors must be given to every Director. Where any Director is for the time being outside Australia, notice need only be given to that Director if contact details have been given.

14.2 Use of Meeting Technology

Without limiting the power of the Directors to regulate their meetings as they think fit, the Directors may hold a valid meeting using Meeting Technology and in that case:

- (a) the participating Directors are taken for all purposes to be present at the meeting while so participating;
- (b) subject to the Corporations Act, the meeting is taken to be held at the place where the Chairperson of the meeting is and at the time at that place;
- (c) if, before or during a meeting of Directors, any technical difficulty occurs, such that the Directors as a whole do not have a reasonable opportunity to participate, the Chairperson of the meeting may:
 - (i) suspend the meeting until the technical difficulty is remedied. If that does occur within 15 minutes from the time the meeting was interrupted, the meeting will be deemed to have terminated; or
 - (ii) subject to the Corporations Act, where a quorum remains present and able to participate, continue the meeting; and
- (d) all proceedings of the Directors conducted in accordance with this clause 14.2 are as valid and effective as if conducted at a meeting at which all of them were present in person.

14.3 Quorum

- (a) At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is a majority of Directors entitled to vote.
- (b) If the office of a Director becomes vacant, the remaining Directors may act but, if the total number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, the Directors may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum or for the purpose of convening a general meeting of the Company.

14.4 Chairperson

- (a) The Directors must elect a Director as Chair of the Board and may decide the period during which the Chair is to hold that office.
- (b) Where a meeting of the Directors is held and:
 - (i) a Chair has not been elected; or
 - (ii) the Chair declines to act or is not present (in person or virtually, as applicable) within 15 minutes after the time appointed for the holding of the meeting,

the Directors present must elect one of their number to act as Chairperson of the meeting.

14.5 Directors' resolutions

- (a) Subject to this Constitution, a resolution of the Board must be passed by a majority of the votes of Directors present and entitled to vote on the resolution.
- (b) In case of an equality of votes, the Chairperson has a second or casting vote in addition to his or her deliberative vote (if any).

14.6 Written resolutions of Directors

- (a) The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Identical copies of the document may be distributed for signing by different Directors and taken together will constitute the same document.
- (c) The resolution is passed when the last Director signs the document.
- (d) Where a committee consists of 1 person only, a document signed by that person and recording a decision of the committee is valid and effective as if it were a decision made at a meeting of that committee and that document constitutes a minute of that decision.

14.7 Defects in appointments

- (a) All acts done by any meeting of the Directors, committee of Directors, or person acting as a Director are as valid as if each person was duly appointed and qualified to be a Director or a member of the committee.
- (b) Clause 14.7(a) applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of a committee or to act as a Director or that a person so appointed was disqualified.

15. Alternate Directors

Alternate Directors will not be permitted.

16. Secretary

- (a) There must be at least 1 Secretary who ordinarily resides in Australia in office at all times, appointed by the Directors.
- (b) A person must give the Company a signed written consent to act as Secretary before being appointed as a Secretary.
- (c) A Secretary of the Company holds office on the terms and conditions, as to remuneration and otherwise, as the Directors decide.
- (d) The Directors may at any time terminate the appointment of a Secretary.
- (e) The Secretary's responsibilities include:

- (i) keeping the minutes of the meetings of the Board and the Members in one or more books, whether in hard copy or electronic form, provided for that purpose;
- (ii) ensuring that all notices are duly given in accordance with the provisions of this Constitution or as required by law;
- (iii) maintaining the Register; and
- (iv) generally performing all duties incidental to the office of secretary of a corporation and such other duties as may be assigned to him or her by the Board from time to time.

17. Minutes

- (a) The Directors must cause minutes to be made of:
 - (i) proceedings and resolutions of general meetings of the Members and resolutions passed by the Voting Member without a meeting;
 - (ii) all appointments of Directors and officers;
 - (iii) all orders made by the Directors; and
 - (iv) proceedings and resolutions of Directors' meetings and resolutions passed by Directors without a meeting,within 1 month of the date of the relevant matter or action and must retain the minutes in a minute book for a period of at least 10 years or such other period as may be required under the Corporations Act.
- (b) Minutes may be made and kept in hard copy or in electronic form. An electronic form of the minute book must be able to be generated by a method which:
 - (i) assures that the integrity of the information contained in the minute book is maintained; and
 - (ii) is readily accessible so as to be useable for subsequent reference.
- (c) The Company must ensure that minutes are signed (in hard copy or, as permitted by any applicable law, by electronic means) within a reasonable time after the date of the meeting or of the resolution being passed by:
 - (i) the Chairperson of the meeting;
 - (ii) the Chairperson of the next meeting; or
 - (iii) in the case of a resolution without a meeting, a Director.
- (d) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this clause 17 is evidence of the matters shown in the minute.

18. Execution of documents

18.1 Execution generally

- (a) The Company may execute documents (including deeds) in any way permitted by law.
- (b) The Company need not have or use a seal to execute documents or deeds. The Directors may resolve whether or not the Company is to have or use a seal.
- (c) This clause 18 does not limit the ability of the Directors to authorise a person who is not an officer of the Company to execute a document (including a deed) for and on behalf of the Company.

19. Notices

19.1 Definition

In this clause, **Notice** means any notice, document or other communication to be given to a Member, including any notice, document or communication that is required or permitted to be given (whether the expression give, send or serve or any similar expression is used) to a Member under the Corporations Act or this Constitution.

19.2 How Notice is to be given

- (a) The Company may give a Notice to any Member by:
 - (i) serving it on the Member personally;
 - (ii) sending it by post to the Member's address as shown in the Register or an alternative address (if any) supplied by the Member to the Company for the purpose of giving Notices;
 - (iii) giving it to a Member's Representative in any manner contemplated by this clause 19.2, where the Member has by written notice to the Secretary required that all Notices to be given to the Member be given to its Representative;
 - (iv) sending it to the Member by any electronic means permitted by the Corporations Act, including by providing an electronic link to the notice; or
 - (v) giving it by any other means permitted by the Corporations Act.
- (b) The Company may give a Notice to any Director by:
 - (i) serving it on the Director personally;
 - (ii) sending it by post to the Director's address given to the Company for the purpose of giving Notices; or
 - (iii) sending it by electronic means to the Director's address given to the Company for the purpose of giving Notices.
- (c) Notice may be given to the Company under this Constitution by:

- (i) sending it by post to the Company's registered address; or
- (ii) sending it to the Company's electronic address specified for the purpose of giving notices.

19.3 When Notice is given

A Notice is deemed to be given and received under this Constitution:

- (a) if delivered in person, when delivered to them;
- (b) if posted, on the day after the date of posting, whether delivered or not; or
- (c) if sent by electronic means, 2 hours after the time it was sent, as recorded in the sender's system, unless the sender receives, within that time period, an automatic notification (other than an out of office message) indicating that the electronic communication has not been delivered,

but if the delivery or receipt is on a day which is not a Business Day or is after 5.00 pm (addressee's time), it is deemed to have been received at 9.00 am (addressee's time) on the next Business Day.

19.4 Notice of and documents for general meeting

- (a) Notice of every general meeting must be given in the manner authorised by clause 19.2.
- (b) Without limiting clause 19.2, the Company may give any document that is required or permitted to be given to a Member under the Corporations Act that relates to a general meeting, including a notice of meeting, by any electronic or other means permitted by this Constitution or the Corporations Act.

20. Audit and accounts

20.1 Company must keep accounts

- (a) The Company must keep accounts in accordance with the requirements of any applicable law.
- (b) The Company must allow the Directors and the auditor to inspect those accounts at all reasonable times.

20.2 Audit

If required by any applicable law, the Board must cause the Company's financial report for each Financial Year to be audited and obtain an auditor's report.

20.3 Financial reporting

The Board must cause the Company to comply with all financial reporting obligations imposed on it under any applicable law.

21. Inspection of records

- (a) Subject to any applicable law, the Directors must determine whether and on what terms the accounting records and other documents of the Company or any of them will be open to the inspection of Members other than Directors.
- (b) A Member other than a Director does not have the right to inspect any document of the Company except as provided by any applicable law, or otherwise as authorised by the Directors or by the Company in general meeting.

22. Indemnity and insurance

22.1 Definition

In this clause **Officer** has the meaning given in section 9 of the Corporations Act.

22.2 Company must indemnify Officers

To the full extent permitted by law and without limiting the powers of the Company, the Company may indemnify any person who is or has been an Officer of the Company, or of a related body corporate of the Company against all losses, liabilities, damages, costs, charges and expenses of any kind incurred by the Officer as an officer of the Company or of a related body corporate.

22.3 Documentary indemnity and insurance policy

To the extent permitted by the Corporations Act and any applicable law and without limiting the powers of the Company, the Directors may authorise the Company to, and the Company may, enter into any:

- (a) documentary indemnity in favour of; or
- (b) insurance policy for the benefit of,

a person who is, or has been, an Officer of the Company or of a related body corporate of the Company, which indemnity or insurance policy may be in such terms as the Directors approve and, in particular, may apply to acts or omissions prior to or after the time of entering into the indemnity or policy.

23. Affiliation and membership of other similar organisations

The Company may in general meeting determine to affiliate with or become a member of, or to accept affiliation or membership of, any organisation (including any regional or international association) having similar or like interests to the Company.

24. Winding up

24.1 Surplus assets not to be distributed to Members

If the Company is wound up or dissolved, or the Company's endorsement as a deductible gift recipient is revoked, any surplus assets must not be distributed to a Member or a former Member of the Company, unless:

- (a) in relation to surplus assets arising from deductible gifts and contributions, and any money received in respect of such gifts and contributions, that Member or former Member is an organisation described in clause 24.2(a); and
- (b) in relation to any other surplus assets, that Member or former Member is an organisation described in clause 24.2(b).

24.2 Distribution of surplus assets

- (a) Subject to any applicable law and any court order, any surplus assets arising from deductible gifts and contributions, and any money received in respect of such gifts and contributions, that remain after the Company is wound up or dissolved or the Company's endorsement as a deductible gift recipient is revoked must be distributed to one or more organisations:
 - (i) with objects similar to, or inclusive of, the Objects and which is charitable;
 - (ii) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the Company; and
 - (iii) which is or are endorsed as deductible gift recipients under Division 30 of the Tax Act.
- (b) Any surplus assets not falling within the ambit of clause 24.2(a) that remain after the Company is wound up or dissolved must be distributed to one or more organisations:
 - (i) with objects similar to, or inclusive of, the Objects and which is charitable; and
 - (ii) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the Company.
- (c) The decision as to the organisation or organisations to be given the surplus assets under clause 24.2(a) or 24.2(b) must be made by the Directors at or before the time of winding up or dissolution. If the Directors do not make this decision, the Company may apply to the Supreme Court of Western Australia to make this decision.
- (d) For the purpose of this clause, **surplus assets** means any property or assets of the Company that remain after satisfying all debts and other liabilities of the Company, including (where applicable) the costs of winding up.

25. Variation or amendment of Constitution

- (a) This Constitution may be varied or amended from time to time by Special Resolution of the Members, in accordance with the Corporations Act.
- (b) The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to lose its DGR status or no longer be a charity under the ACNC Act.