



CONSTITUTION

ARCS AUSTRALIA LIMITED

ABN 25 050 334 444

A Public Company Limited by Guarantee

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CONSTITUTION
of
ARCS AUSTRALIA LIMITED

1. GENERAL

1.1 Name of Company

The name of the Company is **ARCS Australia Limited** (previously known as The Association of Regulatory and Clinical Scientists to the Australian Pharmaceutical Industry Limited).

1.2 Replaceable Rules

The Replaceable Rules do not apply to the Company.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In these Rules unless it is inconsistent with the subject or context in which it is used:

'ACNC Act' means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth);

'ACNC Regulation' means the *Australian Charities and Not-for-profits Regulation 2013* (Cth);

'Annual General Meeting' means the annual general meeting of the Company;

'ASIC' means the Australian Securities and Investments Commission;

'Associate Members' means a Member in the Membership class set out in **Rule 5.2(b)**;

'ballot' means a method of secret voting either using voting papers or such other means determined by the Directors where each voter may cast one vote only;

'Board' means the board of Directors of the Company acting together to direct and manage the Company;

'Board Committee' means a committee of the Board to which powers have been delegated by the Board pursuant to **Rule 16**;

'business day' means a day that is not a Saturday, Sunday or a public holiday in Sydney, New South Wales;

'CEO' means the chief executive officer of the Company;

'Chair' means the person appointed from time to time as the chair in accordance with **Rule 9.3**;

'Company' means ARCS Australia Limited ACN 050 334 444;

'Constitution' means the constitution of the Company, as amended from time to time;

'Corporations Act' means the *Corporations Act 2001* and the *Corporations Regulations 2001* (as defined in the *Corporations Act 2001*) and related corporate regulations;

'Director' means a person appointed or elected from time to time to the office of director of the Company in accordance with these Rules and an alternate director duly appointed as a Director;

'Direct Vote' means a vote cast pursuant to **Rule 10.6**;

'Elected Director' means a Director who is elected to the Board by the Members;

'Grades' means different subcategories of Professional Membership for which eligibility is demonstrated by different levels of competency and expertise, as determined by the Board pursuant to **Rule 5.2(a)**;

'Independent Director' means a Director who is appointed to the Board by the Board pursuant to **Rule 11.1(d)**;

'Life Member' means a Member, in any class of Membership, who is admitted to life membership by the Board pursuant to **Rule 5.2(c)**, for outstanding service to the Company, and **'Life Membership'** shall have the corresponding meaning (for the

avoidance of doubt Life Membership is not a class of Membership but rather recognition of outstanding service to the Company);

'Member' means persons admitted to the classes of Membership as set out in **Rule 5.1** and **'Membership'** shall have the corresponding meaning;

'Member Present' means a Member granted a right to vote at a general meeting, including an Annual General Meeting pursuant to this Constitution (and who has not been suspended), whether present in person, by proxy or by electronic means as permitted by the Board (and if electronic attendance is arranged at least 24 hours before the time due for commencement of the meeting with the Secretary of the Company);

'Officer' has the meaning set out in the Corporations Act;

'person' and words importing **'persons'** include partnerships, associations, bodies corporate and bodies politic, unincorporated and incorporated by Ordinance, Act of Parliament or registration, as well as individuals;

'President' means a person appointed to that position pursuant to **Rule 11.1(f)**;

'Professional Members' means a Member in the Membership class set out in **Rule 5.2(a)**;

'Professional Standards' means standards of competency and experience relevant to the development and/or quality use of therapeutic goods, as determined by the Board from time to time and published on the Company's website or in such other manner so as to provide prospective members and Members with such information;

'Register of Members' means the register of Members of the Company established pursuant to the Corporations Act;

'Registered Address' means the address of a Member specified in the Register of Members or any other address, of which the Member notifies the Company, as a place at which the Member will accept service of notices;

'Registered Office' means the registered office from time to time of the Company;

'Replaceable Rules' means all or any of the replaceable rules contained in the Corporations Act from time to time and includes any replaceable rule that was or may become, a provision of the Corporations Act;

'Rules' means the rules of this Constitution as altered or added to from time to time;

'Seal' means the common seal, if any, from time to time of the Company;

'Secretary' means any person appointed by the Board to perform the duties of a company secretary of the Company;

'Subscription' means the subscription fees payable by Members pursuant to **Rule 5.4**;

'Vice-President' means a person appointed to that position pursuant to **Rule 11.1(f)**; and

'writing' and **'written'** includes printing, typing, lithography and other modes of reproducing words in a visible form.

2.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise:

- (a) A gender includes all genders.
- (b) Singular includes plural and vice versa.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (e) Part 1.2 of the Corporations Act applies in relation to this Constitution as if it is an instrument made under the Corporations Act.
- (f) Unless the contrary intention appears in this Constitution, an expression in this Constitution has the same meaning as in that part of the Corporations Act which deals with the same matter as this Constitution.

2.3 Actions authorised under the Corporations Act and compliance with the Corporations Act

Where the Corporations Act authorises or permits a company to do any matter or thing if so authorised by its constitution, the Company is authorised or permitted to do that matter or thing, despite any other provisions of this Constitution.

3. OBJECTS AND POWERS

3.1 Objects of Company

The object of the Company is the promotion of education about the development and quality use of therapeutic goods, which includes, but is not limited to, the following:

- (a) the promotion of the advancement of knowledge in all areas concerning the research and development of therapeutic goods;
- (b) the professional development of those interested in the development and quality use of therapeutic goods;
- (c) the provision of training workshops, the convening of regular meetings and the arrangement of other seminars and conferences for those who are interested in or have experience in the development of therapeutic goods, in particular, the numerous aspects of testing and registering new therapeutic goods in accordance with local and international standards;
- (d) the provision of a broad range of educational activities concerning therapeutic goods;
- (e) acting as a source of information about changes to, and developments and updates in, the therapeutic good industry at an industry, governmental and regulatory level;
- (f) the facilitation of communication between Members, groups and other individuals who have an interest in some aspect of therapeutic goods, and the encouragement of social and professional relationships of Members;
- (g) the cooperation with or advice to other bodies interested in therapeutic goods development and communication with similar organisations in other parts of the world; and
- (h) anything ancillary to the objects set out in **Rules 3.1(a) to 3.1(g)**.

3.2 Not separate objects

None of the above objects constitute a separate object of the Company, and each object should be construed by reference to the other objects.

3.3 Powers of the Company

The Company shall have the powers conferred on it by the Corporations Act provided that the exercise of such powers shall be for the sole purpose of the carrying out and promotion of, and are incidental and conducive to the attainment of, the objects of the Company.

4. NON-PROFIT NATURE OF THE COMPANY

4.1 Non distribution of profits to Members

- (a) Subject to **Rule 4.1(b)**, the profits or other income and property of the Company must be applied solely towards the promotion of the objects of the Company in **Rule 3.1** and no portion of it may be paid or transferred, directly or indirectly, to any Member whether by way of dividend, bonus or otherwise.
- (b) Nothing in **Rule 4.1(a)** prevents any payment in good faith by the Company of:
 - (i) reasonable and proper remuneration to any Member or officer for any services actually rendered or for real property or goods supplied to the Company in the ordinary and usual course of business;
 - (ii) the payment or reimbursement of out-of-pocket expenses incurred by a Member or officer on behalf of the Company where the amount payable does not exceed an amount previously approved by the Board;
 - (iii) reasonable and proper rent for premises leased by any Member to the Company; or
 - (iv) the reduction of the annual subscription of any Member.
- (c) The making of any payment by the Company to a Director, whether directly or indirectly, is prohibited, except:
 - (i) for the payment of:
 - (A) out-of-pocket expenses incurred by a Director in the performance of any duty as a director of the Company; and
 - (B) fees for occupying the office of Director and carrying out the duties and obligations of that office, where the amounts payable, if any, do not exceed amounts previously approved by the Company at a General

Meeting;

- (ii) for payment of any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as director, where the provision of the service has the prior approval of the Board and is not more than an amount which would be a reasonable commercial payment for the service.

4.2 Limited liability of Members

Should the Company be wound up, then whilst they are a Member or within one year after they cease to be a Member, each Member shall contribute an amount not exceeding ten dollars (\$10.00), for the following purposes:

- (a) the payment of debts and liabilities of the Company that were incurred before they ceased to be a Member; and
- (b) the payment of the costs, charges and expenses of winding-up.

4.3 No distribution of profits to Members on winding up

If, on the winding up or dissolution of the Company by any means and for any reason, there remains any property, after the satisfaction of all the Company's debts and liabilities, the property must not be paid to, nor distributed among the Members, but must be given or transferred to:

- (a) one or more institutions nominated by Members by ordinary resolution in general meeting being an organisation or organisations having objects similar to the objects of the Company and whose constitution(s) prohibits the distribution of its or their income and property to an extent at least as great as that imposed on the Company under **Rule 4.1(a)** and **Rule 4.1(b)**;
- (b) if there are no institutions meeting the requirements of **Rule 4.3(a)**, to one or more other institutions nominated by Members by ordinary resolution in general meeting provided whose constitution(s) prohibits the distribution of its or their income and property to an extent at least as great as that imposed on the Company under **Rule 4.1(a)** and **Rule 4.1(b)**; or
- (c) should the members fail to pass such a resolution, then by default by application to the relevant court in the state of New South Wales, for determination.

5. MEMBERSHIP

5.1 Classes of Membership

The following are the classes of Membership of the Company:

- (a) Professional Members; and
- (b) Associate Members.

5.2 Qualification for and rights of Membership

(a) Professional Members

- (i) Professional Members are natural persons who meet the Professional Standards.
- (ii) The Board shall from time to time, determine the Professional Standards which demonstrate eligibility for Professional Membership, and any Grades of Professional Membership.
- (iii) The Professional Standards and, if applicable, the different Grades to which they apply, shall be published on the Company's website or as otherwise made available to prospective, current or renewing Members as advised by the Company.
- (iv) The CEO may, at his or her discretion, admit to a defined Grade of Professional Membership, natural persons who meet the applicable Professional Standards for that Grade.
- (v) The Board may, at its discretion, approve by ordinary resolution an application from any person for admission to any Grade of Professional Membership.
- (vi) A Professional Member is entitled to receive all notices of general meeting sent by the Company and to attend, speak at, and vote (so long as any required Subscriptions have been paid in full prior to a vote occurring) on all motions put before any general meeting of the Company.
- (vii) A Professional Member is entitled to receive such benefits as are determined annually by the Board to apply to Professional Members, details of which are available for inspection by a prospective or renewing Member on the Company's website or as otherwise advised by the Company.

(b) Associate Members

- (i) The CEO may, at his or her discretion, admit as Associate Members, natural persons who do not meet the criteria for Professional Membership.
- (ii) The Board may, at its discretion, approve by ordinary resolution an application from any person for Membership as an Associate Member.
- (iii) An Associate Member is entitled to receive all notices of general meeting sent by the Company, attend and speak at a general meeting of the Company but may not vote on any motion at any general meeting.
- (iv) An Associate Member is entitled to receive such benefits as are determined annually by the Board to apply to Associate Members, details of which are available for inspection by a prospective or renewing Member on the Company's website or as otherwise advised by the Company.

(c) *Life Members*

- (i) The Board may, at its discretion and with the support of 75% of the Directors voting, admit to life-time membership (**Life Membership**) of any membership category any natural person who has been duly nominated by two other Members in recognition of outstanding service to the Company.
- (ii) A Life Member will receive the entitlements and benefits as apply to the type of membership to which they have been admitted.
- (iii) A Life Member shall be exempt from payment of Subscription fees.
- (iv) The Company acknowledges the contributions of the following founders and recognises them as Life Members:
 - A. Dr Phillip Michael Altman;
 - B. Dr Peter Frederick Isaac;
 - C. Dr Colin Jeffrey Reddrop;
 - D. Dr Ezekiel Solomon; and
 - E. Dr Philip Leslie Whyatt.

(d) *Decisions are final*

Decisions in relation to admission to a class or Grade of Membership are at the discretion of the CEO or Board as applicable and any such decision shall be final, and no right of appeal shall be afforded in relation to the outcome of the decision.

5.3 Applying for Membership

- (a) The Members of the Company are those persons that the CEO or the Board decides in its absolute discretion to admit to Membership, in accordance with these Rules.
- (b) Every applicant for Membership of the Company shall be proposed by another Member of the Company to whom the applicant shall be personally known.
- (c) The application for Membership shall be made in writing signed by the applicant and their proposer and shall be in such form as the Board prescribes, from time to time.
- (d) The need for the applicant to be proposed by a Member of the Company may be waived by Board if special circumstances exist, for example, if the applicant is suitable for joining the Company but is not known to any of its Members.
- (e) As soon as practicable after receiving an application for Membership, the CEO or the Board (as appropriate) must determine whether to approve or reject the application. In no case shall the CEO or the Board be required to give any reason for the rejection of an application.
- (f) Subject to **Rule 5.3(g)**, when an applicant has been accepted for Membership, the Secretary or other person designated by the CEO or the Board, shall send to the applicant written notice of his/her acceptance.
- (g) The acceptance of an applicant to be a Member of the Company is subject to payment of their entrance fee and first annual subscription and if such payment is not made at the latest, within 2 calendar months after the date of the notice of acceptance of Membership application, then the Board, may in its discretion, cancel its acceptance of the applicant for Membership of the Company.
- (h) If the applicant is not admitted to Membership in due course, all monies paid by them to the Company must be refunded forthwith in full, with the exception of the entrance fee.
- (i) Any certificate of Membership issued by the Company remains the property of the Company.

5.4 Fees and subscriptions

The entrance fee and annual subscription payable by Members of the Company shall be as determined by resolution of the Board from time to time and published on the Company's website or as otherwise advised by the Company.

5.5 Professional Designation

- (a) The Board may determine from time to time postnominal designations (**Professional Designations**) applicable to Professional Membership or, if applicable, specified Grades of Professional Membership.
- (b) The Professional designations and, if applicable, the different Professional Membership Grades to which they apply, shall be published on the Company's website or as otherwise available to prospective, current or renewing Members as advised by the Company.

5.6 Rights not Transferable

The rights and privileges of every Member are personal to each Member and are not transferable by a Member's own act or by operation of law.

6. TERMINATION OF MEMBERSHIP

6.1 Resignation and removal of a Member

- (a) A Member may resign their Membership at any time, by giving one month's notice in writing to the Secretary, but shall continue to be liable for all arrears due and unpaid at the date the resignation takes effect and for all other moneys due by that Member to the Company, in addition to any sum not exceeding ten dollars (\$10.00) for which that person is liable as a Member under **Rule 4.2**.
- (b) A Member may not seek a refund of any annual subscription or entrance fee notwithstanding when the Member resigns their Membership.
- (c) The Board may, by resolution, remove any Member from the Register of Members if:
 - (i) that Member's affairs are subject to external administration; or
 - (ii) that Member fails to pay an annual subscription fee or other amount within thirty (30) days after it falls due and then fails to rectify this default within thirty (30) days of being notified of this default by the Company.

6.2 Conduct and Competency of Members

- (a) The Company by special resolution may formally adopt the Members' Code of Conduct and may amend the Code of Conduct in the same way.
- (b) All Members of the Company are bound to comply with the Members' Code of Conduct.
- (c) If the Company receives from any person a complaint in writing (containing the particulars of the allegations on which the complaint is founded) that a Member has:
 - (i) committed any breach of the Members' Code of Conduct;
 - (ii) wilfully refused or neglected to comply with a provision of the Constitution;
 - (iii) conducted themselves in a manner which is unbecoming of a Member or which justifies the taking of disciplinary action against them; or
 - (iv) conducted themselves in a manner which is prejudicial to the interests of the Company,

then the Board must consider the complaint as soon as practicable.

- (d) As soon as practicable after the Company receives a complaint pursuant to **Rule 6.2(c)**, the Secretary must notify the Member in writing:
 - (i) that the Board is considering a resolution to warn, suspend or expel the Member;
 - (ii) that this resolution will be considered at a Board meeting and the date of that meeting;
 - (iii) what the Member is said to have done or not done;
 - (iv) the nature of the resolution that has been proposed; and
 - (v) that the Member may provide an explanation to the Board, and details on how to do so.
- (e) The Board (or any person or persons appointed by the Board for the purpose) then may do any one or more of the following prior to the Board meeting referred to in **Rule 6.2(d)(ii)**:
 - (i) they may require the complainant to provide further particulars of the

- complaint;
- (ii) they may carry out an investigation into the complaint;
 - (iii) they may attempt to resolve the complaint by reconciliation;
 - (iv) they may decline to entertain the complaint (because, for example, the complaint is frivolous, vexatious, misconceived or lacking in substance); and/or
 - (v) they may conduct a hearing into the complaint.
- (f) Before the Board takes any action under **Rule 6.2(g)**, the Member must be given the opportunity to explain or defend himself or herself by:
- (i) sending the Board a written explanation before that Board meeting; and/or
 - (ii) speaking at the Board meeting.
- (g) After considering any explanation under **Rule 6.2(f)**, the Board, if they find the complaint substantiated, may do any one or more of the following:
- (i) caution or reprimand the Member;
 - (ii) direct the Member to rectify a breach of the Members' Code of Conduct and specify the manner in which the Member is to do so;
 - (iii) cancel the right to professional designation or other forms of recognition referred to in **Rule 5.5** and issued to the Member; and/or
 - (iv) expel or suspend the Member from Membership of the Company.
- (h) The name of any Member expelled from Membership shall be removed from the Register of Members.
- (i) If the Board does not find the complaint substantiated, they must dismiss the complaint.
- (j) Within thirty (30) days of its decision, the Board must give a written statement of the decision to the complainant and the Member against whom the complaint was made. The statement must include the reasons for the decision and notify the Member of the right of appeal available under **Rule 6.3**.
- (k) The complainant and the Member about whom the complaint is made are not entitled to legal representation during attempts to resolve the complaint by

conciliation, but are entitled to call witnesses and to have legal representation during a hearing into the complaint. If a Member does not appear at any hearing into the complaint, the Board may deal with the Member in their absence.

- (l) No matter or thing done or omitted by the Board or by a person acting in accordance with a resolution of the Board subjects the Board or the Company or the person to any liability if the matter or thing was done or omitted in good faith for the purpose of implementing the procedure specified in the Constitution for the determination of complaints and the disciplining of members.

6.3 Right of Appeal of Disciplined Member

- (a) The Board will establish a committee for the purpose of conducting disciplinary proceedings against a Member (**Disciplinary Committee**). The Disciplinary Committee will comprise of an independent panel of three experts, all chosen by the Board. The experts will be chosen based upon the nature of the alleged misconduct by the Member. The Disciplinary Committee may seek advice from any relevant source.
- (b) A Member may appeal to the Disciplinary Committee against a resolution of the Board, which is confirmed under **Rule 6.2(g)**. Written notice of such an appeal must be lodged with the Company Secretary within seven (7) days of service of the notice required under **Rule 6.2(j)**.
- (c) Within thirty-five (35) days after receipt of a notice of appeal from the Member pursuant to **Rule 6.3(b)**, the Disciplinary Committee must convene a meeting.
- (d) At the Disciplinary Committee meeting convened under **Rule 6.3(c)**:
 - (i) the Member must be given the opportunity to state their case orally or in writing, or both using any technology (reasonably available to the Board) that gives the Member a reasonable opportunity to do so; and
 - (ii) the Disciplinary Committee must vote by ballot on the question of whether the resolution will be confirmed.
- (e) The Disciplinary Committee's decision, pursuant to **Rule 6.3(d)(ii)** is final. The Member is not entitled to appeal the Disciplinary Committee's decision.
- (f) The Member the subject of these disciplinary procedures is entitled to:
 - (i) subject to **Rule 6.3(f)(ii)**, bring a support person to any meeting with the Disciplinary Committee or the Board, which meetings are being held pursuant

to this **Rule 6.3**; and

- (ii) if the support person is legally qualified, the Member must notify the Disciplinary Committee or the Board (as the case may be) at least five (5) business days before the meeting that the support person attending the meeting will be legally qualified.
- (g) Natural justice will be applied during every disciplinary process under this **Rule 6.3**, requiring the Disciplinary Committee to act fairly, in good faith and without bias or conflict of interest when making its decision.

6.4 Determination by General Meeting

- (a) At any time prior to twenty-four (24) hours before the scheduled time of the hearing into a complaint by the Directors held pursuant to **Rule 6.2(d)(ii)** (or other person or persons appointed by the Directors for the purpose), the Member may advise the Secretary by notice in writing that they elect to have the complaint against them dealt with by the Company in a general meeting.
- (b) The Board shall request the Secretary to convene a general meeting for the purpose of considering a resolution to expel the Member from the Company or suspend the Member from Membership of the Company if, after considering the complaint, it is satisfied that the facts alleged in the complaint have been proved.
- (c) At the general meeting of the Company convened under **Rule 6.4(b)**:
 - (i) no business other than the question of the expulsion is to be transacted;
 - (ii) the Member must be given the opportunity to state their case orally or in writing, or both;
 - (iii) the Board shall observe principles of natural justice in its observance of these procedures; and
 - (iv) the Members Present are to vote on the resolution by poll.

7. FINANCIAL RECORDS

7.1 Keeping of financial records

- (a) The financial year of the Company ends on the 30 June in each year.
- (b) Proper books and financial records must be kept and maintained showing correctly

the financial affairs of the Company. The Company must ensure the relevant accounting and auditing requirements of the Corporations Act, the ACNC Act and the ACNC Regulation are duly complied with.

- (c) The Board must distribute to all Members at the end of each financial year, copies of the financial report including a copy of the auditor's report and other relevant documentation, in the form required or permitted under the Corporations Act, the ACNC Act and the ACNC Regulation.
- (d) The Board must cause to be made out and laid before each Annual General Meeting a balance sheet, statement of financial performance and cash flow statement made up to a date not more than 6 months before the date of the meeting.

7.2 Banking of monies

- (a) All monies of the Company must be banked in the name of the Company in a bank account at such bank as the Board may from time to time direct.
- (b) No account may be opened except with the authority in writing of the Board which may determine from time to time the manner in which any such account is to be operated.

7.3 Inspection of records of the Company

- (a) The Board may, at its sole discretion, determine whether and to what extent, and at what time and place and under what conditions the financial records and other documents of the Company or any of them will be open to the inspection of persons other than the Directors.
- (b) No person, other than a Director, has the right to inspect any document of the Company except as provided by the Corporations Act or as authorised by the Board.

8. GENERAL MEETINGS

8.1 Annual General Meetings

In the event that the Company is:

- (a) required to comply with the provisions of the Corporations Act pertaining to Annual General Meetings, the Company will do so in accordance with the requirements of those provisions; or
- (b) not required to comply with the provisions of the Corporations Act pertaining to

Annual General Meetings, but the Board nevertheless desires to convene Annual General Meetings, the Company will convene and conduct Annual General Meetings in accordance with the provisions of the Corporations Act pertaining to Annual General Meetings notwithstanding section 111L of the Corporations Act.

8.2 General meetings

- (a) General meetings of the Company, other than Annual General Meetings, may be called by the Board and held at the times and places (including virtually) and in the manner determined by the Board. The Members may not convene any meeting of the Company except as permitted by the Corporations Act, notwithstanding section 111L of the Corporations Act.
- (b) By resolution of the Board, any general meeting (other than a general meeting which has been convened by Members in accordance with the Corporations Act, notwithstanding section 111L of the Corporations Act) may be cancelled or postponed prior to the date on which it is to be held.
- (c) The Chair of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:
 - (i) in possession of a pictorial-recording or sound-recording device;
 - (ii) in possession of a placard or banner;
 - (iii) in possession of an object considered by the Chair to be dangerous, offensive or liable to cause disruption;
 - (iv) who refuses to produce or to permit examination of any object, or the contents of any object or container, in the person's possession;
 - (v) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
 - (vi) who is not:
 - A. a Member or a proxy or attorney of a Member;
 - B. a Director; or
 - C. the auditor of the Company.
- (d) A person, whether or not a Member, who is requested by the Board or the Chair to attend a general meeting as an invitee of the Board, is entitled to be present.

8.3 Notice of Annual General Meeting

- (a) Subject to **Rule 8.3(b)**, not less than twenty one (21) days notice (excluding the day on which the notice is deemed to be served and the day of the meeting) of any general meeting including the Annual General Meeting, must be given by the Board in the form and in the manner the Board thinks fit.
- (b) Notice of meetings must be given to the Members and to such persons as are entitled under these Rules to receive notice. However, the non-receipt of a notice of general meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate any resolution passed at that meeting.
- (c) If the meeting is to be held at two (2) or more places the notice is to set out details of the technology that will be used to facilitate such a meeting.

9. PROCEEDINGS OF MEETINGS

9.1 Business of general meetings

- (a) The business of an Annual General Meeting is to:
 - (i) receive and consider any financial and other reports that the Company is required to prepare under the ACNC Act;
 - (ii) when required by law, to appoint an auditor; and
 - (ii) to transact any other business which, under these Rules, is required to be transacted at any Annual General Meeting.
- (b) Subject to this **Rule 9.1**, the Chair of a general meeting may refuse to allow a debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting.
- (c) Auditors or their representative are entitled to attend and be heard on any part of the business of a general meeting which concerns the auditors. The auditors or their representative, if present at the meeting, may be questioned by the Members, as a whole, about the audit.
- (d) All financial reports must be sent to the Members and may be forwarded after dispatch of the notice of Annual General Meeting, if so required by the Corporations Act or the ACNC Act or the ACNC Regulation.
- (e) The approval of the Members in general meeting shall be required before the Board

may bind the Company in contract or otherwise to proceed in relation to any of the following matters:

- (i) the sale of the main undertaking or business of the Company;
- (ii) the amalgamation of the Company's business or activities with another organisation;
- (iii) any other matter required to be determined by the Members under the Corporations Act or this Constitution.

9.2 Quorum

- (a) No business shall be transacted at any general meeting, including the Annual General Meeting, unless a quorum equal to the lesser of:
 - (i) 15% of the total Professional Members as at the date of the meeting; or
 - (ii) a total of one hundred (100) Members entitled to vote, which may consist of Full Members and Life Members,is present or is represented by proxy or attorney, at the commencement of such business.
- (b) If within half an hour from the time appointed for the meeting a quorum is not present in accordance with **Rule 9.2(a)**, the meeting, if convened upon the requisition of voting Members shall be dissolved; if convened by the Board, then it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, be adjourned until further notice.
- (c) No business may be transacted at any meeting except the election of the Chair and the adjournment of the meeting unless the requisite quorum is present at the commencement of the business of the meeting.

9.3 Chair of General Meetings

- (a) The President is entitled to preside as Chair at all general meetings of the Company.
- (b) In the absence of the President at a general meeting, the Vice-President shall preside as Chair.

- (c) In the absence of the Vice-President, then the Directors present may choose another Director as Chair of the meeting and if no Director is present or if each of the Directors present is unwilling to act as Chair of the meeting, a voting Member chosen by the voting Members present is entitled to take the chair at the meeting.

9.4 Acting Chair

- (a) If during any general meeting, the Chair acting pursuant to **Rule 9.3** is unwilling to take the chair for any part of the proceedings, the Chair may withdraw from the chair during the relevant part of the proceedings and may nominate any other Director or Voting Member present to be acting Chair of the meeting during the relevant part of the proceedings.
- (b) Upon the conclusion of the relevant part of the proceedings, the acting Chair must withdraw and the Chair may retake the chair.

9.5 General conduct of meeting

- (a) The general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined by the Chair.
- (b) On a show of hands, every Member Present, as defined in **Rule 2.1** shall be entitled to cast one (1) vote each.
- (c) On a poll every Member Present as defined in **Rule 2.1** shall be entitled to cast one (1) vote with respect to their own vote and one (1) vote with respect to each other member by whom they have appointed to act as a proxy.
- (d) A Member Present attending by electronic means may only vote by proxy and must have complied with all requirements under this Constitution to complete and lodge a proxy form prior the general meeting. A proxy for a Member Present by electronic means has the right to cast a vote on behalf of that Member but not to speak or propose a motion or otherwise act for that Member at the meeting.
- (e) The Chair may, at any time the Chair considers it necessary or desirable for the proper and orderly conduct of the meeting, demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members Present.

- (f) The Chair may require the adoption of any procedure which is in the Chair's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll.

9.6 Adjournment

- (a) The Chair may at any time during the course of the meeting adjourn from time to time and place to place the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question, resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting.
- (b) If the Chair exercises a right of adjournment of a meeting pursuant to **Rule 9.6(a)**, the Chair has the sole discretion to decide whether to seek the approval of the Members Present to the adjournment and, unless the Chair exercises that discretion, no vote may be taken by the Members Present in respect of the adjournment. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

9.7 Voting

- (a) Each motion submitted to a general meeting is to be decided in the first instance by a show of hands of the Members Present and entitled to vote. Subject to **Rule 9.7(b)**, in the case of an equality of votes, on both a show of hands and at a poll, the Chair has a casting vote in addition to their own deliberative vote, if any, and the vote or votes to which the Chair may be entitled as a representative or proxy of a Member or Members, as the case may be.
- (b) On a show of hands, where the Chair has two (2) or more appointments that specify different ways to vote on a resolution, the Chair must not vote as a proxy for any Member. However the Chair has a casting vote in the case of an equality of votes cast by Members (including the Chair's own vote) entitled to vote at the meeting.
- (c) The minutes must record the number of votes cast for and against a motion at a general meeting, and the number of abstentions, if any unless the Board determines otherwise.

9.8 Declaration of vote on a show of hands - when poll demanded

- (a) At any meeting, unless a poll is demanded, a declaration by the Chair that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the book to be kept of the proceedings of the Company signed by the Chair of that or the next succeeding meeting, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution. A poll may be demanded:
 - (i) before a vote is taken;
 - (ii) before the voting results on a show of hands are declared; or
 - (iii) immediately after the voting results on a show of hands are declared.
- (b) A poll may be demanded by:
 - (i) the Chair; or
 - (ii) at least two (2) Members Present entitled to vote on the resolution.
- (c) No poll may be demanded on the election of a Chair of a meeting.

9.9 Taking a poll

- (a) If a poll is demanded as provided in **Rule 9.8**, it is to be taken in the manner and at the time and place as the Chair directs, and the result of the poll is deemed to be the resolution of the meeting at which the poll was demanded.
- (b) The demand for a poll may be withdrawn. In the case of any dispute as to the admission or rejection of a vote, the Chair's determination in respect of the dispute made in good faith is final.

9.10 Continuation of business

A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting immediately and without adjournment.

9.11 Special meetings

All the provisions of these Rules as to general meetings apply to any special meeting of

any class of Members which may be held pursuant to the operation of this Constitution or the Corporations Act.

10. VOTES OF MEMBERS

10.1 Voting rights

- (a) Subject to **Rule 10.1(c)**, each Member has the right to vote as described in **Rule 5.2**, provided that Member is not suspended.
- (b) Where a person appointed as a proxy or otherwise is entitled to vote in more than one capacity, that person is entitled only to one vote on a show of hands.
- (c) If the person appointed as proxy, whether the Chair or otherwise, has two (2) or more appointments that specify different ways to vote on a resolution, the proxy must not vote on a show of hands.

10.2 Appointment of proxies

- (a) Any Member entitled to vote at a general meeting may appoint one proxy.
- (b) A proxy need not be a Member of the Company.
- (c) The instrument appointing a proxy must be deposited duly stamped (if necessary) at the Registered Office, faxed to the Registered Office or deposited, faxed or sent by electronic mail to any other place specified in the notice of meeting, at least twenty (24) hours (or a lesser period as the Board may determine and stipulate in the notice of meeting) before the time for holding the meeting or adjourned meeting or poll at which the person named in the instrument proposes to vote.
- (d) No instrument appointing a proxy is, except as provided in this rule, valid after the expiration of twelve (12) months after the date of its execution. Any Member may deposit at the Registered Office an instrument duly stamped (if necessary) appointing a proxy and the appointment is valid for all or any stipulated meetings of the Company until revocation.

10.3 Validity of vote

A vote given in accordance with the terms of an instrument of proxy is valid even if the instrument or proxy is revoked, if the Company has not received at the Registered

Office notice in writing of the revocation before the meeting or any adjourned meeting.

10.4 Form and execution of instrument of proxy

- (a) An instrument appointing a proxy is required to be in writing and in the form which the Board may from time to time decide to accept.
- (b) The instrument of proxy is deemed to include the right to demand or join in demanding a poll and (except to the extent to which the proxy is specifically directed to vote for or against any proposal) the power to act generally at the meeting for the Member giving the proxy.
- (c) An instrument appointing a proxy, unless the contrary is stated, is valid for any adjournment of the meeting, as well as for the meeting to which it relates. Any duly signed proxy which is incomplete may be completed by the Secretary on authority from the Board and the Board may authorise completion of the proxy by the insertion of the name of any Director as the person in whose favour the proxy is given.

10.5 Board to issue forms of proxy

- (a) The Board may issue a form of proxy for use by the Members with any notice of general meeting of Members or any class meeting of Members. Each form is to make provision for the Member to write in the name of the person to be appointed as proxy and may provide that, if the Member does not so write in a name, the proxy is to be a person decided upon by the Board.
- (b) The form may include the names of any of the Directors or of any other person as a suggested proxy. The forms are to be worded so that a proxy may be directed to vote either for or against each or any of the resolutions to be proposed.

10.6 Direct Voting

- (a) The Board will determine from time to time if Professional Members are entitled to vote by a Direct Vote on a matter or a resolution. If the Board has determined that Professional Members are entitled to vote by a Direct Vote, then the Professional Members must do so using the form prescribed by the Board from time to time, which may include electronic means.
- (b) If sent by post, the Direct Vote must be signed by the Professional Member or by a

duly authorised officer or attorney.

- (c) If sent by electronic transmission, the Direct Vote is to be taken to have been signed if it has been signed or authorised by the Professional Member in the manner approved by the Board.
- (d) The Direct Vote must be received by the Company at least forty-eight (48) hours before the time of the relevant general meeting in order to be valid.
- (e) A Direct Vote is valid if it contains the following information:
 - (i) the Professional Member's name and address, or any applicable identifying notations such as the Professional Member's identification number or similar approved by the Board or specified in the notice of meeting; and
 - (ii) the Professional Member's voting intention on any or all of the resolutions to be put before the meeting.
- (f) A Direct Vote is valid unless the Company receives written notification changing the voting intention before the vote is cast.
- (g) The Chair's decision as to whether a Direct Vote is valid is conclusive.
- (h) A Professional Member who has cast a Direct Vote is entitled to attend the meeting. The Professional Member's attendance cancels the Direct Vote:
 - (i) unless the Professional Member instructs the Company otherwise; or
 - (ii) the Board has determined that Direct Votes are the only method permitted for voting on a resolution.
- (i) If a vote is taken at a meeting on a resolution on which a Direct Vote was cast, the Chair of the meeting must:
 - (i) on a vote by show of hands, count each Professional Member who has submitted a Direct Vote for or against the resolution in accordance with their Direct Vote; and
 - (ii) on a poll, count the votes cast by each Professional Member who has submitted a Direct Vote directly for or against the resolution.

II. THE BOARD OF DIRECTORS

11.1 Directors

- (a) The Board shall consist of a minimum of three (3) Directors and a maximum of ten (10) Directors.
- (b) Subject to section 201P of the Corporations Act, the Board may by resolution vary the number of Directors holding office from that referred to in **Rule 11.1(a)**.
- (c) The Board shall consist of:
 - (i) not less than three (3) and not more than ten (10) Elected Directors (the number to be decided by the Board); and
 - (ii) up to four (4) Independent Directors appointed by the Board from time to time;

provided that the total number of Directors does not exceed the maximum fixed by **Rule 11.1(a)** or **11.1(b)** (as applicable).

- (d) Independent Directors who may be appointed by the Board for a term of one (1) year, but shall be eligible for reappointment for further terms of one (1) year each.
- (e) The Elected Directors are eligible to stand for election for a maximum of three (3) consecutive, three (3) year terms.
- (f) The President and Vice-President shall be appointed by the Board (from amongst the persons elected as Directors by the Members) for a three (3) year term, but can only hold office for a maximum of two (2) consecutive terms of three (3) years each.
- (g) Notwithstanding **Rules 11.1(e)** and **11.1(f)**, at the end of the maximum terms described in those Rules, and after not holding office for a minimum of three (3) consecutive years, an Elected Director or the President or Vice-President may once again nominate and be elected to any those positions.
- (h) All Elected Directors including the President and Vice-President must be Full or Life Members of the Company prior to their election and appointment to the positions described in **Rule 11.1(f)** and for the remainder of their time in office.
- (i) The following persons are not eligible to become a Director nor can they remain a Director:

- (i) any current member of staff or management of the Company;
 - (ii) any person, whether or not a Member, who is contracted to organisations or companies which provide services that are deemed by the Board to represent a material conflict of interest with those provided by the Company; or
 - (iii) any person who is a representative of a particular industry or regulator or government body who, because of that role, could have a material personal interest in a matter that comes before the Board of the Company.
- (j) Any term served by a Director prior to the adoption of this amended Constitution shall not count towards the maximum terms specified in this **Rule 11.1**.
 - (k) For the avoidance of doubt, length of term specified in **Rule 11.1(e)** shall apply only to those Directors elected after the adoption of this amended Constitution.
 - (l) The Company, by majority resolution at a general meeting, may change the maximum number of persons to be appointed to the Board of Directors.

11.2 Election of Directors

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

- (a) Any two (2) Professional Members or combination shall be at liberty to nominate any other Professional Member to serve as a Director (other than an Independent Director).
- (b) The nomination, which shall be in writing and signed by the Full Member or Life Member and their proposer and seconder shall be lodged with the Secretary at least twenty (28) days before the Annual General Meeting at which the election is to take place.
- (c) Polling papers shall be prepared (if necessary) containing the names of the candidates only in alphabetical order, and each Professional Member present in person, at the Annual General Meeting or their proxy or attorney shall be entitled to vote for any number of such candidates not exceeding the number of vacancies.
- (d) In case there shall not be sufficient number of candidates nominated, the Board may fill up the remaining vacancy or vacancies by appointing eligible persons to fill up those casual vacancies on the Board. A person appointed by the Board to fill up a casual vacancy under this **Rule 11.2(d)** shall hold office for the balance of the

period for which an Elected Director holding that office would have held

office.

- (e) The Board, alone, may appoint the Independent Directors.

11.3 Directors – Vacation from Office

- (a) Subject to **Rule 11.3(b)**, a person vacates their office as an Elected Director at the conclusion of the Annual General Meeting at which their term of office expires (subject to their being re-elected as a Director in accordance with this Constitution).
- (b) A Director also vacates their office if they:
 - (i) resign their office by notice in writing to the Company;
 - (ii) being an Elected Director, cease to be a Professional Member of the Company;
 - (iii) are declared bankrupt or make any arrangement or composition with their creditors generally;
 - (iv) pursuant to the Corporations Act, cease to be a Director or are prohibited from being a director of a company;
 - (v) have been disqualified by the Australian Charities and Not-for-profits Commissioner, at any time during the preceding twelve (12) months, from being a responsible entity or a registered entity under section 45.20(4) of the ACNC Regulation;
 - (vi) are a member of staff or management of the Company;
 - (vii) are contracted to organisations or companies which provide services that are deemed by the Board to represent a material conflict of interest with those provided by the Company;
 - (viii) represent a particular industry or regulator or government body who, because of that role, could have a material personal interest in a matter that comes before the Board of the Company;
 - (ix) become of unsound mind or are dealt with under the law relating to mental health;
 - (x) are absent from Board meetings without the permission of the Directors:

- A. for more than six (6) months; or
 - B. for at least two (2) consecutive Board meetings;
 - (xi) have failed to disclose a material conflict of interest in breach of the law; or
 - (xii) are removed as a Director by a majority resolution of the Company in general meeting.
- (c) The Directors may appoint a Professional Member to replace a person who has vacated their office as an Elected Director. Subject to **Rule 11.3(b)**, the person so appointed shall hold office for the balance of the period for which the person replaced by them as an Elected Director would have held office but for their vacation of the office.
- (d) If an Independent Director ceases to hold office pursuant to **Rule 11.3(b)**, the Board may appoint an additional Independent Director for either the balance of the period for which the person replaced by them as an Independent Director would have held office but for their vacation from office or for a full term of one (1) year.

12. EXERCISE OF VOTING POWER

12.1 Exercise of voting power in other body corporates

- (a) The Board may exercise the voting power conferred by the shares in any body corporate held or owned by the Company as the Board thinks fit (including the exercise of the voting power in favour of any resolution appointing the Directors , or any of them, directors (by whatever name called) of that body corporate).
- (b) A Director may vote in favour of the exercise of those voting rights notwithstanding that the Director is, or may be about to be appointed, a director of that other body corporate and may be interested in the exercise of those voting rights.

13. ALTERNATE DIRECTORS

13.1 Director may appoint an alternate

- (a) Subject to the consent of the Board which shall not be unreasonably withheld, each Director may appoint another person to act as an alternate in the place of

the Director.

- (b) The appointing Director may terminate the appointment at any time. The appointment ends automatically when the appointing Director ceases to be a Director.
- (c) The consent to act, is to be in writing and signed by the alternate Director and signed by the appointing Director and given by that appointing Director to the Board by forwarding or delivering it to the Registered Office.
- (d) The appointment takes effect immediately upon consent of the Board after receipt of the consent at the Registered Office.

13.2 Conditions of office of alternate

The following provisions apply to an alternate Director:

- (a) an alternate may be removed or suspended from office upon receipt at the Registered Office of written notice, letter, facsimile transmission or other form of visible communication from the Director by whom the alternate was appointed to the Company;
- (b) an alternate is entitled to receive notice of meetings of the Board and to attend and vote at the meetings if the Director by whom the alternate was appointed is not present;
- (c) an alternate is entitled to exercise all the powers (except the power to appoint an alternate) and perform all duties of a Director, in so far as the Director by whom the alternate was appointed had not exercised or performed them;
- (d) the office of the alternate is vacated upon vacation of office by the Director in whose place the alternate has been appointed to act, or written resignation being given to the Company by that Director;
- (e) an alternate is not to be taken into account in determining the number of Directors or rotation of Directors; and
- (f) an alternate, whilst acting as a Director, is responsible to the Company for the alternate's own acts and defaults and is not to be deemed to be the agent of the Director in whose place the alternate has been appointed to act.

14. PROCEEDINGS OF THE BOARD

14.1 Procedures relating to the Board meetings

- (a) Subject to **Rule 14.1(b)**, the Chair may determine the time and place and manner by which the Board may meet together, upon each Director being given reasonable notice, for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- (b) Any Director may request that a meeting be held at any time upon giving reasonable notice of the date and time of a meeting to the Secretary.
- (c) No business shall be conducted at a meeting of the Directors unless there is a quorum present. The quorum necessary for the transaction of the business of the Board shall be not less than one-half of the Directors or such greater numbers as may be fixed by the Board.
- (d) Notice is deemed to have been given to a Director, and all Directors are hereby deemed to have consented to the method of giving notice, if notice is sent by mail, personal delivery, facsimile transmission or by electronic mail to the usual place of residence, fax number or electronic address of the Director (if any fax number or electronic address is notified to the Company) or at any other address given to the Secretary by the Director from time to time, subject to the right of the Director to withdraw such consent within a reasonable period before a meeting.
- (e) Where a Director is outside of Australia, no notice need be given to that Director of any meeting, unless the Director has otherwise directed the Secretary, by mail, personal delivery, facsimile transmission or by electronic mail, before the Director leaves Australia.

14.2 Meetings by telephone or other means of communication

- (a) The Board may meet either in person or by telephone or by other means of instantaneous communications device(s) consented to by all Directors subject to the right of a Director to withdraw his or her consent within a reasonable period before a meeting.
- (b) A meeting conducted by telephone or other means of instantaneous communications device(s) is deemed to be held at the place agreed upon by the Directors attending the meeting, provided that at least one of the Directors

present at the meeting is at that place for the duration of the meeting.

- (c) All the Directors for the time being entitled to receive notice of the Meeting of Directors are entitled to notice of a meeting by instantaneous communication device and to be linked by instantaneous communication device for the purposes of such a meeting. Notice of any such meeting may be given by the instantaneous communication device or in any other manner permitted by this Constitution.
- (d) At the commencement of the meeting, each of the Directors taking part in the Meeting by instantaneous communication device is able to hear each of the other Directors taking part.
- (e) At the commencement of the meeting, each Director shall acknowledge the Director's presence for the purpose of a Meeting of the Directors of the Company to all the other Directors taking part.
- (f) A Director shall not leave the meeting by disconnecting the Director's instantaneous communication device unless the Director has previously obtained the express consent of the Chair. A Director is conclusively presumed to have been present and to have formed part of a quorum at all times during the meeting by instantaneous communication device unless the Director has previously obtained the express consent of the Chair to leave the meeting.
- (g) A minute of the proceedings of a meeting by instantaneous communication device is sufficient evidence of those proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chair.

14.3 Majority votes at Board meetings

- (a) All questions arising at any meeting of the Board are decided by a simple majority of votes.
- (b) The Chair of the Board shall, in addition to their deliberative vote, have a second or casting vote in the event of an equality of votes.

14.4 Powers of meetings

A meeting of the Board or any adjournment of a meeting at which a quorum is present, is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

14.5 Validity of acts

- (a) All acts done:
 - (i) at any meeting of the Board;
 - (ii) by a Board Committee; or
 - (iii) by any person acting as a Director or a member of a Board Committee;

shall, even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Director or person or that they are any one of them were disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Director or member of the Board Committee and had been entitled to vote.

- (b) If the number of Directors is reduced below the minimum number fixed pursuant to these Rules, the continuing Directors may act for the purpose of increasing the number of Directors to that number, or of calling a general meeting of the Company, but for no other purpose.

14.6 Resolution in writing

- (a) If a motion for a proposed resolution has been approved by a majority of the Directors, the resolution shall be as valid as if it had been passed at a duly convened meeting of Directors provided that all Directors shall have been first sent notice of the proposed circular resolution as required by this constitution.
- (b) For the purposes of this Rule, references to '**Director**' include any alternate for an appointing Director.
- (c) A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with his or her authority, is deemed to be a document in writing signed by that Director.

15. CHAIR OF THE BOARD

15.1 Chairing meetings

- (a) The President shall preside as Chair of the Board.
- (b) In the absence of the President at the meeting, the Vice-President shall preside as Chair. In the absence of the President and Vice-President, the Directors shall appoint another Director to be the Chair of the meeting.

16. BOARD COMMITTEES

16.1 Power to establish Board Committees

- (a) The Board may, subject to the constraints imposed by law, delegate any of its powers to Board Committees, consisting of one (1) or more Directors and any other person or persons as the Board thinks fit.
- (b) Any Board Committee formed or person or persons appointed to the Board Committee must, in the exercise of the powers delegated, conform to any regulations that may from time to time be imposed by the Board.

16.2 Proceedings of Board Committees

- (a) The meetings and proceedings of any Board Committee are to be governed by the provisions of these Rules for regulating the meetings and proceedings of the Board so far as they are applicable and are not superseded by any regulations made by the Board.
- (b) A Board Committee may be asked to investigate and to report to the Directors about specific issues or may be standing committees such as an audit committee.
- (c) A Board Committee, in the exercise of the duties delegated or assigned to it, shall conform to any regulations, directions or instructions that may be imposed or given by the Board.
- (d) A Board Committee appointed by the Board shall be under the control and direction of the Board and has no direct part or power in the management of the Company.

17. DUTIES OF DIRECTORS

- (a) Each Director is subject to, and must comply at all times with, the duties set out in Governance Standard 5 in section 45.25 of the ACNC Regulation if the Company is legally required to comply with that regulation.

- (b) In accordance with Governance Standard 4 in section 45.20 of the ACNC Regulation, the Board will take reasonable steps to ensure that the Board does not at any time include a Director who is disqualified from managing a corporation under the Corporations Act or from being a responsible entity under subsection 45.20(4) of the ACNC Regulation.

18. POWERS OF THE BOARD

18.1 General powers of the Board

- (a) The management and control of the business and affairs of the Company are vested in the Board, including the power to make policies, which (in addition to the powers and authorities conferred upon it by these Rules) may exercise all powers and do all things as are within the power of the Company and are not by the Corporations Act, the ACNC Act, the ACNC Regulation or this Constitution directed or required to be exercised or done by the Company in general meeting.
- (b) The Board may make such regulations and by-laws not inconsistent with the Constitution, as in the opinion of the Board are necessary or desirable for the proper control, administration and management of the Company's finances, affairs and property or are necessary for the convenience, comfort and well-being of the Members including:
 - (i) the terms of entry of persons to the Company's premises and any event or function sponsored, promoted, facilitated or conducted by the Company; and
 - (ii) amend or rescind, from time to time, any such regulations and by-laws.
- (c) A regulation or by-law of the Company made by the Board may be disallowed by the Company in a later general meeting.
- (d) A resolution or regulation made by the Company in general meeting cannot invalidate prior acts of the Board which would have been valid if that resolution or regulation had not been passed or made.

18.2 Directors may contract with the Company

- (a) A Director is not disqualified by the office of director from contracting or entering into any arrangement with the Company or any other person either as vendor, purchaser or otherwise and no contract or arrangement entered into with the Company or any other person by a Director or any contract or arrangement entered

into by or on behalf of the Company or any other person in which a Director is in any way interested may be avoided for that reason.

- (b) Subject to the law and the need for all Directors to disclose any matter in which they have a material personal interest and not vote in respect of any such matter as required by the Corporations Act or the ACNC Regulation, a Director is not liable to account to the Company for any profit realised by any contract or arrangement approved by the Board, by reason of the interested Director holding the office of Director or of the fiduciary relationship established by that office.
- (c) A Director may not, as a director, vote in respect of any contract or arrangement in which the Director has directly or indirectly any material personal interest nor may the Director be present while the matter is being considered, however, the Director shall be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement.
- (d) A Director who is interested in any contract or arrangement and who has declared that interest in accordance with the Corporations Act or the ACNC Regulation, may, notwithstanding the interest, attest the affixing of the Seal to, or otherwise execute any document evidencing or otherwise connected with the contract or arrangement, if so authorised by the Board.

19. COMPANY SECRETARY

- (a) The Secretary holds office on such terms and conditions as to remuneration and otherwise as the Board determines including acting in an honorary capacity.
- (b) The Secretary is appointed and removed by the Board and may, but need not, be a Member or a Director.

20. OTHER SALARIED OFFICERS

Subject to these Rules, the Board may appoint such officers and employees at such salaries for such periods and on such terms as it thinks fit and may, subject to conditions of the employment of such officers and employees, dispense with their services and re-appoint or appoint other officers and employees as it thinks fit.

21. THE SEAL

21.1 Company Seal is optional

The Company may have a Seal.

21.2 Affixing the Seal

- (a) If the Company has a Seal, the Board is to provide for its safe custody and it should only be used by the authority of the Board. Every instrument to which the Seal is affixed is to be signed by any two (2) Directors or by one (1) Director and the Secretary.
- (b) The Board may determine either generally or in any particular case that a signature may be affixed by a mechanical means specified in the determination.

21.3 Execution of documents without a Seal

- (a) The Company may execute a document, including a deed, by having the document signed by any two (2) Directors or by one (1) Director and the Secretary.
- (b) If the Company executes a deed, the document is to be expressed to be executed as a deed and be executed in accordance with the appropriate procedures set out in **Rule 21.2** or this **Rule 21.3**.

21.4 Other ways of executing documents

Notwithstanding the provisions of **Rules 21.2** and **21.3**, any document, including a deed, may be executed by the Company in any other manner permitted by law.

22. MINUTES

22.1 Contents of minutes

The Board must ensure that minutes are duly recorded in any manner it thinks fit and include:

- (a) the names of the Directors present at each meeting of the Company, the Board and of any Board Committees; and
- (b) details of all resolutions and proceedings of general meetings of the Company and of meetings of the Board and any Board Committees; and
- (c) such matters as are required by the Corporations Act, the ACNC Act or the ACNC Regulation to be recorded in the record books of the Company including, without

limitation, all declarations made or notices given by any Director of his or her interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.

22.2 Signing of minutes

- (a) The minutes of any meeting of the Board, any Board Committee or of the Company, if purporting to be signed by the chair of the meeting or by the chair of the next succeeding meeting, are *prima facie* evidence of the matters stated in the minutes.
- (b) No Member of the Company is entitled to be given a copy of the minutes of a Board Meeting unless the Board has agreed to do so upon a written request to the Board by that Member.
- (c) All Members are entitled to be given a copy of the minutes of an Annual General Meeting.

23. NOTICES

23.1 Service of notices

- (a) A notice may be given by the Company to a Member, personally, by leaving it at the Member's Registered Address or by sending it by prepaid post or facsimile transmission addressed to the Member's Registered Address or by sending it to the electronic address (if any) nominated by the Member.
- (b) All notices sent by prepaid post to persons whose Registered Address is not in Australia may be sent by airmail or some other way that ensures that it will be received quickly.

23.2 When notice deemed to be served

- (a) Any notice sent by post is deemed to have been served at the expiration of forty eight (48) hours after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted.
- (b) Any notice served on a Member personally or left at the Member's Registered Address is deemed to have been served when delivered.
- (c) Any notice served on a Member by facsimile transmission is deemed to have been served when the transmission is sent. A facsimile is deemed to be duly sent when

the Company's facsimile system generates a message confirming successful transmission of the total number of pages of the notice to the addressee.

- (d) Any notice served on a Member by electronic means is deemed to have been served when the electronic message is sent.

23.3 Member not known at Registered Address

Where a Member does not have a Registered Address or where the Company has *bona fide* reason to believe that a Member is not known at the Member's Registered Address, all future notices are deemed to be given to the Member if the notice is exhibited in the Registered Office, if any, for a period of forty eight (48) hours (and is deemed to be duly served at the commencement of that period) unless and until the Member informs the Company of a Registered Address.

23.4 Signature to notice

The signature to any notice to be given by the Company may be written or printed.

23.5 Reckoning of period of notice

Where a given number of days' notice or notice extending over any other period is required to be given, the day of service is not to be reckoned in the number of days or other period.

23.6 Persons entitled to notice of general meeting

- (a) Notice of every general meeting is to be given to:
 - (i) each Member, whether voting or non-voting;
 - (ii) each Director; and
 - (iii) the auditor for the time being of the Company.
- (b) No other person is entitled to receive notices of general meetings.
- (c) The Board may invite other persons to attend at a general meeting but those persons may not speak at the meeting unless invited to do so by the Chair and cannot vote at the meeting.

23.7 Notification of change of address

Every Member must notify the Company of any change in their address and any such new address must be entered in the Register of Members as required to be kept by the Corporations Act and upon being so entered, becomes the Member's Registered Address.

24. INDEMNITY AND INSURANCE

24.1 Indemnity in favour of Directors, Secretaries and executive officers

Subject to the Corporations Act and **Rule 24.2**, the Company shall indemnify each Director, Secretary and officer to the maximum extent permitted by law, against any Liability incurred by them by virtue of their holding office as, and acting in the capacity of, Director, Secretary or officer of the Company, other than:

- (a) a Liability owed to the Company or a related body corporate of the Company;
- (b) a Liability for a pecuniary penalty order under section 1317G of the Corporations Act or a compensation order under section 1317H of the Corporations Act; or
- (c) a Liability owed to a person other than the Company that did not arise out of conduct in good faith.

24.2 Indemnity for legal costs

The Company may advance legal costs, and must indemnify each Director, Secretary and officer to the maximum extent permitted by law, against any Liability for legal costs incurred by them in respect of a Liability incurred by them by virtue of their holding office as, and acting in the capacity of, Director, Secretary or officer of the Company other than for legal costs incurred:

- (a) in defending or resisting proceedings, in which the Director, Secretary or officer is found to have a Liability for which they could not be indemnified under **Rule 24.1**;
- (b) in defending or resisting criminal proceedings in which the Director, Secretary or officer is found guilty;
- (c) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established (but this **Rule 24.2(c)** does not apply to costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order); or

- (d) in connection with proceedings for relief to the Director, Secretary or executive officer under the Corporations Act in which the court denies the relief.

24.3 Indemnity for employees

Subject to the Corporations Act and **Rule 24.4**, the Company may indemnify an employee, who is not a Director, Secretary or officer of the Company, to the maximum extent permitted by law, against any Liability incurred by them by virtue of their holding office as, and acting in the capacity of, an officer of the Company, other than:

- (a) a Liability owed to the Company or a related body corporate of the Company;
- (b) a Liability for a pecuniary penalty order under section 1317G of the Corporations Act or a compensation order under section 1317H of the Corporations Act; or
- (c) a Liability owed to a person other than the Company that did not arise out of conduct in good faith.

24.4 Indemnity for legal costs of employees

The Company may advance legal costs, and may indemnify an employee other than a Director, Secretary or officer to the maximum extent permitted by law, against any Liability for legal costs incurred in respect of a Liability as, or by virtue of their holding office as, and acting in the capacity of, an officer of the Company other than for legal costs incurred:

- (a) in defending or resisting proceedings, in which the officer is found to have a Liability for which they could not be indemnified under **Rule 24.3**;
- (b) in defending or resisting criminal proceedings in which the officer is found guilty;
- (c) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established (but this **Rule 24.4(c)** does not apply to costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order); or
- (d) in connection with proceedings for relief to the officer under the Corporations Act in which the court denies the relief.

24.5 Proceedings

For the purposes of **Rules 24.2** and **24.4**, 'proceedings' includes the outcomes of the

proceedings and any appeal in relation to the proceedings.

24.6 Insurance for the benefit of Directors, Secretaries and executive officers

Subject to the Corporations Act, the Company may pay a premium for a contract insuring a person who is or has been a Director, Secretary or officer of the Company acting in that capacity against costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome.

24.7 Insurance for other persons

Subject to the Corporations Act, the Company may pay a premium for a contract insuring a person who is or has been an employee of the Company, acting in that capacity, but who is not a Director, Secretary or officer of the Company against:

- (a) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
- (b) a Liability arising from negligence or other conduct.

24.8 When insurance may not be provided by the Company

The Company shall not pay, nor agree to pay, a premium for a contract insuring a person who is or has been a Director, Secretary or officer or an employee, against a Liability (other than one for legal costs) arising out of:

- (a) conduct involving a wilful breach of duty in relation to the Company; or
- (b) a contravention of section 182 or section 183 of the Corporations Act (or the equivalent provisions in the ACNC Regulation).

24.9 Definitions for the purposes of Rule 24

In this **Rule 24**, except to the extent the context otherwise requires:

‘Liability’ includes any claim, action, suit, proceeding, investigation, inquiry, damage, loss, cost or expense;

‘officer’ means:

- (a) a Director or Secretary of the Company; or
- (b) a person:
 - (i) who makes, or participates in making, decisions that affect the whole, or a

substantial part, of the business of the Company; or

- (ii) who has the capacity to affect significantly the Company's financial standing; or in accordance with whose instructions or wishes the Board is accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the Board or the Company).

24.10 Payment of GST

With regard to GST:

- (a) the amount of any indemnity payable under this **Rule 24** will include an additional amount ("GST Amount") equal to any GST payable by the officer being indemnified ("Indemnified Officer") in connection with the indemnity;
- (b) payment of the GST Amount of any indemnity is conditional upon the Indemnified Officer providing to the Company a copy of the tax invoice for the GST amount issued to the Indemnified Officer;
- (c) in this **Rule 24.10**, "GST" refers to the goods and services tax under A New Tax System (Goods and Services Tax) Act 1999 and the terms used have the same meaning as in that act.

History of ARCS Australia Limited Constitution

Version No	Date created	Version changes	Sign off	Date lodged at ASIC or ACNC	Next review
1	21 November 2007	See Explanatory Memorandum for AGM of 21 November 2007		29 November 2007	
2	20 November 2008	See Explanatory Memorandum for AGM of 20 November 2008			
3	30 November 2016	See Explanatory Memorandum for AGM of 30 November 2016			
4	14 March 2023	See Explanatory Memorandum for General Meeting of 14 March 2023 Reference to 'Full Members and Life Members' in clause 9.2(a)(ii) and 'Full Member or Life Member' in clause 11.2(b) were unintentionally retained in the Constitution and as per the Explanatory Memorandum,			

		should be regarded as references to 'Professional Members'.			
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