



AUSTRALIAN RESPIRATORY COUNCIL

CONSTITUTION



A Century of Service
100 years of advocacy and commitment to Tuberculosis and lung health

Endorsed - 15th May 2023

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Corporations Act 2001
Company Limited by Guarantee

CONSTITUTION OF AUSTRALIAN RESPIRATORY COUNCIL

1. INTERPRETATION

1.1 Defined Terms

In this constitution unless the contrary intention appears:

"ASIC" means the Australian Securities and Investments Commission;

"Company" means the Company whose name appears in clause 2.1;

"Act" means the Corporations Act 2001;

"Board" means the Board of Directors of the Company;

"Chairperson" means any person elected or appointed in accordance with this Constitution to perform any of the duties of a chairperson;

"Court" means the Supreme Court of New South Wales;

"Director" means a Director of the Company;

"Member" means a person who is a member of the Company under clause 7.1;

"President" means the person so described in clause 10.1(a);

"Register of Members" means the Register of Members kept by the Company under the Act;

"Registered Office" means the Registered Office from time to time of the Company;

"Secretary" means any person appointed by the Board to perform any of the duties of a Secretary of the Company;

"virtual meeting technology" means any technology that allows a person to participate in a meeting without being physically present at the meeting;

"Finance Director" means the person so described in clause 10.1(a);

"Vice-President" means a person so described in clause 10.1(a).

1.2 Interpretation

(a) Words importing the singular number include the plural number and vice versa.
Words importing the masculine gender include the feminine gender;

(b) A reference to a statute or a provision in a statute must be read as if the words "or any amendment or re-enactment thereof or provision substituted therefore" were added;

(c) The definitions in the Act apply to words used in this constitution that are not defined in clause 1.1;

- (d) If any provision of this constitution is inconsistent with the Act the provisions of the Act will prevail.

1.3 **Constitution Binding on Members**

This constitution has effect as a contract between the Members and between each Member and the Company.

2. **NAME**

2.1 The name of the Company is Australian Respiratory Council.

2.2 The Company may only use a name other than its registered name as permitted by the Act.

3. **REGISTERED OFFICE**

The Registered Office of the Company is at Level 6, 431 Glebe Point Road, Glebe NSW 2037 or such other place as the Board may determine and as may be registered with ASIC from time to time.

4. **OBJECTS**

The objects of the Company are:

- (a) To promote the health of persons and from time to time to control, prevent, detect, treat or cure tuberculosis or other diseases in the Commonwealth of Australia or any other country or place and to rehabilitate sufferers there from, to conduct community health surveys, to establish community health services and generally to carry on and undertake all such operations and transactions relating to public health and welfare as an individual may lawfully undertake and carry out.
- (b) To collect research into and disseminate information as to the nature, modes of diffusion and measures for control, prevention, detection, treatment and cure of tuberculosis or other diseases.
- (c) To print and publish any papers, periodicals, books or leaflets that the Board may think desirable for the promotion of its objects, and to institute and carry on lectures and addresses.
- (d) To provide for and otherwise encourage from time to time the study of and research into tuberculosis or other diseases and the means of control, prevention, detection, treatment and cure thereof and with a view thereto to give and provide prizes, rewards, research grants, fellowships and scholarships.

- (e) To convene and hold congresses and meetings, and to issue and circulate reports thereof.
- (f) To assist and advise any parliamentary, municipal, local or other authority or body in matters relating to the control, prevention, detection, treatment and cure of tuberculosis or other diseases.
- (g) To apply for and to take steps to obtain the passing of any act of parliament, by-law, ordinance or regulation relating to the control, prevention, detection, treatment or cure of tuberculosis or other diseases.
- (h) To establish, maintain, conduct and carry on clinics and other facilities for advising and treating, gratuitously or otherwise, persons suffering from tuberculosis or other diseases.
- (i) To establish and maintain and to take steps to procure the establishment and maintenance of sanatoria, workshops, homes and other establishments for the treatment and care of persons suffering or convalescing from tuberculosis or other diseases.
- (j) To furnish or procure to be furnished assistance to the families and dependents of persons suffering from tuberculosis or other diseases.
- (k) To cooperate with, assist and support or permit to amalgamate with this Company any institution, society or association having objects together or in part similar to the objects of this Company.
- (l) To purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the institutions, societies or associations which may amalgamate with this Company.

5. **POWERS**

5.1 The Company has the legal capacity of a natural person. Without limiting its powers the Company has power:

- (a) To purchase, take on lease, or in exchange, hire or otherwise acquire any real or personal estate which may be deemed necessary or convenient for any of the objects of the Company.
- (b) To construct, furnish, equip, maintain and alter any houses, buildings, premises or works necessary or convenient for the purposes of the Company.
- (c) To sell, manage, lease, mortgage, dispose of, or otherwise deal with all or any part of the property of the Company.

- (d) To take any gift of property or subsidy, whether subject to any special trust or not for any one or more of the objects of the Company.
- (e) To take such steps by personal or written appeals, public meetings or otherwise as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Company in the shape of donations, annual subscriptions, bequests or otherwise.
- (f) To invest any moneys of the Company not immediately required, and to borrow and raise moneys in such manner as may from time to time be determined by the Directors.
- (g) To do anything that it is authorised to do by the Act or this constitution.

5.2 The Company may exercise its powers without limitation save that:

- (a) its powers must be exercised in furtherance of the Company's objects; and
- (b) the exercise of its powers is subject to the Act and this constitution.

6. **PROHIBITION ON DISTRIBUTION**

6.1 The income and property of the Company whencesoever derived shall be applied solely towards the promotion of the objects of the Company as set forth in this constitution, and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to the persons who at any time are or have been Members or to any of them, or to any person claiming through any of them. Nothing contained in this clause 6.1 prevents the payment in good faith of remuneration to any officers or servants of the Company or to any Members, or other persons in return for any services actually rendered to the Company nor prevents the payment of interest on money borrowed from any Member for any of the purposes of the Company.

6.2 Clause 6.1 of this constitution is a condition on which a licence has been granted by the Governor in Council in pursuance of Section 52 of the Companies Act 1899 (NSW) which continues in force under subsection 151(1) of the Corporations Act.

6.3 If there be any wilful contravention of clause 6.1 of this constitution the liability of every Member who so contravenes the clause or who knowingly consents to or assists in such contravention shall be unlimited.

7. **MEMBERSHIP**

7.1 Members of the Company are:

- (a) those persons who were Members at the date of adoption of this constitution; and

- (b) those persons admitted to membership in accordance with clause 7.2 who have not ceased to be Members.

7.2 Admission to Membership

- (a) Any person who has applied for membership of the Company and been admitted in accordance with this constitution shall be a Member.
- (b) Any person may make application for membership of the Company in such form as may be authorised from time to time by the Board by lodging such application form together with the amount of the annual subscription either at the Registered Office of the Company or with any person authorised for the time being by the Board to receive application forms for membership.
- (c) Subject to clause 7.2(e), an application made under clause 7.2(b) may be accepted on behalf of the Company by resolution of the Board.
- (d) The acceptance of an application made under clause 7.2(b) by resolution of the Board shall not be given effect to by entry of the name of the applicant in the Register of Members of the Company unless and until the applicant has paid the annual subscription then payable and fulfilled any other condition, subject to which the application has been accepted.
- (e) An application made under clause 7.2(b) shall not be accepted within one month prior to the annual general meeting of the Company.

7.3 Life Governors

- (a) The Company may by resolution at a general meeting elect a person, who has given outstanding service to the Company and who has been nominated by at least five of the Directors, to be a Life Governor of the Company.
- (b) Life Governors shall be entitled to all privileges of a Member of the Company and shall be exempt from payment of all subscriptions.

7.4 Rights and Liabilities of Members

Members (in their capacity as Members) have the rights and liabilities as provided under the Act and in this constitution including:

- (a) the right to receive notice of any general meeting of the Company;
- (b) the right to attend and vote at any general meeting of the Company;
- (c) the right to receive copies of any reports required to be provided to Members under the Act or other law; and
- (d) the liabilities specified in clause 16.1 in respect of a winding up of the Company.

7.5 **Subscriptions**

The annual subscription shall be of such amount and be payable at such time as the Board may from time to time determine.

7.6 **Cessation of Membership**

A person ceases to be a Member:

- (i) where the person is expelled in accordance with this Constitution;
- (ii) where the person dies;
- (iii) where the person resigns from membership;
- (iv) where the person fails to pay his or her annual subscription within six months after the due date of payment; or
- (v) if a corporation, upon being dissolved or otherwise ceasing to exist, having a liquidator or provisional liquidator appointed to it, or being unable to pay its debts.

7.7 **Expulsion of Members**

- (a) A Member may be expelled from the Company by a unanimous resolution of the Board if the Member has been guilty of conduct detrimental to the Company.
- (b) The Board may not resolve to expel a Member until it has given to the Member:
 - (i) 14 days' notice in writing specifying the intention to propose the resolution, the grounds of the resolution and the time and place of the meeting at which the resolution of the Board will be proposed; and
 - (ii) an opportunity of being heard at such meeting of the Board in accordance with clause 7.7(c).
- (c) At the meeting of the Board referred to in clause 7.7(b)(i), the Member is entitled to be present and to be heard but the Member is not entitled to be present at the voting or to take part in the proceedings otherwise than as the Board may allow.

8. **ELECTION APPOINTMENT AND REMOVAL OF DIRECTORS**

8.1 **Number of Directors**

The Board comprises:

- (a) a minimum of 5 Directors at least 2 of whom must ordinarily reside in Australia; and
- (b) a maximum of 15 Directors unless the Company in general meeting by resolution changes the maximum number to a number not less than 3.

8.2 **Appointment and Removal of Directors**

- (a) The Company may by resolution passed in general meeting:
 - (i) appoint new Directors;

- (ii) subject to clause 8.1 increase or reduce the maximum number of Directors;
 - (iii) remove any Director before the end of the Director's period of office; and
 - (iv) appoint another person in the Director's place.
- (b) The person appointed under clause 8.2(a)(iv) will hold office for the period for which the Director replaced would have held office if the Director had not been removed.

8.3 Qualifications of Directors

A person is not eligible to be a Director of the Company if the person:

- (i) is not a Member; or
- (ii) is an insolvent under administration within the meaning of Section 9 of the Act; or
- (iii) is prohibited from being a Director of a body corporate by the Act for a reason other than the person's age.

8.4 Office of Directors

Subject to the Act, the Directors will be elected and will hold and vacate office and retire or be removed from office as prescribed by the constitution.

8.5 Casual Vacancy

- (a) Subject to clause 8.3, the Directors may appoint any person as a Director to fill a casual vacancy or as an additional Director, but so that the total number of Directors does not exceed the maximum fixed by clause 8.1. The term of office of a Director so appointed will end at the end of the next annual general meeting of the Company after the appointment.
- (b) For the purposes of this clause a casual vacancy is a vacancy occurring as a result of the application of clause 8.9.

8.6 Election of Directors

8.6.1 An election of Directors is to be held by ballot except where nominations equal or are less than the number of positions to be filled. If a ballot is not held the nominated candidates will be deemed to have been elected.

8.6.2 The Board must appoint a returning officer who may appoint assistant returning officers none of whom can be a person who intends to accept a nomination for the office of Director.

8.6.3 Nominations

- (a) Nominations close at 5:00pm on the 21st day before the annual general meeting.
- (b) In order to be nominated a candidate must:
- (i) be eligible for election under clause 8.3; and

- (ii) be nominated by two or more Members; and
 - (iii) consent to nomination.
- (c) A retiring Director may stand for re-election without nomination but must be eligible for election under clause 8.3.

8.6.4 Ballot Papers

- (a) After nominations have closed under clause 8.6.3, the returning officer is to prepare ballot papers for the election.
- (b) The order in which the candidates appear on the ballot paper is to be determined by the returning officer by lot.
- (c) The returning officer must cause some authenticating mark to appear on each ballot paper prior to their distribution to persons who are entitled to vote.
- (d) Ballot papers are to contain appropriate instructions as to the completion for the benefit of voters.

8.6.5 Conduct of the Ballot

The ballot is to be conducted at the annual general meeting.

8.6.6 Closure of the Ballot

The ballot closes at a time specified by the Chairperson of the meeting.

8.6.7 Procedures After Closure of the Ballot

- (a) Immediately after the close of the ballot the returning officer must deal with the ballots as follows:
 - (i) cause the ballot papers to be scrutinised under the returning officer's supervision and reject such ballot papers as he or she finds to be informal;
 - (ii) count the votes in accordance with clause 8.6.8;
 - (iii) prepare and sign a declaration of the ballot as to:
 - the number of ballot papers lodged;
 - the number of formal votes;
 - the number of informal votes;
 - the number of votes cast for each candidate; and
 - the names of those persons elected; and
 - (iv) deliver the declaration to the Chairperson of the meeting.
- (b) A ballot paper is informal if:
 - (i) it is not authenticated by the authenticating mark of the returning officer;
 - (ii) it has no vote indicated on it; or
 - (iii) it has more votes recorded on it than the number of positions to be filled.

8.6.8 **Voting System**

- (a) On any ballot the persons receiving the highest number of votes in accordance with the number of vacancies to be filled are elected Directors.
- (b) In the case of an equality of votes the person to be elected must be decided by lot.

8.7 **Retirement by Rotation**

- (a) At the annual general meeting in each year one third of the elected Directors, or if their number is not a multiple of three, the number nearest to but not less than one third must retire from office.
- (b) The elected Directors to retire under clause 8.7(a) at an annual general meeting are those Directors who have been longest in office since their last election.
- (c) Directors elected on the same day may agree among themselves or determine by lot which of them must retire.

8.8 **Maximum Term of Office**

The term of office of an elected Director will end at the end of the third annual general meeting of the Company after the Director's election.

8.9 **Vacation of Office**

- (a) The office of a Director immediately becomes vacant if the Director:
 - (i) dies; or
 - (ii) becomes a person who under clause 8.3 is not eligible to be a Director; or
 - (iii) is absent from three consecutive ordinary meetings of the Board without its leave; or
 - (iv) resigns by written notice given to the Board; or
 - (v) is removed from office by ordinary resolution at a general meeting of the Company.
- (b) The office of a Director immediately becomes vacant when the Director completes a term of office.
- (c) A retiring Director will be eligible for re-election.

8.10 **Removal of Directors**

Written notice of a proposed ordinary resolution to remove a Director from office specifying the proposed resolution and the day and time of the general meeting at which it is to be proposed, must be given to each Member at least seven days before the meeting either personally or by sending it by post to those persons.

8.11 **Remuneration of Directors**

Notwithstanding clause 6.1 of this constitution a director may not be paid any remuneration for services as a director or as a member of a directors' committee. A director is entitled to be reimbursed, out of the funds of the Company, reasonable travelling, accommodation and other expenses which the director incurs when engaged in the affairs of the Company. A director who is an employee of the Company is entitled to be paid remuneration for services actually rendered to the Company as an employee.

9. **POWERS AND DUTIES OF DIRECTORS**

9.1 **Directors to Manage Company**

The business of the Company is managed by the Board who may exercise all powers of the Company that this constitution and the Act do not require to be exercised by the Company in general meeting.

9.2 **Indemnity**

- (a) To the extent permitted by law and subject to the restrictions in section 199A and 199B of the Act, the Company indemnifies every person who is or has been an officer of the Company against any liability (other than for legal costs) incurred by that person as such an officer of the Company.
- (b) To the extent permitted by law and subject to the restrictions in section 199A and 199B of the Act, the Company indemnifies every person who is or has been an officer of the Company against reasonable legal costs incurred in defending an action for a liability incurred by that person as such an officer of the Company.
- (c) For the purposes of this clause 9.2 "officer" means:
 - (i) a Director;
 - (ii) a Secretary; and
 - (iii) an executive officer of the Company as defined by the Act.

10. **PROCEEDINGS OF DIRECTORS**

10.1 **Office Holders**

- (a) The Directors must elect one of their number as President, either one or two of their number as Vice-President/s and one of their number as Finance Director and may determine the periods for which they are to hold office.
- (b) The President shall act as Chairperson of any meeting of the Company and the Board.

- (c) Where the President is not available to act as required by this constitution, a Vice-President may act in his or her place.
- (d) If there are two Vice-Presidents and if, in the absence of the President, both Vice-Presidents are present and willing to act as chairperson of any meeting of the Company or the Board, the Vice-Presidents shall agree between themselves which of them will act as chairperson and, in the absence of agreement, the persons at the meeting who are entitled to vote at the meeting may elect one of the Vice-Presidents as chairperson.
- (e) The President, either or both Vice-Presidents, and the Finance Director may be removed from his or her position by resolution of a majority of the Board.

10.2 **Meetings**

- (a) The Directors may meet for the despatch of business, adjourn and otherwise regulate their meetings and proceedings as they see fit.
- (b) Until otherwise determined by the Directors, five Directors present in person are a quorum.
- (c) Notwithstanding clause 10.2(b) a quorum is present during the consideration of a matter at a meeting of the Directors only if at least four Directors are present who are entitled to vote on any motion that may be moved at the meeting in relation to that matter.
- (d) A Director may and the Secretary on the request of a Director must convene a meeting of the Directors.

10.3 **Notice of Meeting**

It is not necessary to give notice of a Board meeting to a Director whom the Secretary, when giving notice to the other Directors, reasonably believes to be outside Australia, and will not be returning before the date of the Board meeting.

10.4 **Meetings Using Technology**

- (a) Board meetings may be held by Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- (b) The Directors need not all be physically present in the same place for a Board meeting. A Director who participates in a Board meeting held in accordance with this clause is deemed to be present and entitled to vote at the meeting.

10.5 **Decision of Questions**

Subject to this constitution, questions arising at a Board meeting are to be decided by a majority of votes of the Directors present and voting. Any Director may require that his or her vote on any question be recorded.

10.6 **Casting Vote**

In the case of an equality of votes the Chairperson of a Board meeting has a casting vote in addition to his or her deliberative vote.

10.7 **Written Resolutions**

If all the Directors who are eligible to vote on a resolution have signed a document containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms is deemed to have been passed at a Directors' meeting held on the day on which the document was last signed by a Director and should be minuted accordingly.

10.8 **One Document**

For the purposes of this constitution, two or more identical documents, each of which is signed by one or more Directors, together constitute one document signed by those Directors on the days on which they signed the separate documents. Any such document may be signed electronically or may be a scan or copy of a document bearing the signatures of one or more Directors and may be sent to the Company by email.

10.9 **Board with Vacancies**

The Directors may act even if there are vacancies on the Board. If the number of Directors is not sufficient to constitute a quorum at a Board meeting the Directors must only act to:

- (a) appoint a Director to fill a casual vacancy; or
- (b) convene a general meeting.

10.10 **Directors' Committees**

- (a) Subject to the Act, the Directors may delegate any of their powers as they think fit to committees and may from time to time revoke such delegation.
- (b) At least two of the members of any committee so formed must be Directors.
- (c) The President must be a Director member of such committees as are determined by the Board from time to time. The Finance Director must be a Director member of any committee appointed for the purpose of raising funds for the Company.
- (d) Each committee must conform to any policies and procedures that may from time to time be determined by the Directors.

10.11 **Committee Meetings**

- (a) The meetings and proceedings of any committee will be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Directors so far as the same are applicable (including the requirements as to the taking of minutes) and are not superseded by any policies or procedures made by the Directors under this clause.
- (b) The Directors may appoint the chairperson of a committee and, in the absence of such appointment, the committee shall elect a chairperson.

10.12 **Validity of Acts of Directors**

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director or member of a Directors' Committee; or
- (b) a person appointed to one of those positions was disqualified;

all acts of the Directors or the Directors' Committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

11. **GENERAL MEETINGS**

11.1 **Convening of General Meeting by Board**

The Board must convene annual general meetings in accordance with the Act and may at any other time convene a general meeting.

11.2 **Convening of General Meeting upon Requisition**

- (a) The Board must convene a special general meeting on the requisition of Members holding at least 5% of the total votes that may be cast at the general meeting.
- (b) A requisition must state any resolution to be proposed at the meeting and must be signed by all the Members making the request and deposited at the registered office and may consist of one document signed by all the Members making the request or of several documents in like form each signed by one or more of the Members making the request.
- (c) The Board must immediately after receipt of the requisition specified in this clause 11.2 properly call a meeting of the Company for a date not later than twenty-one days after the date of receipt of such requisition and if the Board fails to so call a meeting of the Company Members with more than fifty percent of the votes of all the Members who made the request under clause 11.2(a) may themselves convene the meeting in accordance with section 249E of the Act.

11.3 **Notice of General Meetings**

- (a) Subject to the provisions of the Act allowing general meetings to be held with shorter notice, written notice of a meeting of Members (including an annual general meeting) must be given in accordance with clause 11.4 to each Member at least twenty-one days (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) before the date of the meeting.
- (b) A notice convening a general meeting must specify the date and hour of the meeting, details the method for holding the meeting determined by the Directors under clause 11.6 and any special business to be dealt with at the meeting.
- (c) A notice of an annual general meeting need not state that the business to be transacted at the meeting includes:
 - (i) the consideration of the annual financial report, Directors' report and the auditor's report;
 - (ii) the election of Directors; or
 - (iii) the appointment and fixing of the remuneration of the auditor.
- (d) There must appear in the notice convening a meeting of the Company with reasonable prominence a statement that:
 - (i) a Member entitled to attend and vote is entitled to appoint a proxy; and
 - (ii) a proxy need not be a Memberand a proxy appointment form must be attached to the notice.

11.4 **Manner of Notice**

- (a) Notice of a general meeting must be given by the Company to each Member:
 - (i) personally; or
 - (ii) by sending it by post to the address for the Member in the register of members or the alternative address (if any) nominated by the Member; or
 - (iii) by sending it to the email address (if any) nominated by the Member.
- (b) The failure by a Member to receive notice of a general meeting required to be given to the Member by this constitution or the Act does not invalidate the meeting.

11.5 **Postponement or Cancellation of General Meeting**

Subject to the Act, the Board may postpone or cancel any general meeting whenever the Board thinks fit (other than a meeting convened as the result of a requisition under clause 11.2). The Board must give notice of the postponement or cancellation to all persons entitled to receive notices from the Company.

11.6 **Method of holding a General Meeting**

A general meeting shall be held:

- (a) at a physical venue and using virtual meeting technology; or
 - (b) using virtual meeting technology only;
- as determined by resolution of the Directors.

12. PROCEEDINGS AT GENERAL MEETINGS

12.1 Quorum

- (a) No item of business may be dealt with at a general meeting unless a quorum of persons entitled to vote at the general meeting is present when the meeting proceeds to business.
- (b) Ten Members present in person or by proxy are a quorum at a general meeting;
- (c) If a quorum is not present within thirty minutes after the time appointed for the meeting:
 - (i) if the meeting was called on the requisition of Members, it is automatically dissolved;
 - (ii) or in any other case:
 - (A) the meeting stands adjourned to the same day in the next week at the same time and place or to such other day or place as the Board determines and so notifies Members;
 - (B) if at the adjourned meeting a quorum is not present within thirty minutes after the time appointed for the meeting, the meeting is automatically dissolved.

12.2 Chairperson

- (a) Subject to clauses 10.1(b), (c) and (d), the President or, in the absence of the President, a Vice-President will be the Chairperson at every general meeting;
- (b) If:
 - (i) there is no President or Vice-President ; or
 - (ii) neither the President nor either Vice-President is present within ten minutes after the time appointed for holding the meeting; or
 - (iii) neither the President nor either Vice-President is willing to act as Chairperson of the meeting;

those persons at the meeting who are entitled to vote at general meetings may elect one of the Directors present as Chairperson. If no Director is present or is willing to take the chair, those persons may elect one of themselves as Chairperson.

- (c) If there is a dispute at a general meeting about a question of procedure, the Chairperson may determine the question.

12.3 **Adjournment of a General Meeting**

- (a) The Chairperson of a meeting may with the consent of the meeting adjourn the meeting from time to time and place to place but the only business that may be transacted at an adjourned meeting is the business left unfinished at the meeting from which the adjournment took place;
- (b) A notice of adjournment for a meeting adjourned for more than twenty-one days is to be given to Members at least fourteen days before the date of the adjourned meeting and must specify the place, the date and the hour of the meeting, and state the general nature of the business left unfinished at the meeting from which the adjournment took place.

12.4 **Resolutions**

- (a) In relation to a general meeting, an ordinary resolution is a resolution passed by a majority of the votes cast by those Members who are present, in person or by proxy, at a general meeting at which a motion for the passing of the resolution is moved, and vote on the resolution.
- (b) Subject to the provisions of the Act, in relation to a general meeting, a special resolution is a resolution passed by a majority of not less than 75% of the votes cast by those Members who being entitled to vote are present, in person or by proxy, at a general meeting at which a motion for the passing of a resolution is moved, and vote on the resolution.

12.5 **Passing of Resolutions**

- (a) A resolution put to the vote of a meeting will be decided on the show of hands unless a poll is demanded before or on the declaration of the result of the show of hands by:
 - (i) the Chairperson; or
 - (ii) not less than five Members present in person or by proxy and having the right to vote at the meeting;and the demand for the poll is not withdrawn.
- (b) Unless a poll is demanded:
 - (i) a declaration by the Chairperson that a resolution has been carried, carried by specified majority, or lost; and
 - (ii) an entry to that effect in the minutes of the meeting;

are conclusive evidence of the fact without proof of the number or the proportion of the votes in favour of or against the resolution.

12.6 Taking a Poll

- (a) A poll will be taken when and in the manner that the Chairperson directs. The result of the poll will be the resolution of the meeting at which the poll was demanded.
- (b) The Chairperson may determine any dispute about the admission or rejection of a vote. The Chairperson's determination will be final and conclusive.
- (c) A poll demanded on the election of a Chairperson or the question of adjournment must be taken immediately. A poll demanded on any other question must be taken before the close of the meeting at a time to be fixed by the Chairperson, and the meeting may continue for the transaction of other business.

12.7 Casting Vote of Chairperson

If there is an equality of votes the Chairperson has a casting vote in addition to any votes to which the Chairperson is entitled as a Member or proxy. The Chairperson has a discretion both as to whether or not to use the casting vote and as to the way in which it is used.

12.8 Offensive Material

A person may be refused admission to, or be required to leave and not return to, a meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
 - (i) electronic or recording device;
 - (ii) placard or banner; or
 - (iii) other article,

which the Chairperson considers to be dangerous, offensive or liable to cause disruption.

12.9 Who can appoint a proxy

- (a) A member of the Company who is entitled to attend and cast a vote at a meeting of the Company's members may appoint a person as the member's proxy to attend and vote for the member at the meeting.
- (b) The person appointed as the member's proxy may be an individual or a body corporate.
- (c) The appointment may specify the proportion or number of votes that the proxy may exercise.
- (d) Each member may appoint a proxy.
- (e) Disregard any fractions of votes resulting from the application of subclause (c).

12.10 Rights of proxies

- (a) A proxy appointed to attend and vote for a member has the same rights as the member:
 - (i) to speak at the meeting; and
 - (ii) to vote (but only to the extent allowed by the appointment); and
 - (iii) join in a demand for a poll.
- (b) A proxy is entitled to vote on a show of hands, except if the proxy has 2 or more appointments that specify different ways to vote on the resolution, and on a poll.
- (c) A proxy's authority to speak and vote for a member at a meeting is suspended while the member is present at the meeting.

12.11 Appointing a proxy

- (a) An appointment of a proxy is valid if it is signed, or otherwise authenticated in a manner prescribed in clause 12.12, by the member of the Company making the appointment and contains the following information:
 - (i) the member's name and address;
 - (ii) the Company's name;
 - (iii) the proxy's name or the name of the office held by the proxy;
 - (iv) the meetings at which the appointment may be used.An appointment may be a standing one.
- (b) An undated appointment is taken to have been dated on the day it is given to the Company.
- (c) An appointment does not have to be witnessed.
- (d) A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.

12.12 Authentication

- (a) An appointment of a proxy by a member may be authenticated electronically. The authentication must include:
 - (i) a method of identifying the member; and
 - (ii) an indication of the member's approval of the information communicated.

12.13 Proxy documents

- (a) For an appointment of a proxy for a meeting of the Company's members to be effective, the following documents must be received by the Company at least 48 hours before the meeting:
 - (i) the proxy's appointment;

- (ii) if the appointment is signed, or otherwise authenticated in a manner prescribed in clause 12.12, by the appointor's attorney—the authority under which the appointment was signed or authenticated or a certified copy of the authority.
- (b) If a meeting of the Company's members has been adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.
- (c) The Company receives a document referred to in clause 12.13(a):
 - (i) when the document is received at any of the following:
 - (A) the Company's registered office;
 - (B) a fax number at the Company's registered office;
 - (C) a place, fax number or electronic address specified for the purpose in the notice of meeting; and
 - (ii) if the notice of meeting specifies other electronic means by which a member may give the document—when the document given by those means is received by the Company. The document is received when the electronic communication becomes capable of being retrieved by the addressee at the addressee's nominated electronic address. It is to be assumed that an electronic communication is capable of being retrieved by the addressee when it reaches the addressee's nominated electronic address.

12.14 Proxy vote if appointment specifies way to vote

- (a) An appointment of a proxy may specify the way the proxy is to vote on a particular resolution. If it does:
 - (i) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way; and
 - (ii) if the proxy has 2 or more appointments that specify different ways to vote on the resolution—the proxy must not vote on a show of hands; and
 - (iii) if the proxy is the chair of the meeting at which the resolution is voted on—the proxy must vote on a poll, and must vote that way; and
 - (iv) if the proxy is not the chair—the proxy need not vote on the poll, but if the proxy does so, the proxy must vote that way.

If a proxy is also a member, this clause does not affect the way that the person can cast any votes they hold as a member.

12.15 Transfer of non-chair proxy to chair in certain circumstances

- (a) If:

- (i) an appointment of a proxy specifies the way the proxy is to vote on a particular resolution at a meeting of the Company's members; and
- (ii) the appointed proxy is not the chair of the meeting; and
- (iii) at the meeting a poll is duly demanded on the question that the resolution be passed; and
- (iv) either of the following apply:
 - (A) if a record of attendance is made for the meeting—the proxy is not recorded as attending;
 - (B) the proxy does not vote on the resolution;
 the chair of the meeting is taken, before voting on the resolution closes, to have been appointed as the proxy for the purposes of voting on the resolution at that meeting.

12.16 Proxy voting by key management personnel or closely related parties

- (a) Except to the extent otherwise declared by ASIC, a person appointed as a proxy must not vote, on the basis of that appointment, on a resolution connected directly or indirectly with the remuneration of a member of the key management personnel for the Company or, if the Company is part of a consolidated entity, for the entity if:
 - (i) the person is either:
 - (A) a member of the key management personnel for the Company or, if the Company is part of a consolidated entity, for the entity; or
 - (B) a closely related party of a member of the key management personnel for the Company or, if the Company is part of a consolidated entity, for the entity; and
 - (ii) the appointment does not specify the way the proxy is to vote on the resolution.
- (b) Clause 12.16(a) does not apply if:
 - (i) the person is the chair of the meeting at which the resolution is voted on; and
 - (ii) the appointment expressly authorises the chair to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the key management personnel for the Company or, if the Company is part of a consolidated entity, for the entity.
- (c) A vote cast in contravention of 12.16(a) is taken not to have been cast.

13. **SEAL**

13.1 If the Company has a seal:

- (a) the Directors must provide for the safe custody of the seal;
- (b) the seal must not be used without the authority of the Directors or a Directors' Committee authorised to use the seal;
- (c) every document to which the seal is affixed must be signed by a Director and be countersigned by another Director, or the Secretary or another person appointed by the Directors to countersign the document.

14. **AUDIT**

14.1 **Appointment and Removal of Auditor**

- (a) The Company must, at its first annual general meeting (and subsequently, if there is a vacancy) appoint a qualified person or firm as auditor for the Company, in accordance with the Act.
- (b) An auditor appointed by the Company will hold office, is able to be removed, and has the powers and duties as specified in the Act and this clause 14.

14.2 **Consent to Appointment**

The Company must not appoint a person or firm as auditor of the Company unless the person or firm has, before the appointment, consented by written notice given to the Company or to the Board to act as auditor and has not withdrawn consent by written notice given to the Company or to the Board in the manner required under the Act.

14.3 **Removal of Auditor**

An auditor may only be removed from office by special resolution at a general meeting of the Company in accordance with Section 329 of the Act.

14.4 **Resignation of Auditor**

An auditor's resignation from office will occur in accordance with Section 329 of the Act.

14.5 **Auditor's Fees and Expenses**

- (a) The Company must pay the auditor's reasonable fees and expenses including those incurred in giving any report required under the Act.
- (b) The Board may fix the auditor's reasonable fees without authorisation of a general meeting.

14.6 **Duties in Relation to the Auditor**

- (a) The Board must take reasonable steps to ensure that the accounts and group accounts of the Company are audited as and when required by the Act.

- (b) The Board must ensure that:
 - (i) the auditor has access at all reasonable times to:
 - (A) the accounting records;
 - (B) other records and registers;
 - (C) such other documents, securities or certificates as the relevant standards may specify or require the auditor to inspect, of the Company;
 - (ii) each officer of the Company gives the auditor, as requested, and at the expense of the Company, information and explanations required for the audit.

14.7 Auditor's Powers in Relation to Meetings

The auditor or an agent authorised by the auditor in writing:

- (a) is entitled to attend any general meeting of the Company; and
- (b) is entitled to receive all notices of and other communications relating to any general meeting that a Member is entitled to receive; and
- (c) is entitled to be heard at any general meeting on any part of the business of the meeting that concerns the auditor in the capacity of auditor; and
- (d) is entitled to be so heard even though:
 - (i) the auditor retires at that meeting; or
 - (ii) a resolution to remove the auditor from office is passed at that meeting.

15. INSPECTION OF DOCUMENTS

15.1 Subject to the Act, and any resolution of the Company in general meeting, the Directors may determine whether and to what extent and at what times and places and under what conditions and regulations the books and documents of the Company or any of them will be open to inspection by the Members and other persons.

16. WINDING UP

16.1 If the Company is wound up:

- (a) each member; and
 - (b) each person who has ceased to be a Member in the preceding year;
- undertakes to contribute to the property of the Company for the:
- (c) payment of debts and liabilities of the Company (in relation to clause 16.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and

- (d) adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding \$1.00, or, in the case of the Member's liability becoming unlimited pursuant to clause 6.3 of this constitution, such other amount as may be required.
- 16.2 If the Company is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects, which is charitable at law, to which income tax deductible gifts can be made:
- (a) gifts of money or property for the principal purpose of the Company;
 - (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the Company;
 - (c) money received by the Company because of such gifts and contributions.
- 16.3 Upon the winding up of the Company if there remains after the satisfaction of all its debts and liabilities any property other than assets described in clause 16.2, the same shall not be paid or distributed among the Members of the Company but shall be transferred to another organisation with similar objects, which is charitable at law, to which income tax deductible gifts can be made, to be determined by the Members of the Company at or before the time of winding up, or, in default thereof, as determined by the Court.

17. SERVICE OF DOCUMENTS

- 17.1 A notice or other document may be delivered or served by the Company:
- (a) personally; or
 - (b) in the case of a member with a registered address in Australia, by sending it by ordinary post; or
 - (c) by sending it to the email address (if any) nominated by the Member;
- and is at the risk of the addressee as soon as it is given or posted or transmitted.
- 17.2 A Member whose registered address is not in Australia may specify in writing an address in Australia to be deemed the Member's registered address within the meaning of clause 17.1.
- 17.3 A document sent by post is deemed received or served on the day next following that on which it was posted and in proving delivery or service it is sufficient to prove that the envelope or wrapper containing the document was properly addressed and stamped and was posted.

- 17.4 A document sent by email will be deemed to have been received 1 hour after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed.
- 17.5 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was properly addressed and stamped and was posted is conclusive evidence of those facts.
- 17.6 Subject to the Act, if a given number of day's notice or notice extending over any other period is required to be given, the day on which the notice is to be deemed served, and in case of a notice convening a meeting the day on which the meeting is to be held, are to be excluded in calculating the number of days or other period.