# CONSTITUTION FOR
# VETERINARIANS FOR CLIMATE ACTION LTD

## Overview

This is the Constitution of **Veterinarians for Climate Action Ltd**.

The Company is a company limited by guarantee. The liability of its Members is limited to the amount they have agreed to pay in the guarantee. The Company must always have at least one Member and three Directors.

The Constitution sets out the basis on which the Company is to be managed. Nothing in the Constitution is intended to derogate from the *Corporations Act*. That Act:

- imposes many obligations on the Company which are not reproduced in this Constitution; and
- overrules anything in this Constitution to the extent that they are inconsistent.

This Constitution replaces the replaceable rules in the *Corporations Act.* Words used in the Constitution which have a meaning in the *Corporations Act* have the same meaning in this Constitution (unless expressly stated otherwise).

# Preliminary

## 1. Name of the Company

The name of the Company is Veterinarians for Climate Action Ltd (**the Company**).

## 2. Type of Company

The Company is a not-for-profit public Company limited by guarantee, which is established to be, and to continue as, a charity.

## 3. Limited Liability of Members

The liability of Members is limited to the amount of the guarantee in clause 4.

## 4. The Guarantee

Each Member must contribute an amount not more than $10 (the guarantee) to the property of the Company if the Company is wound up while the Member is a Member, or within twelve (12) months after they stop being a Member, and this contribution is required to pay for the:

a. debts and liabilities of the Company incurred before the Member stopped being a Member, or

b. costs of winding up.

# Charitable Purposes and Powers

## 5. Object of the Company

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

### 5.1. Principal Purpose

The Principal Purpose of the Company is the protection and enhancement of the natural environment and the provision of information and education about the natural environment, particularly in relation to climate change.

### 5.2. Supporting Purposes

In support of the Principal Purpose, the Supporting Purposes of the Company are as follows:

a. to improve awareness and communication regarding the impact of climate change on and through livestock, pets and wildlife, and thus to mobilise the veterinary industry to champion this cause.

b. to formulate, promote and support policies to reduce and draw down greenhouse gas emissions.

c. to formulate, promote and support the adoption of environmentally sustainable and climate-smart practices within the veterinary industry.

d. to establish and maintain the VfCA Public Fund.

### 6. Powers

The Company has the following powers, which may only be used to carry out its purposes set out in clause 5:

6.1. the powers of an individual, and

6.2. all the powers of a Company limited by guarantee under the **Corporations Act**.

### 7. Amending the Constitution

7.1. Subject to clause 7.2, the Members may amend this constitution by passing a **Special Resolution**.

7.2. The Members must not pass a Special Resolution that amends this constitution if passing it causes the Company to no longer be a charity.

## Public Fund

### 8. Establishing and maintaining the VfCA Public Fund

One of the Supporting Principles in clause 5.2 is to establish and maintain a public fund to be called the VfCA Public Fund (**The Fund**) for the specific purpose of supporting the environmental objects/purposes of Veterinarians for Climate Action. The Fund is established to receive all gifts of money or property for this purpose and any money received because of such gifts must be credited to its bank account. The Fund must not receive any other money or property into its account and it must comply with subdivision 30-E of the *Income Tax Assessment Act 1997*.

### 9. Requirements of the VfCA Public Fund

The Company must inform the Department responsible for the environment as soon as possible if:

9.1. it changes its name or the name of the VfCA Public Fund; or

9.2. there is any change to the Membership of the management committee of the VfCA Public Fund; or

9.3. there has been any departure from the rules of the VfCA Public Fund located in the Guidelines to the Register of Environmental Organisations

### 10. Ministerial Rules

The Company agrees to comply with any rules that the Treasurer and the Minister with responsibility for the environment may make to ensure that gifts made to the fund are only used for its principal purpose.

## 11. Not-for-Profit

11.1. The income and property of the Company shall be used and applied solely in promotion of its objects and no portion shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to Members, Directors, or trustees of the Company, except if and to the extent permitted under clauses 13 or 76.

11.2. Clause 11.1 does not stop the Company from doing the following things, provided they are done in good faith:

a. paying a Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Company; or

b. making a payment to a Member in carrying out the Company's charitable purpose(s).

## 12. Conduit Policy

Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the Company and not be influenced by the preference of the donor.

## 13. Winding-up

In case of the winding-up of the VfCA Public Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.

## 14. Statistical Information

14.1. Statistical information requested by the Department on donations to the VfCA Public Fund will be provided within four months of the end of the financial year.

14.2. An audited financial statement for the organisation and its public fund will be supplied with the annual statistical return. The statement will provide information on the expenditure of public fund monies and the management of public fund assets.

## 15. General

15.1. The objective of the VfCA Public Fund is to support the Company's environmental purposes.

15.2. Members of the public are to be invited to make gifts of money or property to the VfCA Public Fund for the environmental objects and purposes of the organisation.

15.3. Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the VfCA Public Fund.

15.4. A separate bank account is to be opened to deposit money donated to the VfCA Public Fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the Company.

15.5. Receipts are to be issued in the name of the VfCA Public Fund and proper accounting records and procedures are to be kept and used for the VfCA Public Fund.

15.6. The VfCA Public Fund will be operated on a non-profit basis.

15.7. A fund committee of no fewer than three (3) persons will administer the VfCA Public Fund. The Fund Committee will be appointed by the Board. A majority of the Members of the fund committee are required to be 'responsible persons' as defined by the Guidelines to the Register of Environmental Organisations.

## Members

### 16. Membership

The Members of the Company are (unless they have resigned under clause 25 or been expelled under clause 26):

a. the persons who are specified in the application to register the Company lodged under section 117 of the *Corporations Act* and who have consented to be Members (**Initial Members**); and

b. any other person that the Directors allow to be a Member, in accordance with this Constitution.

### 17. Register of Members

17.1. The **Company** must establish and maintain a register of members. The register of members must be kept by the Secretary and must contain:

a. for each current member:

i. name

ii. address

iii. any alternative address nominated by the member for the service of notices

iv. date the member was entered on to the register, and

v. category of membership.

b. for each person who stopped being a member in the last 7 years:

i. name

ii. address

iii. any alternative address nominated by the member for the service of notices, and

iv. dates the membership started and ended.

17.2. The **Company** must give current members access to the register of members upon request.

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

17.4. If a database contains more information than that set out in clauses 17.1(a) and (b), that additional data is outside these disclosure requirements.

17.5. Any dispute that arises in relation to the Register must be referred to the Board. The Board's decision is final and binding on all Members (in the absence of manifest error).

## 18. Who can be a Member

18.1. The following are eligible to be Members:

a. any person who supports the purposes of the Company;

b. any person that the Board considers would benefit the Company by becoming a Member; and

c. any person in a category of persons that the Board has determined to be eligible to be Members.

18.2. In this clause, 'person' means an individual.

## 19. Minimum number of members

The Company will consist of a minimum of fifty (50) Members.

## 20. Membership is not transferable

A Member may not transfer their Membership to another person.

## 21. Voting rights

21.1. A Member is entitled to one vote at a General Meeting of the Company.

21.2. However, the Board may suspend a Member's entitlement to vote if the Member owes the Company any amount that is more than 3 months overdue (or such other period as the Board determines).

## 22. Applying and being admitted to Membership

22.1. A person's Application to be a Member must be made in the form, and accompanied by any fee, the Board has set.

22.2. The Board will consider and, in its absolute discretion, accept or reject an Application. If the Board rejects an Application, then:

a. it must arrange for any money the Applicant tendered with the Application to be repaid to the Applicant, without interest; and

b. the Board does not have to give any reasons for the rejection.

## 23. When a person becomes a Member

An Applicant does not become a Member until the Company has:

a. received any fee that applies; and

b. the name and address of the Applicant are entered in the Register of Members.

## 24. When a person stops being a Member

A person immediately stops being a Member if they:

a. die;

b. resign, by writing to the secretary;

c. are expelled under clause 26;

d. have not responded within three (3) months to a written request from the secretary that they confirm in writing that they want to remain a Member; or

e. Has not paid any amount owing to the Company within six (6) months of it being due. This time period may be altered as deemed suitable by the Directors.

## 25. Resigning from Membership: and ongoing liability

A Member may resign from Membership by giving written notice to the Company. When the notice period expires, the Member stops being a Member but:

a. they remain liable for any money they owe the Company; and

b. under clause 4, they remain liable for another 12 months.

## 26. Expelling and disciplining a Member

26.1. In accordance with this clause, the directors may resolve to warn, suspend or expel a member from the Company if the directors consider that:

a. the Member has breached this Constitution, or

b. the Member's behaviour is causing, has caused, or is likely to cause harm to the Company.

26.2. At least 7 days before the directors' meeting at which a resolution under clause 26.1 will be considered, the Secretary must notify the Member in writing:

a. that the directors are considering a resolution to warn, suspend or expel the member

b. that this resolution will be considered at a directors' meeting and the date of that meeting

c. what the member is said to have done or not done

d. the nature of the resolution that has been proposed, and

e. that the member may provide an explanation to the directors, and details of how to do so.

26.3. Before the directors pass any resolution under clause 26.1, the member must be given a chance to explain or defend themselves by:

a. sending the directors a written explanation before that directors' meeting, and/or

b. speaking at the meeting.

26.4. After considering any explanation under clause 26.3, the directors may:

a. take no further action

b. warn the member

c. suspend the member's rights as a member for a period of no more than 12 months

d. expel the member

e. refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause), or

f. require the matter to be determined at a **General Meeting**.

26.5. The directors cannot fine a member.

26.6. The secretary must give written notice to the member of the decision under clause 26.4 as soon as possible.

26.7. Disciplinary procedures must be completed as soon as reasonably practical.

26.8. There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

## 27. Removing an expelled Member’s name from the Register

27.1. If a Member is expelled from the Company pursuant to clause 26, then their name must be removed from the Register. The Company has no liability to the Member in respect of their removal from the Register.

27.2. When a Member's name is removed from the Register, the Member no longer has:

a. any rights or privileges attaching to Membership; or

b. any rights which they had against the Company that arose out of their Membership.

## 28. Not used

# General Meetings

## 29. General meetings called by Directors

29.1. The Directors may call a **General Meeting**.

29.2. If Members with at least 5% of the votes that may be cast at a General Meeting make a written request to the Company for a General Meeting to be held, the Directors must:

a. within twenty (21) days of the Members’ request, give all Members notice of a General Meeting, and

b. hold the General Meeting within two (2) months of the Members’ request.

29.3. The percentage of votes that Members have (in clause 29.2) is to be worked out as at 11.59pm before the Members request the meeting.

29.4. The Members who make the request for a General Meeting must:

a. state in the request any resolution to be proposed at the meeting

b. sign the request, and

c. give the request to the Company.

29.5. Separate copies of a document setting out the request may be signed by Members if the wording of the request is the same in each copy.

## 30. General meetings called by Members

30.1. If the Directors do not call the meeting within twenty-one (21) days of being requested under clause 29.2, 50% or more of the Members who made the request may call and arrange to hold a **General Meeting**.

30.2. To call and hold a meeting under clause 30.1 the Members must:

a. as far as possible, follow the procedures for General Meetings set out in this constitution

b. call the meeting using the list of Members on the Company's Member register, which the Company must provide to the Members making the request at no cost, and

c. hold the General Meeting within three (3) months after the request was given to the Company.

## 31. Annual General Meeting required

31.1. The Company must hold an Annual General Meeting:

a. in every calendar year;

b. within six (6) months after the end of its financial year; and

c. at the time and place the Board determines.

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

a. a review of the Company's activities

b. a review of the Company's finances

c. any auditor's report

d. the election of Directors, and

e. the appointment and payment of auditors, if any.

31.3. Before or at the annual General Meeting, the Directors must give information to the Members on the Company's activities and finances during the period since the last annual general meeting.

31.4. The Chair of the annual General Meeting must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

## 32. Notice of General Meetings

32.1. The Board must give at least twenty-one (21) days' written notice of a General Meeting to the Members, the Directors and the Auditor (unless a change to that arrangement is made under clause 33.2). The notice must specify:

a. the place, the day and the hour of meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);

b. the general nature of the meeting's business;

c. the details of any special resolutions to be proposed at the meeting;

d. that Members are entitled to appoint a proxy; and

e. that Members have a right to elect to receive meeting related documents in a physical or electronic form.

32.2. Subject to clause 32.3, notice of a meeting may be provided less than twenty-one (21) days before the meeting if:

a. for an annual General Meeting, all the Members entitled to attend and vote at the annual General Meeting agree beforehand, or

b. for any other General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.

32.3. Notice of a meeting cannot be provided less than twenty-one (21) days before the meeting if a resolution will be moved to:

a. remove a Director

b. appoint a Director in order to replace a Director who was removed, or

c. remove an Auditor.

## 33. Failure to receive Notice

A meeting and its proceedings and resolutions are valid even if any one or more of the following is the case:

a. the Company accidentally omitted to give notice of a meeting to any Member; or

b. any Member did not receive notice of the meeting.

## 34. Using technology to hold meetings

34.1. The Company may hold a General Meeting:

a. at a physical venue;

b. at a physical venue and using virtual meeting technology; or

c. using virtual meeting technology only,

provided that, in each case, Members as a whole are given a reasonable opportunity to participate, including to hear and be heard.

34.2. If the board elects to use virtual meeting technology for a General Meeting, the board will determine the type of virtual meeting technology to be used (which may include any combination of telephone, video conferencing, messaging, smartphone application or any other audio and/or visual device which permits instantaneous communication).

34.3. Anyone using virtual meeting technology is taken to be present at the meeting.

34.4. Any resolution passed using (wholly or in part) virtual meeting technology is to be treated as having been passed at a meeting of the Members held on the day and at the time the conference was held — even if the Members were not present together in one place at the time.

34.5. If a general meeting is held wholly or in part using virtual meeting and, before or during the meeting, any technical difficulty occurs, then the Chair may:

a. adjourn the meeting until the difficulty is remedied; or

b. if members as a whole continue to be given a reasonable opportunity to participate in the meeting, continue to hold the meeting and transact business, and no member may object to the meeting being held and continuing.

## 35. Quorum at General Meetings

35.1. Six (6) Members constitutes a quorum.

35.2. No business may be conducted at a **General Meeting** if a quorum is not present (in person, by proxy or attorney) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a proxy or attorney of more than one member).

35.3. If there is no quorum present within thirty (30) minutes after the starting time stated in the notice of **General Meeting**, the **General Meeting** is adjourned to the date, time and place (including by using any virtual meeting technology) that the Chair specifies. If the Chair does not specify one or more of those things, the meeting is adjourned to:

a. if the date is not specified – the same day in the next week

b. if the time is not specified – the same time, and

c. if the place is not specified – the same place and using the same virtual meeting technology (if any).

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

## 36. Auditor's right to attend meetings

The Auditor (if any) is entitled:

a. to attend any General Meeting of the Company;

b. to receive the same notices of, and other communications relating to, any General Meeting that a Member is entitled to receive; and

c. to be heard at any General Meeting which the Auditor attends on any part of the business of the meeting which concerns the Auditor in that capacity. The Auditor’s right to be heard exists even if the Auditor retires at that meeting or if a resolution to remove the Auditor from office is passed at that meeting.

## 37. Chair for General Meetings

37.1. The **Chair,** or in the Chair's absence, the Deputy Chair, is to preside as Chair at every General Meeting.

37.2. If at any General Meeting neither the Chair nor the Deputy Chair is present within thirty (30) minutes after the time appointed for holding the meeting (or if neither is willing to preside), then the Members present are to choose a Director to preside. If no Director is present (or if all Directors present decline to preside), then those persons present will choose a Member who is present to preside as Chair.

## 38. Role of the Chair

38.1. The Chair is responsible for the conduct of the General Meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).

38.2. The Chair does not have a casting vote.

## 39. Adjourning (and resuming) a meeting

39.1. If a quorum is present, a General Meeting must be adjourned if a majority of Members present direct the Chair to adjourn it.

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

## 40. Members' resolutions and statements

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

a. written notice to the Company of a resolution they propose to move at a General Meeting (Members' resolution), and/or

b. a written request to the Company that the Company give all of its Members a statement about a proposed resolution or any other matter that may properly be considered at a General Meeting (Members' statement).

40.2. A notice of a Members' resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.

40.3. A request to distribute a Members' statement must set out the statement to be distributed and be signed by the Members making the request.

40.4. Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.

40.5. The percentage of votes that Members have (as described in clause 40.1) is to be worked out as at midnight before the request or notice is given to the Company.

40.6. If the Company has been given notice of a Members' resolution under clause 40.1(a), the resolution must be considered at the next General Meeting held more than two months after the notice is given.

40.7. This clause does not limit any other right that a Member has to propose a resolution at a general meeting.

## 41. Company must give notice of proposed resolution or distribute statement

41.1. If the Company has been given a notice or request under clause 40:

a. in time to send the notice of proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, it must do so at the Company's cost, or

b. too late to send the notice of proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting,

then the Members who proposed the resolution or made the request must pay the expenses reasonably incurred by the Company in giving Members notice of the proposed Members' resolution or a copy of the Members' statement. However, at a General Meeting, the Members may pass a resolution that the Company will pay these expenses.

41.2. The **Company** does not need to send the notice of proposed Members' resolution or a copy of the Members' statement to Members if:

a. it is more than one thousand (1,000) words long

b. the Directors consider it may be defamatory

c. clause 40.1(b) applies, and the Members who proposed the resolution or made the request have not paid the Company enough money to cover the cost of sending the notice of the proposed Members' resolution or a copy of the Members' statement to Members, or

d. in the case of a proposed Members' resolution, the resolution does not relate to a matter that may be properly considered at a General Meeting or is otherwise not a valid resolution able to be put to the Members.

## 42. Circular resolutions of Members

42.1. Subject to clause 42.3, the Directors may put a resolution to the Members to pass a resolution without a **General Meeting** being held (a circular resolution).

42.2. The Directors must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to Members, and set out the wording of the resolution.

42.3. Circular resolutions cannot be used:

a. for a resolution to remove an auditor, appoint a Director or remove a Director

b. for passing a special resolution, or

c. where the Corporations Act or this Constitution requires a meeting to be held.

42.4. A circular resolution is passed if at least seventy-five percent (75%) of the Members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 42.5 or clause 42.6.

42.5. Members may sign:

a. a single document setting out the circular resolution and containing a statement that they agree to the resolution, or

b. separate copies of that document, as long as the wording is the same in each copy.

42.6. The **Company** may send a circular resolution by email to Members and Members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

## Voting at a General Meeting

### 43. Show of hands vote

Every item of business submitted to a General Meeting is to be decided in the first instance by a show of hands of the Members (or their proxies or attornies), who are present (either in person or by using virtual meeting technology) and entitled to vote. The Chair will not have a casting vote.

### 44. Evidence of resolution

It is conclusive evidence that a resolution has been passed (regardless of whether there is any proof of the number or proportion of the votes recorded in favour of or against the resolution) if:

a. the Chair declares that a resolution has been passed or lost (having regard to the majority required); and

b. an entry to that effect has been made in the Company's books and signed by the Chair of that, or the next meeting.

### 45. Poll vote

45.1. The Chair or any Member present (personally or by proxy or attorney, and whether in person or by using virtual meeting technology) may demand a poll before, or on the declaration of the result of, a show of hands. Any person who has demanded a poll may withdraw their demand.

45.2. A poll demanded on any question of adjournment must be taken before any adjournment.

45.3. The poll is to be taken:

a. in the manner and at the time and place as the Chair of the meeting directs; and
b. either at once or after an interval or adjournment or otherwise.

45.4. The result of the poll is to be the resolution of the meeting at which the poll was demanded.

45.5. If there is a dispute as to the admission or rejection of a vote, then the Chair will finally determine that dispute.

45.6. At a poll, the Chair will not have a casting vote.

## 46. Continuing with other business before a Poll

After a poll has been demanded, the meeting may continue with any business other than the issue on which poll has been demanded.

## 47. Appointment of a proxy

47.1. Any Member may appoint a natural person as a proxy to attend and vote at a General Meeting on the Member's behalf.

47.2. A proxy does not need to be a Member of the Company.

47.3. A document appointing a proxy will be treated as giving the proxy:

a. authority to demand, or join in demanding, a poll; and
b. the power to act generally at the meeting for the person giving the proxy (except to the extent to which the proxy is specifically directed to vote for or against any proposal).

47.4. An appointment of proxy (proxy form) must be signed by the Member appointing the proxy and must contain:

a. the Member's name and address
b. the Company's name
c. the proxy's name or the name of the office held by the proxy, and
d. the meeting(s) at which the appointment may be used.

47.5. A proxy appointment may be standing (ongoing).

47.6. For an appointment of a proxy to be valid, the Company must receive the document appointing the proxy (and an original, or certified copy, of the power of attorney, if any, under which it is signed):

a. at least forty-eight (48) hours before the time for holding the relevant meeting or adjourned meeting or poll; and
b. at one of:

i. the Registered Office;
ii. a fax number at the Registered Office; or
iii. a place, fax number or electronic address specified for such purpose in the notice of meeting.

47.7. A proxy does not have the authority to speak and vote for a Member at a meeting while the Member is at the meeting.

47.8. An instrument appointing a proxy is valid for any adjournment of the meeting to which it relates — unless it states something to the contrary.

47.9. Unless the Company receives written notice before the start or resumption of a General Meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Member:

a. dies

b. is mentally incapacitated

c. revokes the proxy's appointment, or

d. revokes the authority of an attorney or agent who appointed the proxy.

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

### 48. Voting by proxy

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

48.2. When a poll vote is held, a proxy:

a. does not need to vote, unless the proxy appointment specifies the way they must vote

b. if the way they must vote is specified on the proxy form, must vote that way, and

c. if the proxy is also a Member or holds more than one proxy, may cast the votes held in different ways.

## Directors

### 49. Number of Directors

The Company must have at least three and no more than nine Directors.

### 50. Election and appointment of Directors

50.1. The initial Directors are the people who have agreed to act as Directors and who are named as proposed Directors in the application for registration of the Company.

50.2. Apart from the initial Directors and Directors appointed under clause 47.5, the Members may elect a Director by a resolution passed in a General Meeting.

50.3. The nomination of any Member as a candidate for election as a Director must be:

a. in writing and signed by the nominated person and their proposer and seconder; and

b. lodged with the Secretary at least 30 days before the annual General Meeting at which the election is to take place (or any other scheduled General Meeting)

50.4. A person is eligible for election as a Director of the **Company** if they:

a. are a Member of the **Company**~~,~~

b. are nominated by two Members entitled to vote (unless the person was previously elected as a Director at a **General Meeting** and has been a Director since that meeting),

c. give the **Company** their signed consent to act as a Director of the **Company**, and

d. are not ineligible to be a Director under the **Corporations Act** or the **ACNC Act**.

50.5. The Directors may appoint a person as a Director to fill a casual vacancy or as an additional Director if that person:

a. is a Member of the Company

b. gives the Company their signed consent to act as a Director of the Company, and

c. is not ineligible to be a Director under the Corporations Act or the ACNC Act.

50.6. If the number of Directors is reduced to fewer than three or is less than the number required for a quorum, the continuing Directors may act for the purpose of increasing the number of Directors to three (or higher if required for a quorum) or calling a General Meeting, but for no other purpose.

50.7. Nominees for a Director position must address standard and consistent suitability criteria (taking into account the Objects) and the current Directors must, taking into account the criteria and acting reasonably, form the view that the nominee will be an appropriate nominee.

## 51. Election of Chair

The Directors must elect a Director as Chair, who will hold office until removed (for whatever reason) or until the conclusion of the next General Meeting. No business may be transacted at any Director meeting without a chair.’

## 52. Term of office

52.1. At each annual General Meeting:

a. any Director appointed by the Directors to fill a casual vacancy or as an additional Director must retire, and

b. at least one-third of the remaining Directors must retire.

52.2. The Directors who must retire at each annual General Meeting under clause 52.1(b) will be the Directors who have been longest in office since last being elected. Where Directors were elected on the same day, the Director(s) to retire will be decided by lot unless they agree otherwise.

52.3. Other than a Director appointed under clause 52.5, a Director's term of office starts at the end of the annual General Meeting at which they are elected and ends at the end of the annual general meeting at which they retire.

52.4. Each Director must retire at least once every three years.

52.5. A Director who retires under clause 52.1 may nominate for election or re-election, subject to clause 52.6.

52.6. A Director who has held office for a continuous period of nine years or more may only be reappointed or re-elected by a Special Resolution

## 53. When a Director stops being a Director

A Director stops being a Director if they:

a. give written notice of resignation as a Director to the Company

b. die

c. are removed as a Director by a resolution of the Members

d. stop being a Member of the Company

e. are absent for 3 consecutive Directors' meetings without approval from the Directors, or

f. become ineligible to be a Director of the Company under the Corporations Act or the ACNC Act.

## 54. Powers of Directors

54.1. The Directors are responsible for managing and directing the activities of the Company to achieve the purpose(s) set out in clause 5.

54.2. The Directors may use all the powers of the Company except for powers that, under the Corporations Act or this Constitution, may only be used by Members.

54.3. The Directors must decide on the responsible financial management of the Company including:

a. any suitable written delegations of power under clause 55, and

b. how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

54.4. The Directors cannot remove a Director or auditor. Directors and auditors may only be removed by a Members' resolution at a General Meeting.

## 55. Delegation of Directors' powers

55.1. The Directors may delegate any of their powers and functions to a committee, a Director, an employee of the **Company** (such as a Chief Executive Officer) or any other person, as they consider appropriate.

55.2. The delegation must be recorded in the Company's minute book.

## 56. Payments to Directors

56.1. The Company must not pay fees to a Director for acting as a Director.

56.2. The Company may:

a. pay a Director for work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done, or

b. reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Company.

56.3. Any payment made under clause 56.2 must be approved by the Directors.

56.4. The Company may pay premiums for insurance indemnifying Directors, as allowed for by law (including the Corporations Act) and this Constitution.

## 57. Duties of Directors

The Directors must comply with their duties as Directors under legislation and common law (judge-made law), and with the duties described under the ACNC Act and/or its regulations.

## 58. Conflicts of interest

58.1. A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution), in a manner by which the Board considers appropriate.

58.2. The Board may make regulations requiring the disclosure and management of interests that a Director, and any person taken by the Board to be related to or associated with the Director, may have in any matter concerning the company. Any regulations made under this Constitution bind all Directors.

## Directors' Meetings

### 59. When the Directors meet

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

### 60. Calling Directors' meetings

60.1. A Director may call a Directors' meeting by giving reasonable notice to all of the other Directors.

60.2. A Director may give notice in writing or by any other means of communication that has previously been agreed to by all of the Directors.

### 61. Chair for Directors' meetings

61.1. The Chair, or in the Chair's absence the Deputy Chair, is to chair every Board meeting.

61.2. If at a Board meeting neither the Chair nor the Deputy Chair is present within fifteen minutes after the time appointed for holding that meeting (or if neither is willing to chair), then the Directors present will choose one of their number to chair the meeting.

### 62. Quorum at Directors' meetings

62.1. Unless the Directors determine otherwise, the quorum for a Directors' meeting is a majority (more than 50%) of Directors.

62.2. Despite clause 57.1, the quorum cannot be less than three Directors.

62.3. A quorum must be present for the whole Directors' meeting.

### 63. Using technology to hold Directors' meetings

63.1. The Board may, if it thinks fit, meet:

a. at a physical venue;

b. at a physical venue and using virtual meeting technology; or

c. using virtual technology only.

63.2. A director taking part in a meeting by virtual meeting technology is to be taken to be present in person at the meeting, along with all other participating directors, at one location.

63.3. If, before or during the meeting, any technical difficulty occurs where one or more directors cease to participate, the chair may adjourn the meeting until the difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting.

63.4. Any resolution passed using (wholly or in part) virtual meeting technology is to be treated as having been passed at a meeting of the Board held on the day and at the time the conference was held — even if the Directors were not present together in one place at the time. This clause does not limit the discretion of the Board to regulate its meetings.

63.5. The provisions of this Constitution regulating the proceedings of the Board apply so far as they are capable, and with any necessary changes, to meetings of the directors using virtual meeting technology.

## 64. Passing Directors' resolutions

The Board may make resolutions either:

a. in a meeting, of which minutes must be kept as set out in clause 65; or

b. by circulated resolution which must be made and kept as set out in clause 66.

## 65. Minutes to be kept

65.1. Within one month of the relevant meeting, the Board must arrange for:

a. proper minutes to be made of the proceedings and resolutions of all meetings of the Company, the Board and committees formed by the Board;

b. the minutes to be entered in books kept for that purpose; and

c. the minutes to be signed by the Chair of the meeting or by the Chair of the next meeting.

## 66. Circular Resolutions of Directors

66.1. The Directors may pass a circular resolution without a Directors' meeting being held.

66.2. If all the Directors have signed, or otherwise agreed to, a document containing a statement that they are in favour of a resolution set out in the document, then that resolution is to be treated as having been passed as a Circulated Resolution at a meeting of the Board held at the time and date on which the resolution was last signed by a Director. (However, the reference to "all the Directors" in this clause does not include any Director who is not entitled to vote on the Resolution.)

66.3. Any Circulated Resolution may consist of several documents in identical terms, each signed, or otherwise agreed to, by one or more Directors and must be entered in the relevant book of minutes of the Company.

## 67. Evidence of proceedings and resolutions

A minute or Circulated Resolution that is recorded and signed in accordance with clause 65 or 66 (as the case may be) is evidence of the proceeding or resolution to which it relates (unless the contrary is proved).

# Secretary

## 68. Appointment and role of Secretary

68.1. The **Company** must have at least one secretary, who may also be a Director.

68.2. A Secretary must be appointed by the Directors (after giving the **Company** their signed consent to act as secretary of the **Company**) and may be removed by the Directors.

68.3. The Directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.

68.4. The role of the secretary includes:

a. maintaining a register of the **Company**'s Members, and

b. maintaining the minutes and other records of **General Meeting**s (including notices of meetings), Directors' meetings and circular resolutions.

# Access to Accounts

## 69. Accounts to be kept

69.1. The **Company** must make and keep written financial records that:

a. correctly record and explain its transactions and financial position and performance, and

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

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

69.3. The **Company** must retain its records for at least 7 years.

69.4. The Directors must take reasonable steps to ensure that the **Company**'s records are kept safe.

## 70. Location and inspection of accounts

The Board must arrange for the financial records:

a. to be kept at the Registered Office, or in a place or places it thinks fit; and

b. to be open to the inspection of the Directors during usual business hours.

# Notice

## 71. Notice to the Company

Written notice or any communication under this Constitution may be given to the Company, the Directors or the Secretary by:

a. delivering it to the Company's registered office

b. posting it to the Company's registered office or to another address chosen by the Company for notice to be provided

c. sending it to an email address or other electronic address notified by the Company to the Members as the Company's email address or other electronic address.

## 72. Notice to Members

72.1. The Company may give a document (including a notice) on any Member in the ways shown in the left hand column of the table below, in addition to any other legally permissible means. A document will be taken to be given and received at the time shown in the right-hand column of that table on the relevant row.

| **Way of serving notice** | **Timing of notice taken to be** |
|---|---|
| Personally | When it is delivered |
| By sending it through the ordinary post to the Member's address | 3 days after the day it is posted.<br>In proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and deposited as a prepaid letter at the post office or in some postal receptacle. |
| By leaving it at the Member's address in an envelope addressed to the Member. | When it is left at the address |
| By sending it electronically (including by providing a URL link to any document or attachment) to the Member's electronic address | On the day the transmission is sent.<br>A document sent electronically is conclusively taken to be effected by properly addressing and transmitting the electronic transmission. |
| By sending a document by any of the means referred to in this clause 72.1 that notifies the Member of the electronic address where the primary document can be accessed | When the notification that the document is available for access by the specified means is sent. |

72.2. A certificate in writing signed by the Secretary or any officer of the Company a document has been given and received under this Constitution will be conclusive evidence of that fact.

## Financial Year

### 73. Company's financial year

The Company's financial year is from 1 July to 30 June, unless the Directors pass a resolution to change the financial year.

## Indemnity

### 74. Indemnity

74.1. The Company indemnifies each officer of the Company out of the assets of the Company, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Company.

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

74.3. In this clause, 'to the relevant extent' means:

a. to the extent that the Company is not precluded by law (including the Corporations Act) from doing so, and

b. for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).

74.4. The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Company.

## Winding Up

### 75. Surplus assets not to be distributed to Members

If the Company is wound up, any surplus assets must not be distributed to a Member or a former Member of the Company, unless that Member or former Member is a charity described in clause 76.1 .

### 76. Distribution of surplus assets

76.1. Subject to clause 13, the Corporations Act and any other applicable Act, and any court order, any surplus assets (including 'gift funds' defined in clause 76.4) that remain after the Company is wound up must be distributed to one or more charities:

a. with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 5

b. which also prohibit the distribution of any surplus assets to its Members to at least the same extent as the Company, and

c. that is or are deductible gift recipients within the meaning of the Income Tax Assessment Act 1997 (Cth).

76.2. The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of Members at or before the time of winding up. If the Members do not make this decision, the Company may apply to the Supreme Court to make this decision.

76.3. If the Company's deductible gift recipient endorsement is revoked (whether or not the Company is to be wound up), any surplus gift funds must be transferred to one or more charities that meet the requirements of 76.1(a), (b) and (c), as decided by the Directors.

76.4. For the purpose of this clause:

a. 'gift funds' means:

i. gifts of money or property for the principal purpose of the Company

ii. contributions made in relation to a fund-raising event held for the principal purpose of the Company, and

iii. money received by the Company because of such gifts and contributions.

b. 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the Income Tax Assessment Act 1997 (Cth).

## Definitions and Interpretation

### 77. Definitions

In this Constitution:

**ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)*
**Company** means the Company referred to in clause 1
**Corporations Act** means the *Corporations Act 2001 (Cth)*
**Chair** means a person elected by the Directors to be the Company's Chair under clause 51
**General Meeting** means a meeting of Members and includes the annual General Meeting, under clause 31.1
**Initial Member** means a person who is named in the application for registration of the Company, with their consent, as a proposed Member of the Company
**Member present** means, in connection with a General Meeting, a Member present in person or by proxy at the venue or venues for the meeting
**registered charity** means a charity that is registered under the ACNC Act
**Special Resolution** means a resolution:

i. of which notice has been given under clause 32.1c, and
ii. that has been passed by at least 75% of the votes cast by Members present and entitled to vote on the resolution, and

**surplus assets** means any assets of the Company that remain after paying all debts and other liabilities of the Company, including the costs of winding up.

## 78. Reading this Constitution with the Corporations Act

78.1. The replaceable rules set out in the Corporations Act do not apply to the Company.

78.2. While the Company is a registered charity, the ACNC Act and the Corporations Act override any clauses in this constitution which are inconsistent with those Acts.

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

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

## 79. Interpretation

In this Constitution:

a. the words ‘including’, ‘for example’, or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression,

b. reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations)

c. a gender includes all other genders; and

d. headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Constitution.