



CONSTITUTION

of

Financial Counselling Victoria Incorporated

2026

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PART I - PRELIMINARY

1. PRELIMINARY

Name

- 1.1 This Constitution applies to the Association that shall hereafter be referred to as ***Financial Counselling Victoria Incorporated*** and may for the purposes of this Constitution and internal purposes of the Association be cited or referred to as **the Association** or **FCVic**.

Legal Entity

- 1.2 FCVic is a registered **Incorporated Association** and a registered **charity**.

Principal Purpose

- 1.3 FCVic is formed as a non-political, corporate not-for-profit Public Benevolent Institution so that people in Victoria experiencing financial difficulty can obtain best practice financial counselling support and advice while advocating for positive change through the promotion of the stated Objectives of the Association pursuant to rule 2.1.

Constitution

- 1.4 This Constitution shall comply with the prescribed matters specified in the relevant sections of the Act and the Regulations and the ACNC Act and such other matters that may be prescribed by Australian Law. Any powers conferred under this Constitution must be exercised in such a way as to be consistent with the Act, the Regulations and any other applicable laws.
- 1.4.1 Where a Board-made resolution of any kind is inconsistent with this Constitution or any applicable law, the resolution will be invalid to the extent of the inconsistency.
- 1.5 Unless the context indicates otherwise and except for the definitions and interpretations in rule 51.1 and 51.2 in this Constitution:
- 1.5.1 a reference to the Act and Regulations and ACNC Act is to those Acts in force in relation to the Association after taking into account any waiver, modification or exemption which is in force either generally or in relation to the Association.
- 1.5.2 a word, expression or phrase given a meaning in the Act, Regulations or ACNC Act has the same meaning in this Constitution where it relates to the same matters as the matters for which it is defined in the Act, Regulations or ACNC Act, unless that word or phrase is otherwise defined in this Constitution.
- 1.6 These Rules constitute a contract between the Association and each Member, between the Association and each Director, and between a Member and each other Member. By joining or remaining a member of the Association, each Member agrees to comply with and be bound by these Rules.
- 1.7 All Members **upon request may have a copy of this Constitution** in either electronic

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‘read-only’ format or ‘hard copy’. The Constitution must be provided within 14 days of the request.

- 1.8 **The Model Rules do not apply to the Association**, except where this Constitution is silent on the matters referred to.

Inadvertent omissions in, or ambiguity of interpretation of the Constitution

- 1.9 If some formality required by this Constitution is inadvertently omitted, the omission does not invalidate anything, including any resolution which but for the omission would have been valid unless it is proved to the satisfaction of the Board that the omission has directly and unfairly prejudiced any Member financially.

- 1.10 If there is **any matter relating to the Association on which this Constitution is silent or where any ambiguity, inconsistency or contradiction exists** in the interpretation of any meaning, this Constitution shall be interpreted according to the meaning in relevant Law, and **the Board shall**, consistent with this Constitution, **have authority to interpret the meaning of this Constitution**.

- 1.10.1 The decision of the Board has binding authority until such time as a subsequent Board determines otherwise or the Members in General Meeting amend the Constitution to clarify the omission, ambiguity, inconsistency or contradiction.

Income and Property

- 1.11 The Association as a not-for-profit corporate entity shall ensure that all the **funds, revenue, income, property and assets** of the Association, however derived, shall be directed towards carrying out and furthering the Purpose and Objects of the Association pursuant to rules 1.3 and 2.1.
- 1.12 Subject to rules 1.13 and 1.14, no portion of the **funds, revenue, income, property and assets** of the Association shall be paid, distributed or transferred, directly or indirectly, by dividend or bonus, to any Member of the Association.
- 1.13 Rule 1.12 does not prevent the **payment** in good faith to any person or organisation on the basis that the payment is:
- 1.13.1 remuneration in return for **services** provided to the Association;
 - 1.13.2 consideration for **goods** supplied to the Association in the ordinary course of business;
 - 1.13.3 **interest** at current bank overdraft rate on money lent;
 - 1.13.4 a reasonable and proper sum by way of **rent** for premises let to the Association by the person or organisation;
 - 1.13.5 reimbursement of monies for **expenses** incurred on behalf of the Association;
- 1.14 Subject to this section, the Association must not pay fees to or on behalf of Directors except that **the Association may make payments to a Director** in good faith for:

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- 1.14.1 the payment or reimbursement of **out-of-pocket expenses** reasonably incurred or in compensation **for services actually rendered by a Director in the performance of any duty as a Director** of the Association on behalf of the Association where that payment or reimbursement has been approved by the Board;
- 1.14.2 the payment of a reasonable and proper amount to any Director for a professional or technical **service rendered** to the Association by that Director and the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
- 1.14.3 an **insurance premium** in respect of a contract insuring a Director or Officer for a liability incurred as an Officer of the Association where the Board has approved the payment of the premium; or
- 1.14.4 any payment in relation to **indemnity or insurance** under rule 49 or a payment under any agreement or deed referred to in rule 49.

2. OBJECTS AND POWERS OF THE ASSOCIATION

Objects

- 2.1 The Objects of the Association are that:
 - 2.1.1 **people** in Victoria experiencing financial difficulty
 - 2.1.1.1 can easily access best practice financial counselling services, and
 - 2.1.1.2 benefit from an effective voice advocating for positive law reform and systemic change;
 - 2.1.2 **financial counsellors** in Victoria demonstrate best practice standards when assisting people who are experiencing financial difficulty;
 - 2.1.3 **financial counselling** has a high profile as an esteemed and effective profession;
 - 2.1.4 the **financial counselling sector** has enduring and sustainable funding for effective provision of services;
 - 2.1.5 the **Association** is a viable, respected and adaptive professional organisation that is valued by members and stakeholders;

Powers

- 2.2 In addition to the **powers** conferred on the Association by the Law or this Constitution and consistent with the assigned authorities in rule 27, the Association has all such powers and may do any lawful acts as are necessary, incidental, conducive or convenient to carry out the Objects of the Association.

PART II – MEMBERSHIP

3. **MEMBERSHIP – QUALIFICATIONS, CLASSES AND CATEGORIES**

- 3.1 A person is qualified to be a Member of the Association if they qualify in a Membership category pursuant to rule 3.2 and agree to:
- 3.1.1 support and commit to the Purpose and Objects of the Association;
 - 3.1.2 be bound by and to uphold and act in a manner consistent with all the provisions of this Constitution and the Association's Board-determined governing policies pursuant to rule 27.4.

Membership classes and categories

- 3.2 The Association shall have the following **Membership classes**:
- 3.2.1 A **Voting Member** being an individual within one or more of the Member categories who in the opinion of the Board satisfies the criteria for membership prescribed by the Board from time to time in its **Membership Policy**.
 - 3.2.2 A **Non-voting Member** being an individual or organisation, not eligible to be Voting Members of the Association, within one or more of the Member categories who in the opinion of the Board satisfies the criteria for membership prescribed by the Board from time to time in its **Membership Policy**.
 - 3.2.3 Each Member agrees to
 - 3.2.3.1 the conditions pursuant to rule 3.1; and
 - 3.2.3.2 pay all requisite fees, subscriptions or levies as due pursuant to rule 9; and
 - 3.2.3.3 if they are an organisation, notify the Association in writing of the name of its **Official Representative to the Association**, who may be replaced at any time by written notice.
 - 3.2.4 The Board may at its discretion
 - 3.2.4.1 **establish** any Member class and category of the Association; and
 - 3.2.4.2 **dissolve** or amalgamate any class or category of membership. If a class or category of Voting Member is dissolved, any existing member within that class must be automatically transferred to an alternative membership class with equivalent voting rights, privileges, and obligations, ensuring no loss of core membership rights;

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- 3.2.4.3 **establish or amend a Membership Policy** that sets out the eligibility criteria and the rights, privileges and obligations of any Member class and category so established.
- 3.3 All **applications for Membership of the Association** must be in writing in a form determined by the Board pursuant to the **Membership Policy**, accompanied by the relevant fee, if any, payable under rule 9, and be **lodged** at the Association's registered address.
- 3.4 Upon receipt of the Membership application, the Board shall, without undue delay, **consider the application** by applying the process within the **Membership Policy** and determine, by ordinary resolution in its absolute discretion, whether an applicant may become a Member or not.

4. **MEMBERSHIP RIGHTS AND POWERS**

- 4.1 In addition to those **Member rights and powers** provided by this Constitution and as prescribed by the Board in the **Membership Policy**, subject to this Constitution,
 - 4.1.1 **Voting Members may:**
 - 4.1.1.1 request the **convening** of, receive **notice** regarding, **attend**, and have **speaking and voting rights** at General Meetings;
 - 4.1.1.2 **nominate eligible persons to stand as candidates for election as an Elected Director**;
 - 4.1.1.3 subject to eligibility pursuant to rule 28.2, **stand as candidates for election as an Elected Director** pursuant to rules 28.1.1, 28.2, 28.3.1 and 31;
 - 4.1.1.4 **be appointed as an Appointed Director** pursuant to rules 28.1.2 and 28.6.
 - 4.1.2 **Non-voting Members** or their representative appointed pursuant to rule 3.2.3.3 may
 - 4.1.2.1 receive **notice** of, **attend**, and have **speaking rights** at General Meetings;
 - 4.1.2.2 **be appointed as an Appointed Director** of the Association pursuant to rules 28.1.2 and 28.6.
- 4.2 Membership of the Association does not confer on a Member any right, title or interest, whether legal or equitable, in the Association's assets.

5. MEMBERSHIP - CESSATION OF

- 5.1 A Member ceases to be a Member of the Association if the Member:
- 5.1.1 **resigns** pursuant to rule 7;
 - 5.1.2 **fails to renew membership** of the Association pursuant to the **Membership Policy**;
 - 5.1.3 has their **membership terminated** pursuant to rules 13 and 14;
 - 5.1.4 **ceases to fulfil the conditions** pursuant to rules 3.1 or 9.3.2;
 - 5.1.5 **ceases to satisfy any criteria for admission to membership** of the Association prescribed by the Board in the **Membership Policy**;
 - 5.1.6 is a natural person and **dies** or is **unable to carry out their personal or financial affairs** due to mental or physical illness or disability rendering them unable to make reasonable decisions within the meaning of the *Guardianship and Administration Act 2019*;
 - 5.1.7 is an organisational entity and becomes insolvent, has **a receiver, receiver and manager, administrator, or liquidator appointed, or is wound up** or otherwise deregistered under the laws of the jurisdiction in which it is incorporated.
- 5.2 A Member shall continue to be liable for any unpaid **monies due to the Association**, if any, at the date of their cessation as a Member.

6. MEMBERSHIP - ENTITLEMENT NOT TRANSFERABLE

- 6.1 A right, privilege or obligation which a person has by reason of being a Member of the Association is not capable of being transferred or transmitted to another person or organisation unless otherwise permitted under this Constitution and shall remain solely with that person or organisation; and subject to 5.2, expires upon cessation of the Membership.

7. MEMBERSHIP - RESIGNATION OF

- 7.1 A Member of the Association may **resign** from Membership of the Association by giving notice in writing to the Secretary of the Member's decision to resign Membership. The Member shall cease to be a Member of the Association effective from the date of the receipt of the notice.

8. MEMBERSHIP - REGISTER OF

- 8.1 Pursuant to the Act, the Association shall ensure a **Members Register** of the Association is maintained which specifies the:
- 8.1.1 membership class and Member category of each Member;
 - 8.1.2 name, contact details, and address of each Member and, in the case of an organisation, the same of their nominated Official Representative;
 - 8.1.3 date each Member became a Member;
 - 8.1.4 date, if any, each Member ceased to be a Member of the Association pursuant to rule 8.5.
- 8.2 The **Members Register shall be kept at** the registered address of the Association.
- 8.3 Pursuant to the Act and subject to any relevant laws relating to privacy, a Member of the Association may apply to the Board to **inspect the Members Register** but only for a purpose directly related to the management or the purposes of the Association in accordance with this Constitution and any relevant and applicable sections of the Act or Regulations that is not improper in the opinion of the Board.
- 8.3.1 The inspection by the Member, if allowed by the Board, shall be made available, free of charge, at the registered address of the Association, or another place determined by the Board, during business hours at a mutually agreed time. The inspection may be supervised by a delegate of the Board.
 - 8.3.2 The Members Register
 - 8.3.2.1 is not to be copied by any means or taken by the Member;
 - 8.3.2.2 remains the property of the Association to be used solely for its purposes pursuant to the matters required as described in this Constitution, the Act, and Regulations.
- 8.4 If the inspection by the Member is dis-allowed by the Board pursuant to the Act, any ensuing dispute may be dealt with under an Association's dispute resolution procedure pursuant to rule 12.
- 8.5 Where a Member of the Association ceases to be a Member, the Association shall make an appropriate entry in the Members Register recording the date on which the Member ceased to be a Member and removing any other information about the person pursuant to the Act.

9. MEMBERSHIP – FEES AND SUBSCRIPTIONS

- 9.1 The Association may by ordinary resolution of the Board set the payment of any fees, subscriptions or levies by Members in the amount, on any terms and at any times as the Board resolves including the power to prescribe:

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- 9.1.1 concessional or proportionate fees, discounts, waivers or payments by instalments for a, any or all Members;
- 9.1.2 payments for one or more membership classes of Member categories for different amounts and at different times as the Board resolves;
- 9.1.3 the revocation or postponement of a fee, subscription or levy or extension of the time for payment of a fee, subscription or levy, at any time prior to the date payment of that fee is due.

Notice of Fees

- 9.2 The Association must give notice of any fees, subscriptions or levies to the Members who are required to pay them in advance of the due date for payment on such a date as determined by the Board. The notice must specify the time, place and manner of payment.
 - 9.2.1 The late delivery, non-receipt or the accidental omission to give notice of a fee, subscription or levy to any Member does not invalidate it.

Payment of Fees

- 9.3 Subject to rule 9.1, each Member must pay to the Association the amount of each fee, subscription or levy payable by the Member in the manner, by the date, and at the place specified in the notice.
 - 9.3.1 No member shall be taken to be unfinancial if payment is received within three (3) months of it falling due.
 - 9.3.2 If a Member fails to pay a fee, subscription or levy, their membership may be terminated with immediate effect and no right of appeal.

10. MEMBERSHIP – COMMUNICATION WITH THE BOARD

- 10.1 Other than matters subject to rule 12, a Member may raise any matter with the Board in relation to the direction, control and management of the affairs of the Association that the Member sees fit to raise.
- 10.2 The Member shall adhere to the procedure for raising a matter with the Board as determined and prescribed by the Board pursuant to rule 27.4.

11. MEMBERSHIP – LIABILITIES OF MEMBERS

- 11.1 **The liability of the Members is limited**, and each member undertakes to contribute to the Association's property to the amount of any unpaid monies owed by the Member pursuant to rule 9 if the Association is wound up while that person is a member or within one year after that person ceases to be a member, for:
- 11.1.1 payment of the Association's debts and liabilities contracted before that person ceased to be a Member;
 - 11.1.2 the costs, charges and expenses of winding up the Association; and
 - 11.1.3 for adjustment of the rights of the contributories among themselves.
- 11.2 For the purposes of this rule a member is a person who was a member on the Members Register when winding up was resolved.

12. MEMBERSHIP – GRIEVANCE AND DISPUTE RESOLUTION

- 12.1 The grievance and dispute resolution procedure shall be determined by the Board pursuant to rule 27.4 for dealing with any dispute between:
- 12.1.1 a member and another member; or
 - 12.1.2 a member and the Association.
- 12.2 A member may appoint any person to act on behalf of the member in the grievance procedure.
- 12.3 In applying the grievance procedure, the Board shall ensure that:
- 12.3.1 each party to the dispute has been given an opportunity to be heard on the matter which is the subject of the dispute; and
 - 12.3.2 the outcome of the dispute is determined by an unbiased decision-maker.
- 12.4 If a member has initiated a grievance procedure in respect of a dispute between the member and the Association, the Association shall not take any action pursuant to rule 13 against any of the following persons in relation to the dispute until it has been completed:
- 12.4.1 the member who initiated the grievance procedure (*the complainant member*);
 - 12.4.2 a member of the Association appointed pursuant to rule 12.2.

13. MEMBERSHIP – ADVERSE ACTION AGAINST A MEMBER

- 13.1 The Board may take adverse action against a Member in accordance with a procedure determined by the Board pursuant to rule 27.4 if, in the opinion of the Board, that Member

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- 13.1.1 has **wilfully refused or neglected to adhere to** any provision of **this Constitution or the governing policies** of the Association; or
 - 13.1.2 has wilfully acted or failed to act in any way that is liable to bring or has **brought the Association into disrepute** or is liable to be detrimental to the interests of the Association or its Objects; or
 - 13.1.3 has **failed to comply with the Association's Professional Standards** made pursuant to rule 14.1.
- 13.2 In determining the procedure for taking adverse action against a Member pursuant to rule 13, the Board must ensure that
- 13.2.1 the Member who is the subject of the action
 - 13.2.1.1 is informed of the grounds upon which the action against the member is proposed to be taken; and
 - 13.2.1.2 has been given an opportunity to be heard in relation to the matter; and
 - 13.2.2 the adjudication of the adverse action is determined by an unbiased decision-maker; and
 - 13.2.3 to the extent that doing so is compatible with rule 13.2.1 and rule 13.2.2, the action is completed as soon as is reasonably practicable; and
 - 13.2.4 the decision is appealable to an unbiased appellate decision-maker whose decision shall be final; and
 - 13.2.5 subject to this Constitution, the procedure complies with procedural fairness and natural justice.
- 13.3 Following due consideration of the matter pursuant to rule 13.2.2,
- 13.3.1 **where grounds are unproven** the decision-maker must dismiss the complaint and take no further action against the Member.
 - 13.3.2 **where grounds are proven** the decision-maker may:
 - 13.3.2.1 take no further action;
 - 13.3.2.2 counsel the Member or require the Member to undergo specified training or supervision;
 - 13.3.2.3 issue a formal warning, reprimand, or censure to the Member;
 - 13.3.2.4 suspend the Member's membership rights, or make those rights subject to specific conditions, for a specified period;

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13.3.2.5 expel the Member from the Association.

13.3.3 The Board cannot impose any form of monetary penalty on a Member who is the subject of an action or order the Member to pay any form of compensation.

13.4 A Member who is the subject of an action must not initiate a grievance in relation to the matter which is the subject of the action procedure until the action has been completed.

13.5 Nothing in rule 13 shall limit, constrain or prevent the Association's lawful right to pursue any legal action as it deems necessary or warranted.

14. MEMBERSHIP – PROFESSIONAL STANDARDS

14.1 The Board may from time to time prescribe **Professional Standards** for financial counsellor members that shall regulate professional expectations, supervision, ethical conduct, professional development, and any related matters deemed necessary to maintain the quality, standing and advancement of the profession.

PART III - GENERAL MEETINGS

15. ANNUAL GENERAL MEETINGS - HOLDING OF

- 15.1 The Association shall, at least once in each calendar year and within the period of 5 months beginning at the end of the Association's most recently ended Financial Year, convene an Annual General Meeting of its Members pursuant to the Act.
- 15.2 Rule 15.1 has effect subject to any extension and condition or permission granted under the Act.

16. ANNUAL GENERAL MEETINGS - CALLING OF AND BUSINESS AT

- 16.1 The Annual General Meeting of the Association shall, subject to the Act and to rule 15, be convened at such time and place (or places simultaneously linked by technological means) as determined by the Board.
- 16.2 **The business of an Annual General Meeting** shall be to:
 - 16.2.1 confirm the **minutes** of the last Annual General Meeting and of any Special General Meeting held since;
 - 16.2.2 receive and consider the required **statement of the Association's accounts** pursuant to the Act and a copy of the **auditor or reviewer report** (as applicable) for the accounts for the most recently ended Financial Year;
 - 16.2.3 receive and consider from the Board, pursuant to the Act, a **report** signed by the Chair of the Board stating:
 - 16.2.3.1 **the name of each Director** of the Association during the most recently ended Financial Year of the Association and, if different, at the date of the report; and
 - 16.2.3.2 **the principal activities** of the Association during the most recently ended Financial Year **and any significant change in the nature of those activities** that occurred during that Financial Year; and
 - 16.2.3.3 the **annual financial statements of the Association**-including an Income and Expenditure Statement, Balance Sheet, notes to the accounts and a signed certificate from two Directors for the most recently ended Financial Year.
 - 16.2.4 conduct the **election of Directors** pursuant to rule 31;
 - 16.2.5 the appointment of the **auditor** (if applicable);
 - 16.2.6 conduct **other special business** of which notice has been given to the Members pursuant to rule 16.3.2 and rule 23.2.

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- 16.3 The Association shall cause a **notice by advertisement** convening an Annual General Meeting to be given to eligible Members no less than fourteen **(14) days** before the date fixed for the holding of the Annual General Meeting (**or** no less than twenty-one **(21) days** if a special resolution is to be proposed at the Annual General Meeting pursuant to rule 23.2).
- 16.3.1 The notice convening an Annual General Meeting shall specify:
- 16.3.1.1 the meeting as an Annual General Meeting;
 - 16.3.1.2 the single place, date and time of the meeting (and, if the meeting is to be held in 2 or more places, the **electronic communication** that will be used to facilitate this); and
 - 16.3.1.3 the nature of the business of the Annual General Meeting proposed to be transacted at the meeting pursuant to rule 16.2.
- 16.3.2 Subject to rule 23.2, notice of a special resolution proposed pursuant to 16.2.6 will also specify:
- 16.3.2.1 the intention to propose the resolution as a special resolution; and
 - 16.3.2.2 the proposed wording of the special resolution.
- 16.4 The procedure for an Annual General Meeting shall be as set out in rule 18.
- 16.5 Copies of statements and reports pursuant to rule 16.2.2 & 16.2.3 shall be presented at and be available during the Annual General Meeting for perusal by Members.

17. SPECIAL GENERAL MEETINGS - CALLING OF

- 17.1 The **Board may**, whenever it thinks fit, **convene a Special General Meeting** of the Association.
- 17.2 The Board shall convene a Special General Meeting of the Association on the **requisition** in writing of not less than fifteen (15) Voting Members of the Association.
- 17.3 A requisition of Members for a Special General Meeting shall:
- 17.3.1 state the purpose or purposes of the meeting;
 - 17.3.2 state any resolution to be proposed at the meeting;
 - 17.3.3 be signed by each of the Members making the requisition;
 - 17.3.4 be lodged with the Association; and
 - 17.3.5 may consist of several documents in a similar form, each signed by one or more of each Member making the requisition.

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- 17.4 If the Board fails to convene a Special General Meeting within thirty (30) days after the date on which a requisition of Members for the meeting was lodged with the Association, any **of the Members** who made the requisition **may convene a Special General Meeting** to be held in conjunction with the next Annual General Meeting or otherwise not later than three months after the date on which the requisition was lodged.
- 17.4.1 The Member convening a permissible meeting pursuant to this rule 17.4 may direct the Association to send the relevant notice to Members of the Special General Meeting pursuant to rule 23.2.
- 17.5 Any Member who incurs expenses associated with the Special General Meeting convened by Members as referred to in rule 17.4 that is convened to coincide with the Annual General Meeting convened by the Board is entitled to be reimbursed by the Association for any expense so incurred.
- 17.5.1 If a Special General Meeting is convened by Members as referred to in rule 17.4 is not convened to coincide with the Annual General Meeting, the convening Members shall, subject to rule 17.5.2, be liable for all costs associated with the Special General Meeting as reasonably determined by the Board and shall be payable on the issuing of an invoice by the Board to the convening Member.
- 17.5.2 Any payments determined pursuant to rule 17.5.1 shall be nullified if the Special General Meeting passes an ordinary resolution to waive the payment by the convening Members for all costs associated with the Special General Meeting in which case it shall be met by the Association.
- 17.6 The procedure for a Special General Meeting shall be as set out in rule 18.

18. GENERAL MEETINGS - PROCEDURE AT

- 18.1 No item of business shall be transacted at a General Meeting unless a quorum is present during the time the meeting is considering that item.
- 18.2 A **quorum** for the transaction of the business of a General Meeting shall constitute twenty percent (20%) of the Voting Members entitled under this Constitution to vote at a General Meeting being present in person or by proxy.
- 18.3 If within half an hour after the appointed time for the commencement of a General Meeting a quorum is not present, the meeting if convened upon the requisition of or convening by Members shall be dissolved, and in any other case shall stand adjourned to the same day in the following week at the time and at the same place (unless another place is specified at the time of the adjournment by the person chairing the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned).
- 18.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Voting Members present at the meeting shall form the quorum and they may proceed with the business of the meeting.

19. GENERAL MEETINGS – CHAIRING OF GENERAL MEETINGS

- 19.1 The Chair of the Board shall **preside as Chair at each General Meeting** of the Association.
- 19.2 If the Chair of the Board is **absent or unwilling to act**, the Deputy Chair of the Board (if any) is to act as Chair and if there is no Deputy Chair or they are absent or unwilling to act, the Secretary shall call on the Members present to elect one of their number or a Director to act as Chair of the General Meeting.
- 19.3 A Chair of a General Meeting may, for any item of business at that meeting or for any part of that meeting, **vacate the chair** in favour of another person nominated by the Chair (**Acting Chair**).
- 19.3.1 Where an instrument of proxy appoints the Chair of a General Meeting as proxy for part of proceedings for which an Acting Chair has been nominated, the instrument of proxy is taken to be in favour of the Acting Chair for the relevant part of the proceedings.

20. GENERAL MEETINGS - ADJOURNMENT

- 20.1 The Chair of a General Meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting and reconvene it later, but no business shall be transacted at such a reconvened meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 20.2 Where a General Meeting is adjourned for 14 days or more, the Association shall give notice of the adjourned meeting to each Member of the Association (in the manner pursuant to rule 23) stating the place and time of the meeting and the nature of the business to be transacted at the meeting.
- 20.3 Except as provided in rules 20.1 and 20.2 herein, notice of an adjournment of a General Meeting or of the business to be transacted at a reconvened meeting is not required to be given.

21. GENERAL MEETINGS - MAKING OF DECISIONS

- 21.1 A question arising at a General Meeting of the Association may be decided on a **show of hands** and, unless before or on the declaration of the show of hands a poll is demanded, a declaration by the person chairing that an ordinary resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, and an entry to that effect has been entered in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- 21.2 At a General Meeting of the Association, a **poll may be demanded** by the Chair or by not less than three (3) Voting Members present in person or by proxy at the meeting. The poll shall be taken:

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- 21.2.1 immediately in the case of a poll which relates to the election of the Chair of a General Meeting or to the question of an adjournment; or
- 21.2.2 in any other case, in such manner and at such time before the close of the meeting as the Chair of a General Meeting directs, and the resolution of the poll on the matter shall be deemed to be the resolution of the meeting on that matter.
- 21.3 No resolution of a General Meeting may amend, invalidate, rescind or nullify a prior act or resolution of the Board lawfully performed.

22. GENERAL MEETINGS - VOTING

- 22.1 Upon any permissible motion put to a General Meeting, **each Voting Member shall be entitled to one (1) vote.**
 - 22.1.1 A Voting Member may cast their vote personally or by proxy as permitted by this Constitution.
- 22.2 A Voting Member or their proxy is not entitled to vote unless all money due and payable by the Voting Member to the Association pursuant to rule 9 has been paid.
- 22.3 A resolution, other than a special resolution, is deemed carried if **a majority of the votes of the Voting Members present at the meeting** are in favour of the resolution;
- 22.4 In the case of an **equality of votes** on a question at a General Meeting, the **Chair of the General Meeting** has a deliberative vote in that person's capacity as a Voting Member in respect of that resolution (if entitled to vote on the resolution) and otherwise **has an entitlement to a casting vote** on a tied resolution.

23. GENERAL MEETINGS - NOTICES

- 23.1 Except where the nature of the business proposed to be dealt with at a General Meeting requires a special resolution pursuant to rule 23.2 or in the case of an Annual General Meeting pursuant to rule 16.3.2, the Secretary shall, no less than fourteen **(14) days** before the date fixed for the holding of the General Meeting, cause a **notice to be given by advertisement** to Members specifying the single place (or, if the meeting is to be held in 2 or more places, the **electronic communication** that will be used to facilitate this) and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- 23.2 Where the nature of the business proposed to be dealt with at a General Meeting requires a special resolution, the Association shall, no less than twenty-one **(21) days** before the date fixed for the holding of the General Meeting, cause **notice to be given by advertisement** to Members specifying, in addition to the matters specified in rule 23.1, the intention to propose the resolution as a special resolution and the wording of the proposed resolution.

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- 23.3 No business other than that specified in the notice convening a General Meeting shall be transacted at the meeting except, in the case of an Annual General Meeting, business which may be transacted pursuant to rule 16.2.
- 23.4 Members consisting of not less than fifteen (15) Voting Members of the Association desiring to bring any business before a General Meeting may give notice in writing of that business to the Association, which shall be included in the next notice calling a General Meeting provided there is enough time to meet the notice requirements of this Constitution.
- 23.5 The accidental failure to give notice of a General Meeting to, or the non-receipt of notice of the General Meeting by, any person entitled to receive notice shall not invalidate proceedings of the General Meeting.

24. GENERAL MEETINGS - SPECIAL RESOLUTIONS

- 24.1 A resolution of the Association is a **special resolution** if it is a resolution relating to special business that, in order to be adopted, must have no less than **twenty-one (21) days' notice** and be passed at a General Meeting convened as required pursuant to the Act and rule 17 by not less than a $\frac{3}{4}$ (75%) majority of the total Voting Members of the Association present and voting in person or by proxy at the meeting.

25. GENERAL MEETINGS - APPOINTMENT OF PROXIES

- 25.1 A Voting Member who is entitled to attend and vote at a General Meeting of the Association may appoint **another Member** to attend and vote at that General Meeting of the Association as proxy for the Voting Member.
- 25.1.1 In respect of any one General Meeting of the Association, a Member may be appointed as proxy for any number of Members.
- 25.1.2 If the name of the proxy in a form of appointment of proxy is not filled in, the proxy of that Voting Member is the Chair of that General Meeting.
- 25.1.3 A proxy appointed in accordance with this Constitution may only exercise the rights of the Voting Member on the basis and subject to the restrictions provided in this Constitution and any directions provided by the Voting Member in the appointment of the proxy.

Receipt of appointments of proxy

- 25.2 An appointment of proxy for a General Meeting is effective only if the Association receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) not less than 24 hours before the time appointed for the meeting to commence or, in the case of an adjourned meeting, resume.
- 25.3 Any form of appointment of proxy shall be valid where it includes at least:
- 25.3.1 the Voting **Member's name and address**; and

- 25.3.2 the **name of the proxy**, or the name of the **office held by the proxy** (e.g. Chair); and
- 25.3.3 the **Association's name**; and
- 25.3.4 the **identification of and date of the meeting** at which the proxy appointment may be used; and
- 25.3.5 **voting instructions** or any other **restriction on the proxy** made pursuant to rule 25.1.3; and
- 25.3.6 the **Voting Member's signature** appointing the proxy and the date of signing.

26. GENERAL MEETINGS – CHAIRING AUTHORITIES

- 26.1 The Chair may, at their discretion where they deem necessary to **maintain a safe, respectful and effective meeting environment**, refuse to admit a person, or require them to leave and not return to a General Meeting, if the person:
 - 26.1.1 refuses to permit examination of any article in the person's possession; or
 - 26.1.2 is in possession of any electronic or recording device, placard or banner or other similar sign or other inappropriate article which the Chair considers in good faith to be dangerous, offensive or liable to cause disruption, intimidation or breach privacy provisions; or
 - 26.1.3 acts or behaves or uses abusive language in a manner unbecoming of appropriate decorum or in conflict with or disrespects for the Chair's rulings.
- 26.2 The Chair may **determine any dispute concerning the admission, validity or rejection of a vote or proxy** at the meeting.
- 26.3 The Chair may, subject to any relevant and applicable sections of the Act, at any time **terminate discussion or debate** on any matter being considered at the meeting and require that matter be put to a vote.
- 26.4 The Chair may **only allow debate or discussion on matters which is business referred to in the notice of that meeting** or business of the meeting permitted under any relevant and applicable sections of the Act not referred to in the notice of meeting.
- 26.5 Interested persons may be permitted to attend General Meetings at the discretion of the Chair but such persons have no right to speak at or otherwise participate in the meeting and must follow any directions of the Chair.
- 26.6 The Chair of a General Meeting may delegate any power conferred by this rule 26 to any person.

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- 26.7 Nothing contained in this rule 26 limits the powers conferred by the Law or the Act on the Chair of a General Meeting and any decision made in good faith by the Chair pursuant to rule 26 is final.

PART IV - THE BOARD

27. THE BOARD - POWERS OF

- 27.1 Subject to the Act, the Regulations and this Constitution, **the Board shall:**
- 27.1.1 **be responsible for the direction, control and management of the business and affairs of the Association** other than those powers and functions that are required by this Constitution to be exercised at a General Meeting of the Association; and
 - 27.1.2 have the **power to perform all such acts and do all such things** as appear to the Board to be necessary or desirable for the proper governance, administration, supervision and conduct of the business and affairs of the Association for the furtherance of the Objects of the Association.
- 27.2 Except in the case permitted by a specific delegation of authority pursuant to rule 36 or as permitted pursuant to rule 27.4, no person or committee shall make any **public statement** on behalf of the Association without prior approval or delegated authority of the Board.
- 27.3 Without limiting the general powers of the Board pursuant to rule 27.1, **the role, functions and activities of the Board** in pursuit of the Objects of the Association described at rule 2.1 include the following:
- 27.3.1 formulation of the Association's **strategic direction**;
 - 27.3.2 determination of the Association's **governing policies** pursuant to rule 27.4;
 - 27.3.3 **to appoint, work with and through, monitor, and supervise the performance of, the CEO** in relation to the day-to-day management of the operations of the Association;
 - 27.3.4 **monitoring, oversight and supervision** of the Association's strategic, organisational, regulatory and financial performance, risk and compliance management processes;
 - 27.3.5 provision of **accountability** to the Members including compliance with the ACNC governance standards.
- 27.4 The Board may establish **governing policies** that give effect to their assigned powers under this Constitution, for the achievement of the Objects, and to regulate the business of the Association. Such governing policies shall define how those with delegated powers in the Association are expected to act and behave in the conduct and exercise of their delegated powers, the performance of their assigned roles and functions, and to discharge their obligatory duties.
- 27.4.1 The Board may at any time rescind, modify, change or vary any of the governing policies and make others to replace them.

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- 27.4.2 The governing policies must not be contrary to this Constitution or the Act or the Law.
- 27.4.3 The Board shall set out its governing policies in a **Board Charter** or similar dossier which may also include standing orders to govern the conduct of any meeting of the Association.
- 27.4.4 The Members, Board, Directors, Office Bearers, officers, employees, delegated persons, committees, agents, or volunteers of the Association shall be bound by and must comply with any governing policies in force.
- 27.4.5 Any governing policies established by the Board must be made available to all persons bound to comply with them within fourteen (14) days of being made.
- 27.4.6 **Election Regulations** shall be determined by the Board and shall be deemed as governing policies for the purposes of this rule 27.4. Any amendments, deletions or additions made to the Election Regulations shall not take effect until two (2) months after their adoption.

28. THE BOARD - COMPOSITION AND MEMBERSHIP

Board composition

- 28.1 The governing authority of the Association shall be vested in the **Board** which shall be **the governing body** of the Association whose members shall consist of **not less than six (6) Directors and not more than eleven (11) Directors**.

Elected Directors

- 28.1.1 There shall be **not less than six (6) Elected Directors and not more than eight (8) Elected Directors** who shall, pursuant to eligibility requirements of the Law and rule 28.2, be either

28.1.1.1 **elected by Members of the Association** to the position of **Elected Director** at the Annual General Meeting of the Association pursuant to rules 16.2.4, 27.4.6 and 31, to take office at the conclusion of the Annual General Meeting at which the declaration of the results of that election is made; or

28.1.1.2 **appointed as a casual vacancy by the Board** pursuant to rule 28.6;

Appointed Directors

- 28.1.2 The Board may appoint up to **three (3) Appointed Directors**, by resolution of not less than a $\frac{3}{4}$ (75%) majority of the total number of Elected Directors of the Board, to enhance the mix of desired governance skills on the Board pursuant to rule 28.1.6.

Director status, responsibilities and skills

- 28.1.3 All Directors, whether elected by Members or appointed by the Board, possess equal legal rights, including the entitlement to one deliberative vote each on any matter before the Board.

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28.1.4 Each Director must individually discharge their legal and fiduciary duties to the Association in accordance with applicable law.

28.1.5 All Directors are jointly and severally responsible and accountable for the decisions, acts and omissions of the Board.

28.1.6 The Board may, when seeking nominations for Directors and to help guide and inform prospective Director candidates as to the competencies expected of the role, recommend certain **governance skills and attributes** they deem would be commensurate with those expected of a person to:

28.1.6.1 adequately govern an entity of similar size and complexity as that of the Association; and

28.1.6.2 exercise the relevant statutory and fiduciary duties and responsibilities of a Director pursuant to the Law;

Director eligibility

28.2 Persons

28.2.1 nominating as **Elected Directors** or being appointed as a **casual vacancy** pursuant to rule 28.6 must be a financial Voting Member of the Association prior to their election or appointment;

28.2.2 appointed as an **Appointed Director** may be either a member, an Official Representative of a member or be another person who may not have any current membership or other relationship or connection with the Association and shall agree to the conditions pursuant to rule 3.1;

28.2.3 **employed** by the Association are ineligible to be a Director.

Director terms and tenure

28.3 Each

28.3.1 **Elected Director** serves a three-year term, retiring at the third Annual General Meeting after their election. Subject to rule 28.2.1, a director may nominate for re-election pursuant to rule 31 for no more than two additional terms, and

28.3.1.1 after serving three consecutive terms, the Director may nominate again pursuant to rule 31 only after a three-year break. If elected, they again become subject to the tenure provisions of rule 28.3.1.

28.3.1.2 ceases to be a Director by virtue of any relevant **cessation** conditions of rule 28.4.

28.3.2 A Director appointed as a **casual vacancy** shall hold office until the first Annual General Meeting of the Association following their appointment, at which time they must retire but may, subject to rule 28.2.1, nominate for

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election pursuant to rule 31 and, if elected, become subject to the tenure provisions of rule 28.3.1;

- 28.3.3 An **Appointed Director** serves a three-year term, retiring at the end of the third year after their appointment. Subject to Rule 28.2.2, a person may be re-appointed pursuant to rule 28.1.2 for no more than two additional terms, and they cease to be a Director:

28.3.3.1 after serving three consecutive terms; or

28.3.3.2 by virtue of any relevant **cessation** conditions of rule 28.4.

- 28.3.4 A Director may, on application to the Board, be granted **leave of absence** from the Board for extenuating circumstances and for specified periods provided that no term of leave shall exceed four (4) consecutive months with cumulative terms of leave in any term not exceeding eight (8) months, nor extend beyond their designated Director term. As Director leave of absence is **not a formal casual vacancy**, the Director cannot be replaced during the term of the leave of absence. A Director's leave of absence period is counted as part of the tenure requirements pursuant to this rule 28.3.

Directorship cessation or vacation of office events

- 28.4 In addition to any circumstances prescribed by the Act or this Constitution, a Director vacates their Director office on the Board when the Director:

- 28.4.1 **retires** as a Director pursuant to the requirements of rule 28.3 and is not re-elected or appointed for a further term;

- 28.4.2 **resigns** the office of Director before their term expires pursuant to rule 28.3 by notice in writing given to the Secretary;

- 28.4.3 is **absent without the approval of the Board** from three (3) consecutive meetings of the Board and the Board pass an ordinary resolution to effect the vacation of office;

- 28.4.4 is **removed from office**

- 28.4.4.1 if elected as an Elected Director pursuant to rule 28.1.1, **by the Members** pursuant to rule 32;

- 28.4.4.2 if appointed as an Appointed Director pursuant to rule 28.1.2, **by the Board** at any time by resolution of not less than a $\frac{3}{4}$ (75%) majority of the total number of Elected Directors of the Board.

- 28.4.5 if elected as an Elected Director pursuant to rule 28.1.1, **ceases to be a Member** of the Association;

- 28.4.6 **becomes bankrupt or insolvent under administration** as defined in the *Interpretation of Legislation Act 1984* or makes arrangement or composition with their creditors generally;

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28.4.7 is **disqualified from managing corporations** under the Law;

28.4.8 is **convicted on indictment of an offence** in the promotion, formation or management of a body corporate or involving fraud, dishonesty or other legal wrongdoing or misconduct conviction;

28.4.9 is **prohibited by the Act or the Law** from holding office or continuing as a Director;

28.4.10 **becomes a paid employee of the Association** or any of its associated bodies corporate, affiliates or companies or body corporate under the auspice of the Association;

28.4.11 becomes a person who is **unable to carry out their Director responsibilities** due to mental or physical illness or disability rendering them unable to make reasonable decisions within the meaning of the *Guardianship and Administration Act 2019*;

28.4.12 **dies**.

28.5 A Director vacating office pursuant to rules 28.4 shall be responsible for ensuring all documents in their possession belonging to the Association are delivered to the Association within 14 days after vacating office.

Casual vacancy

28.6 In the event of a casual vacancy occurring among the Elected Directors pursuant to rule 28.4, rule 31.4 or rule 32, **the Board may**, subject to the eligibility requirements of rule 28.2.1, **appoint a suitable person to fill the vacancy**.

Director proxy, alternate, substitute or deputy

28.7 A Director shall not be entitled to appoint another Director as their proxy nor be entitled to appoint any person as an alternate, substitute or deputy to act as a Director in their place.

Director Duties

28.8 Directors are expected to understand and comply with the provisions of the Law, the Act, the ACNC Act and ACNC Regulation, this Constitution and the governing policies of the Association and to adhere to all common law fiduciary duties owed to the Association.

Director's Interest

28.9 A Director must give the other Directors notice of any actual, potential or perceived conflict of interest on any matter arising in relation to the Association and give details of the nature and extent of the interest; and the relation of the interest to the affairs of the Association; and be given at a Board meeting as soon as practicable after the Director becomes aware of their interest in the matter.

28.10 For clarity, a conflict of interest has the same definition in this Constitution as that provided in the ACNC Act and Regulation (or any subsequent Commonwealth Corporations Law) and shall be interpreted consistent with legal interpretations applied to the ACNC Act and Regulation;

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28.11 The Director does not need to give notice of an interest if:

28.11.1 it arises because the Director is a Member of the Association and is held in common with the other Members of the Association;

28.11.2 it arises in relation to the director's remuneration as a director of the Association;

28.11.3 it relates to a contract that insures, or would insure, the director against liabilities the director incurs as an officer of the Association;

28.11.4 the Director has given a standing notice of the nature and extent of the interest, and the notice is still effective in relation to the interest.

28.12 Once a conflict has been declared, the Directors who do not have a material personal interest in the matter shall determine the nature and severity of the conflict and apply management of the conflict in their best discretion, and shall pass an ordinary resolution that either the Director may or may not

28.12.1 receive any further material relevant to the matter; or

28.12.2 be present during discussion of the matter; or

28.12.3 vote on the matter.

28.13 If the resolution pursuant to 28.12 permits the Director to receive material, be present, or vote on the matter, it shall identify the Director, the nature and extent of the Director's interest in the matter, its relation to the affairs of the Association, and state that the remaining Directors are satisfied that the interest should not disqualify the Director from receiving material, being present, or voting.

28.14 **The details of any conflict** that is declared and the Board's decision in relation to the declaration **shall be recorded in the minutes** of the meeting and the declaration registered in the Association's 'Declaration of Interest Register'.

28.15 If a **director fails to declare an actual, potential or perceived conflict of interest**, any other Director who is aware of the interest may formally raise it at a Board meeting. The relevant Director may speak to the matter, and the Board shall then consider the matter in the same manner as any other conflict of interest.

29. THE BOARD - MEETINGS AND QUORUM

Number, convening, means of, and attendance at Board meetings

29.1 **The Board shall meet** as often as necessary to properly discharge its duties pursuant to rule 28.8 but **at least once every three (3) months**.

29.1.1 **Additional meetings** of the Board **may be convened** pursuant to rule 29.3 as deemed necessary **by the Chair, or otherwise by any three Directors**, and conducted subject to the quorum requirements of rules 29.5, 29.6 and 29.7.

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29.1.2 Directors may participate in meetings in person or via any technology approved by the Board that allows all participants to communicate clearly and simultaneously with one another.

29.2 Other than Board members, attendance at Board Meetings is at the Board's absolute discretion.

Notice of meetings

29.3 Written **notice of a meeting of the Board** shall be given to each Director within 7 days, or such period as may be unanimously agreed upon by the Directors, before the time appointed for the holding of the meeting.

29.4 The Chair may call a meeting at **shorter notice** to deal with an urgent matter. Any such meeting shall be conducted subject to the quorum requirements of rules 29.5, 29.6 and 29.7.

Quorum

29.5 The quorum for a Board meeting is **five (5) Directors, including at least three (3) Elected Directors**. A quorum for a Board meeting must be present at all times during the meeting.

29.6 No resolution shall be passed, or business transacted by the Board, unless a quorum is present.

29.6.1 If within half an hour of the time appointed for the meeting a quorum is not present the meeting stands adjourned to the same place and at the same hour of the same day in the following week.

29.6.2 Subject to rule 29.7, if at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting shall be dissolved.

29.7 If the Director's number is reduced below the number fixed as the necessary quorum of the Board pursuant to rule 29.5, the continuing Directors may only act for the following purposes but for no other purpose:

29.7.1 increasing the number of Directors by filling casual vacancies or appointing Appointed Director vacancies pursuant to rule 28.6 or 28.1.2; or

29.7.2 convening a General Meeting of the Association pursuant to rule 17.1 for the purpose of the election of additional Directors until the number of Directors is made up to at least the minimum number required pursuant to rule 28.1.

Chairing Board Meetings

29.8 At meetings of the Board:

29.8.1 the **Chair shall preside**; or

29.8.2 if the Chair is **absent or unwilling to act**, the Deputy Chair, shall act as the Chair. If there is no Deputy Chair or if the Deputy Chair is absent or unwilling

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to act, one of the remaining members of the Board may be chosen by the Directors present at the to act as Chair of the Board meeting.

- 29.8.3 A Chair of a Board meeting may, for any item of business at that meeting or for any part of that meeting, **vacate the chair** in favour of another Director nominated by the Chair to be the **Acting Chair**.

Minutes

- 29.9 The Board must cause minutes to be made of all meetings of the Board which shall include:

29.9.1 the names of any person present at the meeting including the capacity in which they were there;

29.9.2 all relevant matters noted or disclosed, and any resolutions passed at the meeting.

- 29.10 Minutes of proceedings at a meeting shall be signed by the Chair of the Board meeting or by the Chair of the next succeeding Board meeting following Board approval of said minutes. Board minutes may not be altered once they have been formally approved by the Board.

- 29.11 The Association must keep all registers, including minutes, required by this Constitution and the Law pursuant to rule 46.

30. THE BOARD - VOTING AND DECISIONS

Voting

- 30.1 Subject to rule 30.1.2 and 30.2, resolutions arising at a meeting of and put to the Board shall be **determined by a majority of the votes of the Directors present at the meeting**, with every vote being equal.

30.1.1 A resolution made pursuant to rule 30.1 and 30.1.2 constitutes an official decision of the Board. The resolution binds all Directors, and all Directors are jointly and severally responsible for the decision.

- 30.1.2 A resolution pursuant to the following rules requires not less than a $\frac{3}{4}$ (75%) majority rounded up to the nearest whole number:
- 28.1.2 (appointing an Appointed Director);
 - 28.4.4.2 (removing an Appointed Director);
 - 30.4 (passing a written resolution);
 - 32.3 (suspending a Director); and
 - 33.5.1 (no confidence vote in Chair).

- 30.2 In the event of **an equality of votes** on an ordinary resolution made at a meeting pursuant to rule 30.1, **the Chair** at that meeting **has a casting vote**.

The Board may act notwithstanding any vacancy

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- 30.3 Subject to a quorum being achieved pursuant to rule 29.5, the Board may act notwithstanding any vacancy on the Board.

Written resolutions

- 30.4 A resolution in writing with clear written voting intention of **not less than a ¾ (75%) majority of the total number of Directors of the Board** shall be as valid and effectual as if passed at a meeting of the Board duly convened and held.
- 30.4.1 The resolution is deemed carried at the date on which the last Director votes in favour of the resolution by the required margin. Any such resolution may consist of several documents in like form each agreed by one or more Directors. The approved resolution shall be entered in the minutes of the next meeting of the Board pursuant to rule 29.9.
- 30.4.2 If the resolution fails by the required margin pursuant to rule 30.4, a meeting may be called pursuant to rule 29.1.1 to discuss the matter.

Validity of Acts of the Board

- 30.5 Any act or thing done or suffered, or purporting to have been done or suffered, by the Board, is valid and effectual notwithstanding any defect that may afterwards be discovered in the nomination, election, appointment or eligibility qualification of any Director.

31. PROCEDURE FOR AND ELECTION OF ELECTED DIRECTORS

- 31.1 Subject to the Election Regulations, **nominations of Elected Director candidates for election to the Board** pursuant to rules 28.1.1 shall:
- 31.1.1 be called by giving written **notice** to all eligible Members not less than eight (8) weeks prior to the scheduled election date. The period for submitting nominations shall remain open for a period of not less than fourteen (14) days following the date of such notice; and
- 31.1.2 be made in writing on **the nomination form** as determined by the Board from time to time; and
- 31.1.3 be endorsed and **signed by two other Members** of the Association who personally know and can vouch for the prerequisite eligibility, qualification, character and competence of the candidate; and
- 31.1.4 be accompanied by the **written consent** of the candidate; and
- 31.1.5 include a **supporting statement** outlining their skills and attributes against any Board recommended governance competencies pursuant to rule 28.1.6 that shall be circulated to all Voting members; and
- 31.1.6 be **lodged** with the Association not fewer than five (5) weeks prior to the date fixed for the holding of the election.
- 31.2 Regardless of whether the number of nominations is less than, equal to, or greater than the number of vacancies available, **a ballot of Members must be held to elect**

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Directors in accordance with the Election Regulations.

- 31.3 To be elected to the Board, a candidate must receive a majority vote from the Members present and voting at the Annual General Meeting from the ballot held pursuant to rule 31.2. Candidates who do not achieve a majority vote will not be appointed, even if vacancies remain unfilled.
- 31.4 If any Board positions remain vacant after the ballot process pursuant to rule 31.2 is complete, the Board may fill those positions as casual vacancies under rule 28.6.

32. DIRECTORS – REMOVAL OF

- 32.1 The office of a Director is automatically vacated upon the occurrence of any cessation event pursuant to rule 28.4.
- 32.2 The **Voting Members may by ordinary resolution in a General Meeting remove an Elected Director** from office before the end of their term of office at any time and any resulting vacancy of an Elected Director shall be treated as a casual vacancy pursuant to rule 28.6. A resolution of the Association under this rule 32.2 is of no effect unless:
 - 32.2.1 the motion names the Director or Directors of the Board subject of the motion;
 - 32.2.2 the motion is signed by not less than fifteen (15) Voting Members of the Association;
 - 32.2.3 notice of the General Meeting is provided pursuant to the requirements of this Constitution to Members of the Association, and to the Director affected by the proposed resolution;
 - 32.2.4 the Director affected by the proposed resolution is provided with an adequate opportunity to speak against the motion and to participate in debate concerning it; and
 - 32.2.5 no less than a quorum of Members pursuant to rule 18.2 is present in person or by proxy when the motion is voted on.
- 32.3 **The Board may** by resolution of not less than a $\frac{3}{4}$ (75%) majority of the total number of Directors of the Board **suspend an Elected Director** if the Board determines there are reasonable grounds that the Elected Director has breached the Act, is in persistent breach of this Constitution or the governing policies of the Association, or has engaged in conduct that is seriously prejudicial to the interests of the Association.
 - 32.3.1 If the Board resolves to suspend an Elected Director pursuant to rule 32.3, the affected Director's rights, duties and powers as a Director, including the right to receive notice of Board meetings, attend Board meetings (except as permitted under rule 32.3.1.2) and vote on Board resolutions are immediately suspended until the matter is finally determined under rule 32.3.3, and the Board shall immediately issue a written "Notice to Show

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Cause” to the affected Director, outlining the grounds for the suspension and inviting them to show cause why they should not be removed from office.

32.3.1.1 The affected Director has twenty-one (21) days from the date of the Notice to Show Cause to submit a response to the Board by:

- A. providing a written statement; and/or
- B. requesting to personally address the Board at a meeting.

32.3.1.2 Within fourteen (14) days of receiving the Director's response, or upon the expiry of the 21-day period if no response is received, the Board must convene a meeting to review the matter. If the Director has requested to personally address the Board, the Board must give them at least seven (7) days' written notice of the time and place of this meeting. Following this review or hearing, the Board must resolve to either:

- A. reinstate the Director immediately; or
- B. proceed with the removal process under Rule 32.3.2.

32.3.2 If the Board resolves to proceed with removal under rule 32.3.1.2.B, the Board must, within twenty-eight (28) days of making that specific resolution, convene a Special General Meeting in accordance with rule 17. The notice of meeting must include an ordinary resolution to remove the Director and at the Special General Meeting:

32.3.2.1 the Board and the suspended Director, or their appointed representative,) must be given a reasonable opportunity to state their respective cases orally, in writing, or both; and

32.3.2.2 subject to the quorum requirements in rule 18.2, the Voting Members present must vote by secret ballot on whether the ordinary resolution to remove the Director should be passed.

32.3.3 The outcome of the ordinary resolution at the Special General Meeting takes effect immediately:

32.3.3.1 if the resolution is passed, the Director is removed from office, and the resulting vacancy will be treated as a casual vacancy under rule 28.6; or

32.3.3.2 If the resolution fails to pass, the Director's suspension ends, and they are immediately reinstated to office.

33. OFFICE BEARERS OF THE BOARD

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- 33.1 The **Chair** shall be elected annually from among the Directors by ordinary resolution of the Board in such manner as the Board may determine and such election shall be held at the first Board meeting following each Annual General Meeting of the Association.
- 33.2 The **Deputy Chair** may be elected at the Board's discretion annually from among the Directors by ordinary resolution of the Board in such manner as the Board may determine and such elections shall be held at the first Board meeting following each annual General Meeting of the Association.
- 33.3 A Director who was Office Bearer in the previous year may be re-elected to the same or another Office Bearer position as previously held although a person may not be an Office Bearer for the period exceeding the tenure of their directorship.
- 33.4 In the event of a casual vacancy in a position of:
- 33.4.1 the **Chair**, the Board shall elect from among the remaining Directors a person to fill the vacancy until the conclusion of the first Board meeting following the next Annual General Meeting of the Association.
- 33.4.2 the **Deputy Chair**, the Board may at its discretion elect from among the remaining Directors a person to fill the vacancy until the conclusion of the next Annual General Meeting of the Association.
- 33.5 A person shall cease to be an Office Bearer if that person ceases to be a Director pursuant to rule 28.4 or resigns as an Office Bearer or otherwise in the case of the:
- 33.5.1 **Chair**, the Board, by resolution of not less than a $\frac{3}{4}$ (75%) majority of the total number of Directors, pass a **vote of no confidence** in them as Chair, in which case the person may remain as a Director but must vacate the Chair position.
- 33.5.2 **Deputy Chair**, the Board, by ordinary resolution at any time, may determine that the Director shall vacate the Deputy Chair position.
- 33.6 The Board may appoint any Director to an additional office bearer position for a period and purpose determined by the Board.

34. THE CHAIR

Presiding at meetings

- 34.1 Subject to rules 19.2, 19.3, 29.8.2 and 29.8.3, **the Chair is to preside as Chair at each General Meeting and Board Meeting.**
- 34.2 The **Chair** shall be responsible to the Board to ensure that appropriate protocols and confidentiality apply in all Board activities related to the governance of the Association according to any provisions of this Constitution and any governing policy pursuant to rule 27.4 or any delegation pursuant to rule 36.1.3 the Board may determine.

Spokesperson for the Association

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- 34.3 The **Chair shall represent and be the spokesperson for the Association on behalf of the Board** to the Members of the Association and in external public contexts in relation to governance matters of the Association.

34.3.1 In all other matters, the Board shall, by governing policy pursuant to rule 27.4 or by delegation pursuant to rule 36, determine who, if not the Chair, shall be the representative and spokesperson for the Association subject to any terms and restrictions as determined by the Board.

35. THE DEPUTY CHAIR

- 35.1 In addition to their specific duties pursuant to rules 19.2 and 29.8.2, the Deputy Chair, if appointed, is responsible to the Board for any delegated powers or functions and shall comply with the Board's governing policies determined pursuant to rule 27.4.

36. DELEGATION

- 36.1 The Board may delegate by ordinary resolution any of its powers or functions to the following groups or persons that are deemed by the Board to be reliable and competent to exercise that power or function:
- 36.1.1 a **committee**;
 - 36.1.2 a **Director**;
 - 36.1.3 an **Officer Bearer**;
 - 36.1.4 an **employee** of the Association; or
 - 36.1.5 **any other person** or group.
- 36.2 The Board cannot delegate its ultimate governance authority, its own power to issue instruments of delegation, or any duty that the Act or Law specifically requires of the Board.
- 36.3 A delegation shall be subject to any conditions or limitations the Board specifies and may be made for any period. Subject to any such limitations and clause 36.2, the Board may explicitly authorise a delegate to further sub-delegate specified operational powers to other employees of the Association.
- 36.4 Any delegate must **report** to the Board on the exercise of their powers in the format, frequency, and manner required by the Board.
- 36.5 The Board may **revoke a delegation** at any time in writing. A delegation does not prevent the Board from exercising the delegated power itself.
- 36.6 Any act done by a delegate within the scope of their delegation has the same legal force and effect as if done by the Board.

37. SECRETARY

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- 37.1 The Board shall appoint a person to fulfil the function of a **Secretary of the Association** (who may be either a Director, an employee, a Member or any other person) annually by ordinary resolution of the Board at the first Board meeting following each annual General Meeting of the Association in such manner as the Board may determine.
- 37.2 The Secretary must be at least 18 years of age and must reside in Australia and shall, not later than 1 month after being appointed, lodge written notice to the Registrar of their appointment and address on the approved form.
- 37.3 **The Secretary shall be responsible for** undertaking and fulfilling any functions pursuant to the terms of the delegation as determined by the Board, as well as
- 37.3.1 acting as **the official contact for the Association**, including receiving legal notices, information or changes to legislation or procedures from the relevant regulatory authorities and taking delivery of documents served on the Association and bringing them to the attention of the Board as soon as possible.
- 37.3.2 **lodging of reporting obligations for incorporated associations** as required by the Act, the Regulations, or ACNC Act, including an annual information statement and notifications of change of Directors, Association name, registered address and any Constitutional rules, with any prescribed fee, with the relevant regulatory authority as applicable.
- 37.3.3 acting as the registered **office holder for the purposes of any relevant tax law obligations** if the Association carries on business or earns income from property, and must advise the ATO of the officer's name and contact address within 28 days of appointment.
- 37.3.4 **maintenance and custody of any registers and documents** as required by the Act, the Regulations, the ACNC Act, or this Constitution.
- 37.3.5 keeping **minutes** of elections, appointments of Directors and Office Bearers and proceedings of all Board meetings and General Meetings including the names of:
- 37.3.5.1 persons present at all Board meetings; and
- 37.3.5.2 persons present at all General Meetings.
- 37.4 **The Secretary may**, subject to any other direction of the Board, **delegate some or all of the above duties to another person** from time-to-time but that power or function may not be further delegated.

38 CHIEF EXECUTIVE OFFICER

- 38.1 The Board may appoint a person to fulfil the function of a CEO.

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- 38.1.1 The CEO shall be subject to the **terms and conditions** as determined by the Board and, subject to any agreement or contract of employment between the Association and the CEO, the Board may vary or terminate the agreement or contract of employment of a CEO at any time, with or without cause, with due regard to the Law.
- 38.1.2 The Board may, subject to this Constitution, determine, revoke or vary any of the **functions, responsibilities, powers, and authorities** of the CEO.
- 38.1.3 The CEO may, subject to any other direction of the Board, further delegate any specified functions, responsibilities, powers, and authorities to other employees of the Association.
- 38.1.4 The CEO must exercise the powers delegated to them in accordance with any **directions** of the Board pursuant to rule 36.

39. STANDING COMMITTEES OF THE BOARD

- 39.1 The Board shall establish and maintain the following permanent standing committees to assist the Board in fulfilling its governance responsibilities:
 - 39.1.1 **Performance and Remuneration Committee;**
 - 39.1.2 **Professional Standards Committee;** and
 - 39.1.3 **Finance, Audit, and Risk Committee.**
- 39.2 The Board shall determine the terms of reference for each standing committee by way of governing policy pursuant to rule 27.4.
- 39.3 The Board shall appoint a suitably qualified person to act as the Chair of each standing committee who may be a Director, or any other person, who possesses the relevant professional qualifications, skills, or experience necessary to guide the fulfilment of the committee's mandate.
- 39.4 All standing committees established under this rule remain bound by the delegation conditions and reporting requirements pursuant to rules 36.3 and 36.4.

PART V – MISCELLANEOUS

40. FUNDS - USE

- 40.1 The funds, revenue, income, property and assets of the Association shall be used solely in pursuit of the Purpose and Objects of the Association pursuant with rules 1.3, 1.11 to 1.14 and 2.1 in such manner as the Board determines.

41. FUNDS - SOURCE

- 41.1 The funds, revenue and income of the Association shall be derived from such revenue raising, service provision, government contracting, sponsorship, donations, grants, bequests or financing activities or any other sources as the Board determines pursuant to the powers of the Association in rule 2.2.

42. FUNDS - MANAGEMENT

- 42.1 All **money received** by the Association must be deposited into the Association's bank account as soon as possible and without deduction.
- 42.2 All **payments made** by the Association must be authorised in accordance with Board policies and rule 42.4.
- 42.3 The Association must promptly record the full details of every receipt and expenditure.

Authorising payments

- 42.4 All payments, financial transactions, and transferable instruments made by the Association must be specifically authorised by one or more persons approved by the Board and the authorisation must comply with:
- 42.4.1 any specific powers outlined in an instrument of delegation;
- 42.4.2 the directives of the Board; or
- 42.4.3 the Association's governing policies established under rule 27.4.
- 42.5 Nothing in this rule prevents the use of a Board-approved petty cash system provided all other rules in this Constitution are met.

Financial and Accounting Records

- 42.6 The Board must maintain accurate written financial and accounting records that clearly record and explain the Association's transactions, assets, liabilities, and financial position. These records must be managed so that:
- 42.6.1 true and fair financial accounts can be prepared;
- 42.6.2 financial statements can be conveniently audited or reviewed as required;
and

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- 42.6.3 all accounting records are securely retained for at least seven (7) years after the transaction is completed.

43. AUDITOR / REVIEWER

- 43.1 If required under the Act or the ACNC Act, an Auditor or Reviewer shall be appointed by an **ordinary resolution of the Members** at a General Meeting to audit or review the Association's financial records annually.
- 43.2 Within five (5) months after the end of each Financial Year, the Auditor or Reviewer must examine the Association's records and provide a report that meets all compliance requirements outlined in rule 43.3.
- 43.3 The Auditor or Reviewer's report shall explicitly state whether the Association has maintained the financial records necessary to prepare financial statements under the Australian Accounting Standards, and whether those statements give a true and fair view of the Association's financial position under the Act and the ACNC Act, as applicable.

44. ALTERATION OF CONSTITUTION

- 44.1 This Constitution may be altered, amended, rescinded, or added to only by a special resolution passed at a General Meeting and pursuant to provisions of the Act.
- 44.2 The Secretary shall, pursuant to rule 37.3.2, ensure that, once passed at a General Meeting, amendments to the Constitution are lodged with the relevant regulatory authorities and are compliant with the regulatory process.
- 44.3 No amendment to the Constitution shall have any effect until lodged with the relevant regulatory authorities.
- 44.4 This **Constitution** and any amendments passed pursuant to rule 44.1 **must be made available for all Members to access** within fourteen (14) days of lodgement with the relevant regulatory authorities pursuant to rule 44.3.
- 44.5 Notwithstanding anything in this Constitution, the Board shall have the power to amend the Constitution in accordance with a direction by the Registrar under any relevant legislation without the need to pass a special resolution at a General Meeting. Members must be advised of any change to the Constitution made under this provision within twenty-eight (28) days of the change being made.

45. COMMON SEAL AND EXECUTION OF DOCUMENTS (INCLUDING DEEDS)

- 45.1 Pursuant to the Act, the Association may have a **common seal**. However, an instrument, document or proceeding requiring authentication by the Association need not be authenticated under the common seal, if any, of the Association.
- 45.2 **The Association may execute any instrument, document or proceeding** requiring authentication with the authority of the Board either **under the common seal or without using a common seal** pursuant to the Act provided

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the dealing or deed is signed and attested by the Board-authorised signatures of either:

- 45.2.1 the **Secretary** of the Association; or
 - 45.2.2 the **Secretary and one (1) Director** of the Association; or
 - 45.2.3 **two (2) Directors** of the Association;
 - 45.2.4 two (2) Directors empowering a person or persons as its **agent or attorney**, either generally or in respect of a specified matter or specified matters, as its agent or attorney to execute deeds on its behalf and a deed so signed by the agent or attorney on behalf of the association binds the Association.
- 45.3 The common seal, if any, shall remain in the custody of the Secretary for that purpose pursuant to rule 46.

46. CUSTODY OF BOOKS

- 46.1 Except as otherwise provided by the Act, the Regulations and this Constitution the Secretary shall keep in their custody or under their control all records, books and other documents relating to the Association as directed by the Board pursuant to rule 27.4.
- 46.2 The Board may, by instrument in writing, delegate the duty of the custody and control of all or any records, books and other documents relating to the Association under this rule to another person pursuant to rule 36.

47. INSPECTION OF BOOKS BY MEMBERS.

- 47.1 Subject to rule 47.2, a Member may inspect the Association's rules, minutes of general meetings, the register of members, and annual financial statements free of charge at a reasonable time and place.
- 47.2 The Board may refuse to permit a Member to inspect or copy Association's rules, minutes of general meetings, the register of members, and annual financial statements if the Board reasonably determines the information relates to:
 - 47.2.1 confidential personal, employment, or personnel files;
 - 47.2.2 current or prospective litigation, legal advice, or legally privileged materials;
 - 47.2.3 commercial-in-confidence agreements, trade secrets, or negotiation strategies;
 - 47.2.4 information protected under the Privacy Act 1988 (Cth); or
 - 47.2.5 matters where disclosure would be prejudicial to the legitimate interests of the Association.

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- 47.3 A Member must give the Association at least five (5) business days' written notice to request an inspection. The inspection must be supervised by a Board delegate at a mutually convenient time.
- 47.4 A Member may request a physical or electronic copy of the documents listed in rule 47.1. The Board may charge a reasonable administrative fee for preparing and providing these copies, as determined by the Board from time to time.
- 47.5 A Member must only use or distribute information obtained via an inspection for a proper purpose directly related to the management, administration, or legitimate interests of the Association. Under no circumstances may this information be used for commercial purposes or to cross-compile marketing lists.

48. NOTICES - SERVICE OF

- 48.1 For the purpose of and subject to this Constitution, a notice may be served by or on behalf of the Association upon any Member of the Association by **advertisement**.
- 48.2 A document sent to a person by electronic mail transmission is deemed served at the time it is sent.

49. INDEMNITY AND INSURANCE

- 49.1 For the purpose of this rule, an **Officer** means any current or former Director, office bearer, employee, delegate, committee member, or agent of the Association.
- 49.2 To the extent permitted by law, the Association may **indemnify** each Officer out of the Association's property against any liability incurred in the good faith performance of their duties. This indemnity does not apply to liability arising from negligence, default, dishonesty, or a wilful breach of trust or duty
- 49.3 The Association may indemnify an Officer for reasonable legal costs incurred in defending civil or criminal proceedings related to their role, provided that:
 - 49.3.1 judgment is given in the Officer's favour;
 - 49.3.2 the Officer is acquitted; or
 - 49.3.3 a Court grants the Officer relief under the law.
- 49.4 Any indemnity provided under this rule:
 - 49.4.1 is a continuing obligation that remains enforceable after the person ceases to be an Officer;
 - 49.4.2 applies to liabilities and costs incurred both before and after this rule takes effect; and
 - 49.4.3 can be advanced as a payment for legal costs before any final judgment, subject to any terms or repayment conditions the Board determines

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- 49.5 To the extent permitted by law, the Association may purchase and maintain **insurance** (Directors and Officers insurance) for any Officer against liabilities or legal costs incurred in their role. Any premium paid by the Association is not considered part of an Officer's remuneration.
- 49.6 The Association may enter into a formal deed or agreement with any Officer to give effect to these rights, including securing their ongoing access to Association books and records for legal defence purposes.

50. DISSOLUTION (WINDING UP)

- 50.1 The Association may be dissolved upon the passing of a special resolution at a General Meeting convened for the purpose, and pursuant to the Act.
- 50.2 In the event of the Association being dissolved, any other surplus property of the Association that remains following the winding up, will **not** be paid to or distributed among the Members of the Association, but may be vested in another organisation or organisations determined by ordinary resolution at a General Meeting at or before the time of dissolution or in default thereof by the relevant Court of Victoria so long as the recipient organisation:
- 50.2.1 has its Purpose and Objects that are substantially similar to the Association;
 - 50.2.2 does not operate for the purpose of trading or securing pecuniary gain for its Members;
 - 50.2.3 has provision in its rules requiring its surplus property to be passed to a similar organisation on dissolution or winding up;
 - 50.2.4 is an incorporated entity registered with the ACNC.

51. DEFINITIONS AND INTERPRETATION

51.1 Definitions

In this Constitution, unless the context or subject matter otherwise indicates or requires:

"ACNC" means the *Australian Charities and Not-for-profits Commission*;

"ACNC Act" means the *Australian Charities and Not-for-profits Commission Act 2012* as enacted and amended by the Commonwealth of Australia and the States and Territories of Australia as it applies to the Association for the time being;

"ACNC Regulation" means the *Australian Charities and Not-for-profits Commission Regulation 2013* as enacted and amended by the Commonwealth of Australia and the States and Territories of Australia as it applies to the Association for the time being;

"the Act" means the *Associations Incorporation Reform Act 2012 (VIC)*.

This Constitution shall comply with the prescribed matters specified in the relevant sections of the Act and such matters as may be prescribed. In a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision applies.

"Section" means a section of the Act.

"advertisement" means, in relation to causing a notice to be given to Members by:

- (a) the placement of a notice on the *"Financial Counselling Victoria Incorporated"* website;
- (c) sending mail or an email to the Members's postal or electronic mail address shown in the Members Register; and
- (d) such other means as the Board may determine pursuant to rule 27.4.

"Annual General Meeting" means a meeting held annually pursuant to rules 15 and 16. The Act s.63 states that an incorporated association must, in addition to any other meeting it holds, hold an Annual General Meeting, once in each calendar year, within the period of 5 months beginning at the end of the Association's most recently ended Financial Year.

"Association" means *"Financial Counselling Victoria Incorporated"*, being the Association constituted by this document that shall be the Association's name and may for the purposes of this Constitution and internal purposes of the Association be cited or referred to as **"FCVic"**.

"Auditor" means a person appointed for the purpose of and as required to audit or review the Association's accounts pursuant to Part 7 of the Act.

"ballot" - see **"Poll"**.

"Board" means the governing body the Association in office for the time being however described or any number of Directors assembled at a meeting of the Board transacting business pursuant to this Constitution as set out in Part IV, being not less than a quorum, and who may, for the internal purposes of the Association, be cited (collectively) as the **"Directors"** who shall be construed as referencing the Board unless the context requires otherwise. **"Board"** shall have the same meaning as **"committee"** pursuant to and be subject to s.77 of the Act meaning *the body having management of the Association*.

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“Board Charter” means a Board established dossier pursuant to rule 27.4.3 that collates the Association’s documented internal control framework of Board-determined **governing policies** pursuant to rule 27.4.

“by lot” means to choose someone by random selection through a process whereby each person in a group puts their name on a piece of paper in a container and the person’s name drawn from the container is chosen.

“casting vote” means an extra vote given to the person in charge of a meeting to break a tie.

“Chair” means an Office Bearer of the Board elected to the office of Chair pursuant to rules 33.1 and 34.1 with authorities pursuant to rules 16.2.3, 19.1, 20.1, 21.1, 21.2, 22.4, 25.1.1, 26, 29.1.1, 29.4, 29.8, 29.10, 30.2, 34.1, 34.2, 34.3.

“Chief Executive Officer” means the title given to any person so appointed by, and responsible to the Board as the entity's principal executive officer to act within written Board-delegated authorities responsible for the overall day-to-day operations of FCVic and the efficient coordination, integration, supervision and management the various parts of FCVic’s day-to-day activities and workflow and who may for the internal purposes of the Association and this Constitution be cited by any other title the Board may so determine.

“committee” means a committee (or any group however named) established by this Constitution or by the Board pursuant to rule 36.1.1 that operates as a *governance advisory body* to assist, advise and make recommendations to the Board regarding select *governance* matters of the Association and is directly accountable to the Board and consists of any persons the Directors choose to appoint.

“Constitution” means the registered Constitution of the Association as amended by the Members from time to time, which binds the Association and its Members, Directors and officers to the same extent as if it were a **contract** between them under which they each agree to observe its provisions pursuant to s.46 of the Act and may for the purposes of this document and the internal purposes of the Association be referred to, and shall have the same meaning as the **“Rules”** pursuant to and be subject to s.46 & s. 48 of the Act. The Constitution may, for the purposes of this document and the internal purposes of the Association, be referred to as the **“Rules”**. A reference to a particular **“rule”** in the Constitution refers to a numbered clause, section, phrase, paragraph or segment that relates to a particular point in the Constitution.

“deliberative vote” means an ordinary vote cast by a person who has the right to vote on a matter.

“Director” means an eligible natural person duly elected/appointed to the Board pursuant to rules 28.1.1, 28.1.2 and 28.6 and may, for the purposes of this document and the internal purposes of the Association, be referred to (individually) as a **“member of the Board”** or a **“Board Member”**. A Director shall have the same meaning as “committee Member” or “member of the committee” pursuant to s.82(a) of the Act. For the avoidance of doubt a reference to a Director includes an Office Bearer, unless otherwise expressly stated.

Explanation: An Office Bearer is first and foremost a Director, who also holds an additional delegated position (with corresponding delegated authority) as well as their Director role. So, at rule 33 - the "Office Bearers of the Board" are the Chair and Deputy Chair, but they are also Directors - so in the Constitution, a reference to a Director includes an Office Bearer. A reference to

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an Office Bearer is to that position and that position ONLY. A reference to a Director is to ALL Directors (Office Bearers included).

"Election Regulations" means the regulations that relate to the procedures and conduct of any election held by General Meeting of the Association pursuant to this Constitution as may be determined by ordinary resolution the Board under their powers pursuant to rule 27.4.6 and of which, any amendments, deletions or additions to the Election Regulations shall not take effect until two (2) months after their adoption by the Board.

"electronic communication" means the use of a technological method of telecommunication at a General or Board meeting without the persons being in each other's physical presence as consented to by the Board.

"employee of the Association" means a person within the Association who has a recognised employment contract or Enterprise Agreement with the Association and who identifies as:

- working standard or set hours
- having an ongoing expectation of work
- being paid regularly
- having income tax deducted by their employer
- being entitled to receive superannuation contributions
- being entitled to receive paid leave or a loading in lieu of leave entitlements in the case of casual employees.

"Financial Year" means the 12-month period commencing on 1 July and ending on last day of June in any year or such other period as the Board may determine.

"General Meeting" means a meeting of Members duly called and held (and any adjourned holding of it) pursuant to Part III of this Constitution or as otherwise prescribed by the Act at which all Members are entitled to attend and otherwise participate and vote at subject to their eligibility under this Constitution. A General Meeting can be an *Annual General Meeting* of the Association pursuant to s.63 of the Act or a *Special General Meeting* which usually deals with business relevant to the membership or specific motions requiring a vote by the membership.

"governing policy or policies" means *any Board-made directive, decree, principle, standard, code, procedure, protocol or process* prescribing matters required or permitted by this Constitution as the Board, under their powers pursuant to rules 27.1, 27.3.2 and 27.4, deem *necessary or convenient for the effective and prudent internal control, administration, management and competent regulation of the business of the Association, its affairs, interests and property*. Governing policies also regulate the actions and behaviours of those with assigned authority in the Association (Members, Board, Directors, Office Bearers, officers, employees, delegated persons, committees and/or agents, volunteers, etc. as the case may be) in their role within, and representation of the Association and define how they are expected to exercise their delegated powers, the performance of their assigned role and the discharge their obligatory duties.

"legal costs" of a person means legal costs incurred by that person in defending or resisting any proceedings (whether criminal, civil, administrative or judicial), appearing before or responding to actions taken by any court, tribunal, government authority or agency, other body or commission, a liquidator, an administrator, a trustee in bankruptcy or other

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authorised official, where that proceeding, appearance or response relates to a liability of that person.

“liability” of a person means any liability (except a liability for legal costs) incurred by that person in or arising out of the discharge of duties as an Officer of the Association or in or arising out of the conduct of the business of the Association, including as result of appointment or nomination by the Association as a Director, officer or employee of another body corporate.

“majority vote” – see **“ordinary resolution”**.

“Member” means a person eligible to be a Member of the Association under one of the membership classes or member categories pursuant to rule 3.2 and whose name is entered on the Members Register having been accepted as a Member of the Association as generally set out in Part II of the Constitution.

“Membership Policy” means a governing policy as determined by the Board pursuant to rule 27.4 regulating all matters required or permitted to be done for the purpose of establishing the membership application and renewal processes, eligibility criteria and admission qualifications, benefits, rights and obligations relating to all or any classes or categories of membership and for creating additional classes or categories of membership.

“Members Register” means the Members Register to be kept pursuant s.56 of the Act and rule 8 and may contain additional information related to the Membership as the Board may determine.

“Model Rules” means the default rules of an Incorporated Association prescribed under section 49 of the Act and, as permitted by the Act, the provisions of this Constitution completely displace and replace the Model Rules and hence do not apply to the governance, administration or operation of the Association.

“Not-for-Profit Organisation” [or Non-Profit] means *“a non-profit organisation which is not operating for the profit or gain of its Members, whether these gains would have been direct or indirect. This applies both while the organisation is operating and when it winds up. Any profit made by the organisation goes back into the operation of the organisation to carry out its purposes and is not distributed to any of its Members. The Australian Tax Office accepts an organisation as non-profit where its constituent or governing documents prevent it from distributing profits or assets for the benefit of particular people - both while it is operating and when it winds up. These documents should contain acceptable clauses showing the organisation's non-profit character. The organisation's actions must be consistent with this requirement”*.

Ref: Australian Taxation Office July 2026

“Notice” means a notice given pursuant to, or for the purposes of, this Constitution or the Act.

“Objects” of the Association means the Objects set out in rule 2.1 that are statements of specific, constant & high-level aspirational goals, aims, achievements and values that guide the strategic intent of the entity.

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“Office Bearer” of the Board means a Director who holds, in addition to their Director role on the Board, a Board elected/appointed position (with corresponding Board delegated authorities) pursuant to rule 33.

“Officer” of the Association has the same meaning as “office holder” pursuant s.82 of the Act and means:

- (a) a Director or the Secretary of the Association;
- (b) the holder of any other official office within the Association; or
- (c) any person who:
 - (i) makes, or participates in making, decisions that affect the whole or a substantial part of the Association's operations;
 - (ii) takes part in managing the Association's affairs (excluding patrons or honorary positions that carry no management rights);
 - (iii) has the capacity to significantly affect the Association's financial standing; or
 - (iv) gives instructions or wishes that the Directors are accustomed to following (excluding independent professional or legal advisors).

“Official Representative” means the person nominated pursuant to rule 3.2.3.3 by an organisation member and entered as such in the Register of Members pursuant to rule 8.1.2 and who has and may exercise all the member rights corresponding with their relevant membership category.

“Ordinary resolution” means a motion passed at a meeting of which **more than 50% of the total eligible votes cast on the resolution** (i.e. those votes cast by persons eligible to vote who are present at the meeting in person - or in a General Meeting by proxy - as the Constitution allows) **are in favour of the resolution**.

“organisation” includes without limitation any:

- (a) incorporated entity with the legal capacity and powers of a natural person including any private/commercial entity, not-for-profit body or public benevolent institution or government corporate entity be it an incorporated association, cooperative, company, statutory corporation or authority; or otherwise any
- (b) government non-corporate entity (e.g. department, agency, commission, authority, statutory office holder, advisory Board or council, etc.) that is legally and financially connected to, or part of a Commonwealth, State/Territory government ‘body politic’.

“policy” or **“policies”** – see **“governing policy or policies”**.

“Poll” is a form of casting votes anonymously by **ballot** to determine a preference of the voters either in writing consisting of a slip or sheet of paper or the like or using electronic means to either aid or take care of the task of casting and counting votes on or by which a voter marks his or her vote.

“Professional Standards” means the benchmarked ethics, conduct, and practices established by the Board that define the required quality of work, behaviour, and competence of financial counsellor members to ensure members always act with integrity, professional responsibility, and fidelity to the public, their employers, and their clients.

“Public Benevolent Institution” means a Public Benevolent Institution as defined by the Australian Taxation Office as *“a non-profit institution organised for the direct relief of*

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poverty, sickness, suffering, distress, misfortune, disability or helplessness. The characteristics of a PBI are:

- (a) it is set up for needs that require benevolent relief*
- (b) it relieves those needs by directly providing services to people suffering from them*
- (c) it is carried on for the public benefit*
- (d) it is non-profit*
- (e) it is an institution, and*
- (f) its dominant purpose is providing benevolent relief”.*

“public statement” means statements, whether verbal, written, in electronic form or any other form whatsoever that could or would be seen, heard or by any other means communicated to a person not a Member of the Association;

“real or personal property” means the basic types of property in common law, roughly corresponding to the division between immovables and movables in civil law. Real property consists of land, buildings, crops, and other resources, improvements, or fixtures still attached to the land. Personal property is essentially all property other than real property, including goods, animals, money, and vehicles.

“Registered Address” means the current legally recognised physical address of the Association as notified to the relevant regulatory authorities under the Act and Regulations being the official point of contact for regulatory bodies and the primary location for receiving correspondence, notices and legal documents and where the Association’s business is performed and the Association’s books and records are kept and has the same meaning s.28 of the Act.

“Registrar” means the Registrar of Incorporated Associations who acts as the primary regulator for all incorporated associations registered in Victoria. An association must formally notify or seek approval from the Registrar when they complete any of the following tasks:

- (a) Changing the association’s official name or primary purpose.
- (b) Altering, updating, or replacing your constitution's clauses.
- (c) Appointing a new Association Secretary.
- (d) Lodging mandatory annual returns and financial statements.
- (e) Voluntarily winding up or dissolving the association.

“Regulations” means the *Associations Incorporation Reform Regulations 2023* (VIC) and its successors;

“requisition” means to request a certain action – such as, in the case of rule 17.2, the request by Members for the convening of a Special General Meeting by the Board.

“Rules” (referring to prescribed matters stated in s.47, s.48 & Schedule 1 of the Act) means the registered **“Constitution”** of the Association.

“Seal” means the common seal of the Association (if applicable) noting that the Act allows the Association to authenticate a document or proceeding requiring authentication by the signature of the Secretary **without** using a seal in which case the Association must act pursuant to provisions in ss.37(b), 38 or s.39 of the Act;

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“Secretary” means the person appointed to perform the Secretary functions under this Constitution as or as otherwise as Secretary of the Association pursuant to rule 37.

“Special Business” is business of a General Meeting that the Act requires to be passed as a "special resolution" by no less than three-quarters ($\frac{3}{4}$) of the votes of those Members of the Association who, being entitled to vote, vote in person or by proxy at the meeting;

“Special General Meeting” means a meeting of Members (other than an Annual General Meeting) held pursuant to rule 17;

“Special Resolution” means a resolution at a General Meeting of the Association that has the meaning given to it in rule 24 and pursuant to s.64 of the Act, i.e. that no less than twenty-one (21) days' notice of the meeting must be given to the Members of the Association together with a notice of intention to propose the resolution as a special resolution. At the meeting, the special resolution must be passed **by no less than three-quarters ($\frac{3}{4}$) of Members entitled to vote and who are present at the meeting either in person or by proxy**. Special resolutions are usually decisions that change something fundamental about the Association, for example:

- (a) altering the Association's rules, Objects or Purpose;
- (b) changing the Association's name or corporate registration status;
- (c) amalgamating with another Association;
- (d) approving external administration of the Association;
- (e) winding up the Association;

or as otherwise, a matter that specifically requires a special resolution as stated in the Constitution. Note that, any proposed **motion of amendment of a special resolution** at a general meeting must not change the substantive meaning or intent of or add additional matters to the original resolution.

“Strategic Direction” means the Board-approved purpose, goals, and performance measures of the Association and strictly excludes operational planning, day-to-day actions, and management decisions.

51.2 Interpretation

Headings are for convenience only and do not affect interpretation. A reference to a particular "**rule**" in the Constitution refers to a numbered clause, section, phrase, paragraph or segment that relates to a particular point in the Constitution.

Unless the context indicates a contrary intention, in this Constitution:

- (a) **(amendments and statutes)** all and any reference to statutory provisions includes its delegated legislation and are construed as references to any statutory modification, consolidation, amendment, replacement, succession or re-enactment for the time being in force;
- (b) **(corresponding meaning)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (c) **(currency)** a reference to “\$” or “dollars” is a reference to Australian currency;

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- (d) (**exercise of a function or role**) a reference to the exercise of a function or role includes, where the function or role is a duty, a reference to the performance of the duty;
- (e) (**function**) a reference to a function includes a reference to a power, authority or duty;
- (f) (**gender**) a word indicating a gender includes every other gender;
- (g) (**meaning not limited**) a reference to the words "include", "including", "for example" or "such as", when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (h) (**in person**) means to attend a meeting or event physically or virtually via electronic communication which facilitates comparable participation in the meeting or event;
- (i) (**person**) words importing person includes a reference to:
 - a natural person (i.e. an individual, aka a human being) and
 - an "artificial" person (i.e. a body corporate, aka: a corporate entity and includes incorporated associations, co-operatives, companies and any other body corporate and body politic whether incorporated by statute, Act of Parliament or otherwise);
- (j) (**rounding**) where a vote is to be rounded to the nearest whole number, the rule is: if the number behind the decimal point is *less than 5*, it is rounded **down** to the next whole number: example: 11.4 is rounded to 11; if the number behind the decimal point is *5 or more*, it is rounded **up** to the next whole number.
- (k) (**sending**) references to the sending of a document or written notice includes the sending of that document via electronic communication, including, but not limited to, electronic mail transmission.
- (l) (**signed**) where, by a provision of this Constitution, a document is required to be signed, that requirement may be satisfied or authenticated by any manner permitted by the Corporations Act or any other law or by any other means used in contemporary business practice and in relation to an electronic transmission of the document in any manner permitted by law or by any law relating to electronic transmissions or in any other manner approved by all Directors;
- (m) (**singular includes plural**) a word importing the singular includes the plural (and vice versa);
- (n) (**statutes/regulations**) a reference to a statute, ordinance, code or other law includes regulations and instruments made under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction)
- (o) (**writing**) "in writing" and "written" includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or by electronic mail transmission or otherwise;

The wording which is in ***bold print italics*** within or at the end of certain paragraphs is explanatory only and does not form part of the Constitution.

SCHEDULE 1. TRANSITIONAL ARRANGEMENTS

- A. The newly amended Constitution will be deemed approved pursuant to rule 13.2 of the previous Constitution.
- B. To enable the most convenient and efficient process of transition from the current Constitution to the newly amended Constitution, and notwithstanding the amendments made to the Constitution, the newly amended Constitution will come into effect once a notice in the approved form setting out the particulars of newly amended Constitution has been lodged with the Registrar.
- C. All current Board members who were in place as eligible Directors at the time of the approval of the amended Constitution pursuant to Sch 1.B will be deemed to hold that position as Directors until the completion of their current terms, after which they may stand for or be appointed as a Director under the terms of this new Constitution but they are subject to the term and tenure limits provided for in rule 28.3 starting from their current term.
- D. Following the completion of these Transition Arrangements, they become redundant and may be removed from the Constitution by ordinary resolution of the Board. Members must be advised of any change to the Constitution made under this provision within twenty-eight (28) days of the change being made.