



# **HEALTHY KIDS ASSOCIATION INC.**

## **CONSTITUTION (Effective from 23 September 2020)**

## CONTENTS

### **PART I        PRELIMINARY**

### **PART II        MISSION, GOALS AND OBJECTIVES**

### **PART III       MEMBERSHIP**

- 3.        Membership Qualifications
- 3.1      Entrance Fee and Subscriptions
- 3.2      Register of Members
- 3.3      Members Liability
- 3.4      Resignation of Members
- 3.5      Disciplining of Members
- 3.6      Right of Appeal of Disciplined Members
- 3.7      Cessation of Membership
- 3.8      Membership Entitlements Not Transferable

### **PART IV       MANAGEMENT OF THE ASSOCIATION**

- 4.        Board of Directors
- 4.1      Elected Directors
- 4.2      Appointed Directors
- 4.3      Appointments Committee
- 4.4      Executive Committee of the Board
- 4.5      Duties of the Board Executives
- 4.6      Public Officer
- 4.7      Casual Vacancies on the Board
- 4.8      Removal of a Board Member
- 4.9      Delegation by Board to Sub-Committee/s
- 4.10     Board Meetings
- 4.11     Meetings

### **PART V        GENERAL BUSINESS**

- 5.        Annual General Meeting - Calling of.
- 5.1      Business at an Annual General Meeting
- 5.2      General Meeting - Calling of.
- 5.3      Notice
- 5.4      Procedure
- 5.5      Presiding Member
- 5.6      Special Resolution
- 5.7      Voting
- 5.8      Appointment of Proxies

- 5.9 Postal or Electronic Ballots
- 5.10 Use of Technology at Annual General Meetings or General Meetings

**PART VI MISCELLANEOUS**

- 6 Insurance
- 6.1 Funds - Source
- 6.2 Funds - Management
- 6.3 Common Seal
- 6.4 Custody of Books etc
- 6.5 Service of Notices
- 6.6 Location of Head Office
- 6.7 Alteration of Constitution
- 6.8 Resolution of Internal Disputes
- 6.9 Non-Profit Association
- 6.10 Distribution of Surplus Assets
- 6.11 Establishment and Operation of Gift Fund

**APPENDIX FORM OF APPOINTMENT OF PROXY**

## **NAME**

The name of the Incorporated Association is "Healthy Kids Association Inc." (in these rules called "Association").

## **PART 1 PRELIMINARY**

### **1 INTERPRETATION**

In these rules, unless the contrary intention appears:

- a "BOARD" means the Board of Directors of the Association.
- b "FINANCIAL YEAR" means the year ending 31 December.
- c "GENERAL MEETING" means a meeting of the Association members other than the Annual General Meeting.
- d "FULL MEMBER" means a member of the Association in accordance with the Association's Rule 3.b who has paid in full all subscriptions, fees or charges imposed by the Association under this Constitution.
- e "ELECTED DIRECTOR" means a Director who is elected by members of the Association under Rule 4.2.
- f "APPOINTED DIRECTOR" means a Director appointed by the Board to fill a vacancy.
- g "THE ACT" means the Associations Incorporation Act 1984.
- h "THE REGULATION" means the Associations Incorporation Regulation currently in force.
- i "SCHOOL" includes all government and non-government schools, in Australia.
- j "EXECUTIVE COMMITTEE OF THE BOARD" means the Chair, Deputy-Chair, Treasurer and Secretary.
- k "CHIEF EXECUTIVE OFFICER" means the person appointed to administer the affairs of the Association.
- l "PUBLIC OFFICER" means the person appointed by the Board to carry out the functions as defined in the Associations rule 4.5e and g.
- m Words or expressions contained in these rules shall be interpreted in accordance with the provisions of the Interpretations Act 1987 and the Act as in force from time to time.

## **PART II MISSION, GOALS AND OBJECTIVES**

### **2 MISSION**

**“To promote and influence healthy food choices for children”.**

#### **2.1 GOALS AND OBJECTIVES**

- a Promote the prevention of diet related diseases in children.
- b Raise awareness of the high incidence of childhood obesity and its health impacts into adulthood.
- c Provide school communities with information about food and nutrition and its role in preventing and controlling diet related diseases.
- d Increase the availability and sale of foods and beverages in school canteens that are consistent with the Australian Dietary Guidelines for Children and Adolescents.
- e Empower schools to take responsibility for providing economically viable, hygienic and nutrition oriented canteen services.
- f Support governments’ strategies for Healthy School Canteens.
- g Be a high profile, well networked and credible organization, widely recognised and able to influence public policy on school canteens.
- h Support and promote food and catering industries wishing to provide nutritious foods for schools through fostering positive relationships.
- i Ensure financial sustainability.

## **PART III MEMBERSHIP**

### **3. MEMBERSHIP QUALIFICATIONS**

- a A person or organisation which is approved for membership by the Board and which supports the goals and objectives of the Association as provided in these rules, is eligible to be a member of the Association on payment of the annual subscription.
- b There shall be four categories of membership:
  - (i) Schools.
  - (ii) individuals with an interest in health education of school aged children.
  - (iii) health and Educational Professionals with a special interest in school nutrition and food services.
  - (iv) Affiliates, being any organisation, whether incorporated or not, which does not fit within any other category of membership.

### **3.1 ENTRANCE FEE AND SUBSCRIPTIONS**

- a There is no entrance fee payable.
- b The Board shall determine the amount of annual subscription paid by each member category.
- c A member's subscription shall be due and payable on or before 31 December each year, or if their membership commenced on a date other than 31 December, on or before each anniversary of the commencement of their membership.
- d Where the charging of the above mentioned subscription would cause hardship or otherwise prevent a person, Association, organisation etc from obtaining membership then the Board, in its absolute discretion, may reduce or waive such subscription.
- e Members whose subscription is more than 3 months in arrears shall have their membership cancelled.

### **3.2 REGISTER OF MEMBERS**

- a The Public Officer of the Association shall establish and maintain a register of members of the Association specifying the name, address and membership category of each person or organisation which is a member of the Association, together with the date on which the person or organisation became a member.
- b The register of members shall be kept at the principal place of administration of the Association.
- c Members shall have the right to inspect the membership register with prior approval, for such inspection from the Board. Before granting any such approval the Board must consider the privacy implications.

### **3.3 MEMBERS' LIABILITY**

The liability of a member of the Association to contribute towards the payment of the debts and liabilities of the Association or the cost, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the member in respect of membership of the Association as required by rule 3.1

### **3.4 RESIGNATION OF MEMBERS**

A member of the Association who has paid all moneys due and payable by him/her to the Association may resign from the Association by giving notice, in writing, to the secretary.

### **3.5 DISCIPLINING OF MEMBERS**

- a A complaint may be made to the Board by any member of the Association that some other member of the Association has acted in a manner prejudicial to the interests of the Association.
- b After considering a complaint against a member, the Board may, by resolution, either suspend or terminate the membership of the person or organisation.
- c Before passing a resolution suspending or terminating membership, the Board must give the member concerned:
  - (i) reasonable notice of the matters alleged, and
  - (ii) a fair opportunity to answer the allegations.
- d When considering suspending or terminating the membership of a person or organisation the Board must make its decision in a fair, unbiased manner on all the information before it.
- e If the Board expels or suspends a member, the secretary must ensure that within 14 days of the resolution the member is given written notice of:
  - (i) the resolution;
  - (ii) the reasons given by the Board for passing that resolution; and
  - (iii) the member's right of appeal.
- f The expulsion or suspension does not take effect
  - (i) until the expiration of the period within which the member is entitled to appeal against the resolution concerned; or
  - (ii) if within that period the member exercises the right of appeal, unless and until the Association confirms the resolution, whichever is the later.

### **3.6 RIGHT OF APPEAL OF DISCIPLINED MEMBERS**

- a An affected member may appeal to the Association in a general meeting against a resolution of the Board to expel or suspend, within 14 days after notice of the resolution is served on the affected member, by lodging with the secretary a notice to that effect.
- b The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- c On receipt of a notice from a member, the secretary must ensure that the appeal is listed on the agenda at the next general meeting or annual general meeting of the Association.
- d At that meeting:
  - (i) the Board and the member must be given the opportunity to state their respective cases orally or in writing or both and
  - (ii) the members present must vote by secret ballot on the question of whether the Board's resolution should be confirmed or revoked.
- e If at the general meeting the Association passes a resolution in favour of the confirmation of the Board's resolution, the resolution is confirmed.

### **3.7 CESSATION OF MEMBERSHIP**

A person ceases to be a member of the Association if the person:

- a in the case of a natural person, dies, or
- b in the case of a company, the member becomes insolvent or enters into Administration, Receivership or Liquidation
- c resigns their membership, or
- d is expelled from the Association, or
- e the membership is cancelled under Rule 3.1e

### **3.8 MEMBERSHIP ENTITLEMENTS NOT TRANSFERABLE**

A right, privilege or obligation which a person has by reason of being a member of the Association:

- a is not capable of being transferred or transmitted to another person, and
- b terminates on cessation of the person's membership.



## **PART IV      MANAGEMENT OF THE ASSOCIATION**

### **4.            BOARD OF DIRECTORS**

- a    The Board, subject to the Act, the Regulation and this Constitution and to any resolution passed by the Members in General Meeting:
  - i.    shall direct the affairs of the Association, and
  - ii.   may exercise all such functions as may be exercised by the Association other than those functions that are required by this Constitution to be exercised by the Members in General Meeting, and
  - iii.  has power to perform all such acts and do all such things as necessary or desirable for the proper management of the affairs of the Association.
  
- b    The Board shall uphold this Constitution in the performance of their duties.
  
- c    The Board shall consist of a maximum of nine (9) Directors, being:
  - i.    the Chair
  - ii.  not more than five Elected Directors, and
  - iii.  not more than three Appointed Directors.
  
- d    The Association may by resolution, increase or reduce the number of Directors provided there is always a minimum of five Directors.

### **4.1          ELECTED DIRECTORS**

- a    The Elected Directors shall be determined in accordance with the procedure set out in this Rule.
  
- b    One month prior to an election, the Board shall advertise for nominations by writing to Members.
  
- c    Nominations must be in writing, accepted by the nominee and proposed by two Members, and must be delivered to the Secretary at least two months before the date proposed for the Annual General Meeting.
  
- d    Nominees shall not be accepted from employees of the Association.
  
- e    The Board must refer all nominations, which comply with the previous two paragraphs, to the Appointments Committee.
  
- f    The Appointments Committee must provide to the Board at least one week before the date proposed for the Annual General Meeting a written list of the nominees who are Qualified Individuals.
  
- g    Any Elected Director who is not serving their third consecutive two-year term as an Elected Director and wishes to undertake a further term as an Elected Director, must

notify the Chair or the Secretary, not less than two months before the end of their current term, of their intention to nominate in the next election of Directors.

- h If the number of nominees who are Qualified Individuals, together with the number of Elected Directors who have validly notified their intention to compete in the next election of Directors, is less than the number of vacancies to be filled, the Board may fill any vacancies as if they were casual vacancies.
- i If the number of nominees who are Qualified Individuals is equal to the number of vacancies to be filled, those people shall be deemed to be elected.
- j If the number of nominees who are Qualified Individuals exceeds the number of vacancies to be filled, a ballot shall be held.
- k The ballot shall be conducted at the Annual General Meeting in such usual and proper manner as the Board may direct.
- l The term of an Elected Director is two years but the Members may re-elect him or her for a further two terms. Subject to this Constitution, an Elected Director holds office until the conclusion of the second Annual General Meeting after that Director's election.

## **4.2 APPOINTED DIRECTORS**

- a The Appointed Directors shall be determined in accordance with the procedure set out in this Rule.
- b The Board may appoint up to 3 Appointed Directors.
- c The Appointed Directors may have specific skills in commerce, finance marketing, law, food sector, education or business generally or such other skills which complement the Board's composition. They do not need to be members.
- d The Board may advertise for nominations from suitably qualified individuals to be considered for appointment as an Appointed Director.
- e The Board may directly nominate persons whom it considers are suitably qualified and may also consider nominations put forward by the Chief Executive Officer.
- f The Board must refer all nominations to the Appointments Committee.
- g The Appointments Committee must provide to the Board within one month of the referral a written list of the nominees who are Qualified Individuals.
- h The Board may appoint any of the people on the list provided by the Appointments Committee as Appointed Directors to fill any vacancy among the Appointed Directors.
- i The term of an Appointed Director is two years but the Board may re-appoint him or her for a further two terms.

### 4.3 APPOINTMENTS COMMITTEE

#### a ESTABLISHMENT

- i. The Board must establish an Appointments Committee of not less than three and not more than five individuals.
- ii. The Board may from time to time appoint and remove members of the Appointments Committee.

#### b FUNCTION

- i. The function of the Appointments Committee is to decide whether an individual nominated for election or appointment as a Director is a Qualified Individual.
- ii. The Board may specify:
  - A. the manner in which proceedings of the Appointments Committee are to be conducted, and
  - B. any other matters consistent with this Constitution concerning the Appointments Committee or its functions.

#### c QUALIFIED INDIVIDUALS

- (i) A Qualified Individual must:
  - A. have adequate time to commit to the office of Director,
  - B. have a genuine interest in the Association,
  - C. meet the criteria set down by the Board from time to time for Directors,
  - D. in no way be involved in activities which are deemed by the Board to be in conflict or competition with the aims and activities of the Association, and
  - E. have expertise and experience in one or more of the following areas, namely:
    - a. finance,
    - b. accounting
    - c. health promotion to school communities,
    - d. marketing,
    - e. nutrition science, and
    - f. food services.
- ii) For the purposes of paragraph C, the Board must develop criteria which it must review at least once in every calendar year.

### 4.4 EXECUTIVE COMMITTEE OF THE BOARD

#### a The **Executive Committee of the Board** shall be –

- i. the Chair,
- ii. the Deputy-chair,
- iii. the Treasurer, and
- iv. the Secretary.

#### b The Board must appoint a person as Chair at the first available opportunity after the position becomes vacant. The person so appointed holds office for a period of two years from the date of appointment. A person cannot be appointed to the position of Chair for more than three consecutive terms of two years.

- c The Board may appoint a person as Chair either by selecting one of the Elected Directors, or by appointing some other person whom the Board regards as suitable for the position provided the Appointments Committee declares such person to be a Qualified Individual. The Chair must not hold the position for more than three consecutive terms of two years.
- d The Board must elect from among the Directors a Deputy-chair, the Secretary and the Treasurer at the first Board meeting following the Annual General Meeting. These office bearers must not hold the same position for more than three consecutive terms of two years.

#### 4.5 DUTIES OF THE BOARD EXECUTIVES

- a The **CHAIR** shall:
  - i. act as Chair at all meetings of the Board, Annual General Meeting and any other General Meetings,
  - ii. in the capacity of Chair, exhibit impartiality, firmness, tact and common sense,
  - iii. chair meetings in accordance with established meeting procedure,
  - iv. ensure that all meetings are properly convened,
  - v. represent the Board, subject to any expressed or implied instructions from the Board,
  - vi. act on valid requisitions from Members,
  - vii. be an ex-officio member of all Sub-Committees, and
  - viii. participate in the Chief Executive Officer's performance appraisal.
- b The **DEPUTY CHAIR** shall:
  - i. chair meetings in the absence of the Chair, and
  - ii. stand in lieu of the Chair when the Chair is unavailable.
- c The **SECRETARY** shall:
  - i. ensure that minutes are kept of:
    - A. all appointments of office-bearers and Directors,
    - B. the names of Directors present at Board meetings and General Meetings, and
    - C. all proceedings at Board meetings and General Meetings, and
  - ii. Ensure that minutes of proceedings at a meeting are signed by the Chair of the meeting or by the Chair of the next succeeding meeting.
- d The **TREASURER** shall:
  - i. ensure that all money due to the Association is collected and received and that all payments authorised by the Association are made,
  - ii. ensure that correct books and accounts are kept showing the financial affairs of the Association, including full details of all receipts and expenditure connected with the activities of the Association, and
  - iii. present to the Board, in cooperation with the Chair and Chief Executive Officer, a forward budget for the forthcoming financial year, by 30 June each year.

#### **4.6 PUBLIC OFFICER**

- a. The Board must ensure that a person is appointed as Public Officer.
- b. The Public Officer may be a Director, employee or any other person regarded as suitable for the position by the Board.
- c. The Board may, at any time, remove the Public Officer and appoint a new Public Officer provided the person appointed is at least 18 years of age and a resident of New South Wales.
- d. The Public Officer is deemed to have vacated office in the following circumstances:
  - i. death,
  - ii. resignation,
  - iii. removal by the Board or by the Members at a General Meeting,
  - iv. bankruptcy,
  - v. mental illness or incapacity, or
  - vi. residency outside New South Wales.
- e. When a vacancy occurs in the position of Public Officer, the Board must, within 14 days, notify the Director-General by the prescribed form and appoint a new Public Officer.
- f. The Public Officer is required to notify the Director-General by the prescribed form of the following matters:
  - i. appointment (within 14 days),
  - ii. a change of residential address (within 14 days),
  - iii. a change in the Association's objects or rules (within one month),
  - iv. the Association's financial affairs (within one month after the Annual General Meeting ), and
  - v. a change in the Association's name (within one month).
- g. The Public Officer must keep a register of Directors which:
  - i. contains the name and residential address of each Director,
  - ii. contains the date on which each became a Director, and
  - iii. is updated within one month of any change taking place.
- h. The register must be kept at the residential address of the Public Officer and be available for inspection by any person, free of charge, at all reasonable hours.

#### **4.7 CASUAL VACANCIES ON THE BOARD**

- a. In the event of a casual vacancy occurring in the membership of the Board, the Board may appoint a Qualified Individual to fill the vacancy and the person so appointed is to hold office, subject to this Constitution, until the Annual General Meeting next following the date of the appointment. If the casual vacancy relates to an Elected Director, the appointment by the Board of the person to fill the casual vacancy will, for the purposes of this Constitution, be regarded as an Elected Director position.

- b For the purposes of this Constitution, a casual vacancy in the office of a Director occurs if the Director –
  - i. dies,
  - ii. is appointed as Chair,
  - iii. becomes bankrupt,
  - iv. resigns office by notice in writing given to the Secretary,
  - v. is removed from office under Rule 4.8;
  - vi. becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, or
  - vii. is absent from two consecutive Board Meetings within any twelve month period, unless the Board approves otherwise.
  - viii. is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth.

#### **4.8 REMOVAL OF A BOARD MEMBER**

- a The Members in a General Meeting may by resolution remove any Director before the expiration of the Director's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the Director so removed.
- b Where a Director to whom a proposed resolution referred to in clause 4.8a. makes representations in writing (not exceeding a reasonable length) to the Secretary or Chair and requests that the representations be notified to the Members, the Secretary or the Chair may send a copy of the representations to each Member or, if they are not so sent, the Director is entitled to require that the representations be read out at the meeting at which the resolution is considered.

#### **4.9 DELEGATION BY THE BOARD TO SUB-COMMITTEE/S**

- a The Board may, by instrument in writing, delegate to one or more sub-committees consisting of at least one Director the exercise of such of the functions of the Board as are specified in the instrument, other than:
  - i. this power of delegation, and
  - ii. a function which is a duty imposed on the Board by the Act, the Regulation or by any other law.
- b A function the exercise of which has been delegated to a sub-committee under this Rule, may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- c A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation.

- d Notwithstanding any delegation under this rule, the Board may continue to exercise any function delegated.
- e Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this rule has the same force and effect as it would have if it had been done or suffered by the Board.
- f The Board may, by instrument in writing, revoke wholly or in part, any delegation under this Rule.
- g A sub-committee may meet and adjourn as it thinks proper.

#### **4.10**

##### **BOARD MEETINGS**

- a The Board must meet at least 3 times in each period of 12 months at the place and time that the Board may determine.
- b Additional meetings of the Board may be convened by the Chair or by any Director.
- c Oral or written notice of a meeting of the Board must be given by the Secretary to each Director at least 48 hours (or any other period that may be unanimously agreed on by the Directors) before the time appointed for the holding of the meeting.
- d Notice of a meeting given under Rule 4.10c must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Directors present at the meeting unanimously agree to treat as urgent business.
- e A Board meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the Directors a reasonable opportunity to participate. A Board member who participates in a Board meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.
- f The quorum at Board meetings shall be at least half the number of Directors in office. No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week. If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- g Questions arising at a meeting of the Board or of any sub-committee appointed by the Board shall be determined by a majority of the votes of Directors or members of the sub-committee present at the meeting.
- h Each Director present at a meeting of the Board and each member present at a meeting of any sub-committee appointed by the Board is entitled to one vote but, in the event of an equality of votes on any question, the Chair has a casting vote.

- i Subject to the next paragraph, the Board may act notwithstanding any vacancy on the Board.
- j If the number of Directors currently holding office falls below four, the Board may meet but only to fill the vacancies.
- k The Chief Executive Officer shall attend all Board meetings except when specifically requested not to be present.
- l Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a sub-committee appointed by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any director or member of a sub-committee.

## **PART V GENERAL BUSINESS**

### **5. ANNUAL GENERAL MEETINGS – CALLING OF:**

- a An Annual General Meeting shall be specified as such in the notice convening it.
- b The Association shall, at least once in the calendar year and within the period of six months after the expiration of each financial year of the Association, convene an Annual General Meeting of its members.
- c The Annual General meeting of the Association shall, subject to the Act and to Rule 5b, be convened on such a date and at such a place and time that the Board sees fit.

#### **5.1 BUSINESS AT AN ANNUAL GENERAL MEETING**

In addition to any other business, which may be transacted at an Annual General Meeting, the business of the Annual General Meeting shall be -

- i. to confirm the Minutes of the last preceding Annual General Meeting and of any Special General Meeting held since that meeting;
- ii. to receive from the Board and Chief Executive Officer reports upon the activities of the Association during the last preceding financial year;
- iii. to elect members to the Board;
- iv. to receive and consider the statement of Audit.

#### **5.2 GENERAL MEETING – CALLING OF:**

- a The Board may, whenever it thinks fit, convene a general meeting of the Association.
- b The Board shall, on the requisition in writing of not less than fifteen percent of the total number of Full Members, convene a general meeting of the Association.



- c A requisition of Full Members for a general meeting -
  - (i) shall state the purpose or purposes of the meeting;
  - (ii) shall be signed by the members making the requisitions;
  - (iii) shall be lodged with the secretary; and
  - (iv) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- d If the Board fails to convene a general meeting to be held within one month after the date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the Full Members who made the requisition may convene a general meeting to be held no later than 3 months after that date.
- e A general meeting convened by a Full Member or Full Members as referred to in clause 5.2 a/b shall be convened as nearly as practicable in the same manner as meetings are convened by the Board.

## **PROCEDURES FOR THE ANNUAL GENERAL MEETING AND ANY GENERAL MEETING**

### **5.3 NOTICE**

- a The secretary shall ensure, at least 21 days before the date fixed for the holding of the Annual General Meeting or a general meeting, sent by pre-paid post or electronic mail to each Full Member at the member's address appearing in the register of members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting. If the nature of the business proposed to be dealt with at the general meeting requires a special resolution of the association, the notice must also specify the intention to propose the resolution as a special resolution.
- b No business other than that specified in the notice convening an Annual General Meeting or 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 clause 5.1.
- c A Full Member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who shall include that business in the next notice calling a general meeting given after receipt of the notice from the member.

### **5.4 PROCEDURE**

- a No item of business shall be transacted at the Annual General Meeting or a general meeting unless a quorum of Full Members entitled under these rules to vote is present during the time the meeting is considering that item.

- b The quorum at any General meeting shall be ten (10) Full members..
- c If within a 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 Full Members shall be dissolved and in any other case stand adjourned to the same day in the following week at the time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Full Members given before the day to which the meeting is adjourned) at the same place.
- d If at the adjourned meeting a quorum is not present within an hour after the time appointed for the commencement of the meeting, the Full Members present (being not less than 8) shall constitute a quorum.

## **5.5 PRESIDING MEMBER**

- a The Chair or, in the Chair 's absence, the Deputy Chair, shall preside as chairperson at each meeting of the Association.
- b If the Chair and the Deputy Chair are absent from the meeting or are unwilling to act, the members present shall elect one of their number to preside as chairperson at the meeting.

## **5.6 SPECIAL RESOLUTION**

A resolution of the Association is a Special Resolution if:

- (i) it is passed by a majority which comprises not less than seventy five (75) percent of such members of the Association as, being entitled under these rules so to do, vote in person, by mail (electronic or postal) or by proxy at the general meeting which not less than 21 working days written notice specifying the intention to propose the resolution as special resolution was given in accordance with these rules; or
- (ii) where it is made to appear to the Department of Fair Trading that it is not possible or practicable for the resolution to be passed in the manner specified as in paragraph (i) - the resolution is passed in a manner specified by the Department of Fair Trading.

## **5.7 VOTING**

- a Upon any question arising at a meeting of the Association, a Full Member has one vote only.
- b All votes shall be given personally by the Member or by the delegate of the Member where the Member is a corporation or an association, by mail (electronic or postal) or by proxy.

- c A vote cast by post or electronic mail will only be valid if, the vote is received by the Association at least 5 working days prior to the date of the meeting.
- d In the case of an equality of votes on a question at a meeting, the status quo shall prevail.

## **5.8 APPOINTMENT OF PROXIES**

- a Each Member shall be entitled to appoint the Chair, Deputy Chair, Secretary, a director, the Chief Executive Officer or another Member as proxy by notice given to the secretary in writing no later than 24 hours before the time of the meeting in respect of which the proxy is appointed
- b The notice appointing the proxy shall be in the form set out in the Appendix 1 to these rules.

## **5.9 POSTAL OR ELECTRONIC BALLOTS**

- a The association may hold a postal or electronic ballot (as the committee determines) to determine any issue or proposal (other than an appeal under Rule 3.6).
- b A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Associations Incorporation Regulation 2016.

## **5.10 USE OF TECHNOLOGY AT ANNUAL GENERAL MEETINGS OF GENERAL MEETINGS**

- a An Annual General Meeting or a general meeting may be held at 2 or more venues using any technology approved by the Board that gives each of the Association's members a reasonable opportunity to participate.
- b A member of the Association who participates in an Annual General Meeting or a general meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

## **PART VI MISCELLANEOUS**

### **6. INSURANCE**

The Association shall effect and maintain insurance.

## **6.1 FUNDS - SOURCE**

- a The funds of the Association shall be derived from annual subscriptions of members, donations and, subject to any resolution passed by the Association in a general meeting, such other source as the Board determines.
- b All money received by the Association shall be deposited as soon as practicable and without deduction to the credit of the Association's bank account.
- c The Association shall, as soon as practicable after receiving any money, issue an appropriate receipt.

## **6.2 FUNDS - MANAGEMENT**

- a Subject to any resolution passed by the Association in a general meeting, the funds of the Association shall be used in the pursuance of the goals and objectives of the Association in such manner as the Board determines.
- b All cheques, drafts, bill of exchange, promissory notes and other negotiable instruments shall be signed by any two members of the Board or a Board member and an employee of the Association being members or employees authorised to do so by the Board

## **6.3 COMMON SEAL**

- a The common seal of the Association shall be kept in the custody of the Public Officer.
- b The common seal shall not be affixed to any instrument except by the authority of the Board and the affixing of the common seal shall be attested by the signature either of 2 members of the Board or one Director and the Chief Executive Officer.

## **6.4 CUSTODY OF BOOKS ETC**

Except as otherwise provided by these rules, the public officer shall keep in his/her custody or under his/her control all the records, books and other documents relating to the Association.

## **6.5 SERVICE OF NOTICES**

- a For the purpose of these rules, a notice may be served by or on behalf of the Association upon any member either personally or by sending it by post to the member at the member's address shown in the register of members.
- b Where the document is properly addressed pre-paid and posted to a person as a letter, the document shall, unless the contrary is proved, be deemed to have been given to the person at the time at which the letter would have been delivered in the ordinary course of the post.

## **6.6 LOCATION OF HEAD OFFICE**

The Association's offices shall maintain a registered office. The location shall reflect the business needs of the Association.

## **6.7 ALTERATION OF THE CONSTITUTION**

This statement of rules may be altered, or rescinded or added to only by a special resolution passed by at least seventy five per cent of the votes cast by those members present in person or by proxy at an Annual General Meeting or Special General Meeting.

## **6.8 RESOLUTION OF INTERNAL DISPUTES**

In the event of a dispute arising between members (in their capacity as members), or between a member and the Association, or between a member and the Board, the following procedure will apply.

- (i) Each party to the dispute must nominate a representative who is not directly involved in the dispute. Those representatives must then attempt to settle the dispute by negotiation.
- (ii) Should the nominated representatives be unable to resolve the dispute within 14 days (or such other period as they may agree upon) the dispute must be referred to a person mutually agreed upon for mediation.
- (iii) In the event that no person can be agreed upon to mediate the dispute it must be referred to a community justice centre for mediation in accordance with the *Community Justice Centres Act 1983*.

## **6.9 NON-PROFIT ASSOCIATION**

The assets and income of the Association shall be applied solely in the furtherance of the objects set out in this Constitution. No income or property of the Association may be paid or transferred directly or indirectly or otherwise to any member of the Association except as a bona fide compensation for services rendered or expenses incurred on behalf of the Association.

## **6.10 DISTRIBUTION OF SURPLUS ASSETS**

If upon the winding up or dissolution of the Association there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid or distributed to the members of the Association but shall be given or transferred to another charitable institution, gifts to which can be deducted on the basis that it is a charitable institution as described in item 1.1.6 of the table in section 30-20(1) of the income Tax Assessment Act 1997 (ITAA 97).

## **6.11 ESTABLISHMENT AND OPERATION OF GIFT FUND**

### **a MAINTAINING GIFT FUND**

The Association must maintain for its principal objects a fund ("Gift Fund"):

- (i) to which gifts of money or property those objects are to be made,
- (ii) to which any money received by the Association because of those gifts is to be credited, and
- (iii) that does not receive any other money or property.

### **b. LIMITS ON USE OF GIFT FUND**

The Association must use the following only for its principal objects:

- (i) gifts made to the Gift Fund, and
- (ii) any money received because of those gifts.

### **c. WINDING UP**

At the first occurrence of:

- (i) the winding up of the Gift Fund, or
- (ii) the Association ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of ITAA 97,

any surplus assets of the Gift Fund must be transferred to an institution:

- (i) which is charitable at law, and
- (ii) to which gifts can be deducted under Division 30-B of ITAA 97 on the basis that it is characterised as a charitable institution as described in item 1.1.6 of the table in section 30-20(1) of ITAA 97.

The identity of the institution must be decided by the Association.

d. The Association must notify the Australian Taxation Office in writing if a material alteration is made to this rule.

e. Receipts issued for gifts to the Association must state:

- (i) the name of the Association,
- (ii) the Australian Business Number applicable to the Association, and
- (iii) the fact that the receipt is for a 'gift'.

**ADOPTED**

Chair: .....

Date: .....

Secretary: .....

Date: .....

**APPENDIX**

**[RULE 33(2)]**

**FORM OF APPOINTMENT OF PROXY**

I, ..... (full name)

of ..... (address)

being a member of ..... (name of Incorporated Association)

hereby appoint ..... (full name of proxy)

..... (address)

being the Chair, Secretary, a Director, the Chief Executive Officer or a Member of the Association, as my proxy to vote for me on my behalf at the General / Annual General (delete as appropriate) Meeting of the Association to be held on the

.....day of ..... and at any adjournment of that meeting.

\*My proxy is authorised to vote in favour / against (delete as appropriate) the resolution (insert details).

\* To be inserted if desired

..... Signature of full member appointing proxy

Date .....