



**Cancer
Council**
Victoria

Constitution

Cancer Council Victoria



MinterEllison

LAWYERS

Constitution of Cancer Council Victoria

Preliminary	5
1. Defined terms & interpretation	5
Objects	7
2. Objects	7
Income and property of Company	8
3. Income and property of Company	8
Membership	9
4. Admission	9
5. Suspension and cessation of membership	10
6. Powers of attorney	11
7. Authorised Representatives	11
General meetings	12
8. Annual general meeting	12
9. Calling general meeting	12
10. Notice of general meeting	12
Proceedings at general meetings	13
11. Member	13
12. Quorum	13
13. Chairperson	13
14. Adjournment	14
15. Decision on questions	14
16. Taking a poll	15
17. Casting vote of chairperson	15
18. Offensive material	15
Votes of Members	16
19. Entitlement to vote	16
20. Objections	16
21. Votes by proxy	16

22.	Document appointing proxy	16
23.	Lodgement of proxy	17
24.	Validity	17
	Amendment of this Constitution	18
25.	Amendment of this Constitution	18
	Appointment and removal of Directors	18
26.	Number of Directors	18
27.	Appointment and removal of Directors	18
28.	Additional and casual Directors	18
29.	Retirement	18
30.	Filling vacated office	19
31.	Eligibility of Director	19
32.	Nomination of Director	19
33.	Vacation of Office	20
	Powers and duties of Directors	20
34.	Powers and duties of Directors	20
	Proceedings of Directors	21
35.	Directors' meetings	21
36.	Decision on questions	21
	Payments to Directors	22
37.	Payments to Directors	22
38.	Directors' interests	22
39.	Remaining Directors	23
40.	Chairperson	23
41.	Delegation	23
42.	Written resolutions	24
43.	Validity of acts of Directors	24
44.	Minutes and Registers	25
	Attorneys and agents	25
45.	Local management	25
46.	Appointment of attorneys and agents	25

Secretary	26
47. Secretary	26
Seals	26
48. Common Seal	26
49. Duplicate Seal	27
Inspection of records	27
50. Inspection of records	27
Notices	27
51. Service of notices	27
52. Persons entitled to notice	28
Records	28
53. Records	28
Audit and accounts	28
54. Audit and accounts	28
Winding up	29
55. Winding up	29
Revocation of deductible gift recipient endorsement	29
56. Revocation of deductible gift recipient endorsement	29
Receipts for gifts and Deductible Contributions	30
57. Receipts for gifts and Deductible Contributions	30
Indemnity	30
58. Indemnity	30

Preliminary

1. Defined terms & interpretation

1.1 In this Constitution unless the contrary intention appears:

ACNC means the Australian Charities and Not-for-Profits Commission.

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012* (Cth) as modified or amended from time to time and includes any regulations made under those Acts and any exemption or modification to those Acts applying to the Company.

Auditor means the Company's auditor.

Authorised Representative means a person appointed as such under clause 7.

Chief Executive Officer means the person appointed as Chief Executive Officer of the Company by the Directors.

Company means Cancer Council Victoria.

Community Representative Member means:

- (a) an individual who has or has had cancer;
- (b) a carer of an individual who has or has had cancer; or
- (c) a person who is a community advocate for persons with cancer, who has been admitted as a Member and classified as such.

Constitution means the constitution of the Company as amended from time to time.

Corporations Act means the *Corporations Act 2001* (Cth).

Deductible Contribution means a contribution that is deductible under Items 7 or 8 of the table in subsection 30-15(2) of the ITAA 97 or any amended provision of similar effect and/or any other provision of similar effect.

Director includes any person occupying the position of director of the Company.

Directors means all or some of the Directors acting as a board.

Health Services Act means the *Health Services Act 1988* (Vic).

Health Services Member means a Health Services Organisation which has been admitted as a Member and classified as such.

Health Services Organisation means:

- (a) a Metropolitan Hospital as defined in the Health Services Act or a substantially similar organisation;
- (b) a Denominational Hospital as defined in the Health Services Act or a substantially similar organisation;
- (c) a Public Health Service as defined in the Health Services Act or a substantially similar organisation; or

- (d) such other organisation as is deemed by the Directors to be a Health Services Organisation, subject to the Directors specifying in writing the qualification or eligibility requirements met by that organisation.

Initial Members means the Members on the date that the Company was converted into a company under the Corporations Act, pursuant to section 5H of the Corporations Act.

ITAA 97 means the *Income Tax Assessment Act 1997* (Cth) as modified or amended from time to time.

Medical College and Association means an organisation that provides medical education and training or an association of, or representing, medical practitioners or health professionals and also includes such other organisation as is deemed by the Directors to be a Medical College and Association, subject to the Directors specifying in writing the qualification or eligibility requirements met by that organisation.

Medical College and Association Member means a Medical College and Association which has been admitted as a Member and classified as such.

Member means a member under clause 4.

Office means the Company's registered office.

Ordinary Member means a former president or chairperson of the board of the Company (whether before or after the time of its conversion into a company) who becomes a Member pursuant to clause 4.

Principal Purpose has the meaning given to it under clause 2.1.

Register means the register of Members of the Company.

Registered Address means the last known address of a Member as noted in the Register.

Responsible Person means an individual with a degree of responsibility to the Australian community as a whole, including an individual who:

- (a) performs a significant public function;
- (b) is a member of a professional body having a code of ethics or rules of conduct;
- (c) is officially charged with spiritual functions by a religious institution;
- (d) is a director of a company whose shares are listed on the Australian Stock Exchange;
- (e) is a person before whom a statutory declaration may be made.
- (f) has received formal recognition from government for services to the community; or
- (g) is approved as a Responsible Person by the Federal Commissioner of Taxation or any other government entity which is subsequently given the power to approve a person as a Responsible Person, including the ACNC.

Research Organisation means an organisation engaged in research and investigation into the causes, prevention, diagnosis and treatment of cancer, other than the Company, and expends more than \$200,000 annually on cancer research and also includes such other organisation as is deemed by the Directors to be a Research Organisation, subject to the Directors specifying in writing the qualification or eligibility requirements met by that organisation.

Research Organisation Member means a Research Organisation which has been admitted as a Member and classified as such.

Seal means the Company's common seal.

Secretary means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of such joint secretaries.

University Organisation means a university or other tertiary education organisation, and also includes such other organisation as is deemed by the Directors to be a University Organisation, subject to the Directors specifying in writing the qualification or eligibility requirements met by that organisation.

University Organisation Member means a University Organisation which has been admitted as a Member and as classified as such.

- 1.2 In this Constitution, unless the contrary intention appears:
- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
 - (b) words importing natural persons include corporations, bodies corporate, trustees, partnerships, joint ventures, associations and public authorities;
 - (c) words and expressions defined in the Corporations Act have the same meaning in this Constitution;
 - (d) headings are for ease of reference only and do not affect the construction of this Constitution;
 - (e) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
 - (f) a reference to an 'organisation' includes any corporation, body corporate, joint venture, association, trustee or public authority.
- 1.3 Unless the contrary intention appears in this Constitution, an expression in a clause of this Constitution has the same meaning as in a provision of the Corporations Act that deals with the same matter as the clause.
- 1.4 To the extent permitted by law and unless otherwise provided in this constitution, the replaceable rules in the Corporations Act and those provisions referred to in section 111L of the Corporations Act do not apply to the Company.

Objects

2. Objects

- 2.1 The Company is established to reduce the impact of all cancers for all Victorians (**Principal Purpose**).
- 2.2 The Principal Purpose will be pursued by activities and means that include:
- (a) the promotion of the understanding of the causes of cancer and its prevention, early detection, diagnosis and treatment;
 - (b) the collection, synthesis and distribution of information to improve knowledge of cancer and cancer outcomes;

- (c) the funding and conduct of research activities directed at the causes, prevention, detection, diagnosis and treatment of cancer and the dissemination of the results of such research;
- (d) the promotion and delivery of programs directed to prevention of cancer;
- (e) the provision of support, education and information to people with cancer, their families, carers and communities;
- (f) advocacy for improvements in treatment and care of people with cancer and for public health initiatives to prevent and to reduce the impact of cancer in Victoria;
- (g) the fostering of cooperation with and between other organisations involved in cancer care, control and prevention; and
- (h) for the avoidance of doubt, the raising and management of funds to support the foregoing objects.

2.3 The Company may only exercise the powers in section 124(1) of the Corporations Act to:

- (a) carry out the objects in this clause 2; and
- (b) do all things incidental, necessary or convenient in relation to the exercise of power under clause 2.3(a).

Income and property of Company

3. Income and property of Company

3.1 The income and property of the Company will only be applied towards the promotion of the Principal Purpose and the objects of the Company set out in clause 2.

3.2 No income or property will be paid or transferred directly or indirectly to any Member of the Company except for payments to a Member:

- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
- (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.

3.3 Nothing in this clause 3 prevents:

- (a) the payment, in good faith and at arms length terms, of a grant to a Member for the purposes of advancing the objects of the Company set out in clause 2, provided that:
 - (i) the terms of the grant require that the funds may only be used for a purpose consistent with advancing the objects of the Company set out in clause 2; and
 - (ii) the grant is listed in the annual report and financial statements of the Company;
- (b) the payment, in good faith, of an amount to any Member of reasonable and proper rent for premises let by any Member to the Company;
- (c) subject to clause 37, the payment, in good faith, of remuneration to any officers or employees of the Company for services actually rendered to the Company and the provision of professional development and benefits to officers and employees in the ordinary course of business; or

- (d) the Company from providing services or information to the Members on terms which are different from the terms on which services or information are provided to persons who are not Members.

Membership

4. Admission

4.1 The Members of the Company are:

- (a) as at the date of this Constitution, the Initial Members; and
- (b) such other persons whom the Directors admit to membership as Members in accordance with this Constitution.

4.2 The membership of the Company will be divided into the following classes of membership:

- (a) Ordinary Members;
- (b) Health Services Members;
- (c) Medical College and Association Members;
- (d) Research Organisation Members;
- (e) University Organisation Members; and
- (f) Community Representative Members (up to a maximum number of 4 Community Representative Members).

4.3 Applications for membership of the Company must:

- (a) be in writing;
- (b) be signed by the applicant;
- (c) be in a form approved by the Directors in their absolute discretion;
- (d) state the class of membership applied for; and
- (e) be accompanied by such documents or evidence as to qualification or eligibility for the category of membership applied for as the Directors determine.

4.4 An individual who applies for membership must be at least 18 years old at the date of the application to the Company and have their principal place of residence in Victoria and any entity, other than an individual, who applies for membership must have an office or place of business in Victoria.

4.5 The Directors will consider each application for membership at the next meeting of Directors after the application is received or otherwise as soon as practicable after receipt of the application. In considering an application for membership, the Directors may (in their sole and absolute discretion):

- (a) accept or reject the application; or
- (b) ask the applicant to give more evidence of qualification or eligibility for membership.

4.6 If the Directors ask for more evidence under clause 4.5, their determination of the application for membership is deferred until the evidence is given.

- 4.7 The Directors do not have to give any reasons for rejecting an application for membership or granting a particular category of membership.
- 4.8 As soon as practicable following acceptance of an application for membership, the Secretary will send the applicant written notice of the acceptance.
- 4.9 An applicant for membership becomes a Member when the applicant's application is accepted.
- 4.10 The rights and privileges of every Member are personal to each Member and are not transferable by the Member's own act or by operation of law.
- 4.11 Members are entitled to:
- (a) speak at, attend, vote at (subject to and in accordance with clause 19) and receive notices of meetings of Members;
 - (b) participate in a call for a poll;
 - (c) vote at elections of Directors; and
 - (d) be elected as Directors.
- 4.12 Each Member must notify the Secretary in writing of any change in that person's name, address, telephone number, facsimile number or email address within one month after the change.

5. Suspension and cessation of membership

- 5.1 A Member's membership of the Company will be suspended if at least three-quarters of the Directors present and voting at a meeting of Directors, for such period as those Directors determine, by resolution suspend the membership of a Member who has, in the opinion of those Directors, acted in a manner detrimental to the interests or objects of the Company. The Directors are not required to give reasons for the suspension of the Member.
- 5.2 A Member's membership of the Company will cease:
- (a) if the Member gives the Secretary written notice of resignation, from the date of receipt of that notice by the Secretary;
 - (b) if:
 - (i) the Company passes a resolution at general meeting; or
 - (ii) at least three-quarters of the Directors present and voting at a meeting of Directors pass a resolution,
to terminate the membership of a Member:
 - (iii) whose conduct in their opinion renders it undesirable that that Member continue to be a Member of the Company; and
 - (iv) only after the Member has been given at least 21 days' notice of the resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed;
 - (c) where the Member is an individual, if that Member:
 - (i) dies;

- (ii) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health; or
 - (iii) is convicted of an indictable offence; or
- (d) where the Member is not an individual, if:
 - (i) a liquidator is appointed in connection with the winding-up of the Member; or
 - (ii) an order is made by a Court for the winding-up or deregistration of the Member.

6. Powers of attorney

- 6.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the Attorney to the Company for notation.
- 6.2 If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- 6.3 The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

7. Authorised Representatives

- 7.1 Any corporation or organisation which is a Member may by written notice to the Secretary:
 - (a) appoint a natural person to act as its authorised representative (**Authorised Representative**) in all matters connected with the Company as permitted by the Corporations Act; and
 - (b) remove an Authorised Representative.
- 7.2 An Authorised Representative is entitled to:
 - (a) exercise at a general meeting all the powers which the corporation or organisation which appointed him or her could exercise if it were a natural person;
 - (b) stand for election as an office bearer or Director; and
 - (c) be counted towards a quorum on the basis that the Member corporation or organisation is to be considered personally present at a general meeting by the attendance of its Authorised Representative.
- 7.3 A duly executed certificate is rebuttable evidence of the appointment or of the removal of the appointment (as appropriate) of the Authorised Representative.
- 7.4 The chairperson of a general meeting may allow an Authorised Representative to vote on the condition that he or she subsequently establishes his or her status as an Authorised Representative within a period prescribed by and to the satisfaction of the chairperson of the general meeting.
- 7.5 The appointment of an Authorised Representative may set out restrictions on the Authorised Representative's powers.

General meetings

8. Annual general meeting

8.1 The Directors must call an annual general meeting of the Company to be held in April each year.

9. Calling general meeting

9.1 Any Director may at any time call a general meeting.

9.2 A Member may:

- (a) only request the Directors to call a general meeting in accordance with section 249D of the Corporations Act (whether or not that section applies to the Company) but, unless that section applies to the Company, on the basis of at least 5 Members making the request; and
- (b) not request or call and arrange to hold a general meeting except under section 249E or 249F of the Corporations Act (whether or not those sections apply to the Company) but, unless those sections apply to the Company, on the basis of at least 5 Members calling the relevant meeting.

9.3 A general meeting may be held at two or more venues simultaneously using any technology that gives the Members as a whole a reasonable opportunity to participate.

10. Notice of general meeting

10.1 Subject to any applicable provisions of the Corporations Act allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members of any general meeting.

10.2 A notice calling a general meeting:

- (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and
- (b) must state the general nature of the business to be transacted at the meeting; and
- (c) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.

10.3 A notice of an annual general meeting need not state that the business to be transacted at the meeting, but may include:

- (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
- (b) the election of directors; or
- (c) the appointment and fixing of the remuneration of the Auditor.

10.4 The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 9.2).

10.5 The Directors must give notice of the postponement or cancellation of a general meeting to all persons referred to in clause 52.1 entitled to receive notices from the Company.

- 10.6 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.
- 10.7 A person's attendance at the general meeting waives any objection the person may have to:
- (a) a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
 - (b) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of meeting, unless the person objects to considering the matter when it is presented.

Proceedings at general meetings

11. Member

In clauses 12, 13, 15 and 19, **Member** includes a Member present in person or by proxy, attorney or Authorised Representative.

12. Quorum

- 12.1 No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.
- 12.2 A quorum of Members is 10 Members, unless there are less than 40 Members, when a quorum is such number of Members as hold 25% of the total voting rights.
- 12.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:
- (a) if the general meeting was called on the requisition of Members, it is automatically dissolved; or
 - (b) in any other case:
 - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
 - (ii) if at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting, the general meeting is automatically dissolved.

13. Chairperson

- 13.1 If the Directors have elected one of their number as chairperson of their meetings, that person is entitled to preside as chairperson at every general meeting.
- 13.2 The Directors present may elect a chairperson of a general meeting if:
- (a) a Director has not been elected as the chairperson of meetings of Directors;
 - (b) a Director has been so elected, but is not present within 15 minutes after the time appointed for holding the general meeting; or
 - (c) a Director has been so elected, but is unwilling to act as chairperson of the general meeting.

- 13.3 If no election is made under clause 13.2, then:
- (a) the Members may elect one of the Directors present as chairperson; or
 - (b) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.
- 13.4 At any time during a meeting and in respect of any specific item or items of business, the chairperson may elect to vacate the chair in favour of another person nominated by the chairperson (which person must be a Director unless no Director is present or is willing to act). That person is to be taken to be the chairperson and will have all the powers of the chairperson (other than the power to adjourn the meeting), during the consideration of that item of business or those items of business.
- 13.5 If there is a dispute at a general meeting about a question of procedure, the order of business, or conduct of the general meeting, the chairperson may determine the question and the ruling of the chairperson is final and no motion of dissent from a ruling of the chairperson may be accepted.
- 13.6 The chairperson may, at any time the chairperson considers it necessary or desirable for the proper and orderly conduct of the meeting:
- (a) impose a limit on the time that a person may speak on each motion or other item of business and terminate debate or discussion on any business, question, motion or resolution being considered at the meeting and require the business, questions, motion or resolution to be put to a vote of the Members present; and
 - (b) adopt any procedures for casting or recording votes at the meeting whether on a show of hands or on a poll, including the appointment of scrutineers.

14. Adjournment

- 14.1 The chairperson of a general meeting at which a quorum is present:
- (a) in his or her discretion may adjourn the general meeting with the meeting's consent; and
 - (b) must adjourn the general meeting if the meeting directs him or her to do so.
- 14.2 An adjourned general meeting may take place at a different venue to the initial general meeting.
- 14.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.
- 14.4 Notice of an adjourned general meeting must only be given in accordance with clause 10.1 if a general meeting has been adjourned for more than 21 days.

15. Decision on questions

- 15.1 Subject to the Corporations Act in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- 15.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the Corporations Act.
- 15.3 Unless a poll is demanded:
- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and

(b) an entry to that effect in the minutes of the meeting,
are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

15.4 The demand for a poll may be withdrawn.

15.5 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the general meeting was not entitled to do so.

16. Taking a poll

16.1 A poll will be taken when and in the manner that the chairperson directs.

16.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.

16.3 The chairperson may determine any dispute about the admission or rejection of a vote.

16.4 The chairperson's determination, if made in good faith, will be final and conclusive.

16.5 A poll demanded on the election of the chairperson or the adjournment of a general meeting must be taken immediately.

16.6 After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

17. Casting vote of chairperson

The chairperson has a casting vote (in addition to any vote the chairperson may have as a Member, proxy, attorney or Authorised Representative) on a show of hands or on a poll at a general meeting.

18. Offensive material

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

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
 - (i) electronic or recording device;
 - (ii) placard or banner; or
 - (iii) other article,
which the chairperson considers to be dangerous, offensive or liable to cause disruption;
- (c) causes any disruption to the meeting including by refusal to comply with a request of the chairperson to turn off a mobile telephone, personal communication device or similar device;
- (d) behaves, threatens to behave or the chairperson reasonably believes may behave in a dangerous, offensive or disruptive way;
- (e) uses offensive or abusive language which is directed to any person, object or thing; or
- (f) attends the meeting while under the influence of any kind of drug including but not limited to any alcoholic substance.

Votes of Members

19. Entitlement to vote

19.1 Each Member is entitled to one vote.

20. Objections

20.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.

20.2 An objection must be referred to the chairperson of the general meeting, whose decision is final.

20.3 A vote which the chairperson does not disallow because of an objection is valid for all purposes.

21. Votes by proxy

21.1 If a Member appoints a proxy, proxies or an attorney, the proxy, proxies or attorney may not vote on a show of hands.

21.2 A proxy need not be a Member and may hold more than one proxy.

21.3 A proxy may demand or join in demanding a poll.

21.4 A proxy or attorney may vote on a poll.

21.5 A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If a proxy votes at all, the proxy will be deemed to have voted all directed proxies in the manner directed.

22. Document appointing proxy

22.1 An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the following information:

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

The Directors may determine that an appointment of proxy is valid even if it only contains some of the information specified above. A proxy may be a standing one.

22.2 For the purposes of clause 22.1, an appointment of a proxy received at an electronic address will be taken to be signed by the Member if:

- (a) a personal identification code allocated by the Company to the Member has been input into the appointment; or
- (b) the appointment has been verified in another manner approved by the Directors.

22.3 A proxy's appointment is valid at an adjourned general meeting.

22.4 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.

- 22.5 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:
- (a) to vote on:
 - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
 - (ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting,
even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
 - (b) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.
- 22.6 If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either act as proxy or complete the appointment by inserting the name or names of one or more directors or the Secretary.

23. Lodgement of proxy

- 23.1 The written appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
- (a) the time for holding the general meeting or adjourned general meeting at which the appointee proposes to vote; or
 - (b) the taking of a poll on which the appointee proposed to vote.
- 23.2 The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:
- (a) the Office;
 - (b) a facsimile number at the Office; or
 - (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

24. Validity

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became mentally incapacitated; or
- (c) revoked the proxy or power,

unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant general meeting or adjourned general meeting.

Amendment of this Constitution

25. Amendment of this Constitution

To the extent required by law, the ACNC and the ATO must be notified of any amendments made to this Constitution.

Appointment and removal of Directors

26. Number of Directors

- 26.1 Subject to the Corporations Act, the Company may by resolution passed at a general meeting increase the minimum number of Directors or increase or reduce the maximum number of Directors.
- 26.2 Until the Company resolves otherwise in accordance with clause 26.1, there will not be less than three nor more than 12 Directors unless the Company in general meeting by resolution changes the maximum number.

27. Appointment and removal of Directors

- 27.1 The Company may by resolution passed in general meeting:
- (a) appoint new Directors;
 - (b) subject to clause 26.1, increase or reduce the number of Directors;
 - (c) remove any Director before the end of the Director's period of office; and
 - (d) appoint another person in the Director's place.
- 27.2 A person appointed under clause 27.1(d) will hold office for the period for which the Director replaced would have held office if the Director had not been removed.
- 27.3 If the conduct or position of any Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Company, a majority of Directors at a meeting of the Directors specifically called for that purpose may suspend that Director.
- 27.4 Within 14 days of the suspension, the Directors must call a general meeting, at which the Members may either confirm the suspension and remove the Director from office in accordance with clause 27.1(a) or annul the suspension and reinstate the Director.

28. Additional and casual Directors

- 28.1 Subject to clause 26.1, the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the existing Directors.
- 28.2 A Director appointed under clause 28.1 will hold office until the next general meeting of the Company when the Director may be re-elected.

29. Retirement

- 29.1 A Director may retire from office by giving notice in writing to the Company of that Director's intention to retire. A notice of resignation takes effect at the time which is the later of the time of giving the notice to the Company and the expiration of the period, if any, specified in the notice.

- 29.2 At the close of each annual general meeting a number of Directors must retire from office, being the number determined by the Directors.
- 29.3 The Directors to retire by rotation at an annual general meeting are those Directors who have been longest in office since their last election.
- 29.4 Directors elected on the same day may agree among themselves or determine by lot which of them must retire.
- 29.5 A Director must retire from office at the conclusion of the third annual general meeting after the Director was last elected, even if his or her retirement results in more than the minimum prescribed number of Directors retiring from office. For this purpose, in the case of a Director who was a Director as at the time the Company was taken to be a company registered under the Corporations Act, the Director will be considered to be elected at the time the Company was taken to be registered as a company under the Corporations Act. Accordingly, any period in which a Director was a member of the executive committee of the Company (as referred to in the *Cancer Act 1958 (Vic)*) immediately prior to such time, will not be considered to be part of the period since their last election as a Director.
- 29.6 A retiring Director remains in office until the end of the meeting and will be eligible for re-election at the meeting.
- 29.7 A retiring Director will be ineligible for re-election after serving three (or such other number determined by Directors) consecutive terms in office. For this purpose, in the case of a Director who was a Director as at the time the Company was taken to be a company registered under the Corporations Act, any period in which a Director was a member of the executive committee of the Company (as referred to in the *Cancer Act 1958 (Vic)*) immediately prior to such time, will not be considered to be a period of office as a Director.

30. Filling vacated office

- 30.1 When a Director retires under clause 29.1, the Company may by ordinary resolution elect a person to fill the vacated office.
- 30.2 If the vacated office is not filled and the retiring Director has offered himself or herself for re-election, the retiring Director will be deemed to have been re-elected unless, at the meeting at which he or she retires:
- (a) it is resolved not to fill the vacated office; or
 - (b) the resolution for the re-election of the Director is put and lost.

31. Eligibility of Director

- 31.1 A person does not have to be a Member to be a Director.
- 31.2 An employee of the Company is not eligible for appointment as a Director.

32. Nomination of Director

- 32.1 A person other than a retiring Director is not eligible for election as a Director at a general meeting unless the person, or a Member who intends to propose the person, has left at the Office a written notice signed by him or her:

- (a) giving the person's consent to the nomination; and
- (b) stating either that the person is a candidate for the office of Director or that the Member intends to propose the person for election.

32.2 A notice given in accordance with clause 32.1 must be left at the Office at least 14 days before the relevant general meeting.

33. Vacation of Office

The office of a Director immediately becomes vacant if the Director:

- (a) ceases to be a Director by virtue of the Corporations Act;
- (b) is prohibited by the Corporations Act or the ACNC Act from holding office or continuing as a Director;
- (c) is prohibited from holding or is removed from the office of Director by an order made under the Corporations Act;
- (d) becomes bankrupt or makes any general arrangement or composition with his or her creditors;
- (e) cannot fully participate in the management of the Company because of his or her mental incapacity;
- (f) is a person whose estate is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
- (g) resigns by notice in writing to the Company;
- (h) is removed by a resolution of the Company;
- (i) is absent from Directors' meetings for three consecutive meetings without leave of absence from the Directors; or
- (j) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Corporations Act.

Powers and duties of Directors

34. Powers and duties of Directors

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

34.2 Without limiting the generality of clause 34.1, the Directors may exercise all the powers of the Company to:

- (a) borrow money;
- (b) charge any property or business of the Company;
- (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and

- (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

Proceedings of Directors

35. Directors' meetings

- 35.1 A Director may at any time, and the Secretary must on the request of a Director, call a Directors' meeting.
- 35.2 Notwithstanding clause 35.1 and unless otherwise determined by the Directors, the Directors must call Directors' meetings not less than six times per year, on alternate months beginning in February.
- 35.3 A Directors' meeting must be called on at least 48 hours written notice of a meeting to each Director and each Director's alternate, unless the Directors unanimously agree otherwise. The notice may be in writing or given using any technology consented to by all the Directors. The consent may be a standing one.
- 35.4 An accidental omission to send a notice of a meeting of Directors to any Director or the non-receipt of such a notice by any Director does not invalidate the proceedings, or any resolution passed, at the meeting.
- 35.5 Subject to the Corporations Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means consented to by all the Directors. The consent may be a standing one. A Director can only withdraw his or her consent to the means of communication between Directors proposed for a Directors' meeting if the Director does so at least 48 hours before the meeting.
- 35.6 The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- 35.7 Subject to clause 38, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 35.8 Clauses 35.4 to 35.6 inclusive apply to meetings of Directors' committees as if all committee members were Directors.
- 35.9 The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 35.10 At a meeting of Directors, a quorum is 5 Directors unless the Company has less than 5 Directors, in which case the quorum is all Directors.
- 35.11 Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson may call a general meeting to deal with the matter.

36. Decision on questions

- 36.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to clause 38, each Director has one vote.
- 36.2 The chairperson of a meeting does not have a casting vote in addition to his or her deliberative vote.

Payments to Directors

37. Payments to Directors

37.1 Notwithstanding any other clause of this constitution:

- (a) the Company must not pay fees or any other remuneration to the Directors of the Company; and
- (b) the Company must not make any other payments to Directors without the approval of Directors.

37.2 No payment will be made to any Director of the Company other than payment:

- (a) for out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors of the Company and where the amount payable is approved by the Directors of the Company and is not more than an amount which commercially would be reasonable payment for the service; and
- (c) relating to an indemnity in favour of the Director and permitted by section 199A of the Corporations Act or a contract of insurance permitted by section 199B,

38. Directors' interests

38.1 No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.

38.2 No Director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.

38.3 A Director is not disqualified merely because of being a Director from contracting with the Company in any respect.

38.4 Subject to clause 37, a Director or a body or entity in which a Director has a direct or indirect interest may:

- (a) enter into any agreement or arrangement with the Company;
- (b) hold any office or place of profit other than as auditor in the Company; and
- (c) act in a professional capacity other than as auditor for the Company,

and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.

38.5 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter,

unless permitted by the Corporations Act to do so, in which case the Director may:

- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
- (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

38.6 A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.

39. Remaining Directors

39.1 The Directors may act even if there are vacancies on the board.

39.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:

- (a) appoint a Director; or
- (b) call a general meeting.

40. Chairperson

40.1 The Directors may elect a Director to chair their meetings and determine the period for which the person elected is to hold office.

40.2 If the chairperson has not been elected, or if at any meeting the chairperson is not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act, the Directors present may choose one of their number to chair the meeting.

40.3 The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

41. Delegation

41.1 Subject to clause 41.2. the Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to:

- (a) a committee or committees;
- (b) a Director or Directors;
- (c) an employee or employees of the Company; or
- (d) any other person.

41.2 The Directors may not delegate the following powers and functions:

- (a) receipt and consideration of reports of the auditor and any audit committee;
 - (b) establishment and membership of committees of the Board;
 - (c) appointment of the Chief Executive Officer and selection panels for appointment of the Chief Executive Officer; and
 - (d) acquisition, sale, mortgaging or otherwise disposing or dealing with real property.
- 41.3 The Directors may at any time revoke any delegation of power under clause 41.1.
- 41.4 A committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- 41.5 Meetings of any committee of Directors will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each member was a Director.

42. Written resolutions

- 42.1 The Directors may pass a resolution without a Director's meeting being held if all the Directors entitled to vote on the resolution are given a document setting out or identifying a proposed resolution, and all of those Directors sign or consent to a resolution set out or identified in such a document. The resolution is passed when the last Director signs.
- 42.2 For the purposes of clause 42.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 42.3 Any document referred to in this clause may be in the form of a facsimile transmission, electronic notification, or produced by other electronic or mechanical means.
- 42.4 A Director may consent to a resolution by:
- (a) signing the document containing the resolution (or a copy of the document);
 - (b) sending the consent in any document produced under the name of the Director with the Director's authority;
 - (c) delivering to the Company's registered office a written document addressed to the company secretary or the chairperson of Directors, signifying assent to the resolution and either setting out its terms or otherwise clearly identifying the resolution; or
 - (d) telephoning the secretary or the chairperson of Directors and signifying assent to the resolution and clearly identifying its terms.
- 42.5 If a resolution is taken to have been passed in accordance with this clause 42, the minutes must record that fact.
- 42.6 This clause applies to meetings of Directors' committees as if all members of the committee were Directors.
- 42.7 Any document referred to in this clause 42 must be sent to every Director who is entitled to vote on the resolution.

43. Validity of acts of Directors

- 43.1 If it is discovered that:

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

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

44. Minutes and Registers

44.1 The Directors must cause minutes to be made of:

- (a) the names of the Directors present at all Directors' meetings and meetings of Directors' committees;
- (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
- (c) all resolutions passed by Directors in accordance with clause 42;
- (d) all appointments of officers;
- (e) all orders made by the Directors and Directors' committees; and
- (f) all disclosures of interests made under clause 38.

44.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of a future meeting, and if so signed will be conclusive evidence of the matters stated in such minutes.

44.3 The Company must keep all registers required by this Constitution and the Corporations Act.

Attorneys and agents

45. Local management

45.1 The Directors may provide for the management and transaction of the affairs of the Company in any places and in such manner as they think fit but always in furtherance of the Principal Purpose.

45.2 Without limiting clause 45.1 the Directors may:

- (a) establish local boards or agencies for managing any of the affairs of the Company in a specified place and appoint any persons to be members of those local boards or agencies; and
- (b) delegate to any person appointed under clause 45.2(a) any of the powers, authorities and discretions which may be exercised by the Directors under this Constitution,

on any terms and subject to any conditions determined by the Directors.

45.3 The Directors may at any time revoke or vary any delegation under this clause.

46. Appointment of attorneys and agents

46.1 The Directors may from time to time by resolution or power of attorney appoint any person to be the attorney or agent of the Company:

- (a) for the purposes;

- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
 - (c) for the period; and
 - (d) subject to the conditions,
determined by the Directors.
- 46.2 An appointment by the Directors of an attorney or agent of the Company may be made in favour of:
- (a) any member of any local board established under this Constitution;
 - (b) any company;
 - (c) the members, directors, nominees or managers of any company or firm; or
 - (d) any fluctuating body of persons whether nominated directly or indirectly by the Directors.
- 46.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- 46.4 An attorney or agent appointed under this clause 46 may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

Secretary

47. Secretary

- 47.1 If required by the Corporations Act, there must be at least one secretary of the Company appointed by the Directors for a term and at remuneration and on conditions determined by them.
- 47.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.
- 47.3 The Directors may determine the terms and conditions of appointment of a Secretary, including remuneration.
- 47.4 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

Seals

48. Common Seal

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

49. Duplicate Seal

- 49.1 If the Company has a Seal, the Company may have one or more duplicate Seals of the Seal each of which:
- (a) must be a facsimile of the Seal with the addition on its face of the words 'Duplicate Seal'; and
 - (b) must not be used except with the authority of the Directors.

Inspection of records

50. Inspection of records

- 50.1 Except as otherwise required by the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members who are not also Directors.
- 50.2 Except as otherwise required by the Corporations Act, a Member who is not also a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

Notices

51. Service of notices

- 51.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution:
- (a) by serving it on the person; or
 - (b) by sending it by post, courier, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.
- 51.2 A notice sent by post or courier is taken to be served:
- (a) by properly addressing, prepaying and posting or directing the delivery of the notice; and
 - (b) on the day after the day on which it was posted or given to the courier for delivery.
- 51.3 A notice sent by facsimile transmission or electronic notification is taken to be served:
- (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
 - (b) on the day of its transmission except if transmitted after 5.00pm in which case is taken to be served on the next day.
- 51.4 If a Member has no Registered Address a notice will be taken to be served on that Member 24 hours after it was posted on a notice board at the Office.
- 51.5 A Member whose Registered Address is not in Australia may specify in writing an address in Australia to be taken to be the Member's Registered Address within the meaning of this clause.

- 51.6 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 51.7 Subject to the Corporations Act the signature to a written notice given by the Company may be written or printed.
- 51.8 All notices sent by post outside Australia must be sent by prepaid airmail post.
- 51.9 The provisions of this clause relating to notices apply, to the extent that they can and with any necessary changes, to sending any communication or document.

52. Persons entitled to notice

- 52.1 Notice of every general meeting must be given to:
- (a) every Member;
 - (b) every Director; and
 - (c) any Auditor.
- 52.2 No other person is entitled to receive notice of a general meeting.

Records

53. Records

- 53.1 The Directors must cause the Company to keep records that:
- (a) correctly record its operations;
 - (b) correctly record and explain its transactions and financial position and performance;
 - (c) enable true and fair financial statements to be prepared and to be audited;
 - (d) explain all transactions and other acts that the Company engages in that are relevant to the objects in clause 2 and that also explains how:
 - (i) all gifts of money and property;
 - (ii) Deductible Contributions; and
 - (iii) any money received because of those gifts or Deductible Contributions, are applied to meet the Principal Purpose; and
 - (e) comply with the ACNC Act, and any applicable pronouncements, rulings or guidance from the ACNC or the ATO.

Audit and accounts

54. Audit and accounts

- 54.1 The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the Corporations Act and the ACNC Act.

54.2 The Directors must cause the financial records of the Company to be audited or reviewed to the extent required under the Corporations Act and the ACNC Act.

Winding up

55. Winding up

55.1 If the Company is wound up each Member undertakes to contribute to the property of the Company for the:

(a) payment of debts and liabilities of the Company and payment of costs, charges and expenses of winding up; and

(b) adjustment of the rights of the contributories amongst themselves,

such amount as may be required, such amount not to exceed \$10 per Member.

55.2 Upon the winding up of the Company any surplus:

(a) gifts of money or property received by the Company for the Principal Purpose;

(b) Deductible Contributions received by the Company in relation to a fund-raising event held for the Principal Purpose;

(c) money received by the Company because of the gifts or Deductible Contributions mentioned in clauses 55.2(a) and (b) including, without limitation, any money received because of investment of those gifts or Deductible Contributions; and

(d) assets held by the Company other than those mentioned above;

will not be paid to or distributed amongst Members, but will be given or transferred to another fund, authority or institution:

(e) which is charitable at law and has objects similar to the Principal Purpose;

(f) gifts to which can be deducted under Division 30 of the ITAA 97; and

(g) has constituent documents which prohibit the distribution of its income and property among its members on terms substantially similar to clause 3,

such fund, authority or institution to be determined by the Members at or before the winding up and in default, by application to the Supreme Court of Victoria for determination.

Revocation of deductible gift recipient endorsement

56. Revocation of deductible gift recipient endorsement

56.1 If the Company's endorsement as a deductible gift recipient in accordance with Division 30 of the ITAA 97, is revoked, any surplus:

(a) gifts of money or property received by the Company for the Principal Purpose;

(b) Deductible Contributions received by the Company in relation to a fund-raising event held for the Principal Purpose; and

(c) money received by the Company because of the gifts or Deductible Contributions mentioned in clauses 56.1(a) and (b) including, without limitation, any money received because of investment of those gifts or Deductible Contributions;

will not be paid to or distributed amongst Members, but will be given or transferred to another fund, authority or institution:

- (d) which is charitable at law and has objects similar to the Principal Purpose;
- (e) gifts to which can be deducted under Division 30 of the ITAA 97; and
- (f) has constituent documents which prohibit the distribution of its income and property among its members on terms substantially similar to clause 3,

such fund, authority or institution to be determined by the Members and in default, by application to the Supreme Court of Victoria for determination.

Receipts for gifts and Deductible Contributions

57. Receipts for gifts and Deductible Contributions

57.1 Receipts for gifts must state:

- (a) the name of the Company;
- (b) the Australian Business Number of the Company; and
- (c) the fact that the receipt is for a gift.

57.2 Receipts for Deductible Contributions must state:

- (a) the name of the Company;
- (b) the Australian Business Number of the Company;
- (c) the fact that the Deductible Contribution was made in return for either or both:
 - (i) a right to attend or participate in a specific fund-raising event; or
 - (ii) the purchase of goods and services at an auction held at a fund-raising event;
- (d) the amount of the Deductible Contribution if the Deductible Contribution is money; and
- (e) the GST inclusive market value of the minor benefit provided in return for the Deductible Contribution.

Indemnity

58. Indemnity

58.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Company indemnifies every person who is or has been an officer of the Company against:

- (a) any liability (other than for legal costs) incurred by that person as such an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment); or
- (b) reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of the Company (including such legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).

- 58.2 The Company may enter into a deed with any officer (including without limitation any officer or other person who is director or secretary of a subsidiary of the Company where the Company requested the officer or other person to accept that appointment) to give effect to the rights conferred by this clause 58 or the exercise of a discretion under this clause 58 on such terms as the Directors think fit which are not inconsistent with this clause 58.
- 58.3 The amount of any indemnity payable under clauses 58.1(a) or (b) will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.
- 58.4 For the purposes of this clause 58, **officer** means:
- (a) a Director; or
 - (b) a Secretary.