



# Explorability Inc

Individualised advocacy for people with disability

## **Explorability Inc Constitution and Rules**

As ratified at the Annual General Meeting held on 27 October 2020

## CONTENTS

1.	NAME OF ASSOCIATION	3
2.	DEFINITIONS AND INTERPRETATION	3
3.	OBJECTS OF ASSOCIATION	5
4.	POWERS OF ASSOCIATION	7
5.	REGISTER OF MEMBERS OF ASSOCIATION	8
6.	RULES OF ASSOCIATION	9
7.	QUALIFICATION FOR MEMBERSHIP OF ASSOCIATION	9
8.	TERMINATION OF MEMBERSHIP OF THE ASSOCIATION	11
9.	BOARD OF MANAGEMENT	11
10.	CHAIRPERSON AND DEPUTY CHAIRPERSON	14
11.	ADVISORY COMMITTEE	14
12.	APPOINTMENT AND TERM OF OFFICEHOLDERS	14
13.	RECORD OF OFFICEHOLDERS	15
14.	DELEGATION OF POWER	16
15.	CASUAL VACANCIES IN MEMBERSHIP OF BOARD	16
16.	PROCEEDINGS OF BOARD	17
17.	SUB-COMMITTEES	18
18.	SPECIAL GENERAL MEETINGS AND THE ANNUAL GENERAL MEETING	18
19.	QUORUM AND PROCEEDINGS AT GENERAL MEETINGS	20
20.	MINUTES OF MEETINGS OF ASSOCIATION	21
21.	VOTING RIGHTS OF MEMBERS AND PROXIES	22
22.	AMENDMENTS TO RULES	22
23.	EXECUTING DOCUMENTS	23
24.	INSPECTION OF RECORDS, ETC. OF ASSOCIATION	23
25.	ASSOCIATION ACCOUNTS AND FINANCES	24
26.	DISPUTES AND MEDIATION	24
27.	DISTRIBUTION OF SURPLUS PROPERTY ON WINDING UP OR CANCELLATION OF ASSOCIATION	26

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## 1. NAME OF ASSOCIATION

1.1 The Name of the Association is Explorability Inc.

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## 2. DEFINITIONS AND INTERPRETATION

2.1 In these rules unless the contrary intention appears:

"**Act**" means the *Associations Incorporation Act 2015 (WA)* as amended from time to time;

"**Annual General Meeting**" is the annual meeting of the Association convened under rule 18.1(b);

"**Appointing Member**" has the meaning given in clause 21.2;

"**Association**" means Explorability Inc;

"**Board**" means the Board of management referred to in rule 9;

"**Board Meeting**" means a meeting of the Board referred to in rule 16;

"**Board Member**" means a person elected or appointed to the Board in accordance with rule 9;

"**Business Day**" means a day that is not a Saturday or Sunday or a public holiday Perth, Western Australia;

"**Chairperson**" means the chairperson of the Association appointed under rule 12.1;

"**Chief Executive Officer**" means the Chief Executive Officer of the Association appointed under rule 12.1;

"**Commissioner**" means the Commissioner for Consumer Protection exercising powers under the Act;

"**Deputy Chairperson**" means the Deputy Chairperson appointed under rule 12.1;

"**Executive**" means the executive established in accordance with rule **Error! Reference source not found.**;

"**Financial Year**" means a period not exceeding 15 months fixed by the Board, being a period commencing on the date of incorporation of the Association and ending on 30 June and thereafter each period commencing 1 July and ending on 30 June in the following calendar year;

**"General Meeting"** means a meeting to which all Members are invited and includes an Annual General Meeting and a Special General Meeting;

**"Member"** means a member of the Association;

**"Notification"** has the meaning given in clause 8.2;

**"Officeholder"** means a Board Member appointed to hold an office under rules 12.1 and 9.14;

**"Officer"** has the meaning given to it in the Act and includes the Officeholders of the Association and any person appointed in an executive role to assist the Association;

**"Ordinary Resolution"** means a resolution of Members other than a Special Resolution;

**"Register of Members"** means the register of Members referred to in rule 5;

**"Secretary"** means the Secretary of the Association appointed under rule 12.1;

**"Special General Meeting"** means a General Meeting other than the Annual General Meeting;

**"Special Resolution"** means a resolution of the Association passed at a General Meeting by not less than 75% of the Members entitled to vote present in person or by proxy, and voting at the General Meeting, of which written notice has been provided in accordance with these rules;

**"Sub-Committee"** means a committee established under rule 17;

**"Treasurer"** means the Treasurer of the Association appointed under rule 12.1.

2.2 In these rules, unless the context otherwise requires:

- (a) if a word or phrase is defined, then its other grammatical forms have a corresponding meaning;
- (b) a word importing the singular number or plural number includes the plural and singular respectively;
- (c) a word importing any gender includes every other gender;
- (d) "under" includes by, by virtue of, pursuant to and in accordance with;
- (e) "including" and similar expressions are not words of limitation; and
- (f) a reference to a person includes a corporation, a firm, a body corporate, an unincorporated association or any authority;

- (g) a reference to a person includes the legal personal representatives, successors and assigns of that person;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);
- (i) references to writing include any mode of representing or reproducing words in tangible and permanently visible form;
- (j) references to a person which has ceased to exist or has been reconstituted, amalgamated, reconstructed or merged, or the functions of which have become exercisable by any other person or body in its place, shall be taken to refer to the person or body established or constituted in its place or by which its functions have become exercisable; and
- (k) reference to a month and cognate terms means a period commencing on any day of a calendar month and ending on the corresponding day in the next succeeding calendar month but if a corresponding day does not occur in the next succeeding calendar month the period shall end on the last day of the next succeeding calendar month.

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### **3. OBJECTS OF ASSOCIATION**

3.1 The objects for which the Association is established are to exist for the benefit of the public and have a sole purpose that is a charitable purpose under law which are:

- (a) to ensure that people with disability:
  - (i) are encouraged to maximise an independent lifestyle so as to contribute to and be included in the mainstream community; and
  - (ii) have choice and control in the pursuit of their goals and the planning and delivery of their supports,by having access to:
  - (iii) the provision of sustainable, appropriate and flexible services and supports that meet the individual needs of people with a disability and their family and carers; and
  - (iv) the individualised services, supports and resources they need to optimise their health and well-being and participation in a welcoming community through, but not limited to, community engagement and participation, daily living, family support, systemic and individual advocacy and service planning and coordination;

- (b) to influence the strategic direction of governments and decision makers through an evidence base including formal research, information, policy development and advocacy;
  - (c) to strengthen the capacity of all people living with disability and their families and/or carers in metropolitan, regional and remote communities to have a voice and to exercise choice; and
  - (d) to build partnerships in the community, business and government sectors.
- 3.2 The property and income of the Association shall be applied solely towards the promotion of the objects of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to Members.
- 3.3 Rule 3.2 does not prevent the payment in good faith in the promotion of the objects of the Association:
- (a) of remuneration to any Member, officer, employee or agent of the Association or other person in return for services authorised by the Board and rendered to the Association or for goods supplied to the Association in the ordinary course of business;
  - (b) of the payment of interest, on money borrowed by the Association from a Member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia;
  - (c) for reasonable and proper rent for premises leased by a Member to the Association;
  - (d) for indemnification of or payment of premiums on contracts of insurance for any Board Member to the extent permitted by law and these rules; or
  - (e) of out-of-pocket expenses incurred by an authorised Member or other authorised person on behalf of the Association.
- 3.4 Any payment to be made to a Board Member under rule 3.2, other than for out-of-pocket expenses for travel and accommodation in connection with the performance of the Board Member's functions, must be authorised by resolution of the Members entitled to vote.
- 3.5 The Association commits to:
- (a) involve people with disability as actively as possible in the supports that the Association delivers;
  - (b) offer a high standard of service delivery by appropriately trained professional or voluntary staff, who are supported, resourceful and accountable;

- (c) being accessible to people with disability of all cultures, beliefs and linguistic backgrounds;
- (d) always work towards optimum individual independence and empowerment of people with disability;
- (e) involve people with disability at all levels of service development and delivery where possible;
- (f) fully comply with the National Standards for Disability Services;
- (g) to always apply the Principles Applicable To People with Disabilities found at Schedule 1 of the Disability Services Act 1993 (WA); and
- (h) to meet the Objectives for Services and Programmes Relating to People with Disabilities found at Schedule 2 of the Disability Services Act 1993 (WA) Act.

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#### **4. POWERS OF ASSOCIATION**

Subject to the Act and these rules the Association may do all things necessary or convenient for carrying out its objects and purposes, and in particular, may:

- (a) provide individualised services for people with disability and their families and carers to optimise their well-being and social and economic participation in the community including, but not limited to, daily living support, family support, community inclusion, training and development, individual and systemic advocacy and service planning and coordination.
- (b) conduct research relevant to people with disability and use such research to educate the wider community;
- (c) develop strategic alliances with key stakeholder groups;
- (d) work and co-operate with other organisations to further the objects of the Association;
- (e) acquire, hold, deal with, and dispose of any real or personal property;
- (f) open and operate bank accounts;
- (g) invest its money:
  - (i) in any security in which trust monies may lawfully be invested; or
  - (ii) in any other manner authorised by the rules of the Association;
- (h) borrow money upon such terms and conditions as the Association thinks fit;

- (i) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
- (j) appoint agents to transact any business of the Association on its behalf;
- (k) enter into any other contract it considers necessary or desirable;
- (l) act as trustee and accept and hold real and personal property upon trust PROVIDED THAT the Association may not do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene the Act or the rules of the Association;
- (m) raise funds to further the objects of the Association in any manner that the Association thinks fit;
- (n) employ any person or engage any external consultant;
- (o) apply for grants and funding from any source;
- (p) receive property by way of gift;
- (q) expend funds for the purpose of carrying out all or any of the objects of the Association; and
- (r) issue publications or disseminate and publicise such information and generally to do all acts and things which the Association shall think desirable in the interests of people of disability.

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## **5. REGISTER OF MEMBERS OF ASSOCIATION**

- 5.1 The Association must keep and maintain in an up to date condition a Register of Members in accordance with the requirements of the Act.
- 5.2 The Register of Members must include each Member's name and:
  - (a) residential address; or
  - (b) postal address; or
  - (c) email address; or
  - (d) information, by means of which contact can be made with the Member.
- 5.3 Subject to rules 5.5 and 5.6, a Member inspecting the Register of Members may make a copy of, or take an extract from, the Register of Members but is not entitled to remove the Register of Members for that purpose.
- 5.4 A Member may make a request in writing to the Board for a copy of the Register of Members.

- 5.5 The Board may require a Member who wishes to make a copy of the Register of Members, take an extract from the Register of Members or who requests a copy of the Register of Members under rules 5.3 and 5.4, to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Association.
- 5.6 A Member who makes a copy of or takes an extract from the Register of Members shall not use or disclose such information except for a purpose:
- (a) that is directly connected with the affairs of the Association; or
  - (b) that is related to the administration of the Act.
- 5.7 The Register of Members must be kept and maintained at the office of the Association, or at such other place as the Board decides.
- 5.8 The Secretary must cause the name of a person who ceases to be a Member under rule 8 to be deleted from the Register of Members referred to in rule 5.1.

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## **6. RULES OF ASSOCIATION**

- 6.1 The Association must:
- (a) keep and maintain the rules in an up to date condition and upon the request of a Member, make available those rules for the inspection of the Member and the Member may make a copy of or take an extract from the rules but will have no right to remove the rules for that purpose; and
  - (b) give, free of charge, a copy of the rules of the Association (in such manner as the Board determines) at the time membership commences, to each person who becomes a Member, on the day that their membership commences.
- 6.2 A Member may make a request in writing to the Board for a copy of the rules of the Association.
- 6.3 If a Member makes a request under rule 6.2 for a copy of the rules of the Association, the Association must give the Member a copy of the rules or of any particular part of those rules to which the request relates.

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## **7. QUALIFICATION FOR MEMBERSHIP OF ASSOCIATION**

- 7.1 Membership of the Association shall be one of the following classes:
- (a) General Member – individuals, aged 16 years and over, who support the objects of the Association, with full voting rights of one (1) vote per Member;

(b) Organisational Member – a body corporate, company, association or group who supports the objects of the Association, with no voting rights;

(c) Staff Member - any individual who is a current paid employee of the Association with no voting rights.

7.2 Admission as a General Member, Organisational Member or Staff Member is to be dependent on the following:

(a) Meeting the criteria as detailed in the applicable category of membership;

(b) Completion of a valid application form countersigned by a financial Member of the Association;

(c) Payment of the annual membership fee;

(d) Approval of the application for membership by a 75% majority vote by the Board.

7.3 The Board must approve or reject any application for membership within sixty (60) days of its receipt of same.

7.4 The Chief Executive Officer must notify all applicants of the outcome of their application for membership but is not required to give reasons.

7.5 Each Member must pay in respect of each Financial Year such annual membership fee as the Board may from time to time decide but shall not be required to pay any other fees. The Board may determine different membership fees for the categories of membership.

7.6 A Member must pay to the Treasurer, annually on or before 1 July or such other date as the Board from time to time determines, the amount of the membership fee determined under rule 7.5.

7.7 A Member whose membership is not paid within 3 months after the relevant date fixed by or under rule 7.6 ceases on the expiry of that period to be a Member, unless the Board decides otherwise.

7.8 A person becomes a Member only upon meeting the criteria for membership set out in these rules and paying the membership fee (if any) within the time fixed under rule 7.6.

7.9 The Board may determine proportional subscriptions for Members joining during the Financial Year.

7.10 The Board may at its sole discretion waive all or part of the membership fees for any Member having regard to questions of disadvantage or other necessities and circumstances.

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## 8. TERMINATION OF MEMBERSHIP OF THE ASSOCIATION

8.1 Membership of the Association shall be terminated upon:

- (a) death of the Member;
- (b) receipt by the Secretary or another Board Member of a notice in writing from a Member of his or her resignation from the Association. Such person remains liable to pay to the Association the amount of any membership due and payable by that person to the Association but unpaid at the date of termination; or
- (c) non-payment by a Member of his or her membership within three months of the relevant date fixed under rule 7.6, unless the Board decides otherwise under rule 7.10; or
- (d) 75% of the Board resolving at a Board Meeting that a Member:
  - (i) has acted contrary to the objects and values of the Association as stated in rule 3;
  - (ii) has acted in bad faith or contrary to the best interests of the Association; or
  - (iii) has caused detriment to the Association by his or her wilful or negligent act or omission.

8.2 The Board shall notify any Member whose membership is terminated in accordance with rule 8.1(d) of the Board's resolution within 5 Business Days of the relevant meeting of the Board ("**Notification**") and such Notification shall inform the Member of his or her right to appeal the termination at a Special General Meeting convened for that purpose as soon as practicable PROVIDED THAT written notice of the Member's exercise of his or her right of appeal is received by the Secretary within 10 Business Days of the Notification.

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## 9. BOARD OF MANAGEMENT

### Management of Association

- 9.1 The Board is vested with the management of the Association's affairs and the control of the funds and other property of the Association. The board may delegate this power as deemed appropriate by a majority decision by the board.
- 9.2 The Board may, subject to the Act and these rules, exercise all powers and functions exercisable by the Association other than those powers and functions which are required to be exercised by the Members at a General Meeting and, subject to rules **Error! Reference source not found.** and 14.

## **Composition of Board**

- 9.3 Subject to rule 9.14, the Board shall consist of up to 10 General Members, of which:
- (a) at least 1 Member shall be an individual with lived disability experience. An individual with lived disability experience is someone who is directly related to a person with a disability such as a parent, grandparent, step-parent, child, appointed guardian, sibling or any other category of relation agreed to by the Board.
  - (b) in addition it is preferred that there is at least 1 board member who has a disability or is directly employed in the disability sector.

## **Eligibility**

- 9.4 In addition to the requirements in rule 9.3, all persons constituting the Board must:
- (a) be eligible to serve as a Board Member under the requirements of the Act;
  - (b) be a fully paid General Member; and
  - (c) satisfy such criteria (if any) as the Board may determine in writing from time to time.

## **Term**

- 9.5 Subject to rule 9.15, every Board Member shall be elected for a term of three years, commencing at the conclusion of the Annual General Meeting at which they are elected and expiring at the conclusion of the third Annual General Meeting following their election.
- 9.6 A Board Member may not be appointed for more than 6 consecutive years.
- 9.7 A retiring Board Member may be eligible for re-election.

## **Election Process**

- 9.8 Board Members must be elected to membership of the Board at an Annual General Meeting or appointed under rule 9.14.
- 9.9 At least 14 days before an Annual General Meeting, the Secretary must send written notice to all Members:
- (a) calling for nominations to the Board; and
  - (b) stating the date by which the nominations must be received.
- 9.10 A nomination must be:
- (a) in writing;

- (b) delivered to the Secretary at least 7 days before the Annual General Meeting; and
  - (c) include any supporting information required by the Board to demonstrate that the person nominated satisfies the eligibility criteria under rule 9.4.
- 9.11 If the number of candidates standing for election exceeds the number of vacancies, balloting lists shall be prepared containing the names of the candidates only in alphabetical order and each Member present at the Annual General Meeting shall be entitled to vote for the number of such candidates being equal to the number of vacancies.
- 9.12 If the number of persons for election to membership of the Board does not exceed the number of vacancies to be filled:
- (a) the Secretary must report accordingly to the Chairperson; and
  - (b) the Chairperson must declare those persons to be duly elected as members of the Board at the Annual General Meeting concerned.
- 9.13 A person who is eligible for election as a Board Member under this rule may vote for himself or herself.

### **Filling of Vacant Positions**

- 9.14 The Board may appoint a person who is eligible under rule 9.4 to fill a position on the Board:
- (a) that has become vacant under rule 15;
  - (b) that was not filled by election at the most recent Annual General Meeting; or
  - (c) for which no nominations were received provided that, if the nomination relates to an appointment under rule 9.3:
    - (i) the Board uses its best endeavours to fill the remaining vacancy or vacancies by appointing an individual with a lived experience of disability or carer; and
    - (ii) otherwise, if no suitable candidates are willing to fill the vacancy or vacancies in accordance with sub-rule (i) above, the Board may fill such vacancy or vacancies with any person who is a Member.
- 9.15 A person appointed to fill a casual vacancy under this rule will:
- (a) hold office for the conclusion of the Board Meeting at which they are elected until the next Annual General Meeting; and
  - (b) be eligible for election to the Board at the next Annual General Meeting.

- 9.16 Subject to the requirement for a quorum under rule 16.5 the Board may continue to act despite any vacancy in its membership.

### **Removal of Board Member**

- 9.17 The Board may, by resolution of at least 75% of its members, remove any member of the Board before the expiration of that person's term of office and appoint another person in his or her stead to hold office from the conclusion of the Board Meeting at which the other person is elected until the next Annual General Meeting.

### **Payments to Board Members**

- 9.18 In this rule:
- (a) Board members include members of subcommittees;
  - (b) Board meeting includes a general meeting or meeting of a subcommittee.
- 9.19 Board member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred:
- (a) In attending a Board meeting;
  - (b) Otherwise in connection with the Association's business.

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## **10. CHAIRPERSON AND DEPUTY CHAIRPERSON**

- 10.1 The Chairperson must preside at all General Meetings, Board Meetings and meetings of the Executive, and in their absence the Deputy Chairperson must preside, and in the absence of both the Chairperson and the Deputy Chairperson, a Board Member elected by a majority of the Board Members present at the meeting must preside.

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## **11. ADVISORY COMMITTEE / SUB-COMMITTEE**

- 11.1 The Board may establish an advisory committee or sub-committee and membership of that committee shall be open to any individual that the Board thinks fit to appoint including people with disability and their families and carers and other interested persons and stakeholders.
- 11.2 The Board may consult with the advisory committee or sub-committee in relation to any matter to which the advice or expertise of the advisory committee would be of value.

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## **12. APPOINTMENT AND TERM OF OFFICEHOLDERS**

- 12.1 At the Board meeting first occurring after each Annual General Meeting, the Board Members must appoint:

- (a) a Chairperson
  - (b) a Deputy Chairperson;
  - (c) a Secretary;
  - (d) a Treasurer; and
  - (e) such other office bearers as they see fit.
- 12.2 No Board Member may hold more than one of the positions described in rule 12.1 at any one time.
- 12.3 If a vacancy arises for an Officeholder position, the Board may appoint a Board Member to fill the vacancy and the person appointed to that position will hold that office for the remainder of the term.
- 12.4 Subject to rule 12.5 and rule 12.6 the term of appointment of each Officeholder is twelve (12) months, commencing on the date of his or her appointment under rule 12.1 and expiring at the conclusion of the Board Meeting first occurring after the Annual General Meeting in the following year.
- 12.5 An Officeholder may resign from his or her position as Officeholder but remain a Board Member, by giving written notice of his or her resignation to the Board, such resignation to take effect at the time the Board receives the notice of resignation.
- 12.6 A person ceases to be an Officeholder if they cease to be a Board Member.
- 12.7 Subject to rules 9.5 to 9.7, all Officeholders are eligible for re-appointment.

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### **13. RECORD OF OFFICEHOLDERS**

- 13.1 The Association must maintain a record of the names and addresses (as defined in section 58 of the Act) of persons who are:
- (a) Board Members of the Association;
  - (b) Officeholders of the Association; and
  - (c) are appointed or act as trustees on behalf of the Association,
- 13.2 The Association must, upon the request of a Member of the Association, make available the record kept under rule 13.1 for the inspection of the Member and the Member may make a copy of or take an extract from the record but will have no right to remove the record for that purpose.

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## **14. DELEGATION OF POWER**

- 14.1 The Board may delegate such executive powers to the Officers of the Association or to any Sub-Committee appointed under rule 17 as it thinks fit, except the power of delegation, in order to facilitate the day to day running of the Association.
- 14.2 Any delegation under rule 14.1 may be made subject to such conditions and limitations as determined by the Board.
- 14.3 The Board may, in writing or otherwise, repeal wholly or in part any delegation.

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## **15. CASUAL VACANCIES IN MEMBERSHIP OF BOARD**

- 15.1 A casual vacancy occurs in the office of a Board Member and that office becomes vacant if the Board Member:
- (a) dies;
  - (b) resigns by notice in writing delivered to the Chairperson or, if the Board Member is the Chairperson, to the Deputy Chairperson and that resignation is accepted by resolution of the Board;
  - (c) becomes ineligible to accept an appointment or act as a Board Member under the provisions of the Act or the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)*;
  - (d) is permanently incapacitated by mental or physical ill-health;
  - (e) is absent from more than:
    - (i) 3 consecutive Board Meetings; or
    - (ii) 3 Board Meetings in the same Financial Year without tendering an apology to the person presiding at each of those Board Meetings;of which meetings the Board Member received notice, and the Board has resolved to declare the office vacant;
  - (f) is the subject of a resolution passed by a General Meeting of Members terminating his or her appointment as a Board Member; or
  - (g) ceases to be a General Member or fails to pay the membership fee determined by the Board under rule 7.5.
- 15.2 Within fourteen (14) days of ceasing to be a Board Member, the outgoing Board Member must transfer all relevant documents or records pertaining to the management of the affairs of the Association in their possession, custody or control to the remaining Board Members.

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## **16. PROCEEDINGS OF BOARD**

- 16.1 The Board must meet together at least 9 times per financial year and the Chairperson, or at least half the members of the Board, may at any time convene a meeting of the Board.
- 16.2 The convenor of a Board Meeting must provide at least 7 days notice of the date, time and venue of the Board Meeting to each member of the Board.
- 16.3 Each Board Member has a deliberative vote.
- 16.4 A question arising at a Board Meeting must be decided by a majority of votes, but, if there is no majority, the person presiding at the Board Meeting will have a casting vote in addition to his or her deliberative vote.
- 16.5 At a Board Meeting 50% of eligible board members plus one board member constitutes a quorum.
- 16.6 If the number of Board Members at any time is not sufficient to constitute a quorum at a meeting of the Board, the remaining Board Members may act only for the purpose of increasing the number of Board Members to a number sufficient to constitute a quorum or to convene a General Meeting.
- 16.7 Subject to these rules, the procedure and order of business to be followed at a Board Meeting shall be determined by the Chairperson.
- 16.8 A special meeting of the Board may be convened upon the request of the majority of Board Members PROVIDED THAT at least 4 days notice in writing shall be given and the nature of the business to be conducted at such special meeting is stated.
- 16.9 A Board Member having any material personal interest in a matter being considered at a Board Meeting must:
- (a) as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Board and the relation of the interest to the activities of the Association; and
  - (b) disclose the nature and extent of the interest, and the relation of the interest to the activities of the Association, at the next General Meeting; and
  - (c) not be present while the matter is being considered at the Board meeting or vote on the matter.
- 16.10 Rule 16.9 does not apply in respect of a material personal interest that:
- (a) exists only because the Board Member is an employee of the Association or belongs to a class of persons for whose benefit the Association is established; or

- (b) the Board Member has in common with all, or a substantial proportion of, the Members of the Association.

16.11 The Secretary must cause every disclosure made under rule 16.9(a) by a member of the Board to be recorded in the minutes of the Board Meeting at which it is made.

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## **17. SUB-COMMITTEES**

17.1 To assist the Board to manage and transact the affairs of the Association, the Board may from time to time appoint such sub-committees as it sees fit (**Sub-Committee**).

17.2 A Sub-Committee may consist of the number of people, whether or not Members, which the Board considers appropriate provided that the chairperson of each Sub-Committee must be a Board Member.

17.3 All Sub-Committees shall be under the exclusive control and direction of the Board and must comply with all Policies.

17.4 Each Sub-Committee:

- (a) shall act only for the particular purpose or purposes for which it is appointed;
- (b) shall only be a recommendatory and reporting body to the Board; and
- (c) shall not make or be empowered to make any decisions that are binding on the Board or the Association.

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## **18. SPECIAL GENERAL MEETINGS AND THE ANNUAL GENERAL MEETING**

18.1 The Board:

- (a) may at any time convene a Special General Meeting;
- (b) must convene Annual General Meetings within the period required by the Act being every calendar year within 6 months after the end of the Association's Financial Year or such longer period as may in a particular case be allowed by the Commissioner, except for the first Annual General Meeting which may be held at any time within 18 months after incorporation;
- (c) must, within 30 days of receiving a request in writing to do so from not less than twenty per cent of Members, convene a Special General Meeting for the purpose specified in that request.

18.2 The Members making a request referred to in rule 18.1(c) must:

- (a) state in that request the purpose for which the Special General Meeting concerned is required; and
  - (b) sign that request.
- 18.3 If a Special General Meeting is not convened within the relevant period of 30 days referred to in rule 18.1(c) the Members who made the request concerned may themselves convene a Special General Meeting as if they were the Board.
- 18.4 When a Special General Meeting is convened under rule 18.3 the Association must pay the reasonable expenses of convening and holding the Special General Meeting.
- 18.5 Subject to rule 18.7, the Secretary must give to all Members not less than 14 days notice of a Special General Meeting and that notice must specify:
  - (a) when and where the General Meeting concerned is to be held; and
  - (b) particulars of the business to be transacted at the General Meeting concerned and of the order in which that business is to be transacted.
- 18.6 Subject to rule 18.7, the Secretary must give to all Members not less than 21 days notice of an Annual General Meeting and that notice must specify:
  - (a) when and where the Annual General Meeting is to be held;
  - (b) the particulars and order in which business is to be transacted, as follows:
    - (i) first, the consideration of the accounts and reports of the Board;
    - (ii) second, the election of Board Members to replace outgoing Board Members; and
    - (iii) third, any other business requiring consideration by the Association at the General Meeting.
- 18.7 A Special Resolution may be moved either at a Special General Meeting or at an Annual General Meeting, however the Secretary must give to all Members not less than 21 days notice of the meeting at which a Special Resolution is to be proposed. In addition to those matters specified in rules 18.5 and 18.6, as relevant, the notice must also include the resolution to be proposed and the intention to propose the resolution as a Special Resolution.
- 18.8 The Secretary must give a notice under rules 18.5, 18.6 or 18.7 by:
  - (a) sending it to a Member's email address; or
  - (b) serving it on a Member personally; or

- (c) sending it by post to a Member at the address of the Member appearing in the Register of Members kept and maintained under rule 5.
- 18.9 When a notice is sent by post under rule 18.8(c) sending of the notice will be deemed to be properly effected if the notice is sufficiently addressed and posted to the Member concerned by ordinary prepaid mail.
- 18.10 The non receipt of, or the omission to send to any Member, any notice or other document required to be sent to a Member under these rules shall not invalidate any General Meeting or Board Meeting.
- 18.11 At a meeting at which a resolution proposed as a Special Resolution is submitted, a declaration by the person presiding that the resolution has been passed as a Special Resolution shall be evidence of the fact unless, during the meeting at which the resolution is submitted, a poll is demanded in accordance with the rules of the Association or by at least 3 Members of the Association present in person or, where proxies are allowed, by proxy.
- 18.12 If a poll is held, a declaration by the person presiding as to the result of a poll is evidence of the matter so declared.

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## **19. QUORUM AND PROCEEDINGS AT GENERAL MEETINGS**

- 19.1 At a General Meeting six Members present in person or by proxy constitute a quorum.
- 19.2 If within 30 minutes after the time specified for the holding of a General Meeting in a notice given under rules 18.5 or 18.6:
  - (a) as a result of a request or notice referred to in rule 18.1(c) or as a result of action taken under rule 18.3 a quorum is not present, the General Meeting lapses; or
  - (b) otherwise than as a result of a request, notice or action referred to in paragraph (a), the General Meeting stands adjourned to the same time on the same day in the following week and to the same venue.
- 19.3 If within 30 minutes of the time appointed by rule 19.2(b) for the resumption of an adjourned General Meeting a quorum is not present, the Members who are present in person or by proxy may nevertheless proceed with the business of that General Meeting as if a quorum were present.
- 19.4 The Chairperson may, with the consent of a General Meeting at which a quorum is present, and must, if so directed by such a General Meeting, adjourn that General Meeting from time to time and from place to place.
- 19.5 There must not be transacted at an adjourned General Meeting any business other than business left unfinished or on the agenda at the time when the General Meeting was adjourned.

- 19.6 When a General Meeting is adjourned for a period of 30 days or more, the Secretary must give notice under rule 18 of the adjourned General Meeting as if that General Meeting were a fresh General Meeting.
- 19.7 At a General Meeting:
- (a) an Ordinary Resolution put to the vote will be decided by a majority of votes cast on a show of hands, subject to rule 19.9; and
  - (b) a Special Resolution put to the vote will be decided in accordance with section 51 of the Act as defined in rule 2, and, if a poll is demanded, in accordance with rules 19.9 and 19.10.
- 19.8 A declaration by the Chairperson of a General Meeting that a resolution has been passed as an Ordinary Resolution at the meeting will be evidence of that fact unless, during the General Meeting at which the resolution is submitted, a poll is demanded in accordance with rule 19.9.
- 19.9 At a General Meeting, a poll may be demanded by the Chairperson or by three or more Members present in person or by proxy and, if so demanded, must be taken in such manner as the Chairperson directs.
- 19.10 If a poll is demanded and taken under rule 19.9 in respect of an Ordinary Resolution, a declaration by the Chairperson of the result of the poll is evidence of the matter so declared.
- 19.11 A poll demanded under rule 19.9 must be taken immediately on that demand being made.

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## **20. MINUTES OF MEETINGS OF ASSOCIATION**

- 20.1 The Association must cause proper minutes of all proceedings of all General Meetings, Board Meetings and meetings of the Executive to be taken and then to be entered within 30 days after the holding of each meeting in a minute book kept for that purpose.
- 20.2 The Chairperson must ensure that the minutes taken of a meeting under rule 20.1 are checked and signed as correct by the person presiding at the relevant meeting.
- 20.3 When minutes have been entered and signed as correct under this rule, they are, until the contrary is proved, evidence that:
- (a) the General Meeting, Board Meeting or meeting of the Executive to which they relate was duly convened and held;
  - (b) all proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and

- (c) all appointments or elections purporting to have been made at the meeting have been validly made.

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## **21. VOTING RIGHTS OF MEMBERS AND PROXIES**

- 21.1 Each General Member present in person or by proxy at a General Meeting is entitled to a deliberative vote.
- 21.2 Any Member entitled to attend, and vote at, a General Meeting (in this rule called "**the Appointing Member**") may appoint in writing another Member who is a natural person to be the proxy of the Appointing Member and to attend, and vote on behalf of the Appointing Member at, any General Meeting, provided that the instrument appointing the proxy is received by the Association at least 48 hours before the scheduled commencement time for the General Meeting at which the Appointing Member proposes to vote.
- 21.3 The instrument appointing a proxy may be in such form as determined by the Board Members from time to time.

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## **22. AMENDMENTS TO RULES**

- 22.1 The Association may alter or rescind these rules, or make rules additional to these rules, in accordance with the procedure set out in the Act, which is as follows:
  - (a) subject to rule 22.1(d) the Association may alter its rules by Special Resolution but not otherwise;
  - (b) within one month of the passing of a Special Resolution altering its rules, or such further time as the Commissioner may in a particular case allow (on written application by the Association), the Association must lodge with the Commissioner the following documents:
    - (i) notice of the Special Resolution setting out particulars of the alteration;
    - (ii) a certificate signed by a member of the Board certifying that the resolution was duly passed as a Special Resolution and that the rules of the Association as so altered conform to the requirements of the Act; and
    - (iii) a consolidated copy of the rules of the Association.
  - (c) an alteration of the rules of the Association does not take effect until rule 22.1(b) is complied with;
  - (d) an alteration of the rules of the Association having effect to change:

- (i) the name of the Association;
- (ii) the objects or purposes of the Association; or
- (iii) the manner in which surplus property of the Association must be distributed or dealt with if the Association is wound up or its incorporation is cancelled;

does not take effect until rules 22.1(a) to 22.1(c) are complied with and the approval of the Commissioner is given to the relevant change.

- 22.2 These rules bind every Member and the Association to the same extent as if every Member and the Association had signed and sealed these rules and agreed to be bound by all their provisions.

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### **23. EXECUTING DOCUMENTS**

- 23.1 The Association does not have and will not use a common seal when executing documents.
- 23.2 The Association may execute a document without using a common seal if the document is signed by:
- (a) two (2) Board Members; or
  - (b) one (1) Board Member and a person authorised by the Board.

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### **24. INSPECTION OF RECORDS, ETC. OF ASSOCIATION**

- 24.1 All records, documents, books of accounts and securities of the Association shall be kept on the premises of the Association at all times.
- 24.2 Under the requirements of the Act, a Member may inspect the:
- (a) rules of the Association;
  - (b) Register of Members under rule 5;
  - (c) record of Officeholders under rule 13;
  - (d) minutes of General Meetings; and
  - (e) any other records of the Association as determined by the Board from time to time (subject to any laws relating to legal professional privilege, privacy and confidentiality).

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## **25. ASSOCIATION ACCOUNTS AND FINANCES**

25.1 The Board must ensure or otherwise engage another person to:

- (a) make payments, from the funds of the Association with the authority of the Board whenever necessary, as determined by the Board from time to time;
- (b) be responsible for the receipt of all moneys paid to or received by (or on behalf of) the Association in accordance with any directions by the Board;
- (c) comply on behalf of the Association with the financial reporting requirements of the Act, including by:
  - (i) ensuring that the requirements imposed on the Association under Part 5 of the Act relating to financial statements and financial reporting are met;
  - (ii) preparing a balance sheet and a statement of income and expenditure drawn up at the end of the Financial Year in respect of the Association; and
  - (iii) preparing and presenting to Members at each Annual General Meeting accounts of the Association showing the financial position of the Association at the end of the immediately preceding Financial Year;
- (d) have custody of all securities, books and documents of the Association (including accounting records and other books and documents dealing with the finances of the Association); and
- (e) perform all other duties as are reasonably imposed on those persons by the Board.

25.2 All payments will be made as authorised by the Board from time to time.

25.3 All cheques, bills of exchange and other negotiable instruments will be signed, drawn, accepted, made or endorsed as the case may be, for and on behalf of the Association in such manner as the Board may from time to time determine but in any event, will be signed by at least two Board Members.

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## **26. DISPUTES AND MEDIATION**

26.1 The grievance procedure set out in this rule applies to disputes under these rules between:

- (a) a Member and another Member; or
- (b) a Member and the Association; or

- (c) if the Association provides services to non-Members, those non-Members who receive services from the Association, and the Association.
- 26.2 The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- 26.3 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- 26.4 The mediator must be:
- (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement:
    - (i) in the case of a dispute between a Member and another Member, a person appointed by the Board of the Association;
    - (ii) in the case of a dispute between a Member or relevant non-Member (as defined by rule 26.1(c)) and the Association, a person:
      - (A) appointed by the Chair of the Resolution Institute (Australia) (or the Chair's delegate); and
      - (B) who is a mediator appointed to, or employed with, a not for profit organisation.
- 26.5 A Member of the Association can be a mediator.
- 26.6 The mediator cannot be a Member who is a party to the dispute.
- 26.7 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- 26.8 The mediator, in conducting the mediation, must:
- (a) give the parties to the mediation process every opportunity to be heard;
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- 26.9 The mediator must not determine the dispute.
- 26.10 The mediation must be confidential and without prejudice.

- 26.11 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

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**27. DISTRIBUTION OF SURPLUS PROPERTY ON WINDING UP OR CANCELLATION OF ASSOCIATION**

- 27.1 If upon the winding up of the Association or cancellation of its incorporation there remains after satisfaction of all its debts and liabilities any surplus property whatsoever, the same must not be paid to or distributed among the Members, or former Members. The surplus property must be given or transferred to:
- (a) an incorporated association, which has similar objects to the Association and which is not carried out for the purposes of profit or gain to its individual Members, and which association shall be determined by resolution of the Members; or
  - (b) if there is no entity as described in subparagraph (a), to such other entity of the type under section 24(1) of the Act that operates for charitable purposes and has similar objects to the Association; or
  - (c) if there is no entity as described in subparagraph (b), an entity of the type set out in section 24(1) of the Act.
- 27.2 The Association may be wound up voluntarily or cancel its incorporation by a Special Resolution at any General Meeting called for such purpose of which notice has been given in accordance with these rules to all Members.
- 27.3 If the Association is registered as a deductible gift recipient and is wound up or its endorsement as a deductible gift recipient is revoked, (whichever occurs first), any surplus of the following assets will be transferred to another charitable organisation to which income tax deductible gifts can be made:
- (a) gifts of money or property for the principal purpose of the Association;
  - (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the Association;
  - (c) money received by the Association because of such gifts and contributions.

## APPOINTMENT OF PROXY

Rule 21.2

I,.....  
(Insert MEMBER'S name)

of.....  
(Insert MEMBER'S address)

being a Member of.....  
(Insert name of INCORPORATED ASSOCIATION)

### APPOINT

.....  
(Insert PROXY'S name)

who also is a Member of the Association, as my proxy.

My proxy is authorised to vote on my behalf: (Tick  only ONE of the following)

at the General Meeting/s (and any adjournments of the meeting/s) on

.....  
(Insert relevant date/s)

### OR

in relation to the following resolutions and/or nominations

In favour:

Against:

.....  
.....  
.....  
.....

(Insert resolution Nos, brief description or (Insert resolution Nos. brief description or nominees' name/s).

Signature:..... Date:.....  
(of Member appointing Proxy)

**NOTICE OF GENERAL MEETING TO ALTER THE RULES (CONSTITUTION)**

Rule 22

.....  
(Insert name of INCORPORATED ASSOCIATION)  
is convening a General Meeting at which the following resolution/s will be proposed as special resolutions to alter the rules of the Association.

The meeting will be held at ..... a.m./p.m. on .....  
the .....20.....

The meeting will take place at:

.....  
**SPECIAL RESOLUTION/S:**

Currently rule.....states:

.....  
.....  
.....  
.....

It is proposed to alter this rule so that it states as follows:

.....  
.....  
.....  
.....

Currently rule.....states:

.....  
.....  
.....  
.....

It is proposed to alter this rule so that it states as follows:

.....  
.....  
.....  
.....

**OR**

A list of alterations to the rules which will be proposed as special resolutions at the meeting is attached.

### **INFORMATION FOR MEMBERS**

- Rule 21 allows for proxy votes. A proxy form is enclosed for you to nominate another Member to vote on your behalf if you cannot attend the meeting.
- Alterations to the rules can only be made if supported by 75% of Members voting at the meeting or by proxy.
- Alterations to the rules only take effect when lodged with the Department of Commerce and certain alterations require the approval of the Commissioner before taking effect.