

# CONSTITUTION

**North-Eastern Montessori School Association**  
**(ABN 13 005 235 647)**

**As adopted by the Members on 24 May 2023**

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**CONSTITUTION**  
**OF**  
**NORTH-EASTERN MONTESSORI SCHOOL ASSOCIATION**

**A COMPANY LIMITED BY GUARANTEE**

**PART I – INTERPRETATION, POWERS AND OBJECTS**

**1. NAME**

The name of the company is **North-Eastern Montessori School Association** (ABN 13 005 235 647), which is also referred to in this Constitution as “the **Company**”.

**2. INTERPRETATION**

**2.1. Definitions**

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

**Appointed Director** means a Director appointed by the Board.

**Auditor** means the person appointed for the time being as the auditor of the Company.

**Board** means the Directors of the Company.

**Business Day** means a day which is not a Saturday, Sunday or bank or public holiday in Victoria.

**Chair** means the Director nominated as chairperson of the Board from time to time.

**Company** means North-Eastern Montessori School Association (ABN 13 005 235 647), a not-for-profit, company limited by guarantee.

**Company Secretary** means the person appointed to perform the duties of a company secretary in accordance with Rule 24.

**Constitution** means the constitution for the time being of the Company.

**Deputy Chair** means the Director nominated as Deputy Chairperson of the Board from time to time.

**Director** means a member of the Board elected or appointed in accordance with this Constitution.

**Directors** means more than one (1) Director.

**Elected Director** means a Director appointed by the Members, in accordance with Rule 19.

**Employee** means any person who has a contract of employment with the Company. For the avoidance of doubt this excludes temporary, relief or supply staff as well as independent contractors.

**Enrolment Period** means the period which commences on the day a child is first entitled to attend a School and concludes on the day following a child’s final day of attendance at the School.

**General Meeting** means the annual general meeting or any special general meeting of the Members of the Company.

**Intellectual Property** means all rights or goodwill subsisting in copyright, business names, names, trademarks (or signs), logos, designs, patents or service marks (whether registered or registrable) relating to the Company, or any event or activity of or conducted, promoted or administered by the Company (including the operation of any School).

**Member** means a member of the Company, registered in accordance with Rule 5 of this Constitution.

**Parent** means a parent or guardian of a Student.

**Policies** means any by-law, regulation or policy made by the Board.

**School** means any school (whether primary or otherwise), or any similar facility operated or carried on by the Company in accordance with the objects of the Company, including but not limited to: kindergartens, pre-schools, playgroups, child minding centres and other educational establishments.

**Special Resolution** means a resolution passed by at least 75% of the votes cast of those entitled to vote (either on a show of hands at the meeting or by the inclusion of proxies) being in favour of the resolution.

**Student** means a child enrolled in a School.

**Student Family** has the meaning set out in Rule 5.1(c).

**Treasurer** means any person appointed to perform the duties of a treasurer of the Company.

## 2.2. Interpretation

In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other genders;
- (e) references to persons include corporations and bodies politic;
- (f) a reference to a Rule means a rule of this Constitution;
- (g) references to a person include the legal personal representatives, successors and permitted 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 legislative authority having jurisdiction); and
- (i) a reference to “writing” unless the contrary intention appears is to be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

## 2.3. Severance

If any Rule or part of a Rule of this Constitution can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any Rule or part of a Rule is illegal, unenforceable or invalid, that Rule or part is to be treated as removed from this Constitution, but the rest of this Constitution is not affected.

## 2.4. Expressions in the Act

Except where the contrary intention appears, in this Constitution an expression that deals with a matter dealt with by a particular provision of the Act, has the same meaning as that provision of the Act.

## 2.5. Replaceable Rules

The Replaceable Rules referred to in the Act are displaced by this Constitution.

### 3. OBJECTS

The Company is a not-for-profit organisation and is established solely to:

- (a) establish schools (whether primary or otherwise), kindergartens, pre-schools, playgroups, or child minding centres or other educational establishments;
- (b) promote the Montessori teaching methods and philosophy or other such methods as may be considered suitable for the education and human development, including the advancement, of the Students attending such establishments;
- (c) support and encourage the recognition of Montessori with government, education authorities and other institutions and bodies; and
- (d) undertake and or do all such things or activities as are necessary, incidental or conducive to the advancement of the objects.

### 4. POWERS

Solely for furthering the objects set out above, the Company has the legal capacity and powers set out under section 124 of the Act.

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## PART II – MEMBERSHIP

### 5. MEMBERS

#### 5.1. Eligibility and registration of Members

- (a) Members of the Company shall be those entered into the register of Members in accordance with Rule 5.3, who meet any eligibility criteria specified in this Constitution and who have not been disqualified from membership under this Constitution.
- (b) Each Member must be a Parent and, subject to Rule 5.1(c), up to two (2) Parents may be registered as Members per Student.
- (c) Where:
  - (i) more than one Student resides in the same primary household; or
  - (ii) more than one Student shares time evenly between the same of two or more households,

**(Student Family),**

up to two (2) Parents may be registered as Members per Student Family.
- (d) Notwithstanding Rules 5.1(b) and 5.1(c), any Parent who otherwise finds themselves unable to become a Member due to the eligibility limitations set out in Rules 5.1(b) and 5.1(c) may apply for special consideration to become a Member, and the decision as to whether to allow the Parent to become a Member will be determined by the Board in its sole discretion having regard, among other things, to the best interests of the Student(s) involved.

#### 5.2. Rights and obligations of Members

Subject to Rule 6:

- (a) Each Member has the right to attend, speak and vote at General Meetings.
- (b) Subject to 5.2(c), each Member will be entitled to one vote at a General Meeting, whether in person or by postal (including electronic) ballot.

- (c) Where one Parent only is registered as a Member in respect of a Student or Student Family (as the case may be), that Member shall be entitled to two votes at a General Meeting, whether in person or by postal (including electronic) ballot.
- (d) Each Member in becoming a member of the Company, is obligated, and agrees, to comply with Rule 34.

### **5.3. Membership Process**

- (a) Parents will be automatically entered as Members in the register of Members upon the enrolment of a Student in a School. Subject to clause 5.1 and 5.3(b), Parent details will be determined based on information provided with the Student's enrolment.
- (b) Parent details may be updated (including the reallocation of membership to another Parent) any time following enrolment of a Student by request to the School in writing. Update requests will be considered by the Company on a case-by-case basis, whereby the Company will generally seek (with the agreement of all Parents of the Student or Student Family involved) shared involvement in the case of co-parenting arrangements.
- (c) The membership of a Member may end or otherwise be terminated in accordance with Rule 9.

## **6. SUBSCRIPTION AND FEES**

- (a) The annual fees and levies payable by Members and the timing and method of payment of such fees and levies will be as determined by the Board from time to time.
- (b) Any Member who has not paid all money due and payable will (subject to the Board's discretion and in accordance with Rule 9), have all rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of the money owed. These rights will be suspended until all money owed is fully paid or at an earlier time at the Board's discretion.

## **7. REGISTER OF MEMBERS**

The Company Secretary will be accountable for keeping and maintaining a register of Members which will contain the information which is required under the Act.

## **8. EFFECT OF MEMBERSHIP**

Each Member acknowledges and agrees that:

- (a) this Constitution constitutes a contract between each of them and the Company and that they are bound by this Constitution and the Policies and procedures as prescribed by the Board from time to time;
- (b) they will comply with and observe this Constitution and the Policies of the Company and any determination, resolutions or procedures which may be made or passed by the Board or any duly authorised committee;
- (c) by submitting to this Constitution and the Policies (as applicable) they are subject to the jurisdiction of the Company;
- (d) this Constitution and Policies (if any) are necessary and reasonable for promoting the objects of the Company (as set out in Rule 3); and
- (e) they are entitled to all benefits, advantages, privileges and services of Membership.

## **9. DISCONTINUANCE OF MEMBERSHIP**

### **9.1. Termination of Membership**

A Member's membership of the Company ceases if:

- (a) the Member no longer has a child enrolled as a Student; or

- (b) money due and payable to the School (including but not limited to tuition fees) by the Member remains unpaid for three (3) calendar months, in which case a notice of default may be served by the Board on the Member and the Member removed from the register of Members.

The Board may reinstate the Member and restore the name to the register on payment of all arrears if the Board thinks fit to do so.

## **9.2. Register to be Amended**

Upon the Member ceasing to be a Member under Rule 9.1, an entry, recording the date on which the Member ceased to be a Member, will be recorded in the register.

## **9.3. Forfeiture of Rights**

Except with the express permission of the Board, a Member who ceases to be a Member, for whatever reason, must forfeit all rights in and claim upon the Company and its property (including Intellectual Property). Any Company documents, records or other property in the possession, custody or control of that Member must be returned to the Company immediately.

## **9.4. Membership may be Reinstated**

Membership which has ceased, been withdrawn or terminated under this Constitution may be reinstated at the discretion of the Board, on application in accordance with this Constitution or otherwise on such conditions as the Board sees fit.

## **10. DISCIPLINE OF MEMBERS**

Where the Board is advised or considers that a Member has allegedly:

- (a) breached, failed, refused or neglected to comply with a provision of this Constitution, the Policies or procedures or any resolution or determination of the Board or any duly authorised committee; or
- (b) acted in a manner unbecoming of a Member or prejudicial to the objects and interests of the Company; or
- (c) brought the Company or any School into disrepute,

the Board may commence or cause to be commenced disciplinary proceedings against that Member, and that Member will be subject to, and submits unreservedly to the jurisdiction, Policies, procedures, penalties and appeal mechanisms (if any) of the Company.

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## **PART III – MEETINGS**

### **11. GENERAL MEETINGS**

There are two types of General Meetings which are held: the Annual General Meeting and Special General Meetings.

- (a) An Annual General Meeting of the Company must be held in accordance with the provisions of the Act and this Constitution and, subject to the Act, on a date and at a venue to be determined by the Board.
- (b) All General Meetings, other than the Annual General Meeting, are Special General Meetings and must be held in accordance with this Constitution.

### **12. NOTICE OF GENERAL MEETINGS**

#### **12.1. Notice of General Meetings**

Subject to the provisions of the Act relating to agreements for shorter notice, not less than 21 days' written notice (exclusive of the day on which the notice is served or deemed to be served, but inclusive



of the day for which notice is given) must be given of any General Meeting. The notice must be given to all persons who are entitled to receive such notices from the Company and must:

- (a) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
- (b) state the general nature of the meeting's business;
- (c) if a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the resolution; and
- (d) if a Member is entitled to appoint a proxy, contain a statement setting out that the Member has a right to appoint a proxy and include a proxy form in accordance with Rule 16.2.

## **12.2. Place of Meeting**

The Company may hold a meeting of its Members using any technology that gives the Members a reasonable opportunity to participate.

## **12.3. Entitlement to Attend General Meeting**

In addition the requirements set out in Rule 5.2, and notwithstanding any other Rule, no Member may be represented at or take part in a General Meeting, unless all money then due and payable to the Company is paid.

## **12.4. Directors refusal to convene**

The Directors may refuse to convene a General Meeting if voting on the proposed resolution is not within the powers of the Members.

## **13. BUSINESS OF GENERAL MEETINGS**

### **13.1. Business of General Meetings**

- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts, reports of the Board and Auditors, and the appointment of the Auditors.
- (b) All business that is transacted at a General Meeting and all business that is transacted at the Annual General Meeting, with the exception of those matters set out in Rule 13.1(a), is special business. Special business is business of which a notice of motion has been submitted in accordance with Rule 13.3.

### **13.2. No other business transacted**

Subject to the Act and this Constitution, no business other than that stated on the notice may be transacted at that meeting.

### **13.3. Notice of Motion**

All notices of motion for inclusion as special business at a General Meeting must be submitted in writing (in the required form) to the Company Secretary not less than 28 days (excluding receiving date and inclusive of meeting date) prior to the General Meeting.

## **14. SPECIAL GENERAL MEETINGS**

### **14.1. Special General Meetings May be Held**

The Board may, whenever it thinks fit, convene a Special General Meeting of the Company.

### **14.2. Requisition of Special General Meetings**

- (a) The Board will on the requisition in writing of either 20 Members or 10% of the Members (whichever is the greater) convene a Special General Meeting.

- (b) A Special General Meeting can be called by the Members for any proper purpose. The requisition for a Special General Meeting must state the object(s) of the meeting, be signed by the Members making the requisition and be sent to the registered office of the Company. The requisition may consist of several documents in a like form, each signed by one or more of the Members making the requisition but in any case must comply with the Act in all respects.
- (c) Subject to Rule 12.4, a Special General Meeting must be called by the Chair within 21 days of receiving the written requisition. The meeting will be held with at least 30 days' notice.

## **15. PROCEEDINGS AT GENERAL MEETINGS**

### **15.1. Quorum**

- (a) No business may be transacted at any General Meeting unless a quorum is present.
- (b) A quorum for General Meetings of the Company is 20 Student Families or 20% of Members, whichever is the lesser.
- (c) In determining whether a quorum is present, only the Parent who is the nominated Member from the relevant family will be counted.

### **15.2. Chair of Board Presides**

- (a) The Chair of the Board will, subject to this Constitution, preside as Chair at every General Meeting.
- (b) If the Chair is not present, or is unwilling or unable to preside, the Deputy Chair will preside as Chair for that meeting only.
- (c) If the Deputy Chair is not present, or is unwilling or unable to preside, the Directors will choose one of their numbers present who will, subject to this Constitution, preside as Chair for that meeting only.

### **15.3. Adjournment of Meeting**

- (a) If a General Meeting does not have a quorum present within thirty (30) minutes after the time for the meeting set out in the notice of meeting, the meeting is adjourned to the date, time and place the Board specifies.
- (b) If no quorum is present at the resumed meeting within thirty (30) minutes after the time for the meeting, then:
  - (i) if the meeting was called as a consequence of a requisition of Members, the meeting is dissolved; and
  - (ii) in all other cases, the Members present are a quorum, providing there are no less than three (3) Members present.
- (c) The Chair may, with the consent of any General Meeting at which a quorum is present, and must, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (d) When a General Meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (e) Except as provided in Rule 15.3(d), it is not necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

### **15.4. Voting Procedure**

At any General Meeting a resolution put to the vote of the meeting will be decided on a show of hands, unless a poll is (before or on the declaration of the result on the show of hands) demanded:

- (a) by the Chair; or
- (b) by at least 20 of the Members entitled to vote on the resolution.

A demand for a poll may be withdrawn.

#### **15.5. Recording of Determinations**

Unless a poll is demanded under Rule 15.4, a declaration by the Chair that a resolution has on a show of hands been carried (or carried unanimously or by a particular majority) or lost and an entry to that effect in the book containing the minutes of the proceedings of the Company is conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

#### **15.6. Where Poll Demanded**

If a poll is duly demanded under Rule 15.4 on a matter other than the election of the Chair or the question of adjournment it must be taken when and in the manner the Chair directs. A poll on the election of the Chair or on the question of an adjournment must be taken immediately.

#### **15.7. Resolutions at General Meetings**

- (a) Except where a Special Resolution is required, all questions at General Meetings will be determined by the majority of votes.
- (b) Each Member is, subject to this Constitution, entitled to one vote at General Meetings. Except as otherwise provided in this Constitution, in the case of an equality of votes on a question at a General Meeting, the Chair is entitled to a casting vote.

#### **15.8. Resolutions by Postal Ballot or other Technology**

- (a) Should an issue arise between General Meetings which requires a decision by Members, the Board may call a vote in such manner as it considers necessary including by postal vote or using other technology the Board deems appropriate.
- (b) The Company may, in accordance with Policies and procedures determined by the Board, use a postal ballot and voting procedure or use other technology to pass resolutions provided to the Members without a General Meeting.

#### **15.9. Minutes**

- (a) The Company Secretary must ensure the keeping of minutes of the resolutions and proceedings of each General Meeting in books provided for that purpose, together with a record of the names of persons present at all meetings.
- (b) The Chair, or the Chair of the next Board meeting, must sign the minutes within one month after the meeting.
- (c) The minutes book must be kept at the registered office.
- (d) The Directors may inspect the minute book between the hours of 9.00am and 3.00pm on any Business Day.

#### **15.10. Disallowance of Vote**

- (a) A challenge to a right to vote at a meeting of Members:
  - (i) may only be made at the meeting; and
  - (ii) must be determined by the Chair whose decision is final.
- (b) Every vote not so disallowed is valid for all purposes.

## **16. PROXIES AND POSTAL BALLOT**

### **16.1. Appointment of Proxy**

- (a) A Member who is entitled to attend and cast a vote at a meeting of Members may appoint a person as the Member's proxy to attend and vote for the Member at the meeting.
- (b) No person may exercise more than five (5) proxy votes at any one time.
- (c) The appointment of a proxy is valid if it is signed by the Member making the appointment on the proxy form applicable to and provided for each General Meeting.

### **16.2. Proxy Form**

The notice for each General Meetings will include a proxy form that is relevant to that General Meeting and the resolutions proposed to be determined at that General Meeting. The proxy form will require the completion of all details on the proxy form as follow:

- (a) the full name of the Member;
- (b) the address of the Member;
- (c) the full name of the appointed proxy;
- (d) the address of the appointed proxy;
- (e) the signature of the Member;
- (f) the date of signing; and
- (g) voting intention of the Member to be nominated for each resolution as either:
  - (i) FOR the resolution;
  - (ii) AGAINST the resolution; or
  - (iii) a vote allowing the appointed proxy to vote at the General Meeting as he or she thinks fit.

### **16.3. Voting by Proxy**

A proxy appointed to attend and vote for a Member has the same rights as the Member at the meeting.

### **16.4. Delivery of Proxy Form**

- (a) For an appointment of a proxy to be effective, the proxy form must be received by the Company at its registered office at least 48 hours before the meeting.
- (b) If the meeting of the Company's Members has been adjourned, a proxy form received by the Company at least 48 hours before the resumption of the meeting is effective for the resumed part of the meeting.

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## **PART IV – THE BOARD**

### **17. POWER OF THE BOARD**

- (a) Other than the powers that the Act and this Constitution requires be exercised by the Members, the Board may exercise all of the powers of the Company.
- (b) The Board will consist of Directors who will be the Officers of the Company.
- (c) Each Elected Director must be a Member of the Company.
- (d) Each Appointed Director may be a Member of the Company.

## **18. COMPOSITION OF THE BOARD**

### **18.1. Board Composition**

The Board comprises of up to nine (9) Directors:

- (a) up to six (6) Elected Directors elected by the Members in accordance with Rule 19.
- (b) up to four (4) Appointed Directors appointed in accordance with Rule 20,

provided that in no case can there be more than one Parent from the same Student Family on the Board at any one time.

### **18.2. Board Compliance**

Each Director appointed under Rules 19 or 20, is obligated and agrees to comply with Rule 34, and further agrees to be bound by any confidentiality provisions as required by the Company or the law from time to time.

### **18.3. Appointment of Office Bearers**

- (a) The Board will appoint from amongst the Directors, a Chair, Deputy Chair and Treasurer (**Office Bearers**).
- (b) The appointments will be made as soon as practicable after the Annual General Meeting in accordance with procedures determined by the Board from time to time.
- (c) The appointments will be made by a simple majority of the Board.
- (d) Any vacancy occurring from time to time in the position of Chair, Deputy Chair or Treasurer will be filled by the Board from amongst all the Directors.
- (e) No person may hold more than one of the positions of Chair, Deputy Chair or Treasurer on the Board at any one time.
- (f) The Members will be advised of the appointment of Office Bearers.
- (g) Each Director standing for election as an Office Bearer will be proposed by another Director and, if more than one Director is nominated at the relevant Board meeting, the Directors will vote on which Director will take up the contested appointment.
- (h) The Treasurer will, unless otherwise determined by the Board, have oversight of the financial management of the Company.

### **18.4. Chair**

- (a) The appointment of the Chair will be for a term of up to three (3) years. The Chair is eligible for re-appointment and may serve a maximum of two (2) consecutive terms.
- (b) If the Chair vacates that office for any reason the Deputy Chair succeeds to the office of Chair until the next Annual General Meeting.
- (c) The Chair (and anyone performing the role of Chair) may be paid for their services as Chair, provided that the payment is reasonable in the circumstances and is otherwise made in accordance with the Act and any policy adopted by the Board from time to time. This Rule does not authorise the Company to make payments to a Director in respect of their role as director.

### **18.5. Committees**

The Board may appoint, as required from time to time, from amongst the Directors, any necessary Committee Chairs or Members of Committees.

## **19. APPOINTMENT OF ELECTED DIRECTORS**

### **19.1. Nomination of Elected Directors**

- (a) Directors (other than Appointed Directors) will be elected by Members entitled to vote.
- (b) Not less than 90 days before the Annual General Meeting at which the election of Directors will take place, a notice will be sent to all Members advising:
  - (i) which positions on the Board are to become vacant and calling for nominations;
  - (ii) the nomination procedures, including the date by which the Company Secretary must receive the nomination; and
  - (iii) the voting procedures for the election in such form as stipulated by the Board from time to time.
- (c) Nominations for Elected Directors must be:
  - (i) in writing;
  - (ii) on the prescribed form provided;
  - (iii) accompanied by such requirements as the Board determines from time to time (such as a valid and current Working With Children Check or other such background check requirements);
  - (iv) signed by a proposer and seconder, who must be individual Members; and
  - (v) signed by the nominee (who must be a Member), expressing his or her willingness to accept the position for which he or she is nominated.

### **19.2. Election of Elected Directors**

- (a) Voting papers, listing the candidates in alphabetical order, must be sent to Members within fourteen (14) days of the close of nominations as specified in Rule 19.
- (b) Members must return the completed voting papers to the Company Secretary by the prescribed date.
- (c) Details about each candidate will be circulated with voting papers.
- (d) In the case of families with more than one Parent, only the Parent who is the nominated Member will have the right to vote therefore only one voting paper will be sent.
- (e) Members will be entitled to vote for up to as many candidates as there are vacant positions by marking their preferred candidates. If, for example, there are two vacancies and four candidates, each Member will be entitled to vote for one or two candidates.
- (f) Marking a number of candidates in excess of the vacant positions to be filled will void that voting paper.
- (g) If for any reason there are vacancies to be filled, further nominations may be called at the Annual General Meeting. Any such positions shall be filled by a secret ballot of Members at the Annual General Meeting by simple majority.

### **19.3. Term of Appointment**

- (a) Elected Directors will be elected in accordance with this Constitution for a term of up to three (3) years, which commences from the conclusion of the Annual General Meeting following the election.
- (b) Each Elected Director may offer themselves for re-election.
- (c) Each Elected Director serve a maximum of three (3) consecutive terms.

## **20. APPOINTMENT OF APPOINTED DIRECTORS**

### **20.1. Qualifications for Appointed Directors**

- (a) The Appointed Directors must have specific skills in education, commerce, finance, marketing, or business generally or such other skills which complement the Board's composition, but need not have experience in or exposure to operations of the Company.
- (b) An Appointed Director may be a Member but does not need to be a Member.
- (c) The Appointed Director must provide to the Company, such supporting documentation as the Board determines from time to time (such as a valid and current Working With Children Check or other such background check requirements).

### **20.2. Term of Appointment**

- (a) Appointed Directors will be appointed in accordance with this Constitution for a term of up to three (3) years, which commences at the conclusion of the Annual General Meeting or on any other date after the Annual General Meeting as determined by the Board.
- (b) The Board in its absolute discretion may reappoint an Appointed Director at the conclusion of his or her term.
- (c) Each Appointed Director may offer themselves for re-election.
- (d) Each Appointed Director may serve a maximum of two (2) consecutive terms.

## **21. VACANCIES OF BOARD MEMBERS**

### **21.1. Ground for Termination of Director**

The office of a Director becomes vacant if the Director:

- (a) becomes bankrupt;
- (b) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (c) resigns office by written notice to the Company at its registered office;
- (d) becomes prohibited from being a director by virtue of the Act;
- (e) is directly or indirectly interested in any contract or proposed contract with the Company, otherwise than as a Parent and fails to declare the nature of the interest in the manner required by this Constitution;
- (f) has a criminal conviction;
- (g) becomes ineligible for a working with children check or similar background check;
- (h) accepts remuneration, payment or other benefits other than in accordance with this Constitution;
- (i) is removed from office by Special Resolution under Rule 21.2;
- (j) in the case of an Elected Director, ceases to be a Member;
- (k) dies; or
- (l) is absent without permission of the Board for more than three (3) meetings of the Board.

### **21.2. Removal of a Director**

- (a) The Company in a General Meeting may remove any Director, before the expiration of their term of office, in accordance with the provisions of the Act or this Constitution by passing a resolution decided by a simple majority vote.

- (b) If a Director is removed in accordance with this Rule the office of the Director becomes vacant and will be filled in accordance with the procedure set out in Rule 21.3.

### **21.3. Casual Vacancies**

- (a) An Elected Director casual vacancy will be filled by the Directors until the next General Meeting.
- (b) If the term of the Elected Director for which the vacancy has been filled, has not expired at the next General Meeting, the Members will fill the vacancy for the remainder of the Elected Director's term.
- (c) Any Appointed Director casual vacancy may be filled by the Directors from among appropriately qualified persons, for the remainder of the Appointed Director's term.

### **21.4. Remaining Directors May Act**

In the event of a casual vacancy or vacancies in the office of a Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

## **22. MEETINGS OF THE BOARD**

### **22.1. Board to Meet**

- (a) The Board will meet as often as is deemed necessary in every calendar year and may adjourn and subject to this Constitution, otherwise regulate its meetings as it thinks fit.
- (b) The Company Secretary will, on the requisition of the Chair or two Directors, convene a meeting of the Board within a reasonable time.
- (c) Any notice of a meeting of the Board may be given in writing or orally, and whether by email, telephone or any other means of communication.
- (d) All Board meetings will be conducted *in camera* and details of deliberations are strictly confidential.
- (e) The Board may invite Members or guests to attend all or part of the Board meetings.

### **22.2. Quorum**

At meetings of the Board, the number of Directors required to constitute a quorum is the majority of the Directors but in any event is a minimum of five (5) Directors and must include the Chair or the Deputy Chair.

### **22.3. Board Decisions**

- (a) Subject to this Constitution, questions arising at any meeting of the Board are decided by a majority of votes and all questions so decided are for all purposes to be deemed a determination of the Board.
- (b) All Directors have one vote on any question.
- (c) The Chair also has a casting vote.
- (d) Proxy votes are not permitted for Board meetings.

### **22.4. Conflicts of Interest**

- (a) A Director will not vote in respect of any contract or proposed contract with the Company in which that Director is interested.
- (b) It is the duty of every Director who is in any way, whether directly or indirectly, interested in any matter under consideration by the Board as soon as practicable after the relevant facts have



come to their knowledge, declare the nature and extent of their interest at a meeting of the Board.

- (c) A Director will disclose on a register of Directors' interests (in accordance with Rule 23), any relationship with any other Director or any other person which may result in an actual or perceived conflict of interest and will abstain from voting on any matter in which the conflict is a matter for consideration. The register will be updated at each meeting of the Board.

#### **22.5. Resolutions not in Meeting**

- (a) A resolution in writing signed or assented to by the Directors by electronic mail or some other form of electronic or other communication is as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more of the Directors.
- (b) Without limiting the power of the Board to regulate their meetings as they think fit, a meeting of the Board may be held where one or more of the Directors is not physically present at the meeting, provided that:
  - (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously, whether by means of telephone or other form of communication;
  - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board, and such notice specifies that Directors are not required to be present in person;
  - (iii) in the event that a failure in communications prevents condition (i) from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors are present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held, then the meeting is suspended until condition (i) is satisfied again. If such condition is not satisfied within fifteen minutes from the interruption the meeting is deemed to have terminated; and
  - (iv) any meeting held where one or more of the Directors is not physically present is deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there present the meeting is deemed to be held at the place where the Chair is located.

#### **22.6. Notice of Board Meetings**

Unless all Directors agree to hold a meeting at shorter notice (which agreement is sufficiently evidenced by their presence), not less than seven days oral or written notice of the meeting of the Board must be given to each Director by the Company Secretary or a person authorised to provide notice by the Company Secretary.

#### **22.7. Validity of Board Decisions**

All acts done by any meeting of the Board or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Member of the Board or that the Members of the Board or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Member of the Board.

#### **22.8. Chair of Board Meeting**

- (a) The Chair will preside at every meeting of the Board.
- (b) If the Chair is not present, or is unwilling or unable to preside, the Deputy Chair will preside as Chair for that meeting only. If the Deputy Chair is not present, or is unwilling or unable to preside, the Directors must choose one of their number to preside as Chair for that meeting only.

## **23. CONFLICTS**

### **23.1. Directors' Interests**

- (a) A Director is disqualified by holding any place of profit or position of employment in the Company or in any company or other legal entity in which the Company is a shareholder or otherwise interested, or from contracting with the Company either as vendor, purchaser or otherwise except with express resolution of approval of the Board.
- (b) Unless approval is obtained from the Board, any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested will be void. This disqualification does not apply in relation to a contract or proposed contract with the Company, where the Director contracts as a Parent.

### **23.2. Conflict of Interest**

- (a) A Director must declare his or her interest in any:
  - (i) contractual matter;
  - (ii) disciplinary matter; or
  - (iii) other financial matter,in which a conflict of interest arises or may arise, and must, unless otherwise determined by the Board, absent himself or herself from discussions of such matter and is not entitled to vote in respect of such matter.
- (b) If the Director votes on a matter in which a conflict of interest arises or may arise, the vote will not be counted. In the event of any uncertainty as to whether it is necessary for a Director to absent himself or herself from discussions and refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter must be adjourned or deferred.
- (c) A Director cannot witness or sign a document if the Director is interested in the contract or arrangement to which the document relates.

### **23.3. Disclosure of Interests**

- (a) The nature of the interest of a Director must be declared by the Director at the meeting of the Board at which the contract or other matter is first taken into consideration if the interest then exists, or in any other case at the first meeting of the Board after the acquisition of the interest.
- (b) If a Director becomes interested in a contract or other matter after it is made or entered into the declaration of the interest must be made at the first meeting of the Board held after the Director becomes so interested.

### **23.4. General Disclosure**

- (a) A general notice that a Director is a Member of a specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under Rule 23.3.
- (b) After this general notice is given to the Board it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.

### **23.5. Recording Disclosures**

It is the duty of the Company Secretary to ensure the recording in the minutes any declaration made or any general notice given by a Director in accordance with Rules 23.3 and 23.4.

## **24. COMPANY SECRETARY**

### **24.1. Appointment of Company Secretary**

- (a) A Company Secretary may be appointed by the Board for a term and on the conditions as the Board thinks fit. A Company Secretary so appointed may be removed by the Board.
- (b) The Company Secretary is entitled to notice of, attend and participate in, all meetings of the Board. The Company Secretary does not need to be a Member.

### **24.2. Specific Duties**

The Company Secretary will:

- (a) as far as practicable, attend all Board meetings and General Meetings;
- (b) be accountable for preparing the agenda for all Board meetings and all General Meetings;
- (c) be accountable for recording and preparing minutes of the proceedings of all meetings of the Board and the Company;
- (d) be accountable for regularly reporting on the activities of, and issues relating to, the Company; and
- (e) be accountable for ensuring the regulatory responsibilities of the Company under the Act are met.

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## **PART V – ADMINISTRATION**

### **25. CHIEF EXECUTIVE OFFICER**

The Board may appoint any person, not being a Director, to the position of Chief Executive Officer (CEO) or similar position such as Business Manager for such period and on such terms as it thinks fit and, subject to the terms of any agreement entered into in a particular case, may revoke the appointment.

### **26. DELEGATIONS**

#### **26.1. Board may Delegate Functions to Committees**

- (a) The Board may by resolution create or establish or appoint from among the Directors, the Members, or otherwise, committees to carry out such duties and functions, and with such powers, as the Board determines.
- (b) This resolution will include, where required from time to time, the appointment by the Board of a Director as Committee Chair in accordance with 18.5.

#### **26.2. Delegation by Resolution**

The Board may, in the establishing resolution, delegate such functions as are specified in the resolution, other than:

- (a) this power of delegation; and
- (b) a function imposed on the Board by the Act or any other law, or this Constitution.

#### **26.3. Delegated Function Exercised in Accordance with Terms**

A function, the exercise of which has been delegated under this Rule, may whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

#### **26.4. Delegation Confidentiality**

A delegation under this Rule 26 may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

#### **26.5. Revocation of Delegation**

The Board may by resolution, revoke wholly or in part any delegation made under this Rule, and may amend, repeal or veto any decision made by such committee under this Rule where such decision is contrary to this Constitution, the Policies, the Act, the objects of the Company or the committee's delegation.

### **27. POLICIES**

#### **27.1. Board to Formulate Policies**

- (a) The Board may (by itself or by delegation to a committee) formulate, approve, issue, adopt, interpret and amend Policies and procedures for the proper advancement, management and administration of the Company and the advancement of the Objects of the Company as it thinks necessary or desirable.
- (b) Any Policies or procedures must be consistent with this Constitution. In the event of any inconsistency between the Policies and procedures and this Constitution, the Constitution will prevail to the extent of the inconsistency.

#### **27.2. Policies Binding**

All Policies and procedures made by the Board will be binding on the Company and all Members.

#### **27.3. Policies Deemed Applicable**

All Policies and procedures of the Company in force at the date of the approval of this Constitution insofar as such Policies and procedures are not inconsistent with, or have been replaced by this Constitution, are Policies under this Rule 27.

#### **27.4. Notices Binding on Members**

Amendments, alterations, interpretations or other changes to Policies and procedures will be advised to Members by means of notices approved by the Board and prepared and issued by the Company Secretary.

### **28. RECORDS AND ACCOUNTS**

#### **28.1. Accounting Records**

The Board will cause proper accounting and other records to be kept and will distribute copies of financial statements as required by the Act.

#### **28.2. Access to Records**

The Board will from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Company or any of them will be open to the inspection of Members not being Directors. No Member (not being a Director) has any right to inspect any accounting or other records of the Company except as conferred by statute or authorised by the Board or by a resolution passed at a General Meeting.

#### **28.3. Appointments**

- (a) The Board may appoint any person or persons to be the attorney or attorneys of the Company for the purposes, with the powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for the period and subject to the conditions they think fit.

- (b) Any power of attorney may contain those provisions for the protection and convenience of persons dealing with the attorney that the Board thinks fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.
- (c) An Auditor will be appointed by the Company. The duties of the Auditor will be regulated in accordance with the Act.

## **29. APPLICATION OF INCOME**

### **29.1. Income and Property Applied to Objects**

The income and property of the Company will be applied solely towards the promotion of the objects of the Company as set out in this Constitution.

### **29.2. No Income to Members**

Except as prescribed in this Constitution:

- (a) no portion of the income or property of the Company will be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member; and
- (b) no remuneration or other benefit in money or money's worth will be paid or given by the Company to any Member who holds any office of the Company.

### **29.3. Payments in Good Faith**

Nothing contained in 29.2 prevents payment in good faith of or to any Member or Director for:

- (a) any services actually rendered to the Company;
- (b) goods supplied to the Company in the ordinary and usual course of operation;
- (c) any out-of-pocket expenses incurred on behalf of the Company; or
- (d) any other reason,

provided that any such payment is approved by the Board and may not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

## **30. WINDING UP**

### **30.1. Winding Up of the Company**

Subject to this Rule 30, the Company may be wound up in accordance with the provisions of the Act.

### **30.2. Liability of Members**

The liability of the Members of the Company is limited.

### **30.3. Members' Contributions**

Every Member of the Company undertakes to contribute to the assets of the Company in the event of it being wound up while a Member, or within one (1) year after ceasing to be a Member for payment of the debts and liabilities of the Company contracted before the time at which he or she ceases to be a Member, and the costs, charges and expenses of winding up and for an adjustment of the rights of contributors among themselves, such amount as may be required not exceeding \$20.00.

### **30.4. Distribution of Property on Winding Up**

If upon winding up or dissolution of the Company there remains after satisfaction of all its debts and liabilities any assets or property, the same will not be paid to or distributed amongst the Members of the Company but must be given or transferred to a body or bodies having objects similar to the Objects of the Company and which prohibits the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Company by this Constitution and which is also not carried on for profit and which is similarly exempt (or entitled to be exempt) from

income tax. Such body or bodies to be determined by the Members of the Company at or before the time of dissolution, and in default thereof by such judge of the relevant Supreme Court or such other court as may have or acquire jurisdiction in the matter.

## **31. NOTICE**

### **31.1. Manner of Notice**

- (a) The Company may give notice to any Director or Member:
  - (i) personally;
  - (ii) by sending it by post to the address of the Member or Director as notified to the Board or the address for the Member in the register or the alternative address (if any) nominated by the Director or Member; or
  - (iii) by sending it to the electronic address (if any) nominated by the Director or the Member.
- (b) Any notice sent by post is taken to be given five (5) Business Days after it is posted.
- (c) Any notice sent by electronic means is taken to be given on the Business Day after it is sent.

### **31.2. Entitlement to Notices**

- (a) Notice of every General Meeting will be given in any manner authorised by this Constitution to:
  - (i) every Member except those Members who have not supplied to the Company an address for the giving of notices to them;
  - (ii) the Auditor for the time being of the Company.
- (b) No other person is entitled to receive notices of General Meetings.

## **32. ALTERATION OF CONSTITUTION**

No addition, alteration or amendment may be made to this Constitution unless it has been approved by Special Resolution in accordance with the Act.

## **33. INDEMNITY AND INSURANCE**

**33.1.** The Company will indemnify its Directors and employees to the extent permitted under the Act against all liabilities, losses, costs (including legal costs), charges and expenses for which any such Director or Employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- (a) in the case of a Director performed or made whilst acting on behalf of and with the authority, express or implied of the Company; and
- (b) in the case of an employee, performed or made in the course of, and within the scope of his/her employment by the Company.

### **33.2. Documenting indemnity**

The Company may enter into an agreement containing an indemnity in favour of any officer. The Board will determine the terms of the indemnity contained in the agreement.

### **33.3. Insurance**

- (a) To the extent permitted by the Act and, subject to the Act, the Company may pay any premium, in respect of a contract of insurance, between an insurer and a Director or an employee of the Company in respect of the liability suffered or incurred in, or arising out of, the conduct of any activity of the Company and the proper performance by the Director or employee of any duty.
- (b) If the Board determines, the Company may execute a document containing Rules under which the Company agrees to pay any premium in relation to such a contract of insurance.

#### **34. PRIVACY**

Each Member, Office Bearer, Director, Company Secretary, acknowledges that privacy and the protection of personal and sensitive information is a critical concern of the Company, and agree that all dealings of the Company and the Board *must* at all times, be in accordance with the requirements and obligations of Privacy Laws as amended from time to time.