

Constitution

Company Limited by Guarantee

National Ethnic and Multicultural Broadcasters' Council Ltd



Table of Contents

1.	Nature of the Company	5
2.	Definitions and interpretation	5
2.1	Definitions	5
2.2	Interpretation	8
2.3	Replaceable Rules	9
3.	Objects	9
4.	Assets and income of the Company	9
5.	Guarantee	10
6.	Membership composition	10
6.1	Number of Members	10
6.2	Admission	10
6.3	Membership classes	10
6.4	Membership requirements and undertaking	10
7.	Qualification for membership and membership rights	11
7.1	Station Members	11
7.2	Program Members	11
7.3	Affiliate Members	12
7.4	Life Members	12
7.5	General membership rights	12
8.	Application for and cessation of membership	13
8.1	Application for membership	13
8.2	Transfer of membership	14
8.3	Register of Members	14
8.4	Subscription fees	14
8.5	Lapse of subscription	14
8.6	Disciplinary powers of the Board	14
8.7	Cessation of membership	15
9.	Powers of attorney	16
10.	Representatives of Station Member	16
10.1	General	16
10.2	Representatives	16
10.3	Voting Delegates	16
10.4	Allocation of votes	17
10.5	Company not responsible for exercise of voting rights	17
11.	General meetings	17
11.1	Annual general meeting	17
11.2	Power to convene general meeting	17
11.3	Notice period	17
11.4	Notice of general meetings	18
11.5	Joint Member notices	18
11.6	Content of notice of general meetings	18
11.7	Content of notice of annual general meeting	18
11.8	Notice of adjourned meeting	19
11.9	Failure to give notice	19

12.	Proceedings at general meetings	19
12.1	Circular resolutions	19
12.2	Use of technology	19
12.3	Quorum	19
12.4	Effect of no quorum	19
12.5	Chairperson	20
12.6	Adjournment	20
12.7	Adjourned meetings	20
13.	Voting at general meetings	20
13.1	Voting	20
13.2	Voting rights	21
13.3	Joint Member votes	21
13.4	Voting by poll	21
13.5	Casting vote of chair	22
13.6	Objection to qualification of a voter	22
13.7	Votes counted in error	22
14.	Proxies	22
14.1	Who can appoint a proxy	22
14.2	Execution and form of proxies	22
14.3	Life of proxy	23
14.4	Lodgement of proxies and powers of attorney	23
14.5	Validity of proxy vote	23
15.	Board	23
15.1	Number of Directors	23
15.2	Director qualifications	24
15.3	Appointment of Directors	24
15.4	Co-opted Directors	24
15.5	Appointment to fill casual vacancy	24
15.6	Rotation of Directors	24
15.7	Term of Office	25
15.8	Vacation of office	25
16.	Powers and duties of Directors	26
16.1	General management power	26
16.2	Committees, sub-committees and other officials	26
16.3	Attorneys	26
16.4	Power to borrow and give security	27
16.5	Register of mortgages and charges	27
16.6	Payments to Directors	27
17.	Proceedings of Directors	28
17.1	Calling and holding Directors meetings	28
17.2	Frequency of Directors' meetings	28
17.3	Circulating resolutions	28
17.4	Telephone and other meetings	28
17.5	Directors resolutions	28
17.6	Minutes	29
17.7	Director's personal interests	29
17.8	Quorum	29
17.9	Chairperson	30
17.10	By-laws	30
17.11	Acts of Directors valid despite defective appointment	30

18.	Public Fund	30
18.1	Establishment of the Public Fund	30
18.2	Donations	31
18.3	Accounts	31
18.4	Accounting records	31
19.	Inspection of records	31
20.	Notices	31
20.1	Notices in writing	31
20.2	Service	31
20.3	Deemed receipt	32
21.	Audit and accounts	32
21.1	Company must keep accounts	32
21.2	Audit	32
21.3	Financial reporting	32
21.4	Conclusive reports	32
22.	Winding up	33
23.	Indemnity	33
23.1	Interpretation	33
23.2	Scope of indemnity	33
23.3	Insurance	34
24.	Variation or amendment of Constitution	34

Corporations Act**A Company Limited by Guarantee****CONSTITUTION****OF****NATIONAL ETHNIC AND MULTICULTURAL BROADCASTERS' COUNCIL
LTD****1. Nature of the Company**

- (a) The Company is a public company limited by guarantee.
- (b) The name of the Company is National Ethnic and Multicultural Broadcasters' Council Ltd.
- (c) The liability of Members is limited to the amount of the guarantee in clause 5.
- (d) The Company does not have the power to issue shares.

2. Definitions and interpretation**2.1 Definitions**

In this Constitution unless the contrary intention appears:

Affiliate Member means a member of the Company under clause 7.3;

Auditor means the Company's auditor;

Board means the board of Directors of the Company from time to time;

Chairperson means the chair of the Board elected in accordance with this Constitution and/or the chairperson for the time being appointed or elected to chair a directors meeting or general meeting in accordance with this Constitution, as the context requires;

Company means National Ethnic and Multicultural Broadcasters' Council Ltd;

Connected Program has the meaning given to it in clause 7.1(e);

Constitution means this constitution as amended, supplemented or replaced from time to time;

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

Director means any person occupying the position of director of the Company;

Incorporated Member has the meaning given in clause 10.1(a);

Insolvency Event means, in relation to a person, any one or more of the following events or circumstances:

- (a) a winding up, dissolution, liquidation, provisional liquidation, administration or bankruptcy;
- (b) having a controller (as defined in the Corporations Act), receiver, receiver and manager, administrator, liquidator (whether provisional or otherwise) or analogous person appointed to it or any of its property;
- (c) being unable to pay any of its debts as and when due and payable or being deemed to be insolvent under any provision of the Corporations Act or any other law;
- (d) seeking protection from its creditors under any law, entering into a compromise, moratorium, assignment, composition or arrangement with, or for the benefit of, any of its members or creditors; or
- (e) any analogous event or circumstance to those described in paragraphs (a) to (d) under any law;

Joint Member means a Member comprising two or more persons;

Life Member means a member of the Company under clause 7.4;

Member means a member of the Company, including a Program Member, Station Member, Affiliate Member or Life Member;

Objects means the objects of the Company set out in clause 3;

Office means the registered office for the time being of the Company;

Program means:

- (a) an ethnic radio, television and/or other media program which is broadcast on at least one occasion per week with the spoken content of at least 50% in a language other than English (or any other lower percentage of non-English content prescribed by the Company from time to time);
- (b) a multicultural radio, television and/or other media program which is broadcast on at least one occasion per week with the spoken content of at least 20% in a language other than English and is relevant to the target audience (or any other lower percentage of non-English content that is prescribed by the Company from time to time); or
- (c) any other ethnic or multicultural radio, television and/or other media program which the Board in its absolute discretion may declare to be a Program for the purposes of this Constitution;

Program Member means a member of the Company under clause 7.2;

Proportional Vote means the number of votes able to be cast by each Station Member from time to time in respect of any general meeting, as determined in accordance with the following table:

Number of Connected Programs to the Station Member	Number of votes the Station Member is entitled to cast
0-2	Nil
3-7	1
8-12	2
13-17	3
18-22	4
23-27	5
28-32	6
33-37	7
38-42	8
43-47	9
For each further group of 5 Program Members in addition to the above	1 additional vote

Public Fund means the public fund established by the Company in accordance with clause 18;

Register means the register of Members;

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

Responsible Person means an individual who:

- (a) has a degree of responsibility to the Australian community as a whole;
- (b) is a member of a professional body having a code of ethics or rules of conduct;
- (c) is officially charged with spiritual functions by a religious institution;
- (d) is a director of a company whose shares are listed on the Australian Securities Exchange;
- (e) has received formal recognition from government for services to the community; or
- (f) is otherwise deemed to be a "Responsible Person" by the Australian Taxation Office from time to time;

Representative means a natural person who is appointed by an Incorporated Member to be its representative for its dealings with the Company in accordance with clause 10.2;

Seal means the Company's common seal (if any);

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

Special Resolution means:

- (a) in the case of Members, a resolution:

- (i) of which notice as required in accordance with the Corporations Act has been given; and
 - (ii) that has been passed by at least 75% of the votes cast by Members present and entitled to vote on the resolution; and
- (b) in the case of Directors, a resolution that has been passed by at least 75% of the votes cast by Directors present and entitled to vote on the resolution;

Station means a licensed broadcasting station, or an aspiring station with a temporary broadcasting licence, that is permitted to broadcast in accordance with the *Broadcasting Services Act 1992* (Cth) or the *Radiocommunications Act 1992* (Cth);

Station Member means a member of the Company under clause 7.1;

Treasurer means the Director appointed to that position in accordance with this Constitution;

Vice Chairperson means the Director elected to the position of deputy-chair of the Board under this Constitution; and

Voting Delegate means a natural person who is appointed by an Incorporated Member to exercise voting rights in accordance with clause 10.3.

2.2 Interpretation

In this Constitution, unless the contrary intention appears:

- (a) a reference to:
 - (i) any statute, ordinance, code or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments or a replacement of any of them by any government body;
 - (ii) any officer of the Company includes any person acting for the time being as such an officer; and
 - (iii) writing includes any mode of representing or reproducing words in a tangible or visible form, and includes facsimile transmission;
- (b) words importing:
 - (i) the singular include the plural and vice versa;
 - (ii) a gender include all other genders; and
 - (iii) natural persons include partnerships, associations and corporations;
- (c) headings do not affect the construction of this Constitution;
- (d) if a word or phrase is defined, cognate words and phrases have corresponding meanings;
- (e) references to notices in this Constitution include not only formal notices of meetings but also all documents and other communications from the Company to its Members; and
- (f) a word or expression used in a particular Part or Division of the Corporations Act that is given by that Part or Division a special meaning for the purposes of that or any other Part or Division has, in any part of this Constitution that deals with a matter

dealt with by the relevant Part or Division, the same meaning as applies in or in respect of that Part or Division (unless otherwise indicated).

2.3 Replaceable Rules

Each of the provisions of the sections or sub-sections of the Corporations Act which would but for this clause 2.3 apply to the Company as a replaceable rule within the meaning of the Corporations Act are displaced and do not apply to the Company except insofar as they are repeated in this Constitution.

3. Objects

The purpose of the Company is to:

- (a) promote and represent the interests of ethnic and multicultural community broadcasters throughout Australia in radio, television and other electronic media;
- (b) advance the development of a harmonious multicultural society in Australia through broadcasting;
- (c) promote racial and religious harmony in Australia;
- (d) prevent discrimination on the basis of race, gender, religious and political affiliation and other forms of discrimination or distinction;
- (e) assist the efforts of all broadcasters to achieve a quality service for their communities;
- (f) involve ethnic and multicultural broadcasters in representations on issues of national significance;
- (g) promote and extend ethnic and multicultural broadcasting services to meet ethnic communities' needs and to the benefit of the entire Australian community;
- (h) liaise with government, non-government and community organisations in pursuance of the goals of the Company;
- (i) promote access and equality in community broadcasting;
- (j) foster positive relations amongst the Members of the Company;
- (k) advise, assist and facilitate education with ethnic and multicultural programming and broadcasting including the exchange of programs, resources, information and ideas within and between multicultural and ethnic broadcasters; and
- (l) promote principles of community independent media and programming diversity reflective of ethnic and multicultural views.

4. Assets and income of the Company

- (a) All assets and income of the Company will be applied solely towards the promotion of the Objects or where applicable, for the principal purpose specified by the donor of a gift, bequest or donation and no portion thereof will be paid or transferred directly or indirectly by way of dividend, bonus or otherwise to the Members or be paid as fees to the Directors of the Company.

- (b) All payments by the Company to the Directors must be approved by the Board in accordance with clause 16.6.

5. Guarantee

Each Member undertakes to contribute an amount of \$10.00 to the property of the Company if the Company is wound up while the Member is a Member or within one year after the Member ceases to be a Member, for:

- (a) payment of the Company's debts and liabilities incurred before the time at which the Member ceased to be a Member;
- (b) the costs, charges and expenses of winding up; and
- (c) the adjustment of rights of the contributories among themselves.

6. Membership composition

6.1 Number of Members

The number of Members is unlimited.

6.2 Admission

- (a) On the date of adoption of this Constitution, the persons listed in the Schedule will be the initial Members of the Company.
- (b) The Company may admit to membership any other persons, corporations or organisations whom or which the Directors admit to membership from time to time in accordance with this Constitution.

6.3 Membership classes

- (a) The Members of the Company consist of:
 - (i) Station Members;
 - (ii) Program Members;
 - (iii) Affiliate Members; and
 - (iv) Life Members.
- (b) The Board may from time to time divide the membership of the Company into different classes of membership and determine the rights (including voting rights) and obligations attaching to each class of membership by resolution of the Board (Class Rights) and the Class Rights (once adopted by the Board) will be taken to form part of this Constitution.

6.4 Membership requirements and undertaking

- (a) Every Member must:
 - (i) meet the relevant eligibility requirements in clause 7; and
 - (ii) be approved for membership in accordance with clause 8; and
- (b) Every Member undertakes to:

- (i) promote and further the Objects, interest, influence and standing of the Company to the best of their ability; and
- (ii) observe this Constitution and the rules and regulations of the Company in force from time to time.

7. Qualification for membership and membership rights

7.1 Station Members

- (a) To be eligible as a Station Member, a person must be Station that broadcasts one or more Programs.
- (b) A Station Member has the right to:
 - (i) receive notices from the Company; and
 - (ii) subject to this Constitution (including this clause 7.1), attend, request the convening of, vote at and be heard at, all general meetings of the Company (in accordance with clause 13).
- (c) Each Station Member may appoint one natural person as its Representative in accordance with clause 10.2, to represent it and the Station.
- (d) For the purposes of exercising its voting rights under clause 13 (and only for this purpose), each Station Member may appoint one or more Voting Delegates in accordance with clause 10.3.
- (e) For the purposes of determining a Station Member's Proportional Vote, each Station Member must advise the Company in writing of each Program it is responsible for broadcasting (Connected Program).
- (f) A Station Member is solely responsible for notifying and updating the Company in respect of its Connected Programs. The Company is not responsible in any way, and accepts no responsibility whatsoever, for using incorrect or out of date information in respect of a Station Member's Connected Programs when determining the Proportional Vote.
- (g) The Board may take steps to verify any connection to a Program claimed under clause 7.1(g), and if it is not satisfied (acting reasonably) that the Station Member broadcasts any one or more of the Connected Programs it has notified the Company of, then the Company may refuse to include, or revoke the inclusion of, the Program as a Connected Program of the relevant Station Member for the purposes of determining the Proportional Vote.

7.2 Program Members

- (a) To be eligible as a Program Member, a person must, whether alone or with other people, be primarily responsible for producing, presenting and/or broadcasting a Program.
- (b) Where a Program is produced, presented and/or broadcast by more than one person, those persons must nominate:
 - (i) one person among them to be registered on the Register as the Program Member for the Program; or
 - (ii) two or more people to jointly constitute (and be registered) as one Program Member and be subject to any Joint Member provisions set out in this

Constitution (noting that the liability of Joint Members under this Constitution is joint and several).

- (c) The Board may:
 - (i) at any time, request a person registered as a Program Member (whether solely or jointly) to provide information or other evidence confirming that such person(s) is/are authorised in accordance with clause 7.2(b) to be registered as the Program Member for the relevant Program; and
 - (ii) refuse to register any person(s) as a Program Member, or revoke a person(s) registration as a Program Member, if it is not satisfied (acting reasonably) that such persons(s) are authorised to be registered as the Program Member for such Program.
- (d) A Program must only be represented once on the Register (and for the purposes of determining the Proportional Vote).
- (e) A Program Member is entitled to:
 - (i) receive notices from the Company; and
 - (ii) subject to this Constitution, attend and be heard at all general meetings of the Company, but not to vote.
- (f) For the purposes of determining the Proportional Vote, each Program Member must be a Connected Program of one, and only one, Station Member, being the Station Member responsible for broadcasting the relevant Program.

7.3 Affiliate Members

- (a) To be eligible as an Affiliate Member, a person must:
 - (i) subscribe to the Objects; and
 - (ii) not be a political party.
- (b) An Affiliate Member is entitled to attend general meetings of the Company, but not to vote.

7.4 Life Members

- (a) On the recommendation of the Board, they may decide in a general meeting to give life membership on any natural person considered to have made an outstanding contribution to the ethnic community broadcasting.
- (b) A Life Member:
 - (i) is exempt from the requirement to pay the annual subscription in accordance with clause 8.4; and
 - (ii) is entitled to attend general meetings of the Company, but not to vote.

7.5 General membership rights

- (a) A Member is not entitled to examine minutes of Board meetings or other relevant documents unless otherwise determined by the Board.

- (b) A Member may not make a copy of any documents without the express written authority of the Board. All costs of making such copies will be incurred and paid by the Member making the request.
- (c) A Member is conferred with all other rights and entitlements as provided by the Corporations Act.

8. Application for and cessation of membership

8.1 Application for membership

- (a) Other than in respect of Life Members, every application for membership must be lodged with the Company and must set out:
 - (i) the name, address and occupation of the applicant;
 - (ii) in the case of Station Members:
 - (A) details of their Connected Program(s); and
 - (B) details of their Representative (if any); and
 - (iii) in the case of Program Members:
 - (A) details of the Program for which they produce and broadcast (including the people associated with, and responsible for producing and broadcasting the Program and evidence of relevant authorisations from such people as noted in clause 7.2(c)(i));
 - (B) details of the Station on which they broadcast; and
 - (C) whether the applicant is applying to hold a Joint Membership, and if so, details of all persons to be registered as Joint Member(s).
- (b) The names of Joint Members will be recorded in the Register in the order they appear in the application for the purposes of clauses 11.5(c) and 13.3.
- (c) Other than for Life Members, applications for membership must be made in writing on a form to be approved by the Board and signed by the applicant.
- (d) The Board will consider the application and will in its absolute discretion and without assigning any reason:
 - (i) determine the admission or rejection of the applicant; or
 - (ii) decide to call on the applicant to supply any evidence of eligibility that they consider reasonably necessary.
- (e) An applicant will be admitted to membership if a majority of the Directors present and entitled to vote at the Directors meeting vote by resolution to admit the applicant.
- (f) If the Board rejects an application for membership, the Company must as soon as practicable, notify the applicant in writing that the application has been rejected, without having to provide reasons.
- (g) If the Board approves an application for membership, the Company must, as soon as practicable:
 - (i) notify the applicant in writing of approval for membership; and

- (ii) request payment of the applicant's entrance fee and first annual subscription (if any) due under clause 8.4.
- (h) Upon notifying the Member of their approval for membership, the Company must enter the applicant's name on the Register.

8.2 Transfer of membership

- (a) Subject to clause 8.2(b), a right, privilege or obligation of a person by reason of membership:
 - (i) is not capable of being transferred or transmitted to another person; and
 - (ii) terminates upon the cessation of membership.
- (b) Subject to clause 8.2(c), in the case of a Joint Member, if any person who is a Joint Member ceases to be a Member of the Company in accordance with this Constitution, the relevant surviving Joint Member(s) may continue to be a Member and will automatically be deemed to have been transferred all rights, privileges and obligations of the exiting Joint Member.
- (c) Nothing in clause 8.2(b) releases a person ceasing to be a Joint Member or their estate from any liability in respect of this Constitution that had been jointly held by the holder with another person or persons.

8.3 Register of Members

The Company must, on receipt of all monies due and payable under clause 8.4 cause to be entered into the Register the name and address of any new Member, as supplied by the Member on their application for membership. The Company will hold all signed applications and produce them if required to verify the identity of any person voting at any election or meeting of the Company.

8.4 Subscription fees

- (a) Any entrance fee and annual subscription payable by Members (whether upon becoming a Member or on an annual basis) will be determined by the Board from time to time.
- (b) All annual subscriptions will be due and payable in advance on 1 July each year, or as otherwise determined by the Board from time to time.

8.5 Lapse of subscription

If a Member's subscription remains unpaid for a period of 6 months after it falls due then the Member will be sent a notice from the Company requiring payment of the outstanding subscription within a period of 14 days of the notice. If the subscription remains unpaid at the expiry of this 14 day period then the Member will at that time automatically and without further notice cease to be a Member.

8.6 Disciplinary powers of the Board

- (a) If any Member wilfully refuses or neglects to comply with the provisions of this Constitution or is guilty of any conduct which in the opinion of the Board is unbecoming of a Member or prejudicial to the interests of the Company, the Board will have the power by resolution to censure, fine, suspend or expel the Member from the Company.
- (b) Any action taken by the Board in accordance with clause 8.6(a) is effective only after the Member has been given at least 30 days' notice of the resolution and has had

the opportunity to be heard at the meeting at which the resolution is proposed and to respond to or defend against any allegation made by the Board under clause 8.6(a) in accordance with the rules of natural justice (Disciplinary Meeting).

(c) At any Disciplinary Meeting the relevant Member may:

- (i) appear in person; or
- (ii) prepare a written submission to be considered at the Disciplinary Meeting,

but in no circumstances will legal representatives be permitted to attend or be heard at such Disciplinary Meeting.

8.7 Cessation of membership

(a) A Member will cease to be a Member:

- (i) if the Member resigns from the Company by giving written notice of their resignation, from the date of receipt of that notice by the Secretary;
- (ii) if their membership lapses under clause 8.5;
- (iii) in the case of a Station Member, if it ceases to broadcast any Programs (as determined by the Board);
- (iv) in the case of the Program Member, if the Board revokes membership in accordance with clause 7.2(c)(ii);
- (v) if the Member ceases to satisfy any eligibility criteria under clause 7;
- (vi) if the Member is the subject of an Insolvency Event;
- (vii) if that Member's status or conduct in the Board's opinion renders it undesirable that that Member continue to be a Member and;
 - (A) 75% of the Directors present and entitled to vote at a meeting of the Board resolve to expel the Member under clause 8.6(a); and
 - (B) the Member has been given notice of the proposed resolution and has had the opportunity to be heard at the Disciplinary Meeting in accordance with clause 8.6(a);
- (viii) where the Member is an individual, if the Member:
 - (A) dies;
 - (B) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health; or
 - (C) is convicted of an indictable offence.

(b) Any Member ceasing to be a Member:

- (i) is not entitled to any refund (or part refund) of their annual subscription; and
- (ii) remains liable for and will pay to the Company all subscriptions and moneys which were due at the date of ceasing to be a Member.

9. Powers of attorney

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

10. Representatives of Station Member

10.1 General

- (a) A Member may comprise an incorporated body or organisation, and the provisions of this clause 10 apply to such Members (Incorporated Member).
- (b) A certificate executed by an Incorporated Member is rebuttable evidence of the appointment or termination (as appropriate) of a Representative under clause 10.2.
- (c) If written notice of the appointment of a Voting Delegate has not been received in accordance with clause 10.1(b) the Chairperson of a general meeting may allow a Voting Delegate to vote on the condition that they subsequently establish their status as a Voting Delegate within a period prescribed by and to the satisfaction of the Chairperson of the general meeting.
- (d) The appointment of a Voting Delegate by an Incorporated Member may set out restrictions on the Voting Delegate's powers.

10.2 Representatives

- (a) An Incorporated Member may, subject to anything to the contrary in the Corporations Act, by written notice to the Secretary:
 - (i) appoint one natural person to act as its Representative; and
 - (ii) terminate the appointment of a Representative.
- (b) The Company, acting reasonably and in good faith, is not bound to accept any notice given under clause 10.2(a) if there is any discrepancy or uncertainty as to the validity of the notice.

10.3 Voting Delegates

- (a) Subject to any applicable Laws, an Incorporated Member may, by written notice to the Secretary:
 - (i) appoint one or more natural person(s) as a Voting Delegate to exercise voting rights (if any) at a general meeting of the Company; and
 - (ii) terminate the appointment of a Voting Delegate.
- (b) The Company, acting reasonably and in good faith, is not bound to accept any notice given under clause 10.3 if there is any discrepancy or uncertainty as to the validity of the notice.
- (c) Subject to any restrictions set out in clause 10.1(d), a Voting Delegate:

- (i) is entitled to exercise at a general meeting a right to speak and the voting powers which the Incorporated Member () that appointed them could exercise if it were a natural person (but does not include engaging in any vote done on a show of hands);
 - (ii) is to be counted towards a quorum of the general meeting; and
 - (iii) may be nominated as a Director of the Company.
- (d) Where an Incorporated Member has appointed one or more Voting Delegates, the maximum number of votes that can be collectively voted by the Voting Delegate(s) on behalf of the Incorporated Member must not exceed the Proportional Vote of such Incorporated Member.
- (e) To be recognised as a valid Voting Delegate, such Voting must have the right to exercise at least one vote on behalf of a Member entitled to vote. A Voting Delegate's appointment is deemed to be revoked if at any time it is not authorised to cast any votes on behalf of a Member.

10.4 Allocation of votes

- (a) It is the responsibility of the Incorporated Member Stations Member to manage and allocate its voting entitlements (if any) among its Voting Delegates at a general meeting of the Company, if any are appointed.
- (b) If any discrepancy, uncertainty or dispute arises in respect of the allocation of an Incorporated Member's voting rights, the Company:
 - (i) may at its sole discretion, acting reasonably and in good faith, disregard any appointment of a Voting Delegate, subject to receiving further instructions from the Incorporated Member.

10.5 Company not responsible for exercise of voting rights

The Company is not liable, and accepts no responsibility, for:

- (a) any improper authorisation, appointment or termination of a Voting Delegate; and
- (b) any voting rights exercised improperly or without due authorisation from an Incorporated Member.

11. General meetings

11.1 Annual general meeting

If required to do so by the Corporations Act, the Company must hold an annual general meeting of the Company in accordance with the Corporations Act and within 5 months of the conclusion of the financial year.

11.2 Power to convene general meeting

Any 3 Directors may, whenever the Directors think fit, convene a general meeting of Members.

11.3 Notice period

- (a) Subject to the Corporations Act and clause 11.3(b), the Company must give 21 days' notice of general meetings (including annual general meetings).
- (b) The Company may call, on shorter notice than that specified in clause 11.3(a):

- (i) an annual general meeting, if all the Members entitled to attend and vote at the annual general meeting agree prior to the annual general meeting; and
- (ii) any other general meeting, if Members holding at least 95% of the votes that may be cast at the general meeting agree prior to the general meeting.

11.4 Notice of general meetings

Written notice of a general meeting must be given as provided in this Constitution to:

- (a) every Member;
- (b) every Director; and
- (c) the Auditor (if any).

11.5 Joint Member notices

- (a) Joint Members must give to the Company notice of a single address for the purpose of all notices to be given by the Company under this Constitution.
- (b) Where the Company receives notice under clause 11.5, the giving of notice to the address so notified is deemed given to all of the relevant Joint Members.
- (c) Where Joint Members fail to give notice to the Company in accordance with clause 11.5(a), the Company may give notice to the address of the Joint Member whose name first appears in the Register.

11.6 Content of notice of general meetings

A notice of general meeting must:

- (a) specify the place, date and time for the meeting;
- (b) except as provided by clause 11.7, state the general nature of the business to be transacted at the meeting;
- (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) contain a statement of:
 - (i) the right of each Member entitled to vote to appoint a proxy; and
 - (ii) the fact that a proxy need not be a Member.

11.7 Content of notice of annual general meeting

It is not necessary for the notice of an annual general meeting to state that the business to be transacted at the meeting includes:

- (a) the consideration of the financial statements, balance sheets, and the reports of the Directors and Auditor (if any);
- (b) the election of Directors and other officers in place of those retiring;
- (c) the appointment and fixing of the remuneration of the Auditors; and
- (d) any other business which, under this Constitution or the Corporations Act, is required to be transacted at an annual general meeting.

11.8 Notice of adjourned meeting

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 30 days or more.

11.9 Failure to give notice

Any resolution passed at a meeting is not invalidated by:

- (a) the accidental omission to give notice of a meeting to any Member or non-receipt of that notice by a Member; or
- (b) the accidental omission to send out the instrument of proxy to a person entitled to receive notice or non-receipt of that instrument.

12. Proceedings at general meetings

12.1 Circular resolutions

- (a) A resolution may be passed without a general meeting being held if all Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Identical copies of the document may be distributed for signing by different Members and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Member signs the document.

12.2 Use of technology

The Company may hold a meeting at 2 or more venues using any technology that gives Members a reasonable opportunity to participate.

12.3 Quorum

- (a) Except as otherwise provided in this Constitution, the quorum for a general meeting of the Company is at least 20 voting delegates present in person or by proxy with representation from a minimum of 5 States or Territories, and the quorum must be present at all times during the meeting.
- (b) No business will be transacted at any general meeting unless the relevant quorum of Members is present at the time when the meeting proceeds to business.

12.4 Effect of no quorum

If a quorum of Members is not present within 45 minutes after the time appointed for the meeting in the notice:

- (a) if the meeting was convened on the requisition of Members, the meeting must be dissolved; or
- (b) in any other case:
 - (i) the meeting will be adjourned to the date, time and place that the Directors specify (or if the Directors do not specify such details, the meeting is adjourned to the same day in the next week at the same time and place) except that if the meeting is adjourned for 30 days or more, notice of the resumed meeting must be given; and

- (ii) if at a meeting resumed after an adjournment under clause 12.4(b)(i) a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

12.5 Chairperson

- (a) The Chairperson, or in the Chairperson's absence the Vice Chairperson, will be the Chair of every meeting of Members.
- (b) If:
 - (i) there is no Chairperson or Vice Chairperson;
 - (ii) neither the Chairperson or Vice Chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
 - (iii) the Chairperson or Vice Chairperson are unwilling to act as Chair of the general meeting,the Directors present may elect another Director to be Chairperson of the relevant general meeting.
- (c) If no election is made under clause 12.5(b), then:
 - (i) the Members may elect one of the Directors present as Chairperson; or
 - (ii) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as Chairperson.
- (d) If there is a dispute at a general meeting about a question of procedure, the Chairperson may determine the question.

12.6 Adjournment

The Chairperson must adjourn a general meeting if the majority of Members present at the general meeting agree or direct the Chairperson to do so.

12.7 Adjourned meetings

- (a) Only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (b) A resolution passed at a meeting resumed after an adjournment, is passed on the day the meeting was resumed.

13. Voting at general meetings

13.1 Voting

- (a) A resolution put to a vote at a general meeting must be decided on a show of hands unless a poll is demanded under clause 13.4.
- (b) Before a vote is taken, the Chairperson must inform the general meeting whether any proxy votes have been received.
- (c) On a show of hands, a declaration by the Chairperson is conclusive evidence of the result provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the Chairperson nor the minutes need to state the number or proportion of the votes recorded in favour of, or against the resolution.

13.2 Voting rights

- (a) Only Station Members are entitled to vote in a general meeting of Members.
- (b) Subject to clause 13.2(c), each Station Member may vote by Voting Delegate or proxy, at a meeting of the Members, and each such Station Member has:
 - (i) on a show of hands, one vote; and
 - (ii) on a poll, its Proportional Vote.
- (c) For the avoidance of doubt, only a duly appointed Voting Delegate or proxy can vote on behalf of a Station Member on a show of hands under clause 13.2(b)(i).
- (d) When determining how many votes a Station Member may cast pursuant to its Proportional Vote, if any discrepancy, uncertainty or dispute arises as to the number of Programs a Station Member as a Connected Program, the Board may determine this and its decision is final.
- (e) When casting a vote, a Station Member must consider the express wishes of the Program Members of its Connected Programs, and where appropriate, consult those Program Members before casting vote(s).

13.3 Joint Member votes

If applicable, where more than one person casts a Joint Member's votes, only the vote of the person whose name appears first in the Register must be accepted to the exclusion of the others whether to vote is given personally, by attorney or proxy.

13.4 Voting by poll

- (a) A poll may be demanded:
 - (i) by the Chairperson; or
 - (ii) by at least *10 Station Members* in person or by proxy.and
 - (iii) before a vote is taken; or
 - (iv) before or immediately after the voting results on a show of hands are declared.
- (b) The demand for a poll may be withdrawn.
- (c) If a poll is duly demanded, it must be taken in such manner and, subject to clause 13.4(d), either immediately or after an interval or adjournment or otherwise as the Chairperson directs. The result of the poll is to be deemed to be a resolution of the meeting at which the poll was demanded.
- (d) A poll demanded on the election of a Chairperson or on a question of adjournment must be taken immediately.
- (e) The demand for a poll does not prevent a meeting continuing for the transaction of any business other than the question on which a poll has been demanded.

13.5 Casting vote of chair

In the case of an equality of votes, whether on a show of hands or on a poll, the Chairperson of the meeting at which the show of hands takes place or at which the poll is demanded has a casting vote (in addition to any vote that the Chairperson may have had as a Member) if the votes are equally divided.

13.6 Objection to qualification of a voter

- (a) An objection to a person's right to vote at a general meeting:
 - (i) may only be raised at a general meeting or adjourned meeting at which the vote objected to is given or tendered; and
 - (ii) must be determined by the Chairperson of the meeting, whose decision is final.
- (b) A vote not disallowed under an objection referred to in clause 13.6(a) is valid for all purposes.

13.7 Votes counted in error

If any vote is counted which ought not to have been counted or might have been rejected, the error will not invalidate the resolution unless the error is:

- (a) detected at the same meeting; and
- (b) of sufficient magnitude, in the opinion of the Chairperson, as to invalidate the resolution.

14. Proxies

14.1 Who can appoint a proxy

A Member entitled to attend and vote at a general meeting may appoint a person as their proxy to attend and vote for such Member at a meeting of the Company. A proxy need not be a Member.

14.2 Execution and form of proxies

An instrument appointing a proxy:

- (a) may be contained in a facsimile or email;
- (b) must be in writing under the hand of the appointer or an attorney duly authorised in writing or, if the appointer is a body corporate, either under seal or under the hand of an officer or attorney duly authorised;
- (c) may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument;
- (d) is deemed to confer authority to demand or join in demanding a poll;
- (e) if signed by all Joint Members (if applicable), the votes of the proxy so appointed must, despite clause 13.3, be accepted in respect of those Joint Members to the exclusion of any votes tendered by a proxy for any one of those Joint Members; and

14.3 Life of proxy

An instrument appointing a proxy is valid only for the meeting for which it is given (including for any adjournment or postponement of such meeting), unless it is expressly stated to be a standing appointment or to extend for a longer period.

14.4 Lodgement of proxies and powers of attorney

- (a) If a Member appoints a proxy or an attorney, the following documents must be given to the Company at its registered office or at the place specified for the purpose in the notice calling the general meeting:
- (i) the proxy's appointment;
 - (ii) if the appointment is signed by the appointor's attorney, the authority under which the form was signed or a certified copy of the authority; and
 - (iii) in the case of an attorney, the power of attorney or a certified copy of it.
- (b) The appointment of a proxy or an attorney is valid for a meeting if the appointment and any authority are given to the Company at least 48 hours before the general meeting at which the proxy is to be used.

14.5 Validity of proxy vote

A vote cast in accordance with the terms of an instrument of proxy or a power of attorney is valid if no notice in writing of:

- (a) the previous death of the appointing Member;
- (b) the mental incapacity of the appointing Member;
- (c) the revocation of the proxy's appointment; or
- (d) the revocation of the authority under which the proxy was appointed,

has been received by the Company at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used or exercised.

15. Board

15.1 Number of Directors

- (a) The number of Directors of the Company will be such number (being not less than 4 and not more than 10) as determined in accordance with the Corporations Act and this clause 15.1, and consists of:
- (i) a Chairperson;
 - (ii) a Vice Chairperson;
 - (iii) a Secretary;
 - (iv) a Treasurer; and
 - (v) 5 other Directors,
- (b) The persons appointed to the roles noted in clauses 15.1(a)(i) to 15.1(a)(iv) (inclusive) will be known as **Office Holders**.

- (c) The Chairperson and Vice Chairperson shall be elected to constitute the Directors of the Company
- (d) No more than 2 Directors may be resident in a single State or Territory at any given time.
- (e) The Company in general meeting may by a simple majority alter the number of Directors, provided that the minimum number of Directors is not reduced below 4.

15.2 Director qualifications

A Director must:

- (a) consent in writing before being appointed;
- (b) be nominated for election as a director by a Member;
- (c) be a Program Member, or Delegate and be involved with producing, presenting and/or broadcasting a Program that is associated with a Program Member or Station Member; and
- (d) hold any requisite qualifications prescribed by the Board from time to time.

15.3 Appointment of Directors

Subject to the Corporations Act, the Company may at any time by resolution passed in general meeting appoint any person that meets the requirements set out in clause 15.2 to be a Director.

15.4 Co-opted Directors

- (a) The Board may, from time to time, appoint persons as Directors to the Board (**Co-opted Director**) in order to:
 - (i) fulfil a specialist skill or particular expertise required by the Board in order to assist the Company to further the Objects; or
 - (ii) have members of a standing committee established.
- (b) Each Co-opted Director will hold office until the next annual general meeting or as otherwise determined by the Board.
- (c) A Co-opted Director will count towards determining a quorum required under clause 17.8, but is not entitled to vote in Directors' meetings convened under clause 17.

15.5 Appointment to fill casual vacancy

- (a) The Board may at any time appoint any person to be a Director to fill a casual vacancy provided that such person appointed to fill a casual vacancy is a Member, or Voting Delegate.
- (b) The Board may expressly resolve not to fill a casual vacancy.
- (c) Any Director appointed to fill a casual vacancy will hold office only until the next annual general meeting of the Company but will be eligible to stand for re-election.

15.6 Rotation of Directors

- (a) Subject to this clause 15.6, a Director holds office as a Director until such time as he or she:

- (i) vacates from his or her office in accordance with clause 15.8;
 - (ii) is removed from his or her office or
 - (iii) vacates from his or her office by virtue of being a Co-opted Director or having filled a casual vacancy in accordance with clauses 15.4 or 15.5 respectively.
- (b) A Director may not hold office for a period of more than 2 years, or beyond the second annual general meeting following the Director's election, whichever is the longer, without submitting himself or herself for re-election.
- (c) There must be an election of Directors at each annual general meeting. The Director or Directors to retire at each annual general meeting are any one or more of the following, as applicable:
- (i) any Director required to retire under clause 15.6(b) or clause 15.5(c) and standing for re-election;
 - (ii) a person standing for election as a new Director; or
 - (iii) if no person is standing for election or re-election under clauses 15.6(c)(i) or 15.6(c)(ii); then the Director who has been in office the longest since last being elected. Between Directors who were elected on the same day, the Director to retire will be decided by lot, unless the relevant Directors agree otherwise.
- (d) No person other than a retiring Director or a Director vacating office under clause 15.4(b) is eligible to be elected a Director at any general meeting unless a written notice of the person's nomination for election is given to the Company by a Member at least 7 Days before the meeting.
- (e) At the first annual general meeting of the Company following incorporation (or migration of incorporation):
- (i) **[Insert Director Name]** and **[Insert Director Name]** must vacate office but will be eligible for re-election; and
 - (ii) **[Insert Director Name]** will hold office for a further term of 1 year.
- (f) For the avoidance of doubt:
- (i) any Director appointed pursuant to on incorporation (other than those Directors set out in clause 15.6(e) will hold office until such time as they cease to hold office or are otherwise removed in accordance with this Constitution; and
 - (ii) upon the expiry of a Chairperson's maximum term under clause 15.7 such person is required to retire as Director by rotation.

15.7 Term of Office

- (a) The maximum term for the Chairperson is 3 two-year terms.

15.8 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act or this clause 15, the office of a Director immediately becomes vacant if the Director:

- (a) ceases to be a Director by virtue of this Constitution;

- (b) ceases to be a Program Member (as the case may be) or involved with producing, presenting and/or broadcasting a Program in accordance with clause 15.2(c);
- (c) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (d) is prohibited from being a Director by reason of any order made under the Corporations Act;
- (e) becomes physically or mentally incapable of performing the Director's duties;
- (f) is convicted of a criminal offence;
- (g) dies;
- (h) resigns by written notice to the Company; or
- (i) is absent from Directors meetings without the consent of the other Directors for 3 or more consecutive meetings.

16. Powers and duties of Directors

16.1 General management power

Subject to the Corporations Act, this Constitution and any resolution of the Company, the Directors:

- (a) will oversee the business of the Company;
- (b) may exercise all such powers of the Company that are not, by the Corporations Act or this Constitution, required to be exercised by the Company in general meeting, provided that:
 - (i) no resolution of the Members will invalidate any prior act of the Directors which would have been valid if such a resolution had not been made; and
 - (ii) any sale or disposal by the Directors of the Company's main undertaking or a substantial proportion of its assets will be subject to ratification by a majority of the Members; and
- (c) may pay all expenses incurred in promoting and forming the Company.

16.2 Committees, sub-committees and other officials

The Board may, from time to time and its discretion, appoint and/or constitute from among its Members or Directors:

- (d) any committees and/or sub-committees and
- (e) any such other officials (including keeper of records, librarian or liaison officer),

it deems necessary or otherwise thinks is for benefit to the Board.

16.3 Attorneys

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

- (b) Any such power of attorney may contain provisions for the protection and convenience of persons dealing with the attorney and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

16.4 Power to borrow and give security

- (a) Without limiting the generality of clause 16.1, the Directors may authorise the Company (for the purposes of the Company) to:
 - (i) borrow money, with or without giving security for it; and
 - (ii) guarantee the performance of any obligation of the Company or of any other person.
- (b) The Directors may authorise the Company to borrow or provide security as they think fit and in particular by the issue of bonds, debentures or any mortgage, charge or other security on the undertaking of the whole or part of the property of the Company (both present and future).
- (c) Debentures, bonds or other securities may be:
 - (i) made assignable free from any equities between the Company and the person to whom the same has been issued; or
 - (ii) issued at a discount, premium or otherwise and with any special privileges as to redemption, surrender, drawings, attending and voting at general meetings of the Company, appointment of Directors and otherwise, and any debentures may be re-issued notwithstanding that they may have been paid off or satisfied.

16.5 Register of mortgages and charges

The Directors must:

- (a) cause a proper register to be kept in accordance with the Corporations Act of all mortgages and charges affecting the property of the Company; and
- (b) comply with the Corporations Act in regard to the registration of mortgages and charges.

16.6 Payments to Directors

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

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

For the avoidance of doubt, a Director (or the Director's firm) must not act as the Company's Auditor.

17. Proceedings of Directors

17.1 Calling and holding Directors meetings

A Director may call a Directors meeting by giving reasonable notice to each Director.

17.2 Frequency of Directors' meetings

The Board may determine to meet whenever it considers necessary to conduct the affairs of the Company, but such meetings must occur not less than once every 3 months.

17.3 Circulating resolutions

- (a) The Directors may pass a resolution without a Directors meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Identical copies of the document may be distributed for signing by different Directors and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Director signs the document.

17.4 Telephone and other meetings

Without limiting the power of the Directors to regulate their meetings as they think fit, a meeting of Directors or committee of Directors may be held where one or more of the Directors is not physically present at the meeting, provided that:

- (a) all Directors consent to the calling and the holding of the meeting by utilising the relevant form of communication;
- (b) all Directors participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously by means of the agreed form of communication;
- (c) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed on or laid down from time to time by the Directors and such notice does not specify that Directors are required to be present in person;
- (d) in the event that a failure in communications prevents clause 17.4(b) from being satisfied by that number of Directors which constitutes a quorum, then the meeting will be suspended until clause 17.4(b) is satisfied again. If clause 17.4(b) is not satisfied within 15 minutes from the time the meeting was interrupted, the meeting will be deemed to have terminated; and
- (e) any meeting held where one or more of the Directors is not physically present will be deemed to be held at the location specified in the notice of meeting provided a Director is present at that location. If no Director is present at the location specified, the meeting will be deemed to be held at the location where the Chairperson of the meeting is located.

17.5 Directors resolutions

- (a) Any questions arising at meeting of the Directors will be decided by a resolution.
- (b) Subject to this Constitution, a resolution of the Directors must be passed by a majority of the votes of Directors present and entitled to vote on the resolution.
- (c) In the case of an equality of votes, the Chairperson of the meeting, in addition to his or her deliberative vote (if any), has a casting vote.

17.6 Minutes

- (a) The Directors must cause minutes to be made of:
- (i) all appointments of Directors;
 - (ii) the names of the Directors present at each meeting of the Directors;
 - (iii) all orders made by the Directors;
 - (iv) all declarations made or notices given by any Director (either generally or specifically) of his or her interest in any contract or proposed contract or of his or her holding of any office or property whereby any conflict of duty or interest may arise; and
 - (v) all resolutions and proceedings of meetings of Members and classes of Members and of the Directors,

and retain the minutes for a period of at least 10 years or such other period as may be required under the Corporations Act.

- (b) The minutes of a meeting must be signed by the Chair of the meeting or the Chair of the next meeting.
- (c) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this clause 17.6 is evidence of the matters shown in the minute.

17.7 Director's personal interests

If a Director has a material personal interest in a matter that relates to the affairs of the Company other than an interest that does not have to be disclosed under section 191(2) of the Corporations Act and the Director discloses the nature and extent of the interest and its relation to the affairs of the Company to the other Directors, in accordance with section 191 of the Corporations Act, then the Director must not:

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

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

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

17.8 Quorum

- (a) At a meeting of Directors properly convened, the number of Directors whose presence is necessary to constitute a quorum is more than 50% of the Directors in office at that time and at least 4 States or Territories must be represented.
- (b) If the office of a Director becomes vacant, the remaining Directors may act but, if the total number of remaining Directors is not sufficient to constitute a quorum at a

meeting of Directors, the Directors may act only for the purpose of increasing the number of Directors in office to sufficiently to constitute a quorum or for the purpose of convening a general meeting of the Company.

17.9 Chairperson

- (a) The Chairperson will Chair Directors meetings, subject to this clause 17.9.
- (b) If the Chairperson is not present at any Directors meeting within 15 minutes after the time appointed for the meeting to begin, the Vice Chairperson will act as Chairperson of the relevant Directors meeting.
- (c) If both the Chairperson or Vice Chairperson are not present at any Directors meeting within 15 minutes after the time appointed for the meeting to begin, the Directors present must elect an alternative Director to Chair the meeting.

17.10 By-laws

The Directors have the power to make, vary and remove by-laws (including policies and other similar documents) regulating the establishment and conduct of the Company and its committees. Such by-laws must be complied with by Members and Directors (who must ensure compliance by all other relevant staff and personnel of the Company).

17.11 Acts of Directors valid despite defective appointment

Any act done at any meeting of the Directors or of a committee of Directors by any person acting as a Director is, although it is later discovered that there was some defect in the appointment of any such Director or that the Director was disqualified, valid as if the Director had been duly appointed and was qualified to be a Director or to be a member of the committee.

18. Public Fund

18.1 Establishment of the Public Fund

- (a) If the Company (or any fund maintained by the Company) obtains deductible gift recipient status from the Australian Taxation Office it will maintain for the principal purpose of the Company (or that fund) a fund, to which gifts of money or property for the principal purpose of the Company (or the fund) will be made and to which any money received by the Company because of such gifts is to be credited and the Public Fund will not receive any other money or property.
- (b) The Company will use gifts made to the Public Fund and any money received because of such gifts for the principal purpose or Objects of the Company only.
- (c) At the first occurrence of either the winding up of the Public Fund or the revocation of the Company's endorsement under Sub-division 30-BA of the *Income Tax Assessment Act 1997 (Cth)*, the Company will transfer any surplus assets of the Public Fund to such fund, authority or institution to which gifts can be deducted under Division 30 of the *Income Tax Assessment Act 1997 (Cth)* as is nominated by the Board.
- (d) Any other provisions which from time to time are required in order to maintain the status of the Company as a company to which gifts can be deducted under the *Income Tax Assessment Act 1997 (Cth)* are deemed to form part of this Constitution.

18.2 Donations

- (a) Members of the public are to be invited to make gifts of money or property to the Public Fund for the Objects of the Company.
- (b) Money from interest on donations, income derived from donated property and money from the realisation of such property must be deposited into the account of the Public Fund.
- (c) Receipts for donations are to be issued in the name of the Public Fund and in accordance with any requirements of *Income Tax Assessment Act 1997* (Cth).

18.3 Accounts

- (a) Donations to the Public Fund are to be kept separate from other funds and property of the Company.
- (b) A separate bank account must be opened with a Bank or such other authorised deposit taking institution as determined by the Board, in the name of "[*Insert Name*]", to deposit money donated to the Public Fund and money from the realisation of property donated to the Public Fund and interest accruing on such monies.

18.4 Accounting records

The Board must use and keep proper accounting records and procedures for the Public Fund.

19. Inspection of records

- (a) The Directors must determine whether and on what terms the accounting records and other documents of the Company or any of them will be open to the inspection of Members, other than Directors.
- (b) A Member that is not a Director does not have the right to inspect any document of the Company except as provided by the Corporations Act or authorised by the Directors or by the Company in general meeting.

20. Notices

20.1 Notices in writing

Any notice given by the Company to any Member must be:

- (a) in writing, legible and in English; and
- (b) signed by an officer of the Company or in any way authorised.

20.2 Service

The Company must give a notice to any Member by post or electronic format:

- (a) serving it on the Member personally;
- (b) sending it by post to the Member's Registered Address or an alternative address (if any) supplied by the Member to the Company for the purpose of giving notices;
- (c) sending it by facsimile to the facsimile number (if any) nominated by the Member for that purpose; or

- (d) sending it by email to the email address supplied by the Member for that purpose.

20.3 Deemed receipt

A notice is deemed to be duly given or made in the case of:

- (a) delivery in person, when delivered;
- (b) delivery by post:
 - (i) in Australia to an Australian address, on the third day after posting; or
 - (ii) in any other case, on the tenth day after posting;
- (c) delivery by facsimile, on a transmission report being printed by the Company's facsimile machine stating that the document has been sent to the Member's facsimile number; or
- (d) delivery by email, at the time shown in a delivery confirmation report generated by the sender's email system,

but if delivery is not made before 5.00pm on a day it will be deemed to be received at 9.00am on the next day.

21. Audit and accounts

21.1 Company must keep accounts

- (a) The Board must cause the Company to keep written financial records that:
 - (i) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
 - (ii) would enable true and fair financial statements to be prepared and audited,
 and must allow a Director and the Auditor (if applicable) to inspect those records at all reasonable times.
- (b) The financial year of the Company from time to time will be the 12-month period ending on 31 June each year.

21.2 Audit

If required by the Corporations Act, the Board must cause the Company's financial report for each financial year to be audited and obtain an auditor's report, if required in accordance with the requirements of the Corporations Act from time to time or otherwise required by the Board. The eligibility, removal, remuneration, rights and duties of the auditor are regulated by the Corporations Act.

21.3 Financial reporting

If required by the Corporations Act, the Board must cause the Company to prepare a financial report and a Director's report that comply with the Corporations Act and must report to the Members in accordance with the Corporations Act no later than the deadline set by the Corporations Act.

21.4 Conclusive reports

Audited financial reports laid before the Company in general meetings are conclusive except for errors notified to the Company within 3 months after the relevant general

meeting. If the Company receives notice of an error within that period, it must immediately correct the report and the report as corrected is then conclusive.

22. Winding up

If upon the winding up or dissolution of the Company, there remains after satisfaction of all its debts and liabilities any property whatsoever, the same will not be paid to or distributed among the Members but will be given or transferred to some other institution or institutions, organisation or organisations having objects similar to the Objects, that is endorsed by the Commissioner of Taxation as a deductible gift recipient(s), and which prohibits the distribution of its income and property amongst its Members to an extent at least as great as imposed on the Company under or by virtue of clause 4 and determined by a Special Resolution of Members passed at a general meeting or in default thereof by such Judge of the Supreme Court of Victoria as may have or acquires jurisdiction in the matter.

23. Indemnity

23.1 Interpretation

In this clause 23:

- (a) **proceedings** means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act in their capacity as an officer of the Company (including proceedings alleging that they were guilty of negligence, default, breach of trust or breach of duty in relation to the Company); and
- (b) **officer** has the meaning given to that term in section 9 of the Corporations Act.

23.2 Scope of indemnity

In addition to any other indemnity provided to an officer of the Company in accordance with the Corporations Act, and to the extent permitted by the Corporations Act:

- (a) every officer of the Company will be indemnified out of the assets of the Company against any liability incurred by them in relation to the execution of their office;
- (b) no officer of the Company is liable for any loss or damage incurred by the Company in relation to the execution of his or her office;
- (c) every officer of the Company will be indemnified out of the assets of the Company against any liability which he or she incurs:
 - (i) in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted; and
 - (ii) in connection with any application, in relation to any such proceedings, in which relief is granted under the Corporations Act to the officer by the Court; and
- (d) every officer of the Company will be indemnified out of the assets of the Company against any liability to another person (other than the Company or a related body corporate of the Company) where the liability is incurred by the officer in their capacity as an officer of the Company, provided that this indemnity will not apply where the liability arises out of conduct involving a lack of good faith.

23.3 Insurance

In addition to the payment of any other insurance premium by the Company in accordance with the Corporations Act, and to the extent permitted by the Corporations Act, the Company may pay the premium in respect of a contract insuring an officer of the Company against a liability:

- (a) incurred by the officer of the Company in his or her capacity as officer, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Corporations Act; or
- (b) for costs and expenses incurred by that officer of the Company in defending proceedings, whatever their outcome.

24. Variation or amendment of Constitution

This Constitution may be varied or amended from time to time by Special Resolution of Members and otherwise in accordance with the Corporations Act.

