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Constitution of Australian Passivhaus Association Limited

Corporations Act 2001 (Cwlth)

Company Limited by Guarantee not having Share Capital

Contents

1.	Definitions	1
2.	Interpretation	3
2.1	Generally	3
2.2	Inconsistency	3
2.3	Business Day	3
2.4	Replaceable Rules Displaced	4
2.5	Counterparts	4
3.	Name of the Company	4
4.	Objects and Powers	4
4.1	Principal Objects	4
4.2	Ancillary and Incidental Objects	5
4.3	Funds and Property	5
5.	Powers	5
5.1	General Powers	5
5.2	Additional Powers	6
5.3	By-Laws and Rules	6
5.4	Code of Conduct	7
6.	Liability of Members	7
6.1	Liability is limited	7
6.2	Contribution	7
6.3	Cap	7
7.	Application of income	7
7.1	Not-for-Profit	7
7.2	Payments in good faith	7
8.	Distribution of property on winding-up	8
8.1	No distribution to Members	8
8.2	Transfer of Property	8
8.3	Determination by Directors or Members	8
9.	Establishment and operation of Gift Fund	8
9.1	Maintaining a Gift Fund	8
9.2	Limits on use of the Gift Fund	9
9.3	Winding-up of the Gift Fund	9
9.4	Bank account and receipts	9
9.5	Altering this Constitution	10
10.	Fees imposed by the Company	10
10.1	Determination of fees	10
10.2	Notice of fees	10
11.	Founding Partners	10
11.1	Nomination	10

11.2	Novotingrights	11
12.	Membership	11
12.1	Members	11
12.2	MinimumnumberofMembers	11
12.3	MembershipNotTransferable	11
12.4	ClassesofMembers	11
12.5	VotingRights	12
12.6	HonoraryMembers	12
13.	Representative	12
13.1	Nomination	12
13.2	EntryinRegister	12
13.3	PowersofRepresentative	12
13.4	ReplacementofRepresentative	12
14.	AdmissiontoMembership	12
14.1	ApplicationandAssessment	12
14.2	Admission	13
14.3	Duty,TaxesandCharges	13
15.	ResignationfromMembership	13
15.1	Notice	13
15.2	RemovalfromtheRegister	13
15.3	SurvivingLiability	13
16.	Expulsion of Member	14
16.1	Resolution	14
16.2	Notice	14
16.3	Removal from the Register	14
16.4	Surviving Liability	14
17.	Register	15
17.1	Register of Members	15
17.2	Disputes	15
18.	General Meetings	15
18.1	Annual General Meeting	15
18.2	Extraordinary Meeting	15
19.	Notice of General Meetings	15
19.1	General	15
19.2	Contents of Notice	15
19.3	Alteration of Procedure	15
19.4	Failure to Receive Notice	16
20.	Proceedings at General Meetings	16
20.1	Business	16
20.2	Quorum	16
20.3	No Quorum	16
20.4	Chairperson	16
20.5	Adjournment	16

20.6	Show of Hands	17
20.7	Evidence of Resolution	17
20.8	Poll	17
20.9	Demand for Poll	17
20.10	Auditor	17
21.	Appointment of Proxy	18
21.1	General	18
21.2	Instrument Appointing Proxy	18
22.	Form of Proxy	18
22.1	Required Information	18
22.2	Voting Instructions	18
22.3	Authority	19
23.	Attorneys	19
23.1	Appointment by Member	19
23.2	Appointment by Directors	19
24.	Voting of Attorney or Proxy	19
24.1	Validity	19
24.2	Attendance of Principal at Meetings	19
25.	Directors	20
25.1	Make up of Board of Directors	20
25.2	Term of Appointment	20
25.3	First Directors	20
25.4	Election of remaining Directors	20
25.5	Officers of the Company	21
26.	Casual vacancies	21
26.1	Board may appoint	21
26.2	Duration of appointment	21
27.	Disqualification of Directors	21
28.	Powers of the Board	22
28.1	Control and direction	22
28.2	Powers	22
29.	Borrowing	22
30.	Investment	22
31.	Negotiable instruments	22
32.	Proceedings of the Board	22
32.1	General	22
32.2	Use of technology in conferencing	23
32.3	Delegation by the Board	23
32.4	Defects in Appointment	24
33.	Minutes	24
33.1	Minutes to be kept	24

	33.2	Evidence of Proceedings and Resolutions	24
34.		Circular Resolution	24
	34.1	General	24
	34.2	Exclusion of Directors Not Entitled to Vote	24
35.		Reimbursement of expenses	25
36.		Accounts	25
	36.1	Books of Account to be kept	25
	36.2	Location of Books of Account	25
37.		Auditor	25
38.		Indemnity	25
	38.1	Definition of Liability and Officer	25
	38.2	Indemnity of Officers	25
	38.3	Indemnity for Proceedings	25
39.		Notices	26
	39.1	Address for service	26
	39.2	When taken to be served	26
Schedule 1		Founding Members	1
Schedule 2		Membership Classes	1

1. Definitions

In this Constitution, unless a contrary intention appears or the context requires otherwise:

- (a) capitalised terms used in this Constitution have the meanings given below;
- (b) capitalised terms used but not defined in this Constitution have the meanings given in one of the other Constituent Documents.

Act means the Corporations Act 2001 (Cwth).

Ancillary Objects means the ancillary and incidental objects of the Company set out in clause 4.2.

Annual General Meeting means the annual General Meeting of Members.

Applicant means a person who lodges an Application under this Constitution.

Application means an application for Membership.

Auditor means the auditor or auditors of the Company.

Board means the board of Directors of the Company constituted in accordance with clause 25.1.

By-Laws and Rules means the By-Laws and Rules of the Company made under this Constitution.

Chairperson means the Director who is elected to the office of Chairperson in accordance with clause 25.5.

Code of Conduct means the code of conduct set out in and made under and in accordance with the By-Laws and Rules.

Company means Australian Passive House Association Limited.

Constituent Document means this Constitution, the By-Laws and Rules and the Code of Conduct.

Constitution means this constitution, as amended from time to time.

Corporate Member means a Member that is a body corporate incorporated under and as defined in the Act.

Deputy Chairperson means the Director who is elected to the office of Deputy Chairperson in accordance with clause 25.5.

Director means each of:

- (a) the first Directors as contemplated by clause 25.3; and
- (b) Directors of the Company drawn from among the Members (including, in the case of Corporate Members, from among their Representatives) and elected in accordance with clause 25.4.

Extraordinary Meeting means a General Meeting of Members other than an Annual General Meeting.

Founding Member means each person listed in and who signs Schedule 1.

Founding Partner means a natural person, company or organisation nominated as a Founding Partner on incorporation of the Company or in accordance with clause 11.

General Meeting means an Annual General Meeting or an Extraordinary Meeting of the Company.

Gift Fund has the meaning given in clause 9.1.

Honorary Member means a natural person, company or organisation that is appointed by the Board as an honorary member from time to time.

Individual Member means a Member that is a natural person.

Liability has the meaning given in clause 38.1.1.

Member means the Founding Members, Honorary Members, and each person admitted to Membership in accordance with this Constitution.

Membership means membership of the Company.

Membership Class means each class of Members as set out in Schedule 2.

ITAA 97 means the *Income Tax Assessment Act 1997* (Cwth).

Objects means the Principal Objects and the Ancillary Objects of the Company set out in clause 4.

Officer has the meaning given in clause 38.1.2.

Principal Objects means the principal objects of the Company set out in clause 4.1.

Register means the register of Members kept in accordance with the Act.

Registered Address means the address of a Member or the address for service of a Representative of a Corporate Member as recorded in the Register.

Registered Office means the registered office of the Company.

Representative means a natural person who acts as a Member's representative as described in clause 13.

Rules means the Rules of the Company made under this Constitution.

Secretary means the Director who is elected to the office of Secretary of the Company in accordance with clause 25.5.

State means the State of Victoria.

2. Interpretation

2.1 Generally

In this Constitution, unless a contrary intention appears or the context requires otherwise:

- 2.1.1 a person includes a corporate body, association, firm, partnership, or other unincorporated body;
- 2.1.2 a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them;
- 2.1.3 this or any other document includes the document as varied or replaced regardless of any change in the identity of the parties;
- 2.1.4 a clause, schedule or annexure is a reference to a clause, schedule or annexure in or to this Constitution;
- 2.1.5 a word or phrase that is defined has the corresponding meaning in its other grammatical forms;
- 2.1.6 writing includes all modes of representing or reproducing words in a legible, permanent and visible form;
- 2.1.7 the singular includes the plural and vice versa;
- 2.1.8 a gender includes all other genders;
- 2.1.9 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Constitution; and
- 2.1.10 where the expression **including** or **includes** is used it means 'including but not limited to' or 'including without limitation'.

2.2 Inconsistency

In the event and to the extent of any inconsistency between:

- 2.2.1 this Constitution;
- 2.2.2 the By-Laws and Rules; and
- 2.2.3 the Code of Conduct;

the document appearing higher in the list above will prevail and take priority.

2.3 Business Day

Subject to any provision in this Constitution to the contrary, a reference in this Constitution to a "Business Day":

- 2.3.1 for the purposes of determining when service of a notice takes place under this Constitution, means Monday to Friday excluding public holidays in the place of service; and
- 2.3.2 in all other cases, means Monday to Friday excluding public holidays in Victoria.

2.4 Replaceable Rules Displaced

Each of the provisions of the Act that would apply to the Company as a replaceable rule but for this clause or another clause in this Constitution, is expressly displaced and does not apply to the Company.

2.5 Counterparts

The Founding Members may sign Schedule 1 in counterparts which counterparts when taken together will constitute a document duly executed by each of them.

3. Name of the Company

The name of the Company is Australian Passive House Association Limited.

4. Objects and Powers

4.1 Principal Objects

The Principal Objects of the Company are all or any of the following:

- 4.1.1 the protection and enhancement of the natural environment or of a significant aspect of the natural environment;
- 4.1.2 the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment;
- 4.1.3 to promote Passive House principles as a way of providing superior indoor comfort and air quality while reducing energy use and carbon emissions from Australia's buildings;
- 4.1.4 to promote, advocate, educate and raise awareness about the Passive House standard in Australia;
- 4.1.5 to advance the implementation of the Passive House standard in Australia through research into climate, construction and regulation;
- 4.1.6 to promote environmentally and socially regenerative development and design; and
- 4.1.7 to support Passive House practitioners and expand the Passive House practitioners network in Australia.

4.2 Ancillary and Incidental Objects

Without limiting the Principal Objects set out in clause 4.1, the ancillary and incidental objects of the Company are:

- 4.2.1 to attract and retain for the Company the continuing interest and financial support of members of the public;
- 4.2.2 to solicit donations, gifts, bequests and other forms of financial assistance to or for the Principal Objects;
- 4.2.3 to widen knowledge and understanding of the Company, its activities, needs and objectives among the public;
- 4.2.4 to raise money from the public and establish and administer trusts and funds for the purposes of carrying out and promoting the Principal Objects; and
- 4.2.5 to do all such things as may be incidental or conducive to the carrying out or promotion of the Principal Objects or to the preservation, development and improvement of the Company.

4.3 Funds and Property

All funds and property of the Company howsoever derived must be applied, subject to this Constitution, solely for the purposes of carrying out and promoting the Objects.

5. Powers

5.1 General Powers

The Company may do all things and exercise all powers, rights and privileges that a natural person may do or exercise, solely for the purposes of carrying out and promoting the Objects, including the following:

- 5.1.1 raise funds or encourage contributions by way of gifts (by will or otherwise), grants, sponsorships or otherwise, by personal or public appeals or by any other means;
- 5.1.2 provide funds or other material benefits or assistance by way of grant or otherwise;
- 5.1.3 accept and hold funds or property of any kind for any charitable objects or purposes specified or to be specified by any person or to be selected by the Directors from a class of trusts, objects or purposes specified by any person;
- 5.1.4 accept and undertake trusteeship, administration and management of trusts and funds, whether as trustee or as agent for the trustee or otherwise, and charge and accept payment or remuneration in any form for doing so;
- 5.1.5 purchase, take on lease or in exchange, hire or otherwise acquire real or personal property, and any associated rights or privileges;
- 5.1.6 control, manage, lease, exchange, mortgage, charge, sell, transfer, surrender, dispose of, develop, carry on business or otherwise deal with any real or personal property of any kind or any estate or interest in that property;
- 5.1.7 invest, deal with, lend money or otherwise provide financial accommodation to and guarantee or otherwise secure loans in connection with charitable objects, or for charitable purposes;

- 5.1.8 construct, improve, maintain, develop, work, manage and control real or personal property;
- 5.1.9 enter into contracts, deeds and any other contractually binding document;
- 5.1.10 appoint an attorney or agent with the powers (including the power to sub-delegate) and on such terms as the Company thinks fit, and procure registration or recognition of the Company in any other country or place;
- 5.1.11 enter into arrangements with any government or authority, and obtain from any government or authority any right, interest, privilege or concession;
- 5.1.12 engage, dismiss or suspend any employee, agent, contractor or professional person;
- 5.1.13 borrow, raise or secure the payment of money and secure the repayment or performance of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge or overdraft or by the issue of debentures or debenture stock (perpetual or otherwise) charged on all or any of the Company's property (both present and future) and purchase, redeem or pay off those securities;
- 5.1.14 make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange and any other negotiable or transferable instruments;
- 5.1.15 print and publish newspapers, periodicals, books or leaflets and otherwise publish or disseminate information in any form or by any means including in hard copy or electronically;
- 5.1.16 accept any gift of property, whether subject to any special trust or not;
- 5.1.17 appoint patrons of the Company;
- 5.1.18 make donations for charitable purposes;
- 5.1.19 decline or otherwise refuse to accept any gift (by will or otherwise), donation, settlement or other disposition of money or property;
- 5.1.20 co-ordinate and arrange conferences, meetings, standing committees and commissions or other forums; and
- 5.1.21 do all other things that are incidental or conducive to doing any of the above.

5.2 Additional Powers

The Company has the powers set out in the Act but only to the extent necessary or convenient to carry out or promote, or incidental to carrying out or promoting, the Objects.

5.3 By-Laws and Rules

- 5.3.1 The Board may make By-Laws and Rules for the proper administration and management of the Company and the furtherance of the Objects and may from time to time rescind, revoke or vary any By-Law or Rule.
- 5.3.2 The By-Laws and Rules are binding on all Members and Representatives.
- 5.3.3 No By-Laws or Rules may be made which would amount to modification of the Constitution.

5.4 Code of Conduct

- 5.4.1 The Board may amend the Code of Conduct from time to time.
- 5.4.2 The Board must review the Code of Conduct annually.
- 5.4.3 The Code of Conduct is binding on all Officers and Local Representatives.
- 5.4.4 No amendment to the Code of Conduct may be made which would amount to modification of the Constitution.

6. Liability of Members

6.1 Liability is limited

The liability of each Member is limited to the amount specified in clause 6.3.

6.2 Contribution

Every Member undertakes to contribute to the property of the Company if it is wound up:

- 6.2.1 while that person is a Member; or
- 6.2.2 within one year after that person ceases to be a Member,

in respect of the debts and liabilities of the Company contracted before that person ceases to be a Member, in respect of the costs, charges and expenses of winding-up and for the adjustment of the rights of the contributories among themselves.

6.3 Cap

The amount to be contributed by any Member under clause 6.2 will not exceed \$10.

7. Application of income

7.1 Not-for-Profit

All of the income and property of the Company must be applied solely towards carrying out and promoting the Objects of the Company as set out in this Constitution. No portion of it may be distributed, paid or transferred directly or indirectly by way of dividend, bonus or otherwise to the persons who at any time are or have been Members or Officers of the Company.

7.2 Payments in good faith

- 7.2.1 Despite clause 7.1 and subject to clauses 7.2.2, 7.2.3, 7.2.4 and 7.2.5, the Company may make payments in good faith of remuneration to any Member, Officer or employee of the Company in return for any services rendered to the Company by them or for goods supplied to the Company by them in the ordinary and usual course of business.
- 7.2.2 The Company must not make any payment to a Director for services rendered by that Director to the Company unless the provision of those services has the prior consent of the Board and the amount payable by the Company is payable on reasonable commercial terms and is approved by a resolution of the Board.

- 7.2.3 The Company must not make any payment to a Director in his or her capacity as an employee of the Company, in return for any services rendered by that employee to the Company, unless the terms of that employment have first been approved by a resolution of the Board.
- 7.2.4 The Company may pay interest on money borrowed from any Member and may pay reasonable and proper rent for premises let by a Member to the Company.
- 7.2.5 For the purposes of clause 7.2.4, any sum paid by a Member to the Company as a deposit, bond or other security for the payment of fees and charges levied under the Constitution does not constitute money borrowed from a Member.

8. Distribution of property on winding-up

8.1 No distribution to Members

If, upon the winding-up or dissolution of the Company after the satisfaction of all its debts and liabilities there remains any property, this property must not be paid to or distributed among the Members.

8.2 Transfer of Property

Instead, this property must be given or transferred to some other institution or institutions:

- 8.2.1 having objects similar to the Objects of the Company;
- 8.2.2 if the Company is endorsed as a deductible gift recipient under Subdivision 30-BA of the ITAA 97, which is (or are) charitable at law; and
- 8.2.3 having a constitution 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 under clauses 7 and 8.1 of this Constitution.

8.3 Determination by Directors or Members

This institution or institutions referred to in clause 8.2 must be determined by:

- 8.3.1 the Directors;
- 8.3.2 if the Directors do not wish to decide or do not decide, then by the Members by ordinary resolution at or before the time of winding up or dissolution; or
- 8.3.3 if the Members cannot decide, then by a Judge of the Supreme Court of the State or such other court of competent jurisdiction as the Directors may determine.

9. Establishment and operation of Gift Fund

9.1 Maintaining a Gift Fund

If the Company is endorsed as a deductible gift recipient under Subdivision 30-BA of the ITAA 97, it must establish and maintain a gift fund which complies with section 30-125 of that ITAA 97 and which is established and maintained for the purposes of the Company's Objects in Australia (**Gift Fund**):

- 9.1.1 to which gifts of money or property for those purposes are to be made;

9.1.2 to which any money received by the Company because of those gifts is to be credited; and

9.1.3 that does not receive any other money or property.

9.2 Limits on use of the Gift Fund

The Company must use the following only for the Objects:

9.2.1 gifts made to the Gift Fund; and

9.2.2 any money or property received because of those gifts.

9.3 Winding-up of the Gift Fund

9.3.1 If the Gift Fund established and maintained under clause 9.1 is wound up or if the endorsement of the Company as a deductible gift recipient is revoked, any surplus assets or property of the Gift Fund remaining after satisfaction of the debts and liabilities attributed to it must be transferred to an appropriate body:

- (a) which is charitable at law;
- (b) whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as is imposed on the Company under clauses 7 and 8.1 of this Constitution; and
- (c) which is a fund, authority or institution to which income tax deductible gifts may be made.

9.3.2 The identity of the fund, authority or institution must be decided by the Directors.

9.3.3 Where gifts to a fund, authority or institution are deductible only if, among other things, the conditions set out in the relevant table item in Subdivision 30-B of ITAA 97 are satisfied, a transfer under this rule to that fund, authority or institution must be made in accordance with or subject to those conditions.

9.4 Bank account and receipts

9.4.1 The Company must maintain a separate bank account for the Gift Fund.

9.4.2 Receipts for gifts to the Gift Fund must be made in the name of the Gift Fund and state:

- (a) the name and (if applicable) ABN of the Company;
- (b) the number of the receipt;
- (c) if the receipt is for a gift, the fact that it is a receipt for a gift;
- (d) the amount of the gift;
- (e) the name of the donor; and
- (f) the date the gift was received.

9.4.3 Receipts for a deductible contribution must be made in the name of the Gift Fund and state:

- (a) the name and (if applicable) ABN of the Company;
- (b) the number of the receipt;
- (c) the name of the donor;
- (d) the date the deductible contribution was received;
- (e) the fact that it is a receipt for a deductible contribution;
- (f) if the contribution was made for a right to attend a fundraising event, or for the purchase of goods and services as a successful bidder at a fundraising auction, the GST inclusive value of any such attendance right or goods or services; and
- (g) the amount of the contribution (if money).

9.5 Altering this Constitution

9.5.1 If the Company is endorsed as a deductible gift recipient under Subdivision 30-BA of the ITAA-97, the Company must not make a material alteration to the Constitution if, as a result, the Company does not or will not remain so endorsed.

9.5.2 If as a result of a notification to the Commissioner of a change in the Company's Constitution, activities or otherwise:

- (a) the Company is no longer eligible to be endorsed as charitable; or
- (b) the Company is no longer endorsed as a deductible gift recipient under Subdivision 30-BA of ITAA 97,

the Company must notify the Commissioner.

10. Fees imposed by the Company

10.1 Determination of fees

The Board may from time to time prescribe:

10.1.1 fees payable by Members by way of Membership fees and such other fees as the Board thinks fit; and

10.1.2 when and in what circumstances those fees are payable.

10.2 Notice of fees

The Board must give Members not less than one month's notice of any increase in the fees payable under clause 10.1.

11. Founding Partners

11.1 Nomination

The Board may nominate any number of additional Founding Partners within 2 years following the date of incorporation of the Company.

11.2 No voting rights

Founding Partners are not required to be Members and the title of 'Founding Partner' carries no voting rights.

12. Membership

12.1 Members

The following will be Members of the Company:

- 12.1.1 the Founding Members;
- 12.1.2 the Honorary Members; and
- 12.1.3 any person who applies for Membership and whose Application is approved by the Board,

until they retire or otherwise cease their Membership in accordance with this Constitution or the Act.

12.2 Minimum number of Members

- 12.2.1 The Company will endeavour at all times to ensure there are not less than 3 Members.
- 12.2.2 If at any time the Company has less than 3 Members, the Directors may call a General Meeting of Members to consider a special resolution for the winding-up of the Company.

12.3 Membership Not Transferable

Membership may not be transferred to another person without the consent of the Directors. Such consent may in the absolute discretion of the Directors be:

- 12.3.1 withheld or granted; or
- 12.3.2 granted subject to such qualifications or conditions as the Directors in their absolute discretion think fit.

12.4 Classes of Members

- 12.4.1 The Membership will be divided into the Membership Classes.
- 12.4.2 The Directors may from time to time by ordinary resolution do any one or more of the following:
 - (a) vary or revoke existing Membership Classes;
 - (b) add new Membership Classes; and
 - (c) specify or vary qualifications for Membership of each Membership Class and the rights and obligations of the Members of each Membership Class.

- 12.4.3 Upon adoption of a new Membership Class or any variation to an existing Membership Class, the Directors may allocate each existing and new Member into the appropriate Membership Class.

12.5 Voting Rights

- 12.5.1 Subject to any variation of Membership Class qualifications or rights or obligations under clause 12.4, each Member that is a natural person (other than an Honorary Member), is entitled to one vote at a General Meeting of the Company.
- 12.5.2 Members that are not natural persons may only vote through a Representative. A Representative is entitled to one vote at a General Meeting of the Company.
- 12.5.3 Honorary Members have no voting rights.

12.6 Honorary Members

The Company will have no Honorary Members on incorporation.

13. Representative

13.1 Nomination

Where a Member or an Applicant is not a natural person, it must appoint as its Representative a natural person. Each Member or Applicant who is not a natural person, may only appoint one Representative at any given time.

13.2 Entry in Register

The name and address of the Representative will be entered in the Register and all correspondence and notices from the Company to a Corporate Member will be served on that Corporate Member's Representative.

13.3 Powers of Representative

The nomination must set out what the Representative is appointed to do and may set out restrictions on the Representative's powers. If the appointment is made by reference to a position held, the appointment must identify the position. Unless otherwise specified, the Representative may exercise on the Member's behalf, all the powers that the Member could exercise at a meeting, in voting or on a resolution.

13.4 Replacement of Representative

A Member may remove and replace a Representative where the Member gives written notice to the Board in a form approved by the Board.

14. Admission to Membership

14.1 Application and Assessment

An Application must be made in the form and accompanied by any Membership fee prescribed from time to time by the Board.

14.2 Admission

The Board will consider and may in its absolute discretion accept or reject any Application. The Board is not required to give any reasons for the rejection of an Application. If the Board rejects the Application, any moneys tendered with it will be repaid to the Applicant without interest.

14.3 Duty, Taxes and Charges

14.3.1 Each Member will be liable for all duty and any other taxes or charges (**Duty**) payable in respect of their Application, their Membership and any other transaction or instrument relating to their Application or Membership.

14.3.2 Each Member indemnifies the Company and will keep it indemnified against any liability of the Company to pay any Duty.

15. Resignation from Membership

15.1 Notice

A Member may resign from Membership by giving written notice to the Company. The resignation:

15.1.1 takes effect on the date the notice is received by the Company; or

15.1.2 if the notice specifies another later date on which the resignation is to take effect, on that other later specified date.

15.2 Removal from the Register

15.2.1 Where a Member resigns, that Member's name must be removed from the Register.

15.2.2 Upon the removal of a Member's name from the Register:

- (a) the Member will forfeit all rights and privileges attaching to Membership and all rights which the Member may have against the Company arising out of the Membership; and
- (b) the Company will have no liability to such Member in respect of their removal from the Register.

15.3 Surviving Liability

Commencing on the date that the resignation takes effect under clause 15.1, the Member ceases to be a Member but remains liable for:

15.3.1 any moneys which may be owing by the Member to the Company; and

15.3.2 in the case of the Company being wound up within one year of the date on which the Member's resignation is effective, any relevant contribution under clause 6.

16. Expulsion of Member

16.1 Resolution

Subject to clause 16.2, the Board may, by a unanimous resolution of all of the Directors present and voting, expel a Member or implement appropriate disciplinary action if the Member or its Representative:

16.1.1 has committed a breach of any obligation or duty under this Constitution or under the By-Laws or the Rules; or

16.1.2 has engaged in conduct detrimental to the interests of the Company.

16.2 Notice

16.2.1 At least twenty-eight days before the meeting of the Board at which a resolution referred to in clause 16.1 is considered, the Member must be

served notice of the meeting including the particulars of the alleged act, omission or conduct complained of and the intended resolution

16.2.2 the Member must be given the opportunity to present in writing or orally (or both) at the meeting and before the passage of the resolution any explanation the Member thinks fit

16.2.3 The Board will take the explanation into consideration.

16.2.4 The Board will serve the Member with notice of any Board resolution made at the meeting. If the Board resolves to expel the Member, that Member will cease to be a Member upon the service of such notice.

16.3 Removal from the Register

16.3.1 Where a Member is expelled from the Company, that Member's name must be removed from the Register.

16.3.2 Upon the removal of a Member's name from the Register:

(a) the Member will forfeit all rights and privileges attaching to Membership and all rights which the Member may have against the Company arising out of the Membership; and

(b) the Company will have no liability to such Member in respect of their removal from the Register.

16.4 Surviving Liability

A Member expelled under this clause 16 remains liable for:

16.4.1 any moneys which may be owing by the Member to the Company; and

16.4.2 in the case of the Company being wound-up within one year of the date on which the Member's expulsion is effective, the relevant contribution under clause 6.

17. Register

17.1 Register of Members

The Company must keep and maintain the Register in accordance with the Act and otherwise as the Board determines.

17.2 Disputes

Any dispute that arises in relation to the Register must be referred to the Board, whose decision will be final and binding on all Members.

18. General Meetings

18.1 Annual General Meeting

The Company must hold an Annual General Meeting in every calendar year within 5 months of the end of its financial year at a time and place determined by the Board.

18.2 Extraordinary Meeting

An Extraordinary Meeting may be convened at such time and place as the Board thinks fit, but must be convened in accordance with the Act. Members may also convene an Extraordinary Meeting, but only in accordance with the Act.

19. Notice of General Meetings

19.1 General

The Board must give not less than 21 days' written notice of a General Meeting to the Members, the Directors and the Auditor.

19.2 Contents of Notice

The notice referred to in the preceding clause must specify the following information:

19.2.1 the place, the day and the hour of meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);

19.2.2 the general nature of the meeting's business;

19.2.3 the details of any special resolutions to be proposed at the meeting; and

19.2.4 that Members are entitled to appoint a proxy who must be a Member.

19.3 Alteration of Procedure

With the consent of all the Members entitled to vote at some particular meeting, that meeting may be convened by such shorter notice and in such manner as those Members may think fit provided that such action complies with the Act.

19.4 Failure to Receive Notice

The accidental omission to give notice of a meeting to any Member or the non-receipt of such notice by any Member does not invalidate any resolution passed at, or proceeding of, that meeting.

20. Proceedings at General Meetings

20.1 Business

The ordinary business of an Annual General Meeting may include:

- 20.1.1 consideration of the annual financial report, the Directors' report and the Auditor's report;
- 20.1.2 the election and appointment of Directors; and
- 20.1.3 the appointment of an Auditor and the fixing of the Auditor's remuneration.

All other business transacted at an Annual General Meeting and all business transacted at an Extraordinary Meeting is deemed special business.

20.2 Quorum

No business may be transacted at any General Meeting except the adjournment of the meeting unless a quorum is present. The quorum for a General Meeting is the greater of 10 per cent of the Membership and 2 Members, present in person or by Representative, proxy or attorney.

20.3 No Quorum

If a quorum is not present within half an hour from the time appointed for a General Meeting:

- 20.3.1 if convened on the requisition of Members, the meeting will be dissolved; and
- 20.3.2 in any other case, the meeting will be adjourned to the same day in the next week at the same time and place or at such other place as the chairperson appoints. If at that adjourned meeting a quorum is not present within fifteen minutes from the time appointed for holding the meeting, the Members present will be a quorum.

20.4 Chairperson

- 20.4.1 The Chairperson, or in his or her absence the Deputy Chairperson, will preside as chairperson at every General Meeting.
- 20.4.2 If at any General Meeting neither is present within fifteen minutes after the time appointed for holding the meeting or if neither is willing to preside, the Members present will choose a Director to preside. If no Director is present or if all Directors present decline to preside, then those Members present will choose a Member who is present to preside as chairperson.

20.5 Adjournment

- 20.5.1 The Chairperson of a General Meeting may, with the consent of the Members entitled to vote at any meeting at which a quorum is present, and must, if so directed by the meeting adjourn the meeting to another time or place (or both).

20.5.2 Only unfinished business may be transacted at any meeting resumed after an adjournment of a General Meeting.

20.5.3 Where a General Meeting is adjourned for one month or more, new notice of the adjourned meeting must be given.

20.6 Show of Hands

Every item of business submitted to a General Meeting will be decided in the first instance by a show of hands of the Members or their Representatives personally present and entitled to vote. The chairperson will only have a casting vote if a vote is tied.

20.7 Evidence of Resolution

A declaration by the chairperson that a resolution has been passed or lost (having regard to the majority required) and an entry to that effect in the books of the Company, signed by the chairperson of that or the next succeeding meeting, will be conclusive evidence that the resolution has been passed or lost without proof of the number or proportion of the votes recorded in favour of or against the resolution.

20.8 Poll

20.8.1 The chairperson or any Member present personally or by Representative, proxy or attorney may demand a poll before or on the declaration of the result of a show of hands.

20.8.2 The poll will be taken in the manner and at the time and place as the chairperson of the meeting directs, and either at once or after an interval or adjournment or otherwise.

20.8.3 The result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded.

20.8.4 The demand for a poll may be withdrawn.

20.8.5 If there is a dispute as to the admission or rejection of a vote, the chairperson will finally determine that dispute.

20.8.6 At a poll, the chairperson will not have a casting vote in addition.

20.9 Demand for Poll

The demand for a poll will not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on any question of adjournment will be taken at the meeting and without adjournment.

20.10 Auditor

The Auditor is entitled:

20.10.1 to attend any General Meeting of the Company;

20.10.2 to receive all notices of and other communications relating to any General Meeting which a Member is entitled to receive; and

20.10.3 to be heard at any General Meeting which the Auditor attends on any part of the business of the meeting which concerns the Auditor in that capacity and is entitled

to be heard, despite the fact that the Auditor retires at that meeting or a resolution to remove the Auditor from office is passed at that meeting.

21. Appointment of Proxy

21.1 General

21.1.1 Any Member may appoint a natural person as a proxy to vote on the Member's behalf and may direct the proxy to vote either for or against each or any resolution.

21.1.2 A proxy must be a Member or Representative.

21.2 Instrument Appointing Proxy

21.2.1 The Company must receive the instrument appointing a proxy (and an original or certified copy of the power of attorney, if any, under which it is signed):

- (a) at the Registered Office;
- (b) by fax to the Registered Office; or
- (c) at a place, fax number or electronic address specified for such purpose in the notice of meeting,

not less than 2 Business Days before the time for holding the meeting or adjourned meeting or poll at which the person named in the instrument is to vote.

21.2.2 An instrument appointing a proxy is valid for any adjournment of the meeting to which it relates unless the instrument expressly provides otherwise.

22. Form of Proxy

22.1 Required Information

An instrument appointing a proxy must contain the following information:

- 22.1.1 the Member's name and address;
- 22.1.2 the Company name;
- 22.1.3 the Member's Membership Class;
- 22.1.4 the proxy's name or the name of the office held by the proxy; and
- 22.1.5 the meetings at which the appointment may be used,

and must be signed by the appointor or his or her attorney.

22.2 Voting Instructions

An instrument appointing a proxy may specify the way in which the proxy is to vote for a particular resolution and if it does, the proxy is not entitled to vote on the resolution except as specified in the instrument.

22.3 Authority

An instrument appointing a proxy will be deemed to confer authority to demand or join in demanding a poll and will (except to the extent to which the proxy is specifically directed to vote for or against any proposal) include power to act generally at the meeting for the Member giving the proxy.

23. Attorneys

23.1 Appointment by Member

23.1.1 Any Member may, by duly executed power of attorney, appoint an attorney to act on the Member's behalf at all meetings, at certain specified meetings, or at any one meeting of the Company.

23.1.2 That power of attorney must be produced for inspection at the Registered Office or at any other place the Board determines, together with such evidence of its due execution as the Board requires, before the attorney will be entitled to appoint a proxy or vote on behalf of the Member granting the power of attorney.

23.2 Appointment by Directors

23.2.1 The Directors may, by power of attorney, appoint any person whether nominated directly or indirectly by the Directors to be an attorney or attorneys of the Company.

23.2.2 Such appointment may be for any purposes and with powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for periods and subject to any qualifications or conditions as they think fit.

23.2.3 Any power of attorney may contain provisions for the protection and convenience of persons dealing with any attorney as the Directors think fit and may also authorise any attorney to sub-delegate all or any of the powers, authorities and discretions vested in them.

24. Voting of Attorney or Proxy

24.1 Validity

A vote given in accordance with the terms of an instrument of proxy or power of attorney will be valid despite the previous death of the principal or revocation of the proxy or power of attorney, provided no notice in writing of the death or revocation has been received at the Registered Office before the meeting.

24.2 Attendance of Principal at Meetings

The principal attending and taking part in the meeting will not revoke a proxy, unless that principal votes on the resolution to which the proxy applies.

25. Directors

25.1 Make up of Board of Directors

- 25.1.1 The number of directors comprising the Board will be 3 and no more than 10 Directors elected in accordance with this Constitution.
- 25.1.2 Each Director must be a Member or a Representative.
- 25.1.3 Subject to the requirements of the Act, all Directors agree to abide by the By-Laws and the Rules and Code of Conduct, as amended from time to time.
- 25.1.4 If requested by the Board, the Directors will execute any document reasonably required by the Board to confirm their compliance with clause 25.1.3.

25.2 Term of Appointment

- 25.2.1 Each elected Director will hold office for 2 years with their term commencing from the end of the Annual General Meeting at which he or she was elected until the beginning of the 2nd Annual General Meeting after their election.
- 25.2.2 Each elected Director may only hold office for a maximum of 5 consecutive years following their appointment following which he or she will retire for at least one year before being eligible for re-election.
- 25.2.3 Directors may only be re-elected once unless the Board passes a resolution to the contrary.
- 25.2.4 The role of Chairperson, Deputy Chairperson and Secretary may only be held by a Director for a maximum 2 year period unless otherwise determined by the Board.
- 25.2.5 To preserve continuity and maintain organisational stability, only half of the Board positions will come up for election at each AGM. The longest serving Board members will come up for election first, then the most recently elected Board members will be up for election the following year.

25.3 First Directors

The first Directors are the persons specified as Directors in the application to register the Company lodged under section 117 of the Act. The first Directors will hold office until the end of the first Annual General Meeting.

25.4 Election of remaining Directors

- 25.4.1 Subject to 25.4.2, the election of the remaining Directors will take place in the following manner:
 - (a) Any two Members may nominate any other Member or Representative to serve as a Director.
 - (b) The nomination of any Member or Representative as a candidate for election as a Director must be in writing and signed by the nominated person and their proposer and seconder. The nomination must be lodged with the Secretary at least 30 days before the Annual General Meeting at which the election is to take place.
 - (c) If there are more candidates nominated than there are vacancies, balloting lists will be prepared containing the names of the candidates in an order

determined by lot. The Board may determine the method of the ballot. Each Member is entitled to vote for any number of candidates not exceeding the number of vacancies.

- (d) If there are no more candidates nominated than there are vacancies, then the chairperson of the Annual General Meeting will declare those candidates elected as Directors.
- (e) If there is not a sufficient number of candidates nominated to meet the required minimum number of Directors, the Board must appoint a Member or Representative as Director, subject to their consent, so that the Board consists of at least the minimum number of Directors.

25.4.2 On the condition that it complies with clause 25.1.1, the Board may restrict the election of further Directors as it considers appropriate and in the best interests of the Company.

25.4.3 All applicants for Directors positions are required to complete a skills screening as part of the application process

25.4.4 It is at the discretion of existing Directors and Executive to review and shortlist applicants as per the needs of the organisation

25.5 Officers of the Company

25.5.1 At the first meeting of the Board after each Annual General Meeting, the Directors will elect from among their number: a Chairperson, a Deputy Chairperson, and a Secretary, each of whom will hold office until the end of the next Annual General Meeting but who will subject to clause 25.2.4, be eligible for re-election. Such persons may only be re-elected once unless the Board passes a resolution to the contrary.

25.5.2 In addition to their roles, duties and obligations as Officers, the Chairperson, the Deputy Chairperson and Secretary will have the additional roles, duties and obligations set out in this Constitution.

25.5.3 Reserved Positions - The Board reserves the right to appoint either from the Board into the executive team or seek external appointments for the following executive positions including Chairperson, Treasurer and Company Secretary. All other board directors considered Directors fulfilling general board positions

25.5.4 Executive Director positions are reserved for individuals who possess external board or APA board experience as a prerequisite

26. Casual vacancies

26.1 Board may appoint

The Board may appoint a replacement Director to any casual vacancy arising in the office of a Director, on the condition that the appointment occurs not less than three months before the Annual General Meeting.

26.2 Duration of appointment

Any Director so appointed will hold office until the end of the next Annual General Meeting.

27. Disqualification of Directors

The office of a Director will be vacated if:

- 27.1.1 the Director becomes bankrupt or makes any arrangement or composition with his or her creditors or, where a Director is a Representative of a Corporate Member, a winding up order is made in respect of the Corporate Member;
- 27.1.2 the Director becomes of unsound mind;
- 27.1.3 without leave of the Board the Director does not comply with clause 32.1.3, unless otherwise agreed by the Directors in writing

- 27.1.4 by notice in writing to the Company, the Director resigns from office; or
- 27.1.5 the Director ceases to hold office by reason of any order made under the Act.

28. Powers of the Board

28.1 Control and direction

The control and direction of the Company and the management of its property and affairs is vested in the Board.

28.2 Powers

The Board may exercise all powers of the Company except:

- 28.2.1 those that are required to be exercised or done by the Company in General Meeting;
- 28.2.2 those that the Company in General Meeting from time to time specifically reserves to itself.

29. Borrowing

The Board may raise money in any manner it thinks fit including the borrowing of money on the security of the Company's assets and the issuing of a security.

30. Investment

The Board may invest funds of the Company in any manner and for any period as it thinks fit.

31. Negotiable instruments

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company will be signed, drawn, accepted, endorsed or otherwise executed (as the case may be) for and on behalf of the Company, by two Directors or by one Director and some other officer authorised by the Board for that purpose or in any other manner as the Board may determine.

32. Proceedings of the Board

32.1 General

- 32.1.1 The Board may meet for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- 32.1.2 The Board must meet at least 4 times a year.
- 32.1.3 Each Director must attend at least:

- (a) one Board meeting every 3 months; and
 - (b) must not miss more than 2 consecutive Board meetings in a row unless agreed otherwise by the Directors in writing,
- 32.1.4 The Board may at any time, and the Secretary will, on the request of the Chairperson or Deputy Chairperson, convene a meeting of the Board by notice served upon each Director.
- 32.1.5 The accidental omission to give notice of a meeting to, or the non-receipt of a notice of meeting by, a Director, will not invalidate proceedings at a Board meeting.
- 32.1.6 Unless otherwise determined by the Board, a quorum for meetings of the Board is half the then current number of Directors plus one Director, or if the number of Directors is not a multiple of two, then the odd number nearest to and greater than half the current number of Directors.
- 32.1.7 The Chairperson will be the chairperson of the Board. If the Chairperson is not present within fifteen minutes after the time appointed for holding that meeting (or being present is unwilling to act), the Deputy Chairperson will preside at the meeting. If the Deputy Chairperson is not present (or being present is unwilling to act) then the Directors present will choose one of their number to be the chairperson of the meeting.
- 32.1.8 Questions arising at any meeting will be decided by a majority of votes of the Directors present and entitled to vote and each Director present will be entitled to one vote.
- 32.1.9 The chairperson will have a casting vote if a vote is tied.

32.2 Use of technology in conferencing

- 32.2.1 Without limiting the discretion of the Board to regulate its meetings, the Board may, if it thinks fit, confer by radio, telephone, facsimile, computer, internet, closed circuit television or other electronic means of audio or audio-visual communication. A resolution passed by such a conference will, notwithstanding that the Directors are not present together in one place at the time of the conference, be deemed to have been passed at a meeting of the Board held on the day and at the time the conference was held.
- 32.2.2 The provisions of this Constitution regulating the proceedings of the Board apply so far as they are capable to such conferences.

32.3 Delegation by the Board

- 32.3.1 Subject to clause 32.3.2, the Board may delegate any of its powers to employees, individual Directors or Members or to committees consisting of such Directors or Members or both as the Board thinks fit. Any individual or committee so formed must conform to any direction given to it by the Board in the execution of the delegated powers.
- 32.3.2 The Board may not delegate its power to delegate.
- 32.3.3 The meetings and proceedings of any committee will be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Board so far as those provisions are applicable and are not superseded by any other direction given by the Board.

32.4 Defects in Appointment

An act done in good faith by any meeting of the Board, of any committee formed by the Board, or by any natural person acting as a Director, will not be invalidated by reason of:

- 32.4.1 any defect in the election, appointment or tenure of a Director or natural person acting on any such committee; or
- 32.4.2 the disqualification of any of them.

33. Minutes

33.1 Minutes to be kept

The Board must cause:

- 33.1.1 proper minutes to be made of the proceedings and resolutions of all meetings of the Company, the Board and committees formed by the Board;
- 33.1.2 the minutes to be entered in books kept for that purpose; and
- 33.1.3 the minutes to be signed by the chairperson of the meeting or by the chairperson of the next meeting.

33.2 Evidence of Proceedings and Resolutions

A minute that is recorded and signed in accordance with clause 33.1 is evidence of the proceeding or resolution to which it relates, unless the contrary is proved.

34. Circular Resolution

34.1 General

- 34.1.1 If all the Directors have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms will be deemed to have been passed at a meeting of the Board held on the day on which the resolution was signed and at that time at which the document was last signed by a Director or, if the Directors signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Director.
- 34.1.2 Any such resolution in writing may consist of several documents in identical terms, each signed by one or more Directors and must be entered in the relevant book of minutes of the Company.

34.2 Exclusion of Directors Not Entitled to Vote

A reference in clause 34.1.1 to all Directors does not include a reference to a Director who, at a meeting of Directors, is not entitled to vote on the resolution.

35. Reimbursement of expenses

The Board may authorise the payment of any expenses properly and reasonably incurred by any Director or Member in connection with the performance of their duties to the Company.

36. Accounts

36.1 Books of Account to be kept

The Directors will cause to be kept proper books of account in which will be kept true and complete accounts of the affairs and transactions of the Company. Proper books will not be deemed to be kept unless the books give a true and fair view of the state of the Company's affairs and explain its transactions.

36.2 Location of Books of Account

The books of account will be kept at the Registered Office or at such place or places as the Directors think fit and will be available for inspection by the Directors during usual business hours.

37. Auditor

The Company will observe the provisions of the Act in relation to the appointment, removal and resignation of an Auditor.

38. Indemnity

38.1 Definition of Liability and Officer

In this clause 38:

38.1.1 **Liability** means any cost, loss, liability or expense; and

38.1.2 **Officer** means a Director, Secretary, or other officer of the Company and includes a former Officer, but does not include an auditor or agent of the Company.

38.2 Indemnity of Officers

Every Officer must be indemnified out of the assets of the Company against any Liability incurred by that Officer in the person's capacity as an Officer by reason of any act or thing done or omitted to be done by that person in that capacity or in any way in the discharge of that person's duties or by reason of or relating to the person's status as an Officer, but excluding any Liability from or against which the Company is not permitted by the Act to exempt or indemnify the Officer.

38.3 Indemnity for Proceedings

Without limiting clause 38.2, every Officer must be indemnified out of the assets of the Company against any Liability incurred by that person in defending proceedings, whether civil or criminal, in respect of any act or thing done by the Officer in that person's capacity as such Officer but excluding any Liability from or against which the Company is not permitted by the Act to exempt or indemnify the Officer.

39. Notices

39.1 Address for service

The Company may serve notice on any Member either personally, or sending it through the ordinary post to the Member's (or the Representative's) Registered Address, by leaving at the Member's (or the Representative's) Registered Address in an envelope addressed to the Member, or by sending it to the fax number or electronic address (if any) nominated by the Member.

39.2 When taken to be served

39.2.1 Subject to clause 39.2.2, a notice of meeting sent by fax or by other electronic means is taken to be served on the same Business Day on which it is sent.

39.2.2 Any notice served by fax or by other electronic means which is served:

- (a) on a day that is not a Business Day; or
- (b) after 5pm local time in the place of service,

will be taken to have been served on the next Business Day.

39.2.3 Any notice sent by post is taken to be served:

- (a) in the case of service within Australia, three days after the day on which it is posted; and
- (b) in the case of service outside of Australia, seven days after the day on which it is posted.

39.2.4 In proving such service, it is sufficient to prove that the envelope containing the notice was properly addressed and deposited as a prepaid letter at the post office or in some postal receptacle.

39.2.5 A certificate in writing signed by the Secretary or any Officer of the Company that the envelope containing the notice was properly stamped, addressed and posted will be conclusive evidence of the service of such notice.

Schedule 1 Founding Members

We, the persons whose full names are set out below, consent to becoming Members of the Company and agree to the form of the Constitution of the Company set out in this document:

- David Brian Power
- Christoph Georg Begert
- Clare Elizabeth Parry

David Brian Power	184 Edward Street, Brunswick East, Victoria 3057	
Christoph Georg Begert	7/1 Rae Court, Prahran, Victoria 3181	
Clare Elizabeth Parry	5 Magnolia Road, Gardenvale, Victoria 3185	

Schedule 2 Membership Classes

The Membership will be divided into the following Membership Classes:

- Individual member;
- Student member;
- Small company member (2 to 10 employees);
- Medium company member (11 to 50 employees);
- Large company member (51+ employees);
- Public sector organisation member; and
- Elder member (member who is at least 65 years of age).