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Proposed constitution for the Optometry Australia Federation *Strategic Futures Project*, as endorsed by the State Division Boards and National Board to be put to a member vote as part of the proposal to unify the Optometry Australia Federation.

AUSTRALIAN OPTOMETRY LTD

ACN 693 343 645
ABN 97 693 343 645

10 March 2026

Australian Optometry Ltd is name used for registration as a Health Promotion Charity (HPC). If members approve unification the name will be changed to "Optometry Australia". No proposal as part of vote of members to change name or brand.

CONSTITUTION

A public company limited by guarantee under the *Corporations Act 2001* (Cth)

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AUSTRALIAN OPTOMETRY LTD

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CONSTITUTION

1 PURPOSE AND ACTIVITIES

1.1 Principal purpose

The Company's principal purpose is to be a health promotion charity promoting the prevention and control of Eye Conditions so as to lead, promote and engage in community eye health and the practice of optometry by optometrists (**Purpose**).

1.2 Activities

In support of the Purpose set out in clause 1.1, the Company's activities will include but are not limited to:

1.2.1 providing education to optometrists on clinical matters that promote the prevention and control of Eye Conditions;

1.2.2 operating a clinical help-desk and supporting, assisting and enabling optometrists to diagnose, manage and treat Eye Conditions;

1.2.3 producing clinical and experimental journals or other publications, an optometry journal with a focus on clinical research and clinical matters that promote the prevention, control, identification, diagnosis, management and treatment of Eye Conditions;

1.2.4 undertaking public campaigns to raise public awareness of symptoms of Eye Conditions and how to seek diagnosis and treatment;

1.2.5 holding clinical education conferences to discuss the diagnosis, management and treatment of Eye Conditions and training optometrists in methods of controlling and treating Eye Conditions;

1.2.6 setting educational and professional standards, and producing professional codes, guidelines and policies for optometrists in order to ensure proper diagnosis, management and treatment of Eye Conditions; and

1.2.7 advocating on issues and matters relating to the Purpose and the role and value of optometrists in the health system; and

1.2.8 doing all lawful things as are incidental or conducive to the attainment of these activities and that are consistent with, necessary or desirable to support and further the Purpose in clause 1.1,

and the Company will undertake these activities in a manner which encourages forward thinking, integrity, respect, responsiveness, accountability, strategic vision, teamwork and unity/collegiality amongst optometrists, other relevant stakeholders and health professionals and the public.

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1.3 **Powers**

Solely to carry out the Purpose, the Company has all the powers of an individual and a company limited by guarantee under the Corporations Act and the Relevant Laws.

2 NOT-FOR-PROFIT

2.1 **Income applied for solely for the Purpose**

The Company's income and property:

2.1.1 must be applied solely towards the Purpose; and

2.1.2 must not be paid or given to a Member, directly or indirectly, by way of dividend, bonus or otherwise, unless permitted by clause 2.2.

2.2 **Permitted payments to Members**

The Company may pay a Member in good faith with prior Board approval up to a fair and reasonable amount for:

2.2.1 expenses properly incurred for the Company;

2.2.2 goods or services supplied to the Company;

2.2.3 interest on money lent to the Company; or

2.2.4 rent for premises let to the Company.

3 WINDING UP AND DGR REVOCATION

3.1 **Application of property on winding up**

Subject to clause 3.4, the Company's surplus assets, after satisfying all liabilities on winding up or dissolution:

3.1.1 must not be paid or given to current or former Members unless eligible under clause 3.2; and

3.1.2 must be paid to eligible recipients selected under clauses 3.2 and 3.3.

3.2 **Eligible recipients**

A fund, authority or institution is eligible to receive any surplus under clauses 3.1.2 and 3.4 if it:

3.2.1 has charitable purposes similar to the Purpose;

3.2.2 prohibits its income and property from being paid to members on at least the terms of clause 2;

3.2.3 is a charity registered under the ACNC Act; and

3.2.4 can receive Deductible Gifts.

3.3 **Selection of eligible recipients**

Eligible recipients to receive any surplus referred to in clause 3.2 must be selected:

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3.3.1 by Member special resolution;

3.3.2 failing clause 3.3.1, by Board resolution; and

3.3.3 failing clause 3.3.2, by application to the Supreme Court in the state or territory in which the Company's registered office is located.

3.4 **Deductible Gifts**

Any Deductible Gifts must be transferred to eligible recipients selected under clauses 3.2 and 3.3 on the earlier of:

3.4.1 the Company's deductible gift recipient endorsement being revoked; or

3.4.2 the winding up of the Company.

4 MEMBERSHIP

4.1 Limited liability of Members / guarantee

4.1.1 A Member's liability is limited to the guaranteed amount in clause 4.1.2.

4.1.2 If the Company is wound up, each Member and former Member in the previous year must contribute up to ten dollars ($10) towards:

(a) the Company's liabilities contracted before the person ceased to be a Member; and

(b) costs, charges and expenses for winding up and the adjustment of the rights of the contributories among themselves.

4.2 Classes of Members and eligibility

The Members of the Company comprise the classes of Members with the eligibility and rights set out in the table below and such other non-voting categories whose rights, benefits, privileges, entitlements, obligations, liabilities, eligibility and status may be determined by the Board from time to time in Regulations made for this purpose.

Class	Eligibility	Rights
Ordinary Members	• Optometrist registered as an optometrist with the Optometry Board of Australia and/or AHPRA • Sub-categories and fees determined by the Board in Regulations made for this purpose.	Voting See clause 4.3
Affiliate Members	• Other individuals with an interest in optometry (for example, students studying optometry, orthoptists, diabetes educators, overseas optometrists or retired optometrists) • Sub-categories and fees determined by the Board in Regulations made for this purpose.	Non-voting See clause 4.3.2
Life Members	Persons who are either Ordinary Members or Affiliate Members and who are then elected by the Board to Life Membership.	Per the person's membership class prior to admission as a Life Member

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4.3 **Member rights and obligations**

4.3.1 Voting Members have the right to receive notice of, participate in the requisition of, attend, speak at, vote at and join in the demand for a poll at general meetings. These rights are suspended while membership fees are unpaid.

4.3.2 Non-voting Members, at the Board's discretion, have the right to receive notice of and attend the annual general meeting, but may not participate in the requisition of, speak at, vote at or join in the demand for a poll at that meeting nor stand as a candidate for Elected Director.

4.3.3 Members have the right to appoint a Representative to exercise all the Member's rights.

4.4 **Limit on number of Members**

The number of Members is unlimited unless the Members set a limit in general meeting.

4.5 **Rights not transferrable**

A person's membership rights and privileges:

4.5.1 apply only whilst the person is a Member; and

4.5.2 are personal and may not be transferred or transmitted.

4.6 **Membership period and fees**

The Board may determine in Regulations made for this purpose from time to time:

4.6.1 the membership period (including common expiry dates) as well as how and when membership is renewed;

4.6.2 fees payable by Members, including any fee to apply for membership or to be admitted as a Member; and

4.6.3 whether fees are refundable or non-refundable.

4.7 **Register of Members, including closure of register**

4.7.1 The Company must maintain a register of Members in accordance with the Corporations Act which contains the name, addresses for notices and membership start/end dates for current and recent former Members.

4.7.2 The Board may establish Regulations to close the register to new Members for up to 60 days per year.

4.7.3 The Company may maintain a database of other Member details which is separate to the register of Members.

4.8 **Change of Member details**

A Member must notify the Company if the Member's addresses for notices change within 28 days of the change.

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5 BECOMING AND CEASING TO BE A MEMBER

5.1 Admission of Members

5.1.1 The Board may admit in its absolute discretion a person as Member upon application in accordance with any requirements specified in the Regulations.

5.1.2 The Board must consider membership applications as soon as reasonably practicable.

5.1.3 The Board need not provide reasons for refusing to admit a person as Member.

5.1.4 Successful applicants become Members when added to the register of Members.

5.2 Resignation of Members

5.2.1 A person may resign as Member by written notice to the Company.

5.2.2 The resignation takes effect when the Company receives the Member's notice or on a later date specified in the notice.

5.3 Ceasing to be a Member

A person automatically ceases to be a Member if the person:

5.3.1 ceases to be eligible to be a Member in the relevant class;

5.3.2 does not renew the membership by the due date;

5.3.3 has not paid membership fees for 45 days after the due date;

5.3.4 has a debt to the Company which remains unpaid for 60 days or more;

5.3.5 becomes untraceable for 3 months because the Member cannot be contacted using the address on the register of Members;

5.3.6 dies;

5.3.7 becomes bankrupt, or makes any arrangement or composition with the Member's creditors generally; or

5.3.8 no longer has capacity to give informed consent as defined under mental health legislation applicable from time-to-time which provides for the decision-making capacity of an individual).

5.4 Disciplining Members

The Board may warn, censure, suspend or expel a Member if the Member:

5.4.1 was but ceases to be registered as an optometrist with the Optometry Board of Australia;

5.4.2 engages in Unacceptable Conduct, subject to:

(a) the decision being made by two-thirds majority of all Directors (excluding Directors who are conflicted) regardless of whether or not they are all present and voting;

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(b) the Member being afforded a reasonable opportunity to respond, in accordance with any Regulations, to the Board's allegations; and

(c) the Member's appeal rights (if any) set out in the Regulations;

5.4.3 does not comply with the provisions of this Constitution or the Regulations;

5.4.4 is found guilty by a court of an indictable offence; or

5.4.5 has a debt to the Company which remains unpaid for 60 days or more.

5.5 **Initial Members**

The initial Members of the Company are those persons named in the application to the Australian Securities and Investments Commission to register the Company.

6 GENERAL MEETINGS

6.1 **Convening an annual general meeting**

6.1.1 The Board must convene an annual general meeting to be held at least once every year in accordance with the Corporations Act. The requirements for convening an annual general meeting may otherwise be set out in the Corporations Act or Relevant Laws.

6.1.2 The business of an annual general meeting is to:

(a) consider the Board's, financial and auditor's report;

(b) declare the election or appointment of Directors;

(c) appoint an auditor if that office is or will become vacant;

(d) consider any other matter required by the Corporations Act or Relevant Laws; and

(e) consider any special business, the general nature of which is specified in the notice of meeting.

6.2 **Convening a special general meeting**

6.2.1 General meetings other than annual general meetings are called special general meetings.

6.2.2 The Board must convene and hold special general meetings of the Members if requested by the Members pursuant to the requirements of the Corporations Act.

6.2.3 The Board or 2 Directors may convene special general meetings of the Members.

6.2.4 The notice of special general meeting must specify the general nature of special business, unless the Corporations Act or Relevant Laws require otherwise.

6.3 **Notice of meeting**

6.3.1 At least 21 days' notice of any general meeting must be given specifying the meeting's place, date and time, unless the Corporations Act or Relevant Laws require or permit a shorter or some other period of notice.

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6.3.2 Notice of a general meeting must specify the meeting's format (including if it is a Hybrid Meeting or virtual only meeting), place, date and time, and include Electronic Voting instructions if applicable.

6.3.3 Notice of every general meeting must be given in writing in accordance with clause 11.6 to:

(a) every Director;

(b) every Member entitled to attend who has supplied an address for notices to the Company; and

(c) the Company's auditor.

6.3.4 No other person is entitled to receive notices of general meetings.

6.3.5 A general meeting and any resolution passed at the meeting is not invalid merely because of:

(a) the accidental omission to give notice of the meeting; or

(b) the non-receipt of any such notice.

6.4 **Postponement**

6.4.1 The Board may postpone, relocate or cancel a general meeting which it convened by giving at least 5 days' notice to the Members.

6.4.2 Clause 6.4.1 does not apply to a meeting requisitioned by Members or convened by the Members, by individual Directors under clause 6.2.2 or by court order.

6.5 **Quorum**

6.5.1 No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum is present when the meeting proceeds to business.

6.5.2 The quorum for general meetings is the lesser of 50 Ordinary Members or 1% of the Ordinary Members present in person or by Representative.

6.5.3 If a quorum is not present within 30 minutes of the time scheduled to start the general meeting:

(a) the meeting, if requisitioned by Members, is dissolved; and

(b) in any other case, the meeting is adjourned to such other place, date and time as the Board determines and notifies to Members (if required to do so by clause 6.7).

6.5.4 If a quorum is not present within 30 minutes of the time scheduled to start the adjourned general meeting, the meeting is dissolved.

6.6 **Meeting chair**

6.6.1 The Chair and President may chair a general meeting.

6.6.2 If the Chair and President is not present and willing to act the Vice Chair may chair.

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6.6.3 If the Chair and President and Vice Chair are not present and willing to act:

(a) the Directors present may choose one of their number to chair the meeting; and

(b) if no Director is present, or if all the Directors present decline to chair, the Members present must choose one of their number to chair.

6.6.4 In addition to powers conferred by law, the meeting chair may:

(a) determine the meeting's conduct and procedures to ensure proper and orderly discussion, debate or voting whether on a show of hands or on a poll, including the appointment of scrutineers;

(b) rule on the admissibility and form of motions and amendments and make rulings without putting a question to the vote, or terminate discussion or debate and require that matter to be put to a vote;

(c) refuse to:

(1) allow debate or discussion on any matter which is not ordinary or special business as specified in the notice;

(2) refuse to accept any motion, amendment, or discussion that is, in the Chair's opinion, frivolous, vexatious, repetitive, or disruptive.

(d) limit the time that a person may speak on a motion or other item of business before the meeting; and

(e) refuse any person admission to a general meeting (including for causing offence or disruption), or expel the person from the general meeting and not permit them to return.

6.6.5 Decisions of the Chair are not subject to challenge except in cases of manifest abuse of discretion or substantial injustice.

6.6.6 All procedural decisions by the meeting chair are final and binding on Members.

6.7 **Adjournment**

6.7.1 Subject to clause 6.7.2, the meeting chair:

(a) may, with the consent of any general meeting at which a quorum is present; and

(b) must, if so directed by the meeting,

adjourn the meeting to some other time or place.

6.7.2 The meeting chair may adjourn the meeting from time to time and from place to place if, in the chair's opinion, it is necessary for the proper conduct of the meeting or to ensure the safety or orderly participation of those present.

6.7.3 The adjourned meeting may only transact unfinished business from the original meeting.

6.7.4 If a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as required for the original meeting. It is not otherwise necessary to give

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any notice of an adjournment or of the business to be transacted at an adjourned meeting.

6.8 **Voting – show of hands / poll**

6.8.1 By default, resolutions at general meetings must be voted on by a show of hands. Voting at a Hybrid Meeting or a wholly virtual meeting will be by ballot, which may occur via Electronic Voting.

6.8.2 In the event of an equality of votes the meeting chair does not have a second or casting vote.

6.8.3 On a show of hands and on a poll every member present has one vote.

6.8.4 The meeting chair must, in the event of a poll, cast all directed proxies held by the meeting chair. The meeting chair must declare whether resolutions were carried, carried unanimously, carried by particular majority or lost. These voting results must be minuted.

6.8.5 The minutes of the voting results are final without the need to record the number or proportion of, or manner in which votes were cast.

6.8.6 A poll may be demanded by the meeting chair or at least two Members present and entitled to vote.

6.8.7 A demand for a poll must be made on or before the result being declared, and may be withdrawn.

6.8.8 A poll to elect a meeting chair or adjourn the meeting must be taken immediately. Polls must otherwise be taken at that meeting in the manner directed by the meeting chair.

6.8.9 The meeting chair must decide all voting disputes, and that decision is final.

6.9 **Proxies**

6.9.1 A Member may appoint a proxy to act on the Member's behalf at any general meeting at which that Member may attend and vote.

6.9.2 A proxy must be another Member however a Member can hold no more than 10 appointments of proxy from other Members.

6.9.3 For the instrument appointing a proxy to be valid, it must be:

(a) in writing and signed by the appointor;

(b) in the form complying with the Corporations Act or some other Board approved form; and

(c) lodged with the Company at least 48 hours before the time for holding the meeting or adjourned meeting.

6.9.4 A proxy may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.

6.9.5 A vote given in accordance with the terms of an instrument appointing a proxy is valid despite the revocation of the instrument or of the authority under which the instrument was executed.

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6.9.6 The appointment of a proxy is not revoked by the appointer attending and taking part in the general meeting, but, if the appointor votes on a resolution, the person acting as proxy for the appointor is not entitled to vote, and must not vote, as the appointers proxy on the resolution.

6.9.7 A vote given according to the proxy instrument is valid despite:

(a) the death, or loss of decision-making capacity, of the appointor; or

(b) revocation of the instrument or of the authority under which the instrument was executed,

if no knowledge in writing of that fact was received by the Company before commencing the meeting or adjourned meeting at which the instrument is used.

6.10 **Meeting format and use of technology**

6.10.1 Subject to the Corporations Act, a general meeting may be held as a physical meeting in two or more places and using virtual meeting technology (**Hybrid Meeting**) or using virtual meeting technology only, as determined by the Board acting reasonably.

6.10.2 Such Hybrid Meetings or virtual technology only meetings must be held using any technology approved by the Board that gives Members as a whole a reasonable opportunity to participate.

6.11 **Ballot – Members Circular Resolutions**

6.11.1 The Board may if it thinks fit submit any question or resolution to the vote of all Members entitled to a vote at a general meeting by postal, email or other form of electronic ballot (**Ballot**) without a general meeting, unless the Corporations Act or Relevant Laws require a general meeting.

6.11.2 The Board may determine in the Regulations:

(a) the form of the Ballot;

(b) the polling date;

(c) the method for responding to the Ballot; and

(d) whether voting on the Ballot is to be secret.

6.11.3 A resolution approved by a majority or specific majority of the Members by Ballot has the same force and effect as such a resolution passed in a general meeting.

7 BOARD

7.1 **Structure of Board / Number of Directors**

Subject to clause 7.2, the Board will comprise between 3 and 9 Directors as follows:

7.1.1 up to six (6) Directors elected by the Ordinary Members in accordance with clause 7.3 (**Elected Directors**); and

7.1.2 up to three (3) Directors appointed by the Board in accordance with clause 7.4 (**Appointed Directors**).

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7.2 **Transitional, Initial and Staggering of Terms of Office**

7.2.1 The first Directors of the Company are those persons named in the application to the Australian Securities and Investments Commission to register the Company and, after registration, the next Directors shall be determined in accordance with clauses 7.2.2 and 7.2.4.

7.2.2 The initial six (6) Elected Directors will be voted upon after registration of the Company, as follows:

(a) the NSW/ACT Director will be voted on by the members of **Optometry NSW/ACT** ABN 78 000 006 093;

(b) the Victorian Director will be voted on by the Victorian members of **Optometry Victoria South Australia Limited** ACN 634 919 994, ABN 27 451 280 538;

(c) the South Australian/Northern Territory Director will be voted on by the South Australian members of **Optometry Victoria South Australia Limited** ACN 634 919 994, ABN 27 451 280 538 and the Northern Territory members of **Optometrists Association Australia Queensland and Northern Territory Division** ABN 54 009 657 265;

(d) the Queensland Director will be voted on by the Queensland members of **Optometrists Association Australia Queensland and Northern Territory Division** ABN 54 009 657 265;

(e) the Tasmania Director will be voted on by the members of **Optometry Tasmania Inc** Reg# 03359C, ABN 18 332 330 199; and

(f) the Western Australia Director will be voted on by the members of **Optometry Western Australia Inc** Reg# A0160008D, ABN 42 736 864 919.

7.2.3 The initial six (6) Elected Directors must, at the first Board Meeting after the Company is registered, by agreement, or in the absence of agreement by drawing lots, determine which Elected Directors will serve the following terms:

(a) 2 Elected Directors will serve a term of 3 Years;

(b) 2 Elected Directors will serve a term of 2 Years; and

(c) 2 Elected Directors will serve a term of 1 Year.

7.2.4 In relation to the first and subsequent Appointed Directors, there will be, despite clause 7.1.2, six (6) Appointed Directors, appointed as follows:

(a) four (4) initial Appointed Directors who will be appointed by OA from the currently serving Member Directors of the OA Board who will be appointed until the annual general meeting in November 2027;

(b) two (2) initial Appointed Directors who will be appointed by OA from the currently serving Co-opted Directors of the OA Board, who will be appointed until the annual general meeting in November 2027;

(c) if there are no currently serving Co-opted Directors on the OA Board, then the remaining Board may appoint the two (2) initial Appointed Directors who will be appointed until the annual general meeting in November 2027;

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(d) when the six (6) initial Appointed Directors appointed by OA retire, the remaining Board will then appoint the Appointed Directors in accordance with clause 7.1.2; and

(e) at the first Board Meeting after their appointment, by agreement, or in the absence of agreement by drawing lots, the Appointed Directors appointed under clause 7.2.4(d) must determine which of them will serve the following terms:

(1) 1 Appointed Director will serve a term of 3 Years;

(2) 1 Appointed Director will serve a term of 2 Years; and

(3) 1 Appointed Director will serve a term of 1 Year.

7.2.5 Despite clause 7.11 but subject to clause 7.11.2, the Board will elect the first office bearers as follows:

(a) Chair, who shall be elected from the initial six (6) Elected Directors elected under clause 7.2.2 or from the initial four (4) Appointed Directors appointed under clause 7.2.4(a) and who takes the title of President and who shall serve as Chair until November 2027; and

(b) Vice Chair who shall be elected from the initial six (6) Elected Directors elected under clause 7.2.2 or from the initial four (4) Appointed Directors appointed under clause 7.2.4(a) and who shall serve as Vice Chair until November 2027.

7.3 **Election of Elected Directors**

7.3.1 Nominations of candidates for election as a Director must be signed by the candidate and a proposing Member, contain a consent to act as a Director signed by the candidate, and must be received at least 28 days before the annual general meeting.

7.3.2 The Board may include in Regulations that individuals wishing to nominate as candidates for election as an Elected Director must attend reasonable briefings on the role of the Board, the expectations and fiduciary duties of Directors, the skills, knowledge and experience sought or otherwise considered desirable to be a Director, the organisation, its leadership and management and good governance of the Company.

7.3.3 When an election is required, the six (6) Elected Director positions can only be filled such that there must only be one (1) Elected Director from each of the following six (6) regions (**Regions**) elected by the Ordinary Members residing in that Region:

(a) New South Wales and the Australian Capital Territory;

(b) Victoria;

(c) South Australia and the Northern Territory;

(d) Queensland;

(e) Tasmania, and

(f) Western Australia

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and the Board may make Regulations on all matters regarding State/Territory representation of Elected Directors, including without limitation restrictions on "party", "block" or "ticket" voting and restrictions on Elected Directors being associated with a single organisation or brand and how breaches of such restrictions will be resolved.

7.3.4 Subject to clause 7.3.3, if the number of nominations of candidates for election does not exceed the number of vacancies, those candidates will be declared elected at the annual general meeting. However, where vacancies are for different terms of office, an election must proceed to determine which candidates receive which terms of office.

7.3.5 If candidates are not declared elected pursuant to clause 7.3.4, then balloting lists must be printed containing candidate names in alphabetical order and sent to each Member who resides, as shown on the Register of Members kept pursuant to clause 4.7.1, in the Region requiring election of an Elected Director at least 21 days before the annual general meeting.

7.3.6 Vacancies (from longest to shortest term of office) will be filled by candidates with the most votes according to the election system previously approved by the Board and set out in Regulations made for this purpose. Only Members who reside in that Region can vote to elect an Elected Director from that Region.

7.3.7 The returning officer appointed by the Board must declare the election result at the annual general meeting.

7.4 **Appointment of Appointed Directors**

7.4.1 Subject to this Constitution, the Board must determine any other procedures or matters in relation to the selection process to appoint Appointed Directors and may convene a nominations committee and make Regulations for that purpose.

7.4.2 Unless the Board resolves otherwise, the Company Secretary:

(a) is responsible for the conduct of the selection process of Appointed Directors; and

(b) may decide all matters in relation to the conduct of the selection process, subject to this Constitution and the Regulations.

7.4.3 The Regulations pursuant to clause 7.4.1 must be consistent with the following:

(a) It must be open to interested individuals to nominate to become a Director.

(b) Before an appointment of a Director or Directors is required, the Company Secretary must publicly call for Appointed Director candidates or seek assistance from an external recruitment agency to assist with the selection process.

(c) The Company Secretary must convene a nominations committee for the purpose of conducting the selection process.

(d) The nominations committee may, but is not required to, interview all candidates for becoming an Appointed Director.

(e) The nominations committee must recommend candidates to be appointed as Appointed Directors on the basis of their skills, knowledge, background,

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expertise and capabilities deemed necessary or desirable by the Board for the effective operation of the Board.

(f) After considering the recommendations from the Chair and the committee conducting the selection process, the Board may appoint Appointed Directors at the Board meeting preceding each annual general meeting to take effect from the annual general meeting.

(g) The meeting chair must announce the Appointed Directors at the annual general meeting. Appointments take effect at the end of the annual general meeting at which the appointments are announced.

7.5 **Eligibility to be a Director**

A person is eligible to become a Director if they:

7.5.1 have not been struck off, expelled or disciplined for professional misconduct by the Optometry Board of Australia;

7.5.2 for an Elected Director position:

(a) are an Ordinary Member;

(b) has completed the training set out in clause 7.5.3; or

(c) if they have not completed the training set out in clause 7.5.3, may still stand for election but must commence within one month and finish within twelve (12) months of being elected, or such other time as agreed by the Board, the training as set out in clause 7.5.3; and

(d) if twelve (12) months after election the Elected Director has not satisfied the course requirements of the training organisation they will become ineligible to be a Director and are deemed to have resigned unless otherwise determined by the Board;

7.5.3 have completed governance training with 3 days contact time from the Australian Institute of Company Directors, the Governance Institute or other similar organisation as set out in the Regulations, or other reasonable training as set out in the Regulations made by the Board for this purpose;

7.5.4 are 18 years of age or older;

7.5.5 are not an employee of the Company;

7.5.6 consent in writing to become a Director;

7.5.7 hold or have applied for a Director Identification Number (**DIN**);

7.5.8 in the opinion of the Board, meets or contributes to the suitability and eligibility requirements imposed on directors and requirements as to the composition of the Board under Relevant Laws and any Regulations made for this purpose;

7.5.9 are not prohibited, disqualified or otherwise prevented from being a Director under the Corporations Act or Relevant Laws; and

7.5.10 do not have any personal, marital or family relationship with another Director, an officer or employee of the Company.

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7.6 **Training and Induction Program**

The Board will ensure the design and implementation of a robust training and induction program for all new Directors to ensure all directors have the requisite governance and leadership knowledge to govern and lead.

7.7 **Interested Director**

7.7.1 A Director may hold any other office or place of profit (other than auditor) in the Company or any related body corporate of them in conjunction with his or her directorship and may be appointed to that office or place on such terms as to remuneration, tenure of office and otherwise as the Board determine.

7.7.2 Pursuant to ACNC Governance Standards and common law fiduciary duties, an Elected Director's obligation to act in the best interests of the Company is paramount. The Elected Director may act in the interests of a related body corporate only where to do so is aligned with the best interests of the Company.

7.8 **Limits on period of office as a Director**

If a Director has served nine (9) Years or more either continuously or in total, then the Director may finish serving their current term of office but does not become eligible to be elected or appointed (whether or not to a casual vacancy) until they have not been a Director for a subsequent continuous period of three (3) Years unless otherwise exempted by the Board from this requirement in exceptional circumstances.

7.9 **Term of office of Directors**

7.9.1 An Elected Director holds office for a term of three (3) Years.

7.9.2 An Appointed Director holds office for a term of three (3) Years.

7.9.3 The Board may appoint an Appointed Director for a shorter term than under clause 7.9.2 if the Board so determines at the time of appointment.

7.10 **Casual vacancies**

7.10.1 If a casual vacancy occurs for any Elected Director office, the Board may appoint another eligible person in their place, taking into account the State/Territory representation requirements set out in clause 7.3.3, until the end of the next annual general meeting. The Members must then elect a person to fill the Elected Director position in accordance with clause 7.3 and its State/Territory representation requirements. The person elected will serve only for the balance of the term of the original Elected Director.

7.10.2 If a casual vacancy occurs for any Appointed Director office, the Board may appoint another eligible person in their place until the end of the next annual general meeting.

7.10.3 The Board may continue to act despite vacancies on the Board. However, if there are less than 3 Directors, the Board may only:

(a) act in the case of emergencies;

(b) appoint persons to fill casual vacancies; or

(c) convene a general meeting.

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7.11 **Office bearers**

7.11.1 Subject to clause 7.2.5 and 7.11.2, the Board may elect the following office bearers on such other terms and conditions as the Board determines by resolution from time to time:

(a) Chair, who shall be elected from the Elected Directors and takes the title of President and shall serve as Chair for one (1) Year;

(b) Vice Chair who shall be elected from the Elected Directors and who shall serve as Vice Chair for one (1) Year; and

(c) such other office bearers with titles determined from time to time by the Board.

7.11.2 The Board may by resolution from time to time remove any office bearer from holding office.

7.11.3 Subject to the maximum Director term limits set out in clause 7.8 and the terms and conditions of the resolution made by the Board under clause 7.11.1, the Chair is eligible for re-election as Chair after a review of their performance against any applicable Key Performance Indicators (KPIs), terms and conditions of the Board resolution or any other matters as determined by the Board and also after an assessment of their remaining eligibility to be elected as a Director under clause 7.5.

7.11.4 In order to conduct the Chair review required by clause 7.11.3, the Board may form a committee in accordance with clause 10, or delegate this review function to an external, independent agent or contractor as they determine in their absolute discretion.

7.11.5 Pursuant to clause 9.10, the Chair is not entitled to be present for deliberations nor vote on any resolutions made under this clause 7.11.

7.12 **No Alternate Directors**

A Director does not have the right to appoint an alternate director.

7.13 **Resignation of Directors**

7.13.1 A Director may resign as Director by written notice to the Company.

7.13.2 Subject to Relevant Laws, the resignation takes effect when the Company receives the Director's notice or on a later date specified in the notice.

7.14 **Ceasing to be a Director**

7.14.1 The Members may remove any Director in accordance with the Corporations Act.

7.14.2 A directorship automatically ceases if the Director:

(a) is no longer eligible to be a Director under clause 7.5 or election Regulations under clause 7.3;

(b) dies or is physically incapable of fulfilling their duties as a Director;

(c) becomes disqualified from being a Director pursuant to the Corporations Act or Relevant Laws;

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(d) for more than 6 months is absent without Board permission from Board meetings held during that period;

(e) becomes a bankrupt or makes any arrangement or composition with personal creditors generally; or

(f) no longer has capacity to give informed consent as defined under mental health legislation which provides for the decision-making capacity of an individual; or

(g) is found guilty by a court of an indictable offence.

7.15 **Director remuneration and reimbursement**

7.15.1 Despite clause 2, the Directors may be paid reasonable remuneration for undertaking the ordinary duties of a Director as approved by the Members in general meeting and otherwise in accordance with Regulations made for this purpose from time to time. The Directors must not otherwise be paid any other remuneration for those duties.

7.15.2 Despite clause 2, the Directors may be reimbursed for reasonable travel and other expenses incurred by them when engaged in the Company's business, attending meetings or otherwise in carrying out the duties of a Director where payment does not exceed any amount previously approved by the Board.

7.15.3 Despite clause 2, the Directors may be paid for any service rendered to the Company in a professional or technical capacity outside the scope of the Director's ordinary duties where:

(a) the service and amount payable is on reasonable and proper terms; and

(b) the provision of that service has the Board's prior approval.

8 BOARD POWERS

8.1 **Management vests in Board**

8.1.1 The Board is responsible for the governance, business and affairs of the Company. In addition to the specific powers conferred on the Board by this Constitution, the Board may exercise all the Company's powers which are not by the Corporations Act, Relevant Laws or this Constitution required to be exercised by the Members in general meeting.

8.1.2 The powers under clause 8.1.1 are subject to:

(a) this Constitution;

(b) the Corporations Act and Relevant Laws; and

(c) such resolution, not being inconsistent with those provisions, as may be passed by the Members in general meeting.

8.1.3 A resolution under clause 8.1.2 does not invalidate any prior act of the Board which would have been valid before the resolution was passed or made.

8.2 **Power to delegate**

8.2.1 The Board may delegate its powers and functions in writing to:

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(a) an officer or employee of the Company; or

(b) a committee or advisory body established under clause 10.

8.2.2 The Board may amend or revoke the terms of its delegation at any time.

8.3 **Power to appoint Chief Executive Officer**

8.3.1 The Board must as far as practicable appoint a Chief Executive Officer on such terms and conditions as the Board determines from time to time and should delegate responsibility for day-to-day operations to the Chief Executive Officer.

8.3.2 The Board may remove a Chief Executive Officer for any lawful reason, subject to the Company complying with the terms of any agreement between the Company and the Chief Executive Officer.

8.3.3 The Chief Executive Officer may attend Board meetings and general meetings unless directed not to do so by the Board from time to time

8.3.4 The Chief Executive Officer will have the responsibilities determined by the Board.

8.4 **Power to appoint Company Secretary**

8.4.1 The Board must appoint at least one Company Secretary on such terms and conditions as the Board determines from time to time.

8.4.2 A Company Secretary may, but need not, be a Director or the Chief Executive Officer.

8.4.3 A Company Secretary, where they are not also a Director, may attend Board meetings (excluding *in camera* ie. private, Board meetings) and general meetings unless directed not to do so by the Board from time to time.

8.4.4 A Company Secretary will have the responsibilities set out in the Corporations Act and Relevant Laws.

8.5 **Power to make Regulations**

8.5.1 The Board may from time to time make, vary and rescind Regulations for or with respect to all matters relating to the organisation, management and good governance of the Company, including the rights and obligations of Members.

8.5.2 The Regulations for the time being in force, and which are not inconsistent with this Constitution, are binding on Members and have full effect accordingly.

8.6 **Power to make Policies**

Subject to and consistent with this Constitution, the Board may from time to time make, vary and rescind Policies for or with respect to all organisational, management and operational matters in respect of the Company or as required by Relevant Laws.

9 BOARD MEETINGS

Subject to this clause 9, the Board may meet to consider business, adjourn and otherwise regulate its meetings as it thinks fit.

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9.1 **Number of meetings**

The Board must meet at least four (4) times per year.

9.2 **Convening meetings**

The Company Secretary must arrange a Board meeting:

9.2.1 at the request of the Chair and President; or

9.2.2 on the requisition of two (2) Directors.

9.3 **Notice of meeting**

9.3.1 At least seven (7) days' notice of any Board meeting must be given unless the Board decides otherwise or in emergencies.

9.3.2 The notice must specify the business to be transacted. The Board may only transact business of a routine nature unless notice of any other business has been given either in the notice convening the meeting or in some other notice given at least three (3) days' before the meeting.

9.3.3 The decision of the meeting chair as to whether business is routine is final.

9.4 **Quorum**

9.4.1 The quorum for a Board meeting is a simple majority of the Directors entitled to attend and vote. A meeting at which a quorum is present may exercise all powers and discretions of the Board.

9.4.2 If a Board meeting is adjourned due to lack of quorum, the Chair and President must set a further date for the adjourned meeting.

9.5 **Meeting chair**

9.5.1 The Chair and President may chair a Board meeting.

9.5.2 If the Chair and President is absent the Vice Chair may chair.

9.5.3 In the absence of the Chair and President and the Vice Chair, the Directors may appoint a meeting chair from among their number.

9.6 **Voting**

9.6.1 Each Director present and entitled to vote at a Board meeting has one vote.

9.6.2 Questions arising at a Board meeting must be decided by a majority of votes. Such a decision is for all purposes a decision of the Board.

9.6.3 In the event of an equality of votes the meeting chair does not have a second or casting vote.

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9.7 **Use of technology**

The Board may hold a meeting in two or more places and conducted in a wholly virtual format or as a Hybrid Meeting if:

9.7.1 all Directors (other than any Director on leave of absence) have access to the technology to be used for the meeting;

9.7.2 those Directors participating by technological means can communicate with all other participating Directors; and

9.7.3 at the commencement of the meeting each Director must announce their presence to all the other Directors taking part in the meeting.

9.8 **Observers and Visitors**

The Board may permit the attendance of any person at any Board meeting where, in the opinion of the Directors, such person may be able to assist the Board regarding any matter before it or for any other reason as determined by the Board from time to time.

9.9 **Circulating resolutions**

9.9.1 A written resolution which has been circulated to all the Directors and which is then signed or approved by technological means by 75% of Directors entitled to vote on the resolution (other than any Director on leave of absence) is taken to be a decision of the Board passed at a Board meeting convened and held.

9.9.2 The written resolution may consist of:

(a) several documents in the same form, each signed by one or more Directors and, such a resolution takes effect when the last eligible Director forming a 75% majority signs such a document; or

(b) permanent records indicating the identity of each Director, the text of the resolution and a Director's agreement or disagreement to the resolution, as the case may be, and such a resolution takes effect when the last Director forming a 75% majority indicates their approval.

9.10 **Conflicts and personal interests**

9.10.1 A Director who has a material personal interest in a matter that relates to the Company's affairs must give the other Directors written notice of the interest unless the Corporations Act or Relevant Laws require otherwise.

9.10.2 Subject to clause 9.10.3, to the maximum extent required by Law, a Director who has a material personal interest in a matter that is being considered by the Board must not be present while the matter is being considered, or vote on the matter.

9.10.3 The Director may be present and vote if the Directors who do not have a material personal interest in the matter have passed a resolution that:

(a) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the Company; and

(b) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present.

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9.11 **Minutes**

9.11.1 The Board must ensure that minutes of all proceedings of general, Board, committee meetings (and meetings of any other Board entity) are signed by the Chair within a reasonable time after the meeting and recorded and stored electronically in a digital minute book within one month after the relevant meeting is held.

9.11.2 The minutes must be approved as the authorised record of that meeting at the next meeting.

9.11.3 Minutes approved as an authorised record are prima facie evidence of the proceedings to which they relate.

9.12 **Validity of acts / procedural defects**

9.12.1 A Board act or decision will not be invalid by reason only of a defect or irregularity in connection with the election or appointment of a Director.

9.12.2 For entered and signed minutes, unless the contrary is proved:

(a) the meeting is deemed to have been convened and held;

(b) all proceedings that are recorded in the minutes as having taken place are deemed to have taken place; and

(c) all appointments that are recorded in the minutes as having been made are deemed to have been validly made.

10 COMMITTEES AND ADVISORY BODIES

10.1 **Board's power to establish committees**

The Board may establish committees as determined by the Board from time to time, as follows:

10.1.1 a committee will comprise two or more committee members, of which at least one must be a Director;

10.1.2 the committee members otherwise need not be a Director nor Member;

10.1.3 the committee has the purpose set out in its charter or terms of reference approved by the Board and may undertake the powers and functions delegated to it by the Board;

10.1.4 the committee should reflect as best as possible the diversity of the optometry profession in the relevant State/Territory; and

10.1.5 in the absence of any provision in the committee charter or Regulations, meetings and proceedings of any committee or advisory body are governed by the provisions of clause 9.

10.2 **Board's power to establish advisory bodies**

The Board will establish such advisory bodies as determined by the Board from time to time, or as determined and requested by Members in general meeting, including but not limited to State/Territory Advisory Bodies for each State/Territory grouping set out in 7.3.3, with a separate advisory body for the Northern Territory, or as are required from time to time, as follows:

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10.2.1 an advisory body will comprise two or more members, none of whom need to be a Director;

10.2.2 the advisory body has the purpose set out in its charter or terms of reference approved by the Board;

10.2.3 the advisory body should reflect as best as possible the diversity of the optometry profession in the relevant State/Territory; and

10.2.4 in the absence of any provision in the charter or Regulations, meetings and proceedings of any advisory body are governed by the provisions of clause 9.

11 ADMINISTRATION

11.1 Change of name

11.1.1 The Members may change the Company's name by special resolution in accordance with the Corporations Act. Such a resolution authorises the Board to update all references to the Company's name in this Constitution.

11.1.2 Despite clause 11.1.1, the Board may omit from or reinstate "Limited" in its name if required or allowed to do so under the Corporations Act.

11.2 Amendment of Constitution

11.2.1 The Members may amend this Constitution by special resolution in accordance with the Corporations Act and Relevant Laws.

11.2.2 If the Company is registered under Relevant Laws, a special resolution under clause 11.2.1 (unless it expressly provides otherwise) does not take effect if it would cause the Company to lose any entitlements to registration under Relevant Laws.

11.3 Accounts

The Board must cause:

11.3.1 proper accounting and other records to be kept in accordance with the requirements of the Corporations Act and Relevant Laws, and

11.3.2 financial statements to be made and laid before each annual general meeting as required by the Corporations Act and Relevant Laws.

11.4 Audits

A properly qualified auditor must be appointed and the auditor's duties regulated in accordance with the requirements of the Corporations Act and Relevant Laws.

11.5 Records and inspection

A Member (other than a Director) is not entitled to inspect any document of the Company, except as provided by law or authorised by the Board.

11.6 Service of notices

11.6.1 Notices must be in writing and may be given by the Company to any Member:

(a) in person;

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(b) by sending it by post to the Member at the Member's registered address; or

(c) by sending it to the postal, email or other address supplied for receiving notices.

11.6.2 A notice sent by post is deemed to have been given 2 Business Days after it was posted. A notice sent by electronic or other means, is deemed to have been given on the next business day after it was sent.

11.7 **Indemnity of officers**

11.7.1 Subject to clause 11.7.3, the Company indemnifies current and former Officers (**Indemnified Officer**) out of its assets against any Liability arising from a third party claim incurred by the Indemnified Officer in or arising out of:

(a) the conduct of the Company's affairs or business; or

(b) the discharge of the Indemnified Officer's duties.

but only to the extent that:

(c) the Indemnified Officer has acted in good faith and is not otherwise entitled or actually indemnified by a third party;

(d) the Company is not precluded by Law from doing so;

(e) the Liability is not a cost or expense for an unsuccessful application to a Court for relief under the Corporations Act, or the defence of civil or criminal proceedings where judgement is given against the Indemnified Officer or in which the Indemnified Officer is not acquitted; and

(f) the Liability is not an Excluded Liability.

11.7.2 The Company may execute any deed in favour of any Indemnified Officer to confirm the indemnities conferred by clause 11.7.1 in relation to that person. If the Company does so, or the Indemnified Officer is indemnified by a third party in respect of their office with the Company, the indemnity under clause 11.7.1 ceases to apply.

11.7.3 Clause 11.7.1 does not apply:

(a) to an Indemnified Officer if that Indemnified Officer has entered into a deed under clause 11.7.2; or

(b) if a Liability is covered by payment from an insurer or would be covered by payment from an insurer if no indemnity was conferred or applicable.

11.7.4 Nothing in this clause 11.7 restricts or prevents the Company from being dissolved and the Company's obligations under this clause 11.7 are extinguished and terminated:

(a) immediately prior to the passing of a special resolution of members to voluntarily wind up or deregister the Company; or

(b) Upon the order of court to compulsorily wind up the Company.

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11.8 **Insurance**

11.8.1 The Company may pay or agree to pay premiums for directors and officers insurance to insure Indemnified Officers against any Liability incurred by the Indemnified Officer referred to in clause 11.7.

11.8.2 The Company may execute any deed in favour of any Indemnified Officer to take out insurance referred to in clause 11.8.1, on such terms as the Board considers appropriate.

11.9 **Execution of documents**

Documents executed for and on behalf of the Company must be executed by:

11.9.1 2 Directors;

11.9.2 a Director and the Secretary; or

11.9.3 such other persons as the Directors by resolution appoint from time to time.

11.10 **Definitions**

In this Constitution:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth);

Appointed Director means a Director appointed for the purposes of clause 7.4;

Board means the board of Directors of the Company with a quorum to transact business;

Business Day means a weekday which is not a public holiday in the state or territory of the Company's registered office;

Chair means the Director and office bearer elected as Chair and President under clause 7.11;

Company means the company named on page 1 of this Constitution;

Company Secretary means a secretary appointed under clause 8.4;

Constitution means this constitution of the Company;

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

Deductible Gifts means a tax deductible gift of money or property to the Company or a contribution of money or property as described in item 7 or item 8 of the table in section 30-15 of the Tax Act in relation to a fundraising event held for that purpose;

Director means a person for the time being who performs the role of director of the Company;

Elected Director means a Director elected for the purposes of clause 7.3;

Electronic Voting means an electronic vote of members (including voting using electronic means, computer-mediated voting and voting via electric mail) conducted in accordance with this Constitution and the Regulations made for this purpose from time to time;

Employee means any person engaged by the Company as an employee;

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Excluded Liability means a Liability that is, subject to Law, excluded from indemnification by ordinary resolution of the Directors;

Eye Condition means, including but not limited to, myopia, macular degeneration, diabetic retinopathy, glaucoma, cataracts, blepharitis, colour blindness, conjunctivitis, eye discharge, keratoconus, optic neuritis, refractive errors, retinal detachment, retinitis pigmentosa, styes, trachoma, uveitis, strabismus, amblyopia, ocular trauma and eye cancer;

Hybrid Meeting means a meeting held in two or more locations where some or all of the participants' attendance is enabled by audio and video conferencing or similar virtual meeting technology;

Indemnified Officer has the meaning given in clause 11.7;

Law includes statute, regulation, legislative instrument, rules, standards, proclamation, ordinance or by-law which, by or under statute, bind a person from time to time;

Liability includes cost, charge, loss, damage, expense or penalty;

Member means a person who is a member of the Company pursuant to clauses 4 and 5;

OA means Optometry Australia ACN 004 622 431, ABN 17 004 622 431;

Officer means an officer for the purposes of the Corporations Act;

Optometry Board means the board with that name established under the *Health Practitioner National Law*;

Purpose has the meaning given in clause 1;

President means the Director and office bearer elected as Chair and President under clause 7.11;

Regulations means regulations made by the Board under clause 8.5;

Relevant Laws means Laws regulating the registration, reporting or governance obligations of the Company and includes:

(a) ACNC Act;

(b) Tax Act;

(c) *Charities Act 2013* (Cth), and

(d) Corporations Act;

Representative of a Member means:

(a) a proxy appointed in accordance with clause 6.9; or

(b) an attorney of the Member, whose instrument of appointment has been provided to the Company;

and includes a Representative appointed on a standing basis;

Tax Act means the *Income Tax Assessment Act 1997* (Cth);

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Unacceptable Conduct means conduct of a Member which, in the reasonable opinion of the Board:

(a) is, has been or will be prejudicial to the Company's interests;

(b) is conduct which threatens the good order or integrity of the Company;

(c) is not that of a fit and proper person or a person of good fame and character;

(d) is conduct which creates conflicts or is contrary to the Company's Purpose, vision or values, or otherwise lacks honesty, integrity, ethics or professionalism;

(e) is unbecoming of Members; and

(f) is conduct similar to the above which is set out in the Regulations; and

Vice Chair means the Director and office bearer elected as Vice Chair under clause 7.11;

Year in relation to a Director's term of office, means the period of approximately one calendar year from the end of the annual general meeting at which they were elected or appointed.

11.11 **Interpretation rules**

Unless the contrary intention appears in this Constitution:

11.11.1 words importing the singular include the plural, and words importing the plural include the singular;

11.11.2 words importing a gender include every other gender;

11.11.3 where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;

11.11.4 headings and bold text are for convenience only and do not affect its interpretation; and

11.11.5 a Member is to be taken to be present at a general meeting if the Member is present in person, or by technology or by Representative.

11.12 **Interpretation subject to Relevant Laws**

11.12.1 This Constitution is to be interpreted subject to Relevant Laws. If there is any inconsistency, Relevant Laws prevail.

11.12.2 To the extent that Relevant Laws require this Constitution to include provisions so that the Company can hold a registration or exemption status, those provisions are taken to form part of this Constitution.

11.13 **Interpretation subject to the Corporations Act**

11.13.1 Provisions which are optional replaceable rules under the Corporations Act do not apply to the Company.

11.13.2 while the Company is a registered charity under the ACNC Act:

(a) subject to clause 11.13.2(b), the provisions of the Corporations Act in Part 2G.2 and Part 2G.3, in relation to meetings of members and keeping

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minutes, apply as if section 111L(1) of the Corporations Act was not enacted; and

(b) if one of those provisions includes a reference to ASIC, including a reference to lodge any document with, or seek consent or approval from ASIC, that particular requirement does not apply to the Company.

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