

# **Oral Health Association of Australia Ltd**

CONSTITUTION

Public company limited by guarantee

Approved by ADOHTA 10 December 2024

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## I. GENERAL

### 1. Name of the Company

1.1. The name of the Company is Oral Health Association of Australia Ltd.

### 2. Type of Company

- 2.1. The Company is a not-for-profit public company limited by guarantee.
- 2.2. The liability of Members is limited to the amount of the guarantee in rule 2.3.
- 2.3. Each Member must contribute an amount not more than \$1.00 (the guarantee) to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:
- a) debts and liabilities of the Company that exceed the Company's assets incurred before the Member stopped being a Member, or
  - b) costs of winding up the Company.
- 2.4. This Constitution comprises a contract between:
- a) the Company and each Member,
  - b) the Company and each Director,
  - c) the Company and the Secretary, and
  - d) a Member and each other Member

### 3. Replaceable rules and application of the Corporations Act

- 3.1. This Constitution is to be interpreted subject to the Corporations Act, however, the rules that apply as replaceable rules to companies under the Corporations Act are displaced by this Constitution and do not apply to the Company except to the extent they may be repeated in this Constitution.
- 3.2. An expression used in a rule that is defined for the purposes of the Corporations Act has the same meaning as in the Corporations Act unless the contrary intention appears in the expression used in a rule in this Constitution changes its meaning and that change is noted in this Constitution.

### 4. Definitions and interpretation

- 4.1. In this Constitution unless it is inconsistent with the subject or context in which it is used:
- a) **AGM** means an annual general meeting of the Company.
  - b) **Board** means some or all of the Directors acting as the board of directors of the Company.

- c) **By-laws** means the rules and regulations made by the Board in accordance with rule 33.4.
  - d) **Code of Ethics** means any code of ethics (or equivalent) applicable to Members made by the Board.
  - e) **Company** means Oral Health Association of Australia Ltd.
  - f) **Constitution** means this constitution as amended or supplemented from time to time.
  - g) **Corporations Act** means the *Corporations Act 2001(Cth)*.
  - h) **Director** means an individual elected or appointed, from time to time, to the office of director of the Company in accordance with this Constitution.
  - i) **Member** means a member of the Company in accordance with part II of this Constitution.
  - j) **Non-Voting Member** means a Member who does not have voting rights as described in rule 7.4.
  - k) **Objects** means the objects of the Company specified in rule 5.
  - l) **Office Bearer** means a Director appointed to the position of President or Vice President by the Board.
  - m) **Oral Health Practitioners** means dental practitioners in the sub-divisions of Dental Hygienist, Dental Therapist or Oral Health Therapist
  - n) **President** means a Director elected or appointed from time to time to the office of President in accordance with rule 31.
  - o) **Registration Body** means the Dental Board of Australia (or its equivalent howsoever named), the body responsible for registering Australia's Oral Health Practitioners.
  - p) **Register** means the register of Members pursuant to the Corporations Act.
  - q) **Secretary** means any individual appointed by the Board in accordance with rule 45 to perform the duties of company secretary of the Company.
  - r) **Voting Member** means a Member with voting rights as described in rule 7.3.
  - s) **Year** means the period between the close of one AGM and the close of the next AGM.
- 4.2. A reference in a rule in general terms to a person holding or occupying a particular position or office includes a reference to any person who occupies or performs the duties of that position or office for the time being.
- 4.3. In this Constitution, the following rules of interpretation apply unless the context requires otherwise:
- a) a gender includes all genders;
  - b) singular includes plural and vice versa;
  - c) where a word or phrase is defined, its other grammatical forms or parts of speech have corresponding meaning;

- d) the words 'including', 'for example', or similar expressions do not limit the inclusions or examples;
  - e) a reference to a rule or sub-rule is to a rule or sub-rule of this Constitution and includes any further embedded content;
  - f) a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislation substituted for it and any regulations and statutory instruments issued under it;
  - g) the word *person* means a natural person and any company, corporation, association, body or entity whether incorporated or not; and
  - h) the words 'writing' and 'written' include any mode of representing or reproducing words, figures, drawings or symbols in a visible or communicable form.
- 4.4. Cross references are for convenience only. A cross reference in a particular rule identifies another rule that impinges on the interpretation of the particular rule in a key way. Not all rules that may affect the interpretation of the particular rule are cross referenced.
- 4.5. Headings, bold type and italics are for convenience only and do not affect the interpretation of this Constitution.

## 5. Objects

- 5.1. The Company exists for the Objects of representing Oral Health Practitioners to support the continuing growth and development of the oral health profession.
- 5.2. The Company pursues these Objects through a range of activities and services that may include but are not limited to:
- a) supporting excellence in innovative models of care that improve oral health in the community;
  - b) setting high quality evidence-based standards, developing relevant policies and advocating for best practice for the oral health profession;
  - c) communicating with and supporting members;
  - d) providing evidence-based professional development;
  - e) promoting oral health literacy and awareness of the oral health profession throughout the Australian community;
  - f) advocating for the interests of members, enhancing professional recognition of Oral Health Practitioners, and being a unified voice for preventive oral health care;
  - g) fostering tertiary undergraduate and postgraduate education and research;
  - h) abiding by principles of effective, transparent, ethical and financial governance; and
  - i) undertaking appropriate activities that are incidental or conducive to the attainment of the Objects.

- 5.3. Subject to rule 6, the Company has the following powers, which may only be used to carry out its Objects:
- a) the powers of an individual;
  - b) all the powers of a company limited by guarantee under the Corporations Act; and
  - c) the power to do all things necessary or convenient to be done for, or in connection with, the attainment of its Objects.

## **6. Income and property**

- 6.1. The assets, income and property of the Company must be applied only towards promoting the Objects.
- 6.2. The Company must not distribute any surplus income or assets directly or indirectly to its Members in any form, including dividends or distribution of profits.
- 6.3. Rule 6.2 does not prevent the Company from making the following payments provided they are done in good faith:
- a) reasonable and proper remuneration to any employee of the Company;
  - b) reasonable and proper amounts to any Member in return for any goods or services they provide to the Company;
  - c) reimbursement in good faith of reasonable out-of-pocket expenses incurred on behalf of the Company where such expenses have been appropriately authorised in accordance with processes as determined by the Board;
  - d) any other sums payable under this Constitution; or
  - e) for any other bona fide reason or purpose for the attainment of the Objects.

## **II. MEMBERSHIP**

### **7. Members**

- 7.1. The Members of the Company are the person/s included on the application for registration and the individuals who are interested in the Objects of the Company that agree to become Members and that the Board in its absolute discretion admits to membership in accordance with this Constitution.
- 7.2. There are 2 classes of membership:
- a) Voting Members; and
  - b) Non-Voting Members.
- 7.3. Voting Members are individuals who:
- a) are eligible to register as Oral Health Practitioners with the Registration Body in Australia;

- b) satisfy any additional requirements for Voting Membership as prescribed by the Board and set out in the By-laws from time to time; and
  - c) have been admitted as Voting Members in accordance with this Constitution.
- 7.4. Non-Voting Members are individuals who:
- a) are interested in the Objects but who are not eligible to be Voting Members;
  - b) satisfy any additional requirements for Non-Voting Membership as prescribed by the Board and set out in the By-laws; and
  - c) have been admitted as Non-Voting Members in accordance with this Constitution.
- 7.5. The Board may provide for additional categories of membership within each class on such conditions as the Board determines provided that the rights of Members shall be in accordance with rule 8.
- 7.6. The number of Members is unlimited.

## **8. Rights of Members**

- 8.1. Voting Members have the following rights:
- a) to receive notices of and to attend and to speak at general meetings;
  - b) if eligible, to nominate or be nominated and be appointed or elected as a Director subject to rule 25; and
  - c) to vote at general meetings and on resolutions put to the membership and on the election of Directors.
- 8.2. Non-Voting Members are entitled to receive notices of and to attend general meetings, but:
- a) do not have voting rights;
  - b) are not entitled to speak at a general meeting unless at the invitation of the chair of the meeting;
  - c) are not entitled to nominate or elect Directors; and
  - d) are not entitled to stand for election as a Director.
- 8.3. The Board may extend benefits and services to Members that may differ between classes and categories of membership and within classes and categories of membership.
- 8.4. The rights of Members of a particular class are not to be taken as being varied by the admission of further Members to that class or the addition of classes of membership or categories of membership within a class.
- 8.5. A Member who has not paid any fees payable under rule 12 by the due date will not be entitled to exercise their rights or privileges under this rule 8.
- 8.6. A Member is entitled to exercise their rights if their membership rights are not suspended for any other reason.

- 8.7. To maintain membership, Members are required to comply with any continuing membership obligations or conditions as determined by the Board and specified in the By-laws.
- 8.8. Members must comply with:
  - a) this Constitution,
  - b) any By-laws, and
  - c) any Code of Ethics, or equivalent.
- 8.9. A Member must, within a reasonable time, notify the Secretary of any change to their details as recorded in the register of Members.
- 8.10. A right, privilege or obligation held by reason of being a Member:
  - a) is not capable of being transferred or transmitted to another person, and
  - b) terminates upon cessation of the Member's membership.
- 8.11. The rights of Members are not to be taken as being varied by the admission of more Members or the addition or deletion of classes or categories of membership.
- 8.12. The rights of Members in any class may be varied or cancelled by the Voting Members approving amendments to the Constitution by special resolution. For clarity, this shall be taken to be the procedure for varying or cancelling rights of Members in any class.

## **9. Application for Membership**

- 9.1. An application for membership must:
  - a) be submitted in writing (which may be electronic or internet based) in such form as the Board prescribes from time to time;
  - b) contain an undertaking by the applicant to be bound by the Constitution, the Code of Ethics and any other By-laws;
  - c) contain such information as requested to support their application.
- 9.2. The Board may approve or reject an application for membership.
- 9.3. The Board may delegate the consideration and determination of any membership application.
- 9.4. In no case shall the Board be required to give a reason for the rejection of any application for membership.
- 9.5. Subject to rule 9.4, when a decision regarding an applicant for membership has been made written notice of that decision will be sent to the applicant.
- 9.6. The acceptance of an applicant to be a Member is subject to payment of any fees in accordance with rule 12 and if such payment is not made then the Board may, in its discretion, cancel its acceptance of the applicant for membership of the Company.

- 9.7. Subject to rule 9.6, an applicant becomes a Member and is entitled to exercise the rights and privileges of that membership when their name is entered in the Register.

## **10. Ceasing to be a Member**

### **10.1. A Member ceases to be a Member:**

- a) if the Member resigns, by notice in writing, on the date the notice is received by the Secretary unless a later date is specified in the notice;
- b) if the Member ceases to be eligible for membership in accordance with rules 7.3 or 7.4 unless the Board resolves otherwise;
- c) if the Member dies;
- d) if the Member becomes an individual who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- e) if the Member is expelled;
- f) if the Member is registered to practice and their registration is revoked by the Registration Body for disciplinary reasons unless resolved otherwise by the Board of the Company;
- g) if the Member engages in any conduct which is determined by the Registration Body or other commission, tribunal or court of competent jurisdiction to be professional misconduct;
- h) in any other circumstances prescribed in the terms of membership applicable to the Member or in the failure to satisfy any undertaking given by the Member upon them being admitted as a Member on the date that the Board resolves to cease the membership unless the Board resolves otherwise;
- i) if the Member is convicted of an indictable offence, on the date that the Board resolves to cease the membership unless the Board resolves otherwise; or
- j) if membership is cancelled under rule 12.7.

### **10.2. Any Member ceasing to be a Member:**

- a) shall not be entitled to any refund, in full or part, of any fee paid in accordance with rule 12; and
- b) shall not be readmitted as a Member until any unpaid moneys outstanding at the time they ceased to be a Member are paid including any interest or other charges levied on any outstanding moneys.

### **10.3. Upon ceasing to be a Member, the date on which the Member ceased to be a Member will be recorded in the Register.**

### **10.4. Any Member ceasing to be a Member remains liable for any fees owing by that Member to the Company and, if the Company is wound up within one year of the date the Member ceases to be a Member, the guarantee under this Constitution.**

## **11. Disciplining of Members**

- 11.1. The Board may take disciplinary action against a Member who:
- a) engages in professional misconduct as determined by the Registration Body;
  - b) fails to comply with this Constitution or the By-laws;
  - c) breaches the Code of Ethics; or
  - d) engages in conduct prejudicial to the interests of the Company or that might bring the profession into disrepute.
- 11.2. The Board may determine the procedures and rules relating to the disciplining of Members and any appeals process. This may include appointing a disciplinary committee to hear the matter and to recommend what penalties to impose, if any, against the Member.
- 11.3. The Board must ensure that procedural fairness is applied to any procedures and rules relating to the disciplining of Members and any appeals process. This includes ensuring that the Member:
- a) is informed of the grounds upon which the disciplinary action is proposed to be taken; and
  - b) has been given an opportunity to be heard in relation to the matter.
- 11.4. The penalties that may be imposed by the Board include, but are not limited to:
- a) suspension of the membership rights of the Member for a specified period; or
  - b) expulsion of the Member from the Company.

## **12. Membership Fees**

- 12.1. The Board may determine from time to time to charge Members fees comprising joining fees, annual subscriptions and specific purpose levies and charges.
- 12.2. The Board may determine different fees for amounts charged to Members as between classes and categories, if any, of Members and as between Members within a class or category of membership. The Board may determine that no fee is payable by a Member.
- 12.3. The Board may in its discretion waive or vary the amount of any fee set.
- 12.4. Any amounts charged to Members are payable in such manner and at such times as are determined by the Board.
- 12.5. No part of any fee paid shall be refunded to a Member who ceases to be a Member in accordance with rule 10.2.
- 12.6. A Member who has not paid any fees payable under 12.1 by the due date will not be entitled to access any membership services and benefits while the fee remains unpaid.
- 12.7. If any fees payable under rule 12.1 by a Member remains unpaid for a period of 28 days after it becomes due, written notice will be given to the Member of that fact. If any fee remains unpaid more than 14 days after the date of the

notice, the Member's membership is terminated unless the Board resolves otherwise.

### III. GENERAL MEETINGS

#### **13. Convening of a General Meeting**

- 13.1. A general meeting is a formal meeting of Members held for a proper purpose and as described in this Part III of the Constitution.
- 13.2. The Board may convene a general meeting of the Company and must do so if required by the Corporations Act (for example, on the Members' requisition under rule 13.3).
- 13.3. A general meeting of the Company may be ordered by the court or be called and arranged to be held by Members in accordance with the Corporations Act.
- 13.4. The Company must hold an annual general meeting in accordance with the Corporations Act.
- 13.5. The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:
  - a) The consideration of the annual financial report, Directors' Report and Auditor's report for the Company;
  - b) The election or announcement of Directors; and
  - c) The appointment and payment of the Auditor.
- 13.6. Without requesting a general meeting, Members may give the Company notice of a valid resolution that they propose to move at a general meeting in accordance with the Corporations Act, except that the Board may accept such a notice that is given by fewer Members than would be required in accordance with the Corporations Act.
- 13.7. If the Company has been given notice of a valid resolution in accordance with rule 13.6, the resolution must be considered at the next general meeting held more than two months after the notice is given.
- 13.8. A general meeting may be held at one or more venues, or wholly or partly online or virtually, using any technology that provides the Members with a reasonable opportunity to participate, including the ability to hear and be heard.

#### **14. Notice of a General Meeting**

- 14.1. Notice of a general meeting must be given to each Member, each Director and the Auditor (if any).
- 14.2. Notice of a general meeting must be provided in writing at least 21 days before the meeting.

- 14.3. Subject to rule 14.4, notice of a general meeting may be provided less than 21 days before the meeting if:
- a) for an annual general meeting, all the members entitled to attend and vote at the annual general meeting agree beforehand, or
  - b) for any other general meeting, members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 14.4. Notice of a general meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- a) remove a Director;
  - b) appoint a Director in order to replace a Director who was removed; or
  - c) remove an Auditor.
- 14.5. A notice of a general meeting must specify:
- a) the place, date and time of the meeting, and if the meeting is to be held using technology, sufficient information to allow the Members to participate in the general meeting by means of the technology;
  - b) subject to rule 13.5, the general nature of any business to be conducted at the meeting; and
  - c) if a special resolution is to be proposed, the details of and intention to propose it.
- 14.6. Except as provided in rule 13.5, no business other than that specified in the notice convening a general meeting may be transacted at that general meeting.
- 14.7. Members may waive notice of a general meeting by notice in writing to the Company.
- 14.8. The accidental failure to give notice of any general meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice will not invalidate the proceedings at or any resolution passed at the general meeting.
- 14.9. A person's attendance at a general meeting waives any objection that that person may have to a failure to give notice, or the giving of a defective notice..

## **15. Cancellation or postponement of a general meeting**

- 15.1. The Board may cancel a general meeting of the Company that:
- a) has been convened by the Board; or
  - b) has been convened at the requisition of a Member or Members pursuant to rule 13.3 upon receipt by the Company of written notice withdrawing the requisition signed by that Member or those Members with the consequence that there are less than half the requisitioning Members remaining who still wish for the meeting to be convened.
- 15.2. The Board may postpone a general meeting or change the venue at which it is to be held. No business shall be transacted at any postponed meeting other than the business stated in the notice to the Members relating to the original meeting.

- 15.3. Where any general meeting is cancelled or postponed or the venue for the meeting is changed:
- a) the Board must make a reasonable attempt to notify in writing each person entitled to receive notice of the meeting cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution and in the case of the postponement of a meeting, the new place, date and time for the meeting; but
  - b) any failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

## **16. Quorum at a General Meeting**

- 16.1. The quorum for a general meeting will be sixteen (16) Voting Members present in person or by proxy.
- 16.2. No business may be conducted at a general meeting if a quorum is not present.
- 16.3. If a quorum is not present within 30 minutes after the time appointed for a general meeting:
- a) if convened by or on requisition of Members, the general meeting is dissolved;
  - b) stands adjourned to such other day, time and place as the Board appoints by notice to the Members and others entitled to notice of the general meeting.
- 16.4. If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

## **17. Chair of a general meeting**

- 17.1. The President shall preside as chair at each general meeting.
- 17.2. If the President is not present within 15 minutes after the time appointed for the general meeting, or is unable or unwilling to act, the following may chair the meeting (in order of precedence):
- a) the Vice President;
  - b) if the Vice President is not present or is unable or unwilling to act, any other Director present who has been appointed as chair by those other Directors present;
  - c) if none of the Directors is present or is able or willing to act, then a Voting Member present chosen by a majority of the Voting Members present.
- 17.3. The chair of a general meeting is responsible for the conduct of the meeting and for the procedures to be adopted at the meeting.

- 17.4. Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the meeting whose decision is final.

### **18. Adjournment of a general meeting**

- 18.1. The chair of a general meeting may at any time during the course of a general meeting, and must if so directed by the meeting, adjourn from time to time and from place to place the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion either to a later time at the same meeting or to an adjourned meeting as determined by the chair of the meeting.
- 18.2. No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 18.3. A resolution passed at a general meeting resumed after an adjournment is passed on the day that it is passed.
- 18.4. Where a meeting is adjourned for 30 days or more, notice of the adjourned general meeting must be given as in the case of the original meeting.

### **19. Decisions at a general meeting**

- 19.1. Questions arising at a general meeting are to be decided by ordinary resolution unless otherwise required by this Constitution or the Corporations Act. An ordinary resolution is a resolution passed by a simple majority of the votes cast.
- 19.2. At any time before a vote on a motion is taken at a general meeting, a summary of the proxy position and, if applicable, direct votes received in relation to the motion must be disclosed to the meeting.
- 19.3. In the case of an equality of votes upon any proposed resolution the chair of the meeting, in addition to any deliberative vote, does not have a casting vote and the proposed resolution is not passed.
- 19.4. A resolution put to the vote of a general meeting must be decided on a show of hands of the Voting Members present and eligible to vote unless a poll is demanded before the vote is taken or before or immediately after the declaration of the result of the show of hands.
- 19.5. Under rule 19.4, a poll may be demanded:
- a) by the chair of the meeting; or
  - b) by the lesser of at least 3 Voting Members present in person or by proxy and having the right to vote on the resolution or Voting Members with at least 5% of the votes that may be cast on the resolution on a poll.
- 19.6. A demand for a poll does not prevent the continuation of a general meeting for the transaction of any business other than the question on which the poll has been demanded.

- 19.7. On a show of hands, the decision of the chair of the general meeting is conclusive evidence of the result of the vote. The chair of the meeting and the minutes of the general meeting do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.
- 19.8. If a poll is demanded at a general meeting, it will be taken when and how the chair of the meeting directs, subject to rule 19.10.
- 19.9. The result of the poll, as disclosed by the chair of the general meeting at which the result is declared, is a resolution of the meeting at which the poll is demanded and an entry in the book containing the minutes of the meeting at which the result is declared recording that declaration is conclusive evidence of the fact that the declaration was made as so recorded.
- 19.10. A poll demanded at a general meeting on the election of a chair of the meeting or on an adjournment of the meeting must be taken immediately.
- 19.11. The demand for a poll may be withdrawn.

## **20. Voting rights at a general meeting**

- 20.1. Each Voting Member entitled to vote has one vote, either on a show of hands or a poll.
- 20.2. The vote may be exercised:
  - a) in person and including by attorney where proof of the power of attorney is provided to the Secretary at least 48 hours prior to the meeting;
  - b) by direct vote using electronic and/or postal means where such an option is offered by the Board; or
  - c) by proxy.
- 20.3. If the Member exercises their voting rights using the technology prescribed, the Member is taken to have voted in person.
- 20.4. A Voting Member will not be entitled to exercise their right to vote if at the time of the general meeting, any fee payable under rule 12 is overdue and unpaid.
- 20.5. An objection to the qualification of a person to vote at a general meeting:
  - a) must be raised before or at the meeting at which the vote objected to is given or tendered; and
  - b) must be referred to the chair of the meeting whose decision on the qualification to vote is final.

## **21. Representation at a general meeting**

- 21.1. A Member may appoint a proxy to attend, speak and vote (as the case may be) at a general meeting in their place by executing an instrument of proxy in any form that the Board may prescribe or accept.
- 21.2. A proxy may, but need not, be a Member.

- 21.3. A proxy may be appointed for all general meetings, or any number of general meetings, or for a particular general meeting.
- 21.4. Unless otherwise provided in the instrument, the instrument appointing a proxy will be taken:
- a) to confer authority to speak to any proposed resolution on which the proxy may vote;
  - b) to confer authority to demand, or join in demanding, a poll on any resolution on which the proxy may vote in a poll;
  - c) to appoint the chair of the general meeting as the proxy unless the Member clearly specifies another person as proxy and that person attends the general meeting;
  - d) to vote in a way that is consistent with any direction given by the Member on the proxy form; and
  - e) to act generally at the general meeting.
- 21.5. Proxy forms must be received in or at a place or electronic address specified in the notice of meeting at least 48 hours before a general meeting or such lesser period specified for this purpose in the notice calling the meeting.
- 21.6. A proxy does not have the authority to speak for a Member at a meeting while the Member is at the meeting.
- 21.7. A proxy cannot vote for a Voting Member while the Member is at the general meeting.
- 21.8. Unless the Company receives written notice before the start or resumption of a general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Member:
- a) dies;
  - b) is mentally incapacitated;
  - c) revokes the proxy's appointment, or
  - d) revokes the authority of a representative or agent who appointed the proxy.

## **22. Direct Voting**

- 22.1. The Board may determine that at any general meeting, a Voting Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A "direct vote" includes a vote delivered to the Company by any means approved by the Board, which may include post or electronic means.
- 22.2. The Board may prescribe By-laws in relation to direct voting, including specifying the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

## IV. BOARD OF DIRECTORS

### 23. Number and nature of Directors

- 23.1. The Board will have a minimum of 5 and a maximum of 8 Directors comprising:
- a) 6 Elected Directors elected by the Voting Members in accordance with rule 27 (the **Elected Directors**); and
  - b) up to 2 Directors appointed by the Board (the **Appointed Directors**).
- 23.2. Subject to rule 23.3, there must be no more than 2 Directors who are Members from any one Region as determined by their address recorded in the Register. For the purposes of this rule, there are 5 Regions being:
- a) New South Wales and Australian Capital Territory;
  - b) Victoria and Tasmania;
  - c) South Australia and Northern Territory
  - d) Queensland;
  - e) Western Australia.
- 23.3. A Director who is a Member and changes Regions during their term may remain on the Board as a Director for the remainder of their term even if this results in there being more than 2 Directors who are Members from a Region on the Board.
- 23.4. For the purposes of this rule, there are 3 sub-divisions being Dental Hygienist, Dental Therapist and Oral Health Therapist. Where nominations allow, there must be at least 1 Elected Director from each sub-division, provided that:
- a) there are no more than 4 Directors (whether Elected Director or Appointed Director) who are Members from any one sub-division; and
  - b) there are no more than 3 Elected Directors from any one sub-division.
- 23.5. At the time of nominating or being nominated for election or prior to appointment as a Director by the Board (as the case may be), a Member must nominate their assigned sub-division based on their current registration or eligibility for registration with the Registration Body in the relevant category. For clarity, Members that are registered or eligible to be registered in two or more sub-divisions must nominate one sub-division only.
- 23.6. A Director who is a Member and changes their membership sub-division during their term may remain on the Board as a Director for the remainder of their term even if this results in there being more than a total of 4 Directors (or 3 Elected Directors) who are Members from a sub-division on the Board.

### 24. Terms of Directors

- 24.1. Elected Directors are elected for a term of 2 Years commencing at the conclusion of the relevant AGM at which the election results were declared or

announced and terminate at the conclusion of the second following AGM, but a retiring Director who is eligible may stand for re-election, subject to rule 24.3.

- 24.2. Appointed Directors are appointed for a term of up to 2 years as determined by the Board and may, if eligible, be reappointed as Appointed Director at the discretion of the Board.
- 24.3. A Director may serve as a Director for up to 8 consecutive years. At the completion of the 8<sup>th</sup> consecutive year, or if the Director ceases to be a Director for any reason during the 8<sup>th</sup> consecutive year, they are not eligible to be appointed or elected a Director until at least 18 months has passed from when they ceased to be a Director.
- 24.4. The terms of Elected Directors will be staggered so that only half of the Elected Directors would normally retire each year. The Board may determine that more or less than half must retire from office and stand for re-election at an AGM, where the Board considers it is necessary to maintain orderly rotation of Directors.

## **25. Eligibility of Directors**

- 25.1. To be eligible to stand for election or appointment as a Director, an individual must:
  - a) not be subject to any circumstance in accordance with rule 28.1 that would result in them ceasing to be a Director once elected or appointed;
  - b) not have any overdue fees payable under rule 12,
  - c) be over the age of 18 years, and
  - d) provide their signed consent to act as a Director.
- 25.2. Prior to commencing their term as a Director, an individual must have a Director Identification Number. A person who is elected as an Elected Director and who does not have a Director Identification Number at the time their term commences in accordance with clause 24.1, is not eligible to take office and their position will be deemed a casual vacancy.
- 25.3. Elected Directors must be a Voting Member.
- 25.4. An Appointed Director may be but does not need to be a Member.

## **26. Casual vacancies on the Board**

- 26.1. If a casual vacancy in the position of an Elected Director occurs, the Board may appoint an eligible Voting Member to that position. If the Board chooses to fill the casual vacancy, the Board will endeavour, where reasonably practical, to appoint a Voting Member from the same Region and/or sub-division as the Director who vacated office.
- 26.2. The Board will determine whether the appointee holds office for either:
  - a) the remainder of the term of that vacancy; or

- b) until the end of the first AGM following the appointment, at which, if the predecessor's term would not then have expired, an election will be held to fill the position for the remainder of the predecessor's term, or if the term would have expired a normal vacancy election would proceed.
  - c) Any such appointee, if otherwise eligible, is entitled to nominate to be elected to fill the position.
  - d) The period served as a Director by an appointee under this rule 26.1 will only count in determining the term limits under rule 24.3 where the period served is equal to or greater than 18 months.
- 26.3. If a casual vacancy in the position of an Appointed Director occurs, the Board may appoint a new Appointed Director for a term of up to 2 years as determined by the Board.
- 26.4. The Board may act even if there are vacancies on the Board. If the number of Directors is reduced below the minimum of 5 Directors however, the continuing Directors may act only:
- a) in an emergency; or
  - b) for the purposes of appointing additional eligible individuals as Directors up to the minimum number; or
  - c) to convene a general meeting.

## **27. Election of Directors**

- 27.1. Subject to this rule 27, the Board may determine the procedures for the conduct of elections and the nomination process.
- 27.2. Voting Members entitled to vote may, prior to the AGM at which one or more Elected Director(s) retires or at which a vacancy exists, elect an eligible Voting Member to fill the vacated position(s) in accordance with procedures determined by the Board for the conduct of a ballot.
- 27.3. Prior to the AGM, the Board or delegated person must give notice of the number of vacancies that may be filled with reference to rule 23 and invite nominations from eligible Voting Members for election as Elected Directors.
- 27.4. Only financial Voting Members may nominate or be nominated as candidates for election as an Elected Director. Nominations of candidates must satisfy the requirements in rule 27.6.
- 27.5. Only those candidates who satisfy the requirements for election as an Elected Director under the Constitution are eligible to stand for election as an Elected Director.
- 27.6. The nomination form must:
- a) be in writing in the form determined by the Board from time to time;
  - b) include any required information (such as the candidate's skills and experience) as determined by the Board from time to time;
  - c) contain the signed consent of the candidate; and

- d) be lodged with the Secretary by the prescribed time.
- 27.7. At the close of nominations if there are more candidates for election than there are vacant positions to be filled, then a ballot will be conducted.
- a) The voting instructions and processes shall be as prescribed by the Board and set out in the By-laws.
  - b) A ballot will be conducted in a manner and be in such form to accommodate the counting of votes that ensures compliance with rules 23.2 and 23.4.
  - c) The Board will appoint a returning officer who must not be a Director nor a candidate.
- 27.8. If at the close of nominations there are the same number or fewer candidates for election than there are vacant positions to be filled, then all eligible candidates shall be deemed to have been elected and no ballot will be held. Any resulting vacancies shall be casual vacancies to which rule 26.1 applies.

## **28. Vacation of office of Director**

- 28.1. In addition to any other way a Director vacates office under the Corporations Act or this Constitution, a Director ceases to be a Director if they:
- a) resign by written notice to the President or Secretary,
  - b) are prohibited from holding or are no longer eligible to hold office as a director pursuant to the Corporations Act;
  - c) become an individual who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
  - d) die;
  - e) become bankrupt or makes any arrangement or composition with their creditors generally;
  - f) are convicted on indictment of an offence and the Board does not within 2 months after that conviction resolve to confirm the Director's appointment to the office of Director;
  - g) are absent from all meetings of the Board during a 6 month period, with or without the consent of the Board, unless at the next meeting of the Board, the Board resolves otherwise;
  - h) has failed to disclose a material personal interest that would be required to be disclosed under the Corporations Act, unless at the next meeting of the Board, the Board resolves otherwise;
  - i) are an Elected Director and cease to be a Voting Member;
  - j) are a Member and have their membership suspended or expelled;
  - k) are removed as a Director by an ordinary resolution of the Company in general meeting, subject to the Corporations Act; or
  - l) are, or become a paid employee of the Company.

## **29. Removing a Director**

- 29.1. The Voting Members may by ordinary resolution at a General Meeting remove a Director from their position as Director before the expiration of the Director's term of office.

## **30. No Alternate Directors**

- 30.1. Directors are not entitled to appoint Alternate Directors.

## **31. Office Bearers**

- 31.1. The Board will appoint from amongst the Directors the following Office Bearers:
- a) a President; and
  - b) a Vice President.
- 31.2. The President and Vice President must each be a Voting Member.
- 31.3. No Director may hold office as President for more than three consecutive years.
- 31.4. Each Office Bearer while they remain a Director will hold their position:
- a) for the period from when they are appointed to the relevant position until the commencement of the first Board meeting after the next AGM; or
  - b) until they resign from their position as Office Bearer by written notice to the Secretary in which case they would remain a Director unless they also resign as a Director; or
  - c) until they are removed from their position as Office Bearer by resolution of the Board, in which case they would remain a Director.
- 31.5. The President and Vice President has such powers and duties as specified in this Constitution, as required by law and as determined by the Board.
- 31.6. Office Bearers will not hold office beyond their retirement or removal from the Board as a Director.

## **32. Payments to Directors**

- 32.1. The Board may resolve to pay remuneration to any Director for ordinary services as a Director including services performed by a Director in their position as President. However, the total amount paid in any year to all Directors must not exceed the maximum amount fixed by the Voting Members in General Meeting.
- 32.2. Directors are also entitled to receive payments for:
- a) out-of-pocket expenses incurred by the Director in the performance of any duty as a Director where the amount payable does not exceed an amount previously agreed by the Board; or
  - b) any service rendered to the Association by the Director in a professional or technical capacity, other than in the capacity as a Director, where the

provision of the service has the prior approval of the Board and is on reasonable commercial terms;

and any such payment under this rule 32.2 is in addition to the maximum amount fixed by the Voting Members in General Meeting.

### **33. Powers of the Board**

- 33.1. The Board is responsible for the control, ultimate management and conduct of the Company. In addition to the specific powers conferred on the Board by this Constitution, the Board may exercise all the powers of the Company that are not required by the Corporations Act or by this Constitution to be exercised by the Company in general meeting. The Board may determine how money and other assets of the Company are managed and how payments are made by or on behalf of the Company.
- 33.2. The Board may delegate any of its powers and functions to a committee, a Director, an employee of the Company (such as a chief executive officer) or any other person, and on such terms and conditions as they consider appropriate. The Board may revoke this delegation at any time.
- 33.3. The delegate must exercise the powers delegated under rule 33.2 in accordance with any directions, terms, and conditions as set by the Board.
- 33.4. The Board may make, revoke or amend By-laws not inconsistent with this Constitution to govern procedures and activities of the Company and its organisation. The By-laws, as they are in effect from time to time, bind the Directors and the Members.
- 33.5. Any question or dispute relating to or arising from this Constitution shall be referred to the Board for determination provided that nothing in this Constitution reduces any rights a Member may have at law.

### **34. Duties of Directors**

- 34.1. The Directors must comply with their duties as directors under legislation and common law which are:
  - a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Company;
  - b) to act in good faith in the best interests of the Company and to further the Objects and charitable purposes of the Company;
  - c) not to misuse their position as a Director;
  - d) not to misuse information they gain in their role as a Director;
  - e) to disclose any perceived or actual material conflicts of interest;
  - f) to ensure that the financial affairs of the Company are managed responsibly; and
  - g) not to allow the Company to operate while it is insolvent.

### **35. Conflicts of Interest**

- 35.1. A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a Board meeting (or that is proposed in a circular resolution):
- a) to the other Directors; or
  - b) if all of the Directors have the same conflict of interest, to the Members at the next general meeting, or at an earlier time if reasonable to do so.
- 35.2. The disclosure of a conflict of interest by a Director must be recorded in the minutes of the Board meeting.
- 35.3. Each Director who has a material personal interest in a matter that is being considered at a Board meeting (or that is proposed in a circular resolution) must not, except as provided under rule 35.4:
- a) be present at the meeting while the matter is being discussed, or
  - b) vote on the matter.
- 35.4. A Director may still be present and vote if:
- a) their interest arises because they are a Member of the Company, and the other Members have the same interest;
  - b) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company (see rule 52.4);
  - c) their interest relates to a payment by the Company under rule 52.1 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act;
  - d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the Director to vote on the matter; or
  - e) the Directors who do not have a material personal interest in the matter pass a resolution that:
    - i) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company, and
    - ii) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

### **36. Board Meetings**

- 36.1. The Board may meet, including by technological means, for the dispatch of business, and adjourn and otherwise regulate its meetings.
- 36.2. A Board meeting may be held using technology that allows the Directors in attendance to communicate with each other clearly and simultaneously.
- 36.3. A Director who participates in a Board meeting using technology is taken to be present at the Board meeting.

### **37. Chair of Board Meetings**

- 37.1. The President will act as chair at all meetings of the Board.
- 37.2. If the President is not present within 15 minutes after the time appointed for a meeting or is unable or unwilling to act or has notified an intention not to be present or able and willing to act, the following may act as President (in order of entitlement):
  - a) the Vice President; or
  - b) a Director chosen by the majority of Directors present at the meeting.

### **38. Convening of a Board Meeting**

- 38.1. The President or any 2 or more Directors may, whenever they think fit, convene a Board meeting.
- 38.2. A Secretary must, when requested by the President or on the written requisition of any 2 or more Directors, convene a Board meeting.

### **39. Notice of a Board meeting**

- 39.1. Subject to clause 39.3, notice of a Board meeting must be given to each Director at least seven days or such other period as may be unanimously agreed upon by the Directors before the time appointed for the holding of the Board meeting
- 39.2. Notice of a Board meeting must be given by such means as have been agreed by all the Directors. Non-receipt of any notice of a Board meeting by a Director does not affect the validity of the convening of the meeting.
- 39.3. In cases of urgency, a Board meeting can be held without the usual notice provided that as much notice as practicable is given to each Director by the quickest means practicable.

### **40. Quorum at a Board Meeting**

- 40.1. No business may be transacted at a Board meeting unless a quorum of Directors is present during the time the business is dealt with, subject to rule 40.3.
- 40.2. A quorum at a Board meeting is a majority of Directors in office at the time of the meeting.
- 40.3. A Director who is present and is disqualified from voting on a matter pursuant to rule 35.4 shall be counted in the quorum despite that disqualification, even if they do not participate in that part of the meeting from which they are disqualified from voting.

#### **41. Decisions of the Board**

- 41.1. Questions arising at a meeting of the Board are to be decided by at least a simple majority of votes cast by the Directors present and entitled to vote and any such decision is for all purposes a determination of the Board.
- 41.2. Directors are to have one vote on any question at a Board meeting.
- 41.3. In the case of an equality of votes upon any proposed resolution the chair of the meeting, in addition to any deliberative vote, does not have a casting vote and the resolution is not passed.

#### **42. Circulating Resolutions**

- 42.1. The Board may pass a resolution without a Board meeting if the Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in rule 42.2.
- 42.2. For rule 42.1, a Director may signify assent to the resolution by signing a document containing a statement of the resolution or by notifying the Secretary of the Director's assent in writing which may be by email or other electronic means.
- 42.3. A resolution under rule 42.1 shall be deemed to have been passed if the number of Directors in favour is sufficient for a quorum at a Board meeting in accordance with rule 40.
- 42.4. Resolutions passed in accordance with rule 42.1 are to be taken to have been passed on the date the resolution was assented to by the final Director whose support resulted in the number of Directors in favour of the resolution equalling the number that is a quorum in favour.

#### **43. Validity of Acts of Directors**

- 43.1. Each resolution passed or act or thing performed or done by, or with the participation of, a person acting as a Director or member of a committee in respect of whom it is later discovered there was some defect has no bearing, and any actions performed by that person are considered valid and effective.

#### **44. Committees**

- 44.1. The Board may establish relevant committees and special interest groups (SIGs) to provide advice to the Board and organise relevant operational activities in designated states, territories, or specific fields of professional practice.
- 44.2. The committees and SIGs must comply with any By-laws or terms or conditions set by the Board to govern their operations.

## V. ADMINISTRATION

### **45. Secretary**

- 45.1. The Company must have at least one Secretary, who may be but does not need to be a Director.
- 45.2. A Secretary must be appointed by the Board (after giving the Company their signed consent to act as Secretary of the Company) and may be removed by the Board.
- 45.3. The Board must decide the terms and conditions under which the Secretary is appointed, including any remuneration.

### **46. Minutes**

- 46.1. The Board must ensure that minutes of proceedings and resolutions of general meetings of the Company and of Board meetings (including committees of the Board) are recorded in books kept for that purpose within 1 month following the relevant meeting.
- 46.2. The Board must ensure that minutes of resolutions passed by the Board and committees of the Board without a meeting are recorded in books kept for the purpose within 1 month after the resolution is passed.
- 46.3. The minutes of a meeting must be signed within a reasonable time after the meeting by the chair of the meeting or the chair of the following meeting.
- 46.4. The minutes of a passing of a resolution without a meeting must be signed by a Director within a reasonable time after the resolution is passed.
- 46.5. A minute that is recorded and signed in accordance with rule 46 is evidence of the proceeding or resolution to which it relates unless the contrary is proved.

### **47. Inspection of Records**

- 47.1. The Board must ensure that the minute books for general meetings are open for inspection by Members free of charge.
- 47.2. Subject to rule 47.1, the Board may determine whether and to what extent, and at what times and places and under what conditions, the minute books, financial records and other documents of the Company or any of them, will be open to inspection by Members other than Directors.
- 47.3. A Member other than a Director does not have the right to inspect any books, records or documents of the Company except as provided by law or authorised by the Board.
- 47.4. Notwithstanding rule 47.2, a previous Director has a right to inspect minute books and related papers for meetings of the Directors and committees of the Board for the period covering when they were a Director.

## **48. Accounts and Audit**

- 48.1. The Company must make and keep written financial records that:
- a) correctly record and explain its transactions and financial position and performance, and
  - b) enable true and fair financial statements to be prepared and to be audited if required.
- 48.2. The Board may, and must if required by the Corporations Act, cause the financial records of the Company to be audited in accordance with the requirements of the Corporations Act.
- 48.3. The financial year shall be the period of 12 months ending on 30 June, unless the Board determines a different end date.

## **49. Notices**

- 49.1. A notice may be given by the Company to a Member:
- a) by serving it on the Member personally;
  - b) by sending it by prepaid post to the Member's address as shown in the Register;
  - c) by sending it to the electronic contact address or such other address the Member has supplied to the Company for the giving of notices;
  - d) by making a copy of it accessible electronically on a website of, or related to, the Company and advising the Member of its availability via the electronic contact address; or
  - e) by publishing it in a regular newsletter publication of the Company to Members which publication may be printed or be electronic or internet based.
- 49.2. The fact that a Member has supplied an email or other electronic address for the giving of notices:
- a) does not require the Company to give any notice to that person by email or other electronic means; or
  - b) does not prevent the Company from giving notice to that person in the manner envisaged by rule 49.1.
- 49.3. Any Member who has not provided to the Company a place of address or electronic contact address for inclusion in the Register as the place at or via which notices may be given to the Member shall not be entitled to receive any notice.
- 49.4. Subject to this Constitution, a notice may be given by the Company to any Director either by serving it personally at, or by sending it by prepaid post to, the Director's usual residential or business address, or by sending it to the electronic contact address, or such other address as the Director has supplied to the Company for the giving of notices.

- 49.5. Subject to this Constitution, a notice may be given by a Member or a Director to the Company by serving it on the Company at, or by sending it by prepaid post to, the registered office or principal place of business if any of the Company or by sending it to the principal electronic address of the Company at its registered office or principal place of business, if any.

## **50. Timing of Service of Notices**

- 50.1. Where a notice is sent by post, service of the notice is to be taken to have been effected 3 days after it is posted.
- 50.2. Where a notice is sent by email or other electronic means, service of the notice is to be taken to be effected on the day it is sent or on the day the Member is advised via the electronic contact address that the notice is accessible electronically.
- 50.3. When the Company gives notice under rule 49.1e), service of the notice is to be taken to be effected on the day on which the notice was first published.
- 50.4. Rules 49 & 50 apply, so far as they can and with such changes as are necessary as determined by the Board, to the service of any other communication or document.

## **51. Execution of Documents**

- 51.1. The Company may execute a document only if authorised:
- a) by the Board; or
  - b) in accordance with any delegation made by the Board.
- 51.2. Without limiting the manner in which the Company may execute any approved contract, including as permitted under the Corporations Act, the Company may execute any agreement, deed or other document by:
- a) 2 Directors signing the same; or
  - b) 1 Director and 1 Secretary signing the same.
- 51.3. Nothing in this Constitution requires the Company to execute any agreement, deed or other document under common seal for the same to be executed effectively by the Company.
- 51.4. The Board may at any time determine that the Company shall have a common seal and if so:
- a) the Board must provide for its safe custody; and
  - b) it may only be used as authorised by the Directors.

## **52. Indemnity and Insurance**

- 52.1. Subject to rule 52.2, the Company must indemnify each individual who is a Director or a Secretary on a full indemnity basis and to the full extent permitted

by law against all liabilities, including a loss, liability, cost, charge or expense, incurred by the Director or Secretary, including without limitation:

- a) a liability for negligence; and
- b) a liability for reasonable legal costs.

52.2. The indemnity in rule 52.1 does not operate in relation to any liability which:

- a) is a liability of the Company or any of its related bodies corporate;
- b) is a liability for a pecuniary penalty order under the Corporations Act or a compensation order under the Corporations Act; or
- c) arises out of conduct of the Director or Secretary which was not in good faith, or which involved wilful misconduct, gross negligence, reckless misbehaviour or fraud.

52.3. The indemnity in rule 52.1:

- a) does not extend to and is not an indemnity against any amount in respect of which the indemnity would otherwise be illegal, void, unenforceable or not permitted by law; and
- b) does not operate in respect of any liability of the Director or Secretary to the extent that that liability is covered by insurance.

52.4. For each Director or Secretary against any liability incurred by the Director or Secretary as a Director or Secretary including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal, and whatever their outcome the Company may, to the extent permitted by law:

- a) purchase and maintain insurance; or
- b) pay or agree to pay a premium for insurance.

### **53. Winding Up**

53.1. If any property remains following the winding up or dissolution of the Company after satisfaction of all its debts and liabilities, this property will not be paid to or distributed amongst Members, but will be given or transferred to another institution or body corporate that has:

- a) objects that are similar to the Objects;
- b) a constitution that requires its income and property to be applied to promoting its objects; and
- c) a constitution that prohibits it from paying or distributing its income and property amongst its members to an extent at least as great as imposed on the Company by rule 6.1.

53.2. The identity of the institution or body corporate is to be determined by a special resolution of Voting Members at or before the time of dissolution and failing such determination being made, by the Board at or before the time of dissolution and failing such determination by application to the Supreme Court in the jurisdiction of incorporation for determination.

- 53.3. If the Company has been endorsed as a deductible gift recipient by the Australian Tax Office and the Company maintains accounts or a gift fund pursuant to such endorsement, the Company must on the earlier of the winding up of such accounts or gift fund or of the Company having its deductible gift recipient endorsement revoked, transfer any surplus assets of those accounts or gift fund to another organisation or gift fund which is endorsed as a deductible gift recipient. The organisation to which the assets are to be given is to be determined by the Members, or failing that, by the Board, and failing such determination, by application to a court that has jurisdiction in the matter.

#### **54. Changes to this Constitution**

- 54.1. This Constitution may only be amended in accordance with the Corporations Act.

#### **55. Transitional Provisions**

- 55.1. The initial Members of the Company are those named as Members in the application for registration of the Company and include the two founding Members:
- a) Australian Dental and Oral Health Therapists' Association Ltd (ACN 646 305 713); and
  - b) Dental Hygienists Association of Australia Limited (ACN 604 187 411).
- 55.2. Despite any contrary provisions in the Constitution, the two founding Members listed in rule 55.1 will be classified as Voting Members. Their membership will cease upon the earlier of their resignation from membership or their dissolution or winding up.
- 55.3. Despite any contrary provisions in the Constitution, the Directors to hold office from the date the Company is registered will be those Directors named in the application for registration of the Company. Such Directors will be designated as the initial Elected Directors.
- 55.4. There must be no more than 8 initial Elected Directors.
- 55.5. In conjunction with the Company's first AGM:
- a) half of the initial Elected Directors will retire, but may be eligible to be nominated for re-election if otherwise eligible; and
  - b) Elections will be held for 3 Elected Director positions in accordance with rule 27 and the By-laws.
- 55.6. In conjunction with the Company's second AGM:
- a) The remaining initial Elected Directors will retire, but may be eligible to be nominated for re-election if otherwise eligible; and
  - b) Elections will be held for 3 Elected Director positions in accordance with rule 27 and the By-laws.

- 55.7. The initial Elected Directors will agree amongst themselves which of them is to retire respectively at the Company's first and second AGMs. If they cannot agree then the drawing of lots will determine which will retire at the respective AGMs.
- 55.8. Upon registration of the Company, the Board may appoint up to 2 Appointed Directors at any time even if this results in there being more than 8 Directors.

END OF CONSTITUTION