

## Constitution

**Business Excellence Australia Limited**

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# Business Excellence Australia Limited Constitution

## Part 1 - Preliminary

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### 1. Name

The Company is **Business Excellence Australia Limited**.

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### 2. Nature of Company

The Company is a public company limited by guarantee.

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### 3. Replaceable rules

The replaceable rules in the Corporations Act 2001 do not apply to the Company.

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### 4. Objects

The objects for which the Company is established are:

- (a) to promote and recognise business and organisational excellence in Australia;
- (b) to conduct research, analysis, education and events that will foster the adoption of business and organisational excellence concepts in Australia;
- (c) publicise or otherwise make available the results of the Company's research and analysis,

and to do all acts and things as may be deemed to be reasonably necessary or incidental to the achievement of these or similar objects.

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### 5. No distribution to members

5.1 The Company's income and assets must be used solely to promote the Company's objects.

5.2 The Company must not pay or distribute any profits, income or assets to the members.

5.3 This does not prevent the Company paying in good faith:

- (a) reasonable remuneration to a member or other person for services rendered to the Company;
- (b) for goods supplied to the Company in the ordinary course of business;

- (c) reasonable interest on money lent by a member to the Company, or reasonable rent for premises let by a member to the Company;
- (d) out-of-pocket expenses incurred by a member on behalf of the Company.

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## **6. Limited liability**

- 6.1 The liability of members is limited.
- 6.2 If the Company is wound up, present members and past members, who were members at any time during the 12 months immediately before commencement of the winding up, must contribute to the Company's property an amount sufficient:
- (a) to pay the Company's debts and liabilities and the costs, charges and expenses of the winding up; and
  - (b) to adjust the rights of the contributories among themselves.

However, no present member or past member need contribute more than \$10.

- 6.3 On a winding up, any surplus must be given to an institution:
- (a) which has objects similar to the Company's objects; and
  - (b) which cannot distribute its income and assets to its members.

The members may decide the institution. If they do not do so, the Supreme Court of Victoria may decide the institution.

- 6.4 If the previous subclause cannot be given effect, on a winding up, any surplus must be given to a public university or charitable public institution.

## **Part 2 – Membership**

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### **7. Categories**

- 7.1 The Company has the following categories of membership:
- (a) Organisational membership;
  - (b) Individual membership; and
  - (c) Evaluator membership.
- 7.2 The Company may create further categories or sub-categories of membership, and may decide the rights attached to those further categories sub-categories. Those rights must be consistent with this constitution.

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### **8. Applications for membership**

- 8.1 Any natural person or body corporate may apply for membership.

- 8.2 The applicant must:
- (a) complete the application form provided by the Company and give it to the Company;
  - (b) state the category of membership for which the applicant applies;
  - (c) if the applicant is a natural person, obtain the endorsement of two existing members who have personally known the applicant for at least six months;
  - (d) agree to be bound by this constitution.
- 8.3 The Directors must decide to accept or reject the application at their first meeting after receipt of the application.
- 8.4 The Company must, as soon as reasonable, notify the applicant whether the application is accepted or rejected.
- 8.5 The applicant becomes a member of the Company if:
- (a) the Directors accept the application; and
  - (b) within 28 days after the Company notifies the applicant of acceptance, the applicant pays the annual membership fee.
- 8.6 The company secretary must record the name of each successful applicant in the register of members.
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## **9. Resignation**

- 9.1 A member, who does not owe any money to the Company, may resign membership by giving notice of resignation to the Company.
- 9.2 The company secretary must record the resignation in the register of members.
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## **10. Termination**

A member's membership ceases if:

- (a) the member's annual membership fee is three months in arrears;
- (b) the member is a natural person and becomes an insolvent under administration;
- (c) the member is a body corporate, and a resolution is passed to wind it up (other than for reconstruction or amalgamation) or it becomes an externally-administered body corporate; or
- (d) the Directors expel the member under the following sub-clause.

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## 11. Expulsion

- 11.1 If the Directors consider that a member has not complied with this constitution, or has acted (or omitted to act) in a manner which is unbecoming to a member or prejudicial to the interests of the Company, they may:
- (a) expel the member;
  - (b) suspend the member for a specified period; or
  - (c) fine the member a specified amount.
- 11.2 The Directors may do so only if:
- (a) at least 14 days before the Directors' meeting, the Company gives the member:
    - (1) written particulars of the relevant act or omission;
    - (2) notice of the date, place and time of the Directors' meeting; and
    - (3) notice that the member may attend and be heard at the Directors' meeting or make written submissions to the Directors; and
  - (b) the Directors hear the member or consider the member's written submissions at the Directors' meeting.
- 11.3 The company secretary must record the expulsion or suspension in the register of members.

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## 12. Fees

- 12.1 All members must pay to the Company any annual fees and other fees fixed by the Directors. The Directors may fix different annual fees and other fees for different categories and sub-categories of members.
- 12.2 A member must pay the annual membership fee on or before 1 April in each year or any other date the Directors decide.
- 12.3 A member, who does not pay the annual membership fee within three months after the due date, ceases to be a member. The Directors may reinstate membership on any terms it decides.

## Part 3 - Proceedings of members

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### 13. One member

While the Company has only one member:

- (a) it may pass a resolution by the member recording it and signing the record;
- (b) the rest of this Part does not apply.

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## 14. Annual general meeting

The Company must hold an annual general meeting:

- (a) within 18 months after its registration;
- (b) at least once in each calendar year and within five months after the end of its financial year.

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## 15. Who may call meetings of members

- 15.1 A director may call a meeting of members, when and where the director decides.
- 15.2 The Directors may call a meeting of members, when and where the Directors decide.
- 15.3 The Directors must call a meeting of members when requested by the members specified in the Corporations Act 2001.
- 15.4 The members specified in the Corporations Act 2001 may call a meeting of members.

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## 16. How to call meetings of members

- 16.1 At least 21 days' notice must be given of an annual general or general meeting. However, unless prohibited by the Corporations Act 2001, the Company may call on shorter notice:
  - (a) an annual general meeting, if all the members entitled to attend and vote at the annual general meeting agree beforehand; and
  - (b) any other general meeting, if members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 16.2 Notice of a meeting must be given to members, directors and the auditor.
- 16.3 A notice of a general meeting must:
  - (a) set out the place, date and time for the meeting;
  - (b) state the general nature of the meeting's business;
  - (c) if a special resolution is to be proposed at the meeting - set out an intention to propose the special resolution and state the resolution; and
  - (d) contain a statement setting out the following information:
    - (1) that the member has the right to appoint a proxy;
    - (2) that the proxy need not be a member of the Company;
  - (e) contain anything else required by the Corporations Act 2001



- 16.4 The business of the annual general meeting may include any of the following, even if not referred to in the notice of meeting:
- (a) the confirmation of the minutes of the last annual general meeting;
  - (b) the consideration of the annual financial report, Directors' report and auditor's report;
  - (c) the election of directors;
  - (d) the appointment of the auditor;
  - (e) the fixing of the auditor's remuneration.
- 16.5 Non-receipt of notice of a meeting, or failure to give proper notice of a meeting to a person entitled to receive it, does not invalidate anything done at the meeting if:
- (a) the failure was accidental;
  - (b) the person gives notice to the Company that the person waives proper notice or agrees to the thing done at the meeting; or
  - (c) the person attends the meeting and:
    - (1) does not object at the start of the meeting to the holding of the meeting; or
    - (2) if the notice omitted an item of business, does not object to the consideration of the business when it is presented to the meeting.

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## 17. Quorum

- 17.1 If there are less than 20 members on the register of members, a quorum for a meeting of members is one third of those members entitled to attend and vote. If there are 20 or more members on the register of members, a quorum is 10 members entitled to vote. The quorum must be present at all times during the meeting.
- 17.2 In determining whether a quorum is present, the chairman must count full members, proxies, attorneys, body corporate representatives and any other persons entitled to vote. If an individual is attending both as a member and as a proxy, attorney or body corporate representative, or in any other capacity, the chairman must count the individual only once.
- 17.3 If a quorum is not present within 30 minutes after the time appointed for the meeting:
- (a) if the meeting was called on the request of members or by members, the meeting is dissolved;
  - (b) any other meeting is adjourned to any day, time and place the Directors decide.
- 17.4 If a quorum is not present within 30 minutes after the time appointed for a meeting resumed after an adjournment, the meeting is dissolved.

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## 18. Chairman

- 18.1 The chairman of Directors is entitled to chair all meetings of members.

- 18.2 If there is no chairman of Directors, or if the chairman is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the deputy chairman of Directors may chair the meeting. If there is no deputy chairman, or if the deputy chairman is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the directors present must elect one of themselves to chair the meeting. If they do not do so, the members present must elect a person to chair the meeting.
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## **19. Regulation of meetings**

The chairman may regulate the meeting of members in any way consistent with this constitution.

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## **20. Adjournment**

- 20.1 The chairman may adjourn a meeting of members to any day, time and place.
- 20.2 The chairman must adjourn a meeting of members if the members present with a majority of votes at the meeting agree or direct the chairman to do so. The chairman may adjourn the meeting to any day, time and place.
- 20.3 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for more than a month.
- 20.4 Only unfinished business is to be transacted at a meeting resumed after an adjournment.
- 

## **21. How members make decisions at meetings**

- 21.1 A meeting of members makes a decision by passing a resolution. A resolution is passed if more than 50% of the votes cast by the members entitled to vote are in favour of the resolution (unless the law requires a special resolution).
- 21.2 A special resolution is passed if:
- (a) the notice of the meeting sets out an intention to propose the special resolution and states the resolution;
  - (b) it is passed by at least 75% of the votes cast by members entitled to vote on the resolution.
- 

## **22. How voting is carried out**

- 22.1 Unless a poll is properly requested, a resolution put to the vote at a meeting of members must be decided on a show of hands.
- 22.2 If a poll is properly requested, the result of the poll is the resolution of the meeting.
- 22.3 A declaration by the chairman that a resolution is passed, or passed by a particular majority, or lost, and an entry to that effect in the minutes, are sufficient evidence of that fact, unless proved incorrect.
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## **23. Polls**

- 23.1 A poll may be requested on any resolution.
- 23.2 A poll may be requested by:
- (a) at least five members entitled to vote on the resolution;
  - (b) members with at least 5% of the votes that may be cast on the resolution on a poll; or
  - (c) the chairman.
- 23.3 The poll may be requested:
- (a) before a vote is taken;
  - (b) before the voting results on a show of hands are declared; or
  - (c) immediately after the voting results on a show of hands are declared.
- 23.4 A request for a poll may be withdrawn.
- 23.5 A poll requested on a matter other than the election of a chairman or the question of an adjournment must be taken when and how the chairman directs.
- 23.6 A poll on the election of a chairman or the question of an adjournment must be taken immediately.
- 23.7 A request for a poll does not prevent the meeting dealing with other business.

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## **24. How many votes a member has**

- 24.1 At a general meeting:
- (a) on a show of hands, each full member present (in person, by proxy, attorney or representative) has one vote;
  - (b) on a poll, each full member present (in person, by proxy, attorney or representative) has one vote;
  - (c) an associate member does not have a vote.
- 24.2 Notwithstanding the previous sub-clause, a member is not entitled to vote if the member owes any money to the Company, except the annual membership fee for the current financial year.
- 24.3 The chairman has a casting vote, if the chairman has a personal deliberative vote.
- 24.4 The chairman or other person may disregard any vote by a member who is not entitled to vote.

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## **25. Challenging a right to vote**

- 25.1 A challenge to a right to vote at a meeting of members may only be made:
- (a) before the meeting, to the Directors; or
  - (b) at the meeting, to the chairman of the meeting.
- 25.2 The challenge must be decided by the Directors or the chairman (as the case may be). The Directors' decision or the chairman's decision is final.

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## **26. Proxies, attorneys and representatives**

- 26.1 A member, who is entitled to vote at a meeting of members, may vote on a show of hands and on a poll:
- (a) personally;
  - (b) by one proxy;
  - (c) by one attorney; or
  - (d) if a body corporate, by its representative, or by one proxy or one attorney.
- 26.2 A proxy, attorney or representative need not be a member of the Company.
- 26.3 A member may appoint a proxy, attorney or representative for all or for particular meetings of members.
- 26.4 An appointment of an attorney or representative must be in a form approved by the Directors.
- 26.5 An appointment of a proxy is valid if it is signed by the member making the appointment and it contains the following information:
- (a) the member's name and address;
  - (b) the Company's name;
  - (c) the proxy's name or the name of the office held by the proxy;
  - (d) the meetings at which the appointment may be used.

The Directors may decide to accept a proxy even if it contains only some of that information.

- 26.6 Unless otherwise specified in the appointment, the proxy, attorney or representative may:
- (a) agree to short notice for the meeting;
  - (b) even if the appointment directs how to vote on a particular resolution:
    - (1) vote on an amendment to the particular resolution, a motion not to put the particular resolution or any similar motion;

- (2) vote on a procedural motion, including a motion to elect the chairman, to vacate the chair or adjourn the meeting;
    - (c) speak at the meeting;
    - (d) vote (but only to the extent allowed by the appointment);
    - (e) request or join in a request for a poll.
  - 26.7 If a person represents two or more members, that person has only one vote on a show of hands.
  - 26.8 A later appointment of a proxy or attorney revokes an earlier one if both appointments could not be validly exercised at the meeting.
  - 26.9 An appointment may specify the way a proxy or attorney is to vote on a particular resolution. A proxy may vote only as directed.
  - 26.10 An appointment of a proxy is effective only if the Company receives the appointment (and any authority under which the appointment was signed or certified copy of the authority) at least 48 hours before the meeting or resumed meeting, unless the Directors decide to reduce that time. The Company receives an appointment or authority when it is received at any of the following:
    - (a) the Company's registered office;
    - (b) a fax number at the Company's registered office;
    - (c) a place, fax number or electronic address specified for the purpose in the notice of meeting.
- These requirements also apply to an appointment of an attorney.
- 26.11 Unless the Company receives written notice of the matter before the start or resumption of a meeting, a vote by a proxy, attorney or representative is valid even if:
    - (a) the member is an a natural person and dies, or becomes bankrupt or of unsound mind or a person whose property is liable to be dealt with under a law about mental health;
    - (b) the member is a body corporate, and is deregistered or becomes an externally-administered body corporate;
    - (c) the appointment of the proxy, attorney or representative is revoked; or
    - (d) the member revokes the authority under which the proxy was appointed by a third party.
  - 26.12 A proxy or attorney may take part in a meeting of members even if the appointor or representative is present. However, if the appointor or representative votes on a resolution, the proxy or attorney must not vote.

## Part 4 - Directors

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### 27. Number of directors

- 27.1 There must be no more than ten directors.
- 27.2 The Company in general meeting may increase or reduce the number of directors.
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### 28. Qualification of directors

A director must be a full member of the Company.

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### 29. Appointment of directors

- 29.1 Directors of the Company subject to section 29.2, shall be appointed at the annual general meeting.
- 29.2 A director may be appointed by the Directors or by a general meeting of the Company provided, that the person has first given the Company a signed consent to act as a director.
- 

### 30. Tenure of Directors

- 30.1 Directors appointed at an annual general meeting shall be appointed for not more than two years.
- 30.2 Each director appointed by the Directors or the Company in general meeting shall hold office until the end of the annual general meeting following their appointment.
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### 31. Vacation of office

A director ceases to be a director if:

- (a) the Corporations Act 2001 so provides;
  - (b) the director resigns by notice to the Company;
  - (c) the director's appointor removes the person as a director;
  - (d) the director is absent, without the consent of the Directors, from all Directors' meetings over any six month period;
  - (e) the director becomes mentally incapable and the director's estate or property has had a personal representative or trustee appointed to administer it, or
  - (f) the director automatically retires under the previous clause.
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## **32. Alternate directors**

- 32.1 A director may appoint an alternate for a specified period with the consent of the Directors.
- 32.2 The appointor may terminate the alternate's appointment at any time.
- 32.3 An appointment or termination is effective only if:
- (a) it is in writing;
  - (b) the appointor signs it; and
  - (c) the Company is given notice of it.
- 32.4 The alternate need not be a member or director of the Company.
- 32.5 The alternate is entitled to notice of Directors' meetings.
- 32.6 If the appointor is not present, the alternate may:
- (a) attend the Directors' meeting, count in the quorum, speak, and vote in the place of the appointor;
  - (b) exercise any other powers (except the power to appoint an alternate) that the appointor may exercise.
- 32.7 A person may act as an alternate for more than one director.
- 32.8 If the appointor ceases to be a director, the alternate cannot exercise the appointor's powers.
- 32.9 Where:
- (a) an appointor ceases to be a director; and
  - (b) that appointor's alternate purports to do an act as a director,
- that act is as valid, in relation to a person dealing with the Company in good faith and for value and without actually knowing that the appointor has ceased to be a director, as if the appointor had not ceased to be a director.
- 32.10 While acting as a director, an alternate is an officer of the Company and not the agent of the appointor.

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## **33. Remuneration**

- 33.1 Unless the Company in general meeting otherwise decides or the director is an employee of the Company, a director is not entitled to remuneration.
- 33.2 The Company must pay travelling and other expenses that a director properly incurs on the Company's business.

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## **34. Director's interests**

- 34.1 Subject to the Corporations Act 2001 and any policy and guidelines determined by the Board, a director may:
- (a) hold an office or place of profit (except as auditor) in the Company, on any terms the Directors decide;
  - (b) hold an office or otherwise be interested in any related body corporate or other body corporate in which the Company is interested;
  - (c) retain benefits for doing so.
- 34.2 Subject to the Corporations Act 2001 and any policy and guidelines determined by the Board:
- (a) a director who has a material personal interest in a matter that is being considered at a Directors' meeting:
    - (1) may be present while the matter is being considered at the meeting;
    - (2) may be counted in a quorum for a meeting considering the matter;
    - (3) may vote on the matter;
  - (b) a director (or a Spouse, parent or child of a director, or any entity in which a director or a Spouse, parent or child of a director has an interest) may contract or make an arrangement with the Company (or a related body corporate or a body corporate in which the Company is interested) in any matter in any capacity;
  - (c) a director may sign for the Company, or attest the affixing of the common seal to, any document in respect of that contract or arrangement;
  - (d) a director may retain benefits under that contract or arrangement;
  - (e) the Company cannot avoid that contract or arrangement because of the director's interest.

## **Part 5 - Proceedings of Directors**

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### **35. Circulating resolutions**

- 35.1 The Directors may pass a resolution without a Directors' meeting being held, if all of the directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. An alternate appointed by a director may sign the document instead of that director.
- 35.2 Separate copies of a document may be used for signing by directors, if the wording of the resolution and statement is identical in each copy.
- 35.3 The resolution is passed when the last director signs.
- 35.4 Passage of the resolution must be recorded in the Company's minute book.



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## **36. Meetings**

- 36.1 The Directors may meet, adjourn and otherwise regulate their meetings as they decide.
- 36.2 A Directors' meeting may be held using any technology consented to by all the directors. The consent may be a standing one. A director may only withdraw consent within a reasonable period before the meeting.
- 36.3 If a Directors' meeting is held by telephone link-up or other contemporaneous audio or audio visual communication, a director is taken to be present unless the director states to the chairman that the director is disconnecting his or her telephone or communication device.

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## **37. Calling meetings**

- 37.1 Any director may call a Directors' meeting.
- 37.2 On the request of any director, the company secretary must call a Directors' meeting.

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## **38. Notice**

- 38.1 Notice of a Directors' meeting must be given to each director and each alternate.
- 38.2 The notice must:
- (a) specify the day, time and place of the meeting;
  - (b) state the business to be transacted;
  - (c) be given at least 48 hours before the meeting, unless all directors otherwise agree.
- 38.3 Non-receipt of notice of a meeting, or failure to give notice of a meeting to a director or an alternate, does not invalidate anything done at the meeting if:
- (a) the failure was accidental;
  - (b) the director or alternate gives notice to the Company that he or she waives the notice or agrees to the thing done at the meeting; or
  - (c) the director or alternate attends the meeting.

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## **39. Quorum**

- 39.1 The quorum for a Directors' meeting is three directors, unless the Directors otherwise decide.
- 39.2 In determining whether a quorum is present, the chairman must count alternates. If a director is also an alternate, the chairman must count the director as a director and separately as an alternate. If a person is an alternate for more than one director, the chairman must count the person separately for each appointment.
- 39.3 The quorum must be present at all times during the meeting.

- 39.4 If there are not enough directors in office to form a quorum, the remaining directors may act only:
- (a) to increase the number of directors to a quorum;
  - (b) to call a general meeting of the Company; or
  - (c) in an emergency.
- 

#### **40. Chairman and deputy chairman**

- 40.1 The Directors may elect a director as chairman for any period they decide.
- 40.2 The Directors may elect a director as deputy chairman for any period they decide.
- 40.3 The Directors may remove the chairman or deputy chairman.
- 40.4 The chairman is entitled to chair each Directors' meeting.
- 40.5 If there is no chairman, or if the chairman is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the deputy chairman may chair the Directors' meeting. If there is no deputy chairman, or if the deputy chairman is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the directors present must elect one of themselves to chair the meeting.
- 40.6 If the chairman is unable or unwilling to chair a part of the meeting, the deputy chairman may chair that part. If there is no deputy chairman, or the deputy chairman is unable or unwilling to act, the directors present must elect one of themselves to chair that part.
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#### **41. Decisions of Directors**

- 41.1 Subject to the Corporations Act 2001, each director has one vote.
- 41.2 If a director is also an alternate, the director has one vote as a director and one vote as an alternate. If a person is an alternate for more than one director, the person has one vote for each appointment.
- 41.3 A resolution of the Directors is passed by a majority of votes cast.
- 41.4 The chairman has a casting vote, if the chairman has a personal deliberative vote.
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### **Part 6 - Directors' powers**

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#### **42. General powers**

- 42.1 The business of the Company is managed by or under the direction of the Directors.
- 42.2 The Directors may exercise all the powers of the Company except any powers that the Corporations Act 2001 or this constitution requires the Company to exercise in general meeting.
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### **43. Execution of documents**

- 43.1 The Company may execute a document without a common seal if the document is signed by:
- (a) two directors of the Company; or
  - (b) a director and a company secretary of the Company.
- 43.2 If the Company has a common seal, it may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:
- (a) two directors of the Company; or
  - (b) a director and a company secretary of the Company.
- 43.3 The Company may execute a document only if authorised by the Directors or by a committee of directors authorised by the Directors to do so.
- 43.4 The Directors may decide, generally or in a particular case, that a director or company secretary may sign certificates for securities of the Company by mechanical or other means.
- 43.5 This clause does not limit the ways in which the Company may execute a document (including a deed).

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### **44. Negotiable instruments**

The Directors may decide how negotiable instruments (including cheques) may be signed, drawn, accepted, endorsed or otherwise executed.

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### **45. Committees and delegates**

- 45.1 The Directors may delegate any of their powers (including this power to delegate) to a committee of directors or directors and members (including Associate Members) or to one director.
- 45.2 The Directors may revoke or vary that delegation.
- 45.3 A committee or delegate must exercise the powers delegated subject to any directions of the Directors. The effect of the committee or delegate exercising a power in this way is the same as if the Directors exercised it.
- 45.4 Part 5 applies with the necessary changes to meetings of a committee. However, a non-director does not have a vote.

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### **46. Attorney and agent**

- 46.1 The Directors may appoint any person to be the attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) the Directors decide.
- 46.2 The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent.

- 46.3 The Directors may revoke or vary:
- (a) the appointment; or
  - (b) any power delegated to the attorney or agent.

## Part 7 - Executive officers

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### 47. Company secretary

- 47.1 The first company secretary of the Company is the person specified in the application for registration of the Company as company secretary.
- 47.2 The Directors may appoint one or more company secretaries, for any period and on any terms (including as to remuneration) the Directors decide.
- 47.3 Subject to any agreement between the Company and the company secretary, the Directors may remove or dismiss the company secretary at any time, with or without cause.
- 47.4 Unless the Directors otherwise decide, the company secretary is the public officer of the Company.

### 48. Indemnity

- 48.1 To the extent permitted by the Corporations Act 2001, the Company:
- (a) must indemnify each person who is or has been an Officer against any liability incurred as an Officer;
  - (b) may pay a premium for a contract insuring an Officer against that liability.
- 48.2 Subject to the Corporations Act 2001, the Company may enter into an agreement or deed with an Officer under which the Company must do all or any of the following:
- (a) keep a set of the Company's books (including minute books) and allow the Officer and the Officer's advisers access to the books for any period agreed;
  - (b) indemnify the Officer against any liability incurred by the Officer as an Officer;
  - (c) keep the Officer insured for any period agreed in respect of any act or omission by the Officer while an Officer.
- 48.3 In this clause, **Officer** means an officer of the Company.

## Part 8 – Records

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### 49. Register

The Company must keep a register of members in accordance with the Corporations Act 2001.

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## 50. Inspection

The Company must allow inspection of any register of members only as required by the Corporations Act 2001.

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## 51. Evidence of register

Unless proved incorrect, the register of members is sufficient evidence of the matters shown in the register.

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## 52. Minute book

52.1 The Company must keep minute books in which it records within one month:

- (a) proceedings and resolutions of meetings of the members;
- (b) proceedings and resolutions of Directors' meetings (including meetings of a committee of Directors);
- (c) resolutions passed by members without a meeting;
- (d) resolutions passed by Directors without a meeting.

52.2 The Company must ensure that minutes of a meeting are signed within a reasonable time after the meeting by one of the following:

- (a) the chair of the meeting;
- (b) the chair of the next meeting.

52.3 The Company must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

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## 53. Evidence of minutes

A minute that is so recorded and signed is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

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## 54. Financial records

54.1 The Company must keep the financial records required by the Corporations Act 2001.

54.2 The financial records must be audited as required by the Corporations Act 2001.

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## 55. Inspection

Unless authorised by the Directors or the Company in general meeting or the Corporations Act 2001, a member is not entitled to inspect the Company's books.

## Part 9 - Notices and interpretation

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### 56. In writing

Notice must be in writing and in English, and may be given by an authorised representative of the sender.

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### 57. Notice to members

57.1 The Company may give notice to a member:

- (a) personally;
- (b) by sending it by post to the address of the member in the register of members or the alternative address (if any) nominated by the member;
- (c) by sending it to the fax number or electronic address (if any) nominated by the member.

57.2 A notice to a member is sufficient, even if the member (whether or not a joint member) is dead, mentally incapacitated, an infant, bankrupt or an externally-administered body corporate, and the Company has notice of that event.

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### 58. Notice to directors

The Company may give notice to a director or alternate director:

- (a) personally;
  - (b) by sending it by post to the director's or alternate director's usual residential or business address or any other address nominated by them;
  - (c) if a notice calling a meeting - by sending it to the fax or electronic address (if any) nominated by the director or alternate, only if all the directors have consented to the use of that technology;
  - (d) if any other notice - by sending it to the fax or electronic address (if any) nominated by the director or alternate.
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### 59. Notice to the Company

A person may give notice to the Company:

- (a) by leaving it at the Company's registered office;
- (b) by sending it by post to the Company's registered office;
- (c) by sending it to the fax or electronic address (if any) of the Company's registered office.

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## 60. Addresses outside Australia

A notice sent by post to or from a place outside Australia must be sent by air mail.

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## 61. Time of service

- 61.1 A notice sent by post within Australia is taken to be given three Business Days after posting.
- 61.2 A notice sent by post to or from a place outside Australia is taken to be given seven Business Days after posting.
- 61.3 A notice sent by fax, or other electronic means, is taken to be given on the Business Day after it is sent (if the sender's transmission report shows that the whole notice was sent to the correct facsimile number).

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## 62. Interpretation

In this constitution, unless the context otherwise requires:

- (a) subject to the next clause, a word or phrase has the same meaning as it has in the Corporations Act 2001;
- (b) singular includes plural and plural includes singular;
- (c) words of one gender include any other gender;
- (d) reference to legislation includes any amendment to it, any legislation substituted for it, and any statutory instruments issued under it and in force;
- (e) reference to a person includes a corporation, a firm and any other entity;
- (f) headings do not affect interpretation;
- (g) the Company must not exercise any power in contravention of the Corporations Act 2001.

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## 63. Definitions

In this constitution:

**Business Day** means any day except a Saturday or Sunday or other public holiday in Victoria;

**Company** means Australian Organisational Excellence Foundation Limited;

**Directors** means the directors of the Company and may include an alternate director;

**Initial Member** means the initial members of the Company at the time of incorporation of the Company.

**Member** means a person admitted to membership of the Company in accordance with this constitution, and includes the Initial Members.

**Spouse** of a person means:

- (a) that person's husband, wife, widow or widower (whether or not remarried);
- (b) anyone else who, although not legally married to that person, in the Directors' opinion, lives or lived with that person on a genuine domestic basis as the husband or wife of that person.