



**CONSTITUTION OF  
AIR FORCE ASSOCIATION LTD  
A Company Limited by Guarantee**

**ACN 622 976 818  
ABN 66 622 976 818**

**This Constitution was adopted by Members on 8 February 2023**

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## Preamble

*Air Force Association Ltd proudly has its genesis in the Australian Flying Corps Association, established in 1920, in the aftermath of the Great War. The Company is the successor to, and carries on the work of, the Australian Flying Corps and Royal Australian Air Force Association Inc. incorporated under the Associations Incorporation Act 2009 (NSW).*

*Today, the Company is a not for profit, apolitical, charitable institution.*

*In the furtherance of its Objects and Purposes, the Company may act as the representative of the Divisions of the Air Force Association, which are separately incorporated State and Territory organisations. In this part of its work, the Company engages with the Commonwealth Government, selected Ministers, Departmental heads and other agencies, all for the benefit of those for whom the Company is established to serve and support.*

*The Company's Objects and Purposes may also be supported and enabled by the Divisions of the Air Force Association, with various projects and activities being conducted across Australia. Projects and activities may, as determined by the Directors also be supported with the assistance of other veterans' organisations or businesses established to assist in relieving the suffering, and supporting the health and wellbeing of, the people that the Company seeks to serve and support.*

*Because of its good work to date, the Company is proud to be recognised by the Commonwealth Government and other veterans' organisations. The Company is a founding member of the Alliance of Defence Service Organisations that represents over three million members of Australia's defence family on national advocacy and representative matters.*

*The Company is also a member of the Ex-Service Organisation Round Table, formed by the Department of Veterans Affairs. The Round Table acts as a forum to address issues of strategic importance to the ex-service and defence communities and enhance the capacity of the Repatriation Commission and Military Rehabilitation and Compensation Commission.*

*In summation, the Company seeks to go above and beyond for those veterans and family members it seeks to serve and support.*



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## **1. Preliminary**

### **1.1 Nature of the Company**

The Company operates in Australia as a not-for-profit, charitable institution, to carry out its Objects and Purposes.

### **1.2 Independence of Members**

Except where required by the Corporations Act, Relevant Laws or this Constitution, nothing affects the independence, structures, practices or property of the Members or any related entity of a Member.

### **1.3 No political affiliation**

As an independent, public-benefit and non-partisan charity, the Company must be apolitical and must not give monies, assets, goods or services to, or otherwise endorse, political causes, political parties or organisations affiliated to political parties, with the exception that representatives from such parties or organisations may, on invitation, address public meetings convened by the Company.

### **1.4 National patron**

The Company may invite the current or any former Chief of Air Force or other eminent Australian to be its national patron.

### **1.5 Application of the Corporations Act and Relevant Laws**

- (a) This Constitution is subject to the Corporations Act and other Relevant Laws.
- (b) The replaceable rules for a company under the Corporations Act do not apply to the Company.
- (c) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act.
- (d) Subject to rule 1.5(c), unless the contrary intention appears, an expression in a rule that is defined for the purposes of the Corporations Act has the same meaning as in the Corporations Act.

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## **2. Charitable nature, powers and not-for-profit**

### **2.1 Objects and Purposes**

The Company's Objects and Purposes are to raise and administer funds for the purposes of relieving the suffering, and supporting the health and wellbeing, of:

- (a) Australian Veterans and Other Veterans whose physical and/or mental health and wellbeing is being adversely affected, or potentially adversely affected, as a result of their service to the nation with the Australian Defence Force or with another Designated Service; and



- (b) the family members of Australian Veterans and Other Veterans, where those family members are being adversely affected, or potentially adversely affected, as a result of physical and/or mental health and wellbeing issues being experienced by relevant Australian Veterans or Other Veterans.

## 2.2 Powers of the Company

Solely for carrying out the Objects and Purposes, the Company may, in any manner permitted by the Corporations Act or Relevant Laws:

- (a) exercise any power;
- (b) take any action; or
- (c) engage in any conduct or procedure,

which under the Corporations Act or Relevant Laws a company limited by guarantee may exercise, take or engage in if authorised by its constitution, including:

- (d) to accept or refuse any gift, endowment, contribution or bequest made to or acquired by the Company, and to undertake, execute and carry out any charitable or other trust which may be considered expedient or desirable in the interests of the Company;
- (e) to subscribe to, become a member of, and co-operate with, any other association or organisation, whether incorporated or not, whose objects and purposes are altogether or in part similar to the Objects and Purposes;
- (f) to establish and maintain any number of trusts, each for a specific purpose, pursuant to the Objects and Purposes; and
- (g) to do all such other things as are incidental or conducive to carrying out the Objects and Purposes.

## 2.3 Not-for-profit

- (a) The Company's income and property must be applied solely towards carrying out the Objects and Purposes.
- (b) The Company must not pay, transfer or distribute, directly or indirectly, by way of dividend, bonus, or other profit distribution, any of its income or property to any Member or to any person claiming through a Member, unless permitted by rule 2.3(c).
- (c) The Company may, in good faith, pay:
  - (1) reasonable and proper remuneration to any employee of the Company;
  - (2) subject to this Constitution, reasonable and proper amounts to any Member in return for any services actually rendered to the Company;
  - (3) interest at a rate not exceeding interest at the rate for the time being charged by the Company's bankers for money lent to the Company by any Member;



- (4) reasonable and proper rent for premises let by any Member to the Company;
- (5) any amount to a Member in carrying out the Objects and Purposes;
- (6) sums permitted to be paid under Chapter 2E of the Corporations Act;
- (7) sums permitted to be paid under rule 7.10(b) or 7.10(c); and
- (8) sums permitted to be paid under rule 16.2 or 16.5, or pursuant to a deed entered into under rule 16.7,

provided that any payment made to a Member or to any person claiming through a Member is fair and reasonable and is approved by the Directors.

### **3. Members**

#### **3.1 Number of Members**

The minimum number of Members is 3. If the number of Members drops below 3, the Directors must take steps to admit further Members to comply with this rule. There is no maximum number of Members unless the Members set a maximum limit in general meeting.

#### **3.2 Rights of Members**

Each Member is entitled to receive notices of, to attend, and to speak and vote at, any general meeting, and to receive a copy of the annual financial report of the Company.

#### **3.3 Rights not transferrable**

A Member's rights and privileges as a Member may not be transferred or transmitted to any other person at any time.

#### **3.4 Members' fees**

- (a) No fees are payable to the Company in order to apply for or be admitted as a Member.
- (b) Fees payable to continue membership may be set by the Directors, including the period to which such fees relate, and such fees may be determined by way of capitation.
- (c) The Directors may set differential fees to continue membership as between different Members.

#### **3.5 Membership Register and databases**

- (a) The Company must establish and maintain a register of Members in accordance with the Corporations Act.
- (b) The Company may maintain a database of Member details, including the details of the members of each Division, which database must be separate to the register of Members.





- (c) To assist the Company to maintain the databases referred to in rule 3.5(b), each Division must promptly provide to the Secretary requested details in relation to its members.

### **3.6 Classes of Members**

To the extent permitted by the Corporations Act and Relevant Laws, the Members may by Special Resolution, divide the membership of the Company into different classes of Members and determine the rights and obligations attaching to each class of Members.

### **3.7 Admission of Members**

- (a) An incorporated body or natural person that supports the Objects and Purposes is eligible to apply to be a Member.
- (b) An application to be admitted as a Member must be made in such form as the Directors determine, and be accompanied by such information and undertakings as reasonably required by the Directors.
- (c) When an application to be admitted as a Member is received, the Secretary:
  - (1) may include consideration of the application in the business for the next AGM; or
  - (2) in any situation – may submit the application for consideration by Members by circular resolution under rule 6.14.
- (d) An applicant may only become a Member where the Members approve the applicant's application by Special Resolution.
- (e) A successful applicant becomes a Member when the Membership Register is amended to record the admission.

### **3.8 Ceasing to be a Member**

- (a) A Member immediately ceases to be a Member if the Member:
  - (1) resigns as a Member by giving written notice to the Company;
  - (2) being a natural person, dies;
  - (3) experiences an Insolvency Event;
  - (4) becomes untraceable – in that for not less than 3 months, the Member does not respond to one or more communications sent to the Member's physical or electronic address recorded in the Membership Register; or
  - (5) is expelled under rule 4.2(d).



### 3.9 Obligations of a Member

Each Member must:

- (a) promote and further the Objects and Purposes, interest, influence and standing of the Company;
- (b) observe this Constitution and the Regulations;
- (c) if it is a body corporate, appoint a representative to the Federation Council under rule 5.1(b);
- (d) not behave in a way that improperly interferes with the operation of the Federation Council or the Company or Company meetings, or brings disrepute to the Company;
- (e) keep confidential all of the Federation Council's and the Company's confidential information, including such information received, disclosed and discussed at meetings of the Federation Council or the Company, unless the Federation Council or the Directors agree in writing (as the case may be) to the release and dissemination of the information;
- (f) support the Directors in promoting, advancing and carrying out the Objects and Purposes;
- (g) support the Federation Council in accordance with the Council Charter;
- (h) not make improper use of information or opportunities received through being a Member or having its representative on the Federation Council; and
- (i) not make any public statement on behalf of the Company or the Federation Council, unless authorised in writing by the Directors or the Federation Council (as the case may be),

and a Member which is a body corporate must procure that its directors and other officers comply with these obligations as if they applied to those directors and other officers.

### 3.10 Limited liability of Members

Each Member undertakes to contribute to the property of the Company in the event of it being wound-up while the Member is a Member, or within one year after the Member ceases to be a Member, for payment of the debts and liabilities of the Company (contracted before the Member ceases to be a Member) and of the costs, charges, and expenses of winding-up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding \$1.

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## 4. Dispute resolution and disciplinary procedures

### 4.1 Dispute resolution

- (a) The dispute resolution procedure in this rule 4.1 applies to a Dispute between a Member and:
  - (1) another Member or Members;

*Paul Dennis*

- (2) a Director or Directors; or
  - (3) the Company.
- (b) A Member must not commence a dispute resolution procedure under this rule 4.1 in relation to a matter which is the subject of a disciplinary procedure under rule 4.2 until the disciplinary procedure is completed.
- (c) Those involved in the Dispute must try to resolve it between themselves within 10 Business Days of each of them becoming aware of the Dispute by notice in writing from any of them to each other person involved, setting out the background and nature of the Dispute.
- (d) If those involved in the Dispute do not resolve it within time, any of them may, within a further 10 Business Days:
- (1) tell the Directors about the Dispute in writing;
  - (2) agree or request that a mediator be appointed; and
  - (3) attempt in good faith to settle the dispute by mediation.
- (e) The mediator must:
- (1) be chosen by agreement of those involved; or
  - (2) where those involved do not agree within a further 10 Business Days:
    - (A) for a Dispute not involving a Director or the Company, a person chosen by the Directors; or
    - (B) for other Disputes, a person chosen by the Chair of Resolution Institute ABN 69 008 651 232 (or the Chair of Resolution Institute's nominee), following a request by the Company for such a choice to be made.
- (f) A mediator chosen by the Directors or the Chair of Resolution Institute:
- (1) may be a Member's Representative;
  - (2) must not have a personal interest in the Dispute; and
  - (3) must not be biased towards or against anyone involved in the Dispute.
- (g) When conducting the mediation, the mediator must:
- (1) allow those involved a reasonable chance to be heard;
  - (2) allow those involved a reasonable chance to review any written statements;
  - (3) ensure that the principles of procedural fairness apply to the mediation; and



- (4) not make a decision on the Dispute.
- (h) If the Dispute is not resolved at mediation, any person involved in the Dispute may pursue any other resolution process that person thinks fit.

#### **4.2 Disciplining Members for Unacceptable Conduct**

- (a) The Directors may warn, censure, suspend or expel a Member who, in the opinion of the Directors (acting reasonably), has engaged in Unacceptable Conduct, subject to rules 4.2(b) and 4.2(c) and:
  - (1) in the case of a proposed warning or censure – the decision being made by ordinary resolution of the Directors under rule 4.2(d); or
  - (2) in the case of a proposed suspension or expulsion – the decision being made by ordinary resolution of the Directors under rule 4.2(d) following approval of the proposed resolution by Special Resolution of the Members.
- (b) At least 10 Business Days before the relevant Directors' meeting, general meeting or Directors' circular resolution by which a resolution or Special Resolution under this disciplinary procedure will be considered (and any Special Resolution must not be passed by circular resolution under rule 6.14), the Secretary must notify the Member in writing:
  - (1) that the Directors are to consider a resolution to warn or censure the Member, or that the Members are to consider a Special Resolution to approve the Directors resolving to suspend or expel the Member;
  - (2) the date of the proposed meeting or resolution;
  - (3) the Member's alleged conduct which has triggered to the disciplinary procedure; and
  - (4) that the Member may provide a written response to the Directors (which must be received by the Directors no less than 3 Business Days before the date of the proposed meeting or resolution), and/or that the Member may attend any relevant meeting and provide a verbal response, as well as the details of how to do so.
- (c) Before the Directors may pass a resolution under rule 4.2(d) or the Members may pass a Special Resolution approving the Directors passing a resolution under rule 4.2(d), any:
  - (1) written response received within the time specified in rule 4.2(b)(4) must be read out at the Directors' meeting or general meeting (as the case may be); and/or
  - (2) if the subject Member has elected to attend the relevant meeting and provide a verbal response, the Member must be given a reasonable opportunity to do so.



- (d) After considering any written and/or verbal response from the subject Member, subject to, in the case of a suspension or expulsion, approval by Special Resolution, the Directors may resolve to:
- (1) take no further action;
  - (2) warn the Member;
  - (3) censure the Member;
  - (4) suspend the Member's rights as a Member for a period of no more than 12 months;
  - (5) expel the Member; or
  - (6) refer the decision to an unbiased, independent person on conditions that the Directors consider appropriate (however, the unbiased, independent person can only make a decision that the Directors could have made in the circumstances). Once made, the decision of the unbiased, independent person takes effect as a decision of the Directors.
- (e) The Directors cannot fine a Member.
- (f) Any suspension imposed on a Member under rule 4.2(d) has the effect of preventing the Member from exercising any rights or discretions as a Member whilst the suspension remains in effect, but all of the Member's duties and obligations as a Member remain binding upon the Member.
- (g) A suspension imposed on a Member under rule 4.2(d) may be lifted early by the Directors in their absolute discretion.
- (h) The Secretary must give written notice to the Member of the Directors', Members' or unbiased, independent person's, decision, as applicable, as soon as practicable.
- (i) A disciplinary procedure under this rule 4.2 must be completed as soon as reasonably practicable.
- (j) The Company, and any Director or other Member is not liable for any loss, damage or injury suffered by the subject Member as a result of any decision made in good faith under a disciplinary procedure conducted under this rule 4.2.

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## 5. Federation Council

### 5.1 Federation Council as an advisory committee

- (a) The Federation Council is an advisory committee to the Directors.
- (b) The Federation Council is comprised of the Presidents from time to time of each Member which is a body corporate or, at the discretion of a President, the President's nominated representative from time to time.
- (c) The Federation Council is established to be the point of connection between the members of each Member which is a body corporate and the Company, with each



President or nominated representative being responsible to advise and assist the Directors in carrying out the Objects and Purposes.

- (d) The National President and National Vice President are ex-officio, non-voting members of the Federation Council.
- (e) The members of the Federation Council must elect from amongst themselves a member to chair meetings of the Federation Council. The National President and National Vice President may not be elected to chair meetings of the Federation Council.
- (f) The Directors must receive and consider any recommendations and advice given by the Federation Council to the Directors but in performing their obligations and duties and exercising their powers and discretions, the Directors are not bound by any such recommendations or advice.
- (g) If a President considers that the Company is not appropriately carrying out the Objects and Purposes, that President or more than one President may provide a report to the Directors for their consideration.
- (h) No less than 20 Business Days prior to an AGM, the Federation Council must provide the Directors with a report on the activities of each Member which is a body corporate and of the Federation Council itself:
  - (1) detailing the contribution that each has made to support the carrying out of the Objects and Purposes; and
  - (2) providing such other information as the Directors may require.
- (i) The Federation Council must develop and implement the Council Charter and determine its frequency of meetings, meeting agenda, and meeting proceedings.
- (j) The Federation Council is not a Committee.
- (k) The Federation Council is not responsible for, or able to conduct, any aspect of the management of the Company, nor is any person who is a member of the Federation Council a Responsible Person, having no authority, delegation, or capacity to direct the affairs of, or bind the Company when performing the duties or satisfying the responsibilities as a member of the Federation Council, except where such authority, delegation or capacity is expressly granted by the Directors.

## **6. General meetings**

### **6.1 The AGM**

- (a) The Directors must convene an AGM at least once every year, to be held within 5 months of the end of the most recent Financial Year.
- (b) The ordinary business of an AGM is to:
  - (1) consider the Directors' report, the annual financial statements and the Auditor's report in relation to the most recent Financial Year;



- (2) elect Directors and/or declare the results of an election;
  - (3) consider any other matter required by the Corporations Act or Relevant Laws; and
  - (4) consider any special business determined by the Directors or notified under rule 6.4(a), the general nature of which must be specified in the notice of AGM.
- (c) Before or at the AGM, the Directors must give information to the Members on the Company's activities and finances during the most recent Financial Year.
  - (d) The Chair of the AGM must give Members a reasonable opportunity to ask questions during the AGM (including questions for the Auditor) or to make comments about the management of the Company.

## 6.2 The SGM

- (a) The Directors must convene and hold a SGM if required by the Corporations Act or Relevant Laws.
- (b) The Directors may convene a SGM.
- (c) Members holding at least 25% of the votes that may be cast at a general meeting (as calculated under rule 6.9(a)) may, by notice in writing to the Secretary signed by each of them, require that a SGM be convened to consider the business specified in the notice, and provided the specified business is business that by law, the Members are entitled to determine, the Directors must convene and hold a SGM to consider that business within 30 Business Days of receipt of the notice.
- (d) The notice of a SGM must specify the general nature of the special business, as well as the specific wording of any resolution to be considered.

## 6.3 Notice

- (a) Notice of a general meeting must be provided in writing at least 21 days before the general meeting.
- (b) Subject to rule 6.3(d), notice of a general meeting may be provided less than 21 days before the general meeting if:
  - (1) for an AGM, all the Members entitled to attend and vote at the AGM agree beforehand; or
  - (2) for a SGM, Members with at least 95% of the votes that may be cast at the SGM agree beforehand.
- (c) Notice of a general meeting must be given in writing, to:
  - (1) every Director, including every Alternate Director;
  - (2) the Secretary and the Auditor; and
  - (3) every Member and every Member's Representative entitled to attend,

*Karl Dennis*

but no other person is entitled to receive a notice of a general meeting.

- (d) Notice of a general meeting cannot be provided less than 21 days before the general meeting if a resolution will be moved to:
- (1) remove a Director;
  - (2) appoint a Director to replace a Director who was removed; or
  - (3) remove an Auditor.
- (e) Notice of a general meeting must include:
- (1) the place, date and time for the general meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
  - (2) the general nature of the general meeting's business;
  - (3) if applicable, that a Special Resolution is to be proposed and the words of the proposed Special Resolution;
  - (4) a statement that a Member which is a body corporate has the right to appoint a Member's Representative in accordance with rule 6.10; and
  - (5) a statement that a Member which is a natural person has the right to appoint a proxy in accordance with rule 6.11.
- (f) A general meeting and any resolution passed at the general meeting is not invalid merely because of:
- (1) the accidental omission to give notice of (including any related proxy form) the general meeting; or
  - (2) the non-receipt of any such notice or related proxy form by any person, for any reason.

#### **6.4 Members' business and statements**

- (a) Members holding at least 25% of the votes that may be cast at a general meeting (as calculated under rule 6.9(a)) may, by notice in writing to the Secretary signed by each of them, request that:
- (1) business specified in the notice be included for consideration at a general meeting; and/or
  - (2) a statement about a proposed resolution or any other matter that may properly be considered at a general meeting be included in a notice convening a general meeting.
- (b) A Member may only make a request under rule 6.4(a)(1) in relation to business that by law, the Members are entitled to determine.





- (c) A request under rule 6.4(a)(1):
  - (1) must set out the wording of any proposed resolution; and
  - (2) may be comprised of separate, but identical, documents signed by one or more Members.
- (d) A statement given under rule 6.4(a)(2) may not be longer than 1,000 words, nor may it contain anything defamatory. If either of these requirements is not met, the Directors may amend the statement as they see fit.
- (e) The Directors must include business notified under rule 6.4(a)(1) in:
  - (1) if the request is received more than 2 months prior to a scheduled general meeting – in the notice convening that general meeting; or
  - (2) otherwise – in the notice convening the next AGM, unless the Directors, in their absolute discretion, decide to convene a SGM to consider the business specified in the request.

#### **6.5 Postponement, relocation or cancellation**

- (a) The Directors may postpone, relocate or cancel a general meeting which they convened by giving at least 5 Business Days' notice to those entitled to receive notice of that general meeting.
- (b) Rule 6.5(a) does not apply to a general meeting convened by court order.

#### **6.6 Quorum**

- (a) A general meeting may not transact business unless a quorum is present when the business is dealt with.
- (b) The quorum for a general meeting is at least 3 Members present in person.
- (c) If a quorum is not present within 30 minutes of the time scheduled to start the general meeting:
  - (1) the general meeting is adjourned to such other place, date and time as the Directors determine and notify to Members; and
  - (2) if at the adjourned general meeting a quorum is not present, the general meeting may proceed if at least 2 Members are present in person – failing which the general meeting is adjourned to such other place, date and time as the Directors determine and notify to Members (and this rule 6.6(c) continues to apply to adjourned general meetings).

#### **6.7 Chair**

- (a) The National President must (if present within 15 minutes after the time appointed for the general meeting and is willing to act) preside as Chair at each general meeting.



- (b) If at a general meeting:
- (1) there is no National President;
  - (2) the National President is not present within 15 minutes after the time appointed for the general meeting; or
  - (3) the National President is present within that time but is not willing to act as Chair,
- then the National Vice President must preside as Chair.
- (c) If at a general meeting:
- (1) there is no National President and no National Vice President;
  - (2) neither the National President or the National Vice President is present within 15 minutes after the time appointed for the general meeting; or
  - (3) neither the National President or the National Vice President is willing to act as Chair,
- then the Members present must elect as Chair another Director who is present and willing to act or, if no other Director is present and willing to act, a Member's Representative who is present and willing to act.
- (d) Despite anything in rule 6.7(b) or 6.7(c), if the National President or the National Vice President later attends a meeting of Members, the National President or failing the National President, the National Vice President, provided the National Vice President is willing to act, must take over as Chair.
- (e) In addition to powers conferred by law, the Chair may:
- (1) determine the general meeting's conduct and procedures to ensure proper and orderly discussion or debate;
  - (2) make rulings without putting a question to the vote, or terminate discussion or debate and require that matter to be put to a vote;
  - (3) refuse to allow debate or discussion on any matter which is not ordinary or special business; and
  - (4) refuse any person admission to a general meeting (including for causing offence or disruption) or expel a person from the general meeting and not permit that person to return.
- (f) All procedural decisions by the Chair are final.

## 6.8 Adjournment

- (a) The Chair:
- (1) may; and

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- (2) must, if so directed by the general meeting,  
adjourn the general meeting to some other time or place.
- (b) The adjourned general meeting may only transact unfinished business from the original general meeting.
- (c) If a general meeting is adjourned for 10 Business Days or more, notice of the adjourned general meeting must be given as required for the original general meeting. It is not otherwise necessary to give any notice of an adjournment or of the business to be transacted at an adjourned general meeting.
- (d) Where a general meeting is adjourned, the Directors may change the venue of, postpone or cancel the adjourned general meeting.

## 6.9 Voting

- (a) The Foundation Members always have, between them, 75% of the votes that may be cast at a general meeting or pursuant to a circular resolution proposed under rule 6.14, such that, for example, if at a particular general meeting, or if in relation to a particular circular resolution, there are:
- (1) 7 Foundation Members eligible to vote and 5 other Members eligible to vote:
- (A) each Foundation Member may cast  $\frac{75}{7}$  percent of the votes; and
- (B) each other Member may cast  $\frac{25}{5}$  percent of the votes; and
- (2) 6 Foundation Members eligible to vote and 10 other Members eligible to vote:
- (A) each Foundation Member may cast  $\frac{75}{6}$  percent of the votes; and
- (B) each other Member may cast  $\frac{25}{10}$  percent of the votes.
- (b) On a poll:
- (1) a Member's Representative is entitled to vote separately for each Member the Member's Representative represents; and
- (2) a proxy is entitled to vote separately for each Member the proxy represents, in addition to any votes the proxy may have as a Member in the Member's own right.
- (c) Except in the case of any resolution which under the Corporations Act, Relevant Law, this Constitution or as a matter of law requires a special majority, questions arising at a general meeting are to be decided by a majority of votes cast by Members present in person at the general meeting and eligible to vote, and any such decision is for all purposes a decision of the Members.
- (d) A resolution put to the vote at a general meeting must be decided on a show of hands, unless a poll is demanded.
- (e) On a show of hands, a declaration by the Chair is conclusive evidence of the result, provided the declaration fairly reflects the show of hands.

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- (f) In the case of an equality of votes upon any proposed resolution, the Chair, in addition to the Chair's deliberative vote, has a casting vote.
- (g) The minutes of the voting results are conclusive without the need to record the number or proportion of, or manner in which, votes were cast.
- (h) A poll may be demanded before a vote is taken or before or immediately after the declaration of the result of the show of hands, by the Chair or at least 3 Members present in person and entitled to vote.
- (i) A poll to elect a Chair or to adjourn the general meeting must be taken immediately. A poll must otherwise be taken at that general meeting in the manner and at the time determined by the Chair.
- (j) The Chair must decide all voting disputes, and the Chair's decision is final.

#### **6.10 Member's Representatives**

- (a) By written notice to the Secretary, each Member which is a body corporate:
  - (1) must appoint a natural person to act as its representative; and
  - (2) may remove its representative, provided the Member appoints a replacement representative at the same time.
- (b) A Member's Representative may represent and act on behalf of that Member's Representative's appointer in respect of that appointer's capacity as a Member, and:
  - (1) the Member's Representative may exercise at a general meeting all the powers that the appointer may exercise; and
  - (2) the appointer is to be counted towards a quorum where the appointer's Member's Representative is present in person at a particular general meeting at the relevant time; and
  - (3) the Member's Representative may exercise all or any of the powers the appointer may exercise in relation to circular resolutions under rule 6.14.
- (c) The appointment of a Member's Representative may be a standing one, and may also set out restrictions on the powers of the Member's Representative.
- (d) The appointment of a Member's Representative is only valid if it contains the details (including contact details for the Member's Representative) specified in any applicable Regulation.
- (e) The original form of appointment of a Member's Representative, a certified copy of the appointment, or a certificate of the appointer evidencing the appointment of a Member's Representative is prima facie evidence of a Member's Representative having been appointed.
- (f) A Member may appoint more than one Member's Representative, but only one Member's Representative may exercise that Member's powers at any one time.



- (g) Where a Member has appointed more than one Member's Representative, the Secretary may, acting reasonably, conclusively decide which of the Member's Representatives may exercise those powers at any particular time.
- (h) A Member which is a natural person may not appoint a Member's Representative.

### 6.11 Representation

- (a) Subject to this Constitution, each Member entitled to vote at a general meeting may vote:
  - (1) if the Member is a natural person – in person;
  - (2) by proxy; or
  - (3) if the Member is a body corporate – by Member's Representative.
- (b) A proxy need not be a Member.
- (c) A proxy may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the instrument, an instrument appointing a proxy will be taken to:
  - (1) confer authority to agree to a general meeting being convened by shorter notice than is required by this Constitution;
  - (2) confer authority to speak to any proposed resolution on which the proxy may vote;
  - (3) appoint the Chair as the proxy unless the Member clearly specifies another person as proxy and that person attends the general meeting;
  - (4) even though the instrument may refer to specific resolutions and may direct the proxy how to vote on those resolutions, confer authority:
    - (A) to vote on any amendment moved to the proposed resolutions;
    - (B) to vote on any procedural motion, including any motion to elect the Chair, to (only in the case of a Chair elected under rule 6.7(c)) vacate the chair, or to adjourn the general meeting; and
    - (C) to act generally at the general meeting; and
  - (5) even though the instrument may refer to a specific general meeting to be held at a specified time or venue, where the general meeting is rescheduled or adjourned to another time or changed to another venue, confer authority to attend and vote at the re-scheduled or adjourned general meeting or at the new venue.
- (e) An instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument so provides:

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- (1) the proxy is not entitled to vote on the proposed resolution except as directed in the instrument; and
  - (2) the Chair may, by taking whatever steps the Chair thinks fit, ensure that effect is given to those directions, including by pre-filling out relevant voting papers and treating such votes as cast.
- (f) An instrument appointing a proxy need not be in any particular form provided it is in writing, legally valid and either:
- (1) signed by the appointer or the appointer's attorney; or
  - (2) authenticated in such manner as the Directors may determine.
- (g) A proxy may not vote at a general meeting or adjourned general meeting unless the instrument appointing the proxy, and the authority under which the instrument is signed or a certified copy of the authority, are received in the places or electronic addresses at least:
- (1) 48 hours before the scheduled start time for the general meeting; or
  - (2) such lesser period specified for this purpose in the notice calling the general meeting,
- and for this purpose:
- (3) the place may be the Company's registered office or other place specified in the notice of general meeting and an electronic address may be the electronic address at the Company's registered office or the electronic address specified in the notice; and
  - (4) the lesser period may be any time before the time set for holding the general meeting or adjourned general meeting.
- (h) The Directors may waive all or any of the requirements of rules 6.11(f) or 6.11(g) and in particular may, upon the production of such other evidence as the Directors require to prove the validity of the appointment of a proxy, accept:
- (1) an oral appointment of a proxy;
  - (2) an appointment of a proxy which is not signed or executed in the manner required by rule 6.11(f); and
  - (3) the deposit, tabling or production of a copy (including a copy sent by electronic means) of an instrument appointing a proxy or of the power of attorney or other authority under which the instrument is signed.
- (i) A vote given in accordance with the terms of an instrument appointing a proxy is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no notice in writing of the revocation has been received by the Company by the time and at one of the places at which the instrument appointing the proxy is required to be received under rule 6.11(g).



- (j) The appointment of a proxy is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the proxy is not entitled to vote, and must not vote, as the appointer's proxy on the resolution.

#### **6.12 No attorneys**

A Member may not appoint an attorney in respect of any general meeting.

#### **6.13 Use of technology**

- (a) A general meeting may be held using one or more technologies that give Members as a whole a reasonable opportunity to participate in the general meeting without being physically present in the same place.
- (b) A general meeting may be held partially by, completely by, or not utilising, technological means.
- (c) The Directors may, subject to this Constitution, make any arrangement and impose any requirement or restriction in connection with participation at a general meeting which utilises such technology, including any arrangement, requirement or restriction that is necessary to ensure the identification of those taking part in the general meeting and the security of the facility through which participants participate in the general meeting.
- (d) All persons participating in a general meeting which utilises such technology are taken for all purposes (including quorum requirements) to be present in person at the general meeting while so participating.
- (e) If a technical difficulty occurs which the Chair considers prevents some of those participating or intending to participate in a general meeting which utilises such technology to have a reasonable opportunity to do so or prevents the Chair from being aware of some of the proceedings at the general meeting, the Chair may:
- (1) adjourn the general meeting until the technical difficulty is resolved or otherwise addressed to the Chair's satisfaction; or
  - (2) continue to hold the general meeting in the place where the Chair is present (and any other place which is not affected by such technical difficulty) and transact business, and no Member may object to the general meeting being held or continuing.
- (f) The inability of one or more Members to participate or continue to participate in a general meeting which utilises such technology does not affect the validity of the general meeting or the business conducted at the general meeting provided that sufficient Members are able to participate in the general meeting as are required to constitute a quorum.

#### **6.14 Circular resolutions**

- (a) The Directors may submit any question or resolution (subject to rule 6.14(d)) to the vote of all Members entitled to a vote at a general meeting by circular resolution, unless the Corporations Act or Relevant Laws require a general meeting.
- (b) The Directors may determine by Regulation:

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- (1) the form of the circular resolution;
  - (2) the relevant dates; and
  - (3) the method for responding to the circular resolution.
- (c) A circular resolution approved by a majority or specific required majority of the Members has the same force and effect as such a resolution passed at a general meeting.
- (d) A circular resolution may not be used to consider a resolution to remove a Director or an Auditor.

## 6.15 Ballots

Any resolution (including a Special Resolution, and including an election of Directors) that could be considered and voted upon at a general meeting (other than the election of a Chair or the adjournment of the general meeting), may be submitted to Members and voted upon by an electronic ballot, to be conducted at such time and in such manner as the Directors determine (subject to any applicable Regulation), and a reference in this Constitution related to voting at a general meeting is to be interpreted as including voting in an electronic ballot (where applicable). A resolution passed by an electronic ballot is regarded as passed at the time the result of the electronic ballot is declared, unless the wording of the resolution itself states otherwise.

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## 7. Directors

### 7.1 Number of Directors

There must be:

- (a) at least 3 Directors; and
- (b) no more than 11 Directors,

being:

- (c) the National President;
- (d) the National Vice President;
- (e) the Chief of Air Force Director;
- (f) up to 5 Directors elected from candidates nominated under rule 7.5(b) or 7.5(c); and
- (g) up to 3 Directors appointed by the Directors under rule 7.3(a).

### 7.2 The National President, National Vice President, and Chief of Air Force Director

- (a) The National President, National Vice President, and Chief of Air Force Director are elected by the Members.





- (b) A separate election must be held for the:
  - (1) National President;
  - (2) National Vice President; and
  - (3) Chief of Air Force Director.
- (c) The Chief of Air Force may, by notice in writing to the Secretary:
  - (1) nominate an eligible candidate for election as the Chief of Air Force Director, but to be valid, such nomination must be received by the Secretary at least 25 Business Days before the scheduled date for the relevant AGM; and
  - (2) remove the Chief of Air Force Director from office and nominate a replacement candidate under rule 7.2(c)(1) or rule 7.7(b).

### 7.3 Appointed Directors

- (a) Subject to rule 7.1(g), the Directors may appoint an eligible person as a Director.
- (b) A Director appointed under rule 7.3(a) holds office, subject to this Constitution, until the first anniversary of that Director's appointment, but at that time, subject to rules 7.3(c) and 7.6(a), is eligible for re-appointment under rule 7.3(a).
- (c) A person may not be re-appointed as a Director under rule 7.3(a) if he or she would, if re-appointed and were to hold office for that full additional term, hold office in aggregate for more than 12 continuous years.

### 7.4 Term of office of elected Directors

- (a) The National President:
  - (1) takes office at the conclusion of the AGM at or in relation to which he or she is elected; and
  - (2) holds office, subject to this Constitution, until the conclusion of the third AGM following the AGM at which he or she took office.
- (b) The National Vice President:
  - (1) takes office at the conclusion of the AGM at or in relation to which he or she is elected; and
  - (2) holds office, subject to this Constitution, until the conclusion of the second AGM following the AGM at which he or she took office.
- (c) A Director other than the National President or National Vice President elected at or in relation to an AGM:
  - (1) takes office at the conclusion of that AGM; and



- (2) hold office, subject to this Constitution, until the conclusion of the third AGM following the AGM at which he or she took office.
- (d) A retiring Director who was most recently elected to office is eligible for re-election, subject to this Constitution.
- (e) Without limiting rule 7.6(b), a retiring Director is ineligible for re-election after serving 2 consecutive elected terms (including a part of a term where the Director was appointed to fill a casual vacancy in an elected position) in office, unless approved by the Members to serve a further term or terms in office.

## 7.5 Election of Directors

- (a) Not less than 45 Business Days prior to the scheduled date for an AGM, the Directors must:
  - (1) invite the Members to propose candidates for election as a Director; and
  - (2) advise the Members of the number of Director positions that may be filled by election at or in relation to the relevant AGM, including whether there will be any vacancy in the position of National President or National Vice President.
- (b) A Member can nominate any number of candidates for election as a Director.
- (c) The Directors may also nominate candidates for election as a Director.
- (d) A nomination of a candidate for election as a Director must be in the form prescribed by the Regulations which must as a minimum include:
  - (1) being signed by the candidate and by the proposing Member; and
  - (2) the candidate's signed consent to act as a Director;
  - (3) a copy of the candidate's resume; and
  - (4) details of the candidate's skills and experience to be a Director,

and to be valid, the nomination must be received by the Secretary at least 35 Business Days before the scheduled date for the relevant AGM.
- (e) The Directors may interview any candidate who has been nominated, and where an election will be held, may make a recommendation to the Members regarding any particular candidate.
- (f) If the number of valid nominations of candidates for election does not exceed the number of vacancies, those candidates are deemed elected at or in relation to the relevant AGM.
- (g) If rule 7.5(f) does not apply, balloting lists must be printed containing all validly nominated candidates' names in an order, drawn by lot, under the supervision of the National President and the Secretary, and must also contain a summary of each candidate's resume (no more than 250 words) which must be sent to each Member at least 20 Business Days before the relevant AGM.

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- (h) Each Member must consider candidates on the basis of the candidate's skills, background and expertise, and choose those the candidate or candidates the Member thinks will best serve the Company, including to complement the other Directors.
- (i) The ballot must be conducted as the Directors determine, including in accordance with any applicable Regulation.
- (j) The returning officer appointed by the Directors must declare the election results at the relevant AGM.

#### **7.6 Eligibility to be nominated for election or appointed as a Director**

- (a) A person cannot be nominated for election (under rule 7.2(c), 7.5(b), 7.5(c) or 7.7(b)), elected (under rule 7.5(i)), or appointed (under rule 7.3(a), 7.7(a) or 7.9) as a Director or Alternate Director:
  - (1) other than in relation to a Director or Alternate Director appointed under rule 7.3(a), 7.7(a) or 7.9 – unless the person is a member of any Division;
  - (2) if the person does not have a director identification number;
  - (3) if the person is a director (or equivalent) of any Division;
  - (4) if the person is under the age of 18 years;
  - (5) if the person is prohibited, disqualified or otherwise prevented from being a director under the Corporations Act or Relevant Laws; and
  - (6) if the person is an employee of the Company.
- (b) A person may not be nominated for election as a Director if the person would, if he or she were elected and were to hold office for that full additional term, hold office in aggregate for more than 12 continuous years.
- (c) Service as a Director prior to the Adoption Time is disregarded for the purposes of rule 7.6(b).
- (d) If a person who is a Member's Representative is elected or appointed as a Director, that person must cease to be a Member's Representative within 21 days of being elected or appointed.

#### **7.7 Casual vacancies**

- (a) If a casual vacancy occurs in the office of a Director, the Directors may appoint an eligible person to fill the casual vacancy, and such person holds that office until the conclusion of the next AGM, but subject to this Constitution, is eligible for election as a Director at or in relation to that AGM. If that position is filled by election at that AGM, the person elected holds that office only for the balance of the term of the Director whose cessation in office caused the original casual vacancy.
- (b) In the case of a casual vacancy in the office of the Chief of Air Force Director, the Directors may appoint an eligible nominee of the Chief of Air Force to fill the vacancy, but that Chief of Air Force Director holds office only until the conclusion of the next

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AGM, but subject to this Constitution, is eligible for election as a Director at or in relation to that AGM.

- (c) The Directors may continue to act with any number of vacancies in their number. However, if there are less than 4 Directors, the Directors may only:
  - (1) act in the case of an emergency; or
  - (2) appoint eligible persons to fill casual vacancies.

## **7.8 Ceasing to be a Director**

A person immediately ceases to hold office as a Director if he or she:

- (a) resigns by notice in writing given to the Secretary;
- (b) dies or becomes physically incapable of fulfilling the Director's duties as a Director;
- (c) becomes prohibited, disqualified or otherwise prevented from being a director under the Corporations Act or Relevant Laws;
- (d) becomes a person who would not be eligible to be nominated as a candidate for both election and appointment as a Director;
- (e) is no longer fit and proper or eligible to be and remain a Responsible Person of the Company under Relevant Laws;
- (f) is removed by the Members in accordance with the Corporations Act;
- (g) is absent from 3 consecutive meetings of the Directors, without the prior approval of the Directors;
- (h) does not, as required by rule 7.6(d), cease to be a Member's Representative within 21 days of being elected or appointed as a Director;
- (i) is appointed as a Member's Representative under rule 6.10;
- (j) experiences an Insolvency Event; or
- (k) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.

## **7.9 Alternate Directors**

- (a) A Director may, with the approval of the other Directors, appoint any eligible person as the Director's alternate for a period determined by the appointing Director.
- (b) An Alternate Director is entitled to notice of Directors' meetings while the person holds that office, if the appointer is not present at a Directors' meeting, is entitled to attend, be counted in a quorum and to vote as a Director.
- (c) An Alternate Director is not an agent of the appointer.

- (d) The provisions of this Constitution which apply to the Directors also apply to any Alternate Directors.
- (e) The appointment of an Alternate Director:
  - (1) may be revoked at any time by the appointer or by the Directors;
  - (2) ends automatically upon the appointer ceasing to be a Director; and
  - (3) ends automatically if he or she were a Director but would cease to be a Director by virtue of rule 7.8.
- (f) Any appointment or revocation of appointment of an Alternate Director must be by written notice given to the Secretary.
- (g) An Alternate Director is not to be regarded as having an interest in a contract or arrangement, or a material personal interest in any matter being considered by the Directors, by reason only of the fact that the person's appointer has such an interest.
- (h) Rule 7.10 applies to Alternative Directors in the same manner that it applies to Directors.

#### **7.10 Director remuneration and reimbursement**

- (a) A Director is not entitled to any fees or remuneration for undertaking the duties as a Director.
- (b) Despite rule 7.10(a), a Director must be reimbursed for reasonable travel and other expenses reasonably incurred by the Director when engaged in the Company's business, attending meetings or otherwise in carrying out the Director's duties as a Director, provided payment does not exceed any amount previously approved by the Directors or set out in any applicable Regulation.
- (c) Despite rule 7.10(a), a Director may be paid for any service rendered to the Company in a professional or technical capacity outside the scope of the Director's ordinary duties where:
  - (1) the service and amount payable is on reasonable terms;
  - (2) the payment is not contrary to Relevant Laws; and
  - (3) the provision of that service has the Directors' prior approval.

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## **8. Directors' powers**

### **8.1 The Directors manage the Company**

- (a) The Directors are ultimately responsible for managing the business of the Company and may exercise to the exclusion of the Members in general meeting all the powers and discretions of the Company which are not required by the Corporations Act, Relevant Laws or this Constitution to be exercised by the Members.
- (b) Without limiting the generality of rule 8.1(a), the Directors may exercise all the powers of the Company to borrow or otherwise raise money, to charge any property or

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business of the Company and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

- (c) The Directors may determine how cheques, promissory notes, bankers' drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the Company.
- (d) Despite rule 8.1(a), the Directors may not cause the Company to conduct any particular business activities outside Australia unless the Members have granted their prior approval those particular business activities by Special Resolution.

## 8.2 Duties of the Directors

- (a) Each Director must act in the best interests of the Company as a whole, and not in the particular interests of any Member, group of Members or type of Member, unless such interests are consistent with the best interests of the Company.
- (b) Each Director must ensure that the Director is aware of, and complies with, the Director's duties as a Director under the Corporations Act, other Relevant Laws and in accordance with the Governance Standards made under the ACNC Legislation which are:
  - (1) to exercise the Director's powers and discharge the Director's duties with the degree of care and diligence that a reasonable individual would exercise if the Director were a Director;
  - (2) to act in good faith in Company's best interests and to further the charitable purposes of the Company set out in rule 2.1.
  - (3) not to misuse the Director's position as a Director;
  - (4) not to misuse information the Director gains in the performance of the Director's duties as a Director;
  - (5) to disclose any perceived or actual material conflict of interest experienced by the Director;
  - (6) to ensure that the financial affairs of the Company are managed responsibly; and
  - (7) not to allow the Company to operate while insolvent.

## 8.3 Implied validity

An act done by a person acting as a Director or by a meeting of Directors or a Committee is not invalidated by reason only of:

- (a) a defect in the appointment of any person as a Director or otherwise;
- (b) any person being disqualified or ineligible to be a Director or otherwise or having vacated office; or



- (c) any person not being entitled to vote, if that circumstance was not known by the person or the Directors or Committee, as the case may be, when the act was done.

#### **8.4 Power to delegate to others**

- (a) The Directors may delegate any of their powers to:

- (1) any single Director;
- (2) any other officer or employee of the Company; or
- (3) a Committee,

and may, expressly in writing, authorise any such delegate to further delegate to any single Director or other officer or employee of the Company, subject to any limits or restrictions imposed by the Directors in the authorisation or at any later time.

- (b) A person or Committee to whom any powers have been delegated or further delegated must exercise those powers in accordance with any directions of the Directors.
- (c) No delegation or further delegation prevents the Directors from continuing to themselves exercise the power delegated.
- (d) The Directors may amend or revoke the terms of any delegation at any time, and any amendment or revocation applies equally to the terms of any further delegated power.

#### **8.5 Power to appoint agents and attorneys**

- (a) The Directors may, by power of attorney:

- (1) appoint any person to be an agent or attorney of the Company for such purposes, with such powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Directors), for such period and upon such conditions as they think fit;
- (2) authorise an agent or attorney to delegate all or any of the powers, discretions and duties vested in the agent or attorney; and
- (3) subject to any contract between the Company and the relevant agent or attorney and any applicable industrial law, remove or dismiss any agent or attorney of the Company at any time, with or without cause.

- (b) Any such power of attorney may contain such provisions for the protection and convenience of the agent or attorney or persons dealing with the agent or attorney as the Directors think fit.

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## **9. Meetings of the directors**

### **9.1 Meetings**

The Directors may meet to consider business, adjourn and otherwise regulate their meetings as they think fit.

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**9.2 Number of meetings**

The Directors must meet at least 4 times per year.

**9.3 Convening meetings**

The Secretary must convene a meeting of the Directors at the request of the National President or at least 3 Directors.

**9.4 Notice of meeting**

- (a) At least 5 Business Days' notice of any meeting of the Directors must be given unless the Directors decide otherwise, or in an emergency.
- (b) The notice of meeting must specify the business to be transacted. The Directors may only transact business of a routine nature unless notice of any other business has been given either in the notice convening the meeting or in some other notice given at least 3 days before the meeting.
- (c) The decision of the National President as to whether (for the purposes of rule 7.7(c)(1), 9.4(a) or 9.5(f)) an emergency exists, or whether business is routine, is conclusive.

**9.5 Quorum**

- (a) No business may be transacted at a meeting of the Directors unless a quorum of Directors is present during the time the business is dealt with.
- (b) The quorum for a meeting of the Directors is half the number of Directors in office at the relevant time (rounded up) or such other number or percentage determined by the Directors.
- (c) If there is a vacancy in the office of a Director then, subject to rule 9.5(b), the remaining Directors may act.
- (d) A meeting of the Directors at which a quorum is present may exercise all powers and discretions of the Directors.
- (e) If a meeting of the Directors is adjourned due to lack of quorum, the Chair must set a further date for the adjourned meeting.
- (f) If the number of Directors in office at any time is not sufficient to constitute a quorum at a meeting of Directors, the remaining Director or Directors must act as soon as possible to increase the number of Directors to a number sufficient to constitute a quorum and, until that has happened, must only act if and to the extent that there is an emergency requiring them to act.

**9.6 Chair**

- (a) The National President must (if present within 10 minutes after the time appointed for the holding of the meeting and willing to act) preside as Chair.
- (b) If at a meeting of Directors:





- (1) there is no National President;
- (2) the National President is not present within 10 minutes after the time appointed for the holding of the meeting; or
- (3) the National President is present within that time but is not willing to act as Chair,

then the National Vice President must preside as Chair.

(c) If at a meeting of Directors:

- (1) there is no National President and no National Vice President;
- (2) neither the National President or the National Vice President is present within 15 minutes after the time appointed for the meeting; or
- (3) neither the National President or the National Vice President is willing to act as Chair,

then the Directors present must elect as Chair another Director who is present and willing to act.

(d) Despite anything in rules 9.6(b) and 9.6(c), if the National President or the National Vice President later attends a meeting of Directors, the National President or failing the National President, the National Vice President, provided the National Vice President is willing to act, must take over as Chair.

## 9.7 Decisions of Directors

- (a) A meeting of Directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Directors under this Constitution.
- (b) Each Director or Alternate Director present and entitled to vote at a meeting of the Directors has one vote.
- (c) Questions arising at a meeting of the Directors must be decided by a majority of votes. Such a decision is for all purposes a decision of the Directors.
- (d) Other than in relation to an election of the Chair, in the event of an equality of votes, the Chair, in addition to the Chair's deliberative vote, has a casting vote.

## 9.8 Use of technology

- (a) Provided all reasonable steps have been taken to give each Director notice of the proposed meeting of the Directors in compliance with rules 9.4(a) and 9.4(b), the contemporaneous linking together by telephone or other electronic means (allowing reasonable interaction between them) of a number of the Directors sufficient to constitute an absolute majority of the Directors in office at the relevant time, constitutes a meeting of the Directors and all the provisions in this Constitution relating to meetings of the Directors apply, so far as they can and with such changes as are necessary, to meetings of the Directors by telephone or other electronic means.

*Paul Dennis*

- (b) A meeting by telephone or other electronic means is to be taken to be held at the place determined by the Chair provided that at least one of the Directors involved was at that place for the duration of the meeting.

### 9.9 Circular resolutions

- (a) If:
- (1) all of the Directors have received reasonable notice of a proposed act, matter, thing or resolution; and
  - (2) such number of Directors who are eligible to consider the act, matter, thing or resolution and who together are sufficient to constitute an absolute majority of the Directors in office at the relevant time, assent to a document containing a statement to the effect that the act, matter or thing has been done or resolution has been passed,

then that act, matter, thing or resolution is to be taken as having been done at or passed by a meeting of the Directors.

- (b) For the purposes of rule 9.9(a):
- (1) the meeting is to be taken as having been held on the day on which, and at the time at which, the document was last assented to by one of those constituting that absolute majority;
  - (2) 2 or more separate documents in identical terms each of which is assented to by one or more of the relevant Directors are to be taken as constituting one document; and
  - (3) a Director may signify assent to a document by signing the document or by notifying the Company of the Director's assent in person or by post, or by telephone or electronic means.
- (c) Where a Director signifies assent to a document verbally in person or by telephone, the Director must by way of confirmation either:
- (1) promptly send to the Company an email confirming the Director's assent; or
  - (2) sign the document at the next meeting of the Directors attended by that Director,

but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

### 9.10 Conflicts and personal interests

- (a) A Director who has a material personal interest in a matter that relates to the Company's affairs must give the other Directors written notice of the interest unless the Corporations Act or Relevant Laws require otherwise.
- (b) To the maximum extent required by the Corporations Act or Relevant Laws, a Director who has a material personal interest in a matter that is being considered by the



Directors must not be present while the matter is being considered or vote on the matter.

### 9.11 Minutes

- (a) The Directors must ensure that minutes of all proceedings of general meetings, meetings of the Directors, meetings of a Committee, and resolutions passed by Members or Directors without a meeting, are recorded in a minute book within one month after the relevant meeting is held or after the resolution is passed.
- (b) The minutes must be signed by the Chair of the meeting at which the proceedings took place or by the Chair of the next succeeding meeting.
- (c) The signing of minutes by a Chair or a Director may occur electronically in any manner permitted by Relevant Laws, which may include signing a printed copy of the document and sending it electronically to the Company.
- (d) Minutes entered and signed are prima facie evidence of the proceedings to which they relate.
- (e) In relation to signed minutes, unless the contrary is proven:
  - (1) the relevant meeting is deemed to have been convened and held;
  - (2) all proceedings that are recorded in the minutes as having taken place are deemed to have taken place; and
  - (3) all appointments that are recorded in the minutes as having been made are deemed to have been validly made.

## 10. Additional officers

### 10.1 Company Secretary and other officers

- (a) The Directors must appoint a person to act as secretary of the Company.
- (b) A Director may be appointed as the Secretary.
- (c) The Secretary must also be appointed as a company secretary of the Company for the purposes of the Corporations Act.
- (d) In addition to other duties set out in this Constitution, the Secretary must attend all meetings of the Directors and all general meetings and must conduct all correspondence and generally carry out the instructions of the Directors.
- (e) The Directors may appoint other officers of the Company.

### 10.2 Provisions applicable to all executive officers

- (a) A reference in rules 10.2(b) to 10.2(e) to an executive officer is a reference to an officer holding office or appointed under rule 10.1(a) or 10.1(e).
- (b) The appointment of an executive officer may be for such period, at such remuneration and upon such conditions as the Directors think fit.

*Neal Davies*

- (c) Subject to any contract between the Company and the relevant executive officer and any applicable industrial law, any executive officer of the Company may be removed or dismissed by the Directors at any time, with or without cause, whether or not the executive officer is also a Director at the time.
- (d) The Directors may:
- (1) confer on an executive officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the Directors) as they think fit;
  - (2) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
  - (3) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (e) An act done by a person acting as an executive officer is not invalidated by reason only of:
- (1) a defect in the person's appointment as an executive officer; or
  - (2) the person being disqualified to be an executive officer, if that circumstance was not known by the person when the act was done.

## 11. Committees

### 11.1 Directors' power to establish committees

- (a) The Directors may, by making a Regulation, establish a committee:
- (1) consisting of such Directors (if any) as they think fit;
  - (2) consisting of such non-Directors they think fit;
  - (3) the chair of which must be a Director unless the relevant Regulation requires or allows otherwise;
  - (4) with such persons including non-Directors as observers, as they think fit; and
  - (5) with such purposes and functions as set out in the Regulation.
- (b) Any non-Director who is a member of a Committee may only vote on that Committee if the relevant Regulation permits.
- (c) The provisions of this Constitution applying to meetings and resolutions of Directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a Committee.



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## 12. Administration

### 12.1 Amendment of Constitution

The Members may amend this Constitution by Special Resolution in accordance with the Corporations Act and other Relevant Laws.

### 12.2 Submission to jurisdiction

Each Member submits to the non exclusive jurisdiction of the Supreme Court of Victoria and the Courts which may hear appeals from that Court.

### 12.3 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this Constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

### 12.4 Interpretation

If any question, uncertainty, difficulty, anomaly, dispute or disagreement arises, either generally or in a particular case, in connection with the application or interpretation of this Constitution, or the powers, rights, discretions or obligations of the Company, any Director or any Member, then subject only to Relevant Law, that question, uncertainty, difficulty, anomaly, dispute or disagreement may be determined by the Directors acting in good faith but otherwise in their absolute discretion, and any such determination is conclusive and binding on all persons to whom the determination relates, and must accordingly be given its full effect.

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## 13. Accounts and audit

### 13.1 Financial and related records

- (a) The Company must make and keep written financial records that comply with the ACNC Legislation and:
  - (1) correctly record and explain its transactions and financial position and performance; and
  - (2) enable true and fair financial statements for its Financial Year to be prepared and to be audited.
- (b) The Company must also keep written records that correctly record its operations.
- (c) The Company must retain the records referred to in rules 13.1(a) and 13.1(b) for at least 7 years.
- (d) The Directors must take reasonable steps to ensure that the Company's records are kept safe.



**13.2 Audit**

- (a) An auditor must be appointed by the Directors in accordance with the ACNC Legislation.
- (b) The Auditor is entitled to attend any general meeting and to be heard by the Members on any part of the business of the general meeting that concerns the Auditor in the capacity as Auditor.
- (c) The Company must give the Auditor any communication relating to a general meeting that a Member is entitled to receive.

**13.3 Records and inspection**

- (a) A Member or a Director is entitled to inspect the Company's records at all reasonable times, as provided for in the Corporations Act or this Constitution, or as may be authorised by the Directors.
- (b) The Company may enter into a deed giving rights, or include in the type of deed referred to in rule 16.7 rights, to an Official to access specified records of the Company.

**14. Execution of documents****14.1 Seal**

- (a) The Directors may determine whether or not the Company is to have a common seal and, if so, must provide for the safe custody of the seal.
- (b) The seal, if any, of the Company may only be affixed to any instrument with the authority of the Directors.
- (c) The affixing of the seal must be attested by the signatures of 2 persons authorised by the Directors for that purpose.

**14.2 Execution without a seal**

Without limiting its other options under Relevant Laws, the Company may execute a document (including a deed) without using a seal if the document is signed by:

- (a) 2 Directors; or
- (b) one Director and the Secretary.

**15. Notices****15.1 Notice by the Company to Members**

- (a) A notice may be given by the Company to a Member by:
  - (1) serving it personally at, or by sending it by post in a prepaid envelope to, the Member's address as shown in the Membership Register, or by sending it to



- the electronic address, or such other address the Member has supplied to the Company for the giving of notices; or
- (2) making a copy of it accessible electronically on a website of or relating to the Company.
- (b) The fact that a person has supplied an electronic address for the giving of notices does not:
- (1) require the Company to give any notice to that person by electronic means; or
- (2) prevent the Company from giving any notice to that person in the manner envisaged by rule 15.1(a)(2).
- (c) A signature to any notice given by the Company to a Member under rules 15.1(a) to 15.1(d) may be in writing or affixed by some mechanical, electronic or other means.
- (d) A certificate signed by a Director or the Secretary to the effect that a notice has been given in accordance with this Constitution is conclusive evidence of that fact in the absence of manifest error.

## 15.2 Notice by the Company to a Director

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 post in a prepaid envelope to, the Director's usual residential or business address, or by sending it to the electronic address, or such other address as the Director has supplied to the Company for the giving of notices.

## 15.3 Notice by a Member or Director to the Company

Subject to this Constitution, a notice may be given by a Member or Director to the Company by serving it on the Company at, or by sending it by post in a prepaid envelope to, the registered office or principal mailing address of the Company or by sending it to the principal electronic address of the Company at its registered office.

## 15.4 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected 5 Business Days after it is sent.
- (b) Where a notice is sent by electronic means service of the notice is to be taken to be effected on the Business Day after the date it is sent.
- (c) Where the Company gives a notice under rule 15.1(a)(2), service of the notice is to be taken to be effected when the notice was first so made accessible.

## 15.5 Other communications and documents

Rules 15.1 to 15.4 and rule 15.6 apply, so far as they can and with such changes as are necessary, to the service of any communication or document.



**15.6 Notices in writing**

A reference in this Constitution to a notice or other communication in writing includes a notice given by electronic means.

**16. Indemnity and insurance****16.1 Persons to whom rules 16.2 and 16.5 apply**

Rules 16.2 and 16.5 apply to each Official.

**16.2 Indemnity**

Subject to rule 16.3, the Company must indemnify each Official on a full indemnity basis and to the full extent permitted by law against all Liabilities incurred by the Official as an Official, including:

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

**16.3 Limit on indemnity**

(a) The indemnity in rule 16.2 does not operate in relation to any Liability which:

- (1) is a Liability to the Company or any of its related bodies corporate;
- (2) is a Liability for a pecuniary penalty order under s1317G of the Corporations Act or a compensation order under ss961M, 1317H, 1317HA, 1317HB, 1317HC or 1317HE of the Corporations Act; or
- (3) did not arise out of conduct of the Official which was in good faith, or which arises out of conduct of the Official which involves wilful misconduct, gross negligence, recklessness or fraud,

provided that this rule 16.3(a) does not apply to a Liability for legal costs.

(b) The indemnity in rule 16.2 does not operate in relation to legal costs incurred by the Official in defending an action for a Liability if the costs are incurred:

- (1) in defending or resisting proceedings in which the Official is found to have a Liability referred to in rule 16.3(a);
- (2) in defending or resisting criminal proceedings in which the Official is found guilty;
- (3) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established. For the avoidance of doubt, this does not include costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order; or
- (4) in connection with proceedings for relief to the Official under the Corporations Act in which the court denies the relief.





- (c) If there is any appeal in relation to any proceedings referred to in rule 16.3(b), it is the outcome of the final appeal that is relevant for the purposes of rule 16.3(b).
- (d) The indemnity in rule 16.2:
  - (1) 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
  - (2) does not operate in respect of any Liability of the Official to the extent that Liability is covered by insurance.

#### **16.4 Extent of indemnity**

The indemnity in rule 16.2:

- (a) is enforceable without the Official having to first incur any expense or make any payment; and
- (b) is a continuing obligation and is enforceable by the Official even though the Official may have ceased to be an officer of the Company or a related body corporate or to hold the position the Official originally held.

#### **16.5 Insurance**

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,

for each Official against any Liability incurred by the Official as an Official including a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

#### **16.6 Savings**

Nothing in rule 16.2 or 16.5:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any Liability referred to in those rules; or
- (b) limits the capacity of the Company to indemnify or provide or pay for insurance for any person to whom those rules do not apply.

#### **16.7 Deed**

The Company may enter into a deed with any Official to give effect to the rights conferred by rules 16.2 to 16.5, or the exercise of a discretion under rules 16.2 to 16.5, on such terms as the Directors think fit which are not inconsistent with rules 16.2 to 16.5.



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## **17. Regulations**

### **17.1 Regulations are made by the Directors**

The Directors may, in their absolute discretion, make, amend, add to, rescind or replace regulations concerning any aspect of the membership, governance, management, operation or activities of the Company including:

- (a) any matter this Constitution expressly envisages may be regulated by Regulations; and
- (b) any other matter relevant to the Company that the Directors choose to regulate.

### **17.2 Conflict between the Constitution and Regulations**

To the extent of any conflict between this Constitution and any Regulations, this Constitution prevails.

### **17.3 Effectiveness and promulgation of Regulations**

Any Regulations made, and any amendment, addition, rescission or replacement:

- (a) has effect on and from the date it is made unless otherwise stated in the relevant instrument; and
- (b) must be promulgated to those affected, provided that failure to bring it to the attention of any person does not render it or anything done in accordance with it void, voidable or ineffective.

### **17.4 Enforceability of Regulations**

- (a) Any Regulations:
  - (1) are as valid and enforceable as if they were repeated in this Constitution; and
  - (2) can be enforced by legal action.
- (b) A failure by a Director, other officer of the Company or Member to comply with Regulations is deemed to be a failure by that Director, other officer of the Company or Member to comply with this Constitution.

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## **18. Winding-up and revocation of deductible gift recipient status**

### **18.1 Winding-up**

- (a) The Company may only be wound-up in accordance with the Corporations Act.
- (b) If, on the winding-up or dissolution of the Company, any property remains after satisfaction of all its debts and liabilities, such property must be given or transferred to a company, fund, institution or authority:
  - (1) which has objects or purposes similar to the Objects and Purposes;



- (2) which is a Charity;
  - (3) whose constituent documents prohibit distributions or payments to its members in a manner similar to that set out in rules 2.3(a) to 2.3(c); and
  - (4) which is a Deductible Gift Recipient.
- (c) The identity of the entity referred to in rule 18.1(b) must be determined by the Directors, or if the Directors do not wish to decide or do not decide, it must be determined by the Supreme Court of Victoria.

## 18.2 Revocation of Deductible Gift Recipient status

- (a) If the Company's endorsement as a Deductible Gift Recipient is revoked, any surplus of the assets listed in rule 18.2(b) must be transferred to a company, fund, institution or authority which:
- (1) has objects or purposes similar to the Objects and Purposes;
  - (2) is a Charity; and
  - (3) is a Deductible Gift Recipient.
- (b) The assets to which rule 18.2(a) applies are:
- (1) gifts of money or property for the Objects and Purposes;
  - (2) contributions made in relation to an eligible fundraising event held for the Objects and Purposes; and
  - (3) money received by the Company because of such gifts and contributions.
- (c) The identity of the entity referred to in rule 18.2(a) must be determined by the Directors, or if the Directors do not wish to decide or do not decide, it must be determined by the Supreme Court of Victoria.

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## 19. Interpretation

### 19.1 Interpretation

- (a) In this Constitution:
- (1) words importing the singular include the plural and words importing the plural include the singular;
  - (2) words importing a gender include every other gender;
  - (3) words used to denote persons generally or importing a natural person include any company, corporation, body corporate or other body (whether or not the body is incorporated), partnership or association;
  - (4) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;



- (5) headings and bold text are for convenience only and do not affect its interpretation;
  - (6) a reference to a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, whether passed by the same or another government agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
  - (7) a reference to a document or other instrument (including this Constitution and any Regulations) is to that document or other instrument as amended from time to time;
  - (8) a Member is to be taken to be present in person at a general meeting:
    - (A) in the case of a Member which is a natural person – if the Member is present in person or by proxy at the general meeting; or
    - (B) in the case of a Member which is a body corporate – if the Member's Member's Representative or proxy is present in person at the general meeting;
  - (9) a person participating in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting; and
  - (10) a reference to a Director being elected **in relation to** an AGM is a reference to an election being conducted by ballot or other permitted procedure occurring other than at that particular AGM.
- (b) The Preamble does not form part of this Constitution.

## 19.2 Inclusive expressions

Specifying anything in this Constitution after the words **including, includes, for example** or similar expressions does not limit what else is included unless there is express wording to the contrary.

## 19.3 Exercise of powers

- (a) Where this Constitution provides that a person or body may do a particular act or thing and the word **may** is used, the act or thing may be done at the discretion of the person or body.
- (b) Where this Constitution confers a power to do a particular act or thing, the power is to be taken as including a power:
  - (1) exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing; and
  - (2) to do the act or thing from time to time.
- (c) Where this Constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to



include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.

- (d) Where this Constitution confers a power to make appointments to any office or position other than Director, the power is to be taken to include a power:
- (1) to appoint a person to act in the office or position until a person is appointed to the office or position;
  - (2) subject to any contract between the Company and the relevant person and any applicable industrial law, to remove or suspend any person appointed, with or without cause; and
  - (3) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (e) Where this Constitution imposes a duty, the duty must be performed from time to time as the occasion requires.
- (f) Where this Constitution confers a power or imposes a duty on the holder of an office as such then the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (g) Where this Constitution confers power on a person or body to delegate a function or power:
- (1) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
  - (2) the delegation may be either general or limited in any manner provided in the terms of delegation;
  - (3) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
  - (4) the delegation may include the power to delegate;
  - (5) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and
  - (6) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

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## 20. Definitions

In this Constitution:



**ACNC** means the Australian Charities and Not-for-Profits Commission.

**ACNC Legislation** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth) to the extent they apply to the Company at the relevant time.

**Adoption Time** means the time at which this form of Constitution was adopted by the Members.

**AGM** means an annual general meeting of the Members.

**Alternate Director** means any person who, for the time being, holds office as an alternate Director under rule 7.9.

**ASIC** means the Australian Securities and Investments Commission.

**Auditor** means the person appointed under rule 13.2(a) for the time being as the auditor of the Company.

**Australian Defence Force** has the meaning given by the Defence Act.

**Australian Veteran** means a current or former member of the Australian Defence Force.

**Business Day** means a weekday which is not a public holiday:

- (a) for the purpose of sending or receiving a notice – in the city where the notice is intended to be received; and
- (b) for all other purposes – in Melbourne, Australia.

**Chair** means the chair of the relevant meeting under rule 6.7 or 9.6 (as the case may be).

**Charity** has the meaning given in the *Charities Act 2013* (Cth).

**Chief of Air Force Director** means any Director:

- (a) nominated under rule 7.2(c) and elected under rule 7.2(b)(3); or
- (b) nominated and appointed under rule 7.7(b).

**Committee** means a committee established under rule 11.

**Company** means Air Force Association Ltd ABN 66 622 976 818.

**Constitution** means this constitution of the Company.

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

**Council Charter** means the document developed under rule 5.1(i) to guide the Federation Council in the conduct of its activities.

**Deductible Gift Recipient** has the meaning given by the *Income Tax Assessment Act 1997* (Cth).



**Defence Act** means the *Defence Act 1903* (Cth).

**Designated Service** means and includes service in uniform with any defence force other than the Australian Defence Force, as may be determined by the Directors. This may include service with the British Armed Forces, the United States of America Armed Forces, the Canadian Armed Forces, and the New Zealand Defence Force (all as defined in their respective national laws).

**Director** means a director of the Company.

**Dispute** means a dispute or disagreement under this Constitution or a Regulation, other than one which may be determined under rule 12.4.

**Division** means a Foundation Member for so long as it remains a Member, but a Foundation Member ceasing to remain a Member does not otherwise affect its status in any other context.

**Federation Council** means the Council established under rule 5.1(a).

**Financial Year** means each 12 month period from 1 January to 31 December.

**Foundation Member** means each of:

- (a) Australian Flying Corps and Royal Australian Air Force Association, Queensland Division, incorporated under Letters Patent. ABN 21 437 796 954;
- (b) Australian Flying Corps and Royal Australian Air Force Association (New South Wales Division) Incorporated. ABN 83 024 137 015;
- (c) Australian Flying Corps and Royal Australian Air Force Association ACT Division Incorporated. ABN 32 480 137 432;
- (d) Air Force Association – Victoria. ABN 96 091 342 304;
- (e) Royal Australian Air Force Association Tasmania Division Incorporated. ABN 31 872 637 934;
- (f) Air Force Association – South Australian Division Incorporated. ABN 78 961 882 179; and
- (g) Air Force Association (Western Australian Division) Incorporated. ABN 97 352 605 141.

**Insolvency Event** means, in relation to:

- (a) a natural person:
  - (1) the person is placed into bankruptcy or an order is made by a court or an application is made to a court for an order or the person gives notice of its intention that the person be placed into bankruptcy;
  - (2) a trustee in bankruptcy is appointed in respect of the person or any property of the person or an application is made to a court for an order that a trustee in bankruptcy be appointed in respect of the person or any property of the person;



- (3) the person is, or states that the person is or may become, unable to pay the person's debts as and when they fall due; or
  - (4) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction; or
- (b) a person who is not a natural person – being in liquidation or provisional liquidation or under administration, having a controller (as defined in the Corporations Act) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand, being unable to pay its debts or otherwise insolvent, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, the taking of any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the Corporations Act), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event under the law of any applicable jurisdiction.

**Liability** means a loss, liability, damage, cost, charge or expense.

**Member** means a member of the Company at the Adoption Time, together with any person subsequently admitted as a member of the Company under this Constitution, for so long as the member remains a member.

**Member's Representative** of a Member means a person nominated by that Member under rule 6.10(a).

**Membership Register** means the register of Members kept by the Company under rule 3.5(a).

**National President** means the person elected or appointed to that office under this Constitution.

**National Vice President** means the person elected or appointed to that office under this Constitution.

**Objects and Purposes** means the Company's objects and purposes as set out in rule 2.1.

**Official** means:

- (a) each person who is or has been a Director; and
- (b) officers and former officers of the Company, as determined by the Directors.

**Other Veteran** means a veteran from a Designated Service who is now either a permanent resident of Australia or an Australian citizen.

**President** of a Member which is a body corporate means the person who presides over the governing body of the Member, by whatever title that person is known.

**Regulations** means regulations made under rule 17.





**Relevant Laws** means laws and regulations, including the ACNC Legislation, relevant to the registration, reporting or governance obligations and fundraising activities or any other activity of the Company.

**Responsible Person** means someone the ACNC considers as responsible for governing the Company, these persons being the Directors, including Alternate Directors, but does not include the Secretary if that person is not also a Director.

**Secretary** means the person appointed as the secretary of the Company under rule 10.1(a).

**SGM** means a general meeting of Members other than an AGM.

**Special Resolution** has the meaning given by the Corporations Act.

**Unacceptable Conduct** means conduct by:

- (a) a Member; or
- (b) in the case of a Member which is a body corporate – that Member, or (where relevant) a director or other officer of that Member (whose conduct in this regard is deemed to be conduct of the particular Member),

(whether in that capacity or otherwise) which in the reasonable opinion of the Directors:

- (c) is, has been or will be prejudicial to the Company's interests;
- (d) is not that of a fit and proper person, or a person of good fame and character;
- (e) is inconsistent with obligations owed by that person under the Corporations Act, Relevant Laws or this Constitution;
- (f) is unbecoming of a Member;
- (g) has resulted in a debt which is due and payable to the Company remaining unpaid for 6 months or more after the due date; or
- (h) is conduct which is prescribed for this purpose in the Regulations.

## 21. Transitional provisions

- (a) Notwithstanding any other provision in this Constitution, on and from the Adoption Time:
  - (1) the Directors include, subject to this Constitution:
    - (A) Carl Schiller – to be regarded as elected at the 2021 AGM for the purposes of rule 7.4(a)(2);
    - (B) Peter McDermott – to be regarded as elected at the 2021 AGM for the purposes of rule 7.4(b)(2);
    - (C) Peter Colliver – to be regarded as elected at the 2020 AGM for the purposes of rule 7.4(c)(2); and



- (D) Deanna Nott – to be regarded as elected at the 2022 AGM for the purposes of rule 7.4(c)(2).
- (2) Carl Schiller – is, subject to this Constitution, to be regarded as the National President;
- (3) Peter McDermott – is, subject to this Constitution, to be regarded as the National Vice President;
- (4) Peter Colliver – is, subject to this Constitution, to be regarded as the Secretary appointed under rule 10.1(a);
- (5) the Members are, subject to this Constitution, the Foundation Members; and
- (6) the Member's Representative of:
  - (A) Australian Flying Corps and Royal Australian Air Force Association Queensland Division incorporated under Letters Patent. – is Edward Mildren;
  - (B) Australian Flying Corps & Royal Australian Air Force Association (New South Wales Division) Incorporated. – is Peter Ring;
  - (C) Australian Flying Corps and Royal Australian Air Force Association ACT Division Incorporated. – is Edward Walsh;
  - (D) Air Force Association – Victoria. – is Max McGregor;
  - (E) Royal Australian Air Force Association Tasmania Division Incorporated. – is Alan Robertson;
  - (F) Air Force Association – South Australian Division Incorporated. – is Robert Black; and
  - (G) Air Force Association (Western Australian Division) Incorporated. – is Clive Robartson,

subject to this Constitution.
- (b) With effect immediately after the conclusion of the Company's AGM in 2025 – this rule 21 ceases to apply and is excised from this Constitution.

