



CONSTITUTION OF
Royal Society for the Prevention of Cruelty
to Animals Tasmania Ltd

Australian Company Number (ACN 611 485 271)
Australian Business Number (ABN 71 723 781 546)

A company limited by guarantee

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Definitions and interpretation

1. Definitions

In this constitution:

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

Appointed Director means a Director appointed by the Board in accordance with clause 46.4;

Annual Member means the former Membership category pertaining to individuals and corporations approved by the Board who make an annual financial donation to the Company of an amount as determined by the Board;

Auditor means the person appointed for the time being as the auditor of the Company;

Associate Member means the former Membership category pertaining to individuals and corporations approved by the Board who make an annual financial donation to the Society of an amount as determined by the Board;

Board means all or some of the Directors acting as a board;

Casual Vacancy Director means a director appointed by the Board in accordance with clause 46.5;

Chairperson means the person acting as Chairperson as context requires, and includes both Elected Chairperson and Elected Deputy Chairperson;

Class means each of the classes of Membership described in clause 13.1;

Company means Royal Society for the Prevention of Cruelty to Animals Tasmania (ACN 611 485 271);

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

Director means a person holding office as a director of the Company including an Appointed Director, Elected Director and Casual Vacancy Director;

Elected Chairperson means a person elected by the Directors to be the Company's Chairperson under clause 47;

Elected Deputy Chairperson means a person elected by the Directors to be the Company's deputy Chairperson under clause 47;

Elected Director means a Director nominated and elected by the Members in accordance with clause 46.3;

Fees means the fees set by the Board from time to time and payable by Members (including the annual renewal fee);

Full Member means a Member with the rights described in clause 13.2;

General Meeting means a meeting of Members and includes the annual **General Meeting**, under clause 25.1;

Guarantee means the amount specified in clause 7.

Honorary Life Member means the former Membership category pertaining to individual or corporate members who are appointed by the Board who have made a significant non-financial contribution to the Company;

Initial Auditor means the first auditor of the Company as provided for in clause 28.1.

Initial Member means a person who is named in the application for registration of the Company, with their consent, as a proposed Member of the Company;

Junior Member means the former Membership category pertaining to individuals aged less than 18 years approved by the Board who make an annual financial donation to the Company of an amount as determined by the Board;

Life Member means a Member with the rights described in clause 13.3;

Member means a person who is either a Full Member or a Life Member as referred to in clause 13 who is entered on the Register as a member and **Membership** has a corresponding meaning;

Registered Charity means a charity that is registered under the **ACNC Act**;

Special Resolution means a resolution:

- (a) of which notice has been given under clause 26.5(c), and
- (b) that has been passed by at least 75% of the votes cast by **members present** and entitled to vote on the resolution; and

Supporter Member means a member with the rights described in clause 13.6 who, for the avoidance of doubt, is not a member of the Company for the purposes of the Corporations Act;

Surplus Assets means any assets of the Company that remain after paying all debts and other liabilities of the Company, including the costs of winding up.

2. Reading this constitution with the Corporations Act

- 2.1 The replaceable rules set out in the **Corporations Act** do not apply to the Company.
- 2.2 While the Company is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution which are inconsistent with those Acts.
- 2.3 If the Company is not a **registered charity** (even if it remains a charity), the **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.
- 2.4 A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

3. Interpretation

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression;
- (b) a reference to a word is a reference to that word in the plural and singular;
- (c) headings are used for convenience only and are not intended to affect the interpretation of this Constitution; and
- (d) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).

Preliminary

4. Name of the Company

The name of the Company is The Royal Society for the Prevention of Cruelty to Animals Tasmania Ltd (the Company).

5. Type of Company

The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.

6. Limited liability of Members

The liability of Members is limited to the Guarantee in clause 7.

7. Guarantee

Each Member must contribute the Guarantee, being an amount not more than \$10 to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:

- (a) debts and liabilities of the Company incurred before the Member stopped being a Member; or
- (b) costs of winding up.

Charitable purposes and powers

8. Object

The Company's object is to pursue the following charitable purposes:

- 8.1 The Company considers and acts for the welfare of animals within the internationally recognised policy framework known as the five freedoms for animals, being:
 - (a) freedom from hunger and thirst;
 - (b) freedom from discomfort;
 - (c) freedom from pain and injury or disease;
 - (d) freedom to express normal behaviour; and
 - (e) freedom from fear and distress.
- 8.2 Accordingly, the objects of the Company are to prevent suffering and cruelty to animals and promote the welfare of animals by:
 - (a) educating the Tasmanian community regarding the humane treatment and management of animals, and increasing public awareness of and support for animal welfare;
 - (b) enforcing the existing laws to prevent cruelty to animals;
 - (c) influencing the amendment or development of legislation and standards considered necessary for the protection and welfare of animals;
 - (d) providing animal rescue and welfare services; and
 - (e) performing all functions that are required of, or entrusted to, it under legislation.
- 8.3 The object of the Company is to pursue the charitable purposes only and to apply the income and property of the Company whensoever derived solely to promote the above purposes.

9. Powers

Subject to clause 10, the Company has the following powers, which may only be used to carry out its purposes set out in clause 8:

- (a) the powers of an individual, and
- (b) all the powers of a company limited by guarantee under the Corporations Act.

10. Not-for-profit

- 10.1 The Company must not distribute any income or assets directly or indirectly to its Members, except as provided in clauses 10.2 and 76.
- 10.2 Clause 10.1 does not stop the Company from doing the following things, provided they are done in good faith:
 - (a) paying a Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Company, or
 - (b) making a payment to a Member in carrying out the Company's charitable purpose(s).

11. Amending the constitution

- 11.1 Subject to clause 11.2, the Members may amend this constitution by passing a Special Resolution.

- 11.2 The Members must not pass a Special Resolution that amends this constitution if passing it causes the Company to no longer be a charity.

Members

12. Membership and register of Members

- 12.1 The Members of the Company are:

- (a) Initial Members; and
- (b) any other person that the Directors allow to be a Member, in accordance with this constitution.

13. Classes of Members

- 13.1 The Membership of the Company consists of the following Classes of Members:

- (a) Full Members;
- (b) Life Members; and
- (c) Supporter Members.

- 13.2 The Board may determine eligibility criteria for each Membership class from time to time.

- 13.3 The Board may from time to time remove or vary any of the above Membership Classes or create new Classes as it sees fit.

- 13.4 A Full Member is a Member who:

- (a) is an individual who pays an annual membership Fee to the Company;
- (b) holds full rights as a Member of the Company which include the right to:
 - (i) attend all General Meetings of the Company;
 - (ii) vote at any General Meeting of the Company and participate in any ballot;
 - (iii) stand for and hold office; and
 - (iv) such other rights as determined by the Board from time to time.

- 13.5 A Life Member:

- (a) is an individual who:
 - (i) in the view of the majority of the Board, has made a significant contribution to the Company;
 - (ii) is appointed by the Board;
 - (iii) has all the rights and privileges of a Full Member;
 - (iv) has such other rights as determined by the Board from time to time; and
 - (v) if a Member, will not have any obligation to pay Fees from the time the appointment as a Life Member takes effect;
- (b) if not already a Member, must have their name entered into the register of Members immediately upon appointment by the Board.

- 13.6 A Supporter Member is a person or incorporated body who:

- (a) has the right to attend all General Meetings of the Company;
- (b) such other rights as determined by the Board from time to time.

For clarity, a Supporter Member does not have a right to speak or vote at a General Meeting of the Company nor stand for or hold any office in the Company and is not a member for the purposes of the Corporations Act. In this Constitution, references to Member do not include a Supporting Member.

- 13.7 In the event that a Member is in a Class that ceases to exist the Board will determine, in its discretion, the relevant Class to which the Member will be transferred provided that this does not significantly impact the Member's rights and privileges. If the Board approved and appointed:

- (a) an Annual Member, that Member will become a Full Member;
- (b) an Honorary Life Member, that Member will become a Life Member;

- (c) a Junior Member, that Member will become a Full Member;
- (d) an Associate Member, that Member will become a Full Member.

14. Register

14.1 The Company must establish and maintain a register of Members. The register of Members must contain:

- (a) for each current Member:
 - (i) name
 - (ii) address
 - (iii) any alternative address nominated by the Member for the service of notices, and
 - (iv) date the Member was entered on to the register.
- (b) for each person who stopped being a Member in the last 7 years:
 - (i) name
 - (ii) address
 - (iii) any alternative address nominated by the Member for the service of notices, and
 - (iv) dates the Membership started and ended.

14.2 The Company must give current Members reasonable access to the register of Members.

14.3 Information that is accessed from the register of Members must only be used in a manner relevant to the interests or rights of Members.

15. Membership and Fees

15.1 The Board may determine (in its absolute discretion) the Fee, financial donation or level of contribution applying to each Class of Membership as described in clause 13 from time to time.

15.2 A Full Member must pay the Fees as relevant to their Class of Membership as and when they fall due.

15.3 A newly appointed Full Member is not entitled to any of the rights of a Member until the Member has paid all Fees payable by the Member.

16. Who can be a Member

16.1 A person who supports the purposes of the Company is eligible to apply to be a Member of the Company under clause 17.

16.2 In this clause, 'person' means an individual.

17. How to apply to become a Member

A person (as defined in clause 16) may apply to become a Member of the Company and a person or incorporated body may apply to become a Supporter Member by writing, using such form as the Board (or the Company, in the case of the Supporter Member) prescribe from time to time, to the secretary stating that they:

- (a) want to become a Member or a Supporter Member;
- (b) support the purpose(s) of the Company; and
- (c) agree to comply with the Company's constitution, including paying the guarantee under clause 7 if required.

18. Directors decide whether to approve Membership

18.1 The Directors, or a person delegated the power to admit Members in accordance with clause 51, may admit any person as a Member if the person is eligible to apply to be a Member under clause 17, applies to be a Member or Supporter Member in accordance with clause 17 (or clause 18.5 applies) and the person pays any joining fee prescribed by the Directors under clause 15 from time to time.

18.2 An application for Membership must be considered within a reasonable time after the application is received.

- 18.3 If the application for Membership is approved, applicant must as soon as possible be:
- (a) entered into the register of Members, and
 - (b) notified that their application was approved, the Class of Membership, and the date that their Membership started.
- 18.4 If an application for Membership is rejected, the applicant must be notified as soon as possible but the notification does not have to include reasons.
- 18.5 For the avoidance of doubt, an application for Membership may be approved even if it does not state the matters listed in clauses 17(a), 17(b) or 17(c). In that case, by applying to be a Member, the applicant agrees to those three matters.
- 18.6 Applications for Supporter Membership are automatically approved but the Board may, at any time, revoke this approval should it, in its absolute discretion, consider the membership to be unsuitable.

19. When a person becomes a Member

Other than Initial Members and Life Members, an applicant will become a Member when they are entered on the register of Members.

20. When a person stops being a Member

A person immediately stops being a Member if they:

- (a) die;
- (b) are wound up or otherwise dissolved or deregistered, for an incorporated Member;
- (c) resign, by writing to the secretary (being effective on the date of receipt by the secretary);
- (d) are expelled under clause 22;
- (e) fail to pay any amount payable to the Company within 3 months of the amount becoming due and the Board resolves that the Member should stop being a Member;
- (f) have not responded within 3 months to a written request from the secretary that they confirm in writing that they want to remain a Member;
- (g) become an employee of the Company; or
- (h) are convicted of:
 - (i) any animal cruelty offence in any jurisdiction; or
 - (ii) any criminal offence in relation to the Company.

Dispute resolution and disciplinary procedures

21. Dispute resolution

- 21.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a Member or Director and:
- (a) one or more Members
 - (b) one or more Directors, or
 - (c) the Company.
- 21.2 A Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 22 until the disciplinary procedure is completed.
- 21.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 21.4 If those involved in the dispute do not resolve it under clause 21.3, they must within 10 days:
- (a) tell the Directors about the dispute in writing
 - (b) agree or request that a mediator be appointed, and
 - (c) attempt in good faith to settle the dispute by mediation.

21.5 The mediator must:

- (a) be chosen by agreement of those involved, or
- (b) where those involved do not agree:
 - (i) for disputes between Members, a person chosen by the Directors, or
 - (ii) for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the Company has its registered office.

21.6 A mediator chosen by the Directors under clause 21.5(b)(i):

- (a) may be a Member or former Member of the Company
- (b) must not have a personal interest in the dispute, and
- (c) must not be biased towards or against anyone involved in the dispute.

21.7 When conducting the mediation, the mediator must:

- (a) allow those involved a reasonable chance to be heard
- (b) allow those involved a reasonable chance to review any written statements
- (c) ensure that those involved are given natural justice, and
- (d) not make a decision on the dispute.

22. Disciplining Members

22.1 In accordance with this clause, the Directors may resolve to warn, suspend or expel a Member from the Company if the Directors consider that:

- (a) the Member has breached this constitution; or
- (b) the Member by their behaviour is causing, has caused, or is likely to cause harm or detriment to the Company or its reputation.

22.2 At least 14 days before the Directors' meeting at which a resolution under clause 22.1 will be considered, the secretary must notify the Member in writing:

- (a) that the Directors are considering a resolution to warn, suspend or expel the Member;
- (b) that this resolution will be considered at a Directors' meeting and the date of that meeting;
- (c) what the Member is said to have done or not done;
- (d) the nature of the resolution that has been proposed; and
- (e) that the Member may provide an explanation to the Directors, and details of how to do so.

22.3 Before the Directors pass any resolution under clause 22.1, the Member must be given a chance to explain or defend themselves by:

- (a) sending the Directors a written explanation before that Directors' meeting, and/or
- (b) speaking at the meeting.

22.4 After considering any explanation under clause 22.3, the Directors may:

- (a) take no further action;
- (b) warn the Member;
- (c) suspend the Member's rights as a Member for a period of no more than 12 months;
- (d) expel the Member;
- (e) refer the decision to an unbiased, independent person on conditions that the Directors consider appropriate (however, the person can only make a decision that the Directors could have made under this clause); or
- (f) require the matter to be determined at a General Meeting.

22.5 The Directors cannot fine a Member.

22.6 The secretary must give written notice to the Member of the decision under clause 22.4 as soon as possible.

- 22.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 22.8 There will be no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under this clause.

General meetings of Members

23. General meetings called by Directors

- 23.1 The Directors may call a General Meeting.
- 23.2 If Members with at least 10% of the votes that may be cast at a General Meeting make a written request to the Company for a General Meeting to be held, the Directors must:
- (a) within 21 days of the Members' request, give all Members notice of a General Meeting; and
 - (b) hold the General Meeting within 2 months of the Members' request.
- 23.3 The percentage of votes that Members have (in clause 23.2) is to be worked out as at midnight before the Members request the meeting.
- 23.4 The Members who make the request for a General Meeting must:
- (a) state in the request any resolution to be proposed at the meeting;
 - (b) sign the request; and
 - (c) give the request to the Company.
- 23.5 Separate copies of a document setting out the request may be signed by Members if the wording of the request is the same in each copy.

24. General Meetings called by Members

- 24.1 If the Directors do not call the meeting within 21 days of being requested under clause 23, 50% or more of the members who made the request may call and arrange to hold a General Meeting.
- 24.2 To call and hold a meeting under clause 24.1 the Members must:
- (a) as far as possible, follow the procedures for General Meetings set out in this constitution;
 - (b) call the meeting using the list of Members on the Company's Member register, which the Company must provide to the Members making the request at no cost; and
 - (c) hold the General Meeting within 3 months after the request was given to the Company.
- 24.3 The Company must pay the Members who request the General Meeting any reasonable expenses they incur because the Directors did not call and hold the meeting.

25. Annual General Meeting

- 25.1 A General Meeting, called the annual General Meeting, must be held:
- (a) within 18 months after registration of the Company; and
 - (b) after the first annual General Meeting, at least once in every calendar year.
- 25.2 Even if these items are not set out in the notice of meeting, the business of an annual General Meeting **may** include:
- (a) a review of the Company's activities;
 - (b) a review of the Company's finances;
 - (c) Auditor's report;
 - (d) the election of Directors; and
 - (e) the appointment and payment of the Auditor.
- 25.3 Before or at the annual General Meeting, the Directors must give information to the Members on the Company's activities and finances during the period since the last annual General Meeting.

25.4 The Chairperson of the annual General Meeting must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

26. Notice of General Meetings

26.1 Notice of a General Meeting must be given to:

- (a) each Member entitled to vote at the meeting;
- (b) each Director; and
- (c) the Auditor.

26.2 Notice of a General Meeting must be provided in writing at least 21 days before the meeting.

26.3 Subject to clause 26.4, notice of a meeting may be provided less than 21 days before the meeting if:

- (a) for an annual General Meeting, all the Members entitled to attend and vote at the annual General Meeting agree beforehand; or
- (b) for any other General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.

26.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:

- (a) remove a Director;
- (b) appoint a Director in order to replace a Director who was removed; or
- (c) remove the Auditor.

26.5 Notice of a General Meeting must include:

- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
- (b) the general nature of the meeting's business;
- (c) if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution;
- (d) a statement that Members have the right to appoint proxies and that, if a Member appoints a proxy:
 - (i) the proxy does not need to be a Member of the Company;
 - (ii) the proxy form must be delivered to the Company at its registered address or the address (including an electronic address) specified in the notice of the meeting; and
 - (iii) the proxy form must be delivered to the Company at least 48 hours before the meeting.

26.6 If a General Meeting is adjourned for one month or more, the Members must be given new notice of the resumed meeting.

27. Quorum at General Meetings

27.1 For a General Meeting to be held, at least the lower of 10 Members or 25% of Members who are eligible to vote (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one Member).

27.2 No business may be conducted at a General Meeting if a quorum is not present.

27.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of General Meeting, the General Meeting is adjourned to the date, time and place that the Chairperson specifies. If the Chairperson does not specify one or more of those things, the meeting is adjourned to:

- (a) if the date is not specified – the same day in the next week
- (b) if the time is not specified – the same time, and
- (c) if the place is not specified – the same place.

27.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

28. Auditor

- 28.1 The Directors must appoint the Initial Auditor to audit the accounts of the Company and will determine the remuneration of the Initial Auditor.
- 28.2 Other than as provided for in clause 28.1, the appointment, removal and remuneration of the Auditor must be decided by resolution of the Members.
- 28.3 The Auditor is entitled to attend any General Meeting and to be heard by the Members on any part of the business of the meeting that concerns the Auditor in the capacity of Auditor.
- 28.4 The Company must give the Auditor any communications relating to the General Meeting that a Member of the Company is entitled to receive.

29. Representatives of Supporter Members

- 29.1 An incorporated Supporter Member may appoint one individual as its representative.
- 29.2 The appointment of a representative by a Supporter Member must:
- (a) be in writing;
 - (b) include the name of the representative;
 - (c) be signed on behalf of the Supporter Member; and
 - (d) if attending a General Meeting, be given to the Company before the meeting starts.
- 29.3 The appointment of a representative under clause 29.1 may be standing (ongoing).

30. Observers

- 30.1 The Chairperson of a General Meeting may invite any person who is not a Member to attend and address a meeting.

31. Using technology to hold meetings

- 31.1 The Company may hold a General Meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 31.2 Anyone using this technology is taken to be present in person at the meeting.

32. Chairperson for General Meetings

- 32.1 The Elected Chairperson or, in the Elected Chairperson's absence, the Elected Deputy Chairperson, is entitled to chair General Meetings.
- 32.2 The Members present and entitled to vote at a General Meeting may choose a Director or Member to be the Chairperson for that meeting if:
- (a) there is no Elected Chairperson or Elected Deputy Chairperson; or
 - (b) neither the Elected Chairperson nor the Elected Deputy Chairperson is present within 30 minutes after the starting time set for the meeting; or
 - (c) the Elected Chairperson and/or the Elected Deputy Chairperson are present but say they do not wish to act as Chairperson of the meeting.

33. Role of the Chairperson

- 33.1 The Chairperson is responsible for the conduct of the General Meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions (including to the Auditor).
- 33.2 The Chairperson does not have a casting vote.

34. Adjournment of meetings

- 34.1 If a quorum is present, a General Meeting must be adjourned if a majority of Members present direct the Chairperson to adjourn it.
- 34.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

35. Members' resolutions and statements

- 35.1 Members with at least 25% of the votes that may be cast on a resolution may give:
- (a) written notice to the Company of a resolution they propose to move at a General Meeting (Members' resolution), and/or
 - (b) a written request to the Company that the Company give all of its Members a statement about a proposed resolution or any other matter that may properly be considered at a General Meeting (Members' statement).
- 35.2 A notice of a Members' resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- 35.3 A request to distribute a Members' statement must set out the statement to be distributed and be signed by the Members making the request.
- 35.4 Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.
- 35.5 The percentage of votes that Members have (as described in clause 35.1) is to be worked out as at midnight before the request or notice is given to the Company.
- 35.6 If the Company has been given notice of a Members' resolution under clause 35.1(a), the resolution must be considered at the next General Meeting held more than two months after the notice is given.
- 35.7 This clause does not limit any other right that a Member has to propose a resolution at a General Meeting.

36. Company must give notice of proposed resolution or distribute statement

- 36.1 If the Company has been given a notice or request under clause 35:
- (a) in time to send the notice of proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, it must do so at the Company's cost; or
 - (b) too late to send the notice of proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, then the Members who proposed the resolution or made the request must pay the expenses reasonably incurred by the Company in giving Members notice of the proposed Members' resolution or a copy of the Members' statement. However, at a General Meeting, the Members may pass a resolution that the Company will pay these expenses.
- 36.2 The Company does not need to send the notice of proposed Members' resolution or a copy of the Members' statement to Members if:
- (a) it is more than 1 000 words long;
 - (b) the Directors consider it may be defamatory;
 - (c) clause 36.1(a) applies, and the Members who proposed the resolution or made the request have not paid the Company enough money to cover the cost of sending the notice of the proposed Members' resolution or a copy of the Members' statement to Members; or
 - (d) in the case of a proposed Members' resolution, the resolution does not relate to a matter that may be properly considered at a General Meeting or is otherwise not a valid resolution able to be put to the Members.

37. Circular resolutions of Members

- 37.1 Subject to clause 37.3, the Directors may put a resolution to the Members to pass a resolution without a General Meeting being held (a Members' circular resolution).
- 37.2 The Directors must notify the Auditor as soon as possible that a Members' circular resolution has or will be put to Members, and set out the wording of the resolution.
- 37.3 Members' circular resolution cannot be used:
- (a) for a resolution to remove an Auditor, appoint a Director or remove a Director
 - (b) for passing a Special Resolution; or
 - (c) where the Corporations Act or this constitution requires a meeting to be held.
- 37.4 A Members' circular resolution is passed if all the Members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 37.5 or clause 37.6.
- 37.5 Members may sign:
- (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution; or
 - (b) separate copies of that document, as long as the wording is the same in each copy.
- 37.6 The Company may send a circular resolution by email to Members and Members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

Voting at General Meetings

38. How many votes a Member has

Each Member entitled to vote has one vote.

39. Questions decided by majority

- 39.1 Subject to the requirements of the Corporations Act, a resolution, not being a Special Resolution, is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

40. Challenge to Member's right to vote

- 40.1 A Member or the Chairperson may only challenge a person's right to vote at a General Meeting at that meeting.
- 40.2 If a challenge is made under clause 40.1, the Chairperson must decide whether or not the person may vote. The Chairperson's decision is final.

41. How voting is carried out

- 41.1 Voting must be conducted and decided by:
- (a) a show of hands
 - (b) a vote in writing, or
 - (c) another method chosen by the Chairperson that is fair and reasonable in the circumstances.
- 41.2 Before a vote is taken, the Chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 41.3 On a show of hands, the Chairperson's decision is conclusive evidence of the result of the vote.
- 41.4 The Chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

42. When and how a vote in writing must be held

- 42.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) Members present with at least 10% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
 - (b) the chairperson.
- 42.2 A vote in writing must be taken when and how the Chairperson directs, unless clause 42.3 applies.
- 42.3 A vote in writing must be held immediately if it is demanded under clause 42.1:
- (a) for the election of a Chairperson under clause 32.2, or
 - (b) to decide whether to adjourn the meeting.
- 42.4 A demand for a vote in writing may be withdrawn.

43. Appointment of proxy

- 43.1 A Member may appoint a proxy to attend and vote at a General Meeting on their behalf.
- 43.2 A proxy does not need to be a Member.
- 43.3 A proxy shall only be valid so far as the appointed proxy is not an individual who has previously:
- (a) been expelled as a Member of the Company, or
 - (b) had their employment at the Company terminated, or
 - (c) been denied Membership of the Company, or
 - (d) been convicted of an animal cruelty offence in any jurisdiction.
- 43.4 A proxy appointed to attend and vote for a Member has the same rights as the Member to:
- (a) speak at the meeting;
 - (b) vote in a vote in writing (but only to the extent allowed by the appointment); and
 - (c) join in to demand a vote in writing under clause 42.1.
- 43.5 An appointment of proxy (proxy form) must be signed by the Member appointing the proxy and must contain:
- (a) the Member's name and address;
 - (b) the Company's name;
 - (c) the proxy's name or the name of the office held by the proxy; and
 - (d) the meeting(s) at which the appointment may be used.
- 43.6 A proxy appointment may be standing (ongoing).
- 43.7 Proxy forms must be received by the Company at the address stated in the notice under clause 26.5(d) or at the Company's registered address at least 48 hours before the meeting to which the appointment of proxy relates.
- 43.8 A proxy does not have the authority to speak and vote on behalf of a Member at a meeting while the Member is at the meeting.
- 43.9 Unless the Company receives written notice before the start or resumption of a General Meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Member:
- (a) dies;
 - (b) is mentally incapacitated;
 - (c) revokes the proxy's appointment; or
 - (d) revokes the authority of a representative or agent who appointed the proxy.
- 43.10 A proxy appointment may specify the way the proxy must vote on a particular resolution.

44. Voting by proxy

- 44.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a Member appointed as a proxy from voting as a Member on a show of hands).
- 44.2 When a vote in writing is held, a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way they must vote;
 - (b) if the way they must vote is specified on the proxy form, must vote that way; and
 - (c) if the proxy is also a Member or holds more than one proxy, may cast the votes held in different ways.
- 44.3 The Company is not responsible for ensuring that any directions provided in the instrument appointing the proxy or the way in which a proxy is to vote on a particular resolution are complied with, and accordingly is not liable if those directions are not complied with.

Directors

45. Number of Directors

The Company must have at least 3 and no more than 9 Directors.

46. The Board

46.1 The Board comprises:

- (a) Elected Directors;
- (b) Appointed Directors; and
- (c) Casual Vacancy Directors (if any).

46.2 There must be at any one time:

- (a) a maximum of 3 Elected Directors;
- (b) a maximum of 6 Appointed Directors; and
- (c) at least 1 Elected Director and 1 Appointed Director.

46.3 Elected Directors

- (a) The Members may elect a Director by a resolution passed in a General Meeting.
- (b) Each of the Elected Directors must be appointed by a separate resolution, unless:
 - (i) the Members present have first passed a resolution that the appointments may be voted on together; and
 - (ii) no votes were cast against that resolution.
- (c) A person is eligible for election as an Elected Director of the Company if they:
 - (i) are an individual and a Member of the Company;
 - (ii) give the Company a written nomination at least 60 days before the annual General Meeting nominating themselves for election as an Elected Director;
 - (iii) give the Company their signed consent to act as a Director of the Company; and
 - (iv) are not ineligible to be a director under the Corporations Act or the ACNC Act.

46.4 Appointed Directors

The Directors may appoint a person as an Appointed Director if that person:

- (a) is an individual and a Member of the Company;
- (b) gives the Company their signed consent to act as a Director of the Company; and
- (c) is not ineligible to be a director under the Corporations Act or the ACNC Act.

46.5 Casual Vacancy Directors

The Directors may appoint a person as a Director to fill a casual vacancy created by the departure of an Elected Director if that person:

- (a) is an individual and a Member of the Company;
- (b) gives the Company their signed consent to act as a Director of the Company; and
- (c) is not ineligible to be a director under the Corporations Act or the ACNC Act.

46.6 If the number of Directors is reduced to fewer than 3 or is less than the number required for a quorum, the continuing Directors may act for the purpose of increasing the number of Directors to 3 (or higher if required for a quorum) or calling a **General Meeting**, but for no other purpose.

47. Election of Chairperson

47.1 At the first meeting of the Board after the annual General Meeting, the Directors must elect a Director as the Company's Elected Chairperson and a Director as the Company's Elected Deputy Chairperson each of whom will hold office for a period of 12 months.

47.2 The Elected Chairperson and the Elected Deputy Chairperson will cease to hold the position of Elected Chairperson or Elected Deputy Chairperson respectively if the person:

- (a) resigns;
- (b) ceases to be a Director; or
- (c) is removed from that position by a resolution of the Board passed by two thirds of those eligible to vote.

48. Term of office

48.1 At each annual General Meeting:

- (a) any Casual Vacancy Director appointed under clause 46.5 must retire;
- (b) any Appointed Director for whom this annual General Meeting will be the third annual General Meeting since their appointment must retire; and
- (c) at least one third of the Directors must retire.

48.2 In calculating the one third of the Board to retire under clause 48.1, a Casual Vacancy Director retiring at the annual General Meeting will be included as a retirement as will the resignation of any Appointed Director prior to the annual General meeting who has not been replaced.

48.3 The Directors who must retire at each annual General Meeting under clause 48.1 will be the Directors who have been longest in office since last being elected or appointed. Where Directors were elected or appointed on the same day, the Director(s) to retire will be decided by lot unless they agree otherwise.

48.4 Other than a Casual Vacancy Director appointed under clause 46.5:

- (a) an Elected Director's term of office starts at the end of the annual General Meeting at which they are elected; and
- (b) an Appointed Director's term of office starts on the date of their appointment under clause 46.4, and ends at the end of the annual General Meeting at which they retire.

48.5 Each Director must retire at least once every three years.

48.6 Subject to clause 48.8, an Elected Director or Casual Vacancy Director who retires under clause 48.1 may nominate for election or re-election under clause 46.3 or for appointment or re-appointment under clause 46.4.

48.7 Subject to clause 48.8, an Appointed Director who retires under clause 48.1 may nominate to be re-appointed under clause 46.4 or for election or re-election under clause 46.3.

- 48.8 A Director must not hold office for a period of more than 9 years unless any subsequent appointment after the 9 year period is approved by a Special Resolution at a General Meeting and provided that such a Director must not hold office for more than 14 years including time served prior to the adoption of this constitution at the 2022 annual General Meeting.
- 48.9 Subject to clause 48.8, in the event that this constitution is adopted at the 2022 annual General Meeting, a Director holding office at the time of the adoption of this constitution shall be taken to have been appointed as at the time the adoption of this constitution becomes effective.

49. When a Director stops being a Director

A Director stops being a Director if they:

- (a) give written notice of resignation as a Director to the Company;
- (b) die;
- (c) are removed as a Director by a resolution of the Members;
- (d) stop being a Member of the Company;
- (e) are absent for 3 consecutive Directors' meetings without approval from the Board,
- (f) become ineligible to be a Director of the Company under the Corporations Act or the ACNC Act.

Powers of Directors

50. Powers of Directors

- 50.1 The Directors are responsible for managing and directing the activities of the Company to achieve the purpose(s) set out in clause 8.
- 50.2 The Directors may use all the powers of the Company except for powers that, under the Corporations Act or this constitution, may only be used by Members.
- 50.3 The Directors must decide on the responsible financial management of the Company including:
- (a) any suitable written delegations of power under clause 51, and
 - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 50.4 The Directors cannot remove a Director or Auditor. Directors and the Auditor may only be removed by a Members' resolution at a General Meeting in accordance with this Constitution.

51. Delegation of Directors' powers

- 51.1 The Directors may delegate any of their powers and functions to a committee, a Director, an employee of the Company (such as a chief executive officer) or any other person, as they consider appropriate.
- 51.2 The delegation must be recorded in the Company's minute book.

52. Payments to Directors

- 52.1 The Company must not pay fees to a Director for acting as a Director or provide a Director with any other remuneration.
- 52.2 The Company may:
- (a) pay a Director for work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done; and
 - (b) reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Company.
- 52.3 Any payment made under clause 52.2 must be approved by the Directors.

52.4 The Company may pay premiums for insurance indemnifying Directors, as allowed for by law (including the Corporations Act) and this constitution.

53. Execution of documents

The **Company** may execute a document in any way permitted by the Corporations Act

54. Duties of Directors

The Directors must comply with their duties as directors under legislation and common law, and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Company;
- (b) to act in good faith in the best interests of the Company and to further the charitable purpose(s) of the Company set out in clause 8;
- (c) not to misuse their position as a Director;
- (d) not to misuse information they gain in their role as a Director;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 55;
- (f) to ensure that the financial affairs of the Company are managed responsibly; and
- (g) not to allow the Company to operate while it is insolvent.

55. Conflicts of interest

55.1 A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):

- (a) to the other Directors; or
- (b) if all of the Directors have the same conflict of interest, to the Members at the next General Meeting, or at an earlier time if reasonable to do so.

55.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.

55.3 Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) must not, except as provided under clauses 55.4:

- (a) be present at the meeting while the matter is being discussed; or
- (b) vote on the matter.

55.4 A Director may still be present and vote if:

- (a) their interest arises because they are a Member of the Company, and the other Members have the same interest;
- (b) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company (see clause 73);
- (c) their interest relates to a payment by the Company under clause 72 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act;
- (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the Director to vote on the matter; or
- (e) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company; and
 - (ii) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

Directors' meetings

56. When the Directors meet

The Directors may decide how often, where and when they meet.

57. Calling Directors' meetings

57.1 A Director may call a Directors' meeting by giving reasonable notice to all of the other Directors.

57.2 A Director may give notice in writing or by any other means of communication that has previously been agreed to by all of the Directors.

58. Chairperson for Directors' meetings

58.1 The Elected Chairperson is entitled to chair Directors' meetings. The Elected Deputy Chairperson is entitled to chair a Directors' meeting in the absence of the Elected Chairperson.

58.2 The Directors at a Directors' meeting may choose a Director to be the Chairperson for that meeting if neither the Elected Chairperson nor the Elected Deputy Chairperson is:

- (a) present within 30 minutes after the starting time set for the meeting; or
- (b) present and willing to act as Chairperson of the meeting.

59. Quorum at Directors' meetings

59.1 Unless the Directors determine otherwise, the quorum for a Directors' meeting is a majority (more than 50%) of Directors.

59.2 A quorum must be present for the whole Directors' meeting.

60. Using technology to hold Directors' meetings

60.1 The Directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the Directors.

60.2 The Directors' agreement may be a standing (ongoing) one.

60.3 A Director may only withdraw their consent within a reasonable period before the meeting.

61. Passing Directors' resolutions

A Directors' resolution must be passed by a majority of the votes cast by Directors present and entitled to vote on the resolution. In the case of an equality of votes, the Chairperson will have a second or casting vote.

62. Circular resolutions of Directors

62.1 The Directors may pass a circular resolution without a Directors' meeting being held.

62.2 A circular resolution is passed if, following a reasonable period of time from the circulation of the resolution to Directors, all the Directors entitled to vote on the resolution, other than any who are uncontactable during this period of time, sign or otherwise agree to the resolution in the manner set out in clause 62.3 or clause 62.4.

62.3 Each Director may sign:

- (a) a single document setting out the resolution and containing a statement that they agree to the resolution; or
- (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.

62.4 The Company may send a circular resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

62.5 A circular resolution is passed when the last required Director signs or otherwise agrees to the resolution in the manner set out in clause 62.3 or clause 62.4.

Secretary

63. Appointment and role of secretary

63.1 The Company must have at least one secretary, who may also be a Director.

63.2 A secretary must be appointed by the Directors (after giving the Company their signed consent to act as secretary of the Company) and may be removed by the Directors.

63.3 The Directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.

63.4 The role of the secretary includes ensuring that:

- (a) a register of the Company's Members; and
- (b) minutes and other records of General Meetings (including notices of meetings), Directors' meetings and circular resolutions

are maintained.

Minutes and records

64. Minutes and records

64.1 The Company must, within one month, make and keep the following records:

- (a) minutes of proceedings and resolutions of General Meetings;
- (b) minutes of circular resolutions of Members;
- (c) a copy of a notice of each General Meeting; and
- (d) a copy of a Members' statement distributed to Members under clause 35.

64.2 The Company must, within one month, make and keep the following:

- (a) minutes of proceedings and resolutions of Directors' meetings;
- (b) records of proceedings of any Board Committee meetings; and
- (c) minutes of circular resolutions of Directors.

64.3 To allow Members to inspect the Company's records:

- (a) the Company must give a Member reasonable access to the records set out in clause 64.1; and
- (b) the Directors may authorise a Member to inspect other records of the Company, including records referred to in clause 64.2 and clause 65.

64.4 The Directors must ensure that minutes of a General Meeting or a Directors' meeting are signed within a reasonable time after the meeting by:

- (a) the Chairperson of the meeting; or
- (b) the Chairperson of the next meeting.

64.5 The Directors must ensure that minutes of the passing of a circular resolution (of Members or Directors) are signed by a Director within a reasonable time after the resolution is passed.

65. Financial and related records

65.1 The Company must make and keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance; and
- (b) enable true and fair financial statements to be prepared and to be audited.

65.2 The Company must also keep written records that correctly record its operations.

65.3 The Company must retain its records for at least 7 years.

65.4 The Directors must take reasonable steps to ensure that the Company's records are kept safe.

By-laws

66. By-laws

66.1 The Directors may pass a resolution to make by-laws to give effect to this constitution.

66.2 Members and Directors must comply with by-laws as if they were part of this constitution.

Notice

67. What is notice

67.1 Anything written to or from the Company under any clause in this constitution is written notice and is subject to clauses 67 to 70, unless specified otherwise.

67.2 Clauses 67 to 70 do not apply to a notice of proxy under clause 43.7.

68. Notice to the Company

Written notice or any communication under this constitution may be given to the Company, the Directors or the secretary by:

- (a) delivering it to the Company's registered office;
- (b) posting it to the Company's registered office or to another address chosen by the Company for notice to be provided;
- (c) sending it to an email address or other electronic address notified by the Company to the Members as the Company's email address or other electronic address; or
- (d) sending it to the fax number notified by the Company to the Members as the Company's fax number.

69. Notice to Members

69.1 Written notice or any communication under this constitution may be given to a Member:

- (a) in person;
- (b) by posting it to, or leaving it at the address of the Member in the register of Members or an alternative address (if any) nominated by the Member for service of notices;
- (c) sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any);
- (d) sending it to the fax number nominated by the Member as an alternative address for service of notices (if any); or
- (e) if agreed to by the Member, by notifying the Member at an email or other electronic address nominated by the Member, that the notice is available at a specified place or address (including an electronic address).

69.2 If the Company does not have an address for the Member, the Company is not required to give notice in person.

70. When notice is taken to be given

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs;
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent;

- (d) given under clause 69.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

71. Company's financial year

The Company's financial year is from 1 July to 30 June, unless the Directors pass a resolution to change the financial year.

Indemnity, insurance and access

72. Indemnity

- 72.1 The Company indemnifies each officer of the Company out of the assets of the Company, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Company.
- 72.2 In this clause, 'officer' means a Director or secretary and includes a Director or secretary after they have ceased to hold that office.
- 72.3 In this clause, 'to the relevant extent' means:
- (a) to the extent that the Company is not precluded by law (including the Corporations Act) from doing so; and
 - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 72.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Company.

73. Insurance

To the extent permitted by law (including the Corporations Act), and if the Directors consider it appropriate, the Company may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the Company against any liability incurred by the person as an officer of the Company.

74. Directors' access to documents

- 74.1 A Director has a right of access to the financial records of the Company at all reasonable times.
- 74.2 If the Directors agree, the Company must give a Director or former Director access to:
- (a) certain documents, including documents provided for or available to the Directors, and
 - (b) any other documents referred to in those documents.

Winding up

75. Surplus Assets not to be distributed to Members

If the Company is wound up, any Surplus Assets must not be distributed to a Member or a former Member of the Company, unless that Member or former Member is a charity described in clause 76.1.

76. Distribution of Surplus Assets

- 76.1 Subject to the Corporations Act and any other applicable Act and any court order, any Surplus Assets that remain after the Company is wound up must be distributed to one or more not for profit incorporated body(ies):

CONSTITUTION OF Royal Society for the Prevention of Cruelty to Animals Tasmania

- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 8;
- (b) registered as a Deductible Gift Recipient; and
- (c) which also prohibit the distribution of any Surplus Assets to its members to at least the same extent as the Company.

76.2 The decision as to the charity or charities to be given the Surplus Assets must be made by a Special Resolution of Members at or before the time of winding up. If the Members do not make this decision, the Company may apply to the Supreme Court to make this decision.