



Water Industry Operations Association of Australia Ltd

CONSTITUTION

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

ACN 123 468 422
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CONSTITUTION

Preamble

Water Industry Operations Association of Australia Ltd was incorporated as a company limited by guarantee on 16 January 2007 to provide services on a national basis on behalf of Water Industry Operators Association of Australia Inc (ABN 27 302 677808) (**WIOA Inc**). Its original company name was Water Industry Operators Association of Australia Ltd. In 2024 WIOA Inc transferred its assets, operations, and members to the Water Industry Operations Association of Australia Ltd and WIOA Inc was dissolved. The current name, Water Industry Operations Association of Australia Ltd, was also adopted on the 12 January 2024.

PART A — GENERAL

1. Name of the Company

1.1. The name of the Company is Water Industry Operations Association of Australia Ltd (**the Company**).

2. Type of Company

- 2.1. The Company is a not-for-profit resource development organisation, incorporated as a public company limited by guarantee under the Act.
- 2.2. The assets and income of the Company must be applied solely in furtherance of the Purpose and no portion of the income or assets of the Company may be paid or transferred, directly or indirectly, to any Member.
- 2.3. Provided that it is done in good faith, the Company may:
- a) pay a Member for goods or services they have provided to or expenses they have properly incurred on behalf of the Company at fair and reasonable rates or rates more favourable to the Company;
 - b) make a payment to a Member in carrying out the Purpose; or
 - c) make a payment for any other bona fide reason related to the attainment of the Purpose.
- 2.4. This Constitution comprises a contract between:
- a) the Company and each Member;
 - b) the Company and each Director;
 - c) the Company and the Secretary or Secretaries; and
 - d) a Member and each other Member.
- 2.5. The replaceable rules set out in the Corporations Act do not apply to the Company.

2.6. Each Member must guarantee to pay an amount not more than \$1 to the Company if the Company is wound up while the Member is a Member and this Guaranteed Amount is required to pay for the:

- a) debts and liabilities of the Company that exceed the Company's assets incurred before the Member stopped being a Member; and
- b) costs of winding up the Company.

3. Purpose

3.1. The Purpose of the Company is to promote the development of the industrial resources of Australia, with a particular focus on enhancing water industry operations.

4. Powers of the Company

4.1. The Company has the following powers which may be used only to carry out its Purpose:

- a) all the powers of a Company under the Act; and
- b) the power to do all things necessary or convenient to be done for, or in connection with, the attainment of its Purpose.

5. Definitions

5.1. In this Constitution, except as so far as the context or subject matter otherwise indicates or requires:

- a) **Act** means the *Corporations Act 2001* (Cth);
- b) **Board** means the group of individuals that are responsible for the governance, strategy, and management of the Company;
- c) **By-laws** means the rules and regulations of the Company made by the Board;
- d) **Chair** means a person appointed to the position of Chair under clause 41.1;
- e) **chairperson** means the person chairing a meeting;
- f) **Code of Conduct** means any code of conduct applicable to Members made by the Board;
- g) **Constitution** means this document which describes the rules of the Company subject to the Act;
- h) **day** means calendar day except public holidays;
- i) **Deputy Chair** means a person appointed to the position of Deputy Chair under clause 41.1;
- j) **Director** means an individual elected or appointed as a Director of the Board;
- k) **General Meeting** means a formal meeting of the Members and includes an Annual General Meeting;
- l) **Guaranteed Amount** means the amount set out in clause 2.6;

- m) **Member** means a person whose name is entered in the Register as a Member of the Company in accordance with clause 17.8;
- n) **Membership Class** means a Membership Class listed in clause 7.1;
- o) **National Advisory Committee** means the committee referred to in clause 43;
- p) **Nominations Committee** means the committee referred to in clause 435;
- q) **Office Bearer** means a Director appointed by the Board to the position of Chair, Deputy Chair, Secretary, or any other person appointed under clause 41.1;
- r) **Purpose** means the purpose set out in clause 3.1;
- s) **Register** means the register of Members under the Act;
- t) **Representative** means an individual appointed as a representative by a Utility Member or Corporate Member in accordance with clause 16;
- u) **Secretary** means an individual or individuals appointed under clause 54 to undertake the role of Secretary as defined in the Act and this Constitution;
- v) **Special Resolution** means a resolution at a General Meeting that requires at least 75% of the votes cast by Members entitled to vote on the resolution being in favour of the resolution to be passed; and
- w) **State Advisory Committee** means a committee referred to in clause 44.
- x) **Voting Members** are Individual Members, Utility Members, Corporate Members and Life Members.

6. Interpretation

- 6.1. Headings are for convenience only and do not affect the interpretation of this Constitution.
- 6.2. The following rules of interpretation apply unless any contrary intention appears in this Constitution or the context requires otherwise:
 - a) mandatory provisions of the Act override any clause in this Constitution which is inconsistent with that Act;
 - b) 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;
 - c) a reference to a clause or sub-clause is to a clause or sub-clause of this Constitution;
 - d) where a word or phrase is defined, its other grammatical forms or parts of speech have corresponding meaning;
 - e) reference to a person is a reference to an individual, company, any other body corporate, partnership, joint venture, association, or other body whether or not incorporated;
 - f) the words 'writing' and 'written' include any mode of representing or reproducing, including electronically, words, figures, drawings, or symbols in a visible or communicable form;

- g) the words 'including,' 'for example,' or similar expressions do not limit the inclusions or examples;
- h) a gender includes all genders;
- i) singular includes plural and vice versa.

PART B — MEMBERSHIP

7. Membership Classes

7.1. There are six Membership Classes:

- a) Individual Member;
- b) Utility Member;
- c) Corporate Member;
- d) Associate Member;
- e) Life Member; and
- f) Retired Member.

7.2. The Board may, from time to time, add or delete membership categories to better reflect member requirements.

8. Membership eligibility

8.1. To be eligible to apply for Membership, a person must:

- a) be committed to the Purpose;
- b) apply in writing to become a Member of the relevant Membership Class; and
- c) meet the relevant eligibility criteria as specified in clauses 9.1, 10.1, 11.1, 12.1, 13.1, and 14.1.

8.2. The Board may, from time to time, prescribe additional requirements for admission as a Member or as a Member in a particular Membership Class.

9. Individual Member

9.1. Individual Membership is available to any person who is interested in or actively employed or contracted in the field of water operations.:

9.2. Individual Members have the right to:

- a) receive notice of and attend any General Meeting;
- b) vote at any General Meeting that is held;
- c) propose resolutions for consideration at a General Meeting; and
- d) be nominated for election as a Director if eligible for nomination.

10. Utility Member

10.1. Utility Membership is available to employers of operational staff in the water industry including water utilities, authorities, corporations, trusts, service

providers, local councils and private (operational contracting) companies who pay the Membership fees for a minimum of 10 employees who are current Individual Members.

10.2. Utility Members have the right to:

- a) receive notice of and attend any General Meeting;
- b) vote at any General Meeting that is held; and
- c) propose resolutions for consideration at a General Meeting.

11. Corporate Member

11.1. Corporate Membership is available to companies, water utilities, authorities, corporations, trusts, local councils, and organisations.

11.2. Corporate Members have the right to:

- a) receive notice of and attend any General Meeting;
- b) vote at any General Meeting that is held;
- c) propose resolutions for consideration at a General Meeting; and
- d) nominate up to ten employees to be considered as Associate Members.

12. Associate Member

12.1. Associate Membership is available to employees of a Corporate Member, subject to a maximum of ten employees per Corporate Member.

12.2. Associate Members have the right to receive notice of and attend any General Meeting.

12.3. Associate Members do not have voting rights.

13. Life Member

13.1. Life Membership may be awarded by the Board to any Individual Member for services rendered to the Company over a minimum period of ten years.

13.2. Life Members have the right to:

- a) receive notice of and attend any General Meeting;
- b) vote at any General Meetings that is held
- c) propose resolutions for consideration at a General Meeting; and
- d) be nominated for election as a Director if eligible for nomination.

13.3. Life Members are not required to pay an annual membership fee.

14. Retired Member

14.1. Retired membership is available to individual members who have retired from full-time employment, provided they have been a Member of the Company for at least five consecutive years prior to their retirement.

14.2. Retired Members have the right to receive notice of and attend any General Meeting and be nominated for election as a Director if eligible for nomination.

14.3. Retired Members do not have voting rights.

14.4. Retired Members are not required to pay an annual membership fee.

15. Obligations of Members

15.1. The Board may extend benefits and services to Members that may differ between Membership Classes and within Membership Classes.

15.2. The rights of a Member (including their right to vote) only extend to Members who have paid the annual membership fee by the due date. Members are suspended from membership until the fee is paid.

15.3. A Member is entitled to exercise the rights conferred by the Membership Class if their membership rights are not suspended for any other reason.

15.4. Notwithstanding Clause 15.3, Members must comply with:

- a) this Constitution;
- b) the By-Laws, if any; and
- c) the Code of Conduct, if any.

15.5. A Member must, within a reasonable time, notify the Secretary of any change to their details as recorded in the Register.

15.6. A right, privilege or obligation held by reason of being a Member:

- a) is not capable of being transferred or transmitted to another person; and
- b) ceases upon cessation of the Member's Membership.

16. Representatives of Members

16.1. Utility Members and Corporate Members must nominate to the Secretary at the time of application for Membership the name of one individual, called the Representative, who will represent that Member at General Meetings and, in the case of a Voting Member, who may vote on behalf of that Voting Member.

16.2. A Member may, by notice to the Secretary, change its Representative.

16.3. The Secretary will keep a register of Representatives.

17. Application for Membership

17.1. An application for Membership must be made in writing in the form prescribed by the Board.

17.2. The Board must consider and resolve whether to accept or reject each application for Membership within a reasonable time.

17.3. The Board may refuse any application for Membership without being compelled to give the reasons for its refusal.

17.4. The Board may delegate the consideration and determination of any Membership application.

- 17.5. Once the outcome of a Membership application is determined, written notice of the decision of the Board, or their delegate, is to be sent to the applicant within a reasonable time.
- 17.6. The acceptance of an applicant as a Member is subject to the payment of any fees and if the payment is not made, the Board may cancel its acceptance of the applicant for Membership.
- 17.7. If the applicant is not admitted to Membership, then any monies paid by the applicant for Membership must be returned to the applicant, in full, within a reasonable time.
- 17.8. An applicant who is admitted to Membership is entitled to exercise the rights and privileges of that Membership when their name is entered in the Register.

18. Membership Fees

- 18.1. The Board may set any joining fee, any Membership fee and may also determine different fees:
 - a) for different Membership Classes;
 - b) within Membership Classes or any categories within a Membership Class; or
 - c) for different Members.
- 18.2. The Board may in its discretion waive or vary the amount of any fee that it has set.
- 18.3. Any fee charged to Members is payable in such a manner and at such times as are determined by the Board.
- 18.4. If any fee remains unpaid for a period of one month after it becomes due, written notice will be given to the Member of that fact. Unless the Board resolves otherwise, if the fee remains unpaid more than two months after the date of the original notice, the Member is deemed to have resigned their Membership.
- 18.5. Membership that has been terminated under this Constitution may be reinstated at the discretion of the Board, but only upon payment of any outstanding fees.

19. Register

- 19.1. The Secretary, or another person delegated by the Board, must establish, and maintain the Register.
- 19.2. For each current Member, the Register must specify their name, address, Membership Class, and the date of their admission to Membership.
- 19.3. For each person who has ceased to be a Member in the past seven years, the Register must specify the name, their date of admission to Membership and the date on which that person stopped being a Member.
- 19.4. The Secretary may keep former Member entries separately from current Member entries.
- 19.5. The Company must give Members access to the Register in accordance with the Act.

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

20. Ceasing to be a Member

20.1. A Member ceases to be a Member if they:

- a) resign in writing;
- b) for an individual, die, or either become bankrupt or of unsound mind;
- c) if not an individual, they become insolvent, wound up or are otherwise dissolved;
- d) have had their Membership terminated or are expelled for the reasons allowed by this Constitution;
- e) cease to satisfy the criteria to be a Member: and membership ceases on the date that the person ceases to satisfy the criteria;
- f) cease to satisfy the criteria for the Member's current Membership Class and the Membership has not been transferred to the appropriate Membership Class: and membership ceases on the date that the person ceases to satisfy the criteria;
- g) are deemed by the Board, in its sole discretion, to be an untraceable Member because the person has not responded to correspondence within 60 days;
- h) are convicted of an indictable offence: and membership ceases on the date that the Board resolves to cease the Membership;
- i) fail to provide any information required by the Board as part of the renewal process, unless the Board resolves otherwise; or
- j) fail to satisfy any undertaking given by the Member upon them being admitted as a Member or in any other circumstances prescribed in the terms of Membership that are applicable to the Member: and membership ceases on the date that the Board resolves to cease the Membership.

20.2. The Board may waive any grounds for cessation of Membership or any breach of this Constitution by a Member and readmit any person as a Member as it thinks fit.

20.3. Any Member ceasing to be a Member:

- a) is not be entitled to any refund, in full or part, of any membership fees paid; and
- b) will not be readmitted as a Member until all unpaid fees that are outstanding at the time they ceased to be a Member are paid, in full, including any interest or other charges levied on any outstanding fees.

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

20.5. There will be no liability for any loss or injury suffered by a Member as a result of any decision made in good faith under this clause.

20.6. Any person who, for any reason, ceases to be a Member must not represent themselves in any manner as being a Member.

21. Disciplining or Expelling a Member

21.1. The Board may suspend or expel a Member from the Company if the Board considers that the Member:

- a) has failed to comply with this Constitution or the By-Laws, if any;
- b) has failed to comply with the Code of Conduct;
- c) refuses to (or does not) support the Purpose;
- d) acts in a manner prejudicial to the interests of the Company; or
- e) acts in a manner that the Board considers makes it undesirable for the Member to continue to be a Member.

21.2. Written notice must be provided to the Member who is the subject of the proposed suspension or expulsion at least 28 days before the Board meeting at which the proposal is to be considered by the Board.

21.3. The written notice provided to the Member who is the subject of the proposed suspension or expulsion must state:

- a) the time, date, and location of the Board meeting at which the proposed suspension or expulsion resolution is to be considered;
- b) if the Board meeting is to be held using technology, and the details of that technology;
- c) the grounds upon which the proposed suspension or expulsion resolution is based;
- d) that the Member may attend and speak at the Board meeting at which the proposed suspension or expulsion resolution is to be considered; and
- e) that the Member may submit to the Board written representations at or prior to the date of the Board meeting at which the proposed suspension or expulsion resolution is to be considered.

21.4. At the Board meeting at which the proposed suspension or expulsion resolution is to be considered, the Board must:

- a) give the Member an opportunity to make oral representations; and
- b) give due consideration to any oral representations and to any written representations submitted to the Board by the Member at or prior to the meeting.

21.5. After considering any explanation, the Board may:

- a) take no further action;
- b) warn the Member;

- c) suspend the Member's rights as a Member for a period of not more than 12 months;
 - d) expel the Member; or
 - e) refer the decision to an unbiased, independent person on the condition that such person can only make a decision that the Board could have made.
- 21.6. The Board must give the Member written notice of the Board's decision, and the reasons for the decision, within seven days after the Board meeting at which the decision is made.
- 21.7. 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.

PART C — GENERAL MEETINGS

22. Calling a General Meeting

- 22.1. The Board may call a General Meeting.
- 22.2. The time, place of, and the technology to be used, if any, at, the General Meeting are to be determined by the Board.
- 22.3. An Annual General Meeting will be held within five months after the end of each financial year.
- 22.4. A General Meeting may be held at one or more venues, or wholly or partly online or virtually, using any technology that provides the Members with a reasonable opportunity to participate, including the ability to hear and be heard.
- 22.5. A Member who participates in a General Meeting using the technology prescribed by the Board is taken to be present at the meeting and, if the Member votes at the meeting using the technology prescribed, is taken to have voted in person.
- 22.6. A virtual General Meeting and a General Meeting that is partly held using technology, and partly held at a physical location or locations, is deemed to have been held at the Company's registered office.
- 22.7. A General Meeting must be held:
- a) at a reasonable time;
 - b) at a reasonable location or locations if the meeting is being held at a physical location or locations and all Members are entitled to physically attend the meeting; and
 - c) if virtual meeting technology is used in holding the meeting, in such a way as to give the persons entitled to attend the meeting, as a whole, a reasonable opportunity to participate in the meeting without being physically present in the same place.
- 22.8. A General Meeting is taken to be held at a reasonable time if any of the following applies:

- a) if there is only one location at which the Members entitled to physically attend the meeting may do so, the meeting is held at a time that is reasonable at the location;
- b) if there are two or more locations at which the Members who are entitled to physically attend the meeting may do so, the meeting is held at a time that is reasonable at the main location for the meeting as set out in the notice of the meeting;
- c) if the meeting is held using virtual meeting technology, the meeting is held at a time that is reasonable at the Company's registered office.

23. Notice of a General Meeting

23.1. Notice of a General Meeting must be given to:

- a) each Member;
- b) each Director; and
- c) the Auditor, if any.

23.2. Notice of a General Meeting must:

- a) be in writing
- b) state the time, date, place of, and, if any, the technology to be used to facilitate the General Meeting;
- c) in the event that virtual meeting technology is to be used to hold the General Meeting, include sufficient information to allow the Members to participate in the meeting by means of the technology;
- d) state the general nature of the business to be transacted at the meeting;
- e) include both a statement that Members may appoint a proxy and the information required under clause 25;
- f) include any proxy form approved by the Board;
- g) state that any proxy form must be given to the Company at least 48 hours before the meeting, by delivery to the Company at its registered address or at another address (including an electronic address) specified in the notice of the meeting; and
- h) if applicable, that a Special Resolution is to be proposed and the words of the proposed Special Resolution.

23.3. Notice of a General Meeting must be given at least 21 days before the date fixed for the holding of the General Meeting.

23.4. Notice of a General Meeting may be given 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.

23.5. Notice of a General Meeting must not be provided less than 21 days before the meeting if it is proposed that a resolution is to be moved to:

- a) remove a Director;
- b) appoint a Director in order to replace a Director who has been removed; or
- c) remove an Auditor.

23.6. An Annual General Meeting must be specified as such in the notice convening it.

23.7. The accidental failure to give notice of any General Meeting to any Member or the non-receipt of notice of a General Meeting by any Member entitled to receive notice, will not invalidate the proceedings at or any resolution passed at the General Meeting.

23.8. A Member's attendance at a General Meeting waives any objection that the Member may have regarding a failure to give notice, or the giving of defective notice, of the General Meeting.

23.9. A General Meeting must also be convened by the Board upon the requisition of not less than 5% of Voting Members who are entitled to vote at a General Meeting requesting such a meeting is held.

23.10. A requisition for a General Meeting called by Voting Members:

- a) must state the purpose or purposes of the meeting;
- b) must be signed by the Voting Members making the request;
- c) must be lodged with the Secretary; and
- d) may consist of several documents in a similar form, each signed by one or more of the Voting Members making the request.

23.11. A requisition for a General Meeting called by Voting Members:

- a) may be in electronic form; and
- b) may include one or more signatures transmitted by electronic means.

23.12. If the Board fails to give notice of a General Meeting called by Voting Members within one month after the date on which the request for the meeting is lodged, any one or more of the Voting Members making the request may convene a General Meeting which must be held not later than three months after that date.

23.13. A General Meeting called by Voting Members must be convened as early as is practicable in the same manner as a General Meeting convened by the Board.

24. Business at a General Meeting

24.1. No business other than that specified in the Notice convening a General Meeting is to be transacted at the meeting.

24.2. The business of an Annual General Meeting may include any of the following, even if not referred to in the notice convening the Meeting:

- a) the consideration of the annual financial report, the Board report and the Auditor's report, if any;
- b) the election or announcement of the appointment of Directors, if any; and

- c) the appointment and remuneration of the Auditor, if any.

25. Proxies at a General Meeting

- 25.1. A Voting Member is entitled to appoint a proxy by notice given to the Company at the address stated in the notice, which may be an electronic address, at least 48 hours before the time of the General Meeting in respect of which the proxy is appointed.
- 25.2. The Board may prescribe a form of proxy; however, a proxy will be valid provided the instrument purporting to appoint a proxy:
 - a) is in writing;
 - b) contains the Voting Member's name and address, the Company's name and the proxy holder's name or the office held by the proxy holder;
 - c) contains the details of the meeting at which the appointment may be used; and
 - d) contains the details as to how the proxy holder is to vote on the matters before the meeting.
- 25.3. In the event of a Voting Member not nominating a particular person as proxy holder on the proxy form, the proxy is to be exercised by the chairperson of the General Meeting.
- 25.4. Unless the Company receives written notice before the start or resumption of a General Meeting at which a proxy holder votes, a vote cast by the proxy holder is valid even if, before the proxy holder votes, the appointing Voting Member:
 - a) revokes the proxy holder's appointment; or
 - b) revokes the authority of a representative or agent who appointed the proxy holder.
- 25.5. A proxy holder need not be a Member or a Representative.
- 25.6. A proxy holder does not have the authority to speak and vote for a Voting Member at a meeting while the Voting Member is at the meeting.

26. Quorum at a General Meeting

- 26.1. The quorum for the transaction of the business of a General Meeting is 30 Voting Members who are entitled to vote who are present in person, by proxy, by Representative or by technology.
- 26.2. 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 Voting Member.
- 26.3. No business may be conducted at a General Meeting if a quorum is not present.
- 26.4. If a quorum is not present within 30 minutes after the time appointed for a General Meeting:
 - a) if convened by, or on the requisition, of Voting Members: the meeting is dissolved; and

- b) in any other case, the meeting stands adjourned to such other day, time and place as the Board appoints by notice to the Members and others who are entitled to notice of the meeting.

26.5. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the meeting will lapse.

27. Chairperson of a General Meeting

27.1. The Chair will preside as chairperson of each General Meeting.

27.2. If there is no Chair, or the Chair is not present within 15 minutes after the time appointed for the commencement, or the Chair is unable or unwilling to act as chairperson of the meeting, or of part of the meeting, then the following persons will preside as chairperson of the General Meeting in the order of precedence:

- a) the Deputy Chair;
- b) any other Director present who has been appointed as chairperson by the other Directors present; or
- c) a Member who is present and who is chosen by a majority of the Voting Members present at the meeting.

27.3. The chairperson of a General Meeting is responsible for the conduct of the meeting, and any question(s) arising at a General Meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson whose decision is final.

27.4. The chairperson of a General Meeting may at any time they consider it necessary or desirable for the proper and orderly conduct of the meeting:

- a) impose a limit on the time that a person may speak on a motion or other item of business, question, motion, or resolution being considered by the meeting;
- b) terminate debate or discussion at the meeting; and
- c) adopt any procedures for casting or recording votes at the meeting whether on a show of hands or a poll.

27.5. The chairperson of a General Meeting may at any time during the course of a General Meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

27.6. When a General Meeting is adjourned for 30 days or more, notice of the adjourned General Meeting must be given as in the case of an original meeting.

28. Methods of Voting at a General Meeting

28.1. A Voting Member may not vote at a General Meeting unless all fees due and payable by the Voting Member to the Company have been paid.

28.2. Upon any question arising at a General Meeting, a Voting Member who is entitled to vote has one vote.

28.3. All persons participating virtually in a General Meeting who are entitled to vote at the General Meeting:

- a) must be given the opportunity to participate in the vote in real time; and
- b) may be given the opportunity to record a vote in advance of the meeting at the discretion of the voter.

28.4. Votes must be given in person, by proxy, or by the Voting Member's Representative.

28.5. Proxies must not be counted on a vote by a show of hands.

28.6. An objection to the qualification of a Voting Member to vote at a General Meeting:

- a) must be raised before or at the meeting at which the vote objected to is to be given or tendered; and
- b) must be referred to the chairperson of the meeting whose decision on the qualification to vote is final.

28.7. If virtual meeting technology is used to hold a General Meeting and a document is required or permitted to be tabled at the meeting, the document is taken to have been tabled at the meeting if the document is:

- a) given to the persons entitled to attend the meeting, whether physically or by the use of virtual meeting technology, before the meeting; or
- b) made accessible to the persons attending the meeting, whether physically or by the use of virtual meeting technology, during the meeting.

29. Decisions at a General Meeting

29.1. Questions arising at a General Meeting are to be decided by ordinary resolution, unless otherwise required by this Constitution or the Act. An ordinary resolution is a resolution passed by a simple majority of the votes cast.

29.2. In the case of an equality of votes upon any proposed resolution, the chairperson of the General Meeting, in addition to any deliberative vote, is entitled to a second or a casting vote.

29.3. A resolution put to the vote of a General Meeting must be decided on a show of hands and the declaration by the chairperson of the General Meeting is conclusive evidence of the result.

29.4. Unless required under this Constitution or the Act, a poll may be demanded before the vote is taken, or before, or immediately after, the declaration of the result of the show of hands by:

- a) the chairperson of the General Meeting;
- b) at least five Voting Members entitled to vote on the resolution present in person or by proxy; or
- c) Voting Members with at least 5% of the votes that may be cast on the resolution on a poll present in person or by proxy.

- 29.5. Neither the chairperson of the General Meeting nor the minutes of the meeting need to state the number or proportion of the votes recorded in favour or against.
- 29.6. The demand for a poll may be withdrawn.
- 29.7. A demand for a poll does not prevent the continuation of a General Meeting for the transaction of any business other than the question on which the poll has been demanded.
- 29.8. A poll demanded must be taken when and in the manner the chairperson of the General Meeting directs, including in relation to how votes of Voting Members attending by technology are to be collected.
- 29.9. A poll on the election of a chairperson or on the question of an adjournment must be taken immediately.

30. Members' Resolutions

- 30.1. Voting Members with at least 5% of the votes that may be cast on a resolution may give:
- a) written notice to the Company of a resolution, to be called a Members Resolution, which they propose to move at a General Meeting, such a resolution being one that may be properly considered at a General Meeting; and/or
 - b) a written request to the Company that the Company give all Members a statement, to be called a Members Statement, about a proposed resolution or any other matter that may properly be considered at a General Meeting.
- 30.2. A notice of a Members Resolution must set out the wording of the proposed resolution and be signed by the Voting Members proposing the resolution.
- 30.3. A request to distribute a Members Statement must set out the statement to be distributed and be signed by the Voting Members making the request.
- 30.4. Separate copies of a document setting out the notice or request may be signed by Voting Members if the wording is the same in each copy.
- 30.5. The percentage of votes of Voting Members is to be calculated as at midnight before the request or notice is given to the Company.
- 30.6. If the Company has been given notice of a Members Resolution, the resolution must be considered at the next General Meeting held more than two months after the notice is given.
- 30.7. This clause does not limit any other right that a member has to propose a resolution at a General Meeting.
- 30.8. If the Company has received a notice or request under this clause:
- 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 Voting

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.

30.9. 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 Board considers it may be defamatory;
- c) the Voting 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 should be properly considered at a General Meeting or is otherwise not a valid resolution able to be put to the Members.

31. Cancellation or Postponement of a General Meeting

31.1. The Board may cancel, postpone, or change the venue of a General Meeting at any time prior to the meeting, except in the case of a General Meeting called upon the requisition of Voting Members.

31.2. The Board must give notice of the postponement, cancellation or change of venue to all persons entitled to receive notices of a General Meeting.'

32. Auditor's Rights

32.1. Any auditor appointed by the Company and in office at the time of a General Meeting is entitled to:

- a) attend any General Meeting; and
- b) be heard at the General Meeting on any part of the business of the meeting that concerns the auditor in their capacity as an auditor.

32.2. The auditor may authorise a person in writing as their representative for the purpose of attending and speaking at any General Meeting.

PART D — BOARD OF DIRECTORS

33. Board Composition

33.1. There will be up to ~~seven~~^{six} Directors.

33.2. Where the office of a Director becomes vacant, the continuing Directors may continue to act, except where the number of Directors is reduced to fewer than three Directors, in which case the continuing Directors may act only:

- a) to appoint Directors for the purpose of increasing the number of Directors to three or higher;
- b) to convene a General Meeting; or
- c) in an emergency.

34. Eligibility of Directors

34.1. A person is eligible to be a Director if they:

- a) are over the age of 18 years;
- b) are ~~an~~ **Individual** Member;
- c) give their signed consent to act as a Director;
- d) are not ineligible to be a Director under law, including under the Act; and
- e) are not an employee of the Company.

35. Election of Directors

35.1. Elections are to be held prior to the Annual General Meeting in accordance with the By-laws.

35.2. Prior to an Annual General Meeting, the Board will:

- a) determine the number of Directors to be elected by the Voting Members;
- b) give notice to the eligible Voting Members of the number of vacancies that may be filled; and
- c) invite nomination of candidates from the eligible Voting Members.

35.3. The Board will appoint a Nominations Committee to act as a subcommittee in accordance with the Nominations Committee Terms of Reference which will be reviewed after a period of 4 years

35.4. Nominations for Directors must be called no less than 28 days prior to the Annual General Meeting.

35.5. Nominations must be:

- a) in writing on the form provided by the Board;
- b) signed by the candidate expressing their consent to serve as a Director;
- c) declare any position the candidate holds with other entities; and
- d) lodged with the Secretary by the prescribed time.

35.6. Only those candidates who:

- a) satisfy the requirements for election as a Director under this Constitution; and
- b) are approved by the Nominations Committee
- c) are eligible to stand for election as a Director.

35.7. A returning officer may be appointed to conduct the election of Directors.

35.8. If the number of approved nominations exceeds the number of vacancies to be filled, a ballot must be held prior to the Annual General Meeting, which may be an electronic ballot as determined by the Board.

35.9. If the number of nominations received is equal to or less than the number of vacant positions to be filled, then the candidates nominated are to be declared elected at the Annual General Meeting following the close of nominations.

- 35.10. Any unfilled positions as a result of insufficient nominations are to be deemed casual Board vacancies.
- 35.11. Directors hold office from the end of the Annual General Meeting at which their election is declared or announced until the end of the third following Annual General Meeting.
- 35.12. The maximum continuous period for which a Director may hold office is three terms of approximately three years.
- 35.13. A person who has held office as a Director for the maximum continuous period is eligible for re-election or reappointment after a period of three years from the date that the person last held office as a Director.
- 35.14. The maximum continuous period does not include any period of a Director's appointment to fill a casual vacancy under this Constitution.

36. Casual Board Vacancies

- 36.1. If a casual vacancy in the position of a Director occurs, the Board may appoint an eligible individual to fill the vacancy until the remainder of the term of the Director who has left the Board.
- 36.2. The Board shall invite and consider any recommendations from the Nominations Committee, (if one has been established) prior to filling a casual vacancy.

37. Ceasing to be a Director

- 37.1. In addition to any other way, a Director ceases to be a Director if they:
- a) resign by written notice to the Secretary;
 - b) are subject to any of the circumstances prescribed by the Act resulting in the ending or vacating of the position of Director;
 - c) cease to be a Member, unless the Board resolves otherwise;
 - d) become a mentally incapacitated person under the law relating to mental health, unless in the opinion of a majority of Directors the Director can fully participate in the governance of the Company, despite their mental incapacity;
 - e) die;
 - f) become bankrupt or make any arrangement or composition with their creditors generally, unless, subject to the Act, the Board resolves otherwise;
 - g) are convicted on indictment of an offence and the Board does not at the next meeting of the Board after that conviction resolve to confirm the Director's appointment to the position of Director;
 - h) are absent from three consecutive Board meetings without the consent of the Board;
 - i) fail to disclose a material personal interest in breach of the law, unless at its next meeting the Board resolves otherwise;
 - j) are removed from the position of Director by the Members under this Constitution or the Act;

- k) become a paid employee of the Company, other than a paid Director;
- l) are found guilty by a tribunal, industrial commission, court of competent jurisdiction, or other similar authority, of engaging in discriminatory conduct or harassment towards employees of the Company or other Members or their employees;
- m) are prohibited from being a director under the Act; or
- n) are convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least three months.

38. Removing a Director

- 38.1. The Company may by resolution at a General Meeting remove a Director from their position as Director before the expiration of the Director's term of office.
- 38.2. If a Director to whom a proposed resolution for removal relates makes representations in writing, not exceeding a reasonable length, and requests that the representations be notified to the Members, the Secretary must make a copy of the representations available to each Member or, if they are not so sent, the Director is entitled to require that the representations be read out at the General Meeting at which the resolution is to be considered.

39. No Alternate Directors

- 39.1. Directors are not entitled to appoint alternate directors.

40. Payments to Directors

- 40.1. Directors are entitled to:
 - a) be reimbursed for expenses properly incurred by the Director in connection with the affairs of the Company; and
 - b) be paid for any 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.
- 40.2. Directors are entitled to be paid fees for being a Director subject to the total amount paid to Directors being approved by the Voting Members at a General Meeting.
- 40.3. Any payment made to Directors must be approved by the Board.

41. Office Bearers

- 41.1. The Board will ~~each year~~ elect from amongst the Directors the following Office Bearers for a period of 1 to 3 years:
 - a) a Chair;
 - b) a Deputy Chair; and
 - c) any other Officer Bearer it deems fit.
- 41.2. The maximum continuous period for which a Director may hold office as Chair and Deputy Chair is six consecutive years.

- 41.3. A Chair and Deputy Chair can return to this role after six consecutive years in the role, if so nominated, after a break of at least two years has occurred since they last held this position.
- 41.4. The Chair and Deputy Chair have such powers and duties as specified in this Constitution, as required by law, and as determined by the Board.
- 41.5. The Chair and Deputy Chair are not to hold office beyond either their retirement or removal from the Board as a Director.
- 41.6. The Board may remove or suspend a person from holding any Office Bearer position by resolution passed at a Board meeting provided:
- a) the resolution is passed by not less than two-thirds of the Directors present; and
 - b) at least 21 days' notice in writing of the resolution has been given to the Secretary and to the person who is the subject of the resolution.

42. Powers of the Board

- 42.1. The business and affairs of the Company are to be administered by the Board which is to, subject to the Act and this Constitution:
- a) control and manage the affairs of the Company;
 - b) exercise all the functions as may be exercised by the Company, other than those functions that are required by this Constitution or the Act to be exercised by a General Meeting; and
 - c) have power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Company.
- 42.2. The Board may establish committees, which may include or be comprised of non-Directors.
- 42.3. The meetings and proceedings of committees are:
- a) subject to any terms of reference and/or delegation; and
 - b) otherwise governed as far as possible by the provisions of this Constitution which regulate the proceedings of the Board.
- 42.4. The Board may delegate any of its powers to:
- a) a committee;
 - b) a Director;
 - c) an employee of the Company; or
 - d) any other person,
- and may revoke that delegation.
- 42.5. The Board may specify terms of the delegation (including the power to further delegate).
- 42.6. The delegate must exercise the powers delegated in accordance with any directions, terms, and conditions as set by the Board.

43. National Advisory Committee

- 43.1. The role of the National Advisory Committee is to provide specialist advice to the Board.
- 43.2. The National Advisory Committee is established as a subcommittee of the Board in accordance with clause 42.2 consisting of as many members as deemed necessary by the Board, from time to time, and including a terms of reference that provides for delegated responsibilities, the appointment process, meeting and administrative requirements, and any remuneration.
- 43.3. Among other powers and functions delegated by the Board to the National Advisory Committee in its terms of reference, the Board may delegate to the National Advisory Committee the power to further delegate any of its functions and powers to sub-committees and individuals.

44. State Advisory Committees

- 44.1. The role of the State Advisory Committees is to provide State or Territory specific advice and events on behalf of their State or Territory.
- 44.2. A State Advisory Committee representing a particular State or Territory may be established by the Board as a sub-committee of the Board in accordance with clause 43.3, consisting of as many members as deemed necessary by the Board, from time to time, and including a terms of reference that provides for delegated responsibilities, the appointment process, meeting and administrative requirements, and any remuneration.

45. Nominations Committee

- 45.1. The Nominations Committee will be established in accordance with clause 35.3 and the Nominations Committee Terms of Reference for a minimum of 4 years

46. Duties of Directors

- 46.1. The Directors must comply with their duties as Directors under legislation and common law which includes the duty to:
 - a) 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) act in good faith and in the best interests of the Company, and further the Purpose of the Company;
 - c) not misuse their position as a Director;
 - d) not misuse information they gain in their role as a Director;
 - e) maintain the confidentiality of information received in their role as a Director;
 - f) act in the best interests of the Company;
 - g) disclose any material personal interest in a matter that relates to the affairs of the Company;

- h) disclose any conflict of interest which may prevent them from properly fulfilling their duties as a Director;
 - i) ensure that the financial affairs of the Company are managed responsibly; and
 - j) not allow the Company to operate while it is insolvent.
- 46.2. The Directors must comply with the requirements of any governance charter established by the Board.
- 46.3. A Director must disclose the nature and extent of any perceived or actual material conflict of interest in a matter that is being considered at a Board meeting or that is proposed in a circular resolution:
- a) to the other Directors; or
 - b) if all of the Directors have the same conflict of interest, to the Members at the next General Meeting or at an earlier time if reasonable to do so.
- 46.4. Each Director who has a material personal interest in a matter that is being considered at a Board meeting or that is proposed in a circular resolution must not:
- a) be present at the meeting while the matter is being discussed; or
 - b) vote on the matter,
- unless permitted by clause 46.5
- 46.5. Despite the existence of a conflict or a material personal interest, a Director may still be present and vote if permitted by law and:
- a) the Directors who do not have a material personal interest in the matter pass a resolution that 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 that states that those Directors are satisfied that the interest should not prevent the Director from voting or being present;
 - b) their interest arises because they are a Member of the Company and the other Members have the same interest;
 - c) 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;
 - d) their interest relates to a payment by the Company in respect of an indemnity provided for in this Constitution, or any contract relating to an indemnity that is allowed under the Act;
 - e) the Regulator makes an order allowing the Director to vote on the matter; or
 - f) their interest relates to a contract the Company is proposing to enter into that:
 - i. is subject to approval by the Members; and
 - ii. will not impose any obligation on the Company if it is not approved by the Members.

46.6. No contract made by a Director with the Company, and no contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested, is voided or rendered voidable merely because the Director holds office as a Director or because of the fiduciary obligations arising out of that office.

46.7. The disclosure of a conflict of interest by a Director and the steps taken by the Board with respect to the conflict of interest must be recorded in the minutes of the meeting.

47. By-laws

47.1. The Board may make, amend, or repeal such By-laws as it determines are appropriate for the purposes of giving effect to any provision of this Constitution or to govern the procedures and activities of the Company.

47.2. Any such By-laws:

- a) must be consistent with the provisions in this Constitution;
- b) when in force, are binding on all Members; and
- c) must be published

48. Board Meetings

48.1. The Board may meet, including by technological means, for the dispatch of business, and adjourn and otherwise regulate its meetings.

48.2. The Chair alone, or any two Directors, may convene a Board meeting.

48.3. At a Board meeting:

- a) the Chair or, in the Chair's absence, the Deputy Chair is to preside as chairperson; or
- b) if the Chair and the Deputy Chair are absent, or are unwilling to act, one of the remaining Directors, as may be chosen by the Directors present at the meeting, will preside as chairperson.

48.4. Questions arising at any Board meeting are to be decided by a simple majority of votes of those Directors present.

48.5. Directors are to have one vote on any question.

48.6. Directors may not assign proxies.

48.7. In the event of an equality of votes on any question, the chairperson of the Board meeting does not have a casting vote and the motion is recorded as failed.

48.8. A Board meeting may be held using technology that allows the Directors in attendance to clearly and simultaneously communicate with each other.

48.9. A Director who participates in a Board meeting using technology is taken to be present at the meeting and, if the Director votes at the meeting, is taken to have voted in person.

48.10. The Board may invite individuals to attend Board meeting as observers.

49. Notice of a Board Meeting

49.1. Notice of a Board meeting must:

- a) specify the time, day, and time of the meeting; and
- b) provide details of any technology that will be used to facilitate the meeting.

49.2. Notice of a Board meeting must be given to each Director at least seven days, or such other period as may be unanimously agreed upon by the Directors, before the time appointed for the holding of the meeting.

49.3. Notice of a Board meeting must be given by such means as agreed by the Directors.

49.4. In cases of urgency, a Board meeting can be held without the usual notice, provided that as much notice as practicable is given to each Director by the quickest means practicable.

49.5. Non receipt of any notice of a Board meeting by a Director does not affect the validity of the convening of the meeting.

50. Quorum at a Board Meeting

50.1. To transact business at a Board meeting, a quorum of Directors is required during the time in which the business is dealt.

50.2. The quorum for a Board meeting shall be the number that is a majority of the Directors currently in office.

51. Decisions of the Board without a Board Meeting

51.1. The Board may pass a resolution without a Board meeting being held if the proposed resolution is sent to the Directors and a majority of Directors assent to the resolution in writing within the time specified.

51.2. A resolution is taken to have been passed on the date the resolution was assented to by the last Director who constituted the majority of Directors in favour, provided the number of Directors who vote in favour of the matter equals or exceeds the number for a quorum.

51.3. The resolution may consist of multiple copies of the same document, which may be in the form of electronic communication, each signed or authorised by one or more of Directors.

52. Validity of Acts of Directors

52.1. All acts done at any Board meeting or by any individual acting as a Director are valid, even if it is later discovered that there was a defect in the appointment of an individual as a Director or the individual not being entitled to vote.

PART E — ADMINISTRATIVE MATTERS

53. Dispute Resolution

53.1. The Board will determine the procedure to be followed to determine any dispute arising between:

- a) a Member and another Member;
- b) a Member and the Board; and
- c) a Member and the Company.

53.2. The Board will be subject to the following:

- a) a Member may appoint any person to act on their behalf in the dispute resolution procedure;
- b) each party to the dispute must be given an opportunity to be heard on the matter which is the subject of the dispute; and
- c) the outcome of the dispute must not be determined by a biased decision-maker.

54. Secretary

54.1. The Board must appoint at least one Secretary, who may also be a Director.

54.2. A person may not be appointed as Secretary unless the person:

- a) consents in writing to being appointed as Secretary;
- b) is at least 18 years of age; and
- c) is a resident in Australia.

54.3. The Secretary holds office on such terms and conditions as the Board determines.

54.4. The Board may suspend or remove any Secretary, subject to the terms of any contract and the law.

54.5. The Secretary has such powers and duties as specified in this Constitution, the Act, and as determined by the Board.

55. Minutes

55.1. The Company must keep minutes of:

- a) proceedings and resolutions of General Meetings;
- b) proceedings and resolutions of Board meetings;
- c) proceedings of committee meetings; and
- d) resolutions passed by the Board or committees without a meeting.

55.2. The Company must ensure that the minutes of a meeting are signed within a reasonable time after the meeting, which is usually within one month, by the chair of the meeting at which the proceedings were held, or by the chair of the next meeting.

56. Service of Notices to Members

56.1. A notice may be given by the Company to a Member by:

- a) serving it on the Member personally;
- b) sending it by post to the Member's address as shown in the register of Members;

- c) sending it to an electronic contact address, such as an e-mail address, that the Member has supplied to the Company, or to an address which the Member has contacted the Company in the past; or
- d) making a copy of it accessible electronically and advising the Member of its availability via the electronic contact address.

56.2. Where a notice is sent by post, service of the notice is taken to be effected three days after it is posted.

56.3. Where a notice is sent by email or by other electronic means, service of the notice is taken to be effected on the day it is sent or on the day the Member is advised via the electronic contact address that the notice is accessible electronically.

57. Accounts and Audit

57.1. The Company must make and keep written financial records that:

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

57.2. If required by the Act, an auditor is to be appointed in accordance with the Act.

57.3. The appointed auditor may be removed in accordance with the Act.

58. Financial Year

58.1. The Company's financial year will begin on 1 July and end on 30 June, unless the Board passes a resolution to change the financial year.

59. Custody and Inspection of Records

59.1. The Board must keep in their custody, or under their control, all records, books, and other documents relating to the Company.

59.2. The Board must ensure that the minutes for General Meetings of the Company are available for inspection by Members in accordance with the Act.

59.3. A Member other than a Director does not have the right to inspect any books, records, or documents of the Company except as provided by law or authorised by the Board.

60. Indemnity of Directors

60.1. 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.

60.2. In this clause, 'officer' means a Director or Secretary, and includes a Director or Secretary after they have ceased to hold that office.

60.3. In this clause, 'to the relevant extent' means:

- a) To the extent that the Company is not precluded by law, including the 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.

60.4. The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Company.

60.5. To the extent permitted by law, the Company may:

- a) purchase and maintain insurance;
- b) pay, or agree to pay, a premium for an insurance against any liability incurred by the officer as an officer including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal.

61. Execution of Documents

61.1. The Company does not have a common seal.

61.2. The Company may execute documents by the signature of:

- a) two Directors;
- b) one Director and the Secretary; or
- c) such other persons appointed by the Board for that purpose.

62. Changes to the Constitution

62.1. The Company may modify or repeal this Constitution, or a provision of this Constitution, by the Voting Members passing a Special Resolution and following the requirements of the Act.

63. Winding Up the Company

63.1. Voluntary dissolution of the Company may only be achieved by a Special Resolution of Voting Members and following all the requirements of the Act.

63.2. If the Company is wound up, any surplus assets must not be distributed to a Member or a former Member in their capacity as a Member.

63.3. Subject to the Act, any other applicable laws, and any court order, any surplus assets that remain after the Company is wound up must be distributed to one or more organisations:

- a) with purposes similar to, or inclusive of, the Purposes; and
- b) which prohibits the distribution of any surplus assets to its members to at least the same extent as the Company.

63.4. The decision as to the organisation or organisations to be given the surplus assets must be made by a Special Resolution of Voting Members at or before the time of winding up.

63.5. If the Voting Members do not make this decision, the Company may apply to the Supreme Court of Victoria to make this decision.

64. Transitional Arrangements

64.1. The Board of Directors at the date of adoption of this constitution and the date when Directors need to seek re-election is as follows:

Director #1	AGM May 2025 – November 2024 (First member elect board member)
Director #2	AGM May 2025 <u>2025 AGM</u>
Director #3	AGM May 2026 <u>2026 AGM</u>
Director #4	AGM May 2026
Director #5	AGM May 2027
Director #6	AGM May 2027

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Commented [DB1]: Changing from May to November to align with new FY and AGM timetable

END OF CONSTITUTION