Constitution

Australian Institute of Occupational Hygienists Limited

A Public Company Limited by Guarantee

DRAFT

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1 Name of the Company

The name of the Company is the Australian Institute of Occupational Hygienists Limited.

2 Type of Company

2.1 Type

The Company is a not-for-profit public company limited by guarantee.

2.2 Liability of Members

The amount that each Member or past Member is liable to contribute is limited to $10.00.

2.3 Guarantee

Subject to this Constitution, each person who is a Member and each person who was a Member during the year ending on the day of the commencement of the winding up of the Company, undertakes to contribute to the property of the Company for:

(a) payment of debts and liabilities of the Company;

(b) payment of the costs, charges and expenses of winding up; and

(c) any adjustment of the rights of the contributories among Members.

3 Replaceable Rules

This Constitution displaces the Replaceable Rules to the extent that it is inconsistent with any Replaceable Rules.

4 Definitions and Interpretation

4.1 Definitions

In this Constitution, unless there is something in the subject or context which is inconsistent:

(a) **ACNC** means Australian Charities and Not-for-profits Commission.

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

(c) **ACNC Regulations** means *Australian Charities and Not-for-profits Commission Regulations 2022* (Cth) made under the ACNC Act.

(d) **AGM** means annual general meeting.

(e) **Associate Member** means a natural person who is admitted to this class of membership in accordance with the Constitution and includes persons who have Student Status.

(f) **Board** means the board of Directors of the Company.

(g) **Business Day** means a day that is not a Saturday, Sunday or public holiday in Victoria.

(h) **By-Laws** means the by-laws adopted and amended by the Board from time to time in accordance with **clause 52**.

(a) **Certification Board** means a committee of not less than five (5) members appointed by the Board to administer the requirements for certification.

(b) **Certified Occupational Hygienist** means a Member confirmed as such by the Board and who has met the requirements for certification set out in the By-Laws.

(c) **Chairperson** means the person holding that office under this Constitution and includes any assistant or acting chairperson.

Note for AIOH: This person is the President and if the President is unavailable, the President Elect (see clauses 18 and 46).

(d) **Committee** means a committee established in accordance with **clause 49**.

(e) **Company** means the Australian Institute of Occupational Hygienists Limited.

(f) **Constitution** means this constitution as amended or supplemented from time to time.

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

(h) **Direct Vote** means a vote cast pursuant to **clause 22** in a form that is substantially consistent with **Annexure B**.

(i) **Director** means any person holding the position of a director of the Company and **Directors** means the directors for the time being of the Company.

Note for AIOH: Corporations Act terminology has replaced the incorporated association terminology throughout the Constitution such that the Officers and Councillors are now all Directors. Office bearers (President etc) have been recognised as a category of Directors.

(j) **Disciplinary Committee** means a Committee formed pursuant to **clause 13.2(a)** for the purpose of conducting disciplinary proceedings against a Member.

(k) **Entrance Fee** means the entrance fee described in **clause 11** (if any).

(l) **Executive Committee** means the committee described in **clause 34**.

(m) **Fellow Member** means a natural person who is admitted to this class of membership in accordance with the Constitution.

(n) **Full Member** means a natural person who is admitted to this class of Membership in accordance with the Constitution.

(o) **Good Standing** means that a person has paid all monies due to the Company.

(p) **Honorary Fellow** means a person who is admitted to this class of membership in accordance with the Constitution.

(q) **Member** means a member of the Company pursuant to **clause 6** and **clause 7** (and includes Full Member, Provisional Member, Associate Member, Fellow Member and Honorary Fellow) and **Membership** has the corresponding meaning.

(r) **Member Present** means in connection with a meeting of Members, a Voting Member being present in person or by proxy or attorney.

(s) **Member's Guarantee Amount** means the amount referred to in **clause 2.2**.

(t) **Objects** means the objects of the Company as set out in **clause 5.1**.

(u) **Office** means the registered office for the time being of the Company.

(v) **Office Bearer** means any of the President, President-Elect, Treasurer and Secretary of the Company.

(w) **President** means the Director elected to that position in accordance with this Constitution.

(x) **President-Elect** means the Director elected to that position in accordance with this Constitution.

(y) **Provisional Member** means a natural person admitted to this class of membership in accordance with the Constitution.

(z) **Register** means the register of Members to be kept pursuant to the Corporations Act.

(aa) **Registration** means registration of the Company as a body corporate by the Australian Securities and Investments Commission.

(bb) **Replaceable Rules** means the replaceable rules applicable to a public company limited by guarantee set out in the Corporations Act.

(cc) **Retired Status** means an individual recognised by the Board who has been a Member in Good Standing who meets the criteria set out in the By-Laws.

(dd) **Secretary** means a person elected to that position on the Board in accordance with this Constitution.

(ee) **Special Resolution** has the meaning given to it by the Corporations Act.

(ff) **Student Status** means a person who is eligible for membership as an Associate Member, who is enrolled in a course of study in a relevant field on a full or part-time basis and is not yet practising occupational hygiene for remuneration on a full-time basis (unless part of a work experience program).

(gg) **Subscription** means the subscription fees payable by Members referred to in **clause 11**.

(hh) **Treasurer** means a person elected to that position on the Board in accordance with this Constitution.

(ii) **Voting Members** are Fellow Members and Full Members who are of Good Standing.

4.2 Interpretation

In this Constitution, unless there is something in the subject or context which is inconsistent:

(a) the singular includes the plural and vice versa;

(b) each gender includes the other genders;

(c) the word **person** means a natural person and any partnership, association, body or entity whether incorporated or not;

(d) the words **writing** and **written** include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form including in electronic form such as email or online;

(e) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;

(f) a reference to any clause or schedule is to a clause or schedule of this Constitution;

(g) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;

(h) an expression used in a particular Part or Division of the Corporations Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any clause that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division; and

(i) headings do not form part of or affect the construction or interpretation of this Constitution.

5 Objects

5.1 Objects

The Company is a charitable institution established for the principal purpose of advancing education, including by providing information, education and training to:

(a) improve the quality and practice of occupational (or industrial) hygiene;

(b) promote the professional development, competence and capacity of occupational hygiene professionals and practitioners;

(c) advance the science and practice of occupational hygiene;

(d) encourage research and develop evidence-based occupational hygiene guidance; and

(e) increase public awareness of the field of occupational hygiene.

5.2 Activities

Note to AIOH: This provision is not required for charity registration or the establishment of a public company limited by guarantee. The substance of this clause is largely covered by the objects and purpose statement in clause 5.1, accordingly, it could be deleted if there is no sound reason for it remaining.

The Company may engage in any activity that contributes to the attainment of the Objects. It may, by way of example:

(a) set standards of professional competence and maintain a register of those members who meet its standards;

(b) prepare and publish standards relating to the teaching and training of occupational hygienists;

(c) make representations on matters within the competence of its members to governments, industry and trade unions;

(d) promote, research and publish scientific and technical papers;

(e) collect, order and disseminate information on any or all aspects of occupational hygiene and allied subjects; and

(f) conduct conferences, public meetings, exhibitions and courses of instruction.

5.3 Powers

The Company can only exercise the powers in section 124(1) of the Corporations Act to:

(a) carry out the Objects; and

(b) do all things incidental or convenient in relation to the exercise of power under **clause 5.3(a)**.

5.4 Income and Property

(a) The income and property of the Company will only be applied towards the promotion of the Objects of the Company.

(b) No income or property of the Company will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Company. However, nothing in this Constitution will prevent payment in good faith to a Member:

(i) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company;

(ii) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Company;

(iii) of reasonable and proper rent for premises leased by any Member to the Company; or

(iv) where the payment or transfer is otherwise made by the Company to the recipient in the course of the Company carrying out its Objects.

5.5 Payment to Directors

No payment may be made to any Director other than the following payments in good faith by the Company:

(a) of out-of-pocket expenses incurred by the Director in the performance of any duty as a Director where the amount payable does not exceed an amount approved by the Board; and

(b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable for the service.

MEMBERSHIP

6 Admission to Membership

6.1 Eligibility for Membership

Any individual is eligible to apply to become a Member if the person:

(a) agrees to assume the liability to pay the Member's Guarantee Amount;

(b) satisfies the criteria for the relevant class of Membership set out in this Constitution and the By-Laws;

(c) applies for Membership or is nominated for Membership as set out in this Constitution and the By-Laws;

(d) supports the Objects of the Company and agrees to comply with the terms of this Constitution and the By-Laws;

(e) lodges an application form in accordance with **clause 8**; and

(f) subject to **clause 11(d)**, pays the Entrance Fee in accordance with **clause 11**.

6.2 Benefits

(a) Each Voting Member will be entitled to vote at all general meetings.

(b) In addition to each Voting Member being entitled to vote at all general meetings, the Board will determine from time to time what additional benefits shall attach to Membership.

7 Classes of Membership

(a) Membership of the Company will comprise the following classes:

(i) Full Members;

(ii) Provisional Members;

(iii) Fellow Members;

(iv) Honorary Fellows; and

(v) Associate Members.

(b) A Member may also be recognised as being a Certified Occupational Hygienist or as having Student Status or Retired Status in accordance with the By-Laws.

Note to AIOH: the membership provisions have been reduced in this draft with the intention that the Membership Provisions, wherever possible, will be dealt with in dedicated By-Laws.

8 Applications for Membership

8.1 Form of Membership Application

An application for Membership of the Company must:

(a) be made in writing in the form prescribed by the Board from time to time, which may include an online form;

(b) specify the category of Membership being applied for by the applicant;

(c) include a signature, or equivalent acknowledgement by the applicant acknowledging that the applicant agrees to be bound by the Constitution; and

(d) be accompanied by any applicable Entrance Fee and annual Subscription payable pursuant to **clause 11(a)**; and

(e) be lodged with the Secretary via the Company's website.

8.2 Change of Membership Grade

(a) The Board may transfer a person to a different Membership class if that persons qualifications, skills and experience satisfy the requirements of a different Membership class as specified in the By-Laws.

(b) If a person is transferred to another Membership class, they must pay any applicable Membership fee when they are awarded the relevant grade of Membership as a condition of continued Membership of the Company.

8.3 Consideration of Membership Applications

Applications or nominations for Membership will be considered by the Board in accordance with the By-Laws. The Board may delegate consideration of whether a person should be admitted to Membership or be recognised as being a Certified Occupational Hygienist or as having Student Status to a Committee established for this purpose.

8.4 Outcomes of Applications for Membership or Status

(a) As soon as practicable after the Board decides on the outcome of an application for Membership the Secretary must:

(i) notify the applicant, in writing, that the Board approved or rejected the Membership application (whichever is applicable); and

(ii) if the Board approved the Membership application, enter the applicant's name and class of Membership in the Register.

(b) If the Board rejected the Membership application, the Board will not be required to provide the applicant with any reasons for the rejection.

(c) As soon as practicable after the Board decides on the outcome of a person's request to be recognised in the Retired Status, Student Status or Certified Occupational Hygienist categories, the Secretary must notify the applicant in writing of the outcome. If the Board rejected the application, the Board will not be required to provide the applicant with any reasons for the rejection.

8.5 Commencement of Membership

Subject to the Corporations Act, the person becomes a Member upon both:

(a) their name being so entered in the Register; and

(b) payment of the Subscription within twenty-eight (28) days of being requested to do so.

9 Register

(a) The Company must establish and maintain a Register.

(b) The Register must be kept by the Secretary at the Office and must contain:

(i) for each current Member:

(A) their name;

(B) their address;

(C) any alternative address or addresses provided by the Member for the service of notices;

(D) the date the Member was entered on to the Register; and

(ii) for each person who ceased to be a Member in the last seven (7) years:

(A) their name;

(B) their address last listed on the Register, or any alternative address nominated by the Member for the service of notices; and

(C) the dates the Membership started and ended.

(c) The Company will make the Membership Register available for inspection in accordance with the Corporations Act.

10 Membership Entitlements Not Transferable

A right, privilege or obligation which a person has by reason of being a Member:

(a) is not capable of being transferred or transmitted to another person; and

(b) terminates on cessation of the person's Membership.

11 Entrance Fee and Subscriptions

(a) There shall be an Entrance Fee and annual Subscription payable by each Member to the Company.

(b) Subject to **clause 11(d)**, the amount of the Entrance Fee and annual Subscription shall be determined by the Members at the AGM, and the annual Subscription payable by Members at such times and in such manner as determined by the Board from time to time, provided that annual Subscriptions and fees fall due on 1 July each year.

(c) The Board may charge different classes of Membership different Entrance Fees and different annual Subscriptions.

(d) The Board may in its discretion:

(i) determine that no or a reduced Entrance Fee or annual Subscription is payable by a Member or Members (in whole or in part) in a given year including where a member has Student Status or Retired Status; and

(ii) extend the time for payment of the Entrance Fee or annual Subscription by any Member,

without affecting the privileges attached to that Member's Membership.

(e) No part of any Entrance Fee or annual Subscription shall be refunded to a Member who ceases to be a Member in accordance with **clause 11(a)**.

(f) Payment of the first annual Subscription after 31 March in any year shall render the Member financial until 30 June in the following year.

(g) Special purpose fees shall be set by resolution at a Board meeting, subject to confirmation by a resolution passed at a general meeting held not more than three (3) months afterwards. Members with Retired Status and Student Status may be exempt from payment of special fees as determined by Board.

MO Comment: Please note we have not included clause 9.0 (Duties and Privileges of Members), as we consider this to be more appropriately dealt with in the Company's By-Laws due to its procedural nature.

12 Cessation of Membership

(a) A Member's Membership will cease:

(i) on the date that the Secretary receives written notice of resignation from that Member;

(ii) upon that person dying;

(iii) upon that Member no longer satisfying the criteria for its respective class of Membership (unless transferred to another class of Membership by the Board);

(iv) upon that Member becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally;

(v) if the Member is expelled from the Company pursuant to **clause 13**; or

(vi) if the Company in general meeting resolves by Special Resolution to terminate the Membership of a Member whose conduct or circumstances in the opinion of the Company renders it undesirable that that Member continue to be a Member of the Company. The Member must be given at least twenty-one (21) days' notice of the proposed resolution and must be given the opportunity to be heard at the meeting at which the resolution is proposed.

(b) A Member may at any time, pursuant to **clause 12(a)(i)**, resign as a Member but shall continue to be liable for:

(i) any monies due by the Member to the Company; and

(ii) any sum for which the Member is liable as a Member of the Company under **clause 2.2**.

13 Disciplining of Members

13.1 Disciplining of Members

(a) Where the Board is of the opinion that a Member has:

(i) persistently refused or neglected to comply with a provision or provisions of this Constitution; or

(ii) persistently and wilfully acted in a manner prejudicial to the interests of the Company,

the Board may expel or suspend that Member from the Company.

(b) A resolution of the Board pursuant to **clause 13.1(a)** is of no effect unless the Board confirms the resolution in accordance with this **clause 13.1(b)** at a Board meeting held not earlier than fourteen (14) days and not later than twenty-eight (28) days after service on the Member of a notice pursuant to **clause 13.1(c)**.

MO Comment: We note the current range applied in your current constitution (clause 12) is 21 to 35 days. To balance efficiency with giving the Member adequate time to consider the notice, our preference is for a 14 to 28 days notice period. We consider this to be appropriate as it provides sufficient time for the Member to review the notice and supports more efficient administration of the process.

(c) If the Board resolves under **clause 13.1(a)** to expel or suspend any Member, the Secretary must serve the Member with a notice in writing:

(i) setting out the resolution of the Board and the grounds upon which it is based;

(ii) stating that the Member may address the Board at a Board meeting to be held not earlier than fourteen (14) days and not later than twenty-eight (28) days after service of the notice;

(iii) stating the date, place and time of that meeting; and

(iv) informing the Member that the Member may do either or both of the following:

(A) attend and speak at that meeting; and/or

(B) submit to the Board at or prior to the date of the meeting, written representations relating to the resolution.

(d) At a meeting of the Board held as referred to in **clause 13.1(c)**, the Board must:

(i) give the Member an opportunity to make oral representations;

(ii) give due consideration to any written representations submitted to the Board by the Member at or before the Board meeting; and

(iii) by a resolution, determine whether to confirm or to revoke the resolution under **clause 13.1(a)**.

(e) The Member must be notified in writing of the decision of the Board within seven (7) days. If the Board resolves to confirm the expulsion or suspension, the Member must also be notified of the right of appeal available under **clause 13.1(f)**.

(f) A resolution confirmed by the Board under **clause 13.1(d)** does not take effect:

(i) until the expiration of the period within which the Member is entitled to appeal against the resolution where the Member does not exercise the right of appeal within that period; and

(ii) where, within that period, the Member exercises the right of appeal, unless and until the Disciplinary Committee confirms the resolution pursuant to **clause 13.2(d)(ii)**.

13.2 Right of Appeal of Disciplined Member

MO Comment: AIOH's Constitution currently provides for appeals to be determined at a General Meeting. Alternatively, a disciplinary committee could be established for a more efficient and confidential process. On balance, we recommend adopting the committee approach and reserving the general meeting process for removal of directors.

(a) The Board will establish a Disciplinary Committee. The Disciplinary Committee will comprise of an independent panel of three (3) experts, all chosen by the Board. The experts will be chosen based upon the nature of the alleged misconduct by the Member. The Disciplinary Committee may seek advice from any relevant source.

(b) A Member may appeal to the Disciplinary Committee against a resolution of the Board, which is confirmed under **clause 13.1(d)**. Written notice of such an appeal must be lodged with the Secretary within seven (7) days of service of the notice required under **clause 13.1(e)**.

(c) Within thirty-five (35) days after receipt of a notice of appeal from the Member pursuant to **clause 13.2(b)**, the Disciplinary Committee must convene a meeting.

(d) At the Disciplinary Committee meeting convened under **clause 13.2(c)**:

(i) the Member must be given the opportunity to state their case orally or in writing, or both using any technology (reasonably available to the Board) that gives the Member a reasonable opportunity to do so; and

(ii) the Disciplinary Committee must vote by secret ballot on the question of whether the resolution will be confirmed.

(e) The Disciplinary Committee's decision, pursuant to **clause 13.2(d)(ii)** is final. The Member is not entitled to appeal the Disciplinary Committee's decision.

(f) The Member the subject of these disciplinary procedures is entitled to:

(i) subject to **clause 13.2(f)(ii)**, bring a support person to any meeting with the Disciplinary Committee or the Board, which meetings are being held pursuant to this **clause 13**; and

(ii) if the support person is legally qualified, the Member must notify the Disciplinary Committee or the Board (as the case may be) at least five (5) Business Days before the meeting that the support person attending the meeting will be legally qualified.

(g) Natural justice will be applied during every disciplinary process under this **clause 13**, requiring the Board and Disciplinary Committee to act fairly, in good faith and without bias or conflict of interest when making its decision.

GENERAL MEETINGS

14 Convening of General Meetings

Note for AIOH: All of the meeting provisions reflect Corporations requirements, so they are quite lengthy and procedural. Some of the new provisions (e.g. proxies) are mandated for organisations that are not charities and you can remove them at a later time if you obtain charity status and choose to do so.

14.1 AGMs

(a) The Company must hold an AGM each calendar year.

(b) Any AGM which is convened must be done so in accordance with the requirements of the Corporations Act even if section 111L of the Corporations Act applies.

(c) Even if these items are not set out in the notice of meeting, the business of an AGM may do the following:

(i) confirm the minutes of the previous AGM and of any general meeting held since that meeting;

(ii) receive and consider the report of the Board upon the activities of the Company during the preceding financial year;

(iii) receive and consider the report of the Treasurer and the report of the Auditor(s);

(iv) elect Directors as provided by the provisions of this Constitution; and

(v) set Subscriptions and other fees for the following financial year for the categories of Membership, but not to decide on specific fees and Subscription for those with Retired Status or Student Status;

(vi) limit the sum of money which the Executive Committee may spend without prior Board approval; and

(vii) appoint auditor(s) for the following year.

14.2 Convening of General Meetings

(a) The Board may, whenever those Directors think fit, convene a general meeting of the Company.

(b) The Members may call a general meeting and the Company will do so, in accordance with the provisions of Part 2G.2 of the Corporations Act pertaining to the rights of members to call a general meeting which entitlement applies even if the Company is a charity registered with the ACNC and section 111L of the Corporations Act applies.

(c) Subject to approval of the Board, a general meeting of the Company may be convened virtually or at two (2) or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting. Such approval may be ongoing.

15 Notice of General Meeting

(a) Subject to consent to shorter notice being given in accordance with the Corporations Act and notwithstanding section 111L of the Corporations Act if the Company is a charity registered with the ACNC, at least twenty-one (21) days' notice of any general meeting must be given specifying:

(i) the place, day and hour of the meeting;

(ii) the general nature of any business to be transacted at the meeting;

(iii) if a Special Resolution is to be proposed, the details of and intention to propose it;

(iv) if the meeting is to be held virtually or in two (2) or more places, the technology that will be used to facilitate this; and

(v) any other information required by the Corporations Act.

(b) The accidental omission to give notice of any general meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice will not invalidate the proceedings at, or any resolution passed at, the meeting.

(c) Subject to **clause 15(b)**, notice of every general meeting must be given in any manner authorised by this Constitution to:

(i) every Member;

(ii) every Director; and

(iii) the auditor for the time being of the Company (if any).

16 Cancellation or Postponement of General Meeting

16.1 Cancellation or Postponement of General Meeting

(a) Subject to the provisions of the Corporations Act and this Constitution, the Board may cancel or postpone a general meeting of the Company:

(i) if the meeting was convened by the Board; or

(ii) if the meeting was convened by the Members pursuant to **clause 14.2(b)**, upon receipt by the Company of a written notice either withdrawing the requisition signed by the Members who convened the meeting or consenting to the meeting being postponed.

(b) The Board may change the venue at which a general meeting is to be held. No business shall be transacted at any postponed meeting other than the business stated in the notice to the Members relating to the original meeting.

(c) Where any general meeting is cancelled or postponed or the venue for a general meeting is changed, the Board must notify in writing each person entitled to receive notice of the meeting of the cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution and in the case of the postponement of a meeting, the new place, date and time for the meeting.

16.2 Failure to Notify in Writing

Any failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

PROCEEDINGS AT GENERAL MEETINGS

17 Quorum at General Meeting

(a) No business may be transacted at any general meeting unless there is a quorum of Members Present at all times during the meeting.

(b) A quorum necessary for the transaction of business at any general meeting of the Company is ten (10) Voting Members being Members Present.

(c) If within thirty (30) minutes after the time appointed for holding a general meeting a quorum is not present:

(i) the meeting, if convened upon the requisition of Members, shall be dissolved; or

(ii) in any other case:

(A) it will stand adjourned to such other day, time and place as the Board may by notice to the Members appoint; and

(B) if at such adjourned meeting a quorum is not present within thirty (30) minutes after the time appointed for the holding of the meeting, the meeting shall be dissolved.

18 Chairperson

(a) The President shall preside as Chairperson at each general meeting.

(b) Where a general meeting is held and:

(i) there is no President; or

(ii) the President is not present within thirty (30) minutes after the time appointed for the holding of the meeting or, if present, is unwilling to act as Chairperson of the meeting,

then the President-Elect will be Chairperson in lieu of the President. If there is no President-Elect or the President-Elect is unwilling to act, then the following person will be Chairperson in lieu of the President-Elect in the order of availability set out below:

(iii) another Director; or

(iv) another Voting Member chosen by the Members Present.

(c) The rulings of the Chairperson of a general meeting on all matters relating to the order of business, procedure and conduct of the meeting shall be final and no motion of dissent from such rulings shall be accepted.

19 Adjournments

(a) The Chairperson of a general meeting at which a quorum is present:

(i) may adjourn a meeting with the consent of the meeting; and

(ii) must adjourn the meeting if the meeting so directs,

to a time and place as determined.

(b) No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.

(c) A resolution passed at a general meeting resumed after an adjournment, is deemed passed on the day it was passed and not on the original date of the meeting.

(d) It is not necessary to give any notice of an adjournment of a general meeting or of the business to be transacted at the adjourned meeting except if the meeting is adjourned for thirty (30) days or more in which case notice of the adjourned meeting must be given as in the case of an original meeting.

20 Determination of Questions

20.1 Determination of Questions

At any general meeting a resolution to be considered at the meeting shall be decided on a show of hands or by electronic vote unless a poll is demanded by:

(a) the Chairperson of the meeting; or

(b) at least two (2) Members Present.

20.2 Proxy Votes

Before a vote on a resolution is taken, the Chairperson must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.

20.3 Declaration by the Chairperson

A declaration by the Chairperson of the result of a vote on a resolution and an entry to that effect contained in the minutes of the proceedings of the Company which has been signed by the Chairperson of the meeting or the next succeeding meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

21 Polls

(a) A poll (being a vote in writing which includes a vote taken by electronic voting system) may be demanded:

(i) before a vote on a resolution is taken;

(ii) before the voting results on a show of hands are declared; or

(iii) immediately after the voting results on a show of hands are declared.

(b) If a poll is demanded it must be taken in such manner and at such time and place as the Chairperson of the meeting directs subject to **clause 21(e)**.

(c) The result of the poll shall be taken to be the resolution of the meeting at which the poll was demanded.

(d) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

(e) A poll demanded on the election of a Chairperson or any question of adjournment of the meeting must be taken immediately.

(f) The demand for a poll may be withdrawn.

22 Direct Voting

(a) The Board will determine from time to time if Voting Members are entitled to vote by a Direct Vote on a matter or a resolution. If the Board has determined that Voting Members are entitled to vote by a Direct Vote, then the Voting Members must do so using the form prescribed by the Board from time to time, which may include electronic means.

(b) If sent by post, the Direct Vote must be signed by the Voting Member or by a duly authorised officer or attorney.

(c) If sent by electronic transmission, the Direct Vote is to be taken to have been signed if it has been signed or authorised by the Voting Member in the manner approved by the Board.

(d) The Direct Vote must be received by the Company at least forty-eight (48) hours before the time of the relevant general meeting in order to be valid.

(e) A Direct Vote is valid if it contains the following information:

(i) the Voting Member's name and address, or any applicable identifying document such as a driver's licence or passport number, the Voting Member's identification number or similar approved by the Board or specified in the notice of meeting; and

(ii) the Voting Member's voting intention on any or all of the resolutions to be put before the meeting.

(f) A Direct Vote is valid unless the Company receives written notification changing the voting intention before the vote is cast.

(g) The Chairperson's decision as to whether a Direct Vote is valid is conclusive.

(h) A Voting Member who has cast a Direct Vote is entitled to attend the meeting. The Member's attendance cancels the Direct Vote:

(i) unless the Voting Member instructs the Company otherwise; or

(ii) the Board has determined that Direct Votes are the only method permitted for voting on a resolution.

(i) If a vote is taken at a meeting on a resolution on which a Direct Vote was cast, the Chairperson of the meeting must:

(i) on a vote by show of hands, count each Voting Member who has submitted a Direct Vote for or against the resolution in accordance with their Direct Vote; and

(ii) on a poll, count the votes cast by each Voting Member who has submitted a Direct Vote directly for or against the resolution.

23 Voting Rights

A Voting Member has one (1) vote, both on a show of hands and a poll.

24 Disqualification

No person other than:

(a) a Voting Member; or

(b) a proxy or an attorney of a Voting Member,

shall be entitled to vote at a general meeting.

25 Objection to Qualification to Vote

Any challenge as to the qualification of a person to vote at a general meeting or the validity of any vote tendered may only be raised at the meeting and must be determined by the Chairperson whose decision shall be final and conclusive and a vote allowed by the Chairperson shall be valid for all purposes.

26 Minors

(a) A Voting Member who is a minor may vote (including on a poll) by that Voting Member's committee or by such other person as properly has the management or guardianship of that Voting Member's estate or by the public trustee (as the case may be) and the committee or other person or trustee may vote by proxy or representative.

(b) Any person having the right of management or guardianship of the person or estate in respect of a Voting Member as referred to in **clause 26(a)** must not exercise any of the rights conferred under that clause unless and until the person has provided to the Board satisfactory evidence of the appointment of the person accordingly.

27 Casting Vote

In the case of an equality of votes including on a poll, the Chairperson of the meeting at which the vote is demanded is entitled to a casting vote in addition to a deliberative vote.

28 Right of Non-Members to Attend General Meeting

(a) The Chairperson of a general meeting may invite any person who is not a Member to attend and address a meeting.

(b) Any auditor and any Director or Officer of the Company shall be entitled to attend and address a general meeting.

PROXIES

29 Right to Appoint Proxies

(a) A Voting Member who is entitled to attend and vote at a general meeting of the Company may appoint another person as the Member's proxy to attend and vote for the Voting Member at the meeting.

(b) If a Voting Member appoints a proxy, the proxy is entitled to vote on a show of hands, by electronic means and on a poll.

30 Appointing a Proxy

30.1 Appointing a Proxy

The instrument appointing a proxy must be in writing, signed by the appointor or the appointor's attorney duly authorised in writing, and in a form that is substantially consistent with **Annexure A**.

30.2 Instrument of Proxy

(a) The instrument of proxy is valid if it contains the following information, and any additional information required by the Corporations Act:

(i) the name and address of the appointor;

(ii) the name of the Company;

(iii) the proxy's name or the name of the office of the proxy; and

(iv) the meetings at which the instrument of proxy may be used.

(b) An instrument of proxy may be expressed to be a standing appointment. An instrument of proxy for a specified meeting is only valid for that meeting and any postponement or adjournment of that meeting.

(c) An instrument of proxy shall not be treated as invalid merely because it does not specify all of the information required by **clause 30.2(a)**.

(d) An instrument of proxy may be revoked at any time by notice in writing to the Company.

31 Lodgement of Proxies

(a) An instrument appointing:

(i) a proxy and the power of attorney or other authority (if any) under which it is signed or executed or a certified copy of that power or authority; or

(ii) an attorney to exercise a Voting Member's rights at a general meeting or a certified copy of that power of attorney,

must be deposited at the Office or at such other place as is specified for that purpose in the notice convening the general meeting not less than forty-eight (48) hours (or such shorter period as the Board may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote. In default, the instrument of proxy or the power of attorney will not be treated as valid.

(b) For the purposes of this **clause 31** it will be sufficient that any document required to be lodged be received in legible form by email or other electronic transmission if the notice of meeting so permits, and the document is sent to the address and in the form specified in the notice, and the proxy shall be regarded as received at the time of the receipt of the email or other electronic transmission by the Company.

32 Validity of Proxies

(a) A vote exercised pursuant to an instrument of proxy, a power of attorney or other instrument of appointment is valid notwithstanding:

(i) the death or unsoundness of mind of the Voting Member;

(ii) the bankruptcy of the Voting Member; or

(iii) the revocation of the instrument of proxy or the power of attorney or any instrument under which the instrument or the power was granted,

if the Company has not received at its Office written notice of the death, unsoundness of mind, bankruptcy, or revocation at least twenty-four (24) hours (or such shorter period as the Board may allow) before the time appointed for the holding of the general meeting or adjourned meeting, as the case may be, at which the instrument of proxy or the power of attorney is exercised.

(b) A proxy who is not entitled to vote on a resolution as a Voting Member may vote as a proxy for another Voting Member who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.

(c) Except on a show of hands, a proxy may vote as more than one (1) Voting Member if the proxy holds appointments for those Voting Members which specify the way the proxy is to vote on the resolution and the proxy votes that way.

33 Rights of Proxies and Attorneys

(a) The instrument appointing a proxy will be taken to confer authority to demand or join in demanding a poll.

(b) Subject to **clause 33(c)**, unless a Voting Member by the instrument of proxy directs the proxy to vote in a certain manner, the proxy may vote as the proxy thinks fit on any motion or resolution. Otherwise the proxy shall follow the voting instructions contained in the instrument of proxy.

(c) A proxy will not be revoked by the appointor attending and taking part in any general meeting, but if the appointor votes on a resolution (including on a poll), the person acting as proxy for the appointor shall not be entitled to vote in that capacity in respect of the resolution.

(d) The Chairperson of a general meeting may require any person acting as a proxy to establish to the satisfaction of the Chairperson that they are the person nominated as proxy in the form of proxy lodged under this Constitution. If the person is unable to establish their identity, they may be excluded from voting.

EXECUTIVE COMMITTEE

34 Role of Executive Committee

(a) There shall be an Executive Committee of the Board to attend to day-to-day affairs of the Company between meetings of the Board. The Executive Committee shall consist of the Office Bearers.

(b) The Executive Committee shall not attend to matters involving decisions on policy or the expenditure of sums of money in excess of an amount approved at the AGM. All actions of the Executive Committee shall be ratified at the following meeting of the Board.

APPOINTMENT AND REMOVAL OF DIRECTORS

35 Number and Appointment of Directors

35.1 Number of Directors

The Board will consist of a maximum of seven (7) Directors. The number of Directors may be varied in accordance with this Constitution and the Corporations Act provided that:

(a) the minimum number is at least three (3), as required by law; and

(b) any reduction in the number of Directors must comply with section 201P of the Corporations Act where applicable.

35.2 Composition of the Board

The Board will consist of:

(a) four (4) Directors holding Office Bearer positions; and

(b) up to three (3) other Directors,

so long as the number of Directors is within the range permitted under this Constitution.

35.3 Initial Board

(a) The Directors to hold office at Registration shall be the persons set out as directors in the application to register the Company lodged under section 117 of the Corporations Act.

(b) No later than the first Board meeting after Registration, the Board shall determine each Director's retirement year for the purpose of establishing, as far as practicable, staggered terms of office in accordance with this Constitution.

35.4 Election of Directors

(a) The Secretary shall call for nomination(s) three (3) months prior to the date set for the AGM to fill positions on the Board that are vacant or will become vacant at the conclusion of the AGM.

(b) A person may only be nominated as a Director if they are a Full Member or Fellow Member of Good Standing.

(c) Nominations for candidates for election as a Director:

(i) shall be in writing in a form prescribed by the Board signed by two (2) Members and accompanied by the written consent of the nominee (which may be endorsed on the nomination). Only Fellow Members, Full Members and Provisional Members may sign the nomination form; and

(ii) shall be delivered to the Secretary (or other person authorised by the Board for the purpose) not later than two (2) months before the day fixed for the holding of the AGM at which the election is to take place.

(d) A candidate may be nominated for more than one position on the Board, including an Office Bearer position or another Director position, provided that if a candidate is elected to a position on the Board, they will be elected to the most

senior position they have successfully nominated for first and will automatically cease to be a candidate for any other position on the Board determined subsequently at that AGM.

(e) If insufficient nominations are received to fill all vacant positions, the candidates nominated shall be deemed to be elected and the Board may determine that further nominations of either a Fellow Member or Full Member may be received for the remaining vacant positions from the floor at the AGM in accordance with **clause 35.4(f)**.

(f) If determined by the Board pursuant to **clause 35.4(e)**, Fellow Members, Full Members and Provisional Members may make a nomination for a Director from the floor of the AGM however such a nomination will only accepted if the nominee is eligible for election to the position and has indicated verbally at the AGM or otherwise indicated in writing, that they are willing to serve if elected.

(g) A vacancy in the Board which is not filled at the AGM shall be deemed a casual vacancy.

(h) If the number of candidates nominated for a particular position is equal to the number to be elected, the persons nominated shall be deemed to be elected.

(i) If the number of candidates nominated for a particular position exceeds the number to be elected, a ballot must be held. The Board will determine, in its discretion, how the ballot is to be conducted which may include Direct Vote.

(j) The results of the ballot will be announced at the AGM at which the election took place.

35.5 Term of Office

(a) A Director, other than the President and the President Elect, holds office for a term of two (2) years, subject to **clause 35.5(c)**.

(b) The term of office of a Director commences at the conclusion of the AGM at which they were elected.

(c) The term of office of a Director, other than the President and President Elect, expires at the conclusion of the AGM that occurs following the expiry of the second anniversary of their election.

(d) At the expiry of their term of office, a Director is eligible for re-election except that a Director may not serve more than four (4) consecutive terms as a Director. If a Director has served four (4) consecutive terms, they may not be elected as a Director again until the second AGM after the end of their fourth consecutive term of office.

(e) For the purposes of **clause 35.5(d)** each term served as President or President Elect whether by election, appointment or succession under this Constitution, constitutes one (1) term of office.

(f) If a person serves only part of their term of office then that term counts as term for the purposes of **clause 35.5(d)**.

35.6 Term of office of President or President-Elect

(a) The President shall hold office for a one (1) year term. The retiring President is not eligible to hold office as President or President-Elect for the following.

(b) Each nominee for President or President-Elect must before being eligible for nomination to that position have previously served as a Director.

(c) The President-Elect shall hold that office for one (1) year. Subject to **clause 38**, at the conclusion of the AGM next after their election as President-Elect, they shall automatically become the President for the following year without the need for further nomination or election as President.

(d) Subject to **clause 38**, the office of President shall not be treated as a vacant Office Bearer position for the purpose of **clause 35.4** where there is a President-Elect entitled to become President under **clause 35.6(c)**.

MO Comment: AIOH's Constitution does not currently specify a maximum number of consecutive terms for Officers or Councillors. We typically recommend a cap of 8 years to support board renewal and good governance. We have provided for this in clause 35.5.

All positions are elected except for the President's office.

36 General Right to Appoint

The Board may act despite any vacancy in their body, but if the number falls below the minimum fixed in accordance with **clause 35.1** the Board may act:

(a) for the purpose of:

(i) increasing the number of Directors to the minimum; or

(ii) convening a general meeting; or

(b) in emergencies,

but for no other purpose.

37 Vacation of Office

(a) Any Director may resign from office on giving written notice to the Company at the Office of their intention to resign and the resignation shall take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Company).

(b) The office of Director shall become vacant if the person:

(i) dies;

(ii) ceases to be a Full Member or a Fellow Member of Good Standing;

(iii) becomes bankrupt or makes any arrangement or composition with creditors generally;

(iv) becomes prohibited from being a director of, or managing, a company by reason of any order made under the Corporations Act;

(v) becomes disqualified from being a Responsible Person under section 45.20(4) of the ACNC Regulations;

(vi) becomes of unsound mind or a person whose personal estate is liable to be dealt with in any way under the law relating to mental health;

(vii) is removed from office by the Company in general meeting in accordance with the Corporations Act;

(viii) resigns by notice in writing to the Company; or

(ix) is absent without the permission of the Board from three (3) or more meetings of the Board in a twelve (12) month period or three (3) or more consecutive meetings of the Board, and the Board resolves that this constitutes resignation.

MO Comment: We have required Directors to meet the Good Standing provisions if they are to be able to remain on the Board.

38 Vacancies

(a) In the event of a casual vacancy occurring in the office of Director, the Board may appoint a Full Member or Fellow Member to fill the vacancy and the member appointed shall hold office, subject to this Constitution, until the conclusion of the next AGM held following the date of the appointment.

(b) In the event of a casual vacancy in the office of Secretary and/or Treasurer, the Board may appoint one of the Directors to each vacant office and the Director(s) appointed may continue in office up to and including the conclusion of the AGM next following the date of the appointment.

(c) In the event of a casual vacancy in the office of President, the President -Elect shall act as the President for the balance of that year and shall automatically become the President for the next year at the conclusion of the next AGM in accordance with **clause 35.6(c)**. While acting as President under this clause, the President-Elect continues to hold the office of President-Elect and the period during which they act as President does not constitute a separate term of office as President for the purposes of **clause 35.5(d)**.

(d) In the event of a casual vacancy in the office of President-Elect the Board may appoint one the Directors to the vacant office and the Director appointed may continue in office up to and including the conclusion of the AGM next following the date of appointment.

(e) A Director appointed as President-Elect under **clause 38(d)**, shall not automatically become President under **clause 35.6(c)**. In that event, nominations shall be called for the offices of President and President-Elect at the next AGM and each office shall be filled in accordance with **clause 35.4**. The person elected as President shall hold office as President for one (1) year and the person elected as President-Elect shall hold office in accordance with **clause 35.6(c)**.

(f) Subject to **clause 38(c)**, nothing in this **clause 38** permits any person to simultaneously hold more than one Office Bearer position at the same time.

39 Alternate Directors

Alternate Directors shall not be permitted.

POWERS AND DUTIES OF DIRECTORS

40 Powers and Duties of Directors

(a) The control, management and conduct of the Company shall be vested in the Board who shall exercise all such powers of the Company as are not by the Corporations Act, or by this Constitution, required to be exercised in any other manner.

(b) If the Company is a registered charity with the ACNC, each Director must comply with the duties set out in the ACNC Regulations and any other applicable obligations under the ACNC Act and Corporations Act.

41 Negotiable Instruments

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, all requests or arrangements for electronic fund transfers and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed as the case may be, by two (2) people authorised by resolution of the Board. The Board may authorise:

(a) a Director(s) ;

(b) the Secretary; or

(c) another staff member of the Company,

to sign such instruments.

42 Conferment of Powers

(a) The Board may from time to time confer upon any Director or Officer for the time being or any other person as they may select such of the powers exercisable under this Constitution by the Board as it may think fit for such time and to be exercised for such purposes and on such terms and conditions and with such restrictions as it may think expedient.

(b) Powers conferred under this **clause 42** may be exercised concurrently with the powers of the Board in that regard and the Board may from time to time withdraw, revoke or vary all or any of such powers.

DIRECTORS' DISCLOSURE OF INTEREST

43 Contracts

(a) The Company may enter into contracts or arrangements with other companies or bodies in which a Director has an interest, provided it does so according to the usual commercial terms and conditions which apply to such contracts or arrangements.

(b) Any interest (whether in Australia or overseas) of a Director must, be dealt with in accordance with the provisions of the relevant legislation, being either:

(i) the Corporations Act; or

(ii) the ACNC Regulation

which shall include disclosing an interest and having the Secretary record all declarations in the minutes of the relevant meeting.

(a) Subject to **clause 43(b)**, a Director who has an interest in a contract or arrangement made by the Company and has disclosed this interest to the Board may:

(i) be present while the matter is being considered at a meeting;

(ii) not vote on the matter or in respect of any matter arising out of the contract or arrangement or proposed contract or arrangement;

(iii) not sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and

(iv) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement.

(b) A Director's failure to make disclosure under this **clause 43** does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.

(c) A general notice given to the Board by a Director:

(i) that the Director is an officer, a member of, or otherwise interested in any specified corporation or firm; and

(ii) stating the nature and the extent of the Director's interest in the corporation or firm,

shall, in relation to any matter involving the Company and that corporation or firm after the giving of the notice, be a sufficient disclosure of the Director's interest, provided that the extent of the interest is no greater at the time of first consideration of the relevant matter by the Board than was stated in the notice.

MO Comment: There is room to tailor how the conflicts of interest management provisions work at AIOH. Please let me know if you are happy with the above (in particular sub-clause 44(c)). We note that you were proposing to check whether the practice undertaken matches the above.

PROCEEDINGS OF COUNCILLORS OR OFFICERS

44 Meetings of Directors

(a) The Board may meet together for the despatch of business, adjourn and otherwise regulate their meetings and proceedings as it thinks fit, provided that the Board must meet not fewer than three (3) times each calendar year.

(b) The President or any four (4) members of the Board may at any time convene a meeting of the Board by giving least twenty-four (24) hours notice of the meeting to all Directors, provided that the Director or Secretary must have used their best endeavours to ensure that the notice was properly served and received.

MO Comment: We have amended the notice period to 24 hours, reduced from 14 days. Where an additional board meeting is convened by the President or four members of the Board, it is typically to address a matter requiring prompt attention. In this context, we consider a shorter notice period to be more appropriate.

(c) Notice of a meeting of the Board need not be in writing.

(d) Subject to **clause 44(e)**, a Board meeting may be convened or held using any technology consented to by a majority of Directors. The consent may be a standing one. A Director or Officer may withdraw consent to the use of a particular technology within a reasonable time period before a Board meeting.

(e) The particular technology used to convene or hold a Board meeting, pursuant to **clause 44(d)**, must be available and accessible to all Directors who wish to attend the Board meeting.

(f) All resolutions of the Directors passed at a meeting of the Board where a quorum is present but where notice of the meeting has not been given as required to each Director or Officer, or any act carried out pursuant to such resolution, shall, provided each Director or Officer to whom notice was not given subsequently agrees to waive the same, be as valid as if notice of the meeting had been duly given to all Directors. Attendance by a Director at a Board meeting of waives any objection which that Director may have to a failure to give notice of the meeting.

45 Quorum

(a) The quorum necessary for the transaction of the Board's business is four (4) members of the Board (being personally present or in conference in accordance with **clause 44**).

(b) A quorum must be present at all times during the meeting.

(c) A Director who is disqualified from voting on a matter pursuant to **clause 43** shall be counted in the quorum despite that disqualification in accordance with **clause 43(a)(iv)**.

MO Comment: A quorum of 5 is relatively high, so we've reduced to 4 after discussion with you.

46 Chairperson

(a) The President of the Board shall be the Chairperson.

(b) The President shall, if present, preside as Chairperson of every meeting of the Board.

(c) If a meeting of the Board is held and the President is:

(i) not present within fifteen (15) minutes after the time appointed for the holding of the meeting; or

(ii) if present, does not wish to chair the meeting,

then the President-Elect shall preside as Chairperson. . If there is no President-Elect or the President-Elect is unwilling to act, then the Directors may appoint another Director to be Chairperson.

47 Voting

(a) A resolution of the Board must be passed by a majority of votes of the Directors present at the meeting who vote on the resolution. A resolution passed by a majority of the votes cast by the Directors will for all purposes be taken to be a determination of the Board.

(b) Each Director or Officer shall have one (1) vote.

(c) In case of an equality of votes at a meeting of the Board, the Chairperson is entitled to a casting vote in addition to a deliberative vote.

48 Resolutions on the Papers

(a) The Board may pass a resolution without a Board meeting being held if all members of the Board sign a document containing a statement that they are in favour of the resolution set out in that document. For this purpose, signatures can be contained in more than one document.

(b) An email transmission which is received by the Company and which purports to have been sent by a Director or Officer shall for the purposes of this **clause 48** be taken to be in writing and signed by that Director or Officer at the time of the receipt of the email transmission by the Company.

(c) A vote made by a Director or Officer using an online voting platform operated or commissioned by the Company shall for the purposes of this **clause 48** be taken to be in writing and signed by that Director or Officer at the time the vote was received by the online voting platform.

(d) Any decisions made under **clauses 48(a)** to **48(c)** shall be tabled at the next Board meeting.

MO Comment: Some organisations operate circulating resolutions so that there is still a majority vote (though this doesn't provide the same opportunities that parties have to discuss issues at a Board meeting. We've presumed that the Company would like circulating resolutions to be passed by unanimous vote so that if there is not unanimity, a Board meeting can be called to discuss the issue.

49 Certification Board and Committees

MO Comment: The Committee provisions in the Constitution have been shortened so that the Board has discretion over how they operate. Clause 49.1 could also be removed with the Certification Board being dealt with under the general committee provisions.

49.1 Establishment of Certification Board

The Board may establish a Certification Board which will operate in accordance with Terms of Reference approved by the Board.

49.2 General Committee Provisions

(a) The Board may, from time to time, form and delegate any of its powers to any Committees that it sees fit to delegate its powers to, consisting of such Directors and other persons as it thinks fit and may from time to time revoke such delegation.

(b) The Board will determine the terms of reference for any Committee that the Board forms and delegate its powers to from time to time.

50 Validation of Acts of Directors

All acts done:

(a) at any meeting of the Board; or

(b) by any person acting as a Director ,

shall, even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Director or person or that they or any of them were disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Director and had been entitled to vote.

MINUTES

51 Minutes

(a) The Board must cause minutes to be kept in such a manner as is required by the Corporations Act for the purposes of recording:

(i) the names of the Directors present at each meeting of the Board and of Directors present at each meeting of any Committee;

(ii) all orders, resolutions and proceedings of general meetings and of meetings of the Board and of Committees; and

(iii) such matters as are required by the Corporations Act to be recorded in the record books of the Company including without limitation all declarations made or notices given by any Director of their interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.

(b) Such minutes shall be signed by the Chairperson of the meeting, or the Chairperson of the next succeeding meeting and minutes which purport to be signed accordingly shall be received in evidence without any further proof as sufficient evidence that the matters and things recorded by such minutes actually took place or happened as recorded and of the regularity of such matters and things and that the same took place at a meeting duly convened and held.

BY-LAWS

52 By-Laws

(a) The Board may from time to time make such By-Laws as are in its opinion necessary and desirable for the proper control, administration and management of the Company's affairs, operations, finances, interests, effects and property and to amend and repeal those By-Laws from time to time.

(b) A By-Law must be subject to this Constitution and must not be inconsistent with any provision contained in this Constitution.

(c) When in force, a By-Law is binding on the Member and has the same effect as this Constitution.

(d) The Board will adopt such measures as it deems appropriate to bring to the notice of the Member all By-Laws, amendments and repeals.

MO Comment: the current constitution has By-laws adopted at General Meeting of members (as opposed to what is becoming more usual where the By-laws are determined by the Board for the orderly management of the Company).

EXECUTION OF DOCUMENTS

53 Execution of Documents

(a) Without limiting the manner in which the Company may execute any contract, including as permitted under section 126 of the Corporations Act, the Company may execute any agreement, deed or other document by:

(i) two (2) Directors signing the same; or

(ii) one (1) Director and one (1) Secretary signing the same.

(b) Nothing in this Constitution requires the Company to execute any agreement, deed or other document under common seal for the same to be effectively executed by the Company.

RECORDS, AUDIT AND INSPECTION OF RECORDS

54 Keeping of Records, Audit and Inspection

(a) The Board shall:

(i) cause proper financial records to be kept and must, if required by the Corporations Act or the ACNC Act or the ACNC Regulation, prepare and distribute copies of the financial reports of the Company and a Directors' report;

(ii) where required by the Corporations Act or the ACNC Act, cause the financial records to be audited or reviewed by a properly qualified

auditor or other entity authorised by the Corporations Act or the ACNC Act.

(b) The Secretary must keep in their custody or under their control, all books and records that are not financial records of the Company.

(c) The Treasurer must keep in their custody and under their control all financial records of the Company.

(d) A Member may make a copy of any account, book security or other relevant documents of the Company subject to any conditions that may be imposed by the Board and the requirements of the Corporations Act.

MO Comment: Subclause (d) is a slightly different version of clause 40 in your current Constitution in that we have provided for the Board to be able to restrict the inspection so long as the Corporations Act allows it. This will ensure that records such as minutes of Board meetings can be held securely in accordance with Board discretion should there be legal proceedings or other circumstances affecting the Company.

NOTICES

55 Service of Notices

(a) A notice may be given by the Company to any Member by:

(i) serving it on the Member personally;

(ii) sending it by post to the Member or leaving it at the Member's address shown in the Register or otherwise the address supplied by the Member to the Company for the giving of notices; or

(iii) sending it to the electronic address supplied by the Member to the Company for the giving of notices.

(b) A Member may elect to be sent documents in a physical form or electronic form by notifying the Company of the election, in accordance with the Corporations Act. The Company must take reasonable steps to comply.

(c) Any Member who has not left at or sent to the Office their place of address for inclusion in the Register as the place at which notices may be given to the Member shall not be entitled to receive any notice.

(d) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and shall be deemed to have been effected on the third (3rd) Business Day after the date of posting. Service of a notice to a Member outside Australia shall be deemed to have been made in the ordinary course of the post.

(e) Where a notice is sent by electronic means, service of the notice shall be taken to be effected by properly addressing and sending the notice and in such case shall be taken to have been effected on the Business Day after it is sent.

(f) Evidence of service of a notice may be established by proving that the envelope containing the notice and stamped appropriately was properly posted and a

certificate given by any Officer of the Company to that effect shall be conclusive evidence of service.

(g) The Company must send the Members of the Company, at least once in each financial year, a notice setting out the following or make such a notice readily available on a website:

(i) that they have a right to elect and to request to be sent documents in physical form under sections 110E and 110J of the Corporations Act;

(ii) that they have a right to elect and to request to be sent documents in electronic form under sections 110E and 110J of the Corporations Act; and

(iii) that they have a right to elect not to be sent annual financial reports under section 314 of the Corporations Act.

(h) This **clause 55** does not limit the way in which notice may be given, including under Division 2 of Part 1.2AA of the Corporations Act.

WINDING UP

56 Winding Up

56.1 Decision to wind up

The Company may be wound-up in accordance with the procedures in the Corporations Act.

56.2 Surplus assets

Any surplus remaining following the winding up of the Company, will be paid to, transferred, or distributed to another institution(s) or corporation(s) which has:

(a) objects which are similar to the Objects and is charitable;

(b) a constitution which requires its income and property to be applied solely in promoting its objects; and

(c) a constitution which prohibits it from paying or distributing its income and property amongst its members to an extent at least as great as imposed on the Company by **clause 5.4(b)**.

56.3 Choice of entity to receive surplus assets

The decision as to the corporation(s) or institution(s) referred to in **clause 56.2** must be made by resolution of the Members in general meeting at the time of the winding up. If the Members do not wish to make this decision, the Company may apply to the Supreme Court in the state of Victoria to make this decision.

INDEMNITY

57 Indemnity

(a) For the purposes of **clauses 57** to **59**, Officer has the same meaning as given to that term in section 9 of the Corporations Act.

(b) To the extent permitted by law every Officer (and former Officer) of the Company shall be indemnified out of the funds of the Company against all costs, expenses and liabilities incurred as such an Officer or employee (or former Officer or employee). However, no such Officer (or former Officer) shall be indemnified out of the funds of the Company under this clause unless:

(i) it is in respect of a liability to another person (other than the Company or a related body corporate to the Company) where the liability to the other person does not arise out of conduct involving a lack of good faith; or

(ii) it is in respect of a liability for costs and expenses incurred:

(A) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the Officer (or former Officer) or in which the Officer (or former Officer) is acquitted; or

(B) in connection with an application, in relation to such proceedings, in which the court grants relief to the Officer (or former Officer) under the Corporations Act.

58 Payment of Indemnity Policy Premium

(a) To the extent permitted by law the Company may at the discretion of the Board enter into and/or pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Company against any liability incurred by such person in that capacity (whether in respect of acts or omissions prior to or after the date of the issue of the policy or both) except for:

(i) a liability arising out of conduct involving a wilful breach of duty in relation to the Company; or

(ii) a liability arising out of conduct that contravenes the governance standards in sections 45.5 to 45.25 of the ACNC Regulation.

(b) The Board shall have the discretion to approve the terms and conditions of any such policy of insurance.

(c) Where an Officer (or former Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of his or her actions or omissions then the Company shall not be required to indemnify the Officer under **clause 57** except to the extent that the indemnity affected by the insurance policy does not fully cover the person's liability.

59 Indemnity to Continue

The indemnity granted by the Company contained in **clauses 57** and **58** shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring before the date of the deletion or modification.

FINANCIAL YEAR

60 Financial Year

The financial year of the Company is each period of twelve (12) months after the expiration of the previous financial year of the Company, commencing on 1 July and ending on the following 30 June.

We, the persons whose signatures appear hereunder hereby agree to the foregoing constitution:

SIGNED, SEALED AND DELIVERED by)
[FULL NAME] in the presence of:)

Signature of Witness

Signature of **[FULL NAME]**

Name of Witness
(Please print)

SIGNED, SEALED AND DELIVERED by)
[FULL NAME] in the presence of:)

Signature of Witness

Signature of **[FULL NAME]**

Name of Witness
(Please print)

SIGNED, SEALED AND DELIVERED by)
[FULL NAME] in the presence of:)

Signature of Witness

Signature of **[FULL NAME]**

Name of Witness
(Please print)

Annexure A Form of Appointment of Proxy

Australian Institute of Occupational Hygienists Limited
(incorporated under the Corporations Act)

PROXY FORM

1. Your details
(Please print your name and address)

Name:		
Address:		
City:	State:	Postcode:
Country:		
Telephone:		

2. Appoints

Name: _____

(Please print name of proxy)

or failing the person so named, or if no person is named, the **Chairperson of the Meeting** to vote in accordance with the following directions or, if no directions have been given, as the proxy or the Chairperson sees fit at the (Annual) General Meeting of Australian Institute of Occupational Hygienists Limited to be held on *[insert date]* commencing at *[insert time]* and at any adjournment thereof.

3. Directions

4. Signature

5. Date

Annexure B Form of Direct Vote

Australian Institute of Occupational Hygienists Limited
(incorporated under the *Corporations Act 2001*)

DIRECT VOTING FORM

1. Your details
(Please print your name and address)

Name of Member:		
Address:		
City:	State:	Postcode:
Telephone:		

2. Directions

3. Signature

4. Date