

# Constitution

Vision Australia

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# Revision History

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1	Purposes of Company.....	7
1.1	Purposes .....	7
1.2	Application of profits, income and property for purpose only .....	7
1.3	Payment by the Company in good faith.....	7
1.4	Power to pay director's fees to the Chairperson.....	8
1.5	Application of property on winding up.....	8
1.6	Powers .....	8
2	Membership .....	9
2.1	Becoming a Member .....	9
2.2	Annual Membership Fee .....	9
2.3	Admission as a Member.....	9
2.4	Directors may create and vary classes and class rights.....	10
2.5	Ceasing to be a Member .....	11
2.6	Resignation .....	11
2.7	Expulsion and rights of reply and appeal for expelled members .....	11
2.8	Limited liability .....	12
3	General meetings.....	12
3.1	Annual general meeting.....	12
3.2	Power to convene general meeting .....	13

3.3	Cancellation or postponement of general meeting .....	13
3.4	Written notice of cancellation or postponement of general meeting	13
3.5	Contents of notice postponing general meeting .....	13
3.6	Notice period for postponed general meeting .....	13
3.7	Business at postponed general meeting.....	14
3.8	Non receipt of notice of cancellation or postponement of a general meeting.....	14
3.9	Proxy or attorney at postponed general meeting.....	14
4	Proceedings at general meetings.....	14
4.1	Reference to a Member .....	14
4.2	Number for a quorum .....	15
4.3	Requirement for a quorum.....	15
4.4	Quorum and time.....	15
4.5	Adjourned meeting .....	15
4.6	Appointment and powers of Chairperson of general meeting.....	15
4.7	Absence of Chairperson at general meeting .....	16
4.8	Conduct of general meetings.....	16
4.9	Adjournment of general meeting .....	16
4.10	Notice of adjourned meeting.....	17
4.11	Questions decided by majority .....	17
4.12	Equality of votes – no casting vote for chair .....	17

4.13	Voting, poll and declaration of results.....	17
4.14	Poll .....	17
4.15	Chairperson to determine any poll dispute .....	18
4.16	Postal Ballots.....	18
5	Votes of Members.....	18
5.1	Voting rights .....	19
5.2	Right to appoint proxy.....	19
5.3	Right to appoint attorney .....	19
5.4	Right to direct manner of voting by proxyholder or attorney .....	19
5.5	Form of proxy or attorney .....	20
5.6	Right of proxyholder or attorney to vote.....	20
6	Directors.....	20
6.1	Eligibility .....	20
6.2	Number of Directors .....	20
6.3	Appointment .....	21
6.4	Rotation of Directors.....	21
6.5	Determining rotation .....	21
6.6	Office held until, and taken from, conclusion of meeting .....	21
6.7	Director elected at general meeting.....	22
6.8	Persons eligible to be elected as a Director .....	22

6.9	Election procedure.....	22
6.10	Remuneration of Directors.....	23
6.11	Disclosing Directors' interests .....	23
6.12	Vacation of office .....	23
7	Powers and duties of Directors .....	24
7.1	Directors to manage Company .....	24
7.2	Specific powers of Directors .....	24
7.3	Appointment of attorney .....	24
7.4	Provisions in power of attorney .....	24
7.5	Minutes.....	24
8	Proceedings of Directors.....	25
8.1	Directors meetings.....	25
8.2	Director may convene a meeting.....	25
8.3	Questions decided by majority .....	25
8.4	Notice of meeting of Directors .....	25
8.5	Chairperson has no casting vote .....	26
8.6	Quorum .....	26
8.7	Four Directors can constitute a quorum.....	26
8.8	Effect of vacancy .....	26
8.9	Director attending and voting by proxy .....	26

8.10	Chairperson and Deputy Chairperson .....	27
8.11	Chairperson and Deputy Chairperson ceasing to hold office.....	27
8.12	Directors' committees .....	27
8.13	Powers delegated to Directors' committees .....	27
8.14	Directors' committee meetings .....	27
8.15	Delegation to a Director or other persons.....	27
8.16	Circulating resolutions .....	28
8.17	Meeting by use of technology.....	28
8.18	Validity of acts of Directors .....	28
9	Client Representative Body.....	28
9.1	Establishment of client representative body .....	28
9.2	Board to consider recommendations.....	29
9.3	Meetings of client representative body .....	29
10	Chief Executive Officer.....	29
11	Secretary.....	29
11.1	Appointment of Secretary .....	29
11.2	Assistant Secretaries.....	29
12	Provisions applicable to all Executive Officers .....	30
13	Inspection of records.....	30
13.1	Inspection by Members .....	30

13.2	Right of a Member to inspect.....	30
13.3	Arrangements with Directors and former Directors.....	31
14	Service and format of documents .....	31
14.1	Document includes notice .....	31
15	Indemnity .....	31
15.1	Indemnity of officers and others, .....	31
15.2	Extent of indemnity .....	32
15.3	Insurance.....	32
15.4	Saving provisions .....	32
15.5	Deeds.....	33
16	Winding up.....	33
17	Accounts .....	33
18	Definitions and interpretation .....	33
18.1	Definitions.....	33
18.2	Interpretation .....	35
18.3	Inclusive expressions .....	36
18.4	Corporations Act.....	36
18.5	Headings .....	36
18.6	Powers .....	36



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# 1 Purposes of Company

## 1.1 Purposes

The Company's purposes are:

- (a) to provide assistance to people who are Blind or have Low Vision to gain access to, and fully participate in, all facets of life they choose, and
- (b) to remove the barriers that prevent those who are Blind or who have Low Vision from enjoying equal access, equal opportunities, equal participation and equal mobility within the community.

The Company may pursue commercial ventures in order to support its purposes.

## 1.2 Application of profits, income and property for purpose only

The profits (if any) or other income and property of the Company, however derived, must be applied solely towards the promotion of the purposes of the Company as set out in Clause 1.1. No part of those profits or that income or property may be paid or transferred to the Members or Officers, either directly or indirectly by way of dividend, bonus or otherwise (other than as permitted by this Constitution).

## 1.3 Payment by the Company in good faith

Subject to Clauses 6.10 and Clause 12, Clause 1.2 does not prevent payment in good faith to an Officer or Member, or to a firm of which an Officer or Member is a partner:

- (a) of remuneration for services to the Company; or
- (b) for goods supplied in the ordinary course of business; or
- (c) of interest at a rate not exceeding the rate fixed for the purposes of this Clause 1.3 by the Company in general meeting on money borrowed from the relevant Officer, or Member or their firm;
- (d) of reasonable rent for premises let by the relevant Officer; Member or their firm in the ordinary course of business; or
- (e) of any sum permitted to be paid under Clause 15 or under a deed entered into under Clause 15,

provided that any such payment, or any other payment permitted by this Constitution, made or proposed to be made to an Officer, has been approved by the Board (in any generic or specific case).

#### 1.4 Power to pay director's fees to the Chairperson

- (a) Clause 1.3 does not prevent payment to the Chairperson of such director's fees for his or her service as Chairperson as the Directors decide, but the total amount paid must not exceed in any financial year \$25,000 or such other sum as may be determined by the Directors from time to time not exceeding the amount of \$25,000 increased by the ratio that the movement in the Consumer Price Index current for all groups at 1 July 2012 bears to that index at the date that any increase in fees is to be calculated.
- (b) For the purpose of this Constitution, the amount fixed as director's fees for the Chairperson will not include any amount paid by way of indemnity under Clause 15 or under a deed entered into under Clause 15.

#### 1.5 Application of property on winding up

If any property remains on the winding-up or dissolution of the Company and after satisfaction of all its debts and liabilities, that property may not be paid to or distributed among the Officers or Members but must be given or transferred to some other institution:

- (a) having purposes similar to the purposes of the Company;
- (b) whose constitution prohibits the distribution of its income and property among its members and Directors to an extent at least as great as imposed on the Company under this Constitution; and
- (c) being an institution accepted as a deductible gift recipient which is also a public benevolent institution.

The institution is to be determined by the Members at or before the time of dissolution.

#### 1.6 Powers

The Company has all the powers of a public company limited by guarantee set out in the Corporations Act, to the extent necessary, convenient, or incidental to carrying out the Company's purposes.

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## 2 Membership

### 2.1 Becoming a Member

A person may only become a Member as provided in Clause 2.3.

### 2.2 Annual Membership Fee

The annual membership fee will be set by Directors but the total amount set must not exceed in any financial year \$25 or such other sum as may be determined by the Directors from time to time not exceeding the amount of \$25 increased by the ratio that the movement in the Consumer Price Index current for all groups at 30 September 2012 bears to that index at the date that any increase in fees is to be calculated and rounded to the nearest whole dollar.

### 2.3 Admission as a Member

(a) Any person may apply to become a Member if the person:

- (i) is over 18 years of age;
- (ii) has paid the annual membership fee for the relevant year ending 31 December; and
- (iii) has given the Company a duly signed and completed application form at least 30 days prior to the next meeting of the Directors. The application form must be in the form approved by the Directors (or their delegate) and must include an undertaking by the applicant to be bound by this Constitution.

(b) The Directors (or their delegate) must consider each application for membership and may only reject an application if:

- (i) the Directors (or their delegate) form the view that there are reasonable grounds to believe that the applicant:
  - (A) would not or might not abide by this Constitution, or
  - (B) would not or might not adhere to the purposes of the Company; or
  - (C) would or might bring the Company into disrepute;

- (ii) required by law;
  - (iii) the Directors (or their delegate) form the view that there are reasonable grounds to believe that the applicant would pose a security risk to the Members, property or premises of the Company.
- (c) Where an applicant's application is approved, the applicant becomes a Member on the date that the person is registered in the Company's register of Members.
- (d) Where an application for membership is not approved by the Directors (or their delegate), the Directors must:
- (i) advise the applicant of that decision, setting out the grounds on which it is based, and
  - (ii) inform the applicant that they may send a written submission to the Directors in response to their decision and then if:
    - (A) no such submission is received by the Directors within 14 days of the date that the Directors' communication made under Clause 2.3(d)(i) was sent to the applicant – the decision is confirmed, and the applicant's annual membership fee must be refunded to them;
    - (B) such a submission is received in time but the Directors; decide after considering the submission that the decision not to approve the application should nonetheless stand – the decision is confirmed and the applicant's annual membership fee (if paid) must be refunded to them, or
    - (C) such a submission is received in time and the Directors' decide after considering the submission that the decision should not stand – the applicant's application is thereby approved by the Directors.

## 2.4 Directors may create and vary classes and class rights

The Directors may, subject to this Constitution and the Corporations Act:

- (a) establish any new class of Members and define the rights, restrictions and obligations of Members in that class; and
- (b) vary or cancel the rights, restrictions and obligations of Members in any new or existing class, if:
  - (i) 75% of the Members of that class give their written consent; or
  - (ii) a special resolution to that effect is passed at a separate meeting of those Members.

## 2.5 Ceasing to be a Member

A Member ceases to be a Member on:

- (a) resignation under Clause 2.6;
- (b) death;
- (c) becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (d) the termination of the person's membership by the Directors in accordance with this Constitution;
- (e) failure to pay the annual membership fee for the relevant year by 31 July of that year (unless late payment is accepted, in which case the Member's Membership is deemed to have continued without interruption save that a Member whose annual membership fee remains unpaid at the time of a general meeting of Members shall not be entitled to vote at that meeting);
- (f) failing to comply with this Constitution; or

## 2.6 Resignation

A Member may by written notice to the Company resign their membership with immediate effect or with effect from a specified date occurring not more than 30 days after the service of the notice.

## 2.7 Expulsion and rights of reply and appeal for expelled members

- (a) The Directors may by resolution expel a Member where:
  - (i) in the opinion of the Directors that Member has failed to comply with this Constitution; or
  - (ii) that Member's conduct has in the opinion of the Directors been or is likely to be detrimental to the interests of the Company.
- (b) If the Directors propose to pass a resolution under clause 2.7(a) the affected Member must be advised in writing of the:
  - (i) general nature of the grounds for the proposed resolution; and
  - (ii) time, date and place of the meeting of the Directors at which the proposed resolution will be considered, not less than 14 days before the date of that meeting.
- (c) At the meeting referred to in clause 2.7(b)(ii) the Directors must:

- (i) give to the affected Member an opportunity to make oral representations;
  - (ii) give due consideration to any written representations submitted by the affected Member at or prior to the meeting; and
  - (iii) decide whether or not to pass the proposed resolution of expulsion.
- (d) A resolution passed under clause 2.7(c)(iii) only takes effect:
  - (i) if the affected Member does not exercise their right of appeal under clause 2.7(f) – upon the day after the expiry of the period during which they may appeal; or
  - (ii) upon a confirmatory resolution being passed under clause 2.7(g)(iii).
- (e) Where the Directors pass the proposed resolution under clause 2.7(c)(iii), the affected Member must be sent a written notice advising the Member of:
  - (i) the reasons for the decision; and
  - (ii) the Member’s right of appeal under clause 2.7(f), within 7 days after the passing of that resolution.
- (f) A Member who is the subject of a resolution passed under clause 2.7(c)(iii) may, if they wish to appeal against that proposed expulsion, give notice to the Company of their intention to do so within 14 days from the date of the written notice given under clause 2.7(e).
- (g) If a Member gives notice under clause 2.7(f), the Directors must convene a general meeting to be held within 28 days of receipt of the notice. The general meeting must:
  - (i) give to the affected Member an opportunity to make oral representations;
  - (ii) give due consideration to any written representations submitted by the affected Member at or prior to the general meeting; and
  - (iii) decide by resolution whether to confirm or to revoke the resolution passed by the Directors.

## 2.8 Limited liability

The Members have no liability as Members except as set out in Clause 16.

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### 3 General meetings

#### 3.1 Annual general meeting

Annual general meetings of the Company are to be held in accordance with the Corporations Act.

## 3.2 Power to convene general meeting

A Director or the Directors may convene a general meeting when they think fit and must do so if required to do so under the Corporations Act.

- (a) the Company may hold a meeting of Members at two or more places using any technology that gives the Members as a whole a reasonable opportunity to participate.
- (b) the Directors may determine rules for the efficient and orderly conduct of meetings of Members which are to occur at more than one place.

## 3.3 Cancellation or postponement of general meeting

Where a general meeting (including an annual general meeting) is convened the Directors may, when they think fit, change the venue for, cancel the meeting or postpone the holding of the meeting to a place, date or time determined by them. However a meeting convened by a single Director, by Members, by the Directors on the request of Members, or convened by a Court may not be cancelled or postponed without the consent of the persons who convened the meeting.

## 3.4 Written notice of cancellation or postponement of general meeting

Written notice of cancellation or postponement of a general meeting must be given to all persons entitled to receive notices of general meetings from the Company. The notice must be given at least 7 days before the date for which the meeting is convened and must specify the reason for cancellation or postponement.

## 3.5 Contents of notice postponing general meeting

A notice postponing the holding of a general meeting must specify the date, time and place for the holding of the postponed meeting.

## 3.6 Notice period for postponed general meeting

The number of clear days notice of a postponed general meeting must be not be less than the number of days notice required by this Constitution or the Corporations Act.

### 3.7 Business at postponed general meeting

The only business that may be transacted at a general meeting which is postponed is the business specified in the original notice convening the general meeting.

### 3.8 Non receipt of notice of cancellation or postponement of a general meeting

The accidental omission to give notice of the cancellation or postponement of a meeting to, or the non-receipt of any such notice by any person entitled to notice does not invalidate that cancellation or postponement or any resolution passed at a postponed meeting.

### 3.9 Proxy or attorney at postponed general meeting

Where:

- (a) by the terms of an instrument appointing a proxy or attorney, the proxy or attorney is authorised to attend and vote at a general meeting to be held on a specified date or at a general meeting to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy or power of attorney,

then by force of this provision, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy or power of attorney.

However, this may not be done if the Member appointing the proxy or attorney gives to the Company at its Registered Office written notice to the contrary at least 48 hours before the time to which the holding of the meeting has been postponed.

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## 4 Proceedings at general meetings

### 4.1 Reference to a Member

Unless the contrary intention appears, a reference to a Member in this Clause 4 means a person who is:



- (a) a Member who is not in breach of clause 2.5(e) by reason of non-payment of the annual membership fee; or
- (b) a proxy; or
- (c) an attorney.

## 4.2 Number for a quorum

Subject to Clause 4.5, twenty Members present in person or by proxy or by attorney are a quorum at a general meeting.

## 4.3 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the beginning of a meeting it is taken to be present throughout the meeting unless the Chairperson of the meeting on his or her own motion or at the request of a Member who is present in person, declares otherwise.

## 4.4 Quorum and time

If within thirty minutes after the time appointed for a general meeting a quorum is not present, the meeting:

- (a) if convened by a Director, or on requisition of Members, is dissolved; and
- (b) in any other case stands adjourned to the same day, time and place in the next week, or to such other day, time and place as the Directors present decide.

## 4.5 Adjourned meeting

At a meeting adjourned under Clause 4.4, fifteen Members, present in person or by proxy or by attorney at the meeting are a quorum. If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

## 4.6 Appointment and powers of Chairperson of general meeting

If the Directors have elected one of their number as Chairperson, that person is entitled to preside as Chairperson at a general meeting.

## 4.7 Absence of Chairperson at general meeting

If a general meeting is held and:

- (a) a Chairperson has not been elected by the Directors; or
- (b) the elected Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as chair of the meeting (in order of precedence):

- (c) the Deputy Chairperson (if any);
- (d) a Director chosen by a majority of the Directors present (and if there is a tie in that choice – one of the tied Directors determined by lot);
- (e) the only Director present;
- (f) a Member chosen by a majority of the Members (and if there is a tie in that choice – one of the tied Members, determined by lot).

## 4.8 Conduct of general meetings

The chair of a general meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chair's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter or require a matter be put to a vote, whenever the chair considers it necessary or desirable for the proper conduct of the meeting, and a decision by the chair under this Clause is final.

## 4.9 Adjournment of general meeting

The chair of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting. The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and any place, but:

- (a) in exercising this discretion, the chair may, but need not, seek the approval of the Members present. Unless required by the Chairperson, a vote may not be taken or demanded by the Members present in respect of any adjournment; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

#### 4.10 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

#### 4.11 Questions decided by majority

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

#### 4.12 Equality of votes – no casting vote for chair

If there is an equality of votes, , the chair of the general meeting is not entitled to a casting vote in addition to any votes to which the chair is entitled as a Member or proxy or attorney of a Member.

#### 4.13 Voting, poll and declaration of results

- (a) Unless a poll is duly demanded, a declaration by the chair that a resolution has been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minutes of the proceedings of the Company, is conclusive evidence of the fact.
- (b) Neither the chair nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

#### 4.14 Poll

If a poll is properly demanded and is not withdrawn, it must be taken in the manner and at the date and time directed by the Chair and the result of the poll is the resolution of the meeting at which the poll was demanded.

## 4.15 Chairperson to determine any poll dispute

If there is a dispute under Clause 4.14 or as to the admission or rejection of a vote, the chair of the meeting must decide it and the chair's decision is final.

## 4.16 Postal Ballots

- (a) Subject to the provisions of the Corporations Act and this Clause, the Directors may submit resolutions to the vote of Members entitled to vote at a general meeting of the Company, including an election of Directors, by means of a postal ballot in such form and returnable in such manner as the Directors decide. A resolution approved by the requisite majority of the Members voting in such Postal Ballot will have the same force and effect as if the resolution had been carried by that majority at a duly constituted general meeting of the Company. For all purposes the closing date of a Postal Ballot is deemed to be 48 hours prior to the date of a general meeting.
- (b) At least 21 days prior to the closing date of a Postal Ballot, the Secretary will send ballot papers to all Members, entitled (as at a date determined by the Directors) to vote, giving particulars of the resolution or resolutions in relation to which the Postal Ballot is conducted, an explanation of the method of voting, notice of the closing date of the Postal Ballot and a voting form (all in a form and with such content as the Directors may approve).
- (c) The Secretary will collect all voting forms received from voting Members in respect of a Postal Ballot and must promptly advise the Directors of the result of the Postal Ballot. Any voting form received by the Secretary after 5.00pm Melbourne time on the closing date of a Postal Ballot is deemed to be invalid and shall not be counted.
- (d) In the event of any dispute by a Member in relation to the validity or conduct of any Postal Ballot, the Member may within thirty days of the closing date of the Postal Ballot, give notice in writing to the Directors stating the grounds of the complaint. The Directors may either investigate the complaint themselves, or appoint a committee for that purpose. After considering the complaint or considering the report of the committee (as the case may be), the Directors will determine the matter and their decision will be final.

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## 5 Votes of Members

## 5.1 Voting rights

Subject to the rights and any restrictions attached to or affecting any class of Members and to any other restrictions in this Constitution or the Corporations Act on any resolution put to the vote, each Member present has one vote and each Member or other person present as proxy or attorney of a Member has one vote for each Member that the Member or other person represents.

## 5.2 Right to appoint proxy

Subject to the Corporations Act, a Member entitled to vote at a general meeting or at a meeting of any class of Members is entitled to appoint another person (whether a Member or not) as proxy to attend, in the Member's place at the meeting. A proxy has the same rights as the Member to participate in and vote at the meeting, and may be appointed in respect of more than one meeting.

To be effective, an instrument appointing a proxy under this Clause must be received by the Company at least 48 hours before the scheduled commencement of the meeting together with any authority under which the instrument was signed or a certified copy of the authority.

## 5.3 Right to appoint attorney

A Member may by power of attorney appoint an attorney (whether a Member or not) to act on the Member's behalf at all or any meetings of the Company or of any class of Members. An attorney has the same rights as the Member to participate in and vote at the meeting, and may be appointed in respect of more than one meeting.

To be effective, an original instrument appointing an attorney under this Clause (or a copy certified in conformity with the provisions of the Instruments Act 1958 (Vic) or its equivalent in another State), must be received by the Company at least 48 hours before the scheduled commencement of the meeting.

## 5.4 Right to direct manner of voting by proxyholder or attorney

- (a) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an

instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument, and if so directed, must vote.

- (b) If a proxy or attorney is also a Member, this Rule does not affect the way in which they can cast their own vote.

## 5.5 Form of proxy or attorney

- (a) An instrument appointing a proxy must be in a form consistent with the Corporations Act or approved by the Directors, and may be signed by the appointer or appointer's attorney
- (b) An instrument appointing an attorney need not be in any particular form provided it is in writing, legally valid and signed by the appointor or the appointer's attorney.

## 5.6 Right of proxyholder or attorney to vote

- (a) The appointment of a proxy or attorney is not revoked by the appointor attending and taking part in the general meeting but, if the appointor votes on any resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointor's proxy or attorney on the resolution.
- (b) An appointment of a proxy or attorney revokes an earlier appointment if the appointments are inconsistent.

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# 6 Directors

## 6.1 Eligibility

To be eligible to be appointed, elected or re-elected as a Director and to be eligible to continue to hold office, as the case may be, a person must:

- (a) be a Member;
- (b) not be an employee of the Company or any of its subsidiaries; and
- (c) in the case of eligibility to be elected or re-elected – satisfy any applicable requirements in Clause 6.9.

For the avoidance of doubt, fees paid to the Chairman in accordance with Clause 1.4 are directors' fees and for the purposes of this Clause do not qualify the Chairman as an employee of the Company.

## 6.2 Number of Directors

- (a) Subject to clause 6.2(b), the number of directors is to be not less than six nor more than nine.
- (b) The maximum number of directors can be varied by the members in accordance with the Corporations Act 2001.)

### 6.3 Appointment

- (a) The Directors may at any time appoint any eligible person to be a Director, either to fill a casual vacancy or as an additional Director, provided that the total number of Directors does not exceed the maximum number determined in accordance with Clause 6.2.
- (b) A Director appointed under this Clause holds office only until the conclusion of the next annual general meeting but is eligible for election at that meeting.

### 6.4 Rotation of Directors

At each general meeting one-third of the Directors, or, if their number is not three or a multiple of three, then the number nearest to but not less than one-third, and any other Director who has held office for three years or more since last being elected, must retire from office.

### 6.5 Determining rotation

The Directors to retire at an annual general meeting must be those who have been longest in office since their last election. As between persons who were last elected as Directors on the same day, those to retire must be determined by lot, unless they otherwise agree among themselves.

### 6.6 Office held until, and taken from, conclusion of meeting

- (a) A retiring Director holds office until the conclusion of the meeting at which that Director retires but is eligible for re-election.

- (b) A Director elected or re-elected under Clause 6 takes office from the conclusion of the relevant annual general meeting.

## 6.7 Director elected at general meeting

The Company may, at a general meeting at which a Director retires or otherwise vacates office, or where there is an unfilled casual vacancy by resolution fill the vacated office by electing an eligible person to that office.

## 6.8 Persons eligible to be elected as a Director

A person (other than an employee of the Company or a Subsidiary) is eligible for election to the office of a Director at a general meeting only if:

- (a) the person is in office as a Director immediately before that meeting; or
- (b) the person has been nominated by the Directors for election at that meeting; or
- (c) the person has not less than 50 days but not more than 90 days before the date of the general meeting:
  - (i) given the Company a notice signed by him or her stating his or her desire to be a candidate for election at that meeting; and
  - (ii) the notice has also been signed by not less than two Members nominating the person to be a Director.

(A) For the purposes of Clause 6.8(c)(ii) separate copies of the nominating document may be used for signing by Members; and

(B) The nominating document to be addressed to the Secretary or Chairperson (including by fax, email or other electronic means) endorsing the member nomination

## 6.9 Election procedure

In relation to an election of Directors, if the number of candidates is:

- (a) more than the number of positions to be filled – the election will be conducted in such a manner as the Chairman determines;



- (b) the same number as the number of positions to be filled – all candidates are deemed elected without the need for a vote; or
- (c) less than the number of positions to be filled – all candidates are deemed elected without need for a vote and the unfilled positions are deemed casual vacancies.

## 6.10 Remuneration of Directors

Subject to Clause 1.4 a Director may not be remunerated for services as a Director. However, a Director is entitled to be reimbursed out of the funds of the Company for his or her reasonable travelling, accommodation and other expenses incurred when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the affairs of the Company.

## 6.11 Disclosing directors' interests

- (a) Subject to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:
  - (i) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
  - (ii) enter into any contract or arrangement with the company;
  - (iii) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as Auditor; and
  - (iv) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors, and may be present at any meeting where any matter is being considered by the Directors.
- (b) A Director may do any of the above despite the fiduciary relationship of the Director's office:
  - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director, and
  - (ii) without affecting the validity of any contract or arrangement.
- (c) A reference to the Company in this Clause is a reference to each of the Company and its subsidiaries.

## 6.12 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
  - (b) resigns office by notice in writing to the Company;
  - (c) is not present personally at meetings of the Directors for three consecutive meetings without leave of absence from the Directors;
- 

## **7 Powers and duties of Directors**

### **7.1 Directors to manage Company**

The Directors are to manage the business of the Company and may exercise all the powers of the Company that are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.

### **7.2 Specific powers of Directors**

Without limiting the generality of Clause 7.1 the Directors may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

### **7.3 Appointment of attorney**

The Directors may, by power of attorney, appoint any person to be the attorney of the Company for the purposes and with the powers, authorities and discretions held by the Directors for the period and subject to the conditions that they think fit.

### **7.4 Provisions in power of attorney**

A power of attorney granted under Clause 7.3 may contain any provisions for the protection and convenience of the attorney and persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

### **7.5 Minutes**

The Directors must direct minutes of meetings to be made and kept in accordance with the Corporations Act.

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## 8 Proceedings of Directors

### 8.1 Directors meetings

The Directors may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.

### 8.2 Director may convene a meeting

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

### 8.3 Questions decided by majority

A question arising at a meeting of Directors is to be decided by a majority of votes cast of Directors present and entitled to vote and that decision is for all purposes a decision of the Directors.

### 8.4 Notice of meeting of Directors

- (a) Subject to this Constitution, notice of a meeting of Directors must be given to each person who is at the time of giving the notice a Director, other than a Director on leave of absence approved by the Directors.
- (b) A notice of a meeting of directors:
  - (i) must specify the time and place of the meeting;
  - (ii) need not state the nature of the business to be transacted at the meeting;
  - (iii) may be given immediately before the meeting; and
  - (iv) may be given in person, by post, by telephone, by facsimile, by email, by text message or by other electronic means.
- (c) A Director may waive notice of any meeting of Directors by notifying the Company to that effect in person, by post, by telephone, by facsimile, by email, by text message or by other electronic means.
- (d) The non-receipt of notice of a meeting of Directors by, or a failure to give notice of a meeting of Directors to, a Director does not invalidate any act, matter or thing done or resolution passed at the meeting if:

- (i) the non-receipt or failure occurred by accident or error; or
- (ii) before or after the meeting, the director:
  - (A) has waived or waives notice of that meeting under Clause 8.4(c); or
  - (B) has notified or notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post or by telephone, fax or other electronic means; or
- (iii) the director attended the meeting.

## 8.5 Chairperson has no casting vote

The Chairperson of the meeting does not have a casting vote.

## 8.6 Quorum

- (a) An item of business may not be transacted at a meeting of Directors unless a quorum is present when the meeting proceeds to consider it.
- (b) Until otherwise determined by the Directors, four Directors present in person are a quorum.

## 8.7 Four Directors can constitute a quorum

Notwithstanding Clause 8.6(b), a quorum is present during the consideration of a matter at a meeting of the Directors only if at least four Directors are present in person who are entitled to vote on any motion that may be moved at the meeting in relation to that matter.

## 8.8 Effect of vacancy

The continuing Directors may act despite a vacancy in their number. However, if their number is reduced below 6, the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or for calling a general meeting.

## 8.9 Director attending and voting by proxy

A Director may attend and vote by proxy at a meeting of the Directors if the proxy:

- (a) is another Director; and
- (b) has been appointed in writing signed by the appointer.

The appointment may be general or for one or more particular meetings.

## 8.10 Chairperson and Deputy Chairperson

The Directors must elect a Chairperson and may elect up to two Deputy Chairpersons.

## 8.11 Chairperson and Deputy Chairperson ceasing to hold office

The Chairperson or Deputy Chairperson may be removed by a resolution of the Directors of which not less than 14 days' notice has been given to the Directors.

## 8.12 Directors' committees

- (a) The Directors may delegate any of their powers to committees consisting of at least one Director and any other persons that they think fit and may revoke that delegation.
- (b) Any such committee shall have power to co-opt persons, and such co-opted persons will be entitled to vote on matters to be determined by the committee.

## 8.13 Powers delegated to Directors' committees

A committee to which any powers have been delegated under Clause 8.12 must exercise those powers in accordance with any directions of the Directors and the terms of the committee's charter (if any). These powers are then taken to have been exercised by the Directors.

## 8.14 Directors' committee meetings

Subject to Clause 8.13, the meetings and proceedings of a committee consisting of two or more persons are governed by the provisions of this Constitution as to the meetings and proceedings of the Directors so far as they are applicable.

## 8.15 Delegation to a Director or other persons

- (a) With the exception of those powers required by law to be dealt with by the Directors as a board, the Directors may delegate any of their powers to a Director or to an employee of the Company or to any other person.
- (b) A person to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.

## 8.16 Circulating resolutions

- (a) The Directors may pass a resolution without a Directors' meeting being held if 75% or more of the Directors (other than those on leave of absence approved by Directors and any Director who disqualifies himself or herself from considering the resolution in question and any Director who would be prohibited by law from voting on the resolution in question) provided such number of Directors would have constituted a quorum sign or consent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) A Director may consent to a document for the purposes of Clause 8.17 by:
  - (i) Signing the document; or
  - (ii) Giving to the Company written notice (including by fax, email or other electronic means) addressed to the Secretary or the Chairperson signifying assent to the resolution set out in the document.
- (c) Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (d) The resolution is taken to be passed when the last Director signs or consents as provided above.

## 8.17 Meeting by use of technology

A Directors' meeting may be called or held using any technology consented to by each Director. The consent may be a standing one. A Director may only withdraw consent a reasonable time before the meeting.

## 8.18 Validity of acts of Directors

All acts done at a meeting of the Directors or of a committee, or by a person acting as a Director are valid even if it is afterwards discovered that there was some defect in the appointment, election or qualification of any of them or that any of them were disqualified or were not entitled to vote or had vacated office.

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# 9 Client Representative Body

## 9.1 Establishment of client representative body

A Client Representative Body must be established in accordance with a charter to be developed in consultation with and approved by the Board which may be amended from time to time in consultation with the Client Representative Body and with the approval of the Board.

## 9.2 Board to consider recommendations

The Board must receive and consider any recommendations and advice given by the Client Representative Body to the Board but in performing its obligations and exercising its powers the Board is not bound by any such recommendations or advice.

## 9.3 Meetings of client representative body

From time to time the Chairperson will advise the Client Representative Body the two Directors to join the Client Representative Body. These two Directors are to represent the views of Client Representative Body back to the Board and represent the views of the Board back to the Client Representative Body.

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# 10 Chief Executive Officer

The Directors may appoint a Chief Executive Officer. The Directors may delegate to a Chief Executive Officer any of their powers, other than powers required by law to be dealt with by the Directors as a board, subject to such terms, conditions and restrictions as are determined by the Directors.

All or any of those powers may be given collaterally with or to the exclusion of the powers of the Directors and may be revoked or varied by the Directors at any time. Nothing in this Clause 10 limits Clause 8.15.

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## 11 Secretary

### 11.1 Appointment of Secretary

There must be at least one Secretary who is to be appointed by the Directors.

### 11.2 Assistant Secretaries

The Directors may appoint one or more assistant secretaries.

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## 12 Provisions applicable to all Executive Officers

- (a) The appointment of an Executive Officer may be for such period, at such remuneration and upon such conditions as the Directors think fit.
- (b) Subject to any employment contract between the Company and the relevant Executive Officer, any Executive Officer may be removed or dismissed by the Directors at any time.
- (c) The Directors may:
  - (i) confer on an Executive Officer such powers, discretions and duties as they think fit;
  - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an Executive Officer; and
  - (iii) authorise the Executive Officer to delegate all or any of the powers, discretions and duties conferred on the Executive Officer.
- (d) An Executive Officer is not required to be a Member to qualify for appointment.
- (e) An act done by a person acting as an Executive Officer is not invalidated by reason only of:
  - (i) a defect in the person's appointment as an Executive Officer;
  - (ii) the person being disqualified to be an Executive Officer; or
  - (iii) the person having vacated office if that circumstance was not known by the person when the act was done.

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## 13 Inspection of records

### 13.1 Inspection by Members

Subject to the Corporations Act and any resolution of the Company in general meeting, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to inspection by the Members (other than Directors) and other persons.

### 13.2 Right of a Member to inspect



A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

### 13.3 Arrangements with Directors and former Directors

- (a) The Company may enter in to a contract with a Director or former Director agreeing to provide continuing access for a specified period after the Director ceases to be a Director to board papers, books, records and documents of the Company which relate to the period during which the Director or former Director was a Director, on such terms and conditions as the Directors think fit and which are not inconsistent with this clause 13.3.
  - (b) The Company may procure that its subsidiaries provide similar access to board papers, books, records and documents as that set out in clause 13.3(a).
  - (c) This clause 13.3 does not limit any other rights of a Director or former Director.
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## 14 Service and format of documents

### 14.1 Document includes notice

- (a) In this Clause 14, a reference to a document includes a notice or other communication given to a Member in accordance with this Constitution or the *Corporations Act*.
  - (b) If a Member advises the Company in writing that the Member wishes to receive a document in an alternative format (including an electronic or digital format) which is both accessible to that Member and reasonably convenient for the Company, then the document may (but need not) be provided in that format.
  - (c) The signature to a written notice need not be handwritten, but may be printed or affixed by some mechanical or other means.
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## 15 Indemnity

### 15.1 Indemnity of officers and others,

Every person who is or has been a:

- (a) Director;
- (b) Secretary, or
- (c) Chief Executive Officer

is indemnified to the maximum extent permitted by law out of the property of the Company against any liability;

- (d) incurred by the person in that capacity (or as an officer of a subsidiary of the Company) except a liability for legal costs; and
- (e) for legal costs the person incurs in that capacity (or as an officer of a subsidiary of the Company).

Clauses (d) and (e) are separate and independent indemnities and each is not to be read down by reference to the other.

## 15.2 Extent of indemnity

The indemnities in clauses 15.1(d) and 15.1(e):

- (a) do not operate in respect of any liability of the person to the extent that liability is covered by and recouped from insurance;
- (b) are enforceable without the person having to first incur any expense or make any payment;
- (c) are continuing obligations and are enforceable by the person even though the person may have ceased to be a Director, Secretary or Chief Executive Officer; and

## 15.3 Insurance

The Company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance, for each person who is or has been a Director or Secretary or Chief Executive Officer, against any liability incurred by the person in that capacity (or a subsidiary of the Company) including a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

## 15.4 Saving provisions

Nothing in clauses Clause 15.2 or 15.3:

- (a) affects any other right or remedy that a person to whom those clauses apply may have in respect of any liability referred to in those clauses;
- (b) limits the capacity of the Company to indemnify or provide or pay for insurance for any person to whom those clauses do not apply; or
- (c) limits or diminishes the terms of any indemnity conferred or agreement to indemnify entered into prior to the adoption of this Constitution.

## 15.5 Deeds

The Company may enter into a deed with any Director or Secretary or Chief Executive Officer to give effect to the rights conferred by this clause 15 or the exercise of discretion under this clause 15 on such terms as the Directors think fit provided that such terms are not inconsistent with this clause 15.

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## 16 Winding up

Each Member undertakes to contribute to the Company's property if the Company is wound up while they are a Member or within one year after they cease to be a Member, and the Company's property is insufficient to cover its debts and liabilities. This contribution is for:

- (a) payment of the Company's debts and liabilities contracted before they ceased to be a Member;
- (b) the costs of winding up; and
- (c) adjustment of the rights of the contributories among themselves, and the amount is not to exceed \$25.

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## 17 Accounts

The Directors must cause the accounts of the Company to be audited in accordance with the requirements of the Corporations Act and other relevant Commonwealth, State and Territory legislation.

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## 18 Definitions and interpretation

### 18.1 Definitions

In this Constitution unless the contrary intention appears:

Auditor means the auditor for the time being of the Company.

Blind means a person who meets the criteria for permanent blindness under section 95 of the Social Security Act.

Chairperson means the Chairperson of the board of Directors of the Company

Chief Executive Officer means a person appointed as the chief executive officer under Clause 10.

Clause means a clause of this Constitution.

Company means Vision Australia Limited.

Constitution means this constitution as it is amended from time to time.

Consumer Price Index means the weighted average of the Consumer Price Index for the eight capital cities.

Corporations Act means the Corporations Act 2001 (Clth) as amended or re-enacted from time to time.

Deputy Chairperson means a deputy Chairperson of the board of Directors.

Director means a director of the Company.

Directors means all or some of the Directors acting as a board.

Eligible means eligible to be appointed, elected or re-elected as a Director, and to be eligible to continue to hold that office, within the meaning of clause 6.1.

Executive Officer means a Chief Executive Officer, Chief Financial Officer, Secretary or assistant secretary appointed under this Constitution.

Low Vision means visual acuity of less than 6/18 (0,3) but equal to or better than 6/60 (0,05) in the better eye with the best possible correction and/or a visual field of less than 20 degrees.

Member means a person admitted as a Member of the Company.

Officer means:

- (a) a Director or secretary of the Company;
- (b) a person:
  - (i) who makes, or participates in making decisions that affect the whole, or a substantial part, of the business of the Company, or
  - (ii) who has the capacity to affect significantly the Company's financial standing;
  - (iii) in accordance with whose instructions or wishes the Directors are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the Directors);
- (c) a receiver, or receiver and manager, of the property of the Company;
- (d) an administrator of the Company;
- (e) an administrator of a deed of company arrangement executed by the Company;
- (f) a liquidator of the Company; or
- (g) a trustee or other person administering a compromise or arrangement made between the Company and someone else.

Postal Ballot means the submission of a resolution (including a special resolution) to Members under clause 4.16.

Registered Office means the registered office for the time being of the Company.

## 18.2 Interpretation

In this Constitution, unless the contrary intention appears:

- (a) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (b) the singular includes the plural and vice versa;
- (c) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;

- (d) a reference to writing includes typewriting, printing, telex, telegram, facsimile and other modes of representing or reproducing words in an electronic, visible or tactile form;
- (e) a reference to a resolution (including in clause 4.15) includes a special resolution; and
- (f) a Member is to be taken to be present in person at a general meeting if in the case of a Member who is a natural person – the Member is present in person or by proxy or attorney.

### 18.3 Inclusive expressions

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

### 18.4 Corporations Act

In this Constitution, unless the contrary intention appears, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act.

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

### 18.5 Headings

Headings are inserted for convenience and do not affect the interpretation of this Constitution.

### 18.6 Powers

Powers conferred on the Company, the Directors, a committee, a Director, other person or a Member may be exercised at any time and from time to time.

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