EAAA

Elder Abuse Action Australia

Constitution

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ELDER ABUSE ACTION AUSTRALIA LIMITED

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TABLE OF CONTENTS

1. NAME OF EAAA 4
2. DEFINITIONS AND INTERPRETATIONS 4
   - 2.1 Definitions 4
   - 2.2 Interpretation 5
   - 2.3 The Act 6
3. OBJECTS 6
   - 3.1 Charitable purpose 6
   - 3.2 Charitable Objects 6
4. POWERS OF EAAA 7
5. INCOME AND PROPERTY OF EAAA 7
   - 5.1 Sole Purpose 7
   - 5.2 Payments to Members 7
6. LIABILITY OF MEMBERS 7
   - 6.1 Members' Liability 7
   - 6.2 Members' Contributions 7
   - 6.3 Amount of Members' Contributions 8
7. WINDING UP 8
8. ALTERATION OF CONSTITUTION 8
9. MEMBERSHIP 8
   - 9.1 Categories of Members 8
   - 9.2 Eligibility for Membership 9
   - 9.3 Admission to Membership 9
   - 9.4 Consideration of applications 9
   - 9.5 Rights and obligations of Members 9
   - 9.6 Organisations 9
   - 9.7 Individual Members 10
10. SUBSCRIPTIONS AND FEES 11
11. REGISTER OF MEMBERS 11
12. CESSATION OF MEMBERSHIP 12
   - 12.1 Cessation of Membership 12
   - 12.2 Expulsion 12
13. GIFT FUND 12
   - 13.1 Establishment of Gift Fund 12
   - 13.2 Rules governing the Gift Fund 13
   - 13.3 Distribution of property on revocation of endorsement 13
   - 13.4 Distribution of property on winding up 14
14. GENERAL MEETINGS 14
   - 14.1 Annual General Meeting 14
   - 14.2 Calling General Meetings 14
   - 14.3 Notice of General Meetings 15
   - 14.4 General Meetings by technology 15
   - 14.5 Quorum at General Meetings 16
   - 14.6 Chairperson of General Meetings 16
   - 14.7 Conducting and adjourning General Meetings 17

14.8 Decisions at General Meetings 17
14.9 Voting rights 18
14.10 Representation at General Meetings 19
15. DIRECTORS 21
15.1 Composition of the Board 21
15.2 Casual Vacancies 21
15.3 Vacation of office 21
15.4 Interested Directors 21
15.5 Powers and duties of Directors 23
15.6 Proceedings of Directors 23
15.7 Convening meetings of Directors 24
15.8 Notice of meetings of Directors 24
15.9 Quorum at meetings of Directors 25
15.10 Chairperson of Directors 25
15.11 Decisions of Directors 26
15.12 Written resolutions of Directors 26
15.13 Minutes of meetings and minutes of resolutions 27
15.14 Committees of Directors 27
15.15 Delegation to individual Directors 27
15.16 Validity of acts 28
16. ELECTED DIRECTORS 28
16.1 Nomination for Board 28
16.2 Form of Nomination 28
16.3 Elections 28
16.4 Term of Appointment 29
17. APPOINTED DIRECTORS 29
17.1 Appointment of Appointed Director 29
17.2 Term of Appointment 30
18. CHIEF EXECUTIVE OFFICER 30
18.1 Appointment of Chief Executive Officer 30
18.2 Powers, duties and authorities of Chief Executive Officer 30
18.3 Suspension and removal of Chief Executive Officer 30
18.4 Delegation by Directors to Chief Executive Officer 30
18.5 Chief Executive Officer to attend meetings 31
19. SECRETARY 31
20. INSURANCE 31
20.1 Indemnity of officers 31
20.2 Insurance 32
21. KEEPING AND INSPECTION OF RECORDS 32
21.1 Records 32
21.2 Inspection of records 32
22. ACCOUNTS 33
22.1 Records Kept in Accordance with Act 33
22.2 Directors to Submit Accounts 33
22.3 Transactions 33
23. AUDITOR 33
24. NOTICE 33
24.1 Document includes notice 33

24.2 Methods of service on a Member 33
24.4 Post 34
24.5 Electronic transmission 34
SCHEDULE 1 ..... **Error! Bookmark not defined.**

Elder Abuse Action Australia
Constitution
Company limited by guarantee

1. NAME OF EAAA

The name of EAAA is Elder Abuse Action Australia Limited (**EAAA**).

2. DEFINITIONS AND INTERPRETATIONS

2.1 Definitions

In this Constitution unless the context requires otherwise:

Act means the *Corporations Act 2001* (Cth), as amended or replaced from time to time.

Annual General Meeting means the annual General Meeting of EAAA required to be held in accordance with the Act.

Appointed Director means a Director appointed under **clause 17**.

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

Chairperson of Directors means the chairperson of Directors elected under **clause 15.10**, or the co-chairs where two Directors are appointed as such. Where co-chairs are elected, all references in this Constitution to **Chairperson of Directors** are taken to mean one or both co-chairs.

Charitable Objects mean the charitable objects of EAAA as set out in **clause 3**.

Chief Executive Officer means the chief executive officer that may be appointed under **clause 18**. If a chief executive officer has not been appointed by the Board, all references to "Chief Executive Officer" in this Constitution will be taken to refer to the Board.

Constitution means this Constitution as amended from time to time.

Director means a director of EAAA and includes the Appointed Directors and Elected Directors.

Directors mean all or some of the Directors of EAAA acting as a board.

EAAA means Elder Abuse Action Australia Limited.

Elder Abuse means a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person, or as amended by the Board from time to time.

Elected Director means a Director of EAAA elected under **clause 16**.

General Meeting means any General Meeting of EAAA, including the Annual General Meeting.

Gift Fund means the fund referred to in **clause 13**.

Individual means an individual admitted as a Member to EAAA under **clauses 9.3** and **9.7**.

Member means a person registered under **clause 9** as a member of EAAA.

Organisation means an organisation admitted as a Member to EAAA under **clauses 9.3** and **9.6**.

Register means the register of Members kept under the Act.

Secretary means any person appointed to perform the duties of secretary of EAAA.

Special Resolution has the same meaning as that given to it in the Act.

Tax Act means the *Income Tax Assessment Act 1997* (Cth).

Voting Member means those Members of EAAA entitled to vote in General Meeting as set out under **clause 9.1**.

2.2 Interpretation

In this Constitution unless the context requires otherwise:

(a) the singular includes the plural and conversely;

(b) a gender includes all genders;

(c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;

(d) a reference to a person includes a body corporate, an unincorporated body or other entity and conversely;

(e) a reference to a clause is to a clause of this Constitution;

(f) a reference to any Member includes the Member's successors, and permitted assigns;

(g) the Charitable Objects and powers of EAAA must be construed independently of each other and without limiting the generality of other objects or powers;

(h) the use of examples, or the mentioning of anything after "include", "includes" or "including", does not limit what else might be included; and

(i) if any part of this Constitution is invalid or unenforceable, that part is to be read down to the extent of the invalidity or unenforceability without

affecting the remaining provisions.

2.3 The Act

(a) In this Constitution, unless the context requires otherwise, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.

(b) The replaceable rules created under the Act are displaced by this Constitution.

3. OBJECTS

3.1 Charitable purpose

EAAA may only pursue charitable purposes associated with its Charitable Objects.

3.2 Charitable Objects

EAAA is established solely for the Charitable Objects. The Charitable Objects of EAAA are to:

(a) promote and undertake activities for the relief and prevention of distress and harm to vulnerable older people suffering from abuse;

(b) promote the safety, dignity, equality, health and independence of older Australians;

(c) promote the rights of older Australians to live free from abuse and neglect;

(d) Educate the public and professionals regarding Elder Abuse;

(e) produce, communicate, share and co-ordinate information, resources and practice for national consistency and efficiency;

(f) build capacity through a community of practice which supports mutual learning and consistent good practice for marginalised older people;

(g) promote for the collection of nationally consistent data on elder abuse;

(h) promote research to support evidence based prevention strategies and best practice responses to Elder Abuse;

(i) raise funds for the achievement of the above Charitable Objects in any lawful manner, which may include engaging in commercial activities; and

(j) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Charitable Objects.

4. POWERS OF EAAA

Solely for furthering the Charitable Objects, EAAA, in addition to any other powers it has under the Act, has the legal capacity and powers of a company limited by guarantee as set out under section 124 of the Act.

5. INCOME AND PROPERTY OF EAAA

5.1 Sole Purpose

The income and property of EAAA must be used solely in promoting the Charitable Objects and in exercising EAAA's powers. Subject to this Constitution none of EAAA's income or property will be distributed, paid or transferred directly or indirectly by way of dividend or bonus or by way of profit to or amongst the Members or Directors of EAAA.

5.2 Payments to Members

No part of the income or property of EAAA may be paid or otherwise distributed, directly or indirectly, to any Member or Director except for payments to a Member or Director in good faith in the promotion of the Charitable Objects and as approved by the Directors as follows:

(a) out-of-pocket expenses incurred by a Director in performing a duty as a Director of EAAA; or

(b) a service rendered to EAAA by a Director or Member in a professional or technical capacity or as an employee, other than in the capacity as a Director or Member of EAAA, where:

(i) the provision of the service has the prior approval of the Directors; and

(ii) the amount payable is not more than an amount which commercially would be reasonable payment for the service.

6. LIABILITY OF MEMBERS

6.1 Members' Liability

The liability of the Members is limited.

6.2 Members' Contributions

Every Member of EAAA undertakes to contribute to the assets of EAAA if it is wound up while they are a Member, or within one year after the Member ceases to be a Member, for:

(a) the payment of the debts and liabilities of EAAA, contracted before the Member ceased to be a Member; and

(b) the expenses of winding up EAAA.

6.3 Amount of Members' Contributions

The amount of the contribution under **clause 6.2** must not exceed $1.00 per Member in any circumstances.

7. WINDING UP

(a) If, on the winding up or dissolution of EAAA, any property remains after satisfaction of all its debts and liabilities, this property must only be distributed to a fund, authority or institution:

(i) which is charitable at law; and

(ii) has objects similar to EAAA's Charitable Objects; and

(iii) has rules which:

(A) prohibit the distribution of income and assets to its members; and

(B) prohibit paying fees to its directors; and

(C) require the directors to approve all other payments it makes to its directors; and

(iv) if EAAA is approved by the Commissioner of Taxation as a public benevolent institution for the purposes of any Commonwealth taxation legislation, holds or is entitled to a similar approval.

(b) The identity of the fund, authority or institution referred to in **clause 7(a)** must be decided by the Directors, or if the Directors do not wish to decide or do not decide, it must be decided by the Supreme Court of Victoria.

8. ALTERATION OF CONSTITUTION

(a) Subject to the Act and this Constitution, this Constitution may be amended from time to time by a Special Resolution passed at any General Meeting.

(b) EAAA must not pass a Special Resolution making a material alteration to, or materially affecting, **clauses 3**, **5** or **7**, or any other alteration to the Constitution, if, as a result, EAAA is no longer charitable.

9. MEMBERSHIP

9.1 Categories of Members

The Members of EAAA shall fall into one of the following categories:

(a) Individuals, who subject to this Constitution, shall have the right to attend, debate and vote at General Meetings;

(b) Organisations, which subject to this Constitution shall be represented by their representatives, who shall have the right to attend, debate and vote at General Meetings for and on behalf of the Organisations; and

(c) such other category or categories of members as determined by the Board from time to time.

9.2 Eligibility for Membership

(a) Every applicant for membership of EAAA must apply in the form and manner decided by the Directors.

(b) The Directors may decide to create eligibility criteria and categories of membership with the same or differing rights or privileges.

9.3 Admission to Membership

A person will become a Member, and the Directors will direct the Chief Executive Officer to record their name in the register of Members kept by EAAA, only upon meeting the criteria applicable to the relevant category of Membership set out in this Constitution and provided the person has signed an application in which they undertake to:

(a) be bound by this Constitution;

(b) pay the fees and subscriptions determined to apply to the relevant membership category under **clause 10**; and

(c) support EAAA in the encouragement and promotion of the Charitable Objects.

9.4 Consideration of applications

(a) After the receipt of an application for membership, the Directors must consider the application and decide whether to admit or reject the admission of the applicant. Upon the acceptance or rejection of an application for membership, EAAA must as soon as practicable give the applicant notice in writing of acceptance or rejection.

(b) The Directors need not give any reason for rejecting an application.

9.5 Rights and obligations of Members

(a) Members are entitled to all the rights of Members under this Constitution.

(b) Members agree to be bound by this Constitution and by any rules, regulations or by-laws of EAAA.

9.6 Organisations

(a) Subject to **clauses 9.3** and **9.6(b**), at the time of adoption of this Constitution, the Organisations of EAAA shall be those incorporated entities who are listed in the application to register EAAA.

(b) Where an applicant for Organisation membership is not incorporated but otherwise meets the criteria for that membership, the Directors may recognise that entity as an Organisation. Where the Directors recognise an entity as an Organisation under this clause, that entity must incorporate within 12 months of recognition otherwise its membership lapses.

(c) To remain a Member, all Organisations must:

(i) renew their membership with EAAA in accordance with the procedures applicable from time to time; and

(ii) pay such fees as may be prescribed by EAAA in respect of their membership from time to time.

(d) Organisations will:

(i) have purposes that align with EAAA's Charitable Objects and do all that is reasonably necessary to enable EAAA's purposes to be achieved;

(ii) act for and on behalf of the interests of EAAA and the Members;

(iii) be bound by this Constitution;

(iv) act in good faith and loyalty to maintain and enhance EAAA, its standards, quality and reputation for the collective and mutual benefit of the Members;

(v) at all times operate with, and promote, mutual trust and confidence between EAAA and the Members; and

(vi) not do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of EAAA.

(e) Each Organisation must advise EAAA as soon as practicable of any serious administrative, operational or financial difficulties the Organisation is having.

9.7 Individual Members

(a) No individual shall be registered with EAAA as an Individual Member except in accordance with this clause 9.7. The Directors may in their discretion refuse to accept a person as an Individual Member and shall not be required or compelled to provide any reason for such rejection.

(b) To remain a Member, all Individual Members must:

(i) renew their membership with EAAA in accordance with the procedures applicable from time to time; and

(ii) pay such fees as may be prescribed by EAAA in respect of their membership from time to time.

(c) Individuals will:

(i) be bound by this Constitution;

(ii) act in good faith and loyalty to maintain and enhance EAAA, its standards, quality and reputation for the collective and mutual benefit of the Members;

(iii) at all times operate with, and promote, mutual trust and confidence between EAAA and the Members; and

(iv) not do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of EAAA.

(d) In addition to the effect of membership set out in **clause 9.3**, an Individual Member is bound by, and must comply with, this Constitution.

(e) An Individual Member is entitled to any benefits of membership prescribed to apply to Individual Members in this Constitution.

10. SUBSCRIPTIONS AND FEES

(a) The membership subscription (if any) and any other fees payable by Members or categories of Members to EAAA, the benefits which apply, the time for, and manner of payment, shall be determined by the Board following the Annual General Meeting in each calendar year.

(b) The date on which subscriptions and any other fees payable by Members or categories of Members shall be payable to EAAA will be determined by the Board from time to time.

(c) The Board is empowered to prevent any Member whose subscription or any other fees are in arrears from exercising the whole or any of the rights or privileges of membership of EAAA, including but not limited to the right to vote at General Meetings.

11. REGISTER OF MEMBERS

(a) The Directors must keep a Register of:

(i) the names and addresses of all Members;

(ii) the dates of their admission as Members;

(iii) particulars of resignations, termination and reinstatement of membership;

(iv) any further particulars as the Directors or the Members at any General Meeting may require from time to time; and

(v) any other information required by the Act.

(b) The Register will be open for inspection and copying in accordance with the Act.

12. CESSATION OF MEMBERSHIP

12.1 Cessation of Membership

A person immediately ceases to be a Member if the person:

(a) dies;

(b) resigns as a Member by giving written notice to EAAA;

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

(d) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors; or

(e) is expelled under **clause 12.2**.

12.2 Expulsion

(a) The Directors may by resolution expel a Member who is not a Director from EAAA if, in their absolute discretion, they decide is it not in the interests of EAAA for the person to remain a Member.

(b) If the Directors intend to propose a resolution under **clause 12.2(a)**, at least two weeks before the meeting at which the resolution is to be proposed, they must give the Member written notice:

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

(ii) setting out the intended resolution and the grounds on which it is based; and

(iii) informing the Member that he or she may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.

13. GIFT FUND

13.1 Establishment of Gift Fund

EAAA may, and if granted endorsement as a tax deductible gift recipient shall, establish a Gift Fund for the purpose of receiving donations in order to carry out and administer the Charitable Objects.

13.2 Rules governing the Gift Fund

(a) All gifts of money made to the Gift Fund and all income received by the Gift Fund as gifts of donations from any member of the public or from any other source are to be deposited to one bank account operated by EAAA and, in the books of account of EAAA, credited to that account. For the purposes of this Constitution, such account in the books of account of EAAA will be referred to as the "**Gift Fund Account**".

(b) All gifts or donations of a non-monetary nature or type must be specifically identified on a gift register and all such items in the books of account of EAAA be credited to the Gift Fund Account.

(c) A receipt must be given by EAAA to the donor of all gifts or donations, whether of a monetary or non-monetary nature. The receipt must show the following items:

(i) name of EAAA;

(ii) if the gift or donation is of a:

(A) monetary nature, the quantum of money received; or

(B) non-monetary nature, a full and accurate description of the item or items the subject of the gift or donation; and

(iii) a statement that the receipt is for a gift.

(d) The funds standing to the credit of the Gift Fund Account must be used solely in pursuance of the Charitable Objects of EAAA. Detailed records are to be maintained of all amounts debited to the Gift Fund Account.

(e) All income and property received by EAAA from all sources other than from gifts or donations from the public or from any other source such as government grants, funds from sponsors, proceeds of raffles, fundraising activities and the like are to be credited to such other accounts in the books of account of EAAA and under no circumstances shall any such income be credited to the Gift Fund Account.

13.3 Distribution of property on revocation of endorsement

(a) Where on withdrawal or revocation of any endorsement given by the Commissioner of Taxation of EAAA's status as a tax deductible gift recipient under Sub-Division 30-B of the Tax Act, any surplus assets or property in the Gift Fund must be given or transferred to such other institution or company which has all of the following features:

(i) it has been approved under Sub-Division 30-B of the Tax Act as a body which may receive donations of money and/or property with such donations being deductible from the taxable income of the donor; and

(ii) it has similar objects to the Charitable Objects; and

(iii) it is an institution or body which prohibits the distribution of income, profits or assets to its members; and

(iv) it has gained approval to be recognised as a body whose income is exempt from taxation.

(b) Such institution or company will be determined by the Members within 3 months of EAAA's receipt of formal written notification from the Commissioner of the withdrawal or revocation of endorsement. Failing such a determination, the institution or company shall be determined by application to the Supreme Court of Victoria.

13.4 Distribution of property on winding up

(a) Where on the winding up of the Gift Fund, EAAA or the dissolution of EAAA, there is a surplus of assets in the Gift Fund after satisfying all EAAA's liabilities and expenses, the surplus will not be paid or distributed to the Members but will be given or transferred to such other institution or company which has the same features as those described in **clause 13.3(a)**.

(b) Such institution or company will be determined by the Members on or before the time of such winding up or dissolution. Failing such a determination, the institution or company shall be determined by application to the Supreme Court of Victoria.

14. GENERAL MEETINGS

14.1 Annual General Meeting

Annual General Meetings of EAAA are to be held:

(a) according to the Corporations Act; and

(b) at a date and venue determined by the Directors.

14.2 Calling General Meetings

(a) A General Meeting may only be called:

(i) by a Directors' resolution; or

(ii) as otherwise provided in the Act.

(b) The Directors may change the venue for, postpone or cancel a General Meeting, if they consider that the meeting has become unnecessary, or the venue would be unreasonable or impractical or a change is necessary in the interests of conducting the meeting efficiently, but:

(i) a meeting which is not called by a Directors' resolution; and

(ii) a meeting which is called in accordance with a members' requisition under the Act,

must not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.

14.3 Notice of General Meetings

(a) At least 21 days' notice of the time and place of a General Meeting must be given in any manner authorised by **clause 24** to each person who is at the date of the notice:

(i) a Member;

(ii) a Director; or

(iii) the auditor of EAAA.

(b) A notice of a General Meeting must:

(i) specify the date, time and place of the meeting;

(ii) except as provided by the Act, state the general nature of the business to be transacted at the meeting; and

(iii) specify a place or electronic address for the receipt of proxies.

(c) A person may waive notice of a General Meeting by written notice to EAAA.

(d) The non-receipt of notice of a General Meeting or proxy form by, or a failure to give notice of a General Meeting or a proxy form to, any person entitled to receive notice of a General Meeting does not invalidate any thing done or resolution passed at the General Meeting if:

(i) the non-receipt or failure occurred by accident or error; or

(ii) before or after the meeting, the person has notified or notifies EAAA of the person's agreement to that thing or resolution.

(e) A person's attendance at a General Meeting waives any objection that person may have to:

(i) a failure to give notice, or the giving of a defective notice, of the meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and

(ii) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

14.4 General Meetings by technology

(a) The contemporaneous linking together by telephone or other electronic means of a sufficient number of the Members in person, to constitute a quorum constitutes a General Meeting, provided each Member has a reasonable opportunity to participate at the meeting.

(b) All the provisions in this Constitution relating to General Meetings apply, so far as they can and with any necessary changes, to General Meetings by telephone or other electronic means.

(c) A Member who takes part in a General Meeting by telephone or other electronic means is taken to be present in person at the meeting and if the Member votes, taken to have voted in person.

(d) A General Meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the Members involved was at that place for the duration of the meeting.

14.5 Quorum at General Meetings

(a) No business may be transacted at a General Meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of Members is present when the meeting proceeds to business.

(b) A quorum consists of:

(i) 10% of the Voting Members, present in person; or

(ii) 15 Voting Members present in person,

whichever is lower.

(c) If a quorum is not present within 30 minutes after the time appointed for a General Meeting:

(i) where the meeting was convened on the requisition of Members, the meeting must be dissolved; or

(ii) in any other case the meeting stands adjourned to the day, and at the time and place, that the Directors decide or, if the Directors do not make a decision, to the same day in the next week at the same time and place, and if at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

14.6 Chairperson of General Meetings

(a) The Chairperson of Directors must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each General Meeting.

(b) If at a General Meeting:

(i) there is no Chairperson of Directors;

(ii) the Chairperson of Directors is not present within 15 minutes after the time appointed for the meeting; or

(iii) the Chairperson of Directors is present within that time but is not willing to act as chairperson of the meeting,

the Members present must elect as chairperson of the meeting:

(iv) another Director who is present and willing to act; or

(v) if no other Director present at the meeting is willing to act, a Member who is present and willing to act.

14.7 Conducting and adjourning General Meetings

(a) A question arising at a General Meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.

(b) The chairperson of a General Meeting may, and must do so if directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting except the business left unfinished at the meeting from which the adjournment took place.

(c) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.

(d) Except as provided by **clause 14.7(c)**, it is not necessary to give any notice of an adjournment, or of the business to be transacted, at an adjourned meeting.

(e) Where a meeting is adjourned, the Directors may change the venue of, or postpone or cancel, the adjourned meeting, unless the meeting was called and arranged to be held by the Members or the court under the Act. If a meeting is called and arranged to be held under section 249D of the Act, the Directors must not postpone it beyond the date by which section 249D requires it to be held and must not cancel it without the consent of the requisitioning Members.

14.8 Decisions at General Meetings

(a) Except where a Special Resolution is required by the Act, questions arising at a General Meeting must be decided by a majority of votes cast by the Members present at the meeting. Such a decision is for all purposes a decision of the Members.

(b) Where the votes on a proposed resolution are equal:

(i) the chairperson of the meeting does not have a second or casting vote; and

(ii) the proposed resolution is taken as lost.

(c) A resolution put to the vote of a General Meeting must be decided on a show of hands unless, before the vote is taken or before or immediately

after the declaration of the result of the show of hands, a poll is demanded by:

(i) the chairperson of the meeting;

(ii) at least three Members present and with the right to vote on the resolution; or

(iii) at least 5% of the Members entitled to vote and present at the meeting.

(d) A demand for a poll does not prevent a General Meeting continuing for the transaction of any business except the question on which the poll has been demanded.

(e) Unless a poll is duly demanded, a declaration by the chairperson of a General Meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of EAAA, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(f) If a poll is duly demanded at a General Meeting, it must be taken in such manner and either at once or after an interval or adjournment or otherwise, as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded.

(g) A poll demanded at a General Meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.

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

14.9 Voting rights

(a) Subject to this Constitution and to any rights or restrictions attached to any class of membership, at a General Meeting:

(i) each Organisation Member has three votes; and

(ii) each Individual Member has one vote.

(b) A new category of Membership created by the Directors under clause 9.1(c) will not be granted voting rights unless approved by the General Meeting.

(c) A proxy, attorney or representative is entitled to a separate vote for each Member the person represents, in addition to any vote the person may have as a Member in his or her own right.

(d) An objection to the qualification of a person to vote at a General Meeting must be:

(i) raised before or at the meeting at which the vote objected to is given or tendered; and

(ii) referred to the chairperson of the meeting, whose decision is final.

(e) A vote not disallowed by the chairperson of a meeting under **clause 14.9(d)** is valid for all purposes.

14.10 Representation at General Meetings

(a) Subject to this Constitution, each Member entitled to vote at a General Meeting may vote:

(i) in person or, where a Member is a body corporate, by its representative;

(ii) by one proxy; or

(iii) by one attorney.

(b) A proxy, attorney or representative may, but need not, be a Member of EAAA.

(c) A proxy, attorney or representative may be appointed for all General Meetings, or for any number of General Meetings, or for a particular General Meeting.

(d) Unless otherwise provided in the instrument, an instrument appointing a proxy, attorney or representative is to be taken to confer authority:

(i) to agree to a meeting being convened by shorter notice than is required by the Act or by this Constitution;

(ii) to agree to a resolution being proposed and passed as a Special Resolution at a meeting of which less than the period of notice required by the Act has been given; and

(iii) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or representative how to vote on those resolutions:

(A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;

(B) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and

(C) to act generally at the meeting.

(e) 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.

(f) Subject to **clause 14.10(g)**, an instrument appointing a proxy or attorney need not be in any particular form as long as it is in writing, legally valid and signed by or on behalf of the appointor or the appointor's attorney.

(g) A proxy or attorney may not vote at a General Meeting or adjourned meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority under which the instrument is signed or a certified copy of the authority, are:

(i) received at the registered office of EAAA or an electronic address specified for that purpose in the notice convening the meeting before the time specified in the notice;

(ii) in the case of a meeting or an adjourned meeting, tabled at the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or

(iii) in the case of a poll, produced when the poll is taken.

(h) The Directors may waive all or any of the requirements of **clauses 14.10(f)** and **14.10(g)** and in particular may, on the production of such other evidence as the Directors require proving the validity of the appointment or a proxy or attorney, accept:

(i) an oral appointment of a proxy or attorney;

(ii) an appointment of a proxy or attorney which is not signed in the manner required by **clause 14.10(f)**; and

(iii) the deposit, tabling or production of a copy (including a copy sent by fax) of an instrument appointing a proxy or attorney or of the power of attorney or other authority under which the instrument is signed.

(i) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no written notice of the revocation has been received by EAAA by the time and at one of the places at which the instrument appointing the proxy or attorney is required to be deposited, tabled or produced under **clause 14.10(g)**.

(j) 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 a resolution, the person acting as proxy or attorney for the appointor is not entitled to vote, and must not vote, as the appointor's proxy or attorney on the resolution.

15. DIRECTORS

15.1 Composition of the Board

The Board shall consist of:

(a) 5 Elected Directors all of whom will be elected under **clause 16.3**; and

(b) up to two additional Appointed Directors who shall be appointed in accordance with **clause 17**.

(c) EAAA may by resolution:

(i) increase or reduce the minimum or maximum number of Directors; and

(ii) appoint or, in accordance with section 203D of the Act, remove a Director.

15.2 Casual Vacancies

(a) Any casual vacancy that occurs in the position of a Director may be filled by the remaining Directors from among appropriately qualified persons.

(b) Any casual vacancy may only be filled for the remainder of the vacating Director's term under this Constitution.

15.3 Vacation of office

The office of a Director becomes vacant:

(a) in the circumstances prescribed by the Act;

(b) if the Director becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;

(c) if the Director is removed from office under **clause 15.1(c)(ii)** by resolution of the Members in accordance with the Act;

(d) if the Director fails to attend meetings of Directors for at least three consecutive meetings or at least four meetings over a period of 12 months without leave of absence unless the Directors subsequently decide to grant a leave of absence; or

(e) if the Director resigns by written notice to EAAA.

15.4 Interested Directors

(a) The Directors may make regulations requiring the disclosure of interests that a Director, and any person considered by the Directors as related to or associated with the Director, may have in any matter concerning EAAA

or a related body corporate. Any regulations made under this Constitution bind all Directors.

(b) Unless the Act permits, a Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:

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

(ii) vote on the matter.

(c) A Director contracting with or being interested in any arrangement involving EAAA is not liable to account to EAAA for any profit realised by or under that contract or arrangement merely because the Director holds office as a Director or because of the fiduciary obligations arising out of that office provided the Director complies with the disclosure requirements under **clause 15.4(a)** and the Act regarding the interest.

(d) A contract made by a Director with EAAA and a contract or arrangement entered into by or on behalf of EAAA in which any Director may be in any way interested is not avoided or rendered void merely because the Director holds office as a Director or because of the fiduciary obligations arising out of that office.

(e) A Director is not disqualified, subject to **clause 15.4(a)** and any decision of the Directors, merely because he or she is a Director, from contracting with EAAA in any respect including, but not limited to:

(i) selling property to, or purchasing property from, EAAA;

(ii) lending money to EAAA with or without interest or security;

(iii) guaranteeing the repayment of money borrowed by EAAA for a commission or profit;

(iv) underwriting or guaranteeing the subscription for securities in any related body corporate or other body corporate promoted by EAAA or in which EAAA is interested as a shareholder or otherwise, for a commission or profit; or

(v) being employed by EAAA or acting in any professional capacity (except as auditor) on behalf of EAAA.

(f) Subject to **clause 15.4(a)**, a Director may hold another position (except as auditor) in EAAA or any related body corporate in conjunction with his or her directorship and may be appointed to that position on terms as to remuneration, tenure and otherwise that the Directors decide .

(g) A Director:

(i) may be or become a director or other officer of, or otherwise interested in, any related body corporate or other body corporate promoted by EAAA or in which EAAA is interested as a shareholder or otherwise; and

(ii) is not accountable to EAAA for any remuneration or other benefits he or she receives as a Director or officer of, or from having an interest in, that body corporate.

(h) The Directors may exercise the voting rights conferred by shares in any body corporate held or owned by EAAA in the manner in all respects that they think fit.

15.5 Powers and duties of Directors

(a) The Directors are responsible for managing EAAA's affairs and carrying out the Charitable Objects of EAAA. The Directors may exercise to the exclusion of EAAA in General Meeting any of EAAA's powers which are not required, by the Act or by this Constitution, to be exercised by EAAA in General Meeting.

(b) The Directors may pay out of EAAA's funds all expenses of the promotion, formation and registration of EAAA and the vesting in it of the assets acquired by it.

(c) The Directors may:

(i) appoint or employ a person to be an officer, agent or attorney of EAAA for the purposes, with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Directors), for the period and on the conditions they think fit;

(ii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and

(iii) subject to any contract between EAAA and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney at any time, with or without cause.

(d) A power of attorney may contain any provisions for the protection and convenience of the attorney or persons dealing with the attorney that the Directors think fit.

15.6 Proceedings of Directors

(a) The Directors may meet together and adjourn and otherwise regulate their meetings as they think fit.

(b) The contemporaneous linking together by telephone or other electronic means of a sufficient number of the Directors to constitute a quorum constitutes a meeting of the Directors. All the provisions in this Constitution relating to meetings of the Directors apply, so far as they can and with any necessary changes, to meetings of the Directors by telephone or other electronic means.

(c) A Director who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.

(d) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the Directors involved was at that place for the duration of the meeting.

(e) If, before or during the meeting, any technical difficulty occurs as a result of which one or more Directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of Directors remains present, continue with the meeting.

15.7 Convening meetings of Directors

(a) A Director may convene a meeting of the Directors whenever he or she thinks fit.

(b) The Secretary must, on the requisition of a Director, convene a meeting of the Directors.

15.8 Notice of meetings 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, except 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; and

(iii) may be given in person, by post, telephone or other electronic means.

(c) A Director may waive notice of a meeting of Directors by notifying EAAA to that effect in person, by post, telephone or 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 anything done or resolution passed at the meeting if:

(i) the non-receipt or failure occurred by accident or error;

(ii) before or after the meeting, the Director:

(A) has waived or waives notice of that meeting under **clause 15.8(c)**; or

(B) has notified or notifies EAAA of his or her agreement to that thing or resolution personally or by post, telephone or other electronic means; or

(iii) the Director attended the meeting.

(e) Attendance by a person at a meeting of Directors waives any objection which that person may have to a failure to give notice of the meeting.

15.9 Quorum at meetings of Directors

(a) No business may be transacted at a meeting of Directors unless a quorum of Directors is present at the time the business is dealt with.

(b) A quorum consists of:

(i) if the Directors have fixed a number for the quorum greater than three, that number of Directors; and

(ii) in any other case, three Directors,

present at the meeting of Directors.

(c) If there is a vacancy in the office of a Director then, subject to **clause 15.9(d)**, the remaining Directors may act.

(d) If the number of Directors in office at any time is not sufficient to constitute a quorum at a meeting of Directors, or is less than the minimum number of Directors fixed under this Constitution, the remaining Directors must act as soon as possible to:

(i) increase the number of Directors.to a number sufficient to constitute a quorum and to satisfy the minimum number of Directors required under this Constitution;

(ii) convene a General Meeting for that purpose, or

(iii) appoint additional Directors,

and until that has happened, may only act if and to the extent that there is an emergency requiring them to act.

15.10 Chairperson of Directors

(a) The Directors may at their discretion either elect one of the Directors as Chairperson of Directors, or two of the Directors as co-chairs of Directors, and may decide the period for which that Director is to be the Chairperson, or those Directors will be the co-chairs.

(b) The Chairperson of Directors must (if present within 10 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each meeting of Directors.

(c) If at a meeting of Directors:

(i) there is no Chairperson of Directors;

(ii) the Chairperson of Directors is not present within 10 minutes after the time appointed for the meeting; or

(iii) the Chairperson of Directors is present within that time but is not willing to act as chairperson of the meeting,

the Directors present must elect one of the Directors present as chairperson of the meeting.

15.11 Decisions of Directors

(a) A meeting of Directors at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Directors under this Constitution.

(b) Questions arising at a meeting of Directors must be decided by a majority of votes cast by the Directors present. Such a decision is for all purposes a decision of the Directors.

(c) Where the votes on a proposed resolution are equal:

(i) the chairperson of the meeting does not have a second or casting vote; and

(ii) the proposed resolution is taken as lost

15.12 Written resolutions of Directors

(a) If:

(i) all the Directors, other than any Director:

(A) on leave of absence approved by the Directors;

(B) who disqualifies himself or herself from considering the thing or resolution in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; or

(C) who the Directors reasonably believe is not entitled at law to do the thing or to vote on the resolution in question,

assent to a document containing a statement to the effect that a thing has been done or resolution has been passed; and

(ii) the Directors who assent to the document would have constituted a quorum at a meeting of Directors held to consider that thing or resolution,

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

(b) For the purposes of **clause 15.12(a)**:

(i) the meeting is to be taken as having been held:

(A) if the Directors assented to the document on the same day, on the day on which the document was assented to and at

the time at which the document was last assented to by a Director; or

(B) if the Directors assented to the document on different days, on the day on which, and at the time at which, the document was last assented to by a Director;

(ii) 2 or more separate documents in identical terms each of which is assented to by one or more Directors are to be taken as constituting one document; and

(iii) a Director may signify assent to a document by signing the document or by notifying EAAA of the Director's assent in person or by post, telephone or other electronic means.

(c) Where a document is assented to in accordance with **clause 15.12(a)**, the document is to be taken as a minute of a meeting of Directors.

15.13 Minutes of meetings and minutes of resolutions

(a) The Directors must ensure minutes of proceedings and resolutions of General Meetings and of meetings of Directors (including committees of Directors) are recorded in books kept for the purpose, within one month after the relevant meeting is held.

(b) The Directors must ensure minutes of resolutions passed by Directors (and committees of Directors) without a meeting are recorded in books kept for that purpose within one month after the resolution is passed.

(c) The minutes of a meeting must be signed within a reasonable time by the chairperson of the meeting or the chairperson of the next meeting.

15.14 Committees of Directors

(a) The Directors may delegate any of their powers to one or more committees consisting of the number of Directors they think fit.

(b) A committee to which any powers have been delegated must exercise the powers delegated in accordance with any directions given by the Directors.

(c) The provisions of this Constitution that apply to meetings and resolutions of Directors apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee of Directors.

15.15 Delegation to individual Directors

(a) The Directors may delegate any of their powers to one Director.

(b) A Director to whom any powers have been delegated must exercise the powers delegated in accordance with any directions given by the Directors.

15.16 Validity of acts

An act done by a person acting as a Director, a meeting of Directors, or a committee of Directors attended by a person acting as a Director, is not invalidated merely because of:

(a) a defect in the appointment of the person as a Director;

(b) the person being disqualified to be a Director or having vacated office; or

(c) the person not being entitled to vote,

if that circumstance was not known by the person, the Directors or the committee (as applicable) when the act was done.

16. ELECTED DIRECTORS

16.1 Nomination for Board

Nominations for Elected Directors shall be called for by either the Secretary or Chief Executive Officer 45 days prior to the General Meeting at which the election is to be held (usually the Annual General Meeting).

16.2 Form of Nomination

Nominations must be:

(a) in writing on the prescribed form (if any);

(b) signed by a Voting Member or, for an Organisation, their authorised Representative;

(c) certified by the nominee expressing their willingness to accept the position for which they are nominated; and

(d) delivered to EAAA not less than 28 days before the date fixed for the holding of the General Meeting.

16.3 Elections

(a) If the number of nominations received for positions on the Board is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated shall be declared elected.

(b) If there are insufficient nominations received to fill all vacancies on the Board, the positions will be deemed casual vacancies under **clause 15.2**.

(c) If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared containing the names of the candidates in order drawn by ballot, for each vacancy on the Board.

(d) The voting shall be conducted in such manner and by such method as may be determined by the Board from time to time.

16.4 Term of Appointment

(a) Subject to this Constitution, and in particular **clause 16.4(d)**, Elected Directors shall be elected in accordance with this Constitution for a term of three years, which shall commence from the conclusion of the General Meeting at which the election occurred until the conclusion of the third Annual General Meeting following.

(b) Two Elected Directors shall retire after the first year after election. Two Elected Directors shall retire after the second year after election and the remaining one Elected Director shall retire after the third year after election, until the five Elected Directors have retired, after which those Elected Directors elected to the vacancies after the first year shall retire and so on. The Elected Directors to retire and the year in which they retire will be determined by the Board. If the Board cannot agree, retirements will be determined by lot.

(c) Notwithstanding any other clause, should any adjustment to the term of Elected Directors elected under this Constitution be necessary to ensure rotational terms in accordance with this Constitution, this shall be determined by the Board. If the Board cannot agree, retirements will be determined by lot. For the avoidance of doubt any part of a term shall be deemed a full term for the purposes of this **clause 16.4**.

(d) Following the adoption of this Constitution, no person who has served as an Elected Director for a period of three consecutive full terms (9 years) shall be eligible for re-election as a Director until the third Annual General Meeting following the date of conclusion of their last term as a Director.

17. APPOINTED DIRECTORS

17.1 Appointment of Appointed Director

(a) The Elected Directors may appoint up to two Appointed Directors in accordance with this Constitution.

(b) In appointing the Appointed Directors, the Elected Directors may take into account any skills that complement and/or supplement any skill gaps that may exist in the Board, with the aim of ensuring that the Board has all the necessary skills to govern the organisation. Elected Directors may also take into account any regional or diversity imbalance that currently exists on the Board.

(c) Appointed Directors do not need to be Individual Members.

17.2 Term of Appointment

(a) Directors appointed under **clause 17.1** may be appointed by the Elected Directors in accordance with this Constitution for a term of up to three years, which shall commence and conclude on dates as determined by the Elected Directors.

(b) Following the adoption of this Constitution, no person who has served as an Appointed Director for a period of up to two consecutive full terms (6 years) shall be eligible for re-appointment as a Director for at least three years following the date of conclusion of their last term as a Director.

18. CHIEF EXECUTIVE OFFICER

18.1 Appointment of Chief Executive Officer

The Directors may appoint a Chief Executive Officer.

18.2 Powers, duties and authorities of Chief Executive Officer

(a) If appointed, the Chief Executive Officer holds office on the terms and conditions (including any remuneration) and with the powers, duties and authorities, determined by the Directors.

(b) The exercise of those powers and authorities, and the performance of those duties, by the Chief Executive Officer are subject at all times to the control of the Directors.

18.3 Suspension and removal of Chief Executive Officer

Subject to the terms and conditions of the appointment, the Directors may suspend or remove the Chief Executive Officer from that office.

18.4 Delegation by Directors to Chief Executive Officer

The Directors may delegate to the Chief Executive Officer the power (subject to such reservations on the power as are decided by the Directors) to conduct the day-to-day management and control of the business and affairs of EAAA. The delegation will include the power and responsibility to:

(a) develop business plans, budgets, strategies, policies, processes and codes of conduct for consideration by the Directors and to implement them to the extent approved by the Directors;

(b) manage the financial and other reporting mechanisms of EAAA;

(c) approve and incur expenditure subject to specified expenditure limits;

(d) sub-delegate his or her powers and responsibilities to employees or internal management committees of EAAA; and

(e) exercise any other powers and responsibilities that the Directors consider appropriate to delegate to the Chief Executive Officer.

18.5 Chief Executive Officer to attend meetings

If appointed, the Chief Executive Officer is entitled, subject to a determination otherwise by the Directors, to attend all meetings of EAAA, all meetings of the Directors and any committees and may speak on any matter, but does not have a vote.

19. SECRETARY

(a) There must be a Secretary who is to be appointed by the Directors under the Act. The Secretary may be a Director, the Chief Executive Officer or someone else.

(b) In addition to the manner in which the office of Secretary becomes vacant under the Act the Directors may suspend or remove the Secretary from that office.

(c) The Secretary holds office on the terms and conditions and with the powers, duties and authorities, determined by the Act and the Directors.

(d) Subject to this Constitution the Secretary is not entitled to remuneration unless the Secretary is also the Chief Executive Officer.

20. INSURANCE

20.1 Indemnity of officers

Every person who is or has been:

(a) a Director;

(b) Chief Executive Officer; or

(c) Secretary,

is entitled to be indemnified out of the property of EAAA against:

(d) every liability incurred by the person in that capacity (except a liability for legal costs); and

(e) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity, unless:

(i) EAAA is forbidden by statute to indemnify the person against the liability or legal costs; or

(ii) an indemnity by EAAA of the person against the liability or legal costs would, if given, be made void by statute.

20.2 Insurance

EAAA may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director, Secretary or Chief Executive Officer against liability incurred by the person in that capacity, including a liability for legal costs, unless:

(a) EAAA is forbidden by statute to pay or agree to pay the premium; or

(b) the contract would, if EAAA paid the premium, be made void by statute.

21. KEEPING AND INSPECTION OF RECORDS

21.1 Records

(a) The Directors shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of EAAA and the Directors and shall produce these as appropriate at each Directors meeting or General Meeting.

(b) The Directors will cause EAAA records to be kept for a period of 7 years from their creation.

21.2 Inspection of records

(a) Members may on request inspect free of charge:

(i) the minutes of General Meetings; and

(ii) subject to **clause 21.2(b)**, the financial records, books, securities, this Constitution and any other relevant document of EAAA.

(b) The Directors may refuse to permit a Member to inspect records of EAAA that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of EAAA.

(c) The Directors must on request make copies of this Constitution available to Members and applicants for membership free of charge.

(d) Subject to **clause 21.2(b)**, a Member may make a copy of any of the other records of EAAA referred to in this clause and EAAA may charge a reasonable fee for provision of a copy of such a record.

(e) For the purposes of this clause:

relevant documents mean the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of EAAA and includes the following:

(i) its financial statements;

(ii) its financial records;

(iii) this Constitution; and

(iv) records and documents relating to transactions, dealings, business or property of EAAA.

22. ACCOUNTS

22.1 Records Kept in Accordance with Act

Books, documents, securities and proper accounting and other records shall be kept in accordance with the Act, generally accepted accounting principles and/or any applicable code of conduct. All such records and the books of account shall be kept in the care and control of the Directors.

22.2 Directors to Submit Accounts

The Directors shall submit to the Annual General Meeting the accounts of EAAA in accordance with the Act and will distribute copies of financial statements as required by the Act.

22.3 Transactions

All cheques, promissory notes, bankers drafts, bills of exchange, other negotiable instruments, electronic transactions, and all receipts for money paid to EAAA, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Directors determine from time to time.

23. AUDITOR

(a) A properly qualified auditor or auditors shall be appointed by the Directors and the remuneration of such auditor or auditors fixed and duties regulated in accordance with the Act.

(b) Members may remove an auditor from office by resolution made at a General Meeting in accordance with the Act.

24. NOTICE

24.1 Document includes notice

In this **clause 24**, document includes a notice.

24.2 Methods of service on a Member

EAAA may give a document to a Member:

(a) personally;

(b) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member; or

(c) by sending it to an electronic address nominated by the Member.

24.3 Methods of service on EAAA

A Member may give a document to EAAA:

(a) by delivering it to EAAA's registered office;

(b) by sending it by post to EAAA's registered office; or

(c) by sending it to an electronic address nominated by EAAA.

24.4 Post

A document sent by post:

(a) if sent to an address in Australia, may be sent by ordinary post; and

(b) if sent to an address outside Australia, or sent from an address outside Australia, must be sent by airmail,

(c) and in either case is taken to have been received on the fourth business day after the date of its posting.

24.5 Electronic transmission

If a document is sent by any form of electronic transmission, delivery of the document is taken to:

(a) be effected by properly addressing and transmitting the electronic transmission; and

(b) have been delivered on the business day following its transmission.