



COOPER GRACE WARD
LAWYERS

Constitution

Commonkind Limited ACN 676 508 188

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Constitution

1 Limited company

- 1.1 The name of the Company is Commonkind Limited.
- 1.2 The liability of the Members is limited by guarantee.
- 1.3 The registered office of the Company will be as the Board of Directors determines.

2 Objects

- 2.1 The main object for which the Company is established is to provide benevolent relief to people and communities suffering from poverty, disadvantage and distress by facilitating community service activities for children, families and other interested parties.
- 2.2 In furtherance of its main object, the Company may:
 - (a) organise, participate in, and conduct:
 - (i) structured community service programs assisting and providing resources to disadvantaged members of the local community
 - (ii) public programs including education programs, social and community programs and research programs;
 - (b) build and maintain relationships with welfare, social, educational, health, disability and First Nations special-interest groups, professionals, organisations and established charities and not-for-profits to provide structured community service programs;
 - (c) establish and maintain relationships and work with individuals, corporations, entities, associations, foundations, institutions, organisations and groups including Federal, State and Local Government instrumentalities, authorities and professionals that may have related interests to the Company and utilise their resources and facilities to provide and achieve the objects of the Company;
 - (d) encourage, promote and generally create greater community awareness in the knowledge and understanding of the objects of the Company;
 - (e) disseminate information relating to education and community programs and produce, edit, publish, issue, sell, circulate and preserve such papers, periodicals, books, circulars and other literary matters as are conducive to these objects;
 - (f) seek and coordinate funding from the public, Federal, State and Local Government and the private sector in the form of grants, gifts, donations and bequests committed to the objects of the Company;
 - (g) administer one or more funds into which all gifts, contributions, donations and bequests to the Company for the purposes of the Company will be credited; and
 - (h) do all things that further, are in aid of, or are ancillary or incidental to any of the Company's objects.

- 2.3 The income and property of the Company must be applied solely towards the promotion of its objects as set out in this constitution and cannot be distributed, paid or transferred, directly or indirectly, as a dividend, bonus or other similar payment or distribution to the Members or officers of the Company.
- 2.4 Nothing in clause 2.3 prevents:
- (a) the payment in good faith of reasonable and proper remuneration to any officer or employee the Company or to any Member or other person in return for any services rendered or goods provided to the Company;
 - (b) the payment in good faith of reasonable and proper compensation to any officer or employee the Company or to any Member or other person for expenses incurred on behalf of the Company; or
 - (c) the payment of interest on money borrowed from a Member for any of the purposes of the Company,
- provided such payments are approved by the Board.

3 Membership

- 3.1 The Members of the Company are:
- (a) those persons who have become Members upon incorporation of the Company; and
 - (b) other parties the Board admits to membership pursuant to this constitution.
- 3.2 If a Member is a body corporate it must:
- (a) appoint a representative (Corporate Representative); and
 - (b) notify the Secretary in writing of the contact details for the Corporate Representative from time to time and on the request of the Secretary.

4 Members

- 4.1 Members are eligible to vote at general meetings of the Company and may hold office.

5 Rights of Members

- 5.1 Members have the right to:
- (a) receive notice of and attend any general meeting of the Company;
 - (b) hold office; and
 - (c) vote at any general meeting of the Company.
- 5.2 The rights attached to any class of membership (unless otherwise provided by the terms this constitution) may only be varied with the sanction of a special resolution (at least 75% of votes) passed by the Members of the relevant class.

6 Application for membership

Applications for membership must be in a form approved by the Board and directed to the Secretary with any applicable membership fee.

7 Membership fees

7.1 The Board may determine what membership fees are payable from time to time for each class of Members.

7.2 Membership fees are quoted exclusive of any applicable GST and:

- (a) if GST is or becomes payable on a taxable supply (as defined by the *A New Tax System (Goods and Services Act) 1999* (Cth)) made under or in connection with this document, the party providing consideration for that taxable supply must pay an additional amount equal to the GST payable on the taxable supply; and
- (b) the additional amount payable under clause 7.2(a) must be paid at the same time as the consideration for the taxable supply or on the date on which the party making the supply delivers a tax invoice (whichever is later).

8 Appointment of new Members

8.1 The Secretary must submit membership applications to the next meeting of the Board.

8.2 The Board has an unfettered discretion to determine whether an applicant will be accepted or rejected for membership. Without limiting the discretion of the Board to accept or reject an application for membership, the Board may reject an application for membership if the applicant has not:

- (a) demonstrated a commitment to the objects and activities of the Company; or
- (b) been actively involved in the Company and its activities.

8.3 If a membership application is refused, the Secretary must notify the applicant in writing, and that applicant may re-apply to the Board for admission as a Member, but not within six months from the date of the Board meeting at which the prior membership application was refused.

8.4 If a membership application is accepted, the Secretary must notify the applicant in writing, and that person will become a Member with effect from the date determined by the Board, or if no such date is specified, from the date of the Board meeting approving the applicant's entry to membership.

9 Cessation of membership

9.1 A person ceases to be a Member of the Company if the Member:

- (a) gives notice in writing to the Secretary resigning as a Member;
- (b) in the case of an individual:
 - (i) is declared bankrupt; or
 - (ii) dies;

- (c) in case of a corporate Member:
 - (i) is de-registered; or
 - (ii) placed into liquidation;
 - (d) is expelled in accordance with clause 9.3.
- 9.2 The date of resignation of a Member resigning in accordance with the provisions of clause 9.1 is the date on which the notice of resignation is received by the Secretary.
- 9.3 Subject to the rest of this clause 9, the Board has power to expel a Member or suspend their membership if the Member:
- (a) in the opinion of the Board, no longer meets the criteria for membership;
 - (b) fails to pay any amount levied by the Company;
 - (c) is found guilty of a criminal offence;
 - (d) in the opinion of the Board, acts in their own interests while performing any official duties for the Company;
 - (e) refuses or neglects to comply with the provisions of the constitution or of any By-Law of the Company; or
 - (f) is involved in any conduct that, in the opinion of the Board, is unbecoming of a Member or is likely to be prejudicial to the interests of the Company.
- 9.4 At least seven clear days' notice in writing must be given to a Member of the meeting of the Board at which a resolution to expel or suspend the Member is to be proposed. The notice must include particulars of the issues of concern to the Board.
- 9.5 The Member must have a reasonable opportunity to respond to the allegation and produce any material they consider relevant at the Board meeting.
- 9.6 The Secretary must immediately notify the Member in writing once a resolution for expulsion or suspension is passed.
- 9.7 Any Member who is expelled or suspended may lodge a written appeal with the Secretary within 30 days of receipt of notice of expulsion or suspension.
- 9.8 If a Member lodges an appeal against their expulsion or suspension, the Board must promptly call a general meeting of the Company at which the resolution with respect to the Member's expulsion or suspension will be voted upon by Members.
- 9.9 At the general meeting called pursuant to clause 9.8, the Member must be given the opportunity to respond to the allegation and produce any material they consider relevant, acting reasonably.
- 9.10 The decision of the Company in general meeting is binding and no further appeal lies from that decision.

10 Register of Members

- 10.1 Members must inform the Secretary in writing of their address for correspondence and of any subsequent change in their address.

- 10.2 The Company must establish and maintain a Register of Members. The Register of Members must be kept by the Secretary and must contain:
- (a) for each current Member:
 - (i) their name;
 - (ii) their address, email and phone number;
 - (iii) any alternative address nominated by the Member for the service of notices; and
 - (iv) the date the Member was entered on to the register.
 - (b) for each person who ceased to be a Member in the last 7 years:
 - (i) their name;
 - (ii) their address, email and phone number;
 - (iii) any alternative address nominated by the Member for the service of notices; and
 - (iv) the dates the membership started and ended.
- 10.3 The Company must give current Members access to the Register of Members.
- 10.4 Information that is accessed from the Register of Members must only be used in a manner relevant to the interests or rights of Members.

11 Annual General Meeting

- 11.1 The Annual General Meeting must be held each year and preferably, no later than five months after the end of the previous Financial Year.
- 11.2 In addition to any other business which may be transacted at an Annual General Meeting, the business of the Annual General Meeting should:
- (a) provide a reasonable opportunity for Members to ask questions;
 - (b) include a report on the activities of the Company during the preceding Financial Year;
 - (c) include a consideration of any financial statement or report required to be submitted to Members under Applicable Laws; and
 - (d) review function of the Board.

12 General meetings

- 12.1 A general meeting may be convened by the Board at any time and must be convened within two calendar months of receiving a requisition in writing from Members entitled to exercise at least 5% of the votes that may be cast at a general meeting.
- 12.2 The Company may hold a general meeting at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard. Anyone using this technology is taken to be present in person at the meeting.
- 12.3 If a general meeting is requisitioned by Members, the Members and the Company must comply with Part 2G.2 of the Corporations Act. If a provision of Part 2G.2 of the Corporations

Act is contrary to a provision of this constitution, to the extent permitted by Applicable Laws, this constitution prevails to the extent of any inconsistency.

- 12.4 Subject to the provisions of the Corporations Act relating to special resolutions, at least 21 days written notice of a general meeting must be given to all Members who are entitled to receive the notice.
- 12.5 A notice of a general meeting must contain all information required by the Corporations Act, including:
- (a) the place, the day and the hour of the meeting; and
 - (b) the general nature of the business to be transacted at the meeting.

13 Proceedings at general meetings

- 13.1 No business can be transacted at any Annual General Meeting or general meeting unless a quorum of Members is present in person or by proxy, attorney or representative at the time when the meeting is due to commence.
- 13.2 Unless otherwise determined by the Company in general meeting, a quorum is twenty percent of all Members entitled to vote at the relevant meeting.
- 13.3 If a quorum is not present within half an hour from the time appointed for the meeting, the meeting:
- (a) if convened upon the requisition of Members, is dissolved; or
 - (b) in any other case, the meeting is adjourned to the same day in the next week at the same time and place, or to such other day, time and place as the chairperson may determine.
- 13.4 If a quorum is not present at the adjourned meeting within half an hour from the time appointed for the meeting, the Members present constitute a quorum.
- 13.5 The chairperson may, with the consent of the Members present at any meeting at which a quorum is present, adjourn the meeting but no business can be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 13.6 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting but it is not otherwise necessary to give notice of an adjournment or the business to be transacted at an adjourned meeting.
- 13.7 At any general meeting of Members a resolution put to the vote of the meeting is decided on a show of hands unless a poll is demanded:
- (a) by the chairperson; or
 - (b) by at least 5% of the votes that may be cast on the resolution.
- 13.8 The demand for a poll may be withdrawn.
- 13.9 Before a vote is taken, the chairperson must inform the meeting whether any proxy votes have been received and how the proxy votes are cast.

- 13.10 Unless a poll is demanded, a declaration by the chairperson is conclusive evidence of the result, provided the declaration reflects a show of hands and the proxies received. Neither the chairperson nor the minutes need to state the number or proportion of votes recorded in favour or against.
- 13.11 If a poll is demanded the chairperson will determine how the poll will be taken, and the result of the poll is the resolution of the meeting at which the poll was demanded.
- 13.12 If a poll is demanded on the election of a chairperson or on a question of adjournment, it must be taken immediately.
- 13.13 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson is entitled to a second or casting vote.
- 13.14 A Member may vote in person or by proxy, attorney or representative and every Member present in person or by proxy, attorney or representative has one vote.
- 13.15 A Member who is of unsound mind or whose person or estate is liable to be dealt with in any way under any legislation relating to mental health may vote, by the Member's committee or trustee or by such other person who has the management of their estate, and the committee, trustee or other person may vote by proxy or attorney.
- 13.16 A Member may only appoint one proxy for a particular meeting.
- 13.17 A document appointing a proxy:
- (a) must be in writing and:
 - (i) signed by the appointor or their attorney; or
 - (ii) if the appointer is a corporation, either under seal or signed by an officer, attorney or the Corporate Representative; and
 - (b) contain:
 - (i) the Member's name;
 - (ii) the proxy's name or the name of the office held by the proxy; and
 - (iii) the meetings at which the proxy may be used;
 - (c) may direct the manner in which the proxy is to vote in respect of a particular resolution in which case the proxy must vote accordance with that direction;
 - (d) is taken to confer authority to demand or join in demanding a poll; and
 - (e) must be in the following form or in a form that is as similar to the following form as the circumstances allow:

Commonkind Limited

I/we, _____, of _____,
 being a member/members of the Company, appoint
 of _____ or, in their absence,
 _____ of _____
 as my/our proxy to vote for me/us on my/our behalf at the *annual general meeting/*general
 meeting of the Company to be held on the _____ day of _____ 20__ and at
 any adjournment of that meeting.

+This form to be used *in favour of/*against the resolution.

Signed this day of 20__.

*Strike out whichever is not desired

+To be inserted if desired.

- 13.18 An instrument appointing a proxy is not valid unless the instrument, and the original or certified copy of the power of attorney or other authority under which the instrument is signed, is deposited, not less than 48 hours before the relevant meeting, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll.
- 13.19 The power of attorney or copies must be deposited at the registered office of the Company or any other place specified for that purpose in the notice convening the meeting.
- 13.20 A notice of appointment of proxy may be given by any means permitted in clause 24.
- 13.21 A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid despite:
- (a) the previous death or unsoundness of mind of the principal;
 - (b) the revocation of the instrument (or of the authority under which the instrument was signed) or of the power; or
 - (c) the transfer of the share in respect of which the instrument or power is given,
- if no intimation in writing of any of those events has been received by the Company before the meeting at which the instrument is used or the power is exercised.
- 13.22 If the Directors have elected one of their number as chairperson of their meetings, that person will preside as chairperson at every general meeting.
- 13.23 Where a general meeting is held and:
- (a) a chairperson has not been elected; or
 - (b) the chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act,
- an appropriate delegate, as approved by the Board, may chair the meeting if present at the meeting. If a general meeting is held and a chairperson is not present, the meeting is dissolved.

14 Directors

- 14.1 The Board will consist of a minimum of three Directors and a maximum of nine Directors, including the chairperson.
- 14.2 The first Directors will be:
- (a) Carolina Mercedes Puleston;
 - (b) Ester Mary Hazel Willims; and
 - (c) Danielle Amanda Townsend.

- 14.3 Subject to clause 14.2 and 14.5, all of the Directors must be elected by the Members of the Company entitled to vote.
- 14.4 The appointment of a Director will be effective from the conclusion of the Annual General Meeting at which the election is announced.
- 14.5 The Board may appoint any person to fill a casual vacancy in the Directors or in addition to their number, but the total number of office bearers and Directors must not exceed the number fixed in accordance with this constitution.

Any Director appointed pursuant to this clause holds office until the conclusion of the next Annual General Meeting.

- 14.6 The office of a Director becomes vacant if the Director:
- (a) becomes bankrupt or makes any arrangement or composition with their creditors generally;
 - (b) is prohibited from being a director of a company by reason of any order made under the Applicable Laws;
 - (c) ceases to be a Director by operation of any provision of the Applicable Laws;
 - (d) becomes disqualified from being a Director by the ACNC Commissioner;
 - (e) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way laws relating to mental health;
 - (f) dies;
 - (g) no longer holds a Blue Card (or equivalent from their state/territory of residence);
 - (h) resigns as a Director by notice in writing to the Company;
 - (i) is absent from three consecutive meetings of the Board without having previously obtained leave of the Board; or
 - (j) is removed by an ordinary resolution of Members.
- 14.7 The Directors are not entitled to be remunerated for their services as Directors.
- 14.8 The Company will pay Directors all reasonable travelling and other expenses properly incurred in consequence of their attendance at Directors meetings and otherwise in the execution of their duties as Directors, at the discretion of the Board.
- 14.9 A Director may simultaneously hold any other office or position in the Company on terms determined by the Board.

15 Rotation and election of Directors

Rotation of Directors

- 15.1 The retirement requirements in clause 15.2 do not apply to the Founding Member if the Founding Member is a Director..
- 15.2 At every Annual General Meeting, one third of the Directors, or if the number of Directors is not a multiple of three, then the whole number nearest to three, must retire from office.

- 15.3 Unless otherwise agreed, the Directors that must retire in accordance with clause 15.1 will be determined by the length each Director has held office since they were last elected, so that those who have the longest record must retire first.
- 15.4 If two or more Directors have been in office an equal length of time, the Directors who must retire will be determined by lot.
- 15.5 A Director who retires under this clause will be eligible for re-election.
- 15.6 The retirement of a Director who retires under this clause will be effective from the close of the relevant Annual General Meeting.
- 15.7 If a Director is required to retire at or before an Annual General Meeting, or if there are otherwise any vacancies on the Board at the time that notice of the Annual General Meeting is provided, the Board must give a notice to Members calling for nominations for the vacant position.

Election of Directors

- 15.8 A Member may nominate a person for election to the Board and the nomination must be seconded by a minimum of 50% of the Board. If there is only one Member, the sole Member will appoint the Board, subject to the requirements of this clause.
- 15.9 Nominations must be received at the Company's registered office by the date specified in the notice given to Members.
- 15.10 If the number of candidates for election is equal to or less than the number of vacancies, the chairperson may declare those candidates to be duly elected.
- 15.11 If the number of candidates exceeds the number of vacancies, a ballot must be held to elect the replacement Directors.
- 15.12 If an election is necessary, the Board may determine that the replacement Director may be elected by a postal ballot in which case the following provisions apply:
 - (a) when the Company sends a notice to the Members of the Annual General Meeting, it must also send to each Member:
 - (i) a notice advising the Board positions that have to be filled and particulars of the nominations received for the vacancies; and
 - (ii) a ballot paper;
 - (b) completed ballot papers must be received at the Company's registered office at least two days before the Annual General Meeting. Ballot papers received after this time will not be counted.
 - (c) the postal ballot will be deemed to be a poll of Members and all provisions in this constitution relating to the taking of a poll will apply to the ballot.
- 15.13 All other issues in relation to the election of Directors and the conduct of a ballot will be determined by the chairperson whose decision will be final and binding.

16 Powers and duties of the Directors

- 16.1 The management of the Company is the responsibility of the Board and the Board may exercise all powers of the Company as are not, by the Applicable Laws or by this constitution, required to be exercised by the Company in general meeting.
- 16.2 The Directors of the Company must comply with the duties of directors prescribed by any Applicable Laws.
- 16.3 The Board must decide on the responsible financial management of the Company including:
- (a) any suitable written delegations of power to a committee, a director, an employee of the Company or any other person as may be appropriate; and
 - (b) how money will otherwise be managed such as:
 - (i) appropriate financial controls;
 - (ii) record keeping;
 - (iii) how funds can be raised; and
 - (iv) keeping finances secure.
- 16.4 The Board may make By-Laws that are not inconsistent with the constitution and the Applicable Laws for the general management and running of the Company.

17 Delegation of Directors' Power

- 17.1 The Board may delegate any of its powers to:
- (a) a committee of Directors;
 - (b) a Director;
 - (c) an employee or adviser of the Company; or
 - (d) an attorney.
- 17.2 A delegation of powers under clause 17.1 may be made:
- (a) for a specified period or without specifying a period; and
 - (b) on the terms (including the power to delegate further) and subject to any restrictions that the Board determines.
- 17.3 A document of delegation may contain provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.
- 17.4 A delegate must exercise its powers subject to any direction from the Board.
- 17.5 The Board may revoke a delegation of its powers at any time.
- 17.6 The Board may establish one or more advisory boards comprising such persons as the Board thinks fit. A member of an advisory board may, but need not be, a Director or Member.

- 17.7 An advisory board will act in an advisory capacity only and in the exercise of the powers delegated, conform to any direction from the Board.
- 17.8 Subject to the terms on which power is delegated to a committee or advisory board and any directions from the Board:
- (a) a committee or advisory board is free to determine the rules that regulate its meetings and proceedings; and
 - (b) in the absence of such a determination, the rules will be the same as those that govern Board meetings in this constitution, so far as they are applicable,
- and the Board may change any of the powers, duties and functions of a committee or advisory committee, may remove any member of a committee or advisory board or dissolve a committee or advisory board at any time. No decision of a subcommittee is binding on the Company unless it is ratified by the Board.

18 Proceedings of the Board and appointment of chairman

- 18.1 The Board may meet as it thinks fit. A Director may at any time, and the Secretary must, on the requisition of a Director, summon a meeting of the Board.
- 18.2 The Board must appoint one of its members to chair its meetings and may determine the period for which they will hold office - a minimum of three years with the option to extend for a further two years.
- 18.3 Where a meeting of Directors is held and:
- (a) a chairperson has not been elected; or
 - (b) the chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act,
- the Directors present must elect an alternative chairperson of the meeting.
- 18.4 Subject to this constitution, questions arising at any meeting of the Board will be decided by a majority of votes.
- 18.5 In the case of an equality of votes, the chairperson is entitled to a second or casting vote.
- 18.6 The quorum necessary for the transaction of the business of the Board is more than 50% of the then current number of Directors.
- 18.7 The continuing members of the Board may act notwithstanding any vacancy in the Board, but if their number is reduced below the number fixed by or pursuant to this constitution as the quorum of the Board, the continuing Directors may only act for the purpose of filling a casual vacancy or calling a general meeting.
- 18.8 A resolution in writing signed by all Directors in Australia for the time being is as valid as if it had been passed at a meeting of the Board. The resolution may consist of several documents in like form, each signed by one or more Directors.
- 18.9 If it is discovered after the event that there was some defect in the appointment of any Director or subcommittee member, or that they were disqualified, anything done by the Board or of the subcommittee or the person acting as a Director or subcommittee member is as valid as if every such person had been duly appointed and was qualified to be a Director or member of the subcommittee.

19 Meetings using technology

- 19.1 A board meeting may be called or held using any technology allowed under the Corporations Act and consented to by all the Directors.
- 19.2 The consent referred to in clause 19.1 may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting.

20 Alternate Directors

- 20.1 Each Director may nominate any person to be an alternate director in their place with the approval of the Board during any temporary period for which they are unable to act or attend as a Director, and may remove that alternate director at any time.
- 20.2 The alternate director is subject to the conditions existing with reference to other Directors and must discharge all the duties and may exercise all the authorities, and powers of the Director he or she represents. An instrument appointing an alternate director must be delivered to the Company. If the Director making the appointment ceases to be a Director, the alternate ceases to be an alternate director.

21 Directors contracting with the Company and material interests

- 21.1 A Director is not disqualified by reason only of being a Director from:
- (a) holding any office, place of profit or position of employment with the Company;
 - (b) acting in a professional capacity for the Company;
 - (c) being a member or creditor of any corporation (including the Company) or partnership;
or
 - (d) entering into any agreement of arrangement with the Company.
- 21.2 No contract or arrangement entered into by the Company in which any Director is in any way interested can be avoided because the person has the interest.
- 21.3 A Director who has an interest in any contractual arrangements with the Company is not liable to account to the Company for any profit realised in relation to the contract or arrangement provided the Director has disclosed the nature of their interest at a meeting of the Board.
- 21.4 The disclosure must be made at a meeting of the Directors at which the contract or arrangement is determined if the Director's interest then exists, or in any other case at the first meeting of the Directors after the acquisition of the Director's interest.
- 21.5 A general notice that a Director is a member of a specified company or firm and is to be regarded as interested in any subsequent transaction with the company or firm is sufficient disclosure if:
- (a) the notice states the nature and extent of the interest of the Director in the company or firm; and
 - (b) there has been no material change in the Director's interest in the company or firm when a later transaction is considered by the Board.

- 21.6 A Director who has a material interest in a matter that is being considered at a Directors meeting must not:
- (a) be present at the meeting while the matter is being considered; and
 - (b) must not vote on the matter,
- unless the preceding provisions of this clause 21 have been complied with and the other Directors have passed a resolution in accordance with section 195 of the Corporations Act.
- 21.7 The giving of a general notice under clause 21.3 does not entitle a Director to be present or to vote at a meeting in relation to a particular contract unless a resolution of the Board under clause 21.6 has first been passed.
- 21.8 Notwithstanding any other provision of this clause 21, section 191 of the Corporations Act governs a Directors duty to disclose a material personal interest.
- 21.9 A Director who has an interest in a matter may give the other Directors standing notice of the nature and extent of the interest in the matter. The notice may be given at any time and whether or not the matter relates to the affairs of the Company at the time the notice is given.
- 21.10 A notice under clause 21.9 may be given:
- (a) at a Directors' meeting (either orally or in writing); or
 - (b) to the other Directors individually in writing.
- 21.11 If the standing notice is given to the other Directors individually in writing:
- (a) the notice is effective when it has been given to every Director; and
 - (b) the notice must be tabled at the next Directors' meeting after it is given.
- 21.12 The Director must ensure that the nature and extent of the interest is recorded in the minutes of the meeting at which the standing notice is given or tabled.
- 21.13 Subject to a Director having complied with the relevant provisions of this clause 21, the Director may sign or countersign any contract in which they are interested.

22 Company Secretary

- 22.1 The Secretary of the Company holds office on the terms decided by the Directors and in accordance with Part 2D.4 of the Corporations Act.
- 22.2 Nothing in this constitution prevents the Board from appointing a Member of the Company as Secretary.
- 22.3 The Secretary must cause minutes to be made and entered of:
- (a) the names of Directors and other persons present at all meetings of the Company and of the Board;
 - (b) the proceedings and resolutions of meetings of Members, Directors and committees of Directors;
 - (c) any resolutions passed by Members or Directors without a meeting;
 - (d) any disclosures or notices of Directors' interests; and
 - (e) any other matters for which the Corporations Act requires minutes to be kept.

- 22.4 The minutes must be signed by the chairperson of the meeting at which the proceedings were held or by the chairperson of the next succeeding meeting.
- 22.5 A minute recorded and signed in accordance with the Corporations Act is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proven.
- 22.6 The Company must ensure that the minute books for meetings of Members and for resolutions passed by Members without meetings are open for inspection by Members free of charge.

23 Accounts

- 23.1 The auditor of the Company is appointed by the Company in general meeting and holds office in accordance with the Applicable Laws.
- 23.2 The Board must cause:
- (a) proper accounting and other records to be kept;
 - (b) copies of yearly financial statements (including every document required by law to be attached to them) accompanied by a copy of any auditor's report to be distributed to Members as required by the Applicable Laws; and
 - (c) a statement of financial position, a statement of financial performance and a statement of cash flow for the preceding Financial Year of the Company to be prepared to a date not more than twelve months before the date of the meeting and sent to every Member with the notice for each Annual General Meeting.

24 Notices

- 24.1 A Company may give notice (including notice of a meeting) to a Member either by:
- (a) serving it on the Member personally; or
 - (b) by sending it by post to the Member at the address shown in the Register of Members or the address supplied by the Member for the giving of notices; or
 - (c) forwarding it by electronic mail to the electronic mail address shown in the Register of Members (if any) or the electronic mail address supplied by the Members for the giving of notices; or
 - (d) in any other way allows by the Corporations Act.
- 24.2 A notice sent by post will be deemed:
- (a) given on the day it is posted; and
 - (b) received six days after posting.
- 24.3 A notice sent by email will be deemed received at the time and on the date that it is sent, unless the sender receives notification that the delivery of the email was unsuccessful, in which case the email will not be deemed to have been received.
- 24.4 For the purposes of clause 24.3, 'delivery' of an email means the time that an email reaches the recipient's server.
- 24.5 Notice of every general meeting must be given in any manner authorised by this constitution to:

- (a) every Member except those Members who have not supplied to the Company an address for the giving of notices to them; and
- (b) the auditor or auditors for the time being of the Company.

24.6 No other person is entitled to receive notices of general meetings.

25 Winding up

- 25.1 If the Company is dissolved, any property that remains after such dissolution and the satisfaction of all its liabilities must:
- (a) not be paid to or distributed among the Members; but
 - (b) be given or transferred to other institutions with similar objects to the Company that are Default Funds that are charitable at law and which have rules prohibiting the distribution of assets and income to their members.
- 25.2 The Default Fund will be determined:
- (a) by the Members at or before the time of dissolution; but
 - (b) if no determination is made by the Members, the Default Fund will be determined by a Judge of the Supreme Court of the state in which the registered office of the Company is located.
- 25.3 Every Member undertakes to contribute to the assets of the Company to a maximum of \$10 if the Company is wound up while they are a Member or within one year after they cease to be a Member, for payment of the liabilities of the Company contracted before they cease to be a Member.

26 Revocation of Deductible Gift Recipient status

Without limiting clause 25, if the Company is wound up or its endorsement as a Deductible Gift Recipient is revoked and any property (including the following property) remains after satisfaction of all its liabilities, that property must be given or transferred to other institutions having similar objects to the Company that are Default Funds, which are charitable at law:

- (a) gifts of money or property for the principal purpose of the Company;
- (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the Company; and
- (c) money received by the Company because of such gifts and contributions.

27 Indemnity

- 27.1 Every Director, Secretary and other officer of the Company is indemnified out of the assets of the Company against any liability incurred by the person as officer except where the Company is prohibited from indemnifying the person under the provisions of the Corporations Act.
- 27.2 The indemnity may extend to a liability for costs and expenses incurred by a person in defending proceedings, whether civil or criminal, irrespective of their outcome.

- 27.3 The indemnity in clause 27.1 will continue notwithstanding that an officer ceases to be an officer of the Company.
- 27.4 The Company may pay premiums in respect of contracts insuring current and past officers of the Company against liabilities incurred by them as officers and liability for costs and expenses incurred in defending proceedings whatever their outcome except in circumstances where the Company is prohibited from doing so under the Corporations Act.
- 27.5 A Director, manager, Secretary or other officer of the Company is not liable for:
- (a) the act, neglect or default of any other Director or officer;
 - (b) any loss or expenses incurred by the Company through the insufficiency or deficiency of title to any property acquired by order of the Directors for or on behalf of the Company;
 - (c) the insufficiency or deficiency of any security in or upon which any money of the Company is invested;
 - (d) any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any money, securities or effects are deposited or left; or
 - (e) for any other loss or damage that happens in the execution of the duties of his office,
- unless the same happens through their own negligence, wilful default, breach of duty or breach of trust.

28 Insurance

To the extent permitted by law (including the Applicable Laws), and if the Directors consider it appropriate, the Company may pay or agree to pay a premium for a contract insuring a person who is or has been a Director or Secretary of the Company against any liability incurred by the person as a Director or Secretary of the Company except a liability (other than one for legal costs) arising out of wilful breach of duty in relation to the Company.

29 Registration as an ACNC Entity

If the Company is an ACNC Entity and a provision in this constitution is inconsistent with a law applicable to the Company due to its registration as an ACNC Entity, the relevant law overrides the provision of this constitution to the extent of any inconsistency.

30 Dispute resolution

- 30.1 This provision applies to any dispute arising in connection with this constitution between a Member or a Director (each a **disputing party**) and:
- (a) one or more Members;
 - (b) one or more Directors; or
 - (c) the Company.
- 30.2 Unless a disputing party has complied with this clause 30 that party may not commence any court proceedings or arbitration relating to the dispute (except where that party seeks urgent interlocutory relief).

- 30.3 Where a disputing party fails to comply with this clause 30, any other party need not comply with the clause before referring the dispute to arbitration or commencing court proceedings in relation to that dispute.
- 30.4 Any disputing party claiming a dispute has arisen in connection with this constitution must give written notice to the other parties specifying the issues in dispute and nominating that party's representative (if any) with authority to settle the dispute.
- 30.5 The party receiving the notice must promptly give notice in writing to the notifying party designating their representative (if any) with similar authority to settle the dispute.
- 30.6 The parties (and their representatives) involved any dispute must attempt in good faith to resolve the dispute within 21 days of the giving of the notice referred to in clause 30.5.
- 30.7 If the dispute is not resolved within 21 days of the giving of the notice referred to in clause 30.5 (or a further agreed period) the parties must within a further 21 days (or other agreed period):
- (a) notify the Board of the dispute;
 - (b) agree on the appointment of a mediator to assist to resolve the dispute.
- 30.8 If the relevant parties cannot agree on the appointment of a particular mediator within the required time frame determined in accordance with clause 30.7:
- (a) in respect of a dispute between Members, the Board may determine which mediator should be appointed; and
 - (b) in respect of other disputes, any party can give notice in writing (**Request Notice**) to the President of the Queensland Law Society (**President**) requesting that they nominate an appropriate mediator to facilitate mediation of the dispute.
- 30.9 The party who gives the Request Notice must serve a copy of it on all other parties to the dispute at the same time the notice is given to the President.
- 30.10 The party who gives the Request Notice may nominate a mediator they would like to be appointed and the other parties may also nominate one mediator who they want to be appointed, provided that:
- (a) if the other parties wish to nominate a preferred mediator they must do so within 14 days of the date the Request Notice is given; and
 - (b) when nominating a preferred mediator, each party must provide details of the proposed terms of engagement of the nominee.
- 30.11 The President will have complete discretion as to the mediator they appoint and is not required to appoint a mediator nominated by any party.
- 30.12 If the President indicates they will only make the appointment subject to certain conditions, the parties will be deemed to have agreed to those conditions.
- 30.13 If the President nominates more than one person who could be appointed as the mediator, the first person named will be deemed to be the nominee.
- 30.14 The parties will:
- (a) be deemed to have consented to the appointment of the mediator nominated by the President and to their terms of engagement; and

- (b) have no claim of any nature against the President or the Queensland Law Society in respect of the appointment.
- 30.15 During the course of the mediation, the mediator must:
- (a) allow all parties involved a reasonable chance to be heard;
 - (b) allow all parties involved a reasonable chance to review any written statements;
 - (c) ensure that all parties involved are given natural justice; and
 - (d) not make a decision on the dispute.
- 30.16 The purpose of any exchange of information or documents (materials) or the making of any offer of settlement pursuant to this clause is to attempt to settle the dispute and no party may use any materials obtained through the dispute resolution process established by this clause for any purpose other than an attempt to settle the dispute between the parties.
- 30.17 In particular, the materials may not be used in any court proceedings or arbitration without the consent in writing of the party who supplied the materials except where the materials could have been discovered or obtained by the other party and used in Court proceedings if the procedures under this clause 30 had not been implemented.
- 30.18 At the end of the second period specified in or agreed under clause 30.7, any party to the dispute who has complied with the provisions of clause 30 may terminate the dispute resolution process by notice in writing to the other parties and then may take action to enforce its rights under this agreement or in relation to the Company.

31 Replaceable Rules and ACNC Entity provisions

- 31.1 The provisions of the Corporations Act that apply to certain companies as Replaceable Rules are displaced by this constitution in their entirety and do not apply to the Company.
- 31.2 If the provisions of the Applicable Laws conflict with the terms of this constitution on the same matter, the provisions of the relevant Applicable Laws prevail to the extent of the conflict.
- 31.3 If the Company is an ACNC Entity and the Corporations Act operates such that a provision of the Corporations Act specifically included or referred to in this constitution does not apply to the Company because the Company is an ACNC Entity:
- (a) a provision in the same terms as the Excluded Provision (together with relevant definitions in the Corporations Act) is deemed to be included in this constitution; and
 - (b) the Excluded Provision (together with relevant definitions in the Corporations Act) will apply to the Company to the extent that the Excluded Provision would apply to the Company if it was not an ACNC Entity.

32 Construction

In this constitution:

- (a) an expression that is given a special meaning for the purposes of any part of the Applicable Laws has that same meaning when used in this constitution;
- (b) words in the singular include the plural and vice versa;
- (c) words indicating any gender indicate the appropriate gender;

- (d) headings are included for convenience only and do not affect interpretation of this constitution; and
- (e) a reference to a statute includes a reference to all enactments amending or consolidating the statute and to an enactment substituted for the statute and any subordinate legislation, including regulations.

33 Definitions

The meanings of the terms used in this constitution are set out below.

<i>Term</i>	<i>Meaning</i>
ACNC Act	<i>Australian Charities and Not-for-profits Commission Act 2012 (Cth)</i>
ACNC Commissioner	the Commissioner of the Australian Charities and Not-for-profits Commission, which is established under the ACNC Act
ACNC Entity	means a body corporate registered under the ACNC Act
Annual General Meeting	the general meeting held each year as required by the Applicable Laws and this constitution
Applicable Laws	means the laws relevant to the governance of the Company as the context requires, including the Corporations Act and the ACNC Act
By-Laws	any by-laws of the Company for the time being in force
Commissioner	the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of the Income Tax Assessment Act
Commissioner of State Revenue	the Commissioner of State Revenue for the purposes of the Tax Administration Act
Company	Commonkind Limited ACN 676 508 188
Corporate Representative	a person appointed pursuant to clause 3.2
Corporations Act	<i>Corporations Act 2001 (Cth)</i>
Deductible Gift Recipient	the same meaning as in the Income Tax Assessment Act
Default Fund	a Deductible Gift Recipient that is or has any of the following: (a) an institution that may be registered under section 149C of the <i>Tax Administration Act</i> (b) an institution that the Commissioner of State Revenue is satisfied has a principal object or pursuit mentioned in section 149C(3)(a) of the <i>Tax Administration Act</i> (c) has a purpose the Commissioner of State Revenue is satisfied is charitable or for the promotion of the public good

<i>Term</i>	<i>Meaning</i>
Directors or Board of Directors or the Board	the directors of the Company
Excluded Provision	has the meaning determined in accordance with clause 31.3
Financial Year	the period from the date of establishment of the Company to the following 30 June, and after that, the period 1 July in a year through to 30 June in the next year or any other period of 12 consecutive months determined by the Board
Founding Member	Carolina Mercedes Puleston
Income Tax Assessment Act	<i>Income Tax Assessment Act 1997 (Cth)</i>
Member	a member of the Company or, where the context requires, the Corporate Representative of a corporate Member
Objects	the objects of the Company set out in clause 2.1
Register of Members	has the meaning determined in accordance with clause 10
Replaceable Rules	has the same meaning as in Part 2B.4 of the Corporations Act
Request Notice	has the meaning determined in accordance with clause 30.8(b)
Secretary	the secretary of the Company
Tax Administration Act	<i>Taxation Administration Act 2001 (Qld)</i>