Occupational Therapy Australia

Constitution

Occupational Therapy Australia Limited
ACN 127 396 945
November 2024

Endorsed at Occupational Therapy Australia Annual General Meeting on **19 November 2024**



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OCCUPATIONAL THERAPY AUSTRALIA LIMITED CONSTITUTION

PART A — GENERAL

1. Name of the Company

1.1. The name of the Company is Occupational Therapy Australia Limited.

2. Type of Company

2.1. The Company is a public company limited by guarantee incorporated under the Corporations Act 2001 (Cth).

2.2. The Company:

a) is a charity as defined in the Charities Act 2013 (Cth), and

b) is registered as a charity with the ACNC.

2.3. The assets and income of the Company must be applied solely in furtherance of the Purpose and no portion of the income or assets of the Company may be paid or transferred, directly or indirectly, to any Member.

2.4. Clause 2.3 does not prevent the Company from doing the following things, provided they are done in good faith:

a) paying a Member for goods or services they have provided to the Company at fair and reasonable rates or rates more favourable to the Company,

b) reimbursing a Member for reasonable expenses they have properly incurred on behalf of the Company,

c) making a payment to a Member in carrying out the Purposes, or

d) making a payment for any other bona fide reason related to the attainment of the Purposes.

2.5. This Constitution comprises a contract between:

a) the Company and each Member,

b) the Company and each Director,

c) the Company and the Secretary or Secretaries, and

d) a Member and each other Member.

2.6. The replaceable rules set out in the Corporations Act do not apply to the Company.

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2.7. Each Member must guarantee to pay an amount not more than $20.00 to the Company if the Company is wound up while the Member is a Member, or within 12 months after they cease being a Member, and this guarantee is required to pay for the:

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

3. Purpose

3.1. The Purpose of the Company is to advance education in the field of occupational therapy by promoting its development, use, practice, and sustainability in Australia of the profession and its on-going relevance and contribution to consumers and society.

3.2. The Company pursues the Purpose through a range of activities and services that may include:

a) developing, implementing and maintaining a code of ethics for occupational therapists in Australia;
b) educating and informing the general public as to the aims and objectives of the profession of occupational therapy and to advocate for the interests of the profession, and the practice of occupational therapy in Australia;
c) conducting seminars, workshops, conferences or any other activities which promote the level of expertise within the profession of occupational therapy;
d) conducting educational (including post-graduate) courses and pathways and granting fellowships, endorsements, certificates and other formal recognition of professional knowledge and skills training;
e) developing, contributing to and publishing research information of interest to persons practising occupational therapy;
f) obtaining and assisting in obtaining minimum standards of education and practice in occupational therapy in Australia;
g) doing all such other lawful things as may appear to be incidental or conducive to the attainment of the Purpose.

4. Powers of the Company

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

a) all the powers of a company limited by guarantee under the Corporations Act, and
b) the power to do all things necessary or convenient to be done for, or in connection with, the attainment of its Purpose.

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5. Definitions

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

a) **ACNC** means the Australian Charities and Not-for-profits Commission,
b) **ACNC Act** means the Australian Charities and Not-for-profits Commission Act 2012 (Cth),
c) **Board** means some or all the Directors acting as the Board of Directors,
d) **By-laws** means the rules and regulations made by the Board in accordance with clause 36,
e) **Corporations Act** means the Corporations Act 2001 (Cth),
f) **Constitution** means this constitution as amended from time to time,
g) **Director** means an individual elected or appointed as a Director of the Board,
h) **General Meeting** means a formal meeting of the Members and includes an Annual General Meeting,
i) **Honorary Life Member** means an individual who has been conferred Honorary Life Membership by the Board,
j) **Member** means a person whose name is entered in the register of Members as a Member of the Company,
k) **Non-Voting Member** means a Member without voting rights as defined in clause 7.3,
l) **Office Bearer** means a Director appointed to the position of President, Vice President or Vice President – Finance by the Board in accordance with clause 34,
m) **Registration Board** means the Occupational Therapy Board of Australia, the body responsible for registering Australia's occupational therapy health practitioners,
n) **Secretary** means an individual or individuals appointed to undertake the role of Secretary pursuant to clause 44,
o) **Special Resolution** means a resolution at a General Meeting that is passed by at least 75% of the votes cast by Members entitled to vote on the resolution being in favour of the resolution.
p) **Voting Member** means a Member with voting rights as defined in clause 7.2,
q) **World Federation of Occupational Therapists** means that body or body or organisation existing in substitution therefore by whatever name.

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6. Interpretation

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

6.2. The following rules of interpretation apply unless any contrary intention appears in this Constitution or the context requires otherwise:

a) reference to an act includes every amendment, re-enactment, or replacement of that act and any subordinate legislation made under that act such as regulations,

b) a reference to a clause or sub-clause is to a clause or sub-clause of this Constitution,

c) where a word or phrase is defined, its other grammatical forms or parts of speech have corresponding meaning,

d) reference to a person is a reference to an individual, company, any other body corporate, partnership, joint venture, association, or other body whether or not incorporated,

e) the words 'writing' and 'written' include any mode of representing or reproducing, including electronically, words, figures, drawings, or symbols in a visible or communicable form,

f) the words 'including', 'for example', or similar expressions do not limit the inclusions or examples,

g) a gender includes all genders,

h) singular includes plural and vice versa.

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PART B — MEMBERSHIP

7. Classes of Membership

7.1. There are two classes of membership:
   a) Voting Members, and
   b) Non-Voting Members.

7.2. Voting Members are individuals who:
   a) are:
      i. graduates of an occupational therapy education program recognised by the Registration Board or the World Federation of Occupational Therapists, and are registered as an occupational therapist in Australia,
      or
      ii. Honorary Life Members as conferred by the Board,
   b) satisfy any additional requirements for Voting Membership as prescribed by the Board and set out in the By-laws, and
   c) have been admitted as Voting Members in accordance with this Constitution.

7.3. Non-Voting Members are individuals and organisations interested in the Purpose but who:
   a) are not eligible to be Voting Members,
   b) satisfy any additional requirements for being Non-Voting Members as prescribed by the Board and set out in the By-laws, and
   c) have been admitted as Non-Voting Members in accordance with this Constitution.

7.4. The Board may provide for categories of Members within each class on such terms and conditions as the Board determines.

7.5. The Board may determine additional requirements for admission as a Member or as a Member in a particular class or category of membership.

8. Rights and Obligations of Members

8.1. A Voting Member has the right to:
   a) receive notices of and to attend General Meetings,
   b) vote at General Meetings on resolutions put to the Members,
   c) if eligible, to nominate for election as an Elected Director, and
   d) vote in the election for Elected Directors.

8.2. A Non-Voting Member is entitled to receive notices of and to attend General Meetings, but
   a) does not have voting rights,
   b) is not entitled to nominate or elect Directors, and
   c) is not entitled to stand for election as a Director.

8.3. The Board may extend benefits and services to Members that may differ between classes and categories of membership and within classes and categories of membership.

8.4. A Member who has not paid any fees payable by the due date
   a) is not entitled to exercise their rights, and
   b) is not entitled to access any benefits or services under clause 8.3,
   while the fee remains unpaid.

8.5. A Member is entitled to exercise their rights if their membership rights are not suspended for any other reason.

8.6. Members must comply with:
   a) this Constitution,
   b) any By-laws,
   c) any code of conduct, and
   d) any code of ethics.

8.7. To maintain membership, Members are required to comply with any continuing membership obligations or conditions as determined by the Board and specified in the By-Laws.

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

8.9. A right, privilege or obligation held by reason of being a Member:
   a) is not capable of being transferred or transmitted to another person, and
   b) terminates upon cessation of the Member's membership.

8.10. The rights of Members are not to be taken as being varied by the admission of more Members or the addition or deletion of classes or categories of membership.

8.11. The rights of Members in any class may be varied or cancelled by the Voting Members approving amendments to the Constitution by Special Resolution. For clarity, this shall be taken to be the procedure for varying or cancelling rights of Members in any class.

9. Application for Membership

9.1. An application for membership must be in a form prescribed by the Board.

9.2. The Board may approve or reject an application for membership.

9.3. The Board may refuse any application for membership without being compelled to give the reasons for such refusal.

9.4. The Board may delegate the consideration and determination of any membership application.

9.5. Once the outcome of a membership application is determined, written notice of the decision of the Board or their delegate is to be sent to the applicant within a reasonable time.

9.6. The acceptance of an applicant as a Member is subject to the payment of any fees and if such payment is not made, the Board may cancel its acceptance of the applicant for membership of the Company.

9.7. An applicant who is admitted to membership becomes a Member and is entitled to exercise the rights and privileges of that membership when their name is entered in the register of Members.

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10. Membership Fees

10.1. The Board may set any joining fees and/or membership fees and may determine different fees:

a) for different classes or categories of membership,
b) within classes or categories of membership, or
c) for different Members.

10.2. The Board may in its discretion waive or vary the amount of any fee set.

10.3. Any fee charged to Members is payable in such manner and at such times as are determined by the Board.

10.4. A Member who fails to pay any membership fee(s) by the due date may have their membership terminated if the fee(s) remains unpaid for a period prescribed by the Board. The Board may determine the specific period and the Member will be notified of the impending termination if payment is not received within this timeframe.

10.5. Membership that has been terminated under this Constitution may be reinstated at the discretion of the Board upon payment of the outstanding fee.

11. Register of Members

11.1. The Secretary or another person delegated by the Board must establish and maintain a register of Members, which may be in electronic form, containing:

a) the name of each Member and the date on which they became a Member,
b) the Member's address, which may be an email address, to which notices from the Company may be sent,
c) the name of each person who has ceased to be a Member and the date on which the person ceased to be a Member, and
d) any other information as determined by the Board or required by the Corporations Act.

12. Ceasing to be a Member

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

a) resign in writing,
b) for an individual, die,
c) if not an individual, are wound up or are dissolved,
d) have their membership terminated or are expelled under this Constitution,
e) no longer satisfy the criteria for their respective class of membership (unless transferred to another class of membership by the Board),
f) are convicted of an indictable offence,
g) fail to provide any information required by the Board as part of the renewal process, unless the Board resolves otherwise,
h) engage in any conduct which is determined by the Registration Board or other commission, tribunal or court of competent jurisdiction to be professional misconduct,

i) have their registration cancelled or suspended by the Registration Board due to professional misconduct or unsatisfactory professional conduct, or
j) fail to satisfy any undertaking given by the Member upon them being admitted as a Member or in any other circumstances prescribed in the terms of membership that are applicable to the Member, unless the Board resolves otherwise.

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

12.3. Upon ceasing to be a Member, the date on which the Member ceased to be a Member will be recorded in the register of Members.

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

13.Suspending or Expelling a Member

13.1. Subject to this clause 13, the Board may suspend or expel a Member from the Company if the Board considers that the Member:
a) has failed to comply with this Constitution or any By-laws,
b) has failed to comply with any code of ethics or code of conduct,
c) refuses to support the Purpose,
d) at the time of application to the Company for membership, provided false or misleading information,
e) brought the Company, its Members or the occupational therapy profession into disrepute,
f) acts in a manner prejudicial to the interests of the Company, or
g) acts in a manner that the Board considers it as undesirable for the Member to continue to be a Member.

13.2. The Board must give the relevant Member a notice at least 28 days prior to the Board meeting to consider the resolution which states the:
a) grounds on which the Board is considering invoking clause 13.1;
b) nature of the resolution which the Board proposes to consider; and
c) date, time, place and/or the technology to be used, if any, for the Board meeting, at which the Board proposes to consider passing a resolution under clause 13.1 (which must not be less than 28 days after the notice is given).

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13.3. At the Board meeting at which the proposed suspension or expulsion resolution is to be considered, the Board must:
   a) give the Member an opportunity to make oral representations, and
   b) give due consideration to any oral representations and to any written representations submitted to the Board by the Member at or prior to the Board Meeting.

13.4. After considering any explanation provided by the Member, the Board may decide to:
   a) take no further action,
   b) warn the Member,
   c) suspend the Member's rights as a Member for a period of not more than 12 months,
   d) refer the matter to mediation, or
   e) expel the Member.

13.5. The Board must give the Member written notice of the Board's decision, and the reasons for the decision, within 14 days after the Board meeting at which the decision is made.

13.6. There will be no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under this clause 13.

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PART C — GENERAL MEETINGS

14. Calling a General Meeting

14.1. The Board may call a General Meeting.

14.2. The date, time, place of, and the virtual meeting technology to be used, if any, at, the General Meeting is to be determined by the Board.

14.3. An Annual General Meeting will be held at least once in every calendar year.

14.4. A General Meeting may be held at one or more venues, or wholly or partly online or virtually, using any virtual meeting technology that provides the Members as a whole with a reasonable opportunity to participate, including the ability to hear and be heard.

14.5. A Member who participates in a General Meeting using the virtual meeting technology prescribed by the Board is taken to be present at the General Meeting and, if the Member votes at the meeting using the virtual meeting technology prescribed, is taken to have voted in person.

14.6. A virtual General Meeting and a General Meeting that is partly held using technology, and partly held at a physical venue or venues, is deemed to have been held at the main physical venue of the meeting as set out in the notice of the meeting.

14.7. If a General Meeting is held:

a) at only one physical venue (whether or not it is also held using virtual meeting technology), it must be reasonable to hold the meeting at that physical venue,

b) at more than one physical venue (whether or not it is also held using virtual meeting technology), it must be reasonable to hold the meeting at its main physical venue as set out in the notice of the meeting,

c) using virtual meeting technology, the technology used to hold the meeting at more than one physical venue must be reasonable, and

d) using virtual meeting technology in holding the General Meeting, it must be held in such a way as to give the persons entitled to attend the General Meeting, as a whole, a reasonable opportunity to participate in the meeting without being physically present in the same place.

14.8. A General Meeting must be held at a reasonable time. A General Meeting is taken to be held at a reasonable time if any of the following applies:

a) if there is only one venue at which the Members entitled to physically attend the General Meeting may do so, the meeting is held at a time that is reasonable at the venue,

b) if there are two or more venues at which the Members who are entitled to physically attend the General Meeting may do so, the meeting is held at a time that is reasonable at the main venue for the General Meeting as set out in the notice of the meeting,

c) if the General Meeting is held using virtual meeting technology, the General Meeting is held at a time that is reasonable in the timezone of the Company's registered office.

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14.9. A General Meeting must also be convened by the Board upon the requisition of not less than 5% of Voting Members.

14.10. A requisition for a General Meeting called by Members:

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

14.11. A requisition for a General Meeting called by Members:

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

14.12. For the purposes of clause 14.9, the percentage of votes held by Members requesting the General Meeting is calculated as at midnight immediately prior to the request being made of the Company.

14.13. If the Board fails to give notice of a General Meeting called by Members within 21 days after the date on which the request for the General Meeting is lodged, 50% or more of the Members making the request may convene a General Meeting which must be held not later than three months after that date.

14.14. To call and hold a General Meeting under clause 14.13, the Members must:

a) as far as possible, follow the procedures for General Meetings set out in this Constitution;
a) call the General Meeting using the list of Members on the register of Members, which the Company must provide to the Members making the request at no cost; and
a) hold the General Meeting within 3 months after the request was given to the Company.

14.15. The Company must pay the Members who request the general meeting any reasonable expenses they incur because the Board did not call and hold the meeting.

15. Notice of a General Meeting

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

a) each Member,
b) each Director, and
c) the auditor, if any.

15.2. Notice of a General Meeting must include:

a) the time, date, place of, and, if any, the virtual meeting technology to be used to facilitate the General Meeting,
b) if virtual meeting technology is to be used to hold the General Meeting, sufficient information to allow the Members to participate in the General Meeting by means of the virtual meeting technology,
c) the general nature of the meeting's business,
d) a statement that Members may appoint a proxy,

e) if applicable, that a Special Resolution is to be proposed at the General Meeting and the words of the proposed Special Resolution.

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

15.4. Notice of a General Meeting may be given less than 21 days before the meeting if:

a) for an Annual General Meeting, all the Members entitled to attend and vote at the Annual General Meeting agree beforehand, or

b) for any other General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.

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

a) remove a Director or appoint a Director to replace a Director who has been removed; or

b) remove an auditor.

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

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

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

16. Business at a General Meeting

16.1. Subject to clause 16.2, no business other than that specified in the notice convening a General Meeting is to be transacted at the General Meeting.

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

a) the consideration of the annual financial report, the Board report and the auditor's report, if any,

b) the announcement of Directors, and

c) the appointment of the auditor, if any.

17. Proxies at a General Meeting

17.1. A Member is entitled to appoint a proxy by notice given to the Company at the address stated in the notice of General Meeting (which may be an electronic address) at least 48 hours before the time of the General Meeting in respect of which the proxy is appointed.

17.2. A proxy must be a Member.

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17.3. The Board may prescribe a form of proxy however a proxy will be valid provided the instrument purporting to appoint a proxy:
   a) is in writing,
   b) contains the Member's name and address, the Company's name and the proxy holder's name or the office held by the proxy holder,
   c) contains the details of the meeting(s) at which the appointment may be used, and
   d) contains the details as to how the proxy holder is to vote on the matters before the General Meeting.

17.4. A proxy appointment may be a standing one.

17.5. In the event of a Member not nominating a particular person as proxy holder on the proxy form, the proxy is to be exercised by the chairperson of the General Meeting.

17.6. Except for the chairperson of the General Meeting, no individual may hold more than five (5) proxies.

17.7. Unless the Company receives written notice before the start or resumption of a General Meeting at which a proxy holder votes, a vote cast by the proxy holder is valid even if, before the proxy holder votes, the appointing Member:
   a) revokes the proxy holder's appointment, or
   b) revokes the authority of a representative or agent who appointed the proxy holder.

17.8. A proxy holder does not have the authority to speak and vote for a Member at a General Meeting while the Member is at the General Meeting.

18. Quorum at a General Meeting

18.1. A quorum for a General Meeting is twenty-five (25) Voting Members present and entitled to vote in person or by proxy.

18.2. No business may be conducted at a General Meeting if a quorum is not present.

18.3. If a quorum is not present within 30 minutes after the time appointed for a General Meeting:
   a) if convened by or on the requisition of Members, the General Meeting is dissolved, and
   b) in any other case, the General Meeting stands adjourned to such other day, time and place as the Board appoints by notice to the Members and others entitled to notice of the General Meeting.

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

19. Chairperson of a General Meeting

19.1. The President will preside as chairperson of each General Meeting.

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19.2. If there is no President, or the President is not present within 15 minutes after the time appointed for the commencement of the General Meeting, or the President is unable or unwilling to act as chairperson of the General Meeting or of part of the General Meeting, then the following persons will preside as chairperson of the General Meeting in the order of precedence:
   a) the Vice President,
   b) any other Director present who has been appointed as chairperson by the other Directors present, or
   c) a Voting Member present chosen by a majority of the Voting Members present.

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

19.4. The chairperson of a General Meeting may at any time they consider it necessary or desirable for the proper and orderly conduct of the General Meeting:
   a) impose a limit on the time that a person may speak on a motion or other item of business, question, motion, or resolution being considered by the General Meeting,
   b) terminate debate or discussion at the General Meeting, and
   c) adopt any procedures for casting or recording votes at the General Meeting whether on a show of hands or a poll.

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

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

19.7. The chairperson of an Annual General Meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Company.

20. Methods of Voting at a General Meeting

20.1. A Member is not entitled to vote at a General Meeting unless all fees due and payable under clause 10 by the Member to the Company have been paid.

20.2. Non-Voting Members are not entitled to vote at a General Meeting.

20.3. Upon any motion arising at a General Meeting, a Member entitled to vote has one vote.

20.4. Votes must be given in person or by proxy or when applicable by direct vote.

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

20.6. A Member entitled to vote at a General Meeting may vote by direct vote where such an option is offered by the Board. A direct vote includes a vote delivered to the Company by any means approved by the Board, which may include postal or electronic means.

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20.7. The Board may prescribe By-laws in relation to direct voting, including specifying the form, method, and timing of giving a direct vote at a General Meeting in order for the vote to be valid.

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

a) must be raised before or at the General Meeting at which the vote objected to is given or tendered, and

b) must be referred to the chairperson of the General Meeting whose decision on the qualification to vote is final.

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

a) given to the persons entitled to attend the General Meeting, whether physically or by using virtual meeting technology, before the General Meeting, or

b) made accessible to the persons attending the General Meeting, whether physically or by using virtual meeting technology, during the General Meeting.

21.Decisions at a General Meeting

21.1. Motions arising at a General Meeting are to be decided by ordinary resolution unless otherwise required by this Constitution or the Act.

21.2. An ordinary resolution is a resolution passed by a simple majority of the votes cast.

21.3. In the case of an equality of votes upon any proposed resolution, the chairperson of the General Meeting, in addition to any deliberative vote, does not have a casting vote and the proposed resolution is not passed.

21.4. A resolution put to the vote of a General Meeting must be decided on a show of hands unless a poll is demanded in accordance with this Constitution. On a show of hands, the declaration by the chairperson of the General Meeting is conclusive evidence of the result.

21.5. A poll may be demanded before the vote is taken or before or immediately after the declaration of the result of the show of hands by:

a) the chairperson of the General Meeting, or

b) any three (3) or more natural persons present each of whom is or validly represents, under this Constitution, a different Voting Member.

21.6. A proxy may demand or join in to demand a poll under clause 21.5.

21.7. Neither the chairperson of the General Meeting nor the minutes of the General Meeting need to state the number or proportion of the votes recorded in favour or against.

21.8. The demand for a poll at a General Meeting may be withdrawn.

21.9. A demand for a poll at a General Meeting does not prevent the continuation of a General Meeting for the transaction of any business other than the question on which the poll has been demanded.

21.10. A poll demanded at a General Meeting must be taken when and in the manner the chairperson of the General Meeting directs including in relation to how votes of Members attending by technology are to be collected.

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21.11. A poll on the election of a chairperson of a General Meeting or on the question of an adjournment of a General Meeting must be taken immediately.

22. Cancellation or Postponement of a General Meeting

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

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

23. Members Resolutions

23.1. Members with at least 5% of the votes that may be cast on a resolution or at least 100 Members entitled to vote at a General Meeting may give:

a) written notice to the Company of a resolution, to be called a Members Resolution, which they propose to move at a General Meeting, such resolution being one that may be properly considered at a General Meeting, and/or

b) a written request to the Company that the Company give all Members a statement, to be called a Members Statement, about a proposed resolution or any other matter that may properly be considered at a General Meeting.

23.2. A notice of a Members Resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.

23.3. A request to distribute a Members Statement must set out the statement to be distributed and be signed by the Members making the request.

23.4. Separate copies of a document setting out the notice or request may be signed by Members if the wording is identical in each copy.

23.5. The percentage of votes of Members is to be calculated as at midnight before the request or notice is given to the Company.

23.6. If the Company has been given notice of a Members Resolution, the resolution must be considered at the next General Meeting that occurs more than two months after the notice is given.

23.7. The Company must give Members notice of the Members Resolution or a copy of the Members Statement at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a General Meeting.

23.8. The Company is responsible for the cost of giving Members notice of the Members Resolution or a copy of the Members Statement if the Company receives the notice in time to send it out to Members with a notice of General Meeting.

23.9. The Members proposing the Members Resolution are jointly and individually liable for the expenses reasonably incurred by the Company in giving Members notice of the Members Resolution or a copy of the Members Statement if the Company does not receive the Members' notice in time to send it out with a notice of General Meeting. At a General Meeting, the Company may resolve to meet the expenses itself.

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23.10. The Company does not need to send the notice of proposed Members Resolution or a copy of the Members Statement to Members if:

a) it is more than 1,000 words long,
b) the Board considers it may be defamatory,
c) clause 23.9 applies and the Members who proposed the resolution or made the request have not paid the Company enough money to cover the cost of sending the notice of the proposed Members Resolution or a copy of the Members Statement to Members, or
d) in the case of a proposed Members Resolution, the resolution does not relate to a matter that may be properly considered at a General Meeting or is otherwise not a valid resolution able to be put to the Members.

23.11. The matters upon which Members can vote and properly consider at a General Meeting are limited to those matters expressly provided for in the Corporations Act, this Constitution and the general law which are usually matters outside the scope of the management and daily operations of the Company. Members may vote on certain decisions relating to the governance and Constitution of the Company, including:

a) amendments to the Constitution;
b) changes to the name and type of the Company;
c) the removal of Directors pursuant to the Corporations Act;
d) the appointment and removal of the Company's auditors;
e) approval of Directors' remuneration; and
f) the voluntary winding up or deregistration of the Company.

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PART D — BOARD OF DIRECTORS

24. Board Composition

24.1. The Board will comprise not less than six (6) and not more than ten (10) Directors consisting of:

a) five (5) Elected Directors elected by the Voting Members,

b) Up to four (4) Appointed Directors appointed by the Board, and

c) Subject to the Company being a member of the World Federation of Occupational Therapists - one (1) Director being the World Federation of Occupational Therapists delegate elected in accordance with the by-laws.

24.2. Where the office of a Director becomes vacant, the continuing Directors may continue to act except where the number of Directors is reduced to fewer than six (6) Directors, in which case the continuing Directors may act only:

a) to appoint Directors for the purpose of increasing the number of Directors to six or higher,

b) to convene a General Meeting, or

c) in an emergency.

25. Terms of Office for Directors

25.1. A term of an Elected Director is approximately three (3) years from the close of the Annual General Meeting at which their election is declared or announced until the end of the third following Annual General Meeting. If eligible, an Elected Director may be nominated to stand for re-election, subject to clause 26.

25.2. If a casual vacancy in the position of an Elected Director occurs, the Board may appoint an eligible individual to fill the vacancy until the expiration of the remainder of the predecessor's term.

25.3. An Appointed Director is to serve a term of up to three years as determined by the Board and may, if eligible, be reappointed as Appointed Director at the discretion of the Board.

25.4. If a casual vacancy in the position of an Appointed Director occurs, the Board may appoint a new Appointed Director for a term of up to three years as determined by the Board.

25.5. The term of the Director who is the World Federation of Occupational Therapists delegate is four (4) years from the close of the Annual General Meeting at which their election is declared or announced until the end of the fourth following Annual General Meeting.

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26. Term Limits of Directors

26.1. The maximum continuous period that a Director may serve as a Director (Maximum Continuous Period) is as follows:

a) an Elected Director may serve up to three (3) consecutive terms, and

b) no Director may serve more than nine (9) consecutive years, except that a Director who serves as the World Federation of Occupational Therapists delegate may serve as a Director for up to four (4) consecutive years.

26.2. A person who has held office as a Director for the Maximum Continuous Period is eligible for re-election or reappointment after a period of thirty (30) months from the date that the person last held office as a Director.

26.3. The Maximum Continuous Period does not include any period of a Director's appointment to fill a casual vacancy of an Elected Director under clause 25.2.

27. Eligibility of Directors

27.1. A person is eligible for election or appointment as a Director if they:

a) are over the age of 18 years,

b) provide their signed consent to act as a Director,

c) are not ineligible to be a Director under law, including under the Corporations Act and the ACNC Act,

d) have a Director Identification Number, and

e) are not an employee of the Company.

27.2. An Elected Director must be a Voting Member.

28. Appointment of Appointed Directors

28.1. The Board may appoint up to four (4) Appointed Directors.

28.2. An Appointed Director may be but does not need to be a Member.

29. Nominations Committee

29.1. The Board will establish a committee of the Board to be called the Nominations Committee.

29.2. The Nominations Committee will:

a) identify, consider, and recommend candidates for appointment as Appointed Directors, and

b) perform any other functions and responsibilities as prescribed in this constitution or as determined by the Board from time to time and set out in the terms of reference.

30. Election of Elected Directors

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

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30.2. Prior to an Annual General Meeting, the Board or delegated person will:
   a) give notice to the eligible Voting Members of the number of vacancies that may be filled, and
   b) invite nomination of candidates for election as Elected Directors from the eligible Voting Members.

30.3. When nominations for election as Elected Directors are called, details of the desired capabilities and perspectives of Elected Directors and an indication of the roles of positions may be provided by the Board to the Members as a guide to Members.

30.4. Nominations must be:
   a) in writing on the form prescribed by the Board,
   b) signed by the candidate expressing their consent to serve as an Elected Director, and
   c) lodged with the Secretary by the prescribed time.

30.5. Only those candidates who satisfy the requirements in clauses 27 and 30.4 are eligible to stand for election as an Elected Director.

30.6. If the number of valid nominations of eligible candidates for election as Elected Directors exceeds the number of vacancies to be filled, a ballot will be held prior to the Annual General Meeting, which may be an electronic ballot as determined by the Board.

30.7. Each Voting Member that is entitled to vote may vote in the ballot.

30.8. Results of an election of Elected Directors are to be announced at the Annual General Meeting.

30.9. If the number of valid nominations of eligible candidates received for election as Elected Directors is equal to or less than the number of vacant Elected Director positions to be filled, then the candidates nominated are to be declared elected at the Annual General Meeting following the close of nominations without the need for a ballot.

30.10. Any unfilled positions for election as Elected Directors because of insufficient nominations are to be deemed as casual vacancies.

31.Ceasing to be a Director

31.1. In addition to any other way a Director vacates office under the Corporations Act or this Constitution, a Director ceases to be a Director if they:
   a) resign by written notice to the President or the Secretary,
   b) are subject to any of the circumstances prescribed by the Corporations Act resulting in the ending or vacating of the position of Director,
   c) are an Elected Director and cease to be a Voting Member, unless the Board resolves otherwise,
   d) are a Member and they are expelled or have their membership suspended pursuant to clause 13,
   e) become a person whose estate or person is liable to be dealt with under the law relating to mental health,
   f) die,

g) become bankrupt or make any arrangement or composition with their creditors generally, unless, subject to the Corporations Act, the Board resolves otherwise,
h) are convicted on indictment of an offence and the Board does not at the next meeting of the Board after that conviction resolve to confirm the Director's appointment to the position of Director,
i) are absent from three consecutive Board meetings without leave of absence approved by the Board,
j) fail to disclose a material personal interest in breach of the law unless at its next meeting the Board resolves otherwise,
k) are removed from the position of Director under clause 32,
l) become a paid employee of the Company,
m) are found guilty by a tribunal, industrial commission, court of competent jurisdiction or other similar authority of engaging in discriminatory conduct or harassment towards employees of the Company or other Members,
n) are prohibited from being a director under the Corporations Act or the ACNC Act, or
o) are the World Federation of Occupational Therapists delegate and the Company ceases to be a member of the World Federation of Occupational Therapists.

32. Removing a Director

32.1. The Voting Members may by ordinary resolution at a General Meeting remove a Director from their position as Director before the expiration of the Director's term of office.

33. No Alternate Directors

33.1. Directors are not entitled to appoint alternate directors.

34. Office Bearers

34.1. The Board will appoint from amongst the Directors the following Office Bearers:
a) a President,
b) a Vice President, and
c) a Vice President - Finance.

34.2. The President and Vice President must each be a Voting Member.

34.3. The Board will appoint the Office Bearers from amongst the Directors at the first Board meeting after each Annual General Meeting or at any time after a vacancy in the position of an Office Bearer arises.

34.4. The maximum continuous period that a Director may serve as an Office Bearer is six (6) consecutive years.

34.5. The Office Bearers have such powers and duties as specified in this Constitution, as required by law, and as determined by the Board.

34.6. The Officer Bearers are not to hold office beyond their retirement or removal from the Board as a Director.

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35. Powers of the Board

35.1. The powers of the Board are, subject to the Corporations Act and this Constitution, to:

a) control and manage the affairs of the Company,

b) exercise all the functions as may be exercised by the Company other than those functions that are required by this Constitution or the Corporations Act to be exercised by a General Meeting, and

c) perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Company.

35.2. The Board may delegate any of its powers to:

a) a committee,

b) a Director,

c) an employee of the Company, or

d) any other person,

and may revoke that delegation.

35.3. The delegate must exercise the powers delegated in accordance with any directions, terms, and conditions as set by the Board.

36. By-Laws

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

36.2. Any By-laws:

a) must be consistent with the provisions in this Constitution, and

b) when in force, are binding on all Members.

37. Duties of Directors

37.1. The Directors must comply with their duties as Directors under legislation and common law which includes the duty:

a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Company,

b) to act in good faith in the best interests of the Company and to further the Purpose of the Company,

c) not to misuse their position as a Director,

d) not to misuse information they gain in their role as a Director,

e) to maintain the confidentiality of information received in their role as a Director,

f) to act in the best interests of the Company,

g) to disclose any material personal interest in a matter that relates to the affairs of the Company,

h) to disclose any conflict of interest which may prevent them from properly fulfilling their duties as a Director,

i) to ensure that the financial affairs of the Company are managed responsibly, and
j) not to allow the Company to operate while it is insolvent.

37.2. The Board may make By-laws or adopt a policy consistent with the Corporations Act and the ACNC Act dealing with the disclosure and management of Directors' conflicts of interest.

38. Directors' Remuneration

38.1. The Board may resolve to pay remuneration to any Director for ordinary services as a Director including services performed by a Director in their position as President. However, the maximum total amount paid in any year to all Directors must be approved by the Voting Members at a General Meeting.

38.2. With the approval of the Board, Directors are also entitled to receive payments for:
a) reasonable expenses (including travelling and accommodation) incurred in carrying out their duties as a Director; or
b) reasonable remuneration for goods or services supplied by the Directors to the Company in the ordinary course of business; and
c) any such payment under this clause 38.2 is in addition to the maximum amount fixed by the Voting Members at a General Meeting.

39. Board Meetings

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

39.2. The President alone, or any two Directors, may convene a Board meeting.

39.3. At a Board meeting:
a) the President or, in the President's absence, the Vice President is to preside as chairperson, or
b) if the President and the Vice President are absent or unwilling to act, one of the remaining Directors may be chosen by the Directors present at the Board meeting to preside as chairperson.

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

39.5. Directors are to have one vote on any question at a Board meeting.

39.6. Directors may not assign proxies at a Board meeting.

39.7. In the event of an equality of votes on any question at a Board meeting, the chairperson of the Board meeting does not have a casting vote and the motion is not passed.

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

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

39.10. The Board may invite third parties to attend a Board meeting as observers.

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40. Notice of a Board Meeting

40.1. Subject to clause 40.3, notice of a Board meeting must be given to each Director at least five business days or such other period as may be unanimously agreed upon by the Directors before the time appointed for the holding of the Board meeting.

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

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

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

41. Quorum at a Board Meeting

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

41.2. The quorum for a Board meeting is a majority of the Directors currently in office.

42. Decisions of the Board without a Board Meeting

42.1. The Board may pass a Board resolution without a Board meeting being held. The passing of such resolutions:

a) requires a majority of Directors assenting to the resolution within the time specified;
b) may be through the use of technology; and
c) must comply with any policies and procedures regarding the passing of Board resolutions as determined by the Board.

43. Validity of Acts of Directors

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

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PART E — ADMINISTRATIVE MATTERS

44. Secretary

44.1. The Board must appoint at least one Secretary.

44.2. The Secretary must provide written consent to act as the Secretary prior to appointment.

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

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

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

45. Minutes

45.1. The Company must keep minutes of:

a) proceedings and resolutions of General Meetings,

b) proceedings and resolutions of Board meetings,

c) proceedings of committee meetings, and

d) resolutions passed by the Board without a meeting.

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

45.3. Members are entitled to request a copy of the minutes of a General Meeting or to inspect the minute books for General Meetings and the Board must ensure that the minutes for General Meetings are sent to a Member requesting a copy or made available for inspection by Members in accordance with the Corporations Act.

46. Service of Notices to Members

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

a) serving it on the Member personally,

b) sending it by post to the Member's address as shown in the register of Members,

c) sending it to an electronic contact address such as an e-mail address, that the Member has supplied to the Company or to an address which the Member has contacted the Company in the past, or

d) making a copy of it accessible electronically and advising the Member of its availability via the electronic contact address.

46.2. A notice sent by post (including notice of a General Meeting of the Company) may be included:

a) separately with; or

b) as part of the text of any magazine, newsletter or other publication sent by the Company to Members.

46.3. Where a notice is delivered personally, notice is taken to be effected when the person actually receives the notice.

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

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

47. Accounts and Audit

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

a) correctly record and explain its transactions and financial position and performance, and

b) enable true and fair financial statements to be prepared and to be audited if required.

48. Inspection of Records

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

49. Indemnity of Directors

49.1. The Company indemnifies each officer of the Company out of the assets of the Company, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Company.

49.2. In this clause 49, 'officer' means a Director or Secretary and includes a Director or Secretary after they have ceased to hold that office.

49.3. In this clause 49, 'to the relevant extent' means:

a) to the extent that the Company is not precluded by law including the Corporations Act from doing so,

b) to the extent that the conduct of the officer did not constitute serious and wilful misconduct, and

c) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person including an insurer under an insurance policy.

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

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

a) purchase and maintain insurance, and

b) pay or agree to pay a premium for an insurance,

against any liability incurred by the officer as an officer including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal.

50. Changes to the Constitution

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

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51. Winding Up the Company

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

51.2. If the Company is wound up, any surplus assets must not be distributed to a Member or a former Member of the Company, unless that Member or former Member is a charity described in clause 51.3.

51.3. Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets that remain after the company is wound up must be distributed to one or more charities:

a) with charitable purpose(s) similar to, or inclusive of, the Purpose in clause 3, and
b) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the Company.

51.4. The decision as to the charity or charities to be given the surplus assets must be made by a Special Resolution of Voting Members at or before the time of winding up. If the Voting Members do not make this decision, the Company may apply to the Supreme Court to make this decision.

52. Transitional Arrangements

52.1. Transition – Membership

a) Any Member in the following categories listed on the register of Members at the time of adoption of this Constitution with voting rights will be classified as a Voting Member:
   i. Fellow Members,
   ii. General Members (including Full Members working full time or part-time),
   iii. Honorary Life Members,
   iv. Full Members, and
   v. New Graduate Members.
b) Any Member in the following categories listed on the register of Members at the time of adoption of this Constitution without voting rights will be classified as a Non-Voting Member:
   i. Student Members,
   ii. Associate Members, and
   iii. Affiliate Members.

52.2. Transition - Board of Directors

a) Upon adoption of this Constitution:
   i. the Directors in office who were elected by the Members will be designated as Elected Directors and may serve out the remainder of their terms pursuant to the constitution that this Constitution replaces, and if eligible may be nominated to stand for re-election;

ii. despite clause 26, the Elected Directors referred to in clause 52.2a)i) may serve up to five consecutive terms including any term(s) served prior to this Constitution being adopted.

b) Elected Directors who are declared or announced elected at the 2025 and subsequent Annual General Meetings will serve three (3) year terms in accordance with clause 25.1.

c) Upon adoption of this Constitution:

iii. The Directors appointed by the Board will be designated as Appointed Directors and may serve out the remainder of their terms pursuant to the constitution that this Constitution replaces, and if eligible may be re-appointed as Appointed Directors at the discretion of the Board.

iv. Any time served by the Appointed Directors referred to in clause 52.2c)i) prior to the adoption of this Constitution will count in determining the Maximum Continuous Period of nine (9) consecutive years in clause 26.

52.3. Transition - Committees of the Board and Divisions

a) Any committee or Division established under the constitution that this Constitution replaces will continue until otherwise dissolved or ceased by the Board.

52.4. Transition – Office Bearers

a) Upon adoption of this Constitution, the Directors holding the positions of President, Vice President and Vice President – Finance will continue in these respective roles until they are otherwise replaced or vacate office in accordance with this Constitution.

52.5. Any question, issue or dispute relating to or arising in consequence of the adoption of this Constitution and the transitional rules shall be determined by resolution of the Board whose decision shall be final.

END OF CONSTITUTION

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