

CONSTITUTION

OF

PROBUS SOUTH PACIFIC LIMITED

19 August 2021

Corporations Act 2001

Company Limited by Guarantee

CONSTITUTION

OF

PROBUS SOUTH PACIFIC LIMITED

NAME

1. The name of the Company is Probus South Pacific Limited.

OBJECTS

2. The primary object of the Company is to act as a service and support centre for Probus and Probus Clubs in the South Pacific. In furtherance of this object the Company shall:
 - a. promote the advancement of intellectual, social and cultural interests among persons who are retired or semi-retired in the community;
 - b. foster and facilitate friendship, fellowship and fun among Probians;
 - c. form, or promote the formation of, Probus Clubs either alone or in conjunction with Rotary Clubs (as sponsors) as a community service;
 - d. encourage Probus Clubs in the advancement of their objectives;
 - e. manage the affairs of Probus in the South Pacific; and
 - f. be responsible for determining policy matters relating to Probus within the South Pacific in accordance with this Constitution.

LIABILITY OF MEMBERS

3. The liability of the Members is limited. Every Member of the Company undertakes to contribute such amount as may be required not exceeding \$10.00 to the assets of the Company if the Company is wound up during the time he, she or it is a Member or within one year afterwards for:
 - a. payment of the debts and liabilities of the Company contracted before the time he, she or it ceased to be a Member;
 - b. the costs, charges and expenses of winding up the Company; and
 - c. the adjustment of the rights of the Members among themselves.

INCOME AND PROPERTY

4. The Company's income and property is to be applied solely towards the promotion of the Company's objects as set out in this Constitution. No part of the Company's income and property may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the Members of the Company. However, this clause does not prevent:
- a. the payment in good faith of remuneration to any employee of the Company or to any Member or other person in return for any services actually rendered to the Company;
 - b. the reimbursement of a Director for any expense incurred in accordance with Clause 44; and
 - c. the payment to a member of the Board for any service rendered to the Company in a professional or technical capacity where:
 - i. the provision of that service has the prior written approval of the Board; and
 - ii. the amount payable is approved by a resolution of the Board and is on reasonable commercial terms.

WINDING UP

5. a. If, on the Company's winding up or dissolution, there remains after satisfaction of all its liabilities any property, such property must not be distributed among the Members but must be given to an organisation that promotes the advancement of intellectual, social and cultural interests among persons who are retired or semi-retired, provided that such an organisation also satisfies Clauses 5. a. ii. and 5. a. iii. of this Constitution, but if such an organisation does not exist at that time to some other similar institution or institutions, provided such other institution or institutions:
- i. have objects similar to the Company's objects;
 - ii. prohibit the distribution of income and property among its or their members to an extent at least as great as is imposed on the Company under Clause 4; and
 - iii. have been endorsed by the Australian Taxation Office as exempt from income tax.
- b. Such institution or institutions are to be determined by the Members of the Company at or before the time of dissolution and, in default, by the Chief Judge in Equity of the Supreme Court of New South Wales or such other Judge of that Court or any other Court as may have or acquire jurisdiction in the matter.
- c. If effect cannot be given to this provision, then such property must be given to some charitable object which prohibits the payment of any income or

property to its members.

DEFINITIONS

6. In this Constitution, the following words and expressions have the meanings indicated unless the context requires otherwise.

"Auditor" means the Company's auditor.

"Board" means the Company's Board of Directors constituted in accordance with this Constitution.

"Company" means Probus South Pacific Limited.

"Constitution" means the Constitution of the Company as amended from time to time.

"Corporations Act" means the *Corporations Act 2001 (Cwlth)* as modified or amended from time to time.

"Director" means a person who is a member of the Board of the Company and any person appointed as an alternate of any such member.

"Foundation Member" means the natural person Bob Burnett.

"Incorporated Model Constitution" means the common form of constitution adopted by Probus Clubs after formation as a prerequisite to becoming an incorporated body.

"Member" means a Foundation Member, Probus Club or Representative Member recorded in the Register.

"Membership Representatives" means volunteers who support Probus Clubs locally with the assistance of the Company.

"Notice" means all forms of communications to Members whether in writing or otherwise.

"Office" means the Company's registered office.

"Officer" means any Director, Secretary, Chief Executive Officer or senior management member of the Company.

"Official Probus Magazine" means the magazine *Active Retirees* in either Australia or New Zealand.

"Probian" means a paid up member of a Probus Club.

"Probus Association" means an association duly accredited as a Probus Association by the Company.

“Probus Club” means a club duly accredited at any time as a Probus Club by the Company.

"Register" means the Company's register of Members.

"Registered address" means the last known address of a Member as noted in the Register.

“Representative Member” means a person appointed to represent Probus Clubs pursuant to Clause 11.

"Secretary" means any person appointed by the Board to perform the duties of a secretary of the Company and includes an Honorary Secretary.

“South Pacific” means Australia, New Zealand, Papua New Guinea, Cook Islands, New Caledonia, Norfolk Island, Tonga, Western Samoa, Timor Leste, Fiji, Vanuatu, Kiribati, Nauru and the Solomon Islands.

“Standard Constitution” means the common form of constitution prescribed by the Company for adoption by Probus Clubs as a prerequisite to their accreditation by the Company.

INTERPRETATION

7. a. Words importing the singular number include the plural and vice versa.
- b. Words importing persons include corporations, companies, associations and institutions.
- c. Words importing one gender include all other genders.
- d. Unless the context otherwise requires, headings are for ease of reference only and do not affect the construction of this Constitution.

APPLICATION OF *CORPORATIONS ACT*

8. Unless the contrary intention appears in this Constitution:
 - a. an expression in this Constitution has the same meaning as in that part of the *Corporations Act* which deals with the same matter as this Constitution; and
 - b. an expression which is given a general meaning by the *Corporations Act* has the same meaning in this Constitution; and
 - c. the replaceable rules set out in the *Corporations Act* do not apply.

MEMBERSHIP

9. Foundation Members

A Foundation Member of the Company is entitled to vote at general meetings of the Company.

Probus Clubs

Each Probus Club will be invited to become a Member of the Company. Probus Clubs and Probians are represented at general meetings of Members and on the Board by their respective Representative Members. Probus Clubs and Probians are not entitled to vote at general meetings of the Company.

Representative Members

A person nominated for appointment as a Representative Member of the Company pursuant to the procedure set out in Clause 11, must be a member of a Probus Club within one of the following geographic areas, each of which is entitled to be represented by one Representative Member:

New South Wales, ACT and Norfolk Island

New Zealand (including New Caledonia, Vanuatu, Fiji, Tonga, Cook Islands, Western Samoa, Kiribati and French Polynesia)

Queensland, Papua New Guinea, Solomon Islands and

Nauru

South Australia, Northern Territory and Timor Leste

Victoria and Tasmania

Western Australia

Representative Members are entitled to vote at general meetings of the Company.

10. Additional categories of members may be created from time to time by the Board.

PROCEDURE FOR APPOINTING REPRESENTATIVE MEMBERS

11. The procedure for appointing a Representative Member is as follows:

- a. Before 1 February each year, the Secretary must call for nominations:
 - i. in an Official Probus Magazine stating the geographic areas for which a vacancy exists; and
 - ii. from all Probus Clubs in the geographic areas for which a vacancy exists.
- b. The call for nominations must state that nominations must be lodged with the Secretary by 30 April following publication of the call.
- c. Nominations must be proposed and seconded in writing, in a form approved by

the Board, by the President and Secretary of the nominee's Probus Club. If the President or Secretary of the Probus Club is a nominee then another member of the management committee of the Probus Club concerned must act as proposer or seconder. Both the proposer and the seconder must certify in the nomination that they believe that the nominee meets the eligibility criteria set by the Board from time to time. The nominee must sign an appropriate confidentiality agreement to protect information disclosed by the Company in the selection procedure and provide written disclosure of any actual or potential conflicts of interest.

- d. A nominee must be a current member of a Probus Club within the area for which a vacancy exists and have at least 12 months' experience serving on a Probus Club Management Committee.
- e. Any question as to whether or not a nominee satisfies the criteria for being a nominee is to be referred to the Nominating Selection Committee whose decision shall be final.
- f. A nomination of a person who has been a Representative Member for two periods of three years, consecutively or otherwise, must not be accepted.
- g. There is to be constituted for each geographic area for which a vacancy exists a Nominating Selection Committee ("Committee"). The Committee comprises:
 - i. the Chairman and the Vice Chairman of the Company (one of whom shall be the Chairman of the Committee) or, in the event that one of them is unable to act on the Committee, then another Director nominated by that person; and
 - ii. a Director with appropriate skills, nominated by the Chairman; and
 - iii. two members of Probus Clubs in the geographic area for which a vacancy exists provided, however, that such members are not members of the same Probus Club as a nominee.
- h. The process for selecting the Probus Club members to serve on a Committee is that before 1 February each year, the Secretary must call for nominations:
 - i. in an Official Probus Magazine stating the geographic areas in relation to which Probus Club members are required to serve on a Committee; and
 - ii. from all Probus Clubs in the geographic areas for which a vacancy exists.
 - iii. The call for nominations must state that nominations must be lodged with the Secretary by 30 April following publication of the call.
 - iv. Nominations must be proposed and seconded in writing, in a form approved by the Board, by the President and Secretary of the candidate's Probus Club. If the nominee for appointment to the Committee is from the same Probus Club as the candidate for appointment as a Representative Member his or her nomination shall not be accepted. Both the proposer and the seconder must certify in the nomination that the candidate is a financial

member of good standing at their Probus Club and is considered to have the level of knowledge and experience needed in order to properly assess the Representative Member candidates.

- v. If there are more candidates than are required for a Committee, the names of the candidates are to be written on similar slips of paper by the Secretary, the slips are to be folded by the Secretary so as to prevent the names being seen, the slips are to be mixed and two are to be drawn at random by the Secretary and the candidates whose names are on the drawn slips are to be the Probus Club members on that Committee. Each candidate may appoint one person to observe this process.
- i. The Committee must meet (in person or by any telecommunications means by which they are able simultaneously to hear each other and to participate in discussion) to consider the nominees' applications. The Committee must refer to referees, must make appropriate enquiries related to each of the nominees and must interview the nominees.
- j. The Committee may seek additional nominees if it is not satisfied with those who have been nominated. If requested by the Committee, the Chairman of the Board may grant an extension of time to allow the Committee to seek such additional nominees.
- k. Subject to paragraph j. of this clause, by 31 May following publication of the call for nominations, the Committee must appoint (by whatever means the Committee decides) from among all nominees, persons to fill the existing vacancies and must then promptly notify the Secretary in writing.
- l. The total number of Representative Members at any time may not exceed the total permitted by Clause 9 and must at all times reflect the proper representation of the geographic areas set out in that clause.
- m. The Secretary must promptly notify the persons appointed in writing.
- n. Any casual vacancy among the members of a Committee may be filled by the Board. A Committee may continue with its tasks as set out in this clause unless its numbers are fewer than three.
- o. The quorum for a meeting of a Committee is three provided that either the Chairman or Vice Chairman is present.
- p. Questions arising at a Committee meeting are decided by a majority of the votes of the members of the Committee present and voting. In case of an equality of votes, the Chairman of the meeting has a casting vote in addition to a deliberative vote.

ADMISSION TO MEMBERSHIP

12. As soon as practicable, after the Company receives written notification that a Probus Club intends to become a Member or that a Representative Member has been appointed,

the Secretary must enter the name and details of the Club or person (as the case may be) in the Register.

CESSATION OF MEMBERSHIP

13. a. A Probus Club ceases to be a Member of the Company if the Club:
- i. loses its accreditation with the Company;
 - ii. becomes insolvent or commits an act of insolvency;
 - iii. goes into liquidation or receivership; or
 - iv. enters into a voluntary winding up.
- b. A person (including, where applicable, a Probus Club) ceases to be a Member of the Company if the person:
- i. dies;
 - ii. resigns their membership;
 - iii. is expelled from the Company;
 - iv. ceases to be qualified for membership under Clause 9 or Clause 11.
- c. A Probus Club does not lose its accreditation solely as a result of ceasing to be a Member of the Company.
14. Any Member may by notice in writing to the Secretary resign as a Member with immediate effect or with effect from a particular date subsequent to, but not being later than six months from, the date of that notice.
15. The Board may by resolution of at least three-quarters of its members expel a Member of the Company from the Company if the Member:
- a. wilfully refuses or neglects to comply with the provisions of this Constitution; or
 - b. wilfully acts in a manner prejudicial to the interests of the Company, Probus or Rotary; or
 - c. in the Board's opinion ceases:
 - i. to have an active interest in the Company; or
 - ii. to be committed to the Company's objects set out in Clause 2.
16. Before resolving to expel a Member, the Board must give the Member:
- a. at least one month's Notice of the Board meeting at which the resolution for expulsion is to be put and of the intended resolution for expulsion; and

- b. an opportunity of attending the meeting and of giving at it orally or in writing any explanation or defence which the Member may desire to offer.

GENERAL MEETINGS

- 17. a. The Board may, at any time, convene a general meeting.
- b. The Board must convene in every calendar year a general meeting, to be called the annual general meeting, which is to be held within the period of five months after the end of each financial year of the Company.
- c. A Member entitled to vote at a general meeting may requisition, convene, or join in requisitioning or convening such a meeting in accordance with the *Corporations Act*.

NOTICE OF GENERAL MEETINGS

- 18. a. At least 21 days' Notice of all general meetings shall be given to Members. Only Members entitled to vote at such meetings and office bearers of the Company may attend.
- b. A Notice convening a general meeting must:
 - i. set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
 - ii. state the general nature of any special business to be transacted at the meeting; and
 - iii. if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution.
- c. For the purposes of paragraph b. of this clause, special business means any business to be transacted at a meeting other than an annual general meeting and any business to be transacted at an annual general meeting other than the matters listed in paragraphs a. and b. of Clause 19.
- d. The Board may postpone or cancel any general meeting whenever it thinks fit, other than a meeting convened under paragraph c. of Clause 17.
- e. The Board must give Notice of the postponement or cancellation to all Members.
- f. The failure or accidental omission to send a Notice of a general meeting or the adjournment or postponement or cancellation of a general meeting to any Member or the non-receipt of a Notice by any Member does not invalidate the proceedings or any resolution passed at the general meeting.

- g. A Member desiring to bring any business before a general meeting may give notice in writing of that business to the Secretary who shall include that business in the next Notice calling a general meeting given after receipt of the notice from the member.

ANNUAL GENERAL MEETINGS

- 19. The business of an annual general meeting is to:
 - a. receive and consider the accounts and reports of the Board and the Auditor required by the *Corporations Act*;
 - b. when relevant, appoint the Auditor; and
 - c. transact any other business which under this Constitution may be transacted at a general meeting.

QUORUM AT GENERAL MEETINGS

- 20. a. No business may be transacted at a general meeting unless a quorum of Members is present, in person or by proxy or representative, when the meeting proceeds to business.
- b. A quorum of Members for the transaction of business at a general meeting shall be not less than five Members entitled to vote provided that if, at any time, the number of Members in the Company entitled to vote is less than eight, a quorum will be four Members entitled to vote.
- c. If a quorum is not present within 30 minutes after the time appointed for a meeting and the meeting was convened on the requisition of Members, it is automatically dissolved. In any other case:
 - i. it stands adjourned to the same time and place 7 days after the meeting, or to another day, time and place determined by the Board; and
 - ii. if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, a quorum is two Members.

CHAIRMAN OF GENERAL MEETINGS

- 21. The Chairman, or in the Chairman's absence, the Vice Chairman, presides as chairman at every general meeting. If neither of such office bearers is present within 10 minutes after the time appointed for the meeting, the Members present must choose one of their number as chairman of the meeting.

ADJOURNMENT OF GENERAL MEETINGS

- 22. a. The chairman of a meeting at which a quorum is present:

- i. in his or her discretion may adjourn a meeting with the consent of the Members present; and
 - ii. must adjourn a meeting if the meeting directs him or her to do so.
- b. An adjourned meeting may take place at a different venue to the initial meeting.
- c. The only business that can be transacted at an adjourned meeting is the unfinished business of the initial meeting.
- d. A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.
- e. Notice of an adjourned meeting must only be given if a general meeting has been adjourned for one month or more. If notice is required, it must be at least 21 days' notice.
- f. No poll may be demanded on the question of adjournment of a meeting except by the chairman.

RESOLUTIONS AND POLLS AT GENERAL MEETINGS

- 23. a. Subject to the *Corporations Act* in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- b. A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded by:
 - i. the chairman; or
 - ii. a majority of Members (but in any event not more than five Members) who have the right to vote at the meeting and who are present in person or by proxy; or
 - iii. Members with at least 5% of the votes that may be cast on the resolution.
- c. A poll may be demanded:
 - i. before a vote on a show of hands takes place;
 - ii. after a vote on a show of hands takes place but before the declaration of the result of the show of hands; or
 - iii. immediately after the declaration of the result of a show of hands.
- d. Unless a poll is demanded:
 - i. a declaration by the chairman that a resolution has been carried or lost; and

- ii. an entry to that effect in the minutes of the meeting,
are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.
 - e. The demand for a poll may be withdrawn.
 - f. A poll must be taken at the time and in the manner that the chairman directs.
 - g. The result of the poll is the resolution of the meeting at which the poll is demanded.
 - h. A poll demanded on the election of the chairman or the adjournment of a meeting must be taken immediately.
 - i. After a poll has been demanded at a meeting, the meeting may continue for the transaction of business other than the question on which the poll was demanded.
 - j. A resolution of the Company is a special resolution if it is passed by at least 75% of the votes cast by Members entitled to vote on the resolution and Notice as set out in Clause 18 has been given proposing the resolution as a special resolution.
24. a. A decision of a general meeting will not be invalidated on the ground that a person voting at the meeting was not entitled to do so.
- b. A challenge to a right to vote at a general meeting may only be made at the meeting.
- c. The chairman must determine such challenge and such determination, if made in good faith, is final.

CHAIRMAN'S CASTING VOTE AT GENERAL MEETINGS

25. The chairman has a casting vote on a show of hands and on a poll in addition to the chairman's votes as a Member or proxy.

RIGHT TO VOTE AT GENERAL MEETINGS

26. Only Foundation Members and Representative Members are entitled to vote at general meetings of the Company and each such Member has one vote.

PROXY

27. A Member who is entitled to vote may, by notice in writing to the Secretary, appoint a person as his or her proxy to attend and vote at general meetings instead of him or her and any proxy has the same right as the Member to speak at the meeting.
28. The notice must be in a form approved by the Board.

29. The notice must be signed by the appointor or by his or her attorney.
30. The notice may specify the manner in which the proxy is to vote in respect of a particular resolution. Where it does so, the proxy must not vote in any other way. A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.
31.
 - a. The notice and, if the notice is signed by the appointor's attorney, the authority under which the appointment was signed or a certified copy of the authority must be received by the Company at least 48 hours before the meeting.
 - b. If a Company meeting has been adjourned, a notice and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.
32. A proxy instrument received at an electronic address specified in the Notice of meeting for the receipt of proxy instruments will be taken to have been signed if the appointment of the proxy:
 - a. includes or is accompanied by a personal identification code allocated by the Company to the Member making the appointment; or
 - b. has been authorised by the Member in another manner approved by the Board and specified in or with the Notice of meeting.

AMENDING THE CONSTITUTION

33. Subject to consultation with Probus Clubs, this Constitution may be amended by special resolution of the Members of the Company entitled to vote.

MANAGEMENT OF THE COMPANY

34. The Company's business is managed by or under the direction of the Board which may exercise all the Company's powers which are not required by this Constitution or any law to be exercised by the Company in general meeting.
35. Without limiting the generality of Clause 34, the Board may:
 - a. accredit Probus Clubs and Probus Associations and may withdraw such accreditations;
 - b. amend the Standard Constitution of Probus Clubs provided that such amendments shall only be made after a period of 3 months has elapsed since the Clubs were notified of the proposed changes in writing and then only provided no more than 25% of such clubs object to the proposed amendment;
 - c. amend the Incorporated Model Constitution of Probus Clubs;
 - d. amend the Model Constitution of Probus Associations;
 - e. require payment by Probus Clubs and Probus Associations of such fees and

charges as the Board may reasonably determine provided such fees and charges are only payable after three months has elapsed since the Probus Clubs and Probus Associations were notified of the proposed fees and charges in writing and/or publication in Official Probus Magazines;

- f. take steps to ensure that all Probus Clubs and Probus Associations meet the requirements for accreditation required by the Standard Constitution for Probus Clubs, the Incorporated Model Constitution (as the case may be) and the Model Constitution for Probus Associations and meet such requirements for accreditation as may be determined by the Board;
- g. form and promote the formation of Probus Clubs in the South Pacific as a community service;
- h. assist Rotary clubs in the sponsorship of Probus Clubs and provide appropriate guidelines;
- i. train, guide and liaise with Membership Representatives;
- j. assist and advise Probus Clubs and Probus Associations as required;
- k. maintain a register of accredited Probus Clubs and Probus Associations and publish annually a directory of Probus Clubs and Probus Associations;
- l. facilitate regular communication between Probus Club members through an appropriate medium;
- m. do whatever it deems necessary to protect the name, the emblem, the trademarks and other intellectual property, and the integrity of Probus; and
- n. do whatever it deems necessary to strengthen the relationship between Probus and Rotary.

COMPOSITION OF THE BOARD

36. The Board of Directors consists of:

- a. the Representative Members;
- b. a Rotarian appointed by the Board as and when required;
- c. the Immediate Past Chairman by virtue of his or her office; and
- d. not more than three additional persons appointed by the Board provided that whenever there is a choice between equally appropriate candidates, preference will be given to persons who are members of Probus Clubs.

In relation to the composition of the Board, it is the policy of the Company to pursue gender balance whenever it is appropriate to do so.

37. A Representative Member normally takes up his or her position on the Board

immediately following the completion of the annual general meeting of the Company next after being appointed pursuant to the procedure set out in Clause 11 and continues in office until the close of the third annual general meeting after taking up his or her position on the Board.

38. Any Rotarian appointed to the Board pursuant to Clause 36.b. shall take up his or her position on the Board on such date, and for such term, as the Board may determine.

CASUAL VACANCIES ON THE BOARD

39. Any casual vacancy among the Directors who are Representative Members must be filled by the Board appointing a person who is qualified for nomination pursuant to Clause 11, who comes from the same geographic area as the person being replaced, and who is to serve the balance of the term of the person replaced. In each case a replacement with the requisite level of knowledge and experience must be chosen.

40. The Board may continue to act even if there are vacancies on the Board.

41. If at any time the number of Directors in office is fewer than four, the Board may meet and act only:

- a. to appoint a Director; or
- b. to convene a general meeting.

ALTERNATE DIRECTORS

42. Every Director shall have the power from time to time to appoint in writing any other Director to act as an alternate Director where for any reason the Director (“Appointing Director”) is unable to attend to his or her duties as a Director. An alternate Director:

- a. may be removed or suspended from office by written notice sent to the Secretary by the Appointing Director;
- b. shall be entitled to receive Notice of meetings of the Board and to attend and vote there as if the Appointing Director was present;
- c. shall be entitled to exercise all of the powers (except the power to appoint an alternate Director) and to perform all of the duties of a Director;
- d. shall vacate office if the Appointing Director is removed, retires, or otherwise ceases to hold office as a Director for any reason; and
- e. shall have a separate vote as an alternate Director.

DEFECT IN APPOINTMENT

43. If it is discovered that:

- a. there was a defect in the appointment of a person as a Director, alternate Director or member of a Board committee; or

- b. a person appointed to one of those positions was disqualified;

all acts of the Board or the Board committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

REIMBURSEMENT OF DIRECTORS

- 44. The Directors may be reimbursed all reasonable travelling and other expenses properly incurred by them in attending and returning from Directors' meetings or any committee meetings or general meetings or otherwise in connection with the Company's business.

OFFICE BEARERS

- 45. At the first Board meeting after each annual general meeting, the Directors shall elect from among the Directors who are Representative Members a Chairman and a Vice Chairman. The Directors shall also elect a Treasurer who may be any Director on the Board. If the Chairman, Vice Chairman or Treasurer ceases to be a Director, that person must immediately vacate the office of Chairman, Vice Chairman, or Treasurer as the case may be.
- 46. Normally, a Director is expected to hold the office of Chairman for at least two years. However, subject to the time limitation set out in Clause 11f, the Board may further extend the term of the Chairman at its discretion.
- 47. The term of office of the Immediate Past Chairman shall be no more than one year.
- 48. Any casual vacancy occurring in the office of Chairman, Vice Chairman or Treasurer must be filled by the Directors. The newly appointed person shall hold office for the remainder of the term of office of the former Chairman, Vice Chairman or Treasurer but is eligible for re-election.

VACATION OF OFFICE OF DIRECTOR

- 49. The office of a Director is vacated if that Director:
 - a. dies;
 - b. resigns by notice to the Company;
 - c. becomes bankrupt or, as the debtor, becomes a party to a personal insolvency agreement;
 - d. becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - e. is absent from three consecutive meetings of the Board without leave of the Board;
 - f. is found guilty of any offence punishable under the criminal or company law of any country or the law of any country relating to charities or trusts; or

- g. otherwise ceases to be, or becomes prohibited from being, a director by virtue of the *Corporations Act*.

CONFIDENTIALITY

50. Every Director and Officer of the Company must keep confidential all aspects of all transactions of the Company, except:
- a. to the extent necessary to enable the person to perform his or her duties to the Company;
 - b. as required by law;
 - c. when requested by the Auditor to disclose information to the Auditor;
 - d. when requested by the Board to disclose information to a general meeting of the Company; or
 - e. as otherwise permitted by the Board.

PROCEEDINGS OF THE BOARD

51. The Board may meet together for the dispatch of business, adjourn or otherwise regulate its meetings and proceedings as it thinks fit, provided that it must meet at least three times in each period of 12 months.
52. a. A Board meeting may be held by the Directors communicating with each other by any telecommunications means by which they are able simultaneously to hear each other and to participate in discussion.
- b. The Directors need not all be physically present in the same place for a Board meeting to be held.
- c. A Director who participates in a meeting held in accordance with this clause is taken to be present and entitled to vote at the meeting.

BOARD QUORUM

53. The quorum necessary for the transaction of the business of the Board is a majority of members of the Board.

CHAIRMAN OF BOARD MEETINGS

54. The Chairman or, in his or her absence, the Vice Chairman must take the chair at all Board meetings. If at any meeting neither of such office bearers is present within 10 minutes after the time appointed for holding the meeting, the Directors present must choose one of their number to be chairman of the meeting.

VOTING AT BOARD MEETINGS

55. Questions arising at a Board meeting are decided by a majority of the votes of the Directors present and voting. In case of an equality of votes, the Chairman of the meeting has a casting vote in addition to a deliberative vote.

CONVENING OF SPECIAL BOARD MEETINGS

56. Upon the written requisition of any three Directors, the Chairman or Vice Chairman, the Secretary must convene a special meeting of the Board to be held within 14 days after the receipt of the requisition. The requisition must set out the purposes for which the meeting is required.

BOARD RESOLUTIONS WITHOUT A MEETING

57. a. If all of the Directors who are eligible to vote on a resolution have signed a document containing a statement that they are in favour of a resolution in terms set out in the document, then a resolution in those terms is taken to have been passed at a Board meeting held on the day on which the document was last signed by a Director.
- b. For the purposes of paragraph a. of this clause, two or more identical documents, each of which is signed by one or more Directors, together constitute one document signed by those Directors on the days on which they signed the separate documents.
- c. Any document referred to in this clause may be in the form of electronic mail or facsimile transmission.
- d. The minutes of Board meetings must record that a meeting was held in accordance with this clause.
- e. This clause applies to meetings of Board committees as if all members of the committee were Directors.

MATERIAL PERSONAL INTEREST

58. a. Unless permitted by the *Corporations Act*, a Director who has a material personal interest in a matter that is to be considered at a Board meeting:
- i. must not vote on the matter or be present while the matter is being considered at the meeting; and
 - ii. must not be counted in a quorum in relation to that matter.
- b. Paragraph a. of this clause does not apply to an interest that the Director has as a Member in common with the other Members.
- c. The quorum for consideration at a Board meeting of a matter in which one or more Directors have a material personal interest is five Directors who are entitled to vote on any motion that may be moved at the meeting in relation to that matter.
- d. Each Director must disclose to the Company any material contract in which the Director is interested, and must provide the Company with the names of the parties to the contract, particulars of the contract, and the Director's interest in the contract.

- e. A Director's failure to make disclosure under this clause does not render void or voidable a contract in which the Director has an interest.

MINUTES

- 59. a. The Board must cause minutes to be made of:
 - i. the names of the Directors present at all general meetings, Board meetings and meetings of Board committees;
 - ii. all proceedings of general meetings, Board meetings and meetings of Board committees;
 - iii. all appointments of Officers;
 - iv. all orders and resolutions made by the Board and Board committees; and
 - v. all disclosures of interests made pursuant to Clause 58.
- b. Minutes must be signed by the chairman of the meeting or by the chairman of the next meeting of the relevant body and if so signed are conclusive evidence of the matters stated in such minutes.

BOARD COMMITTEES

- 60. The Board may delegate any of its powers to committees consisting of such persons as it thinks fit and may revoke such delegation. Any committee so formed must conform to any rules imposed upon it by the Board. The meetings and proceedings of any such committee consisting of two or more members are governed by the clauses of this Constitution for regulating the meetings and proceedings of Board so far as the same are applicable and are not superseded by any rule made by the Board under this clause.

SECRETARY

- 61. The Board must appoint a Secretary for such term, at such remuneration (if any) and upon such conditions as it thinks fit.
- 62. The Secretary may be removed by the Board.

TREASURER

- 63. The Treasurer is expected to take reasonable steps to ensure that:
 - a. all money due to the Company is collected and received and that all payments authorised by the Company are made; and
 - b. a budget for the coming financial year is submitted to the Board for approval by it prior to setting the annual fees of accredited Probus Clubs and Probus Associations.

- 64. All cheques, drafts, bills of exchange, promissory notes and other negotiable

instruments must be signed by any two members of the Board or any employees of the Company authorised to do so by the Board.

FINANCIAL AND OTHER REPORTING

65. If required by the *Corporations Act*:

- a. the Board shall cause the Company to prepare a financial report of the Company's business in accordance with the *Corporations Act*;
- b. the Board shall cause the financial report to be:
 - i. audited; and
 - ii. laid before the annual general meeting of the Company.

66. A copy of the financial report shall be:

- a. made available electronically to all Members.
- b. sent to all others entitled to it.

67. The financial report when audited or reviewed (and, if required, approved by a general meeting) is conclusive except as regards any material error discovered in the report within 6 months next after its approval. Whenever any material error is discovered within that period, the financial report must immediately be corrected and then it is conclusive.

NOTICES

68. Notices must be in writing.

69. A Notice may be served by the Company on a Member by any of the following methods:

- a. by serving it personally on the Member;
- b. by leaving it at the registered address;
- c. by sending it by post in a prepaid envelope addressed to the Member at the registered address;
- d. by sending it by facsimile transmission to a facsimile number nominated by the Member for the purpose of serving Notices on the Member; or
- e. by sending it by electronic mail to an electronic mail address nominated by the Member for the purpose of serving Notices on the Member.

70. Each Member whose registered address is not in Australia may notify the Company of an address in Australia which is taken to be that Member's registered address for the purpose of serving notice.

71. Any Notice sent by post, air-mail or air courier is taken to have been served on the third business day following that on which the envelope containing the Notice is posted or delivered to the air courier. In proving service, it is sufficient to prove that the envelope containing the Notice was properly addressed and put into the post office or other public postal receptacle or delivered to the air courier. A certificate in writing signed by any Officer of the Company that the envelope containing the Notice was so addressed and posted is conclusive.
72. Any Notice sent by facsimile transmission or electronic mail is taken to have been served when the transmission is sent.
73. Any Notice sent by post to, or left at the registered address of, a Member is taken to have been properly served even if the Member is then dead or bankrupt and whether or not the Company has notice of the death or bankruptcy.
74. The signature to any Notice given by the Company may be written or printed or a facsimile of the signature may be affixed by mechanical or other means.
75. Where a period of notice is required to be given, the day on which the Notice is served and the day of doing the act or other thing is not included in the number of days or other period.

INDEMNITY

76. Each Officer of the Company is, to the maximum extent permitted by law, indemnified out of the property of the Company against any liability which the Officer may incur to another person as such an Officer, except to the extent the liability is any of the following:
 - a. a liability owed to the Company or a related body corporate;
 - b. a liability for a pecuniary penalty order under section 1317G of the *Corporations Act* or a compensation order under sections 1317H or 1317HA of the *Corporations Act*; or
 - c. a liability that is owed to someone other than the Company or a related body corporate and did not arise out of conduct in good faith.

This clause does not apply to a liability for legal costs.

77. Each Officer is, to the maximum extent permitted by law, indemnified out of the property of the Company against any liability for legal costs the Officer may incur as such an Officer, except to the extent the liability is a liability for legal costs incurred in defending an action for a liability incurred as such an Officer and the costs are incurred:
 - a. in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under the previous clause;
 - b. in defending or resisting criminal proceedings in which the Officer is found guilty;

- c. in defending or resisting proceedings brought by the Australian Securities and Investments Commission, a liquidator or a receiver for a court order if the grounds for making the order are found by the court to have been established; or
- d. in connection with proceedings for relief to the Officer under the *Corporations Act* in which the court denies the relief.

Paragraph c. of this clause does not apply to costs incurred in responding to actions taken by the Australian Securities and Investments Commission, a liquidator or a receiver as part of an investigation before commencing proceedings for the court order.

- 78. For the purposes of Clause 77, the outcome of proceedings includes any appeal in relation to the proceedings.
- 79. Clause 76 and Clause 77 are separate and independent indemnities and one is not to be read down by reference to the other.
- 80. The Company may pay the premium in respect of a contract insuring a person who is, or has been, an Officer of the Company against a liability incurred by the person as an Officer of the Company except in circumstances prohibited by the Corporations Act.