



APOZA
AUSTRALASIAN
POZZOLAN
ASSOCIATION

Australasian Pozzolan Association Ltd

A company limited by guarantee

This constitution was presented to the general meeting of the Australasian Pozzolan Association Inc. held on/...../..... and is signed by me for the purpose of identification.

.....

Chair of the meeting

CONSTITUTION

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1. Preliminary

1.1 Definitions

In this Constitution:

ACNC Legislation means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth).

AGM means an annual general meeting of APoZA.

Alternate Director has the meaning given in rule 7.6.

APoZA means Australasian Pozzolan Association Ltd.

Appointing Director means the Director who appoints the Alternate Director to act in his or her place at any meeting of Directors or for any period where the Director is unable to attend to his or her duties or exercise his or her powers as a Director.

ASIC means the Australian Securities and Investments Commission.

Associate Member means a Member admitted as an Associate Member in accordance with rule 5.4.

Book includes a register, any other record of information, financial report or record and a document, however compiled, recorded or stored, including electronically.

Business Day means a day which is not a Saturday, Sunday, bank holiday or public holiday:

- (a) for the purpose of sending or receiving a notice – in the city where the notice is intended to be received; and
- (b) for all other purposes – in Sydney, Australia.

By-law means a by-law of APoZA made under rule 15.1.

Chair means the chair of the relevant meeting under rule 6.4 or 7.13 (as the case may be).

Chairperson means the Director elected to this role under rule 7.3(a)(1).

Company Secretary means a company secretary of APoZA appointed under rule 8.1(a).

Conversion Time means the time Australasian Pozzolan Association Inc. is registered as a company limited by guarantee under Part 5B.1 of the Corporations Act.

Corporations Act means the *Corporations Act 2001* (Cth).

Director means a director of APoZA.

Financial Year means, unless the Directors determine a different period, a 12 month period from 1 January to 31 December.

Full Member means a Member admitted as a Full Member in accordance with rule 5.3.

Insolvency Event means, in relation to:

- (a) a natural person:
 - (1) the person is placed into bankruptcy or an order is made by a court or an application is made to a court for an order or the person gives notice of its intention that the person be placed into bankruptcy;
 - (2) a trustee in bankruptcy is appointed in respect of the person or any property of the person or an application is made to a court for an order that a trustee in bankruptcy be appointed in respect of the person or any property of the person;
 - (3) the person is, or states that the person is or may become, unable to pay the person's debts as and when they fall due; or
 - (4) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction; and
- (b) a person who is not a natural person – being in liquidation or provisional liquidation or under administration, having a controller (as defined in the Corporations Act) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand, being unable to pay its debts or otherwise insolvent, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, the taking of any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the Corporations Act), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event under the law of any applicable jurisdiction.

Liability means a liability, loss, damage, cost, charge or expense.

Member means a member of APoZA under rule 5 irrespective of their category of membership.

Official means:

- (a) each person who is or has been a Director; and
- (b) officers and former officers of APoZA or any of its subsidiaries, as determined by the Directors from time to time.

Representative in relation to:

- (a) a body corporate regulated by the Corporations Act – means a representative of the body corporate authorised under section 250D of the Corporations Act; or
- (b) any other body corporate – means a representative of the body corporate authorised by the governing body of the body corporate in terms equivalent to those under section 250D of the Corporations Act.

Sustaining Member means a Member admitted as a Sustaining Member in accordance with rule 5.2.

Vice-Chairperson means the Director elected to this role under rule 7.3(a)(2).

1.2 Interpretation

- (a) In this Constitution a Member is to be taken to be present at a general meeting if the Member is present in person or by proxy or Representative.

- (b) In this Constitution a reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (c) In this Constitution:
 - (1) words importing the singular include the plural and vice versa;
 - (2) words importing a gender include every other gender;
 - (3) words used to denote persons generally or importing a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (4) a reference to a person includes that person's successors and legal personal representatives;
 - (5) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another government agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
 - (6) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings; and
 - (7) a reference to:
 - (A) writing or a document includes writing or a document in electronic form;
 - (B) a person signing a document includes by a copy or facsimile of the person's signature being applied or otherwise affixed by or on behalf of the person to a paper copy of the document or an electronic copy of the person's signature or a signature otherwise made or adopted electronically by the person being applied or otherwise affixed by or on behalf of the person to an electronic copy of the document or by any other method (physical, mechanical or electronic) by which the person's assent to the document is indicated **provided that** the method is sufficient to identify both the person and the document to which the person assents; and
 - (C) creating, keeping or maintaining a book, minute, register, journal, record or other document or information includes by recording or storing the relevant information by electronic means.
- (d) In this Constitution headings and bold type are for convenience only and do not affect its interpretation.
- (e) Specifying anything in this Constitution after the words **including, includes** or **for example** or similar expressions does not limit what else is included unless there is express wording to the contrary.

1.3 Application of the Corporations Act and the ACNC Legislation

- (a) This Constitution is subject to the Corporations Act.
- (b) If APoZA is registered as a charity under the ACNC Legislation, this Constitution will also be subject to the ACNC Legislation.
- (c) The replaceable rules for a company under the Corporations Act do not apply to APoZA.

- (d) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act.
- (e) Subject to rule 1.3(d), unless the contrary intention appears, an expression in a rule that is defined for the purposes of the Corporations Act has the same meaning as in the Corporations Act.

1.4 Exercise of powers

- (a) Where this Constitution provides that a person or body may do a particular act or thing and the word **may** is used, the act or thing may be done at the discretion of the person or body.
- (b) Where this Constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power:
 - (1) exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing; and
 - (2) to do the act or thing from time to time.
- (c) Where this Constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (d) Where this Constitution confers a power to make appointments to any office or position other than Director, the power is, unless the contrary intention appears, to be taken to include a power:
 - (1) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (2) subject to any contract between APoZA and the relevant person and any applicable industrial law, to remove or suspend any person appointed, with or without cause; and
 - (3) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (e) Where this Constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised, and the duty must be performed from time to time as the occasion requires.
- (f) Where this Constitution confers a power or imposes a duty on the holder of an office as such, then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (g) Where this Constitution confers power on a person or body to delegate a function or power:
 - (1) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (2) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (3) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;

- (4) the delegation may include the power to delegate;
- (5) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and
- (6) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

2. Objects

APoZA has the following objects:

- (a) to represent Members at all levels and help to facilitate the continued growth in the use of natural and manufactured pozzolans in a beneficial manner;
- (b) to investigate and exploit the technical merits of natural and manufactured pozzolans in current applications or to further develop material in other end use applications of pozzolans;
- (c) to promote and stimulate the use of natural and manufactured pozzolans consistent with the public interest;
- (d) to co-operate with other industry associations, technical societies, laboratories and governmental bureaus to the end that full recognition be accorded to natural and manufactured pozzolans, in all uses that may be developed for them, as a well-defined and technically desirable mineral;
- (e) to facilitate co-operative research and development activities which have the potential to lead to new applications or extend or support the expansion of current applications for pozzolans; and
- (f) to become and remain a globally valued organisation advancing programs for sustainability in the pozzolan industry, which is financially self-sustaining and inclusive of stakeholder interests.

3. Powers

Solely for carrying out APoZA's objects, APoZA may, in any manner permitted by the Corporations Act and (if APoZA is registered as a charity under the ACNC Legislation) the ACNC Legislation:

- (a) exercise any power;
- (b) take any action; or
- (c) engage in any conduct or procedure,

which under the Corporations Act or (if APoZA is registered as a charity under the ACNC Legislation) the ACNC Legislation a company limited by guarantee may exercise, take or engage in if authorised by its constitution.

4. Income and property

- (a) APoZA's income and property must be applied solely towards promoting APoZA's objects set out under rule 2.
- (b) Subject to rule 4(c)(6), APoZA must not pay, transfer or distribute, directly or indirectly, by way of dividend, bonus, or other profit distribution, any of its property to any Member or to any person claiming through that Member.

- (c) APozA may, in good faith, pay:
- (1) reasonable and proper remuneration to any employee of APozA;
 - (2) reasonable fees or other costs associated with the engagement of consultants, contractors, or service providers to APozA;
 - (3) subject to this Constitution, reasonable and proper amounts to any Member in return for any services actually rendered to APozA;
 - (4) interest at a rate not exceeding interest at the rate for the time being charged by APozA's bankers for money lent to APozA by any Member;
 - (5) reasonable and proper rent for premises let by any Member to APozA;
 - (6) any amount to a Member in carrying out APozA's objects;
 - (7) sums permitted to be paid under Chapter 2E of the Corporations Act;
 - (8) sums permitted to be paid under rule 7.5; and
 - (9) sums paid under rule 9,
- provided that any payment made to a Member has been approved by the Directors.

5. Membership

5.1 Categories of membership

There are 3 categories of membership:

- (a) Sustaining Member membership;
- (b) Full Member membership; and
- (c) Associate Member membership.

5.2 Sustaining Member membership

- (a) The Members in the Sustaining Member membership category are those persons who both:
 - (1) are eligible to be admitted to being a Sustaining Member under rule 5.2(b); and
 - (2) are admitted to this category under rule 5.6,and who remain Members in this category.
- (b) A person is eligible to be admitted as a Sustaining Member if it:
 - (1) is a body corporate;
 - (2) has paid any fees that are payable under rule 5.12;
 - (3) nominates, conditional upon its admission as a Member, a natural person at least 18 years of age who is a director (or equivalent) or employee of the Member, as its proposed Representative; and
 - (4) satisfies any other criteria determined by the Directors from time to time.

- (c) A Sustaining Member must maintain a Representative as described in rule 5.5.
- (d) Each Sustaining Member has the right to:
 - (1) receive notice of and to attend a general meeting of members; and
 - (2) subject to rule 5.12(d), the right:
 - (A) to speak and vote at a general meeting of Members in accordance with rule 6.5(a);
 - (B) to vote on the election of Directors under rule 7.1(d); and
 - (C) to appoint one person as a Director under rule 7.1(b).

5.3 Full Member membership

- (a) The Members in the Full Member membership category are those persons who both:
 - (1) are eligible to be admitted to being Full Members under rule 5.3(b); and
 - (2) are admitted to this category under rule 5.6,and who remain Members in this category.
- (b) A person is eligible to be admitted as a Full Member if it:
 - (1) is a body corporate;
 - (2) has paid any fees that are payable under rule 5.12;
 - (3) nominates, conditional upon its admission as a Member, a natural person at least 18 years of age who is a director (or equivalent) or employee of the Member, as its proposed Representative; and
 - (4) satisfies any other criteria determined by the Directors from time to time.
- (c) A Full Member must maintain a Representative as required by rule 5.5.
- (d) A Full Member has the right to:
 - (1) receive notice of and to attend a general meeting of members;
 - (2) nominate a person for election as a Director under rule 7.1(c); and
 - (3) subject to rule 5.12(d), speak and vote at a general meeting of members in accordance with rule 6.5(a), and to vote on the election of Directors under rule 7.1(d).

5.4 Associate Member membership

- (a) The Members in the Associate Member membership category are those persons who both:
 - (1) are eligible to be admitted to being Associate Members under rule 5.4(b); and
 - (2) are admitted to this category under rule 5.6,and who remain Members in this category.

- (b) A person is eligible to be admitted as an Associate Member if it:
- (1) is a body corporate, government authority, research institute, trade association, or natural person;
 - (2) has paid any fees that are payable under rule 5.12;
 - (3) if it is not a natural person, it may nominate, conditional upon its admission as a Member, a natural person at least 18 years of age who is a director or employee of the Member, as its proposed Representative; and
 - (4) satisfies any other criteria determined by the Directors from time to time.
- (c) An Associate Member who is not a natural person may maintain a Representative as described by rule 5.5.
- (d) An Associate Member:
- (1) has the right to receive notice of and to attend a meeting of Members; but
 - (2) does not have any right to:
 - (A) speak or vote at a general meeting, by electronic ballot, direct vote or otherwise, (see rules 6.5(a), 6.7(j) and 6.10);
 - (B) to nominate a person for election as a Director, or to participate in the election of Directors (see rule 7.1(d)).

5.5 Representatives of Members

In relation to the Representative of a Member:

the Member may (whether or not through its Representative) appoint or remove, by notice in writing to APoZA, its Representative, provided any replacement Representative is a natural person at least 18 years of age who is also a director (or equivalent) or employee of the Member;

- (a) without limiting the operation of the Corporations Act, a Representative is entitled to exercise on behalf of the Member all or any of the rights, powers and privileges possessed by the Member by virtue of its membership, provided:
- (1) except as provided for in rule 0 or through a proxy, the Member may act in relation to APoZA only through its Representative; and
 - (2) where the Representative exercises a right, power or discretion possessed by the Member he or she represents:
 - (A) the Member is bound by the exercise of that right, power or discretion; and
 - (B) APoZA is entitled to assume the validity of the exercise of that right, power or discretion and the authority of the Representative to exercise the right, power or discretion;
- (b) any communication from APoZA to the Member in its capacity as a Member may be addressed and given to the Representative;
- (c) a reference in this Constitution to a Member, unless the context otherwise requires, includes a reference to the Representative of that Member;

- (d) the Representative ceases to be Representative of the Member:
 - (1) upon ceasing to be employed by, or an officer of, the Member;
 - (2) if removed by the Member under rule 0; or
 - (3) in any of the circumstances envisaged by rules 7.4(a), 7.4(b), 7.4(d) or 7.4(e), as if the Representative was a Director, and a reference in those rules to:
 - (A) the Directors was a reference to the directors (or equivalent) of the Member;
 - (B) the office of Director was a reference to the office held by the Representative with respect to the Member; and
 - (C) APoZA was a reference to the Member.
- (e) a person may only be the Representative for one Member at any one time;
- (f) a person who is a Member may not also be a Representative of another Member;
- (g) whenever a Representative is appointed under this Constitution, APoZA must immediately be notified of that fact, and of the name, address, contact details and the position or title within the Member occupied by the Representative, together with the written consent of the Representative and an acknowledgment from the Representative (in any form reasonably required by the Directors) that he or she agrees to be bound by this Constitution; and
- (h) any dispute concerning:
 - (1) the interpretation of this rule 5.5; or
 - (2) the rights and obligations of a Representative or the Member he or she represents,must be referred to the Directors whose decision in all respects is final and binding on all affected Members and Representatives.

5.6 No transfers

The rights of being a Member are not transferable whether by operation of law or otherwise.

5.7 Admission of new Members

- (a) Every applicant for membership must:
 - (1) apply in the form and manner determined by the Directors (which may allow written or oral applications); and
 - (2) pay any applicable fees at the time of making the application.
- (b) The Directors may admit as a Member any applicant on such conditions and at such times, as the Directors think fit.
- (c) The Directors may require a person to execute such form of reasonable undertaking as the Directors may determine as a condition of admitting that person as a Member.
- (d) The Directors may, in their absolute discretion, decline to admit any person as a Member. The Directors are not required to give any reason for the rejection of any application to become a Member.

- (e) If an application to become a Member is accepted by the Directors, APoZA must give written notice of the acceptance to the applicant and enter the applicant's name in the register.
- (f) If an application to become a Member is rejected by the Directors, APoZA must give written notice of the rejection to the applicant and refund in full the fee (if any) paid by the applicant.
- (g) Failure by the Company to comply with any notice requirement in this rule 5.7(e) or 5.7(f) does not invalidate the Directors decision regarding an application.
- (h) The Directors may suspend the admission of Members at such times and for such periods as they think fit.

5.8 Cessation of membership

- (a) Subject to rule 5.8(b), a Member ceases to be a Member and APoZA must remove the Members name from the register:
 - (1) if the Member resigns by notice in writing to APoZA;
 - (2) if the Member dies or experiences an Insolvency Event;
 - (3) if the Member becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under a law relating to mental health;
 - (4) if the Member is expelled under rule 5.9;
 - (5) in any other circumstances prescribed in the terms of membership applicable to the Member or in any undertaking given by the Member upon his, her or its admission to membership; or
 - (6) if the Member has not paid moneys (including fees) due and payable to APoZA within 30 days of a request for payment for those moneys being sent to the Member, unless the Directors, on one or more occasions, grant the Member an extension of time to pay and payment is made in time.
- (b) If there is only one Member and the Member gives proper notice of resignation or on the same day all of the Members give proper notice of resignation, the notice or notices will be ineffective and the Member or Members cannot resign until either another person is appointed as a Member or APoZA is wound up or otherwise deregistered.

5.9 Expulsion

The Directors may expel a Member:

- (a) who fails to comply, or whose Representative fails to comply, with this Constitution;
- (b) who knowingly, or whose Representative knowingly, makes or gives any false, misleading or deceptive statement or representation verbally or in writing to APoZA in any capacity; or
- (c) whose conduct, or whose Representative's conduct, in the opinion of the Directors, is or has been materially prejudicial to the interests of APoZA,

by:

- (d) giving notice in writing to the Member of their intention to consider an expulsion resolution, including details of the conduct or circumstances the Directors consider falls within rule 5.9(a), (b) and/or 5.9(c);

- (e) giving the Member an opportunity to, within 7 days from the day on which the Member receives the notice, make a submission in writing (of no more than 1,000 words, and not containing anything defamatory) to respond to the notice; and
- (f) convening a meeting of Directors (excluding any Director nominated by the Member who is the subject of the proposed expulsion resolution, or who is the Representative of such a Member) to be held no earlier than 10 days from the day on which the Member receives the notice, to consider, in the light of all information known to them, including having given fair consideration to any written submission from the Member received within the time specified in rule 5.9(e), whether or not to pass the proposed expulsion resolution. If the Member is expelled, APoZA must remove the Member's name from the Register.

5.10 Effect of cessation

- (a) A person who ceases to be a Member:
 - (1) remains liable to pay, and must immediately pay, to APoZA all amounts that at the date of cessation were payable by the person to APoZA as a Member; and
 - (2) must pay to APoZA interest at the rate the Directors resolve on those amounts from the date of cessation until and including the date of payment of those amounts.
- (b) The Directors may determine to waive any or all rights of APoZA provided by this rule 5.10.

5.11 Entries in the register of Members

A:

- (a) person admitted as a Member under rule 5.7 – becomes a Member;
- (b) Member affected by an event under rule 5.8 – ceases to be a Member; and
- (c) Member expelled under rule 5.9 – ceases to be a Member,

from the time an entry in the register of Members is made to record that fact.

5.12 Membership fees

- (a) Each Member must pay such fees as determined by the Directors as payable in relation to the relevant category of membership.
- (b) Fees are payable at the times determined by the Directors.
- (c) The Directors may determine differential fees of any type or amount (including a fee of zero) and differential times for payment, as between categories of membership and as between Members within a category of membership.
- (d) Unless the Directors determine otherwise in a general or specific case, where fees are due and payable by a Member to APoZA but are unpaid, that Member's rights under rule 5.2(d)(2) or 5.3(d)(2) (as applicable), are suspended until all outstanding fees are paid in full.

6. General meetings

6.1 Calling general meetings

- (a) The Chairperson or any 2 Directors may, whenever they think fit, call and arrange to hold a general meeting.

- (b) A general meeting may be called and arranged to be held:
 - (1) as provided by this rule 6.1; and
 - (2) where APoZA is registered under the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and as a consequence provisions of the Corporations Act concerning meetings of members do not apply to APoZA, a general meeting must nonetheless be called and arranged as provided under section 249D, 249E or 249G of the Corporations Act as though those sections applied to APoZA and a reference in this Constitution to any of those sections is reference to the section as though it applied to APoZA.
- (c) The Directors may change the venue for, postpone or cancel a general meeting.
- (d) The Directors must call and arrange to be held an AGM once in each Financial Year.

6.2 Notice of general meetings

- (a) Subject to this Constitution, at least 21 days' notice of a general meeting must be given in the manner authorised by rule 14.1 to each person who is at the date of the notice:
 - (1) a Member; or
 - (2) an auditor of APoZA.
- (b) A notice of a general meeting must specify:
 - (1) the date, time and place of the meeting;
 - (2) if the meeting is to be held in 2 or more places – the technology that will be used to facilitate this; and
 - (3) except as provided in rule 6.2(d), state the general nature of the business to be transacted at the meeting.
- (c) Except as provided by rule 6.2(d), no business other than that specified in the notice convening a general meeting may be transacted during that general meeting.
- (d) It is not necessary for a notice of an AGM to state that the business to be transacted at the meeting includes the consideration of the annual financial report, directors' report and auditor's report, the appointment of the auditor or the fixing of the auditor's remuneration.
- (e) A person may waive notice of any general meeting by notice in writing to APoZA.
- (f) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 6.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
 - (1) the non-receipt or failure occurred by accident or error; or
 - (2) before or after the meeting, the person:
 - (A) has waived or waives notice of that meeting under rule 6.2(e); or
 - (B) has notified or notifies APoZA of the person's agreement to that act, matter, thing or resolution by notice in writing to APoZA.

- (g) A person's attendance at a general meeting waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting.

6.3 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a Chair and the adjournment of the meeting, unless a quorum of Members is present during the time the business is dealt with.
- (b) A quorum for a general meeting is a majority of Sustaining Members and at least two (2) Full Members present at the general meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (1) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place;
 - (2) at the adjourned meeting, a quorum will be a majority of Sustaining Members; and
 - (3) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

6.4 Chair of general meetings

- (a) The Chairperson must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as Chair at each general meeting.
- (b) If at a general meeting:
 - (1) there is no Chairperson;
 - (2) the Chairperson is not present within 15 minutes after the time appointed for the meeting; or
 - (3) the Chairperson is present within that time but is not willing to act as Chair,then the Vice-Chairperson must preside as Chair.
- (c) If at a general meeting:
 - (1) there is no Chairperson and no Vice-Chairperson;
 - (2) neither the Chairperson nor the Vice-Chairperson is present within 15 minutes after the time appointed for the meeting; or
 - (3) neither the Chairperson nor the Vice-Chairperson is willing to act as Chair,then the Members present must elect as Chair another person who is a Director or Representative of a Member and who is present and willing to act.
- (d) Despite anything in rule 6.4(b) or 6.4(c), if the Chairperson or the Vice-Chairperson later attends a meeting of Members, the Chairperson or failing him or her the Vice-Chairperson, provided he or she is willing to act, must take over as Chair.

6.5 Conduct of general meetings

- (a) Each:
- (1) Sustaining Member; and
 - (2) Full Member,
- is entitled to attend, speak and, subject to rule 6.7(a), vote at a general meeting. Each Associate Member is entitled to attend a general meeting, but it not entitled to speak or vote at any such meeting.
- (b) The Chair is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting.
- (c) The Chair may at any time he or she considers it necessary or desirable for the proper and orderly conduct of the meeting:
- (1) impose a limit on the time that a person may speak on each motion or other item of business and terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present; and
 - (2) adopt any procedures for casting or recording votes at the meeting, including the appointment of scrutineers.
- (d) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the Chair, whose decision is final.
- (e) The Chair may take any action he or she considers appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting and may refuse admission to, or require to leave and remain out of, the meeting any person:
- (1) in possession of a pictorial recording or sound recording device which in the opinion of the Chair may or does cause inconvenience or disruption to the meeting;
 - (2) in possession of a placard or banner;
 - (3) in possession of an article considered by the Chair to be dangerous, offensive or liable to cause disruption;
 - (4) who refuses to produce or permit examination of any article, or the contents of any article, in the person's possession;
 - (5) who behaves or threatens to behave in a dangerous, offensive or disruptive way; or
 - (6) who is not entitled to receive notice of the general meeting.

The Chair may delegate the powers conferred by this rule 6.5(e) to any person he or she thinks fit.

- (f) Nothing in rule 6.5(e) limits the powers conferred on the Chair by law.
- (g) The Chair may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

- (h) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (i) Except as provided by rule 6.5(h), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (j) Where a meeting is adjourned, the Directors may change the venue of, postpone or cancel the adjourned meeting.

6.6 Meetings by technological means

- (a) This rule 6.6 applies despite anything else contained in this Constitution to the contrary other than rule 1.3(a).
- (b) A general meeting may be held using one or more technologies that give Members as a whole a reasonable opportunity to participate in the meeting without being physically present in the same place.
- (c) The Directors may arrange to hold such a general meeting and may also make any arrangement and impose any requirement or restriction in connection with participation at the general meeting, including any that is necessary to ensure the identification of those taking part and the security of the facility through which Members participate in the meeting.
- (d) Notice of the meeting instead of, or in addition to, specifying the place of the meeting must include information about how those entitled to attend can participate in the meeting (including how they can participate in a vote taken at the meeting, and speak at the meeting, to the extent they are entitled to do so).
- (e) All persons so participating in the meeting are taken for all purposes (including quorum requirements) to be present in person at the meeting while so participating.
- (f) The meeting is held at the multiple venues at which the Chair and Members and Representatives of Members entitled to participate, and participating, in the meeting are located or at the place determined by the Chair at which the Chair or at least one Member or Member's Representative is located for the duration of the meeting.
- (g) A requirement to allow an opportunity for persons attending the meeting to vote or speak may be complied with by using one or more technologies that allow that opportunity (which may include by allowing a person's vote to be recorded in advance of the meeting and, in relation to speaking, may include by allowing a person to send messages or otherwise communicate by electronic means, either orally or in writing).
- (h) If a technical difficulty occurs which the Chair considers prevents those participating or intending to participate in the meeting to have a reasonable opportunity to do so or prevents the Chair from being aware of the proceedings at the meeting, the Chair may:
 - (1) adjourn the meeting until the technical difficulty is resolved or otherwise addressed to the Chair's satisfaction; or
 - (2) subject to a quorum still being present, continue to hold the meeting in the place where the Chair is present (and any other place which is not affected by such technical difficulty) and transact business, and no Member may object to the meeting being held or continuing.
- (i) The inability of one or more Members or their Representatives to participate or continue to participate in a general meeting does not affect the validity of the meeting or the business conducted at the meeting provided that sufficient Members or their Representatives are able to participate in the meeting as are required to constitute a quorum.

- (j) All other rules relating to the convening or holding of a general meeting apply to the convening and holding of a general meeting in the way permitted under this rule 6.6 with any necessary changes.

6.7 Decisions at general meetings and electronic ballots

- (a) Except in the case of any resolution which under this Constitution or as a matter of law requires a special majority, questions arising at a general meeting are to be decided by a majority of votes cast by Members present at the meeting and eligible to vote, and any such decision is for all purposes a decision of the Members.
- (b) A resolution put to the vote at a meeting must be decided on a show of hands, unless a poll is demanded.
- (c) On a show of hands, a declaration by the Chair is conclusive evidence of the result, provided the declaration fairly reflects the show of hands.
- (d) In the case of an equality of votes upon any proposed resolution the Chair, in addition to his or her deliberative vote (if any), has a casting vote.
- (e) A poll may be demanded before a vote is taken or before or immediately after the declaration of the result of the show of hands.
- (f) The demand for a poll shall be by either:
 - (1) the Chair; or
 - (2) at least 3 Members eligible to vote and present in person.
- (g) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any other business.
- (h) If a poll is duly demanded, it will be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chair directs, and the result of the poll will be the resolution of the meeting.
- (i) A poll on the election of a Chair or on a question of adjournment must be taken immediately.
- (j) Any resolution that could be considered and voted upon at a general meeting (other than the election of a Chair or the adjournment of the meeting), may be submitted to Members and voted upon by an electronic ballot, to be conducted at such time and in such manner as the Directors determine (subject to any applicable By-laws), and a reference in this Constitution related to voting at a general meeting is to be interpreted as including voting in an electronic ballot. A resolution passed by an electronic ballot is regarded as passed at the time the result of the electronic ballot is declared, unless the wording of the resolution itself states otherwise.
- (k) Notwithstanding anything else in this Constitution, no ordinary resolution or special resolution is regarded as having been passed:
 - (1) at a meeting, unless it is also passed by a majority of Sustaining Members present at the meeting; or
 - (2) in writing, unless a majority of Sustaining Members as a whole indicate their assent to the resolution.

6.8 Voting rights

- (a) Each Member who is eligible to vote has 1 vote on a show of hands or a poll.

- (b) On a poll, a proxy is entitled to vote separately for each Member the person represents, in addition to any votes the person may have as a Member in their own right.
- (c) An objection to the qualification of a person to vote at a general meeting:
 - (1) must be raised before or at the meeting at which the vote objected to is given or tendered; and
 - (2) must be referred to the Chair, whose decision is final.
- (d) A vote not disallowed by the Chair under rule 6.8(c) is valid for all purposes.

6.9 Representation at general meetings

- (a) Subject to this Constitution, each Member entitled to vote at a general meeting may vote:
 - (1) in person or, where a Member is a body corporate, by its Representative; or
 - (2) by proxy.
- (b) A proxy may, but need not, be a Member.
- (c) A proxy or Representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the instrument, an instrument appointing a proxy or Representative will be taken to:
 - (1) confer authority to agree to a meeting being convened by shorter notice than is required by this Constitution;
 - (2) confer authority to speak to any proposed resolution on which the proxy or Representative may vote;
 - (3) appoint the Chair as the proxy unless the Member clearly specifies another person as proxy and that person attends the general meeting;
 - (4) even though the instrument may refer to specific resolutions and may direct the proxy or Representative how to vote on those resolutions, confer authority:
 - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (B) to vote on any procedural motion, including any motion to elect the Chair, to (only in the case of a Chair elected under rule 6.4(c) vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and
 - (5) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, confer authority to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) An instrument appointing a proxy or Representative may direct the manner in which the proxy or Representative is to vote in respect of a particular resolution and, where an instrument so provides:

- (1) the proxy or Representative is not entitled to vote on the proposed resolution except as directed in the instrument; and
 - (2) the Chair may, by taking whatever steps he or she thinks fit, ensure that effect is given to those directions, including by pre-filling out relevant voting papers and regarding such votes as cast.
- (f) Subject to the Corporations Act, an instrument appointing a proxy or Representative need not be in any particular form provided it is in writing, legally valid and either:
- (1) signed by the appointer or the appointer's attorney; or
 - (2) authenticated in such manner as the Directors may determine.
- (g) A proxy may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy, and the authority under which the instrument is signed or a certified copy of the authority, are received in the places, fax numbers or electronic addresses at least:
- (1) 48 hours; or
 - (2) such lesser period specified for this purpose in the notice calling the meeting,
- and for this purpose:
- (3) the place may be APoZA's registered office or other place specified in the notice and a fax number or electronic address may be the fax number or electronic address at APoZA's registered office or the fax number or electronic address specified in the notice; and
 - (4) the lesser period may be any time before the time set for holding the meeting or adjourned meeting.
- (h) The Directors may waive all or any of the requirements of rules 6.9(f) and 6.9(g) and in particular may, upon the production of such other evidence as the Directors require to prove the validity of the appointment of a proxy, accept:
- (1) an oral appointment of a proxy;
 - (2) an appointment of a proxy which is not signed or executed in the manner required by rule 6.9(f); and
 - (3) the deposit, tabling or production of a copy (including a copy sent by fax) of an instrument appointing a proxy or of the power of attorney or other authority under which the instrument is signed.
- (i) A vote given in accordance with the terms of an instrument appointing a proxy is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no notice in writing of the revocation has been received by APoZA by the time and at one of the places at which the instrument appointing the proxy is required to be received under rule 6.9(g).
- (j) The appointment of a proxy is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the proxy is not entitled to vote, and must not vote, as the appointer's proxy on the resolution.
- (k) A proxy and a Representative for the same Member may attend and take part in a general meeting but, if the proxy votes on any resolution, the Representative is not entitled to vote, and must not vote, as the Member's Representative on the resolution.

6.10 Direct voting

- (a) This rule 6.10 applies despite anything else contained in this Constitution to the contrary other than rule 1.3(a).
- (b) The Directors may permit direct voting on a resolution proposed at a general meeting by allowing Members entitled to vote on the resolution to cast their vote without being present (whether in person or by proxy or Representative) at the meeting.
- (c) The Directors may determine rules and procedures for direct voting, including those Members entitled to cast a direct vote, the manner in which a direct vote may be cast, the circumstances in which a direct vote will be valid and the effect of a Member casting both a direct vote and a vote in any other manner.
- (d) Subject to rules 6.10(e) and 6.10(f), where notice of a general meeting specifies that direct voting on a resolution proposed for consideration at the meeting is permitted by Members or particular Members, a direct vote cast by or on behalf of such a Member in accordance with the rules and procedures for direct voting determined by the Directors (whether set out in the notice of meeting or otherwise) is taken to have been validly cast by that Member at the meeting.
- (e) A direct vote cast by or on behalf of a Member on a resolution proposed at a general meeting is of no effect and will be disregarded if the Member is not entitled to vote on the resolution at the meeting or, had the vote been cast by or on behalf of the Member at the meeting, would be required to be disregarded.
- (f) Subject to the rules and procedures for direct voting determined by the Directors, if a direct vote is cast by or on behalf of a Member on a resolution proposed for consideration at a general meeting and a vote is also cast on the resolution by the Member or the Member's proxy or Representative present at the meeting, the Chair may:
 - (1) regard the direct vote as valid and effective and disregard the vote cast at the meeting; or
 - (2) disregard the direct vote and regard the vote cast at the meeting as valid and effective.

7. Directors

7.1 Appointment of Directors

- (a) The board of Directors is comprised of:
 - (1) the Directors appointed under rule 7.1(b);
 - (2) 1 Director elected under rule 7.1(d); and
 - (3) up to 2 Directors appointed under rule 7.1(e).
- (b) Each Sustaining Member may appoint 1 Director, provided that no such Director may be appointed for a single term of more than 3 years.
- (c) A Full Member may nominate a person for election as a Director under rule 7.1(d) by notice in writing to the Company Secretary. Such a nomination is only effective for a single election, although a person nominated may be re-nominated by a Full Member for a later election.
- (d) The Members eligible to vote may elect 1 Director under a procedure determined from time to time by the Directors provided that:

- (1) any such candidate must have been nominated for election by at least 1 Full Member under rule 7.1(c); and
 - (2) any such elected Director may not be elected for a single term of more than 3 years.
- (e) The Directors may from time to time, appoint up to 2 Directors. In making any such appointment, the Directors must endeavour to address any actual or perceived skill, experience, geographic representational or other deficiency on the board and, in particular, any need for expertise in the area of corporate governance, accounting and finance, not-for-profit/charity law and regulation, and pozzolan mining, production and manufacture. Any such appointed Director must not be a director (or equivalent) or employee of any Sustaining Member.
- (f) There must be at least 3 Directors at all times.

7.2 Term of office

Subject to any requirements under the Corporations Act:

- (a) A Director appointed under rule 7.1(b) holds office, subject to rule 7.4, for a term determined by the Sustaining Member making the appointment (such term not to be longer than 3 years from the relevant appointment date).
- (b) A Director elected under rule 7.1(d) holds office, subject to rule 7.4, for a term determined, subject to rule 7.1(d)(2), under the relevant election procedure.
- (c) A Director appointed under rule 7.1(e) holds office, subject to rule 7.4, for a term determined by the Directors at the time of appointment (being no longer than 2 years from the time of appointment).
- (d) A Director who retires under rule 7.2(a) or 7.2(b), provided he or she is otherwise eligible, may be re-appointed or re-elected, provided that no Director may hold office for more than (subject to rule 7.2(f)) 3 consecutive terms (of whatever length).
- (e) A Director who retires under rule 7.2(c), provided he or she is otherwise eligible, may be re-appointed, provided that no Director may hold office for more than (subject to rule 7.2(f)) 3 consecutive terms (of whatever length).
- (f) The Members eligible to vote may, by ordinary resolution, in a specific case, determine a timeframe that is different to the timeframe set out in rule 7.2(d) or 7.2(e) (but for the avoidance of doubt, this rule 7.2(f) does not apply to lengthen the term of a person appointed as a Director under rule 7.1(b)).

7.3 The Chairperson and the Vice-Chairperson

- (a) At least once in every election term, the Directors must elect from amongst themselves:
 - (1) a person as Chairperson of APoZA; and
 - (2) a person as Vice-Chairperson of APoZA.
- (b) The Chairperson has the roles, powers, discretions and responsibilities:
 - (1) set out in this Constitution; and
 - (2) given to him or her by the Directors from time to time.
- (c) The Vice-Chairperson has the roles, powers, discretions and responsibilities:

- (1) set out in this Constitution; and
 - (2) given to him or her by the Directors from time to time.
- (d) A Chairperson or Vice-Chairperson may resign from that role (without affecting his or her status as a Director) by notice in writing to APoZA, and the Directors must promptly elect a replacement to hold office for the balance of the term of the person who resigned.

7.4 Vacation of office

The office of a Director becomes vacant if the Director:

- (a) experiences an Insolvency Event;
- (b) is charged with a criminal offence and the Directors do not within 1 month after that charge resolve to confirm the Director's appointment as a Director;
- (c) is absent from 2 consecutive meetings of the Directors, without the consent of the Directors, unless at the next meeting of the Directors, the Directors decide otherwise;
- (d) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under a law relating to mental health;
- (e) resigns by notice in writing to APoZA; or
- (f) in the case of a Director appointed under rule 7.1(b), the Sustaining Member who nominated that Director for election either:
 - (1) ceases to be a Sustaining Member; or
 - (2) otherwise removes the Director from office by notice in writing to APoZA (in which case the Sustaining Member may replace the Director for the balance of the remainder of the term).

7.5 Remuneration and expenses of Directors

- (a) Subject to rule 7.5(c), no Director is entitled to remuneration in that capacity.
- (b) Subject to any relevant By-laws, a Director is entitled to be paid or reimbursed all reasonable travelling and other expenses which are reasonably incurred by that Director in connection with the affairs of APoZA.
- (c) If a Director renders or is called upon to perform extra services or to make any special exertions in connection with the affairs of APoZA (including services or exertions in a professional or technical capacity, including as a member of a committee), the Directors may arrange for special remuneration to be paid to that Director, provided the amount payable is approved by the Directors and is not more than an amount which commercially would be reasonable payment for such services or exertions.

7.6 Alternate Directors

- (a) A Director may appoint another Director, or with approval of a majority of the other Directors, any other person, to be the Director's alternate director (**Alternate Director**) to act in his or her place at any meeting of Directors or for any period where the Appointing Director is unable to attend to his or her duties or exercise his or her powers as a Director.
- (b) An Alternate Director may, subject to his or her terms of appointment, exercise all the powers (except the power to appoint a further Alternate Director) and perform all the duties of the

Appointing Director to the extent the Appointing Director has not exercised or performed them. Without limiting the foregoing, an Alternate Director may attend and vote at a meeting of Directors if his or her Appointing Director is not present. An Alternate Director is otherwise not entitled, and has no other power, to act as a Director.

- (c) An Alternate Director is not entitled to notice of meetings of Directors unless his or her Appointing Director is on leave of absence approved by the Directors. In that case, the Alternate Director must be given notice of meetings of Directors during the leave of absence.
- (d) An Alternate Director waives notice of a meeting of Directors for the Alternate Director and his or her Appointing Director if the Alternate Director:
 - (1) gives written notice of waiver to the company before, at or after the meeting; or
 - (2) attends the meeting.
- (e) A person may act as Alternate Director to more than 1 Director and is entitled to a separate vote for each Appointing Director the Alternate Director represents, in addition to any vote the Alternate Director may have as a Director in that person's own right.
- (f) The office of an Alternate Director is vacated if and when the Appointing Director vacates the office as a Director.
- (g) The Appointing Director may terminate the appointment of an Alternate Director at any time, even if the period of the appointment of the Alternate Director has not expired.
- (h) The Appointing Director must appoint and terminate an appointment of an Alternate Director by a written, signed statement.
- (i) An appointment and termination are only effective after APoZA receives the Appointing Director's written, signed statement and, in the case of an appointment requiring the approval of a majority of the Directors, after that approval has been given.
- (j) An Alternate Director is not to be taken into account in determining the minimum or maximum number of Directors allowed under this Constitution.
- (k) In determining whether a quorum is present at a meeting of Directors, an Alternate Director who attends the meeting is counted as a Director for each Director on whose behalf the Alternate Director is attending.
- (l) An Alternate Director is not to be taken into account in determining the number of Directors or rotation of Directors.
- (m) An Alternate Director is only entitled to be paid the remuneration that the Directors think fit for his or her services as an Alternate Director, and any such remuneration must be in reduction of the remuneration payable to the Appointing Director for whom the Alternate Director acts as alternate unless the Directors otherwise determine.
- (n) An Alternate Director is entitled to be paid all reasonable travel, accommodation and other expenses properly incurred by the Alternate Director in attending meetings of, or relating to, APoZA or while engaged on the business or affairs of APoZA.
- (o) An Alternate Director, while acting as a Director:
 - (1) is responsible to APoZA for that person's own acts and defaults; and
 - (2) is not the agent of the Appointing Director.

7.7 Interested Directors

- (a) A Director may hold any other office (other than auditor) in APoZA or any related body corporate in conjunction with his or her directorship and may be appointed to that office upon such terms as to tenure of office and otherwise (provided that the Director may not receive remuneration in that other capacity) as the Directors think fit.
- (b) A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by APoZA or in which APoZA may be interested as a member or otherwise and is not accountable to APoZA for any other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.
- (c) The Directors may exercise the voting rights conferred by membership in any body corporate held or owned by APoZA in such manner in all respects as the Directors think fit (including voting in favour of any resolution appointing a Director as a director or other officer of that body corporate or voting for the payment of remuneration to the other officers of that body corporate) and a Director may, if permitted by law, vote in favour of the exercise of those voting rights notwithstanding that he or she is, or may be about to be appointed, a director or other officer of that other body corporate and, as such, interested in the exercise of those voting rights.
- (d) A Director is not disqualified merely because of being a Director from contracting with APoZA in any respect including any of the following:
 - (1) selling any property to, or purchasing any property from, APoZA;
 - (2) guaranteeing the repayment of any money borrowed by APoZA for a commission or profit; or
 - (3) acting in any professional capacity (other than auditor) on behalf of APoZA.
- (e) No contract made by a Director with APoZA and no contract or arrangement entered into by or on behalf of APoZA in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a Director or because of the fiduciary obligations arising out of that office.
- (f) No Director contracting with or being interested in any arrangement involving APoZA is liable to account to APoZA for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a Director or because of the fiduciary obligations arising out of that office.
- (g) Subject to rule 7.7(h), a Director who is in any way interested in any contract or arrangement or proposed contract or arrangement may, despite that interest:
 - (1) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
 - (2) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement; and
 - (3) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement APoZA may execute.
- (h) Rule 7.7(g) does not apply if, and to the extent that, it would be contrary to the Corporations Act (including provisions of the Corporations Act which regulate matters concerning material personal interests of Directors).

- (i) The Directors may make By-laws requiring the disclosure of interests that a Director, and any person deemed by the Directors to be related to or associated with the Director, may have in any matter concerning APoZA or a related body corporate.

7.8 Powers and duties of Directors

- (a) The Directors are ultimately responsible for managing the business of APoZA and may exercise to the exclusion of APoZA in general meeting all the powers of APoZA which are not required, by the Corporations Act, the ACNC Legislation, or by this Constitution, to be exercised by APoZA in general meeting.
- (b) Without limiting the generality of rule 7.8(a), the Directors may exercise all the powers of APoZA to borrow or otherwise raise money, to charge any property or business of APoZA and to issue debentures or give any other security for a debt, liability or obligation of APoZA or of any other person.
- (c) The Directors may determine how cheques, promissory notes, bankers' drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of APoZA.
- (d) The Directors may:
 - (1) appoint any person to be an agent or attorney of APoZA for such purposes with such powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Directors), for such period and upon such conditions as they think fit;
 - (2) authorise an agent or attorney to delegate all or any of the powers, discretions and duties vested in the agent or attorney; and
 - (3) subject to any contract between APoZA and the relevant agent or attorney and any applicable industrial law, remove or dismiss any agent or attorney of APoZA at any time, with or without cause.
- (e) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the Directors think fit.
- (f) If APoZA is registered as a charity under the ACNC Legislation, each Director must use all reasonable endeavours to assist APoZA to comply with the ACNC Legislation.

7.9 Proceedings of Directors

- (a) The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The Directors should meet at least 3 times in each Financial Year.
- (c) The contemporaneous linking together by telephone or other electronic means (allowing reasonable interaction between them) of a number of the Directors sufficient to constitute an absolute majority of the Directors, constitutes a meeting of the Directors and all the provisions in this Constitution relating to meetings of the Directors apply, so far as they can and with such changes as are necessary, to meetings of the Directors by telephone or other electronic means.
- (d) A Director participating in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.
- (e) A meeting by telephone or other electronic means is to be taken to be held at the place determined by the Chair provided that at least 1 of the Directors involved was at that place for the duration of the meeting.

7.10 Convening of meetings of Directors

- (a) The Chairperson or any 2 or more Directors may, whenever they think fit, convene a meeting of the Directors.
- (b) The Company Secretary must, when requested by the Chairperson or on the requisition of any 2 or more Directors, convene a meeting of the Directors.

7.11 Notice of meetings of Directors

- (a) Subject to this Constitution, notice of a meeting of Directors must be given to each person who is at the time of giving the notice a Director, other than a Director on leave of absence approved by the Directors.
- (b) A notice of a meeting of Directors:
 - (1) must specify the time and place of the meeting;
 - (2) should where practicable state the nature of the business to be transacted at the meeting;
 - (3) may be given immediately before the meeting; and
 - (4) may be given in person or by post, or by telephone, fax or other electronic means.
- (c) In the absence of special circumstances, at least 48 hours' notice of a meeting of the Directors must be given.
- (d) A Director may waive notice of any meeting of Directors by notifying APozA to that effect in person or by post, or by telephone, fax or other electronic means.
- (e) The non-receipt of notice of a meeting of Directors by, or a failure to give notice of a meeting of Directors to, a Director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the Director:
 - (A) has waived or waives notice of that meeting under rule 7.11(d); or
 - (B) has notified or notifies APozA of his or her agreement to that act, matter, thing or resolution personally or by post or by telephone, fax or other electronic means; or
 - (3) the Director attended the meeting.
- (f) Attendance by a person at a meeting of Directors waives any objection that person may have to a failure to give notice of the meeting.

7.12 Quorum at meetings of Directors

- (a) No business may be transacted at a meeting of Directors unless a quorum of Directors is present during the time the business is dealt with.
- (b) A quorum consists of 3 Directors present at the meeting of Directors, provided at least 2 of the Directors present are Directors appointed under rule 7.1(b).

- (c) If there is a vacancy in the office of a Director then, subject to rule 7.12(d), the remaining Director or Directors may act.
- (d) If the number of Directors in office at any time is not sufficient to constitute a quorum at a meeting of Directors, the remaining Director or Directors must act as soon as possible to increase the number of Directors to a number sufficient to constitute a quorum and, until that has happened, must only act if and to the extent that they reasonably believe there is an emergency requiring them to act.

7.13 Chair of Directors' meetings

- (a) The Chairperson must (if present within 10 minutes after the time appointed for the holding of the meeting and willing to act) preside as Chair.
- (b) If at a meeting of Directors:
 - (1) there is no Chairperson;
 - (2) the Chairperson is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (3) the Chairperson is present within that time but is not willing to act as Chair,then the Vice-Chairperson must preside as Chair.
- (c) If at a meeting of Directors:
 - (1) there is no Chairperson and no Vice-Chairperson;
 - (2) neither the Chairperson or the Vice-Chairperson is present within 15 minutes after the time appointed for the meeting; or
 - (3) neither the Chairperson or the Vice-Chairperson is willing to act as Chair,then the Directors present must elect as Chair another Director who is present and willing to act.
- (d) Despite anything in rule 7.13(b) or 7.13(c), if the Chairperson or the Vice-Chairperson later attends a meeting of Directors, the Chairperson or failing him or her the Vice-Chairperson, provided he or she is willing to act, must take over as Chair.

7.14 Decisions of Directors

- (a) A meeting of Directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Directors under this Constitution.
- (b) Questions arising at a meeting of Directors are to be decided by a majority of votes cast by the Directors present and any such decision is for all purposes a determination of the Directors.
- (c) In the case of an equality of votes upon any proposed resolution, the Chair, in addition to their deliberative vote, has a casting vote.
- (d) Notwithstanding anything else in this Constitution, no resolution of the Directors is regarded as having been passed unless the majority of the Directors appointed under rule 7.1(b) indicate their assent to the resolution:
 - (1) either in writing, verbally or otherwise; and

- (2) before or at the time the vote is taken on the resolution.

7.15 Proxies for Directors

- (a) A Director may attend and vote by proxy at a meeting of the Directors if the proxy is a Director, and has been appointed by writing by the appointor.
- (b) Such an appointment may be general or for any particular meeting or meetings.

7.16 Written resolutions

- (a) If:
 - (1) all of the Directors have received reasonable notice of a proposed act, matter, thing or resolution; and
 - (2) such number of Directors who are eligible to consider the act, matter, thing or resolution and who together are sufficient to constitute an absolute majority of the Directors, assent to a document containing a statement to the effect that the act, matter or thing has been done or resolution has been passed,

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

- (b) For the purposes of rule 7.16(a):
 - (1) the meeting is to be taken as having been held on the day on which, and at the time at which, the document was last assented to by 1 of those constituting that absolute majority;
 - (2) 2 or more separate documents in identical terms each of which is assented to by 1 or more of the relevant Directors are to be taken as constituting 1 document; and
 - (3) a Director may signify assent to a document by signing the document or by notifying APoZA of the Director's assent in person or by post, or by telephone, fax or other electronic means.
- (c) Where a Director signifies assent to a document verbally in person or by telephone, the Director must by way of confirmation either:
 - (1) promptly send to APoZA an email or other electronic communication capable of being reliably recorded and stored confirming the Director's assent; or
 - (2) sign the document at the next meeting of the Directors attended by that Director,

but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

7.17 Committees

- (a) The Directors may, by making a By-law, establish a committee:
 - (1) consisting of such number of Directors (if any) as they think fit;
 - (2) consisting of such non-Directors they think fit;
 - (3) the chair of which must be a Director unless the relevant By-law requires or allows otherwise;

- (4) with such persons including non-Directors as observers, as they think fit; and
- (5) with such purposes and functions as set out in the By-law.
- (b) Any non-Director who is a member of a committee may only vote on that committee if the relevant By-law permits.
- (c) The Directors may, in the relevant By-law or by resolution, delegate any of their powers to a committee.
- (d) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.
- (e) The provisions of this Constitution applying to meetings and resolutions of Directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee.

7.18 Delegation to individual Directors

- (a) The Directors may delegate any of their powers to 1 Director.
- (b) A Director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.

7.19 Validity of acts

An act done by a person acting as a Director or by a meeting of Directors or a committee of Directors attended by a person acting as a Director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a Director;
- (b) the person being disqualified to be a Director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the Directors or committee (as the case may be) when the act was done.

8. Additional officers

8.1 Company Secretary and other officers

- (a) The Directors must appoint a person to be the Company Secretary for the purposes of the Corporations Act.
- (b) The Company Secretary may, but does not have, to be a Director.
- (c) In addition to other duties set out in this Constitution, the Company Secretary must attend all meetings of the Directors and all general meetings and must conduct all correspondence and generally carry out the instructions of the Directors.
- (d) The Directors may appoint other officers for APoZA.

8.2 Provisions applicable to all executive officers

- (a) A reference in this rule 8.2 to an executive officer is a reference to an officer holding office or appointed under rule 8.1.

- (b) The appointment of an executive officer may be for such period, at such remuneration and upon such conditions as the Directors think fit.
- (c) Subject to any contract between APoZA and the relevant executive officer and any applicable industrial law, any executive officer of APoZA may be removed or dismissed by the Directors at any time, with or without cause, whether or not the executive officer is also a Director at the time.
- (d) The Directors may:
 - (1) confer on an executive officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the Directors) as they think fit;
 - (2) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (3) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (e) An act done by a person acting as an executive officer is not invalidated by reason only of:
 - (1) a defect in the person's appointment as an executive officer; or
 - (2) the person being disqualified to be an executive officer,if that circumstance was not known by the person when the act was done.

9. Indemnity and insurance

9.1 Persons to whom rules 9.2 and 9.5 apply

Rules 9.2 and 9.5 apply to each Official.

9.2 Indemnity

Subject to rule 9.3, APoZA must indemnify each Official on a full indemnity basis and to the full extent permitted by law against all Liabilities incurred by the Official as an Official, including:

- (a) a liability for negligence; and
- (b) a liability for reasonable legal costs.

9.3 Limit on indemnity

- (a) The indemnity in rule 9.2 does not operate in relation to any Liability which:
 - (1) is a Liability to APoZA or any of its related bodies corporate;
 - (2) is a Liability for a pecuniary penalty order under section 1317G or a compensation order under section 961M, 1317H, 1317HA, 1317HB, 1317HC or 1317HE of the Corporations Act; or
 - (3) arises out of conduct of the Official which was not in good faith, or which involves wilful misconduct, gross negligence, reckless misbehaviour or fraud,

provided that this rule 9.3(a) does not apply to a Liability for legal costs.

- (b) The indemnity in rule 9.2 does not operate in relation to legal costs incurred by the Official in defending an action for a Liability if the costs are incurred:
 - (1) in defending or resisting proceedings in which the Official is found to have a Liability referred to in rule 9.3(a);
 - (2) in defending or resisting criminal proceedings in which the Official is found guilty;
 - (3) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established. For the avoidance of doubt, this does not include costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order; or
 - (4) in connection with proceedings for relief to the Official under the Corporations Act in which the court denies the relief.
- (c) If there is any appeal in relation to any proceedings referred to in rule 9.3(b), it is the outcome of the final appeal that is relevant for the purposes of rule 9.3(b).
- (d) The indemnity in rule 9.2:
 - (1) does not extend to and is not an indemnity against any amount in respect of which the indemnity would otherwise be illegal, void, unenforceable or not permitted by law; and
 - (2) does not operate in respect of any Liability of the Official to the extent that Liability is covered by insurance.

9.4 Extent of indemnity

The indemnity in rule 9.2:

- (a) is enforceable without the Official having to first incur any expense or make any payment; and
- (b) is a continuing obligation and is enforceable by the Official even though the Official may have ceased to be an officer of APoZA or a related body corporate or to hold the non-officer position the Official originally held.

9.5 Insurance

APoZA may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for each Official against any Liability incurred by the Official as an Official including a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

9.6 Savings

Nothing in rule 9.2 or 9.5:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any Liability referred to in those rules; or

- (b) limits the capacity of APoZA to indemnify or provide or pay for insurance for any person to whom those rules do not apply.

9.7 Deed

APoZA may enter into a deed with any Official to give effect to the rights conferred by rules 9.1 to 9.6, or the exercise of a discretion under rules 9.1 to 9.6 on such terms as the Directors think fit which are not inconsistent with rules 9.1 to 9.6.

10. Winding-up or dissolution

- (a) If, on the winding-up or dissolution of APoZA, any property remains after satisfaction of all its debts and liabilities, such property must be given or transferred to a company, fund, institution or authority:
 - (1) which has objects similar to, or inclusive of, the objects of APoZA; and
 - (2) whose constitution prohibits distributions or payments to its members to at least the same extent as set out in rule 4.
- (b) The identity of the entity referred to in rule 10(a) must be determined by the Directors, or if the Directors do not wish to decide or do not decide, it must be determined by the Supreme Court of Western Australia..
- (c) Every Member undertakes to contribute to the property of APoZA in the event of it being wound-up while he, she or it is a Member, or within 1 year after he, she or it ceases to be a Member, for payment of the debts and liabilities of APoZA (contracted before he, she or it ceases to be a Member) and of the costs, charges, and expenses of winding-up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding \$10.

11. Minutes and records

11.1 Minutes of meetings

The Company Secretary must ensure minutes of proceedings and resolutions of general meetings and of meetings of the Directors (including committees of the Directors) are recorded in Books kept for that purpose, within 1 month after the relevant meeting is held.

11.2 Minutes of resolutions passed without a meeting

The Company Secretary must ensure that minutes of resolutions passed by Members or Directors (including committees of Directors) without a meeting are recorded in Books kept for the purpose within 1 month after the resolution is passed.

11.3 Signing of minutes

- (a) The minutes of a meeting must be signed within a reasonable time by the Chair of the meeting or by the Chair of the next meeting.
- (b) The minutes of the passing of a resolution without a meeting must be signed by a Director within a reasonable time after the resolution is passed.
- (c) The signing of minutes by a Chair or a Director may occur electronically in any manner permitted by relevant law, which may include signing a printed copy of the document and sending it electronically to APoZA.

11.4 Minutes as evidence

A minute that is recorded and signed under rules 11.1 to 11.3 is evidence of the proceeding or resolution to which it relates unless the contrary is proved.

12. Accounts and audit

12.1 Accounts

APoZA must prepare and deal with such accounts as required under the Corporations Act and/or, if applicable, the ACNC Legislation.

12.2 Audit

APoZA must, if required under the Corporations Act or the ACNC Legislation, appoint a properly qualified auditor whose duties will be regulated in accordance with the Corporations Act and/or ACNC Legislation (as applicable).

13. Execution of documents

Without limiting its other options, APoZA may execute a document (including a deed) if it is signed by 2 Directors.

14. Notices

14.1 Notices by APoZA to Members

(a) APoZA may give a notice to a member by:

- (1) serving it personally at, or by sending it by post or courier to, the member's address as shown in the register of members or another address the member has supplied;
- (2) sending it to the fax number or electronic address the member has supplied to the company for the giving of notices; or
- (3) giving to the member in a manner authorised by this rule 14.1(a) another notice containing details of an online location where the notice can be viewed or downloaded (and so giving those details will be taken to be giving the notice).

(b) The fact that a person has supplied a fax number or electronic address for the giving of notices does not:

- (1) require APoZA to give any notice to that person by fax or electronic means; or
- (2) prevent APoZA from giving any notice to that person in the manner envisaged by rule 14.1(a)(2).

(c) A signature to any notice given by APoZA to a Member under this rule 14.1 may be in writing or a facsimile printed or affixed by some mechanical, electronic or other means.

(d) A certificate signed by a Director or Company Secretary of APoZA to the effect that a notice has been given in accordance with this Constitution is conclusive evidence of that fact.

14.2 Notices by APoZA to Directors

Subject to this Constitution, APoZA may give a notice to a Director either by:

- (a) serving it personally at, or by sending it by post or courier to, the Director's usual residential or business address or to another address the Director has supplied to APoZA for the giving of notices; or
- (b) by sending it to the fax number or electronic address which the Director has supplied to APoZA for the giving of notices; or
- (c) giving to the Director in a manner authorised by this rule 14.2 another notice containing details of an online location where the notice can be viewed or downloaded (and so giving those details will be taken to be giving the notice).

14.3 Notices by Members or Directors to APoZA

Subject to this Constitution, a notice may be given by a Member or Director to APoZA by serving it on APoZA at, or by sending it by post in a prepaid envelope to, the registered office or principal mailing address of APoZA or by sending it to the principal fax number or principal electronic address of APoZA at its registered office.

14.4 Time of service

- (a) If APoZA sends a notice by post or courier, then it is served on the day after the date a properly addressed envelope containing the notice is placed in the post or given to the courier for delivery provided that the postage or courier delivery fee is prepaid or APoZA has an arrangement with the postal or courier service provider to pay after posting or delivery.
- (b) If APoZA sends a notice by fax or electronic means, then it is served on the day it is sent.
- (c) If APoZA gives a notice by serving or sending another notice containing details of an online location where the notice can be viewed or downloaded, then:
 - (1) in the case of personal service, the notice is served when the other notice containing those details is personally served; and
 - (2) in any other case, the notice is served when the other notice containing those details is served under rule 14.4(a) or (b).

14.5 Other communications and documents

Rules 14.1 to 14.4 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.

14.6 Notices in writing

A reference in this Constitution to a notice or other communication in writing includes a notice given by fax or electronic means.

15. By-laws

15.1 By-laws are made by the Directors

The Directors may from time to time, in their absolute discretion, make, amend, add to, rescind or replace by-laws concerning any aspect of the membership, governance, management, operation or activities of APoZA (**By-laws**) including:

- (a) any matter this Constitution envisages may be regulated by By-laws; and
- (b) any other matter relevant to APoZA that the Directors choose to regulate.

15.2 Conflict between the Constitution and By-laws

To the extent of any conflict between this Constitution and any By-law, this Constitution prevails.

15.3 Effectiveness and promulgation of By-laws

Any By-law made, and any amendment, addition, rescission or replacement:

- (a) has effect on and from the date it is made unless otherwise stated in the relevant instrument; and
- (b) must be promulgated to those affected, provided that failure to bring it to the attention of any person does not render it or anything done in accordance with it void, voidable or ineffective.

15.4 Enforceability of By-laws

- (a) Any By-law:
 - (1) is as valid and enforceable as if it was repeated in this Constitution; and
 - (2) can be enforced by legal action.
- (b) A failure by a Director, other officer of APoZA or Member to comply with a By-law is deemed to be a failure by that Director, other officer of APoZA or Member to comply with this Constitution.

16. General

16.1 Submission to jurisdiction

Each Member submits to the non-exclusive jurisdiction of the Supreme Court of Western Australia, Australia and the Courts which may hear appeals from that Court.

16.2 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this Constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

17. Transitional provision regarding Directors

Notwithstanding any other provision in this Constitution, on and from the Conversion Time:

- (a) the Directors are:
 - (1) Joseph Casella – to be regarded as appointed on 1 July 2019 for a 3 year term for the purposes of rules 7.1(b) and 7.2, and he is the Chairperson at the Conversion Time;
 - (2) Jakub Skut – to be regarded as appointed on 1 July 2019 for a 3 year term for the purposes of rules 7.1(b) and 7.2, and he is the Vice-Chairperson at the Conversion Time;

- (3) Mauricio Olivares – to be regarded as appointed on 1 July 2020 for a 2 year term for the purposes of rules 7.1(e) and 7.2; and
 - (4) Mirela Ghisi – to be regarded as appointed on 1 July 2020 for a 2 year term for the purposes of rules 7.1(e) and 7.2.
- (b) Craig Heidrich is to be regarded as the Company Secretary of APoZA appointed under rule 8.1(a).