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CONSTITUTION OF TOURISM EAST LIMITED

A company limited by guarantee under the Corporations Act 2001 (Cth)

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CONSTITUTION

of

TOURISM EAST LIMITED
ACN 120 061 109

PART 1 – PRELIMINARY

1. NAME

The name of the Company is Tourism East Limited.

2. OBJECTS

The objects for which the Company is established are for the Company to:

- 2.1 be the principal independent destination marketing body for the Yarra Ranges Region;
- 2.2 lead the promotion and development of the Yarra Ranges Region's assets to visitors through effective information servicing and marketing that targets segments aligned to local brand strengths and opportunities;
- 2.3 support the sustainable growth of visitation in the Yarra Ranges Region;
- 2.4 promote economic prosperity, business growth, job creation and sustainable community development through the visitor economy; and
- 2.5 do such things as may be incidental or conducive to the attainment of the objects set out in this clause.

3. FINANCIAL YEAR

The financial year of the Company is each period of 12 months ending on 30 June.

4. DEFINITIONS AND INTERPRETATION

- 4.1 In this Constitution:
 - 4.1.1 "Absolute Majority" means a majority of the votes of all Board Members entitled to vote at the time, whether or not those Board Members are present, and whether or not they vote.
 - 4.1.2 "Annual Subscription" means the annual amount (if any) determined by the Board in accordance with clause 11.1.
 - 4.1.3 "Advisory Committee" means the Committee established under clause 29.
 - 4.1.4 "Board" means the board of directors of the Company for the purposes of the Corporations Act, being the whole or any number (not being less than a quorum) of Board Members for the time being acting as such in accordance with this Constitution.
 - 4.1.5 "Board meeting" means a meeting of the Board held in accordance with this Constitution.

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- 4.1.6 "Board Member" means a member of the Board elected or appointed in accordance with this Constitution.
- 4.1.7 "Bylaws" means bylaws of the Company made by the Board pursuant to this Constitution, and for the time being in force.
- 4.1.8 "Chair" means the person appointed pursuant to clause 22, who is to be a member of the Board and chair general meetings of the Members and meetings of the Board.
- 4.1.9 "Clause" means a clause of this Constitution.
- 4.1.10 "Committee" means a committee of the Board.
- 4.1.11 "Company" means the company continued in existence under this Constitution.
- 4.1.12 "Constitution" means this constitution as for the time being in force.
- 4.1.13 "Corporations Act" means the *Corporations Act 2001* (Cth).
- 4.1.14 "Departmental Representative" means the person appointed by the Department of Jobs, Skills, Industry and Regions (or such other Victorian Government Department as from time to time has primary responsibility for tourism in Victoria) for the purposes of this Constitution.
- 4.1.15 "Entrance Fee" means the amount (if any) determined by the Board in accordance with clause 11.1.
- 4.1.16 "Industry Partners" means tourism related associations, tourism related businesses and businesses providing services to tourists, and any other associations, businesses or stakeholders whose objectives or purposes are considered by the Board to align with the objects of the Company.
- 4.1.17 "Industry Partner Board Members" means Board Members who are individual representatives of Industry Partners, nominated in accordance with clause 24.
- 4.1.18 "LGA representative" means a person appointed by LGA Members in accordance with clause 21 to represent it as a Council-appointed Board Member and at General Meetings and in the conduct of the affairs of the Company, and for that purpose a reference to a LGA Member will be a reference to its LGA representative as appropriate, and vice versa.
- 4.1.19 "LGA Members" means each of Yarra Ranges Council, Nillumbik Shire Council and Cardinia Shire Council.
- 4.1.20 "Liability" includes costs, charges, losses, damages, expenses and penalties.
- 4.1.21 "Member" means a member for the time being of the Company, admitted to membership in accordance with this Constitution. It includes LGA Members and Industry Partners.
- 4.1.22 "Objects" means the objects contained in clause 2 which can also be described as key priority areas.
- 4.1.23 "Officer" includes:
- (a) a Board Member;
 - (b) a person appointed to a Committee; and
 - (c) a person appointed a trustee by, or acting as trustee, at the express request of the Company.

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- 4.1.24 “Partnership Subscription” is a marketing subscription service offered to businesses servicing the Region, as distinct from membership of the Company (as to which see, in particular, clause 9.3.1).
- 4.1.25 “Person” includes an individual, incorporated and unincorporated group or organisation, parts of incorporated and unincorporated groups or organisations and a company or incorporated entity.
- 4.1.26 “Proceedings” means any legal proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act, matter or thing in their capacity as such an Officer, or in the course of acting in connection with the affairs of the Company, or otherwise arising out of the Officer’s holding such office (including proceedings alleging that they were guilty of negligence, default, breach of trust, or breach of duty in relation to the Company).
- 4.1.27 “Public Call” includes advertising on the Company website and at least one other source.
- 4.1.28 “Region” means the Yarra Ranges region of the State of Victoria, comprising the municipal districts of the LGA Members.
- 4.1.29 “Register” means the register of Members.
- 4.1.30 “Representative” means a representative of a corporate Member appointed pursuant to section 250D of the Corporations Act.
- 4.1.31 “Secretary” means a person appointed by the Board pursuant to clause 48 to act as the secretary of the Company for the purposes of the Corporations Act.
- 4.1.32 “Skills-based Board Members” are Board Members who are individuals with relevant skills as required by the Board from time to time and nominated in accordance with Part 5.
- 4.1.33 “To the Relevant Extent” means:
- (a) to the extent that the Company is not precluded by law from doing so; and
 - (b) to the extent, and for the amount, that the Officer is not otherwise entitled, to be indemnified and is not otherwise actually indemnified.

4.2 Unless the contrary intention appears in this Constitution:

- 4.2.1 words importing the singular include the plural, and words importing the plural include the singular;
- 4.2.2 words importing a gender include every other gender;
- 4.2.3 words used to denote persons generally or importing a natural person include any company, corporation, body corporate or other body (whether or not the body is incorporated);
- 4.2.4 a reference to a person includes that person’s successors, legal personal representatives and permitted transferees;
- 4.2.5 a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
- 4.2.6 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.

4.3 In this Constitution headings and bolding are for convenience only and do not affect its interpretation.

5. APPLICATION OF THE CORPORATIONS ACT

- 5.1 This Constitution is to be interpreted subject to the Corporations Act. However, the rules that apply as replaceable rules to companies under the Corporations Act do not apply to the Company.
- 5.2 Unless the contrary intention appears, a word or expression in a clause that is defined in section 9 of the Corporations Act has the same meaning in the Constitution as in that section.

6. COMPANY POWERS

Subject to clause 7, and solely for the purpose of carrying out the Objects, the Company may, in any manner permitted by the Corporations Act:

- 6.1 exercise any power;
- 6.2 take any action; and
- 6.3 engage in any conduct or procedure,

which, under the Corporations Act, a company limited by guarantee may exercise, take or engage in if authorised by its constitution.

7. POWER TO BORROW MONEY

If each of Cardinia Shire Council, Nillumbik Shire Council and Yarra Ranges Council gives its prior agreement in writing, the Board may, at its discretion, exercise all the powers of the Company to raise or borrow money and to secure its repayment in such manner and on such terms and conditions as it thinks fit, including the issue of bonds, debentures, or other securities charged on all or any part of the undertaking assets or rights of the Company, including its unpaid subscriptions.

PART 2 – FINANCES

8. INCOME AND PROPERTY**8.1 Distributions to Members**

The income and property of the Company, however derived, shall be applied solely towards the promotion of the Objects, and no portion of the income or property of the Company shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to any Member.

8.2 Payment for services rendered

Nothing in clause 8.1 prevents the payment in good faith of remuneration to any Officer or servant of the Company or to any Member in return for any services actually rendered to the Company nor for goods supplied in the ordinary and usual course of business. Nor does it prevent the payment of interest at a commercial rate on money borrowed from any Member.

8.3 Payment to Directors

8.3.1 The Company may in good faith pay reasonable fees to a Board Member for acting as a Board Member

8.3.2 The Company may establish policies for payments to Board members which reflect how the Company will make payments or reimbursements for work they do for the Company other than as a Board Member: and for expenses properly incurred by the Board Member in connection with the affairs of the Company, and:

- (a) reimbursement for out-of-pocket expenses incurred in carrying out the duties of a Board Member shall be paid where payment does not exceed any amount previously approved by the Board;
- (b) payment for any service rendered to the Company in a professional or technical capacity shall be made where the provision of that service has the prior approval of the Board and the amount payable is approved by a resolution of the Board and is on reasonable commercial terms; and
- (c) payment as an employee of the Company shall be made where the terms of employment have been approved by resolution of the Board.

8.3.3 The Chair may be paid for services (that is, the Chair may be paid a “director’s fee”), at a rate and in a manner directed or approved by the Board at the time of appointment or at any time thereafter.

PART 3 – MEMBERSHIP

9. MEMBERSHIP

9.1 Members

The following persons are Members:

- 9.1.1 the Local Government Members;
- 9.1.2 those other Persons who were Members as at 1 July 2025; and
- 9.1.3 any other Person who becomes a Member by virtue of clause 9.5.

9.2 Classes and rights

9.2.1 The classes of membership shall be as follows:

- (a) Industry Partner Members as set out at clause 9.3; and
- (b) Local Government Members as set out in clause 9.4.

9.2.2 Additional:

- (a) classes of membership; and
- (b) eligibility criteria for admission to membership for any class of membership, including the classes set out in this clause 9.2,

may be set out in the By-Laws and, subject to this Constitution, the rights and benefits, duties and obligations, and status of Members within the various classes of membership may be defined by the By-Laws.

9.3 Industry Partner Members

- 9.3.1 Industry Partner membership is not the same as Partnership Subscription. For the avoidance of doubt, a Partnership Subscription subscriber will not be a Member unless they have separately successfully applied and been accepted for membership.
- 9.3.2 The only recognised subclass of membership of Industry Partner Membership shall be organisations that have as their sole or a principal object the sustainable growth of the visitor economy throughout the Region.
- 9.3.3 Industry Partner Membership is not open to individuals.
- 9.3.4 Industry Partner Membership is open to companies, incorporated associations and unincorporated associations which:
 - (a) are validly existing and in good standing;
 - (b) support the Objects; and
 - (c) can be a Member and uphold this Constitution (including the Objects) without resulting in a breach of their constitution, Rules of Incorporation, Trust Deed or other constitutional documents.
- 9.3.5 An Industry Partner Member must:

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- (a) provide the Company with a copy of its current constitution, Rules of Incorporation, Trust Deed or other constitutional documents (as the case may be), as amended from time to time; and
- (b) serve notice on the Company of every general meeting of their entity (if applicable) noting that the Company shall be entitled to send a representative to attend such meeting who will report back to the Board.

9.3.6 An Industry Partner Member is entitled to one vote.

9.3.7 Industry Partner Members are eligible to nominate candidates for Industry Partner Board Members and associated Alternate Directors to serve on the Board on their behalf by nominating them in accordance with clause 24.

9.4 Local Government Members

9.4.1 Each of:

- (a) Cardinia Shire Council;
- (b) Nillumbik Shire Council; and
- (c) Yarra Ranges Council

is a Local Government Member.

9.4.2 Each Local Government Member is entitled to

- (a) one vote
- (b) one seat on the Board in accordance with clause 21.

9.5 Admission to membership

9.5.1 Membership shall be open to those Persons who, being eligible to become a member in accordance with this Constitution and the By-Laws, agree in writing to become a Member and whose application for membership is approved by the Board in accordance with clause 9.7.

9.5.2 Members are entitled to be admitted to membership, upon the granting of approval by the Board (in a class of membership approved or directed by the Board).

9.5.3 A Member who is not an individual may only become a member by nominating a Nominee to act as a member on its behalf in accordance with clause 16.

9.6 Applications

Applications for membership must be:

9.6.1 in writing in the form determined by the Board from time to time, stating that the applicant:

- (a) wishes to become a Member; and
- (b) supports the Objects;

9.6.2 signed by the applicant; and

9.6.3 lodged with the Board, or as the Board otherwise specifies from time to time.

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9.7 Board to consider and approve applications for membership

- 9.7.1 An application for membership shall be considered at the first regular meeting of the Board following the receipt of the application, unless it is impractical to do so.
- 9.7.2 The Board must:
- (a) by resolution approve or reject the application; and
 - (b) notify the applicant in writing whether the application has been approved or rejected.
- 9.7.3 If the Board approves the application:
- (a) the Board shall request the applicant pay within a period of 28 days after the date of the Board meeting the amount payable under this Constitution as the Entrance Fee and the first year's Annual Subscription (if any);
 - (b) the name and address of the new Member, and the date of becoming a Member, must be entered in the Register within 7 days of the receipt of the amounts referred to in clause 9.7.3(a), or as soon as reasonably practicable if no such amount is payable; and
 - (c) the applicant becomes a Member from the date of the applicant is recorded in the Register of Members, in accordance with clause 9.7.3(b).
- 9.7.4 The decision of the Board on an application for membership, and as to the class (if any) of membership for which the applicant is eligible, shall be final and conclusive and binding on the applicant, and the Board is not bound to acknowledge or take into account comments received from existing Members.
- 9.7.5 The Board will not be required to give any reason for the rejection of any application for membership.
- 9.7.6 The Board may require such additional evidence as is reasonably required to establish eligibility for membership as a pre-condition to accepting a membership application.

9.8 Changes to classes of membership

- 9.8.1 The Board may dissolve any present or future class or classes of membership of the Company and may create new or further class or classes of membership.
- 9.8.2 The Board may from time to time temporarily or permanently close any class of membership.
- 9.8.3 Where a class of membership is dissolved or closed, the members within than class of membership cease to be Members and must reapply as new members.

10. RIGHTS AND OBLIGATIONS OF MEMBERS

- 10.1 The rights of Members are not transferable, and end when the Member ceases to be a member in accordance with clauses 12 and 13.
- 10.2 By joining the Company, Members agree to support the Objects.

11. ENTRANCE FEE AND ANNUAL SUBSCRIPTIONS

- 11.1 The Board may by resolution set:

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11.1.1 an Entrance Fee payable by Industry Partner Members upon being admitted to membership; and

11.1.2 an Annual Subscription for each class of Members.

11.2 The amount of the Entrance Fee and Annual Subscription and the date for payment for either may vary according to criteria set by the Board in the resolution.

11.3 Subject to clause 18.8.7, the voting and other rights of Members who have not paid the Annual Subscription by the date for payment are suspended until the Annual Subscription is paid.

12. RESIGNATION AND EXPULSION OF MEMBERS

12.1 Resignation

12.1.1 An Industry Partner Member may resign their membership of the Company at any time by giving notice in writing to the Board.

12.1.2 An LGA Member may resign their membership of the Company by giving the Company at least 12 months notice in writing prior to the next Annual General Meeting

12.1.3 A Member is taken to have resigned if:

- (a) the Member's Annual Subscription is more than 12 months in arrears; or
- (b) where no annual fee is payable:
 - (i) the Company has made a written request to the Member to confirm that they wish to remain a Member; and
 - (ii) the Member has not, within 3 months after receiving that request, confirmed in writing that they wish to remain a Member.

12.2 Discipline

12.2.1 The Board may, by special resolution, suspend or expel a Member or its nominee for:

- (a) failing to comply with this Constitution;
- (b) failing to support the Objects; or
- (c) conduct prejudicial to the interests of the Company.

12.2.2 Before suspending or expelling the Member or its nominee, the Board must give notice in writing to that Member and their nominee of the Board's intention to do so and stating the Board's reason for the proposed suspension or expulsion.

12.2.3 The notice given under clause 12.2.2 must specify a time and place at which the Member and/or the nominee may appear before the Board to show cause why the Member or its nominee should not be expelled, such time to be not less than 14 days from the date of the notice.

12.2.4 Where a Member or its nominee is suspended or expelled pursuant to this clause 12.2, the Member may call a Special General Meeting to appeal against the decision of the Board. Such meeting shall be held within 28 days after the Board resolves to suspend or expel the Member or nominee. If at such Special General Meeting three quarters of the Members present and entitled to vote, vote in favour of confirmation of the suspension or expulsion, the suspension or expulsion is confirmed. In any other case, the suspension or expulsion is revoked.

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12.2.5 At a Special General Meeting of Members convened under clause 12.2.4:

- (a) no business other than the question of the appeal shall be transacted;
- (b) the Board may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution;
- (c) the Member and/or its nominee shall be given an opportunity to be heard; and
- (d) the Members present shall vote by secret ballot on the question whether the resolution should be confirmed or revoked.

12.3 Effect of Suspension

12.3.1 In the event that a Member who is also a Board Member in their own right is suspended from membership in accordance with clause 12.2, the Member will be deemed to have vacated the office of Board Member. This clause applies notwithstanding that the vacation from the position of Board Member may have the effect of automatically resigning that Member from membership.

12.3.2 In the event that a Member is suspended from office, all rights of membership (including the right to a position on the Board) are suspended for the duration of the suspension. Unless the Board agrees by absolute majority, a nominee who is also a Board Member will be suspended from the position of Board Member for the duration of the Member's suspension. For the avoidance of doubt, suspension in this clause is not to be taken as a casual vacancy.

13. CESSATION OF MEMBERSHIP

13.1 Members cease to be members:

13.1.1 on ceasing to meet the eligibility criteria prescribed pursuant to clause 9.2 and set out in the By-Laws from time to time (for the relevant class of membership);

13.1.2 in accordance with clause 9.8.3;

13.1.3 on resignation, expulsion, death or ceasing to have legal capacity or legal standing;

13.1.4 on becoming insolvent, bankrupt, under administration or upon making any arrangement or composition with their creditors generally; and

13.1.5 in the case of Members nominated to act on behalf of an unincorporated body, or part of an incorporated or unincorporated body under clause 9.5.3 who are not Members in their own right, when another person is nominated to act.

13.2 If a Member ceases to be a member, the date of ceasing to be a member must be entered in the Register.

14. PRIVACY OF MEMBERS

14.1 Personal information about Members is collected for the purpose of membership and purposes incidental to membership, which may mean that it is used for promoting the interests of the Company and disclosed to other Persons, or made available for inspection by other Persons, including:

14.1.1 accounting, legal and financial advisers of the Company;

14.1.2 other Members;

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14.1.3 government authorities and agencies; and

14.1.4 suppliers to and customers of the Company.

14.2 On being admitted to membership Members will be taken to have consented to their personal information being used in accordance with clause 14.1.

14.3 Any Member whose details change, or who would like to update or access their personal information, must contact the Board to provide the changed details or access to the personal information.

15. OBLIGATIONS OF MEMBERS

Except as set out in the Constitution, the rights and benefits, duties and obligations, and status of Members, within the various classes of membership which may exist from time to time shall be defined by the By-Laws.

16. NOMINEES

16.1 General

16.1.1 All Members, who are not individuals, must appoint an individual to act as a representative on its behalf.

16.1.2 Representatives may exercise all the rights of membership on behalf of the Member that they represent.

16.1.3 Notwithstanding anything contained to the contrary in this Constitution, a representative cannot be a Member in their own right unless they resign from the position of representative.

16.2 Deemed Appointments

16.2.1 Where an Industry Partner Board Member has been appointed by an Industry Partner Member, the Industry Partner Board Member shall be the representative for that Member. Where an Industry Partner Board Member has not been appointed, the Industry Partner Member must separately appoint a representative in accordance with clause 16.3.

16.2.2 The representative at any given time for:

- (a) Cardinia Shire Council shall be the Cardinia Shire Council nominated Board Member;
- (b) Nillumbik Shire Council shall be the Nillumbik Shire Council nominated Board Member; and
- (c) Yarra Ranges Council shall be the Yarra Ranges Council nominated Board Member.

16.3 Appointment of Non-director Representatives

16.3.1 A Member may appoint or replace a representative who is not also a Board Member at any time in accordance with this clause. Appointments of representatives must be:

- (a) in writing, naming the individual (or individuals, in order) to represent the Member;
- (b) sealed by, or signed on behalf of, the Member; and

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- (c) either, sent to the Company at least 24 hours before a General Meeting, or given to the chairperson of the meeting before or at the commencement of the General Meeting.

16.4 Appointment of Board Member Representatives

- 16.4.1 A representative who is also a Board Member will be deemed to appointed upon becoming a Board Member and will remain as nominee for the duration of their Board membership.

PART 4 – GENERAL MEETINGS

17. MEETINGS OF MEMBERS

17.1 Annual General Meeting

17.1.1 An Annual General Meeting of the Company shall be held in accordance with the requirements of the Corporations Act and at such times and places as the Board may determine.

17.1.2 The ordinary business of the Annual General Meeting is to:

- (a) receive and consider the accounts, balance sheets and the reports of the Board and of the auditors and of any other documents required by law to be laid before the meeting;
- (b) elect Industry Partner representatives to the Board; and
- (c) transact any other business which under the Constitution or the Corporations Act ought to be transacted at an Annual General Meeting.

17.1.3 No business shall be transacted at an Annual General Meeting other than:

- (a) the ordinary business referred to in clause 17.1.2; and
- (b) any special business set out in the notice of meeting.

17.2 Special General Meetings

17.2.1 A General Meeting of Members other than the Annual General Meeting shall be called a Special General Meeting.

17.2.2 The Board may, whenever it thinks fit, convene a Special General Meeting and must convene a Special General Meeting on a requisition of:

- (a) Members, as provided for by the Corporations Act; or
- (b) a Board Member.

17.2.3 The requisition for a Special General Meeting shall state the resolutions proposed to be put to the meeting, shall be signed by the Members or Board Member making the requisition and be sent to the office of the Company, and may consist of several documents in a like form, each signed by one or more of the Members or Board Member making the requisition.

17.2.4 Special General Meetings may only consider business of which notice has been given in accordance with clause 17.3.

17.3 Notice of General Meetings

17.3.1 Subject to the provisions of the Corporations Act, and of this Constitution, not less than 21 clear days notice of a General Meeting shall be given in the manner provided in clause 59 to the Members, Directors and auditors of the Company, specifying the place, day and hour of the meeting and in the case of special business the general nature of that business.

17.3.2 The accidental omission to give notice of a General Meeting to, or the non-receipt of any such notice by, any of the Members shall not invalidate any resolution passed at any such meeting.

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- 17.3.3 A Member desiring to bring any business before a meeting may give notice of that business in writing to the Board, which shall include all legitimate business in the notice calling the next General Meeting after the receipt of the notice.

17.4 Postal Ballots

- 17.4.1 Subject to the provisions of the Corporations Act, whenever the Board thinks fit it may submit any question or resolution to the vote of all Members entitled to a vote at a General Meeting of the Company by means of a postal ballot in such form and returnable in such manner as the Board decides, provided that notice of any postal ballot shall be given to each Member in the manner provided in clause 17.3.
- 17.4.2 A resolution approved by a majority or specific majority of the Members voting by such ballot shall have the same force and effect as such a resolution would have if carried by such a majority or specific majority at a duly constituted General Meeting of the Company competent to pass such a resolution.

17.5 Use of Technology

General Meetings may be held at more than one place, provided that the technology that is used enables each Member present at all places the meeting is held to clearly and simultaneously communicate with every other such Member.

18. PROCEEDINGS AT GENERAL MEETINGS

18.1 Quorum

- 18.1.1 No business shall be transacted at a General Meeting unless a quorum is present at the commencement of business.
- 18.1.2 The quorum for consideration of the business of a General Meeting is the presence in person, by representatives or by proxy, of the greater of:
- (a) at least 3 Industry Partner Members entitled to vote; and
 - (b) At least 50% of LGA Members.

18.2 Chairperson

The Chair is entitled to act as chairperson of General Meetings, but if no such person has been appointed, or if at any meeting the Chair is not present within 10 minutes after the time appointed for holding the meeting, or unwilling to act, the Board Members present may choose one of their number to be chairperson of the meeting.

18.3 Absence of quorum

If within half an hour from the time appointed for the General Meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present (being not less than three) shall be a quorum. If three Members are not present, the meeting shall be dissolved.

18.4 Adjournment of meeting

The chairperson of a General Meeting may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the

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business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Except as aforesaid it shall not be necessary to give any notice of an adjournment or the business to be transacted at an adjourned meeting.

18.5 Poll

18.5.1 At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:

- (a) by the chairperson of the meeting;
- (b) by at least 3 Members present by representative or by proxy; or
- (c) by any 2 Board Members.

18.5.2 Unless a poll is so demanded a declaration by the chairperson of the meeting that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

18.6 Manner of taking poll

If a poll is duly demanded it shall be taken in such a manner and either at once or after an interval or adjournment or otherwise as the chairperson of the meeting directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a chairperson or on a question of adjournment shall be taken forthwith.

18.7 Casting vote by chairperson

In the case of an equality of votes whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

18.8 Voting

18.8.1 The voting rights of the Members may be set out in the By-Laws.

18.8.2 Each Member who is an individual who has the right to vote may vote:

- (a) in person;
- (b) by the appointment of a single proxy, who shall be entitled to vote on a show of hands as well as on a poll; or
- (c) by attorney.

18.8.3 Each representative (of a Member who has the right to vote) shall vote on behalf of the Member. The representative may vote:

- (a) in person;
- (b) by the appointment of a single proxy duly authorised by the Member, who shall be entitled to vote on a show of hands as well as on a poll; or
- (c) by attorney duly authorised by the Member.

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- 18.8.4 A proxy or attorney need not be a Member and may be appointed for all or any number of meetings, or for a particular meeting.
- 18.8.5 The decision of the chairperson of a meeting as to the validity of a proxy or power of attorney shall be final and conclusive.
- 18.8.6 Where a person present at a General Meeting represents personally or by proxy or attorney of more than one Member, the following provisions apply to a vote taken on a show of hands:
- (a) the person is entitled to one vote only despite the number of Members the person represents; and
 - (b) the person's vote will be taken as having been cast for all the Members the person represents.
- 18.8.7 A Member is not entitled to vote at a General Meeting unless all moneys due and payable by the Member to the Company have been paid.

18.9 Qualification of voters

An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered. Any such objection shall be referred to the chairperson of the meeting, whose decision is final. A vote not disallowed pursuant to such an objection is valid for all purposes.

18.10 Proxies

- 18.10.1 An appointment of a proxy is valid if it meets the requirements of the Corporations Act and this Constitution.
- 18.10.2 The instrument appointing a proxy shall be in writing under seal or under the hand of an officer or attorney duly authorised. The instrument appointing a proxy shall be lodged at the registered office of the Company or such other place as is specified for that purpose in the notice convening the meeting not less than 48 hours before the proxy purports to vote at any general meeting of the Company. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. A Member shall be entitled to instruct their proxy to vote in favour of or against any proposed resolutions. Unless otherwise instructed the proxy may vote as they think fit.
- 18.10.3 Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:
- (a) the appointing Member dies;
 - (b) the Member is mentally incapacitated;
 - (c) the Member revokes the proxy's appointment; or
 - (d) the Member revokes the authority under which the proxy was appointed by a third party.
- 18.10.4 The appointment of a proxy or attorney is not revoked by the appointer attending the general meeting, but:
- (a) if the appointer votes on a resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on that resolution; and

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- (b) if the appointer otherwise takes part in the meeting in relation to a resolution the proxy or attorney must not take part in the meeting in relation to that resolution.

PART 5 – BOARD OF MANAGEMENT

19. BOARD OF DIRECTORS

19.1 Role and powers

19.1.1 The business of the Company must be managed by or under the direction of a Board.

19.1.2 The Board may exercise all the powers of the Company except those powers that this Constitution or the Corporations Act require to be exercised by General Meetings of the members of the Company.

19.1.3 The Board may:

- (a) appoint and remove the Company's Chief Executive Officer or other appointed executive; and
- (b) establish committees consisting of members with terms of reference it considers appropriate.

19.2 Delegation

19.2.1 The Board may delegate to a Board Member, a committee or staff, any of its powers and functions other than:

- (a) this power of delegation; or
- (b) a duty imposed on the Board by the Corporations Act or any other law.

19.2.2 The delegation must be in writing and may be subject to the conditions and limitations the Board considers appropriate.

19.2.3 The Board may, in writing, revoke a delegation wholly or in part.

19.3 Qualification of Board Members

No person is eligible to be appointed or act as a Board Member (including an Alternate Board Member) of the Company unless:

19.4 that Person is over the age of 18 years; and

19.5 that Person is not prohibited or disqualified or otherwise prevented from acting as a director of a company under the Corporations Act.

20. COMPOSITION OF BOARD

The Board will consist of:

20.1 one LGA Delegate for each LGA Member;

20.2 up to 4 Industry Partner Board Members as follows:

20.2.1 up to 2 from Industry Partners based within Yarra Ranges Shire;

20.2.2 1 from Industry Partners based within Nillumbik Shire; and

20.2.3 1 from Industry Partners based within Cardinia Shire;

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- 20.3 up to 3 Skills-based Board Members appointed in accordance with this Constitution; and
- 20.4 the Chair appointed in accordance with clause 22 this Constitution.

21. APPOINTMENT OF LGA DELEGATES

- 21.1 Each LGA Member must appoint one LGA representative.
- 21.2 Subject to clause 21.3, the LGA representative of an LGA Member must be the Chief Executive Officer of the LGA Member or their officer delegate with appropriate delegated authority.
- 21.3 An LGA Member may change its LGA representative from time to time but until such change is made and notified to the Secretary the LGA representative remains a Board Member.
- 21.4 The Board shall do all such things necessary to appoint the new LGA representative as a Board Member.

22. APPOINTMENT OF INDEPENDENT CHAIR

- 22.1 A Chair shall be appointed by the Board following a recommendation of the Skills and Nominations Committee.
- 22.2 Subject to this Constitution, the Chair shall be appointed and removed by such means and on such terms as the Board prescribe from time to time, provided that:
 - 22.2.1 in making an appointment the Board must ensure that the requirements of clauses 19.4 and 19.5 are met; and
 - 22.2.2 in the event of the office becoming vacant by reason of death, resignation or otherwise, then the Board shall, subject to this Constitution, fill the vacancy as soon as is reasonably practicable.
- 22.3 In order to be eligible for the position of Chair, an individual:
 - 22.3.1 must be independent;
 - 22.3.2 must have relevant director or Chair experience;
 - 22.3.3 should have experience in the tourism industry and have business, management and/or financial skills and experience; and
 - 22.3.4 cannot be a paid employee or an elected Councillor of an LGA Member.
- 22.4 For the purposes of clause 22.3.1 “independent” ideally includes having no direct commercial involvement in the tourism industry in the Region.
- 22.5 Where there is no Chair or the term of office of a Chair has expired and not been extended, the Skills and Nominations Committee:
 - 22.5.1 must call for the expression of interest from individuals with an appropriate skill set;
 - 22.5.2 will follow such processes it considers appropriate for the identification and nomination of the Chair;
 - 22.5.3 must recommend to the Board the responsibilities and remuneration of the Chair (which must be within any guidelines or remuneration ranges approved by the Board); and

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22.5.4 must, subject to clause 23.2, propose to the Board a person to be approved for appointment as Chair.

22.6 In the absence of manifest error or breach of this Constitution, the Person nominated as Chair and associated arrangements relating to responsibilities and remuneration proposed by the Skills and Nominations Committee must be approved by the Board in a Board meeting.

22.7 Unless the Chair resigns by written notice to the Secretary, the Chair shall hold office for a term of 3 years and be eligible for re-election (as determined by the Skills and Nominations Committee and in accordance with due process).

23. APPOINTMENT OF VICE-CHAIR

23.1 Appointment

23.1.1 At the first Board meeting following each Annual General Meeting, the Board as constituted following the Annual General Meeting must:

- (a) declare the position of Vice-Chair vacant;
- (b) hold an election for the positions of Vice-Chair; and
- (c) following the election appoint one of the Board Members to be Vice-Chair.

23.2 Term of office

23.2.1 Subject to this Constitution, each Officer shall hold office until election of their successor.

23.2.2 A Board Member is eligible for re-election as a Vice Chair.

23.3 Nominations

23.3.1 Prior to the election of each position, the Chair must call for nominations to fill that position

23.3.2 A Board Member who is nominated for a position and fails to be elected to that position may be nominated for any other position for which an election is yet to be held and that Board Member is eligible.

23.4 Election

23.4.1 If there is only one Person nominated for a specific position, the Chair must declare that Board Member to be elected to the position.

23.4.2 If the number of people nominated for a specific position is more than one, a secret ballot must be held for that position in such form as the Chair directs.

24. ELECTION AND TENURE OF INDUSTRY PARTNER BOARD MEMBERS

24.1 Nominations

24.1.1 Industry Partners may nominate a person to fill the position of an Industry Partner Board Member.

24.1.2 A nomination must be submitted to the Skills and Nominations Committee in accordance with the timeframe and process specified by the Skills and Nominations Committee.

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24.2 Term of Office – Industry Partner Board Members

- 24.2.1 The term of office of an Industry Partner Board Member is a maximum of three years. The expiration of that term is deemed to occur at the conclusion of the third Annual General Meeting following the election of that Industry Partner Board Member;
- 24.2.2 Notwithstanding clause 24.2.1, at the first Board meeting held after 1 July 2025 the Board shall determine by lot as to:
- (a) which 1 Industry Partner Board Member shall serve for a term expiring at the conclusion of the Annual General Meeting held in 2026;
 - (b) which 1 Industry Partner Board Member shall serve for a term expiring at the conclusion of the Annual General Meeting held in 2027; and
 - (c) which 2 Industry Partner Board Members of the Board shall serve for a term expiring at the conclusion of the Annual General Meeting held in 2028.
- 24.2.3 At the Annual General Meeting all Industry Partner Board Members subject to re-appointment shall retire but shall be eligible for re-appointment, assuming compliance with all other requirements set out in this Constitution.
- 24.2.4 Notwithstanding clause 24.2.3, the maximum term of all Industry Partner Board Members is 3 terms of 3 years (**Maximum Term**). Notwithstanding anything else in this Constitution an Industry Partner Board Member may, by Special Resolution of the Members be re-appointed as a Board Member following the expiration of the Maximum Term.
- 24.2.5 For the avoidance of doubt, clause 24.2.4 does not apply to the Chair, LGA Board Members or Skills-based Board Members.

25. APPOINTMENT AND TENURE OF SKILLS-BASED BOARD MEMBERS

The Skills and Nominations Committee will be responsible for seeking applications for skills-based Board positions. Skills-based Board Members will be eligible for appointment for a period of up to 3 years and for reappointment for a maximum of two further terms of up to 3 years each.

26. GENERAL DUTIES

- 26.1 As soon as practicable after being appointed to the Board, each Board Member must become familiar with this Constitution and the Corporations Act.
- 26.2 The Board is collectively responsible for ensuring that the Company complies with the Corporations Act and that individual Board Members comply with this Constitution.
- 26.3 Board Members must exercise their powers and discharge their duties with reasonable care and diligence.
- 26.4 Board Members must exercise their powers and discharge their duties—
- 26.4.1 in good faith in the best interests of the Company;
 - 26.4.2 in the interests of all visitors and visitor economy stakeholders in the Region; and
 - 26.4.3 for a proper purpose.
- 26.5 Board Members and former Board Members must not make improper use of:
- 26.5.1 their position; or

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26.5.2 information acquired by virtue of holding their position so as to:

- (a) gain an advantage for themselves or any other person; or
- (b) cause detriment to the Company.

26.6 In addition to any duties imposed by this Constitution, a Board Member must perform any other duties imposed from time to time by resolution at a General Meeting.

27. ELECTION OF BOARD MEMBERS

27.1 Vacancies

A person ceases to be a Board Member if they:

27.1.1 resign from the Board by written notice to the Secretary;

27.1.2 cease to be an LGA representative; or

27.1.3 otherwise ceases to be eligible to be a Board Member.

27.2 Filling casual vacancies

27.2.1 The Board may appoint an eligible member of the Company to fill a position on the Board that is an Industry Partner Board Member-appointed position and the position:

- (a) has become vacant; or
- (b) was not filled by election at the last Annual General Meeting.

Such person will hold office until the next Annual General Meeting or Board Meeting following the next Annual General Meeting, as the case may be.

27.2.2 An LGA Member must promptly appoint a new LGA representative to fill a position on the Board if that LGA representative ceases to be a Board Member.

27.2.3 If the position of Secretary becomes vacant, the Board must appoint a Person to the position within 14 days after the vacancy arises and that Person will be deemed to hold office until the next Annual General Meeting.

27.2.4 The Board may continue to act despite any vacancy in its membership.

28. SKILLS AND NOMINATIONS COMMITTEE

28.1 The Board must establish a Skills and Nominations Committee comprising:

28.1.1 one LGA Board Member;

28.1.2 the Departmental Representative;

28.1.3 one Skills-based Board Member; and

28.1.4 one Industry Partner Board Member.

28.2 The chairperson of the Skills and Nominations Committee will be elected by the members of the Skills and Nominations Committee at the first meeting of the Skills and Nominations Committee.

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- 28.3 If the chairperson of the Skills and Nominations Committee is absent or is unable to preside at a meeting of the Skills and Nominations Committee, the chairperson of a Skills and Nominations Committee must be another member of the Skills and Nominations Committee elected by the members present at the meeting.
- 28.4 The Skills and Nominations Committee shall meet as may be determined by the chairperson of the Skills and Nominations Committee elected in accordance with clause 28.2.
- 28.5 The responsibilities of the Skills and Nominations Committee shall be to:
- 28.5.1 establish and keep updated the job description and requirements for the position of Chair;
 - 28.5.2 maintain a register of persons who may be suitable for the roles of Chair, Industry Partner Board Members and Skills-based Board Members;
 - 28.5.3 establish and manage the selection process for recommending a preferred candidate for Chair for approval by the Board;
 - 28.5.4 establish and manage the selection process, including vetting candidates for Industry Partner Board Members and making recommendation of the preferred candidate(s) to the Board;
 - 28.5.5 establish and manage the selection process, including vetting candidates for Skills-based Board Members and making recommendation of the preferred candidate(s) to the Board;
 - 28.5.6 consider opportunities for re-appointment of Industry Partner Board Members and Skills-based Board Members at the conclusion of their term and make recommendations to the Board in accordance with clauses 24.2 and 25; and
 - 28.5.7 establish and utilise a skills matrix to aid with appointments to the Board.

29. ADVISORY COMMITTEE

- 29.1 The Board may establish Advisory Committee(s) comprising a minimum of two Board Members.
- 29.2 The Board will nominate who will be the chairperson of the Advisory Committee.
- 29.3 The Advisory Committee shall meet as may be determined by the chairperson of the Advisory Committee.
- 29.4 The Advisory Committee shall be a forum to assist the Board's development and implementation of the Company vision and strategy, including by:
- 29.4.1 keeping members on the Advisory Committee informed of the work of the Board; and
 - 29.4.2 enabling members to provide feedback and propose ideas for the Company to pursue.
- 29.5 The Advisory Committee:
- 29.5.1 is advisory in nature; and
 - 29.5.2 can only make recommendations to the Board.

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30. THE ROLES OF CHAIR, VICE-CHAIR

30.1 Chair and Vice-Chair

- 30.1.1 For the avoidance of doubt, the person appointed as the Chair in accordance with clause 22 will become a Board Member upon their appointment.
- 30.1.2 The Vice-Chair appointed in accordance with clause 23 must already be a Board Member.
- 30.1.3 Subject to clause 30.1.4, the Chair or, in the Chair's absence, the Vice Chair, will be the chair of any General Meeting and of any Board Meeting.
- 30.1.4 If the Chair and the Vice-Chair are both absent, or are unable to preside, the chair of a:
 - (a) General Meeting must be an LGA Board Member elected by the other Board Members present; or
 - (b) Board meeting must be a Board Member elected by the Board Members present.

31. BOARD MEETINGS

- 31.1 The Board must meet at least 4 times in each year on the dates and at the times and places determined by the Board.
- 31.2 The date, time and place of the first Board meeting must be determined by the members of the Board as soon as practicable after the Annual General Meeting of the Company at which the members of the Board were elected.
- 31.3 Special Board meetings may be convened by the Chair or by any 5 Board Members.

32. NOTICE OF MEETINGS

- 32.1 Notice of each Board meeting must be given to each Board Member and the Departmental Representative no later than 7 days before the date of the meeting.
- 32.2 Notice may be given of more than one Board meeting at the same time.
- 32.3 The notice must state the date, time and place of the meeting, and may be given by post or email addressed to the Board Member or Departmental Representative at the postal or email address most recently provided to the Company.
- 32.4 If a special Board meeting is convened, the notice must include the general nature of the business to be conducted.
- 32.5 The business transacted at the Board meeting shall be only that listed on the notice; however the chairperson of the meeting may allow other business deemed urgent to be transacted.

33. URGENT MEETINGS

- 33.1 In cases of urgency, a meeting can be held without notice being given in accordance with clause 32.1 provided that as much notice as practicable is given to each Board member by the quickest means practicable.
- 33.2 Any resolution made at such a meeting must be passed by an Absolute Majority.
- 33.3 The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

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34. PROCEDURE AND ORDER OF BUSINESS

- 34.1 The procedure to be followed at a meeting of a Board must be determined from time to time by the Board.
- 34.2 The order of business may be determined by the Board Members present at the meeting.

35. QUORUM OF BOARD MEETINGS

- 35.1 No business may be conducted at a Board meeting unless a quorum is present.
- 35.2 The quorum for a Board meeting is the presence (in person or as allowed under this Constitution) of:
 - 35.2.1 a majority of LGA Board Members holding office;
 - 35.2.2 a majority of the Industry Partner Board Members; and
 - 35.2.3 at least one Skills-based Board Member.
- 35.3 If a quorum is not present within 30 minutes after the notified commencement time of a Board meeting:
 - 35.3.1 in the case of a special Board meeting – the meeting lapses;
 - 35.3.2 in any other case – the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and place to which the meeting is adjourned must be given in accordance with clause 32.3, and if a quorum is not present within 30 minutes after the time specified for the meeting, the meeting may proceed, with the quorum being those Board Members present at the reconvened meeting.

36. USE OF TECHNOLOGY

- 36.1 A Board Member who is not physically present at a Board meeting may participate in the meeting by the use of technology that allows that Board Member and the Board Members present at the meeting to clearly and simultaneously communicate with each other.
- 36.2 For the purposes of this 36, a Board Member participating in a Board meeting as permitted under clause 36.1 is taken to be present at the meeting and, if the Board Member votes at the meeting, is taken to have voted in person.
- 36.3 A Board meeting held using a form of technology is deemed to have been held at the place determined by the chairperson of that meeting, provided that at least one of the Board Members who took part in the meeting was at that place for the duration of the meeting.

37. VOTING

- 37.1 Subject to this Constitution, matters requiring a vote at any meeting of the Board shall be decided by a majority of votes and a determination by a majority of the Board Members present shall for all purposes be deemed a determination of the Board.
- 37.2 Where something is to be determined or voted on by the Board each Board Member shall have 1 vote.
- 37.3 Matters requiring a vote at a meeting of the Board shall be determined on a show of hands or, if demanded by a Board Member, by a poll taken in such manner as the person presiding at the meeting shall determine.

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- 37.4 Unless otherwise expressly provided in this Constitution, there shall be no voting by proxy or by post at Board meetings.
- 37.5 In case of an equality of votes the chairperson of the meeting shall have a second or casting vote.

38. CIRCULATORY RESOLUTIONS AND TELEPHONE MEETINGS

- 38.1 A resolution in writing signed by all Board Members for the time being entitled to receive notice of meetings of the Board shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held provided that the Board Members signing the resolution would constitute a quorum and would have power to pass such resolution at a meeting of the Board. Any such resolution may consist of several documents in similar form each signed by one or more Board Members. Any such document sent by a Board Member by email, or other means of communication approved by the Board Members, shall be deemed to have been signed by such Board Member and to suffice for the purpose of this clause.
- 38.2 Meetings of the Board may be held at more than one place provided that the technology that is used enables each Board Member present and the Departmental Representative at all places the meeting is held to clearly and simultaneously communicate with every other such Board Member.
- 38.3 For the purposes of the Constitution, the contemporaneous linking together by telephone of a number of the Board Members not less than a quorum shall be deemed to constitute a meeting of the Board Members and all the provisions thereof as to meetings of the Board shall apply to such meetings by telephone so long as the following conditions are met:
- 38.3.1 all the Board Members for the time being entitled to receive notice of a meeting of the Board Members shall, together with the Departmental Representative, be entitled to notice of a meeting by telephone and to be linked by telephone for the purposes of such meeting;
- 38.3.2 notice of any such meeting may be given by telephone;
- 38.3.3 each of the Board Members taking part in the meeting by telephone, together with the Departmental Representative, must be able to hear each of the other Board Members taking part in the meeting; and
- 38.3.4 at the commencement of the meeting each Board Member must acknowledge their presence for the purpose of a meeting of the Board to all the other Board Members taking part.

39. ACTS OF BOARD OR COMMITTEES VALID NOTWITHSTANDING DEFECTIVE APPOINTMENT ETC.

All acts done at any Board meeting or any meeting of a Committee or by any person acting as a Board Member shall notwithstanding that it is afterwards discovered that there was some defect in the appointment of any Board Member or person acting as a Board Member, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Board Member.

40. OBSERVER

The Departmental Representative:

- 40.1 shall have the right to be present at any Board meeting as an observer unless the chairperson determines that, by reason of the confidential subject-matter of an item of business to be transacted, it is not in the best interests of the Company that the Departmental Representative be present;
- 40.2 may only speak to an item of business before the Board at the invitation of the chairperson;

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40.3 does not have the right to vote when present at any Board meeting; and

40.4 Is not a Director within the meaning of section 9 of the Corporations Act.

41. CONFLICT OF INTEREST

41.1 A Board Member who has a material personal interest in a matter being considered at a Board meeting must disclose the nature and extent of that interest to the Board.

41.2 The Board Member must not:

41.2.1 be present while the matter is being considered at the meeting; and

41.2.2 vote on the matter.

41.3 Clauses 41.1 and 41.2 do not apply to a material personal interest:

41.3.1 that exists only because the member belongs to a class of persons for whose benefit the Company is established; or

41.3.2 that the member has in common with all, or a substantial proportion of, the members of the Company.

42. MINUTES OF MEETING

42.1 The Board must ensure that minutes are taken and kept of each Board meeting and provided within 7 days of the meeting.

42.2 The minutes must record the following:

42.2.1 the names of the Board Members and any Departmental Representative in attendance at the meeting;

42.2.2 the business considered at the meeting;

42.2.3 any resolution on which a vote is taken and the result of the vote; and

42.2.4 any material personal interest disclosed under clause 41.

42.3 A resolution in writing signed by all Board Members will be as valid and effective as if it had been passed at a duly called and constituted Board meeting. The terms of the resolution must be set out in the document and separate documents in identical terms are treated as the one document. The resolution is passed when the last Board Member signs the terms of the resolution.

42.4 For the purposes of clause 42.3, a resolution will be deemed to be approved and signed by a Board Member if that Board Member provides consent to the resolution by email.

43. ELECTRONIC EXECUTION

Documents may be signed using an electronic signature, an electronic communication (as that term is defined in the *Electronic Transactions Act 1999* (Cth)) or a proprietary program (for example DocuSign or AdobeSign) which is applied following verification of an individual's identity (collectively, **an Electronic Signature**) and the use of an Electronic Signature constitutes legally effective execution of the document by the Company and will be considered conclusive as to the persons' intention to sign the agreement on behalf of the Company as if signed by that person's (or any of its duly authorised signatory's) manuscript signature

44. LEAVE OF ABSENCE

- 44.1 The Board may grant a Board Member leave of absence from Board meetings for a period not exceeding 3 months.
- 44.2 The Board must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Board Member to seek the leave in advance.

45. REMOVAL OF DIRECTORS AND VACATION OF OFFICE

- 45.1 Without limiting the rights of the Members under the Corporations Act, the Members may by a Special Resolution (passed by at least 75% of the votes cast in person, by nominee, or by proxy of Members entitled to vote on the resolution), remove any Board Member before the expiration of their period of office.
- 45.2 The office of a Board Member will become vacant if the Board Member:
 - 45.2.1 dies;
 - 45.2.2 ceases to be a Board Member or is disqualified from being a director pursuant to the Corporations Act;
 - 45.2.3 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;
 - 45.2.4 resigns their office by notice in writing to the Company;
 - 45.2.5 for more than 3 months is absent without permission of the Board from meetings of the Board held during that period;
 - 45.2.6 has a material personal interest in a matter relating to the affairs of the Company and fails to give the other Board Members notice of the interest;
 - 45.2.7 becomes a bankrupt or makes any arrangement or composition with personal creditors generally;
 - 45.2.8 being the Chair, is removed in accordance with clause 22 of this Constitution;
 - 45.2.9 ceases to be a Member or, in the case of Board Members who are representatives, the Member whom they represent ceases to be a Member;
 - 45.2.10 being an Industry Partner Board Member, the relevant Industry Partner Member whom they represent serves notice on the Board no less than 21 days from a scheduled Board meeting that the Board Member does not have the ongoing support of the Industry Partner Member;
 - 45.2.11 being a Cardinia Shire Council nominated Board Member, Cardinia Shire Council replaces the Cardinia Shire Council nominated Board Member;
 - 45.2.12 being a Nillumbik Shire Council nominated Board Member, Nillumbik Shire Council replaces the Nillumbik Shire Council nominated Board Member; or
 - 45.2.13 being a Yarra Ranges Council nominated Board Member, Yarra Ranges Council replaces the Yarra Ranges Council nominated Board Member.
- 45.3 **Power to fill casual vacancies, etc.**
 - 45.3.1 Subject to clause 45.3.4, the Board shall have power at any time, and from time to time, to appoint a qualified person as a Skills-based Board Member, either to fill a casual vacancy of a Skills-based Board Member or as an addition to the existing Board Members, but so that

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the total number of Board Members (excluding LGA representatives on the Board) shall not at any time exceed six. Any Board Member so appointed shall hold office only until the end of the next following Annual General Meeting of the Company but shall, subject to the provisions of this Constitution, be eligible for re-election at such meeting.

- 45.3.2 In the event of a casual vacancy in the position of an Industry Partner Board Member, the associated Alternate Board Member shall fill the vacancy until the end of the next following Annual General Meeting.
- 45.3.3 In the event of a casual vacancy of an LGA Board Member the relevant Council shall appoint a replacement Council Board Member.
- 45.3.4 An appointment to fill a casual vacancy:
- (a) in regards to Skills-based Board Members, is only valid and effective if ratified or approved by the Chair; and
 - (b) cannot be made in respect of the appointment of the Chair, such position being filled in accordance with clause 22.
- 45.3.5 The Board may continue to act notwithstanding a vacancy on the Board, but so that if the number of Board Members falls below 3, then the Board shall not, except in the case of emergencies, or for the purpose of filling up vacancies, or convening a General Meeting, act so long as the number is below the minimum.

46. POWERS AND DUTIES OF THE BOARD

46.1 General powers

The Board:

- 46.1.1 may, subject to this Constitution and the Corporations Act, exercise all such powers and functions as may be exercised by the Company other than those powers and functions that are required by the Constitution to be exercised by General Meetings of the Members; and
- 46.1.2 subject to this Constitution and the Corporations Act, has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Company.

46.2 Control and investment of Company's funds

- 46.2.1 The Board shall control the Company's funds and manage its financial affairs.
- 46.2.2 All cheques and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by any 2 Board Members or in such other manner as the Board may from time to time determine.

46.3 Liability

Subject to the Corporations Act, Board Members are not liable by reason only of their Board membership to contribute towards the payment of the debts and liabilities of the Company or the costs, charges and expenses of the winding up of the Company.

47. COMMITTEES

47.1 Committees

The Board may delegate any of its powers and/or functions (not being duties imposed on the Board as the directors of the Company by the Corporations Act or the general law), to one or more committees consisting of such Members and/or other persons (at least one of whom shall be a Board Member) as the Board thinks fit. Any Committee so formed shall conform to any regulations or directions that may from time to time be made or given by the Board in relation to such committee, and subject thereto shall have power to coopt any Member or Members, and all members of such Committees shall have one vote. Unless otherwise directed by the Board, a decision of a Committee shall only be binding upon the Company with the written endorsement of the Board.

47.2 Regulation of Committees

Subject to the provisions of this Constitution and any regulations, directions, every Committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairperson shall have a second or casting vote.

47.3 Preference for Board-Decision Making

Wherever practicable, the powers of Committees should be limited to advising and providing recommendations to the Board.

48. APPOINTMENT OF A SECRETARY

48.1 The Secretary shall be appointed by the Board on such terms and conditions as the Board determines from time to time.

48.2 The Secretary may be a Board Member.

48.3 If the Secretary is not a Board Member, they may be removed by the Board within the confines of any applicable employment contract and relevant legislation.

48.4 For the avoidance of doubt, the position of “secretary” is not a position on the Board for the purposes of this Constitution. However, the Secretary shall be entitled to attend meetings of the Board and the Members, if so directed by the Board from time to time.

48.5 The Secretary must perform any duty or function required under the Corporations Act to be performed by the Secretary of a company.

48.6 The Secretary must:

48.6.1 maintain the Register of Members;

48.6.2 keep custody of the common seal (if any) of the Company and all books, documents and securities of the Company in accordance with clauses 55 and 56; and

48.6.3 subject to the Corporations Act and this Constitution, provide Members with access to the Register, the minutes of General Meetings and other books and documents to which a Member reasonably seeks access; and

48.6.4 perform any other duty or function imposed on the Secretary by this Constitution.

48.7 To the extent permitted by the Corporations Act, the Secretary may delegate the responsibilities set out in clause 48.6 to the Company’s accountant or advisers.

PART 6 – FINANCIAL AND LEGAL

49. POWER TO MAKE BY-LAWS

- 49.1 Subject to the provisions of this Constitution, the Board has the power from time to time to make, amend and repeal all such By-Laws as it deems necessary or desirable for the proper conduct and management of the Company, the regulation of its affairs, and the furtherance of its Objects.
- 49.2 Without in any way limiting the power of the Board under clause 49.1, the Board may make, amend and repeal By-Laws which:
- 49.2.1 define the rights and benefits, duties, obligations and status of Members and classes of Members;
 - 49.2.2 regulate all matters relating to applications for, and admission to, Membership not otherwise provided for in this Constitution; and
 - 49.2.3 define and regulate the procedure and order of business of General Meetings and meetings of the Board, to the extent to which this is not provided for in this Constitution.
- 49.3 No By-Law will be inconsistent with, nor shall it affect a repeal or modification of, anything contained in this Constitution.
- 49.4 Any By-Law made by the Board may be set aside by a Special Resolution of a General Meeting.
- 49.5 Except as provided in this Constitution, all By-Laws will, so long as they remain in force, be binding upon all Members.
- 49.6 A book containing the By-Laws will be kept in such place as the Board shall appoint for that purpose.

50. POWER TO TRADE UNDER OTHER NAMES

- 50.1 The Company may trade under a duly registered business name or trademark as determined by the Board from time to time.

51. AMENDMENT

- 51.1 No modification or repeal of this Constitution or any provision of this Constitution will be effective unless it is passed as a special resolution in accordance with the Corporations Act.

52. LIMITED LIABILITY

- 52.1 Subject to clauses 52.2 and 53, the liability of Members is limited and Members are not liable by reason only of their membership to contribute towards the payment of the debts and liabilities of the Company.
- 52.2 Members are liable for any unpaid Entrance Fee and Annual Subscriptions.

53. LIMIT OF CONTRIBUTION BY MEMBERS IN WINDING UP

- 53.1 Each Member undertakes to contribute to the property of the Company, in the event of its being wound up while the Member's membership is current or within one year after the Member ceases to be a Member, for payment of the debts and liabilities of the Company contracted before the Member ceases to be a Member and the costs, charges and expenses of winding up and for adjustment of

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the rights of the contributories among themselves, such amount as may be required not exceeding TWENTY DOLLARS (AUD \$20.00).

54. EXCESS PROPERTY ON WINDING UP

54.1 If, upon the winding up or dissolution of the Company, there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed among the Members but shall be given or transferred to some other institution or institutions:

54.1.1 having objects similar to the Objects of the Company;

54.1.2 which prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of clause 8; and

54.1.3 ratified or approved by all of Cardinia Shire Council, Nillumbik Shire Council and Yarra Ranges Council,

such institution or institutions to be determined by the Members at or before the time of dissolution for review jointly by Cardinia Shire Council, Nillumbik Shire Council and Yarra Ranges Council, and in default thereof, by either:

54.1.4 application to the Supreme Court of Victoria for determination; or

54.1.5 by determination jointly by Cardinia Shire Council, Nillumbik Shire Council and Yarra Ranges Council.

55. ACCOUNTS AND AUDIT

55.1 The Board shall, in accordance with the requirements of the Corporations Act:

55.1.1 cause proper accounting and other records to be kept, and

55.1.2 cause to be made out and laid before each Annual General Meeting of the Company a balance sheet and profit and loss account made up to a date not more than five months before the date of the meeting, or such other date as may from time to time be prescribed by the Corporations Act.

55.2 Subject to any reasonable restrictions as to time and manner of inspection prescribed by the Board, the accounts of the Company may be inspected by the Members (on such conditions as the Company may impose).

55.3 Members may not inspect the records of the Company that relate to personal, employment, contractual and legal matters that are confidential in nature, or that are not required to be disclosed by the Company under the Corporations Act, or by operation of law.

55.4 A properly qualified auditor or auditors shall be appointed and their duties regulated in accordance with the requirements of the Corporations Act.

56. MINUTES OF PROCEEDINGS

56.1 The Board shall cause minutes of the resolutions and proceedings of each General Meeting, and Board meeting and each committee meeting to be kept in books provided for that purpose and shall be signed by the chairperson of the meeting at which the proceedings took place, or the chair of the next succeeding meeting.

56.2 Where minutes have been so entered and signed then, unless the contrary is proved:

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- 56.2.1 the meeting shall be deemed to have been duly convened and held;
- 56.2.2 all proceedings that are recorded in the minutes as having taken place at the meeting shall be deemed to have duly taken place; and
- 56.2.3 all appointments of Officers or auditors that are recorded in the minutes as having been made at the meeting shall be deemed to have been validly made.

57. COMMON SEAL

- 57.1 The Board will determine whether or not the Company is to have a common seal and, if so, will provide for the safe custody of such seal.
- 57.2 The common seal, if any, of the Company shall not be affixed to any instrument except by the authority of the Board and the affixing of the common seal shall be attested by the signatures of those authorised to attest to the affixing of the common seal from time to time.

58. OFFICERS' INDEMNITY AND INSURANCE

58.1 Indemnity

- 58.1.1 To the Relevant Extent and subject to the Corporations Act, the Company shall indemnify every person who is or has been an Officer out of the assets of the Company to the Relevant Extent against:
 - (a) any Liability incurred by the Officer in or arising out of the conduct of the affairs or business of the Company, or in or arising out of the discharge of the duties of the Officer, unless such Liability arises out of conduct involving a lack of good faith; and
 - (b) for costs and expenses incurred by the person:
 - (i) in defending Proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
 - (ii) in connection with an application, in relation to such Proceedings, in which the Court grants relief to the person under the Corporations Act.
- 58.1.2 Without limiting the effect of the foregoing, the Company may execute and deliver any deed, agreement or other document in favour of any Officer or former Officer to whom this clause applies, confirming the indemnities contained in this clause, in relation to that person.
- 58.1.3 Clause 58.1.2 shall apply whether or not any such deed, agreement or other document is given.

58.2 Insurance

- 58.2.1 To the extent permitted by law, the Company may (but is not obliged to) pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been a Director or an Officer (which may include run off cover commencing 7 years from the person ceasing to be a Director or Officer of the Company) against a Liability:
 - (a) incurred by the person in their capacity as an Officer, or in the course of acting in connection with the affairs of the Company, or otherwise arising out of the Officer's holding such office, which does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Corporations Act; and

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- (b) for costs and expenses incurred by that person in defending proceedings, whatever their outcome.

59. NOTICES

- 59.1 A notice may be given by the Company to any Member personally, by post to the Member's address as set out in the Register, or to such e-mail or other electronic address as the Member may have supplied the Company for the giving of notices. The fact that a Member has supplied an e-mail or other electronic address for the giving of notices does not require the Company to give any notice to that Member by that electronic means.
- 59.2 In the case of a Member who has not supplied the Company with a postal address within the Commonwealth of Australia, the Company may give notice to that Member by sending it by air mail to the address outside Australia (if any) advised by the Member.
- 59.3 A notice or other document given by the Company will be deemed to have been served on a Member:
 - 59.3.1 in the case of a notice sent by post (including by air mail pursuant to clause 59.2), at the expiration of 5 business days after the envelope or wrapper containing the same is posted. In proving such service, it shall be sufficient to prove that the envelope or wrapper containing the notice or document was addressed and put in the post office or a post office letter box; and
 - 59.3.2 in the case of a notice sent by e-mail or other electronic means, on the business day next following the day on which it is sent.
- 59.4 Notice of every General Meeting of the Company shall be given in the manner set out in this clause 59 to:
 - 59.4.1 every Member except those Members who (having no registered address within the Commonwealth of Australia) have not provided to the Company an address outside Australia for the giving of notices; and
 - 59.4.2 the auditor for the time being of the Company.

60. ABSENCE OF BY-LAWS

- 60.1 If there are no By-Laws regulating voting rights and/or classes of membership (whether because no By-Laws have been made or because By-Laws have been set aside):
 - 60.1.1 all Members will have one vote; and
 - 60.1.2 there will be deemed to be only the classes of membership as set out in this Constitution, until such time as one or more By-Laws are made to the contrary.

Part 7 – TRANSITIONAL

61. MEMBERSHIP AND OFFICES AS AT 1 JULY 2025

61.1 Notwithstanding anything else contained in this Constitution and solely for the purpose of ensuring a smooth transition in the governance and administration of the Company following the making of substantial amendments to this Constitution on the 26th of May 2025, as at 1 July 2025:

61.1.1 the following are the Industry Partner Members of the Company:

Nillumbik Tourism and Business Association

Yarra Valley Winegrowers Association

Tourism Network Yarra Valley

Villages of Mount Dandenong Association

Warburton Valley Community Economic Development Association and

61.1.2 the following are the Board Members of the Company, all of whom are deemed to have been duly appointed in accordance with this Constitution:

Tamara Nicole Rose

Carl Cowie

The Acting Chief Executive Officer Cardinia Shire Council

Jenni Rigby

Michael Hands

James Coleman

Matt Jones

Mat Janes

Rebecca Ritte and

Lynne Trensky;

61.1.3 Leigh Harry is deemed to have been duly appointed to the office of Chair of the Company, for a term that will expire on 1 July 2026 or such other date as the Board determines; and

61.1.4 Simon O'Callaghan will be the Secretary of the Company, who will be deemed to have been duly appointed in accordance with this Constitution.