

# PEOPLE LIVING WITH HIV/AIDS (VICTORIA) INCORPORATED (A0039027B)

## RULES

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## August 2016

Approved by Consumer Affairs Victoria

**[insert date]**

Note: The persons who from time to time are members of the Association are an incorporated association by the name given in rule 1 of these Rules.

Under section 46 of the *Associations Incorporation Reform Act 2012* (Vic), these Rules are taken to constitute the terms of a contract between the Association and its members.

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## 1. NAME

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- 1.1. The name of the Incorporated Association is People Living With HIV/AIDS Victoria Incorporated A0039027B (the **Association**).

## 2. PURPOSES

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- 2.1 The principal purposes for which the Association is established is to improve the health and wellbeing, advance human rights, provide for relief from suffering, distress and financial hardship and alleviate the poverty and social inequities, of all people living with or affected by the Human Immunodeficiency Virus (**HIV**) and Acquired Immunodeficiency Syndrome (**AIDS**).
- 2.2 The Association's purpose is to be achieved by working as a community-based and community-led organisation and by engaging and working with groups, communities and individuals living with or affected by HIV/AIDS.
- 2.3 In pursuing the Association's purpose, the importance is acknowledged of understanding the impact of living with and being affected by HIV/AIDS in medical, social, cultural and human rights contexts.
- 2.4 The Association's principal purposes are achieved by:
- (a) promoting the meaningful involvement of all people living with HIV/AIDS to be part of the response that seeks to improve their health and wellbeing and bring an end to the HIV epidemic;
  - (b) providing peer based activities for all people living with and affected by HIV/AIDS, including peer counselling, outreach and social support;
  - (c) providing accurate and accessible information, advice and education on all relevant issues of concern to people living with or affected by HIV/AIDS;
  - (d) providing and supporting services in a safe, confidential environment and in a non-judgmental manner, respecting always each person's right to independence, dignity and privacy;
  - (e) providing support (both financial and otherwise), including the disbursement of funds to members who face immediate financial hardship and distress or destitution;
  - (f) promoting a positive image of people living with or affected by HIV/AIDS with the aim of reducing and eliminating the stigma, discrimination, prejudice and isolation such persons face;
  - (g) providing representation, and advocating for, all persons living with or affected by HIV/AIDS; and
  - (h) partnering with individuals and organisations that share the Association's objectives so that the voice of persons living with or affected by HIV/AIDS is strengthened.

- 2.5 To achieve the principal purposes set out in rule 2.1, the Association may, among other things:
- (a) conduct public programs, including education programs, health promotion programs, social and community programs and research programs;
  - (b) disseminate information relating to education and community programs and to produce, edit, publish, issue, sell, circulate and preserve such papers, periodicals, books, circulars and other literary matters as are conducive to these objects;
  - (c) establish and maintain relationships and close communications with entities, associations, foundations, institutions, organisations, groups including relevant government bodies (federal, state and local) and professionals that may have related interests to those of the Association and utilise their resources and facilities to achieve the purposes of the Association;
  - (d) seek and co-ordinate funding from all sectors of government and the philanthropic sector in the form of grants, gifts, donations and bequests committed to the purposes of the Association;
  - (e) provide or attract funds for the facilitation of any of the purposes of the Association;
  - (f) encourage, promote and generally create greater community awareness of the Association and its purposes; and
  - (g) do all such other things as are incidental or conducive to the attainment of the purposes of the Association.

### 3. INTERPRETATION

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3.1 In these Rules, unless the contrary intention appears:

**Act** means the *Associations Incorporation Reform Act 2012 (Vic)*.

**Affiliate Member** means a member described in rule 7.6.

**Annual General Meeting** means a meeting of the Association convened in accordance with rule 12.

**Associate Director** means a director appointed by the Board in accordance with rule 28.

**Associate Member** means a member described in rule 7.5.

**Board** means the Board of the Association having the management of the business of the Association as constituted by rule 4 or 27, as applicable.

**Board Meeting** means a meeting of the Board held in accordance with these Rules.

**Director** means a director of the Association and includes Elected Directors and Associate Directors.

**Elected Director** means a director elected to the Board in accordance with rule 28.

**Executive Committee** means the committee involved in the day-to-day management of the Association and comprised of the persons set out in rule 32.6.

**Executive Officer** means the person appointed to that position by the Board in accordance with rule 36.1

**Financial Year** means each period of 12 months ending on 30 June.

**Full Member** means a member referred to in rule 7.2

**General Meeting** means a general meeting of the Members of the Association and includes an Annual General Meeting and a Special General Meeting.

**Honorary Member** means a member appointed as such by the Board in accordance with rule 7.8.

**Law** means any statute, regulation, order, rule, subordinate legislation or other document enforceable under any statute, regulation, order, rule or subordinate legislation.

**Member** means a member of the Association, and includes Full Members, Associate Members and Affiliate Members.

**President** means the person appointed as such by the Board to perform the duties of president of the Association.

**Registrar** means the Registrar of Incorporated Associations.

**Rules** means these rules as adopted by the Association.

**Secretary** means the person appointed as such by the Board to perform the duties of secretary of the Association.

**Special General Meeting** means a meeting of the Association convened in accordance with rule 13.

**Special Resolution** means a resolution that requires not less than three-quarters of the Members voting at a General Meeting, whether in person or by proxy, to vote in favour of the resolution.

**Straight Arrows** means the incorporated association previously known as Straight Arrows, which merged with the Association on [## August 2016].

**Treasurer** means the person appointed as such by the Board to perform the duties of treasurer of the Association.

**Vice President** means the person appointed as such by the Board to perform the duties of vice president of the Association.

3.2 In these Rules, except where the context requires otherwise:

- (a) words or expressions contained in these Rules shall be interpreted in accordance with the *Interpretation of Legislation Act 1984* (Vic) and the Act in force from time to time;
- (b) the singular includes the plural and vice versa and a gender includes other genders;

- (c) another grammatical form of a defined word or expression has a corresponding meaning;
- (d) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
- (e) headings are for ease of reference only and do not affect interpretation.

#### **4. TRANSITIONAL PROVISION**

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- 4.1 Notwithstanding rules 27 and 28, for the period commencing from the date of adoption of these Rules and ending on the date of the next Annual General Meeting of the Association, the Board shall consist of an equal number of people who:
- (a) acted as directors of Straight Arrows immediately prior to its merger with the Association; and
  - (b) acted as directors of the Association immediately prior to the adoption of these Rules.
- 4.2 At the first Annual General Meeting of the Association after adoption of these Rules, all Director positions will be declared vacant and the Board will be constituted and elected in accordance with rules 27 and 28.

#### **5. POWERS OF ASSOCIATION**

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- 5.1 Subject to the Act, the Association has the power to do all things incidental or conducive to achieve its purposes.
- 5.2 Without limiting rule 5.1, the Association may:
- (a) acquire, hold and dispose of real or personal property;
  - (b) open and operate accounts with financial institutions;
  - (c) invest its money in any security in which trust monies may lawfully be invested;
  - (d) raise and borrow money on any terms and in any manner it thinks fit;
  - (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
  - (f) appoint agents to transact business on its behalf; and
  - (g) enter into any other contract it considers necessary or desirable.

#### **6. MEMBERSHIP**

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- 6.1 Subject to rule 7, the categories of membership of the Association shall be:
- (a) Full Members;
  - (b) Associate Members;

- (c) Affiliate Members; and
  - (d) Honorary Members.
- 6.2 An application of a person for membership of the Association:
- (a) shall be made in writing in the form set out in the policy called “*Membership Application*”; and
  - (b) shall be lodged with the Secretary of the Association.
- 6.3 As soon as practicable after the receipt of an application for membership, the Secretary shall refer the application to the Board.
- 6.4 The Board shall keep the names of all applicants for membership strictly confidential except for disclosures that are required by law.
- 6.5 Upon the application for membership being referred to the Board, the Board shall determine, in its absolute discretion whether to approve or reject the application.
- 6.6 Upon an application for membership being approved or rejected by the Board, the Secretary shall, as soon as practicable, notify the applicant in writing of the Board’s decision. Neither the Association nor the Board are required to provide any reasons where an application for membership has been rejected.
- 6.7 If an application for membership is approved by the Board:
- (a) the resolution to accept the application for membership must be recorded in the minutes of the Board Meeting; and
  - (b) the Secretary must, as soon as practicable, enter the name and address of the new Member, and the date the new Member became such in the register of Members.
- 6.8 A person becomes a Member of the Association and subject to rule 9, is entitled to exercise their rights of membership from that date on which the person’s name is entered on the register of Members.
- 6.9 The rights of a Member are not transferable and end when membership ceases in accordance with rule 9.

## **7. FULL MEMBERS, ASSOCIATE MEMBERS AND AFFILIATE MEMBERS**

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- 7.1 All Members must support the purposes of the Association as set out in rule 2.
- 7.2 Full Membership of the Association shall be open to any person living in Victoria or Tasmania who is 18 years of age or over and is:
- (a) infected with HIV; or



- (b) subject to rule 7.4, a current partner (being a spouse, de facto or civil partner) or close family member (which includes, but is not limited to, parents, legal guardians, adult children siblings and other relatives) of a person who lives in Victoria or Tasmania and is infected with HIV and whose application for membership submitted in accordance with rule 6 has been endorsed by an existing Full Member who meets the eligibility requirements under rule 1.1(a).

7.3 A Full Member:

- (a) has the right to receive notice of General Meetings and of proposed special resolutions in the manner and time prescribed by these Rules;
- (b) may submit items of business for consideration at a General Meeting;
- (c) has the right to attend and be heard at General Meetings;
- (d) has the right to vote at General Meetings;
- (e) has the right to inspect the register of Members, subject to any restrictions under the Act or any other Law; and
- (f) is eligible to be appointed as an Elected Director.

7.4 In addition to their rights under rule 7.3, a Full Member who meets the eligibility requirements under rule 1.1(a) has the right to nominate a maximum of one (1) person who is their current partner (being a spouse, de facto or civil partner) or close family member (which includes, but is not limited to, parents, legal guardians, adult children siblings and other relatives) for Full Membership under rule 1.1(b).

7.5 Associate Membership of the Association shall be open to any person living in Australia who is 15 years of age or over and:

- (a) is not eligible to be a Full Member; or
- (b) does not wish to apply to be a Full Member.

7.6 Affiliate Membership of the Association shall be open to any organisation or duly authorised officer of that organisation as deemed appropriate by the Board from time to time.

7.7 Associate Members and Affiliate Members:

- (a) have the right to receive notice of General Meetings and of proposed Special Resolutions in the manner and time prescribed by these Rules;
- (b) may submit items of business for consideration at a General Meeting only with the prior written consent of the Board (which may be granted or refused at the Board's absolute discretion);
- (c) may attend General Meetings but may speak only with the permission of the Chair of the General Meeting;
- (d) may not inspect the register of Members;

- (e) may not vote at General Meetings; and
- (f) are not eligible to be appointed as Elected Directors.

7.8 The Board may appoint a person who is infected with HIV as an Honorary Member from time to time in recognition of services rendered by that person in promoting the purposes of the Association. An Honorary Member shall have the same rights as, and be deemed to be, a Full Member.

## **8. REGISTER OF MEMBERS AND FEES**

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8.1 The Secretary shall oversee the maintenance of a register of Members in which shall be entered the full name, address and date of entry of the name of each Full Member, Associate Member and Affiliate Member.

8.2 The Board shall keep the names on the register of Members strictly confidential except for disclosures required by any Law.

8.3 Any person who is eligible to be a Member but who does not wish to be identified by their own name on the register of Members may apply under their name but request to be registered under an alias.

8.4 A Full Member is not required to pay any joining or annual subscription fee.

8.5 The Association may determine, at an Annual General Meeting:

- (a) the amount of an annual membership fee (if any) payable by Associate Members or Affiliate Members for the following Financial Year; and
- (b) the date for payment of the annual membership fee.

8.6 The Association may determine that any new Associate Member or Affiliate Member who joins after the start of a Financial Year must, for that Financial Year, pay a fee equal to:

- (a) the full annual membership fee; or
- (b) a pro rata annual membership fee based on the remaining part of the Financial Year.

## **9. DEATH, RESIGNATION OR EXPULSION OF MEMBERS OR REVOCATION OF AFFILIATE MEMBERSHIP**

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9.1 The membership of a Full Member or Associate Member ceases on resignation, expulsion or death and, in the case of a Full Member, if the member ceases to meet the eligibility criteria set out in rule 7.2. The membership of an Affiliate Member ceases if a liquidator is appointed in connection with the winding-up of the Affiliate Member or the Affiliate Member is wound up or deregistered.

- 9.2 A Member of the Association may resign by giving one (1) months' notice in writing to the Secretary of their intention to resign and upon the expiration of that period of notice the person shall cease to be a member.
- 9.3 Upon the expiration of a notice given under rule 9.2, notification that a Member has died, or notification that a Full Member has ceased to meet the eligibility criteria in rule 7.2, the Secretary shall, as soon as reasonably practicable, make an entry in the register of Members recording the date on which the Member ceased to be a Member.
- 9.4 The Board may at any time, make a written request to a Full Member, to provide satisfactory evidence to the Board of their eligibility for membership of the Association. A Member is taken to have resigned if they fail to provide such evidence (to the Board's satisfaction) within twenty-one (21) days after receiving that request (or such longer time as the Board may permit).
- 9.5 A Member may be expelled by the Board in accordance with rule 10.

## **10. DISCIPLINARY ACTION**

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- 10.1 Subject to these Rules, the Board may, by resolution:
- (a) expel a Member from the Association; or
  - (b) suspend a Member from membership of the Association for a specified period if the Board determines that the Member:
    - (i) has failed to comply with these Rules;
    - (ii) has engaged in conduct unbecoming a Member or otherwise acted in a manner that is prejudicial to the interests of the Association; or
    - (iii) has refused to support the purposes of the Association as set out in rule 2.
- 10.2 A resolution of the Board under rule 10.1:
- (a) does not take effect unless the Board, at a meeting held not earlier than fourteen (14) and not later than twenty-eight (28) days after the service on the Member of a notice under rule 10.3, confirms the resolution in accordance with this rule; and
  - (b) where the Member exercises a right of appeal to the Association under this rule 10, does not take effect unless the Association confirms the resolution in accordance with this rule 10.
- 10.3 If the Board passes a resolution under rule 10.1 the Secretary shall, as soon as practicable, cause to be served on the Member a notice in writing:
- (a) setting out the resolution of the Board and the grounds on which it is based;

- (b) stating that the Member may address the Board at a meeting to be held no earlier than fourteen (14) and no later than twenty-eight (28) days after service of the notice;
- (c) stating the date, place and time of that meeting;
- (d) informing the Member that he or she may do one or more of the following:
  - (i) attend that meeting;
  - (ii) give to the Board before the date of that meeting a written statement seeking the revocation of the resolution; and/or
  - (iii) no later than twenty-four (24) hours before the date of the meeting lodge with the Secretary a notice to the effect that he or she wishes to appeal against the resolution to the Association at a Special General Meeting.

10.4 At a meeting of the Board held in accordance with rule 10.2 the Board shall:

- (a) give the Member an opportunity to be heard;
- (b) give due consideration to any written statement submitted by the Member; and
- (c) by resolution determine whether to confirm or to revoke the resolution.

10.5 If the Secretary receives a notice under rule 1.1(d)(iii), they shall notify the Board and the Board shall convene a Special General Meeting of the Association to be held within twenty-one (21) days after the date upon which the Secretary received the notice for the purposes of considering the Member's appeal (**Disciplinary Appeal Meeting**). Notice of the Disciplinary Appeal Meeting must be given to each Full Member as soon as practicable and must specify:

- (a) the date, time and place of the meeting;
- (b) the grounds for taking the disciplinary action against the Member; and
- (c) that at the Disciplinary Appeal Meeting the Full Members will be voting on whether the decision to suspend or expel the Member should be confirmed or revoked.

10.6 At a Special General Meeting of the Association convened under rule 10.5:

- (a) no business other than the question of the Member's 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 whose membership has been suspended or who has been expelled shall be given an opportunity to be heard; and
- (d) the Full Members present shall vote by secret ballot on the question of whether the resolution should be confirmed or revoked.

- 10.7 If at the Special General Meeting:
- (a) three quarters of the Full Members present vote in person in favour of the confirmation of the resolution, the resolution is confirmed; and
  - (b) in any other case, the resolution is revoked.

## **11. GRIEVANCE AND MEDIATION PROCEDURES**

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- 11.1 The grievance procedure set out in this rule 11 applies to disputes under these Rules between:
- (a) a Member and another Member;
  - (b) a Member and the Board; or
  - (c) a Member and the Association.
- 11.2 The parties to a dispute must meet and discuss the matter in dispute, and attempt to resolve the dispute between themselves within fourteen (14) days after the dispute comes to the attention of each party.
- 11.3 If the parties to a dispute are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within ten (10) days:
- (a) agree to or request the appointment of a mediator; and
  - (b) attempt in good faith to settle the dispute by mediation.
- 11.4 The mediator must be:
- (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement:
    - (i) in the case of a dispute between a Member, and another Member, a person appointed by the Board of the Association; or
    - (ii) in the case of a dispute between a Member, and the Board or Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- 11.5 A mediator appointed by the Board may be a Member or a former member of the Association but in any case must not be a person who:
- (a) is a party to, or has a personal interest in, the dispute; or
  - (b) is biased in favour of or against any party.
- 11.6 The mediator to the dispute, in conducting the mediation, must:
- (a) give the parties to the mediation process every opportunity to be heard;
  - (b) allow due consideration by all parties of any written statement submitted by any party; and

- (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.

11.7 The mediator must not determine the dispute.

11.8 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## **12. ANNUAL GENERAL MEETING**

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12.1 The Board shall in each calendar year convene an Annual General Meeting of the Association, with such meeting to be held within five (5) months of the end of each Financial Year.

12.2 The Board may determine the date, time and place of the Annual General Meeting.

12.3 The Annual General Meeting shall be specified as such in the notice convening it.

12.4 The ordinary business of the Annual General Meeting shall be:

- (a) to confirm the minutes of the previous Annual General Meeting and of any Special General Meeting held since that meeting;
- (b) to receive and consider:
  - (i) the annual report of the Board on the activities of the Association during the preceding Financial Year; and
  - (ii) the financial statements of the Association for the preceding Financial Year submitted by the Board in accordance with Part 7 of the Act; and
- (c) to elect the Elected Directors.

12.5 The Annual General Meeting may transact any other business of which notice has been given in accordance with these Rules.

## **13. SPECIAL GENERAL MEETINGS**

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13.1 All General Meetings of the Association other than the Annual General Meeting shall be called Special General Meetings.

13.2 The Board may convene a Special General Meeting whenever it thinks fit.

13.3 No business other than that set out in the notice provided in accordance with rule 15 may be conducted at the meeting.

## **14. SPECIAL GENERAL MEETING HELD AT REQUEST OF MEMBERS**

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- 14.1 The Board shall convene a Special General Meeting of the Association if a request to do so is made in accordance with rule 14.2 by at least 10% of the total number of Full Members.
- 14.2 A request for a Special General Meeting must:
- (a) be in writing;
  - (b) state the business to be considered at the meeting and any resolution to be proposed;
  - (c) include the names and signatures of the Members requesting the meeting; and
  - (d) be given to the Secretary.
- 14.3 If the Board does not cause a Special General Meeting to be held within one (1) month after the date on which the request is sent to the Secretary, the Members making the request, or any of them, may convene the Special General Meeting.
- 14.4 A Special General Meeting convened by Members under rule 14.3 must:
- (a) be convened in the same manner as nearly as possible as that in which Special General Meetings are convened by the Board;
  - (b) be held within three (3) months after the date on which the original request was made; and
  - (c) only consider the business stated in that request.
- 14.5 The Association must reimburse all reasonable expenses incurred by the Members convening a Special General meeting under rule 14.3.

## **15. NOTICE OF GENERAL MEETING**

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- 15.1 The Secretary (or in the case of a Special General Meeting convened under rule 14.3 the Members convening the meeting) must give to each Member of the Association:
- (a) at least 21 days' notice of a General Meeting if a Special Resolution is to be proposed at the meeting; or
  - (b) 14 days' notice of a General Meeting in any other case.
- 15.2 The notice must:
- (a) specify the date, time and place of the meeting;
  - (b) indicate the general nature of each item of business to be considered at the meeting; and
  - (c) if a Special Resolution is to be proposed:
    - (i) state in full the proposed resolution; and

(ii) state the intention to propose the resolution as a Special Resolution.

- 15.3 No business other than that set out in the notice convening the meeting shall be transacted at the meeting.
- 15.4 All Full Members desiring to bring any business before a General Meeting may give notice of that business in writing to the Secretary, who shall include that business in the notice calling the next General Meeting after the receipt of the notice.
- 15.5 Associate and Affiliate Members may give notice of business that they would like to bring before a General Meeting by writing to the Secretary. The Secretary will include that business in the notice calling the next General Meeting only with the prior consent of the Board.
- 15.6 Rules 15.1(b), 15.4 and 15.5 do not apply to a meeting held in accordance with rule 10.5.

## **16. PROCEEDINGS AT GENERAL MEETINGS**

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- 16.1 All business that is transacted at a Special General Meeting and all business that is transacted at the Annual General Meeting, with the exception of that specially referred to in these Rules as being the ordinary business of the Annual General Meeting shall be deemed to be special business.
- 16.2 No item of business shall be transacted at a General Meeting unless a quorum of Full Members is present at the time when the meeting is considering that item.
- 16.3 The quorum for a General Meeting is the physical presence of ten (10) Full Members.
- 16.4 If within half an hour after the appointed time for the commencement of a General Meeting, a quorum is not present, the meeting:
- (a) if convened upon the requisition of Members shall be dissolved; and
  - (b) in any other case:
    - (i) it shall stand adjourned to a date not more than 21 days after the adjournment; and
    - (ii) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all Members as soon as practicable after the meeting.
- 16.5 If a quorum is not present within 30 minutes after the time to which a General Meeting has been adjourned under rule 1.1(b), the Full Members present at the meeting (if not fewer than three) may proceed with the business of the meeting as if a quorum was present.



## **17. CHAIRPERSON OF A GENERAL MEETING**

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- 17.1 The President, or in the President's absence, the Vice-President, shall preside as Chairperson at each General Meeting of the Association.
- 17.2 If the President and the Vice-President are absent from a General Meeting, the Members present shall elect one of their number to preside as Chairperson at the meeting.

## **18. ADJOURNMENT OF A GENERAL MEETING**

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- 18.1 The Chairperson of a General Meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting to another time at the same place or another place.
- 18.2 Without limiting rule 18.1, a meeting may be adjourned:
- (a) if there is insufficient time to deal with business at hand; or
  - (b) to give the Members more time to consider an item of business.
- 18.3 No business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 18.4 Where a meeting is adjourned for fourteen (14) days or more, a notice of the adjourned meeting shall be given as in the case of a General Meeting.
- 18.5 Except as provided in rule 18.4 it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting and a Full Member may vote at the adjourned meeting even if not present at the earlier meeting, but may not vote if the Full Member has given their proxy at the earlier meeting.

## **19. VOTING AT A GENERAL MEETING**

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- 19.1 Subject to rule 20, a question arising at a General Meeting of the Association shall be determined on a show of hands and unless, before or on the declaration of the show of hands a poll is demanded, a declaration by the Chairperson that a resolution has, on a show of hands, been:
- (a) carried; or
  - (b) carried unanimously; or
  - (c) carried by a particular majority; or
  - (d) lost,
- and an entry to that effect in the minutes of meeting of the Association is conclusive proof of that fact.

## **20. ONE VOTE PER FULL MEMBER**

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- 20.1 Upon any question arising at a General Meeting of the Association, a Full Member has one vote only.
- 20.2 A Full Member may vote personally or by proxy.
- 20.3 In the case of an equality of voting on a question, the Chairperson of the meeting is entitled to exercise a second or casting vote.
- 20.4 Rule 20.2 does not apply to a vote at a meeting convened under rule 10.5.

## **21. VOTING ON A POLL**

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- 21.1 If at a meeting a poll on any question is demanded by not less than three (3) Full Members, a poll shall be taken at that meeting in such a manner as the Chairperson may direct, the Chairperson must declare the result of the resolution of the poll and the resolution of the poll shall be deemed to be a resolution of the meeting on that question.
- 21.2 A poll that is demanded on the election of a Chairperson or on a question of an adjournment must be taken immediately and a poll that is demanded on any other question must be taken at such time before the close of the meeting as the Chairperson may direct.

## **22. FULL MEMBERS ONLY VOTE AT A GENERAL MEETING**

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- 22.1 Only Full Members may vote at a General Meeting.
- 22.2 An Associate Member has no right to vote at a General Meeting, but may with the leave of the Chairperson, have speaking rights on a particular matter, subject to that Associate Membership having been confirmed.
- 22.3 An Affiliate Member has no right to speak at a General Meeting, but may with the leave of the Chairperson, have speaking rights on a particular matter, subject to that Associate Membership having been confirmed (and in the case of an Affiliate Member which is an organisation the representative producing a letter from the organisation confirming that person's appointment as its representative at that meeting).

## **23. VOTING BY PROXY**

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- 23.1 Each Full Member with a right to vote is entitled to appoint another Full Member as their proxy to vote and speak on their behalf at a General Meeting.

- 23.2 The appointment of a proxy shall be in the form approved by the Board (as set out in the policy called “*Form of Appointment by Proxy*”) and such form must be signed by the Member making the appointment.
- 23.3 The Member appointing the proxy may give specific directions as to how the proxy is to vote on their behalf otherwise the proxy may vote on behalf of the Member in any manner as they see fit.
- 23.4 Notice of a General Meeting given to a Member under rule 15 must:
- (a) state that the Full Member may appoint another Full Member as a proxy for the meeting; and
  - (b) include a copy of any form that the Board has approved for the appointment of a proxy.
- 23.5 Subject to rule 23.6, a form appointing a proxy must be given to the Chairperson of the meeting before or at the commencement of the meeting.
- 23.6 A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Secretary no later than 48 hours before the commencement of the meeting.
- 23.7 Proxy votes are limited to no more than five (5) per voting Full Member.

## **24. USE OF TECHNOLOGY TO HOLD MEETINGS**

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- 24.1 The Association may hold its General Meetings at two or more venues by using a form of technology, at the absolute discretion of the Board, that allows Members to clearly and simultaneously communicate with each other participating Member.
- 24.2 A Member of the Association who participates in a General Meeting in manner permitted under rule 24.1 is taken to be present at the meeting and, if the Member votes at the meeting, is taken to have voted in person.

## **25. INFORMATION FORUMS**

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- 25.1 The Board may, whenever it thinks fit, convene an information forum of the Association.
- 25.2 An information forum may be held on the same date and at the same place as a General Meeting but must be held either before or after such meeting.
- 25.3 The Secretary of the Association shall, at least fourteen (14) days before the date fixed for holding an information forum of the Association, cause to be sent to all Members of the Association at the address appearing on the register of Members, a notice stating the place, date and time of the information forum.

- 25.4 The purpose of an information forum will be to disseminate information and seek the opinion of all Members of the Association on a matter which relates to the operation of the Association or any other matter that the Board believes is relevant to all Members.
- 25.5 The President, or in the President's absence, the Vice-President, shall preside as Chairperson at each information forum of the Association.
- 25.6 If the President and the Vice-President are absent from an information forum, all Members present shall elect one of their number to preside as Chairperson at the information forum.
- 25.7 The procedure at an information forum will be informal.
- 25.8 No binding decisions will be made at an information forum.

## **26. BOARD**

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- 26.1 The affairs of the Association shall be managed by or under the direction of the Board constituted as provided in rule 27.
- 26.2 The Board:
- (a) shall control, manage and govern the affairs of the Association;
  - (b) may exercise all such powers and functions as may be exercised by the Association except those powers and functions that are required by these Rules or the Act to be exercised by General Meetings of Members of the Association; and
  - (c) subject to these Rules and the Act, has power to perform all such acts and things as appear to the Board to be essential for the proper control of the business and affairs of the Association.

## **27. COMPOSITION OF THE BOARD AND GENERAL DUTIES OF DIRECTORS**

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- 27.1 Subject to rule 4, the Board shall consist of:
- (a) Six (6) Elected Directors elected in accordance with rule 28; and
  - (b) Up to three (3) Associate Directors appointed by the Elected Directors from time to time in accordance with rule 28.
- 27.2 The executive positions of a Board constituted under rule 27.1 shall include:
- (a) a President who must be an Elected Director;
  - (b) a Vice-President who must an Elected Director;
  - (c) a Treasurer who may be either an Elected Director or an Associate Director; and
  - (d) a Secretary who may be either an Elected Director or Associate Director.

- 27.3 Duty statements for Executive Directors can be found in the policy titled “*Executive Directors Duty Descriptions Policy*”.
- 27.4 A person is not eligible to simultaneously hold more than one executive position.
- 27.5 As soon as practicable after being elected or appointed to the Board, each Director (whether an Elected or Associate Director) must become familiar with these Rules and the Act.
- 27.6 The Board is collectively responsible for ensuring that the Association complies with the Act and that individual Directors comply with the Act and these Rules.
- 27.7 Directors must exercise their powers and discharge their duties:
- (a) with reasonable care and diligence;
  - (b) in good faith in the best interests of the Association; and
  - (c) for a proper purpose.
- 27.8 Directors and former directors must not make improper use of:
- (a) their position; or
  - (b) information acquired by virtue of holding their position,
- so as to gain an advantage for themselves or any other person or to cause detriment to the Association.

## **28. ELIGIBILITY, ELECTION AND TERM**

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- 28.1 A Full Member is eligible to be appointed as an Elected Director by resolution of the Full Members at an Annual General Meeting.
- 28.2 A Full Member or an Associate Member is eligible to be appointed as an Associate Director by resolution of the Elected Directors and confirmed at an Annual General Meeting, having regard to the overall diversity and skill set required of the Board.
- 28.3 An Associate Director need not be a person who is:
- (a) infected with HIV; or
  - (b) open regarding their HIV status.

- 28.4 Each Associate Director may, subject to these Rules, hold office for a period no longer than one (1) year.
- 28.5 Each Elected Director of the Board shall, subject to these Rules, hold office for a two (2) year term on a rotating basis in the following order:
- (a) at the first anniversary of appointment of the Board, three (3) Elected Directors of the Board must stand down and be replaced by three (3) new Elected Directors;
  - (b) on the second anniversary of the first appointment of the Board, the remaining three (3) Elected Directors of the Board must stand down and be replaced by three (3) new Elected Directors; and
  - (c) any Elected Director of the Board standing down is eligible for re-election provided always that an Elected Director may be re-elected or re-appointed for a total continuous period of six years (three terms).
- 28.6 Prior to the election of each Elected Director position, the President must call for nominations to fill that position.
- 28.7 Nominations of candidates for election as Elected Directors of the Board:
- (a) shall be in writing, signed by one Full Member of the Association and accompanied by the written consent of the candidate (which must be on the "*Form of Nomination*" as endorsed by the Board from time to time); and
  - (b) shall be delivered to the Secretary of the Association within the time frame prescribed by the ballot procedure nominated by the Board in the policy titled "*Board Election Policy and Procedure*".
- 28.8 If insufficient nominations are received to fill all the vacancies on the Board, the candidates nominated shall be deemed to be elected and further nominations shall be received at the Annual General Meeting.
- 28.9 If the number of nominations exceeds the vacancies to be filled, a ballot shall be held, but if the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.
- 28.10 Should the number of nominations exceed the vacancies to be filled, the Board shall decide how the ballot is to be conducted as either by postal ballot and/or in person at the Annual General Meeting and/or via Internet-based voting as prescribed in the "*Board Election Policy and Procedure*".
- 28.11 The President, Vice-President, Secretary and Treasurer shall be elected at the first Board meeting following the Annual General Meeting by the Elected Directors of the Board.
- 28.12 If an Elected Director of the Board becomes temporarily incapable of performing the duties of their position, the Board may appoint a Full Member of the Association to

act in their position during the period of incapacity and the Full Member so appointed shall be deemed to be the occupant of the position during that temporary period.

- 28.13 The supervision of any election ballot will be performed by a returning officer nominated by the Board who does not have any conflict of interest in the election.
- 28.14 A Full Member who is nominated for an Elected Director position and fails to be elected may be nominated for any other position for which an election is yet to be held.
- 28.15 In the event of a casual vacancy occurring in the office of an Elected Director, the Board may, subject to rule 28.14, decide by resolution to appoint a Full Member of the Association to fill the vacancy and the Full Member so appointed shall hold office, subject to these Rules, until the conclusion of the Annual General Meeting next following the date of the appointment.
- 28.16 If the Board resolves to fill a casual vacancy occurring in the office of an Elected Director, the Board shall call for nominations from the membership and inform the membership (no less than 14 days before the Board meeting) of the date of the Board meeting at which the vacancy will be filled.
- 28.17 Nominations of candidates for casual vacancies (occurring in the office of an Elected Director) of the Board:
- (a) shall be submitted in writing, signed by one Full Member of the Association and accompanied by the written consent of the candidate (which must be endorsed on the "*Form of Nomination*" as included in the "*Board Recruitment Policy*"); and
  - (b) shall be delivered to the Secretary of the Association not less than seven (7) days before the date of the Board meeting at which the vacancy is to be filled.
- 28.18 If the number of nominations exceeds casual vacancies to be filled, a ballot among the Board shall be held, but if the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected in accordance with the Board election criteria (as set out in the "*Board Recruitment Policy*").
- 28.19 In the event of a casual vacancy in any office referred to in rule 27.2, the Board may appoint a Full Member to the vacant office and the Full Member so appointed may continue in office up to and including the conclusion of the Annual General Meeting next following the date of the appointment.
- 28.20 In the event of a casual vacancy occurring in the office of an Associate Director, the Board may, at its discretion, appoint a Full Member or Associate Member to fill such position and any person so appointed will hold the position for the remainder of the Associate Director's term.

## **29. VACANCY ON THE BOARD**

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- 29.1 For the purposes of these Rules, the office of an Elected Director becomes vacant if the Elected Director of the Board:
- (a) ceases to be a Full Member of the Association;
  - (b) without leave of the Board, fails to attend three consecutive Board meetings;
  - (c) becomes insolvent under administration within the meaning of the *Corporations Act 2001* (Cth); or
  - (d) resigns by notice in writing given to the Secretary.
- 29.2 For the purposes of these Rules, the office of an Associate Director becomes vacant if the Associate Director of the Board:
- (a) without leave of the Board, fails to attend three consecutive Board meetings;
  - (b) becomes insolvent under administration within the meaning of the *Corporations Act 2001* (Cth); or
  - (c) resigns by notice in writing given to the Secretary.

## **30. PROCEEDINGS OF THE BOARD**

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- 30.1 The Board shall meet at intervals of no longer than sixty (60) days at such place and such times as the Board may determine.
- 30.2 Special meetings of the Board may be convened by the President or by any three (3) of the Directors of the Board.
- 30.3 Notice of each Board meeting shall be given to each Director no later than seven (7) days before the date of the meeting. Notice may be given of more than one Board meeting at the same time. A notice must state the date, time and place of the meeting.
- 30.4 If a special Board meeting is convened, the notice must specify the general nature of the business to be transacted and no other business shall be transacted at such a meeting.
- 30.5 A Director who is not physically present at a Board meeting may participate in the meeting by the use of technology that allows that Director and the Directors present at the meeting to clearly and simultaneously communicate with each other. For the purposes of this rule 30, a Director participating in a Board meeting as permitted under this rule 30.5 is taken to be present at the meeting and, if the Director votes at the meeting, is taken to have voted in person.
- 30.6 No business shall be transacted at a Board meeting unless a quorum is present.



- 30.7 The quorum for a Board meeting is the presence (in person or as allowed under rule 30.5) of four of the Elected Directors holding office.
- 30.8 If a quorum is not present within half an hour of the time appointed for the meeting, the meeting shall stand adjourned to a time nominated by the President.
- 30.9 At meetings of the Board:
- (a) the President or in the President's absence the Vice-President shall preside; or
  - (b) if the President and the Vice-President are absent, such one of the remaining Directors of the Board as may be chosen by the Directors present shall preside.
- 30.10 On any questions arising at a meeting of the Board, each Director present at the meeting has one (1) vote.
- 30.11 A motion is carried if a majority of Directors present at the meeting vote in favour of the motion.
- 30.12 If votes are divided equally on a question, the person presiding over the Board meeting has a second or casting vote.
- 30.13 Voting by proxy is not permitted.
- 30.14 Subject to rule 30.7 the Board may act notwithstanding any vacancy on the Board.

## **31. CONFLICT OF INTEREST**

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- 31.1 A Director 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.
- 31.2 The Director must not be present while the matter is being considered at the meeting and must not vote on the matter.
- 31.3 This rule 31 does not apply to a material person interest:
- (a) that exists only because the Director belongs to a class of persons for whose benefit the Association is established; or
  - (b) that the member has in common with all, or a substantial proportion of, the Members of the Association.

## **32. DELEGATION**

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- 32.1 The Board may delegate to a Director, a committee or staff, any of its powers and functions other than this power of delegation or any duty imposed on the Board by the Act or any other Law.

- 32.2 The delegation must be in writing and may be subject to the conditions and limitations the Board considers appropriate.
- 32.3 The Board may, in writing, revoke a delegation wholly or in part.
- 32.4 Between meetings of the Board, the affairs of the Association may be conducted by an Executive Committee subject to rules 32.2 and 27.
- 32.5 The Executive Committee may exercise such of the powers and functions of the Board that the Board may from time to time determine.
- 32.6 The members of the Executive Committee shall be:
- (a) the President;
  - (b) the Vice-President;
  - (c) the Treasurer; and
  - (d) the Secretary.
- 32.7 The Board may, by instrument of delegation in writing, constitute one or more working groups to report on such matters as are specified in the instrument of appointment.
- 32.8 A working group shall consist of such Members of the Association as the Board thinks fit and:
- (a) shall include at least one (1) Elected Director of the Board;
  - (b) may include other persons who may or may not be Members of the Association as are named in the instrument of delegation; and
  - (c) may include the President who shall be entitled to speak and vote on all matters.

### **33. SECRETARY**

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- 33.1 The Secretary of the Association must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.
- 33.2 The Secretary shall ensure minutes are kept of the resolutions and proceedings of each General Meeting and each Board meeting in books provided for that purpose together with a record of the names of persons present at Board meetings.
- 33.3 A Duty Statement for the Secretary can be found in the policy titled "*Executive Directors Duty Descriptions*".
- 33.4 The Secretary must give to the Registrar notice of their appointment within 14 days after appointment.

## **34. FINANCIAL RECORDS, STATEMENTS AND TREASURER**

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- 34.1 The Association must keep financial records that:
- (a) correctly record and explain its transactions, financial position and performance; and
  - (b) enable financial statements to be prepared as required by the Act.
- 34.2 The Association must retain the financial records for seven (7) years after the transactions covered in the records are completed.
- 34.3 For each Financial Year, the Board must ensure that the requirements under the Act relating to the financial statements of the Association are met.
- 34.4 Without limiting rule 34.3, those requirements include:
- (a) the preparation of the financial statements;
  - (b) if required, the auditing or review of the financial statements;
  - (c) the certification of the financial statements by the Board;
  - (d) the submission of the financial statements to the Annual General Meeting of the Association; and
  - (e) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fees (if applicable).
- 34.5 The Treasurer must keep in their custody or under their control:
- (a) the financial records for the current financial year; and
  - (b) any other financial records as authorised by the Board.
- 34.6 A Duty Statement for the role of Treasurer can be found in the policy titled “*Executive Directors Duty Descriptions*”.

## **35. REMOVAL OF A DIRECTORS**

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- 35.1 A General Meeting may by Special Resolution remove any Elected Director of the Board before the expiration of the Director’s term of office and appoint another Director in their place to hold office until the expiration of the term of the first-mentioned Director.
- 35.2 Where the Director to whom a proposed special resolution referred to in rule 35.1 makes representations in writing to the Secretary or President of the Association and requests that they be notified to the Members, the Secretary or the President shall send a copy of the representations to each Member of the Association or, if they are not so sent, the Director may require that they be read out at the meeting.

## **36. EXECUTIVE OFFICER AND STAFF REPRESENTATIVE**

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- 36.1 The Board must appoint an Executive Officer who shall undertake such duties as may be determined from time to time by the Board and shall, subject to the decisions of the Board, supervise the work of persons who are volunteers, employed or otherwise engaged by the Association and is responsible for the day to day management of the organisation.
- 36.2 The Executive Officer shall attend such Board and Executive Committee meetings as the Board or the Executive Committee (as the case may be) may require from time to time.
- 36.3 The Board must appoint a staff representative.

## **37. MANAGEMENT OF FUNDS**

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- 37.1 The Association must open an account with a financial institution from which all expenditure of the Association is made and into which all of the Association's revenue is deposited.
- 37.2 Subject to any restrictions imposed by a General Meeting, the Board may approve expenditure on behalf of the Association.
- 37.3 The Board may authorise the Treasurer to expend funds on behalf of the Association (including by electronic funds transfer) up to a specified limit without requiring approval from the Board for each item on which the fund are expended.
- 37.4 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by either two (2) Elected Directors of the Board or one (1) Elected Director and the Executive Officer.
- 37.5 All funds of the Association must be deposited into the financial account of the Association no later than five (5) working days after receipt.
- 37.6 With the approval of the Board, the Treasurer may maintain a cash float provided that all money paid from or into the float is accurately recorded at the time of the transaction.

## **38. COMMON SEAL**

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- 38.1 The Association may have a common seal. If the Association has a common seal, it shall be kept in the custody of the Secretary.
- 38.2 The common seal shall not be affixed to any instrument except by authority of the Board and the affixing of the common seal shall be attested by the signatures either of two (2) Elected Directors of the Board or one Elected Director and one (1) Associate Director of the Board.

## **39. ALTERATION OF RULES AND STATEMENT OF PURPOSES**

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39.1 These Rules may only be altered by Special Resolution and, if required, where the prior approval of the Commissioner of Taxation has been obtained.

## **40. NOTICE REQUIREMENTS**

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40.1 A notice required to be given to a Member or a Director under these Rules may be given:

- (a) by handing the notice to the person personally;
- (b) by sending it by post to the person at the address recorded for them on the register of Members or register of Directors (as the case may be); or
- (c) by facsimile transmission or electronic notification.

40.2 Where a document is properly addressed to a person as a letter, the document shall, unless the contrary is proved, be deemed to have been given to the person at the time at which the letter would have been delivered in the ordinary course of email or post (as the case may be).

40.3 Any notice required to be given to the Association or the Board may be given:

- (a) by handing the notice to a member of the Board;
- (b) by sending the notice by post to the registered address;
- (c) by leaving the notice at the registered address; or
- (d) if the Board determines that it is appropriate in the circumstances:
  - (i) by email to the email address of the Association or the Secretary; or
  - (ii) by facsimile transmission to the facsimile number of the Association.

## **41. WINDING UP AND CANCELLATION**

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41.1 The Association may be wound up voluntarily by Special Resolution.

41.2 In the event of the winding up or cancellation of the incorporation of the Association, after debts are paid, any surplus assets of the Association must not be distributed to any Members or former members of the Association and, subject to the Act and any court order made under section 133 of the Act, are to be transferred to another organisation or organisations that have similar objectives to the Association.

41.3 Such transfers of assets must be made to organisations approved by the Commissioner of Taxation under sub-sections (i) or (ii) of section 78 (1)(a) of the *Income Tax Assessment Act 1997* (Cth).

41.4 The organisation or organisations to which any surplus assets of the Association are to be given must be decided by Special Resolution or in the absence of a Special Resolution, by the Registrar of Incorporated Associations.

## **42. CUSTODY AND INSPECTION OF BOOKS AND RECORDS**

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42.1 Except as otherwise provided in these Rules, the Secretary shall oversee the safe keeping in their custody or under their control all books, documents and securities of the Association.

42.2 Members may on request inspect free of charge:

- (a) the register of Members;
- (b) the minutes of General Meetings; and
- (c) subject to rule 42.3, the financial records, books, securities and any other relevant document of the Association, including minutes of Board Meetings.

42.3 The Board may refuse to permit a Member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association or where such inspection would contravene a Law.

42.4 The Board must on request make copies of these Rules available to Members and applicants for membership free of charge.

42.5 Subject to rule 42.3, a member make take a copy of any of the other records of the Association referred to in this rule 42 and the Association may charge a reasonable fee for provision of a copy of such a record.

42.6 For the purposes of this rule 42 'relevant documents' means the records and other documents however compiled, recorded or stored that relate to the incorporation and management of the Association and includes the following:

- (a) its membership records;
- (b) its financial statements;
- (c) its financial records; and
- (d) records and documents relating to transactions, dealings, business or property of the Association.

## **43. FUNDS**

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43.1 The funds of the Association shall be derived from donations and such other sources as the Board determines from time to time.

43.2 Assets and income of the Association shall be applied solely to the furtherance of its objectives and, in accordance with the Act, the Association must not distribute any

surplus, income or assets directly or indirectly to its Members.

43.3 Rule 43.2 does not prevent the Association from:

- (a) paying a Member:
  - (i) reimbursement for expenses properly incurred by the Member; or
  - (ii) for goods or services provided by the Member (if this is done in good faith on terms no more favourable than if the Member was not a Member); or
- (b) making a disbursement of funds to a Member under the Finance, Learning and Independent Program (**FLIP**) Fund in accordance with the guidelines set out in the Association's *"Finance, Learning and Independence Program (FLIP) Fund Policy"*.

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