

CONSTITUTION

NV ACCESS Limited

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1 Purpose of Company

1.1 Purpose

The purpose of NV Access is to lower the economic and social barriers associated with accessing Information Technologies for people who are Blind or Vision Impaired. The company is thus dedicated to the ideal that accessibility and equitable access is a right and should not come as an extra cost to a person who is Blind or Vision Impaired. In a world where information and technology are an increasingly important part of daily living, this ideal facilitates greater participation and independence in all facets of life , most importantly within the areas of education and obtaining employment.

In order to carry out this purpose, the company's objectives include, but are not limited to:

1. To facilitate the development of open-source assistive technologies for blind and vision impaired people that are free of charge to the end user.
2. To provide low cost information technology solutions which enhance accessibility for blind and vision impaired people.
3. To act as a fundraising body to support the various projects encompassed by the organisation.
4. To encourage and facilitate contributions to the overall effort of the organisation.
5. To contribute to existing and future efforts aimed at improving accessibility for blind and vision impaired people.
6. To raise awareness and promote the importance of accessibility.

1.2 Application of profits, income and property for purpose only

The profits (if any) or other income and the property of the Company, however derived, must be applied solely towards the promotion of the purpose of the Company as set out in Clause 1.1. No part of those profits or that income or property may be paid or transferred to the Members or Officers, either directly or indirectly, by way of dividend, bonus or otherwise (other than as permitted by this Constitution).

1.3 Payment by the Company in good faith

Subject to Clauses 6.13 and 11.1(b), Clause 1.2 does not prevent payment in good faith to an Officer or Member, or to a firm of which an Officer or Member is a partner:

- (a) of remuneration for services to the Company;
- (b) for goods supplied in the ordinary course of business;
- (c) of interest at a rate not exceeding the rate fixed for the purposes of this Clause 1.3 by the Company in general meeting on money borrowed from an Officer or Member;
- (d) of reasonable rent for premises let by an Officer or Member in the ordinary course of business; or
- (e) of any sum permitted to be paid under Clause 14 or under a deed entered into under Clause 14,

provided that any such payment, or any other payment permitted by this Constitution, made or proposed to be made to a director, has been approved by the Board (in any generic or specific case).

1.4 Application of property on winding up

If any property remains on the winding-up or dissolution of the Company and after satisfaction of all its debts and liabilities, that property may not be paid to or distributed among the Officers or Members, but must be given or transferred to some other institution:

- (a) having purposes similar to the purposes of the Company;
- (b) whose constitution prohibits the distribution of its income and property among its members and directors to an extent at least as great as imposed on the Company under this Constitution; and
- (c) accepted as a deductible gift recipient because it is a public benevolent institution.

The institution is to be determined by the Members at or before the time of dissolution.

1.5 Powers

The Company has all the powers of a public company limited by guarantee set out in the Corporations Act, but only to the extent necessary or convenient to carry out, or incidental to carrying out, the Company's purpose.

2 Membership

2.1 Becoming a Member

Unless they are a subscriber to the Constitution, a person may only become a Member under Clause 2.2.

2.2 Admission as a Member

Any person may become a Member if the person:

- (a) is over 18 years of age;
- (b) has paid the membership fee of \$20;
- (c) has given the Company a duly signed and completed application form at least 30 days prior to the next meeting of the Members. The application form must be in the form approved by the Directors and must include an undertaking by the applicant to be bound by this Constitution; and
- (d) has been registered as a Member in the Company's register. The membership commences on the date that the person is registered as a Member in the Company's register and terminates in accordance with Clauses 2.4 to 2.7.

2.3 Directors may create and vary classes and class rights

The Directors may, subject to this Constitution and the Corporations Act:

- (a) establish any new class of Members and define the rights, restrictions and obligations of Members in that class; and
- (b) vary or cancel the rights, restrictions and obligations of Members in any new or existing class, if:
 - (i) 75% of the Members of that class give their written consent; or
 - (ii) a special resolution to that effect is passed at a separate meeting of those Members.

2.4 Ceasing to be a Member

A Member ceases to be a Member on:

- (a) resignation;
- (b) death;

- (c) becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (d) the termination of the person's membership by the Directors in accordance with this Constitution;
- (e) failing to comply with this constitution;
- (f) if the Company is dissolved or otherwise ceases to exist, has a liquidator or provisional liquidator appointed to it, or is unable to pay its debts; or
- (g) if the Member is a corporation and is dissolved or otherwise ceases to exist, has a liquidator or provisional liquidator appointed to it, or is unable to pay its debts.

2.5 Resignation

A Member may, by written notice to the Company, resign their membership with immediate effect or with effect from a specified date occurring not more than 30 days after the receipt of the notice.

2.6 Rights of reply and appeal for expelled members

- (1) Expulsion of members can only be made by a resolution passed by the Board of Directors of the Company.
- (2) Before passing a resolution to expel a member because his or her conduct is detrimental to the interests of the Company, the Board must first direct the Company Secretary to communicate in writing to the member the grounds for the proposed expulsion and the time, date and place of a meeting of the Board at which the proposed expulsion will be decided. This notice must be given not less than 14 days before the date of that meeting.
- (3) At the meeting of the Board at which the expulsion is to be decided (as referred to in sub-rule (2)), the Board must: –
 - (a) give the member (the subject of the proposed expulsion) an opportunity to make oral representations;
 - (b) give due consideration to any written representations submitted by the member at or prior to the meeting; and
 - (c) decide whether or not to pass the proposed resolution of expulsion.
- (4) Where the Board decides to pass the resolution in accordance with sub-rule (3), the Company Secretary must, within 7 days after the

passing of that resolution, inform the member by notice in writing of the reasons for the resolution and of the right of appeal under this rule.

- (5) A member who is expelled under sub-rule (3) from membership of the Company and does not exercise his or her right of appeal ceases to be a member 14 days after the day on which the decision to expel them is communicated to them under sub-rule (4).
- (6) If a member who is expelled from membership of the Company under sub-rule (3) wishes to appeal against that expulsion, they must give notice to the Company Secretary of their intention to do so within a period of 14 days.
- (7) When notice of appeal is given under sub-rule (6), the Company Secretary must call a special general meeting of the members of the Company to be held within 28 days of receipt of the notice. In this meeting, the Company must: –
 - (a) give the member (the subject of the decision) an opportunity to make oral representations;
 - (b) give due consideration to any written representations submitted by the member at or prior to the meeting; and
 - (c) decide whether to confirm or to revoke the resolution of expulsion passed by the Board.

2.7 Limited liability

The Members have no liability as Members except as set out in Clause 15.

2.8 Membership is not transferable

Membership of the Company is personal to the Member and is not transferable.

3 General meetings

3.1 Annual general meeting

Annual general meetings of the Company are to be held in accordance with the Corporations Act.

3.2 Power to convene general meeting

A Director or the Directors may convene a general meeting when they think fit and must do so if required to do so under the Corporations Act.

3.3 Calling of general meeting by Directors when requested by Members

The Directors must call and arrange to hold a general meeting on the request of the lesser of;

- (a) Members holding at least 5% of the votes that may be cast at the general meeting; and
- (b) 100 Members who are entitled to vote at the general meeting.

The request must:

- (c) be in writing;
- (d) state the resolution to be proposed at the meeting;
- (e) Be signed by the Members making the request; and
- (f) Be given to the Company.

Separate copies of the document setting out the request may be used for signing by Members if the wording in the request is identical in each copy. The percentage of votes that Members have is to be calculated as at the midnight before the request is given to the Company. The Directors must call the meeting within 21 days after the request is given to the Company. The meeting is to be held not later than 2 months after the request is given to the Company.

3.4 Notice of general meeting

Notice of a meeting of Members must be given in accordance with Section 14 of the Corporations Act.

3.5 Non-receipt of notice of general meeting

The non-receipt of notice of a general meeting or the accidental omission to give notice of a general meeting to a person entitled to receive notice does not invalidate any resolution passed at the general meeting.

3.6 Cancellation or postponement of general meeting

Where a general meeting (including an annual general meeting) is convened by the Directors, they may, when they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them. This Clause does not apply to a meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members, or to meetings convened by a Court.

3.7 Written notice of cancellation or postponement of general meeting

Written notice of cancellation or postponement of a general meeting must be given to all persons entitled to receive notices of general meetings from the Company. The notice must be given at least 7 days before the date for which the meeting is convened and must specify the reason for cancellation or postponement.

3.8 Contents of notice postponing general meeting

A notice postponing the holding of a general meeting must specify:

- (a) a date and time for the holding of the meeting; and
- (b) a place for the holding of the meeting, which may be either the same as or different to the place specified in the notice convening the meeting.

3.9 Notice period for postponed general meeting

The number of clear days from when a notice postponing the holding of a general meeting is given to the date specified in that notice for the holding of the meeting may not be less than the number of days notice of the meeting required to be given by this Constitution or the Corporations Act.

3.10 Business at postponed general meeting

The only business that may be transacted at a general meeting which is postponed is the business specified in the notice convening the meeting.

3.11 Non-receipt of notice of cancellation or postponement of a general meeting

The accidental omission to give notice of the cancellation or postponement of a meeting to or the non-receipt of any such notice by any person entitled to notice does not invalidate that cancellation or postponement or any resolution passed at a postponed meeting.

3.12 Proxy or attorney at postponed general meeting

The date of the postponed general meeting is substituted for and applies to the exclusion of the date specified in the instrument of proxy or power of attorney if:

- (a) by the terms of an instrument appointing them, a proxy or attorney is authorised to attend and vote at a general meeting to be held on a specified date or at a general meeting to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy or power of attorney.

However, this may not be done if the Member appointing the proxy or attorney gives the Company written notice to the contrary at least 48 hours before the time to which the holding of the meeting has been postponed.

4 Proceedings at general meetings

4.1 Reference to a Member

Unless the contrary intention appears, a reference to a Member in this Clause 4 means a person who is:

- (a) a Member;
- (b) a proxy; or
- (c) an attorney.

4.2 Number for a quorum

Subject to Clause 4.5, four Members present in person or by proxy or attorney are a quorum at a general meeting.

4.3 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the beginning of a meeting, it is taken to be present throughout the meeting unless the Chairperson of the meeting on their own motion or at the request of a Member, proxy or attorney who is present declares otherwise.

4.4 Quorum and time

If a quorum is not present within thirty minutes after the time appointed for a general meeting, the meeting:

- (a) is dissolved if it was convened by or on requisition of Members; and
- (b) in any other case stands adjourned to the same day in the next week at the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

4.5 Adjourned meeting

At a meeting adjourned under Clause 4.4(b), four Members present in person or by proxy or attorney are a quorum. If a quorum is not present within 30

minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

4.6 Appointment and powers of Chairperson of general meeting

If the Directors have elected one of their number as Chairperson, that person is entitled to preside as Chairperson at a general meeting.

4.7 Absence of Chairperson at general meeting

If a general meeting is held and:

- (a) a Chairperson has not been elected by the Directors; or
- (b) the elected Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as Chairperson of the meeting (in order of precedence):

- (c) the Deputy Chairperson (if any);
- (d) a Director chosen by a majority of the Directors present;
- (e) the only Director present;
- (f) a Member chosen by a majority of the Members present in person or by proxy or attorney.

4.8 Conduct of general meetings

The Chairperson of a general meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the Chairperson's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard to the Corporations Act where necessary, terminate discussion or debate on any matter whenever the Chairperson considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the Chairperson under this Clause is final.

4.9 Adjournment of general meeting

The Chairperson of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting. The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and any place, but:

- (a) in exercising this discretion, the Chairperson may, but need not, seek the approval of the Members present. Unless required by the Chairperson, a vote may not be taken or demanded by the Members present in respect of any adjournment; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

4.10 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

4.11 Questions decided by majority

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

4.12 Equality of votes - casting vote for Chairperson

If there is an equality of votes, whether on a show of hands, on a poll or by voice, the Chairperson of the general meeting is entitled to a casting vote in addition to any votes to which the Chairperson is entitled as a Member or proxy or attorney of a Member.

4.13 Declaration of results

At any general meeting, a resolution put to the vote of the meeting must be decided on a show of hands or by voice unless a poll is properly demanded and the demand is not withdrawn. A declaration by the Chairperson that a resolution has been carried, carried unanimously or lost, as well as an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact. Neither the Chairperson nor the minutes need state (and it is not necessary to prove) the number or proportion of the votes recorded in favour of or against the resolution.

4.14 Poll

- (a) If a poll is properly demanded, it must be taken in the manner and at the date and time directed by the Chairperson. The result of the poll is the resolution of the meeting at which the poll was demanded.
- (b) A poll demanded on the election of a Chairperson or on a question of adjournment must be taken immediately.
- (c) A demand for a poll may be withdrawn.
- (d) A demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

4.15 Objection to voting qualification

Objection may not be raised to the right of a person to attend or vote at a meeting or adjourned meeting or to vote on a poll except at that meeting or adjourned meeting or when that poll is taken. Every vote not disallowed at the meeting or adjourned meeting or when the poll is taken is valid.

4.16 Chairperson to determine any poll dispute

If there is a dispute as to the admission or rejection of a vote, the Chairperson of the meeting must decide it and the Chairperson's decision made in good faith is final and conclusive.

4.17 Postal Ballots

- (a) Subject to the provisions of the Corporations Act and this Clause, the Directors may submit any question or resolution to the vote of Members entitled to vote at a general meeting of the Company by means of a postal ballot ("**a Postal Ballot**") in such form and returnable in such manner as the Directors decide. A resolution approved by a majority of the Members voting by such Postal Ballot will have the same force and effect as such a resolution would have if carried by such a majority at a duly constituted general meeting of the Company.
- (b) At least 21 days prior to the closing date of a Postal Ballot, the Secretary will send ballot papers to all voting Members, giving particulars of the business in relation to which the Postal Ballot is conducted, an explanation of the method of voting and notice of the closing date of the Postal Ballot, and a voting form (all in a form and with such content as the Directors may approve).
- (c) The Secretary shall receive all voting forms from voting Members in respect of a Postal Ballot and must promptly advise the Directors of the result of the Postal Ballot. Any voting form received after 5.00pm

on the closing date of a Postal Ballot shall be deemed to be invalid and shall not be counted.

- (d) In the event of any dispute by a Member in relation to the validity or conduct of any Postal Ballot, the Member may give notice in writing to the Directors stating the grounds of the complaint within thirty days of the closing date of the Postal Ballot. The Directors may either investigate the complaint or appoint a committee for that purpose. After hearing the complaint, the Directors will determine the matter and their decision will be final and binding.

5 Votes of Members

5.1 Voting rights

Subject to the rights and any restrictions attached to or affecting any class of Members and to any other restrictions in this Constitution:

- (a) on a show of hands or by voice, each Member present in person and each other person present as proxy or attorney of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote and each person present as proxy or attorney of a Member has one vote for each Member that the person represents.

5.2 Right to appoint proxy

Subject to the Corporations Act, a Member entitled to attend at a meeting of the Company or of any class of Members is entitled to appoint another person (whether a Member or not) as proxy to attend in the Member's place at the meeting. A proxy has the same right as the Member to speak and vote at the meeting and may be appointed for more than one meeting.

To be effective, an instrument appointing a proxy under this Clause must be received by the Company at least 48 hours before the meeting, together with any authority under which the instrument was signed or a certified copy of the authority.

5.3 Right to appoint attorney

A Member may by power of attorney appoint an attorney to act on the Member's behalf at all or any meetings of the Company or of any class of Members. An attorney has the same right as the Member to speak and vote at the meeting and may be appointed for more than one meeting.

To be effective, an instrument appointing an attorney under this Clause, together with any evidence of non-revocation the Directors require, must be received by the Company at least 48 hours before the meeting.

5.4 Right to direct manner of voting by proxyholder or attorney

An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.

5.5 Form of proxy or attorney

An instrument appointing a proxy or attorney need not be in any particular form provided it is in writing, legally valid and signed by the appointer or the appointer's attorney.

5.6 Right of proxyholder or attorney to vote

The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting. However, if the appointer votes on any resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

6 Directors

6.1 Initial Directors

On registration of the company, the first Board will consist of the following three persons:

- (a) Michael Curran;
- (b) James Teh; and
- (c) Mathew Mirabella.

6.2 Number of Directors

The number of Directors is to be not less than three nor more than:

- (a) nine; or
- (b) any lesser number than nine determined by the Directors (as long as the number is not less than the number of Directors in office at the time the determination takes effect).

The Directors in office at the time of adoption of this Constitution continue in office subject to this Constitution.

6.3 Blind and Vision Impaired Directors

At least 33% of the Directors must be blind or vision impaired.

6.4 Appointment

The Directors may appoint or the Company in general meeting may elect a person as a Director either to fill a casual vacancy or as an additional Director provided that the person is a Member at the time of their appointment and throughout their term of office as a Director.

6.5 Change of number of Directors

The Company in general meeting may by resolution increase or reduce the number of Directors, and may also determine the rotation by which the increased or reduced number is to retire from office.

6.6 Rotation of Directors

- (a) At each annual general meeting of the Company, at least one third of the Directors must retire from office.
- (b) The Directors to retire at an annual general meeting must be those longest in office since they were last elected. In choosing between Directors that were last elected on the same day, those to retire must be determined by lot, unless they otherwise agree among themselves.
- (c) Directors may hold office for a maximum of three years.

6.7 Office held until conclusion of meeting

A retiring Director holds office until the conclusion of the meeting at which that Director retires but is eligible for re-election.

6.8 Director elected at general meeting

The Company may, by resolution at a general meeting at which a Director retires or otherwise vacates office, fill the vacated office by electing an eligible person to that office.

6.9 Persons eligible to be elected as a Director

A person is eligible for election to the office of a Director at a general meeting only if:

- (1) the person is in office as a Director immediately before that meeting;
- (2) the person has been nominated by the Directors for election at that meeting; or

- (3) where the person is a member, he or she has, at least 30 business days but no more than 90 business days before the meeting, given the company a notice signed by him or her stating his or her desire to be a candidate for election at that meeting.

6.10 Casual vacancy of office of Director

If the office of a Director becomes vacant, the remaining Directors will appoint a replacement Director.

A replacement Director appointed under this Clause shall:

- (a) hold office for the residue of his or her predecessor's term of office;
- (b) be deemed to have been appointed a member of the Board at the time his or her predecessor was appointed; and
- (c) if the Director is otherwise qualified, be eligible for re-election.

The Directors may at any time appoint a person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided the total number of Directors does not exceed the maximum number under Clause 6.2. Such a Director shall hold office until the conclusion of the next annual general meeting following their appointment and, if otherwise qualified, will be eligible for re-election.

6.11 Remuneration of Directors

A Director may not be paid any remuneration for services as a Director. However, a Director is entitled to be reimbursed out of the funds of the Company for his or her reasonable travelling, accommodation and other expenses incurred when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the affairs of the Company.

6.12 Disclosing directors' interests

- (a) Subject to this Clause 6.12, a director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company must, as soon as practicable after the relevant facts have come to the director's knowledge, declare the nature of the interest at a meeting of the directors.
- (b) The requirements of Clause 6.12(a) do not apply in respect of an interest of a director that consists only of being a member or creditor of a corporation that is interested in a contract or proposed contract with the Company if the interest of the director may properly be regarded as not being a material interest.

- (c) A director is not to be taken to be, or to have been at any time, interested in a contract or proposed contract which has been or will be made with or for the benefit of or on behalf of a body corporate that is related to the Company merely because the director is a director of that body corporate.
 - (d) For the purposes of Clause 6.12(a), a general notice given to the directors by a director to the effect that the director is an officer or member of a specified body corporate or a member of a specified firm and is to be regarded as interested in any contract that may, after the date of the notice, be made with that body corporate or firm is sufficient declaration of interest in relation to any contract so made or proposed to be made if:
 - (i) the notice states the nature and extent of the director's interest in the body corporate or firm;
 - (ii) when the question of confirming or entering into the contract is first taken into consideration, the extent of the director's interest in the body corporate or firm is not greater than is stated in the notice; and
 - (iii) the notice is given at a meeting of the directors or the director takes reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given.
 - (e) A director who holds any office or possesses any property whereby, whether directly or indirectly, duties or interests might be created in conflict with his or her duties or interests as director must, in accordance with Clause 6.12(f), declare at a meeting of the directors of the Company the fact and the nature, character and extent of the conflict.
 - (f) A declaration required by Clause 6.12(e) in relation to the holding of an office or the possession of any property must be made by a person:
 - (i) where the person holds the office or possesses the property as mentioned in Clause 6.12(e) when they become a director, at the first meeting of directors held after:
 - (A) the person becomes a director; or
- (B) the relevant facts as to the holding of the office or the possession of the property come to the person's knowledge;
whichever is later; or
- (ii) where the person begins to hold the office or comes into possession of the property as mentioned in paragraph (e) after

the person becomes a director, at the first meeting of directors held after the relevant facts as to the holding of the office or the possession of the property come to the person's knowledge.

- (g) In addition to any disclosures required under Clauses 6.12(a) to (f) inclusive or the Corporations Act, the directors may make regulations requiring disclosure of interests that a director, and any person deemed by the directors to be related to the director, may have in any matter that relates to the affairs of the company or a related body corporate or in any other matter. The extent to which, and the conditions on which, disclosure is required will be determined by the directors. Any regulations made under this paragraph will bind all directors.
- (h) The secretary of the Company must record every declaration under this rule in the minutes of the meeting at which it was made.
- (i) No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a person fails to comply with any requirement for disclosure under the Corporations Act or with any regulation made under Clause 6.12(g).
- (j) The preceding provisions of this rule are in addition to any obligation imposed by the Law on directors of a public company to disclose their interests and offices to the Company or to the other directors.

6.13 Directors may contract with the Company and hold other offices

- (a) A director is not disqualified from contracting or entering into an arrangement with the Company as vendor, purchaser or in another capacity, merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- (b) A contract or arrangement entered into by or on behalf of the Company in which a director is in any way interested is not invalid, avoided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- (c) A director who is interested in any arrangement involving the Company is not liable to account to the Company for any profit realised by or under the arrangement merely because the director holds office as a director or because of the fiduciary obligations arising from that office, provided that the director complies with the disclosure requirements applicable to the director under Clause 6.12 and under the Corporations Act regarding that interest.
- (d) A Director may hold any other office or place of profit (except Auditor) in the Company or any related body corporate in conjunction with his or

her directorship and may be appointed to that office or place on terms (remuneration, tenure of office and otherwise) decided by the Directors.

- (e) A Director may be or become a director or other officer of, or interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a shareholder or in any other way, and need not account to the Company for any remuneration or other benefits the Director receives as a director or officer of, or from having an interest in, that body corporate.
- (f) A Director who has an interest in a matter that is being considered at a meeting of directors may, despite that interest, vote, be present and be counted in a quorum at the meeting, unless that is prohibited by the Corporations Act. No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a director fails to comply with that prohibition.
- (g) The Directors may exercise the voting rights given by shares in any body corporate held or owned by the Company in any way in all respects the Directors decide. This includes voting for any resolution appointing a Director as a director of that body corporate or voting for the payment of remuneration to the directors of that body corporate. A Director may, if the law permits, vote for the exercise of those voting rights even though he or she is, or may be about to be appointed, a director of that other body corporate and, in that capacity, interested in the exercise of those voting rights.

6.14 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (b) resigns office by notice in writing to the Company;
- (c) is not present personally at meetings of the Directors for a continuous period of three months without leave of absence from the Directors;
- (d) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors; or
- (e) is convicted on indictment of an offence and the Directors do not within one month after that conviction resolve to confirm the Director's

appointment or election (as the case may be) to the office of the Director.

7 Powers and duties of Directors

7.1 Directors to manage Company

The Directors are to manage the business of the Company and may exercise all the powers of the Company that are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.

7.2 Specific powers of Directors

Without limiting the generality of Clause 7.1, the Directors may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

7.3 Appointment of attorney

The Directors may, by power of attorney, appoint any person to be the attorney of the Company for the purposes and with the powers, authorities and discretions held by the Directors for the period and subject to the conditions that they think fit.

7.4 Provisions in power of attorney

A power of attorney granted under Clause 7.3 may contain any provisions for the protection and convenience of persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

7.5 Minutes

The Directors must direct minutes of meetings to be made and kept in accordance with the Corporations Act.

8 Proceedings of Directors

8.1 Directors meetings

The Directors may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.

8.2 Director may convene a meeting

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

8.3 Notice of meeting of Directors

- (a) Subject to this constitution, notice of a meeting of Directors must be given to each person who is at the time of giving the notice a Director, other than a Director on leave of absence approved by the Directors.
- (b) A notice of a meeting of Directors:
 - (i) must specify the time and place of the meeting;
 - (ii) need not state the nature of the business to be transacted at the meeting;
 - (iii) may be given immediately before the meeting; and
 - (iv) may be given in person or by post, or by telephone, fax or other electronic means.
- (c) A Director may waive notice of any meeting of Directors by notifying the company to that effect in person or by post, or by telephone, fax or other electronic means.
- (d) The non-receipt of notice of a meeting of Directors by, or a failure to give notice of a meeting of Directors to, a Director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the Director:
 - (A) has waived or waives notice of that meeting under Clause 8.3(c); or
 - (B) has notified or notifies the company of his or her agreement to that act, matter, thing or resolution personally or by post or by telephone, fax or other electronic means; or
 - (iii) the Director attended the meeting.

8.4 Quorum

Until otherwise determined by the Directors, the greater of 50% of all Directors or three Directors present in person are a quorum.

8.5 Effect of vacancy

The continuing Directors may act despite a vacancy in their number. However, if their number is reduced below the minimum fixed by Clause 6.2, the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or for calling a general meeting.

8.6 Director attending and voting by proxy

A Director may attend and vote by proxy at a meeting of the Directors if the proxy:

- (a) is another Director; and
- (b) has been appointed in writing signed by the appointer.

The appointment may be general or for one or more particular meetings.

8.7 Convening meetings

A Director and the Secretary on the request of a Director must convene a meeting of the Directors.

8.8 Chairperson and Deputy Chairperson

The Directors must elect a Chairperson and may elect up to two Deputy Chairpersons and shall determine the period during which each is to hold office.

8.9 Removal of Chairperson by the Directors

The Chairperson or Deputy Chairperson may be removed by a resolution of the Directors of which not less than 14 days' notice has been given to the Directors.

8.10 Chairperson to preside over Directors' meeting

The Chairperson is entitled to preside at meetings of the Directors. If the Chairperson is not present and able and willing to act within 15 minutes after the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the following may preside (in order of entitlement):

- (a) a Deputy Chairperson; or

(b) a Director chosen by a majority of the Directors present.

8.11 Questions of Directors' meeting decided by majority

A question arising at a meeting of the Directors is to be decided by a majority of votes of Directors present and entitled to vote. That decision is for all purposes a decision of the Directors as a whole. In the event of an equality of votes, the Chairperson of the meeting has a casting vote in addition to any votes to which the Chairperson is already entitled.

8.12 Directors' committees

The Directors may delegate any of their powers to committees consisting of the Directors that they think fit and may revoke that delegation. Any such committee shall have power to co-opt persons who are not Directors, but such co-opted persons shall not be entitled to vote on matters to be determined by the Committee.

8.13 Powers delegated to Directors' committees

A committee to which any powers have been delegated under Clause 8.12 must exercise those powers in accordance with any directions of the Directors. These powers are then taken to have been exercised by the Directors.

8.14 Directors' committee meetings

Subject to Clause 8.13, the meetings and proceedings of a committee consisting of two or more Directors are governed by the provisions of this Constitution concerning the meetings and proceedings of the Directors as far as they are applicable.

8.15 Circulating resolutions

The Directors may pass a resolution without a Directors' meeting being held if all of the Directors who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs.

8.16 Meeting by use of technology

A Directors' meeting may be called or held using any technology consented to by each Director. The consent may be a standing one. A Director may only withdraw consent a reasonable time before the meeting.

8.17 Validity of acts of Directors

All acts done at a meeting of the Directors, of a committee of Directors or by a person acting as a Director are valid even if it is afterwards discovered that

there was some defect in the appointment, election or qualification of any of them or that any of them were disqualified or had vacated office.

9 Chief Executive Officer

The Directors may appoint a Chief Executive Officer. The Directors may delegate to a Chief Executive Officer any of the powers conferred on them by this Constitution, subject to such terms and restrictions as are determined by the Directors, including in relation to:

- (a) any time period; and
- (b) any specific purposes.

All or any of those powers may be given collaterally with or to the exclusion of the powers of the Directors and may be revoked or varied by the Directors.

10 Secretary

10.1 Secretaries

- (a) There must be at least one Secretary who is to be appointed by the Directors.
 - (b) The Directors may appoint one or more assistant secretaries.
-

11 Provisions applicable to all executive officers

- (a) A reference in this rule 11 to an executive officer is a reference to a Chief Executive Officer, appointed under this Constitution.
- (b) The appointment of an executive officer may be for such period, at such remuneration and upon such conditions as the Directors think fit.
- (c) Subject to any contract between the company and the relevant executive officer, any executive officer of the company may be removed or dismissed by the Directors at any time, with or without cause.

- (d) The Directors may:
 - (i) confer on an executive officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the Directors) as they think fit;
 - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (iii) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
 - (e) An executive officer is not required to be a member of the company to qualify for appointment.
 - (f) An act done by a person acting as an executive officer is not invalidated by reason only of:
 - (i) a defect in the person's appointment as an executive officer; or
 - (ii) the person being disqualified to be an executive officer,if that circumstance was not known by the person when the act was done.
-

12 Inspection of records

12.1 Inspection by Members

Subject to the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to inspection by the Members (other than Directors).

12.2 Right of a Member to inspect

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

13 Service of documents

13.1 Document includes notice

In this Clause 13, a reference to a document includes a notice.

13.2 Methods of service

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member; or
- (c) by sending it to a fax number or electronic address nominated by the Member.

13.3 Post

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post and is taken to have been received on the day after the date of its posting; and
- (b) if sent to an address outside Australia, must be sent by airmail and is taken to have been received 7 days after the date of its posting.

13.4 Fax or electronic transmission

If a document is sent by fax or electronic transmission, delivery of the document is taken:

- (a) to be effected by properly addressing and transmitting the fax or electronic transmission; and
- (b) to have been delivered on the day following its transmission.

14 Indemnity

14.1 Indemnity of officers, Auditors and agents

Every person who is or has been a:

- (a) Director,

- (b) Secretary; or
- (c) Chief Executive Officer,

is entitled to be indemnified out of the property of the Company against:

- (d) every liability incurred by the person in that capacity (except a liability for legal costs); and
- (e) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:

- (f) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (g) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

14.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director, Secretary or Chief Executive Officer of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

14.3 Deeds

The Company may enter into a deed with a Director, Secretary or Chief Executive Officer in terms equivalent to Clauses 14.1 and 14.2.

15 Winding up

Each Member undertakes to contribute to the Company's property if the Company is wound up while they are a Member or within one year after they

cease to be a Member, and the Company's property is insufficient to cover its debts and liabilities. This contribution is for:

- (a) payment of the Company's debts and liabilities contracted before they ceased to be a Member;
 - (b) the costs of winding up; and
 - (c) adjustment of the rights of the contributories among themselves,
- and the amount is not to exceed \$20.
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16 Accounts

The Directors must cause the accounts of the Company to be audited in accordance with the requirements of the Corporations Act.

17 Establishment and operation of the Gift Fund

17.1 Maintaining the Gift Fund

The Company must maintain, for its purpose as set out in Clause 1.1, the Gift Fund:

- (a) to which gifts of money or property for that purpose are to be made;
- (b) to which any money received by the Company because of those gifts is to be credited; and
- (c) that does not receive any other money or property.

17.2 Limits on use of the Gift Fund

The Company must use the following only for its purpose:

- (a) gifts made to the Gift Fund; and
- (b) any money received because of those gifts.

17.3 Winding-up

- (a) At the first occurrence of:

- (i) the winding-up of the Gift Fund; or
- (ii) the Company ceasing to be endorsed as a deductible gift recipient under subdivision 30-BA of ITAA 97,

any surplus assets of the Gift Fund must be transferred to a fund, authority or institution:

- (iii) which is charitable at law;
 - (iv) whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as is outlined in Clause 1; and
 - (v) gifts to which can be deducted under division 30-B of ITAA 97, due to it being characterised as a public benevolent institution under item 4.1.1 of the table in section 30-45 of ITAA 97.
- (b) The identity of the fund, authority or institution must be decided by the Directors.
- (c) Where gifts to a fund, authority or institution are deductible only if, among other things, the conditions set out in the relevant table item in subdivision 30-B are satisfied, a transfer under this rule to that fund, authority or institution must be made in accordance with or subject to those conditions.

18 Definitions and interpretation

18.1 Definitions

In this Constitution unless the contrary intention appears:

Auditor means the auditor for the time being of the Company.

Blind means a person who meets the criteria of permanent blindness under section 95 of the Social Security Act.

Chairperson means the Chairperson of the board of Directors of the Company and **Deputy Chairperson** means the deputy Chairperson of the board.

Chief Executive Officer means a person appointed as the chief executive officer under Clause 9.

Clause means a clause of this Constitution.

Company means NV Access.

Constitution means this constitution as it is amended from time to time.

Corporations Act means the Corporations Act 2001 (Cwlth) as amended from time to time.

Director means a Director of the Company.

Directors means all or some of the Directors of the Company acting as a board.

Gift Fund means the fund referred to in Clause 17.

Member means a person admitted as a Member in accordance with Clause 2.

ITAA 97 means the Income Tax Assessment Act 1997 (Cwlth).

Officer means:

- (a) a director or secretary of the Company; or
- (b) a person:
 - (i) who makes, or participates in making decisions that affect the whole, or a substantial part, of the business of the Company;
 - (ii) who has the capacity to affect significantly the Company's financial standing; or
 - (iii) in accordance with whose instructions or wishes the directors of the Company are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors of the Company); or
- (c) a receiver, or receiver and manager, of the property of the Company; or
- (d) an administrator of the Company; or
- (e) an administrator of a deed of company arrangement executed by the Company; or
- (f) a liquidator of the Company; or
- (g) a trustee or other person administering a compromise or arrangement made between the Company and someone else.

Power of Attorney means a legal instrument authorising one to act as another's attorney or agent.

Registered Office means the registered office for the time being of the Company.

Secretary means a person appointed as a Secretary of the Company, and where appropriate includes an Acting Secretary and a person appointed by the Directors to perform all or any of the duties of a Secretary of the Company.

Vision Impaired means a person with visual acuity of less than 6/18 (0,3) but equal to or better than 6/60 (0,05) in the better eye with the best possible correction and/or a visual field of less than 20 degrees.

18.2 Interpretation

In this Constitution, unless the contrary intention appears:

- (a) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (b) the singular includes the plural and vice versa;
- (c) 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;
- (d) a reference to writing includes typewriting, printing, telex, telegram, facsimile and other modes of representing or reproducing words in a visible or tactile form;
- (e) a reference to a Clause is a reference to one of the Clauses; and
- (f) a power, an authority or a discretion given to a Director, the Directors, the Company in general meeting or a Member may be exercised from time to time and at any time.

18.3 Corporations Act

In this Constitution, unless the contrary intention appears, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act.

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

18.4 Headings

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

18.5 Powers

Powers conferred on the Company, the Directors, a committee of Directors, a Director or a Member may be exercised at any time and from time to time.