

Rules

of

Ostomy Association of Melbourne Inc

These Rules are to be adopted in total substitution for the current rules of Ostomy Association of Melbourne Inc by Special Resolution of Members dated 2019

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Rules

Ostomy Association of Melbourne Inc

1 Name

The name of the incorporated association is Ostomy Association of Melbourne Inc (in these Rules called “**the Association**”).

2 Definitions and interpretation

2.1 Definitions

In these Rules, unless the context otherwise requires:

“**ACNC Act**” means the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)*.

“**Act**” means the *Associations Incorporation Reform Act 2012*.

“**Annual Subscription**” means:

- (a) any fee payable at the direction of the Department of Health or its equivalent or successor from time to time for access to the Scheme; and
- (b) any fee payable as a subscription to Membership of the Association.

“**Applicable Act**” means:

- (a) while the Association is a Registered Charity, the ACNC Act and the Act; or
- (b) if the Association is not, or ceases to be, a Registered Charity, even if it is still a charity, the Act.

“**Chairperson**” of a General Meeting or Committee meeting, means the person chairing the meeting as required under these Rules.

“**Commissioner**” means the Commissioner of Taxation, a second Commissioner of Taxation or a Deputy Commissioner of Taxation or other delegate of the Commissioner of Taxation for the purposes of the Tax Act.

“**Committee**” means the committee of, or other body having management of, the Association established under Rule 20.

“**Committee Member**” means a member of the Committee elected or appointed under Rules 20 or 21.

“**Eligible Charity**” means a fund, authority or institution:

- (a) which is charitable at law;
- (b) gifts or contributions to which are deductible under item 1 of the table in section 30-15 of the Tax Act; and
- (c) has purposes similar to the purposes of the Association and which are not carried on for the profit or gain of its Members.

“Financial Year” means each period of 12 months ending on 30th June provided that the first Financial Year shall be the period commencing on the date of incorporation of the Association and terminating on the next ensuing 30th June.

“General Meeting” means a general meeting of Members convened in accordance with Rule 18 and includes an annual general meeting and a special general meeting.

“Gift Fund” means the fund known as the Gift Fund (or such other name approved by the Committee from time to time) established in accordance with Rule 6.

“GST” has the meaning given to that term by section 195-1 of the GST Act.

“GST Act” means *A New Tax System (Goods and Services Tax) Act 1999*.

“Honorary Life Member” means a person who has been elected as such by the Committee pursuant to Rule 7.2(e).

“Honorary Life Membership” means the right of a person to Membership as an Honorary Life Member of the Association.

“Honorary Member” means a person who has been elected, for a specific time, as such by the Committee pursuant to Rule 7.2(e).

“Honorary Membership” means the right of a person to Membership as an Honorary Member of the Association for a specific time.

“Ostomate” means a person eligible to receive stoma appliances under the Scheme.

“Member” means each person who is recorded as a Member in the register of members and includes Honorary Life Members and Honorary Members.

“Membership” means the contractual right of a person to membership of the Association.

“President” means the person elected in accordance with Rule 20.

“Registered Charity” means a charity that is registered under the ACNC Act.

“Regulations” means regulations under the Act.

“Relevant Documents” has the meaning given by the Act.

“Secretary” means the person elected or appointed in accordance with either Rule 20 or Rule 26 to perform the duties of a secretary of the Association.

“Security Interest” means any mortgage, lien, charge (whether fixed or floating), bill of sale, caveat, pledge, claim, trust arrangement, preferential right, right of set-off, title retention or other form of encumbrance and includes any “security interest” within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth).

“Scheme” means *Stoma Appliance Scheme* or its equivalent or successor from time to time.

“Tax Act” means the *Income Tax Assessment Act 1997* (Cth).

“Vice-President” means the person elected in accordance with Rule 20.

2.2 Words and expressions

In these Rules, unless the context requires otherwise:

- (a) a reference to these Rules and any other document or agreement includes a reference to these Rules or that document or agreement as amended, novated, supplemented, varied or replaced from time to time and includes rules, regulations and by-laws made thereunder;
- (b) a reference to any legislation or to any provision of any legislation includes:
 - (i) any modification or re-enactment of the legislation;
 - (ii) any legislative provision substituted for, and all legislation, statutory instruments and regulations issued under, the legislation or provision; and
 - (iii) where relevant, corresponding legislation in any Australian State or Territory;
- (c) a reference to “\$”, “A\$” or “dollar” is a reference to Australian currency;
- (d) the singular means the plural and vice versa;
- (e) words denoting any gender include all genders;
- (f) words and expressions denoting natural persons include bodies corporate, partnerships, associations, institutions, firms, bodies and entities (whether incorporated or not), governments and governmental authorities and agencies and vice versa;
- (g) headings are for convenience and do not affect interpretation;
- (h) a reference to these Rules includes any schedules or annexures; and
- (i) words or expressions contained in these Rules shall be interpreted in accordance with the provisions of the *Interpretation of Legislation Act 1984* and the Act as in force from time to time unless otherwise defined in these Rules.

2.3 Model rules

- (c) To the extent permitted by law, the model rules contained in the Act do not apply to the Association;
- (d) While the Association is a Registered Charity, the ACNC Act and the Act override any clauses in these Rules which are inconsistent with those Acts as they apply to a Registered Charity; and
- (e) If the Association is not a Registered Charity (even if it remains a charity), the Act overrides any clauses in these Rules which are inconsistent with that Act.

3 Purposes

3.1 Principal purposes

The principal purposes for which the Association is established are:

- (a) to purchase and distribute approved appliances and pharmaceuticals to Members according to the rules laid down by the relevant government department or agency administering the Scheme;
- (b) to provide assistance to Members on all matters relating to Colostomy, Ileostomy or Urostomy;
- (c) to work for the provision of equipment and appliances to be kept on the “free list” by the Australian Government;

- (d) to foster support and encouragement to all Members and their families in all matters relating to Ostomates;
- (e) to offer support to a patient about to undergo operation for Colostomy, Ileostomy or Urostomy, if the patient's doctor considers it beneficial for such support to be given; and
- (f) in exercising its purposes, the Association shall be entitled to accept any subscriptions, contributions or donations, which shall be held by the Association to promote the purposes of the Association.

3.2 Ancillary purposes

To achieve the principal purposes set out in Rule 3.1, the Association may, among other things:

- (a) conduct public programs including education 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 corporations, entities, associations, foundations, institutions, organisations and groups including Federal, State and Local Government instrumentalities, authorities and professionals that may have related interests to the Association and utilise their resources and facilities to provide and achieve the purposes of the Association;
- (d) seek and co-ordinate funding from Federal, State and Local Government and the private sector in the form of grants, gifts, donations and bequests committed to the purposes of the Association;
- (e) encourage and promote and generally to create greater community awareness in the knowledge and understanding of the purposes of the Association;
- (f) provide or attract funds for the facilitation of any of the purposes of the Association; and
- (g) do all such other things as are incidental or conducive to the attainment of the purposes and aims of the Association.

The purposes of the Association will be pursued principally in Australia.

3.3 No profit or gain to Members

- (a) The Association will not be carried on for the purpose of profit or gain to its Members and the income and property of the Association, however and wherever derived, will be applied solely towards the promotion of the purposes of the Association.
- (b) No portion of the income or property of the Association will be paid or transferred, directly or indirectly, to the Members of the Association but nothing contained in these Rules will prevent the payment in good faith of remuneration to any officers or servants of the Association or to any Member of the Association in return for any services actually rendered to the Association or for goods supplied in the ordinary and usual course of business.

4 Powers

- 4.1 The Association has, subject to the Act, power to do all things necessary or convenient to be done for, or in connection with, the attainment of its purposes.

- 4.2 Without limiting the generality of Rule 4.1, the Association has all the rights, powers and privileges and the legal capacity provided under the Act including, but not limited to, the powers to:
- (a) accept gifts, devises, bequests or assignments made to the Association, whether on trust or otherwise, and whether unconditionally or subject to a condition and, if a gift, devise, bequest or assignment is accepted by the Association on trust or subject to a condition, to act as trustee or to comply with the condition, as the case may be;
 - (b) make available (whether in writing or in any other form and whether by sale or otherwise) information relating to the Association and its functions;
 - (c) to occupy, use and control any land or building owned or held under lease by any other person made available to the Association;
 - (d) acquire, hold and dispose of real and personal property;
 - (e) lease the whole or any part of any land or building for the purposes of the Association;
 - (f) occupy, use and control any other land or building owned or held under lease by any other person and made available to the Association;
 - (g) enter into contracts;
 - (h) erect buildings;
 - (i) employ managers and other staff to implement the purposes of the Association and pay such fees, salaries, emoluments and expenses as the Committee considers reasonable to such persons;
 - (j) purchase or take on hire, or to accept as a gift or on deposit or loan, and to dispose of or otherwise deal with furnishings, equipment and other goods;
 - (k) act as trustee of moneys or other property vested in the Association on trust; and
 - (l) do anything incidental to any of the Association's purposes.
- 4.3 Notwithstanding anything contained in these Rules, any money or other property held by the Association for the Association on trust or accepted by the Association for the Association subject to a condition, will not be dealt with except in accordance with the obligations of the Association as trustee or as the person who has accepted the money or other property subject to the condition, as the case may be.

5 Alteration of Rules

These Rules shall not be altered except in accordance with the Act.

6 Gift Fund

- (a) The Association must, if required under the Tax Act, establish and maintain, for the purposes of the Association, a separate Gift Fund:
 - (i) to which gifts of money, property or other contributions for those purposes must be made;
 - (ii) to which any money or other contributions received by the Association because of those gifts must be credited; and
 - (iii) that does not receive any other money, property or contributions.
- (b) If a Gift Fund is established, it will not be used for the purposes of profit or gain to the Members of the Association and the gifts made to the Gift Fund and any money

or other contributions received because of those gifts will be applied solely towards the promotion of the purposes of the Association and no portion of the Gift Fund shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit to the Members of the Association.

- (c) The Association may maintain a separate bank account for the Gift Fund and will comply with subdivision 30-BA of the Tax Act with respect to the administration of the Gift Fund.
- (d) In accordance with the Tax Act, receipts issued for gifts or other contributions must state:
 - (i) the name of the Association;
 - (ii) the ABN of the Association; and
 - (iii) the fact that the receipt is for a gift or contribution.
- (e) Rules 6(a) to 6(d) (both inclusive) apply only if the Association is required to establish a Gift Fund by the Tax Act or if determined by the Committee.

7 Membership

7.1 Minimum number

- (a) Subject to these Rules and the Act, there must be at least five Members.
- (b) The Committee may, from time to time, prescribe a maximum number of Members.

7.2 Application for Membership

- (a) A person who is an Ostomate who has an Australian Medicare Card and who applies for Membership as provided in 7.2(c) of these Rules is eligible to be a Member of the Association on payment of the Annual Subscription payable under these Rules, subject to Rule 8.2
- (b) A person who is not a Member of the Association at the time of the incorporation of the Association (or who was such a Member at that time but has ceased to be a Member) shall not be admitted to Membership unless:
 - (i) the person applies for Membership in accordance with Rule 7.2(c); and
 - (ii) the person is an Ostomate, has an Australia Medicare Card and has paid the Annual Subscriptions payable under these Rules.
- (c) An application of a person for Membership of the Association must:
 - (i) be made in writing in the form set out in Appendix 1; and
 - (ii) shall be lodged with the Secretary.
- (d) An applicant for Membership becomes a Member and is entitled to exercise the rights of Membership when the applicant's name is entered into the register of members, which is taken to be effective on and from the later of receipt by the Secretary of the person's application for Membership submitted in accordance with Rule 7.2(c) or receipt of the Annual Subscription payable under these Rules.
- (e) The Committee may at any time and from time to time, by unanimous resolution, elect a person as an Honorary Member or Honorary Life Member.
- (f) Notwithstanding anything to the contrary contained in these Rules, the Committee may, at any time and from time to time, establish different classes of Membership and may prescribe the qualifications, rights and privileges of persons admitted to such Membership.

8 Annual Subscription

- 8.1 The Annual Subscription is the amount determined by the Committee payable in advance before **1 July** in each year.
- 8.2 The Committee is entitled to determine that different fees or subscriptions, including without limitation the Annual Subscription, are payable in respect of any Membership and as between Members or that no fees or subscriptions, including without limitation the Annual Subscription, are payable by one or more Members, including without limitation in respect of Honorary Life Members, Honorary Members, Committee members and staff and volunteers of the Association.
- 8.3 To the extent that the Department of Health or its equivalent or successor from time to time directs that any fee is payable (including without limitation the fee referred to subsection (a) of the definition of Annual Subscription included in clause 2.1 of these Rules) by any of Honorary Life Members, Honorary Members, Committee members, staff or volunteers of the Association for access to the Scheme, the Association may in its discretion make these payments for and on behalf of the relevant Honorary Life Member, Honorary Member, Committee member, staff or volunteer of the Association.
- 8.4 All payments that are required to be made by a Member under these Rules (including but not limited to subscriptions) are exclusive of GST.
- 8.5 If any payment referred to in Rule 8.4 is for, or is in connection with, a supply made by the Association under these Rules on which the Association is liable to pay GST, then such payment will be increased by the prevailing rate of that GST and the Member will pay that increased amount to the Association at the same time and in the same manner as all other payments required to be made.

9 Rights of members

9.1 Privileges of Membership

Subject to these Rules, the Members are entitled to all the rights and privileges of Membership of the Association.

9.2 Rights not transferable

A right, privilege, or obligation of a person by reason of the person's Membership:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates on cessation of Membership whether by death or resignation or otherwise as set out in Rule 12.

10 Register of Members

- 10.1 The Secretary must keep and maintain a register of members containing:
- (a) the name and address of each Member;
 - (b) the date on which each Member's name was entered in the register;
 - (c) in the case of each former Member, the date of ceasing to be a Member; and
 - (d) any other information which the Committee considers necessary.
- 10.2 The register shall be available for inspection at a reasonable time, free of charge, by any Member upon request.

- 10.3 Subject to the Act, a Member may make a copy of entries in the register unless otherwise determined by the Committee.
- 10.4 The Secretary may restrict access to the personal information of a person recorded as a Member in accordance with the Act.

11 Default by members

- 11.1 If a Member fails to pay that Member's Annual Subscription, in any year of Membership all of the rights and privileges of that Member, including any entitlements to receive supply of stoma appliances from the Association, will be automatically suspended until the Annual Subscription is paid or until the Member's Membership has been determined in accordance with Rule 11.2.
- 11.2 If any Member fails to pay that Member's subscription in accordance with Rule 11.1, the Member will automatically cease to be a Member pursuant to Rule 12.

12 Ceasing Membership

- 12.1 A Member who has paid all moneys due and payable to the Association may resign as a Member by written notice to the Association or a Committee Member.
- 12.2 A Member ceases to be a Member on resignation, expulsion, death, if the Member otherwise has made no contact with the Association for a period greater than or equal to one calendar year, or if the Member fails to pay the Member's Annual Subscription.
- 12.3 The Secretary must record in the register of members the date on which the Member ceased to be a Member.

13 Discipline, suspension and expulsion of Members

- 13.1 Subject to these Rules and the Act, if the Committee is of the opinion that a Member has refused or neglected to comply with these Rules, or has been guilty of conduct unbecoming a Member or prejudicial to the interests of the Association, the Committee may by resolution:
- (a) suspend that Member from Membership of the Association for a specified period; or
 - (b) expel that Member from the Association.
- 13.2 A resolution of the Committee under Rule 13.1 does not take effect unless:
- (a) at a meeting held in accordance with Rule 13.3, the Committee confirms the resolution; and
 - (b) if the Member exercises a right of appeal to the Association under this Rule, the Association confirms the resolution in accordance with this Rule.
- 13.3 A meeting of the Committee to confirm or revoke a resolution passed under Rule 13.1 must be held not earlier than 14 days, and not later than 28 days, after notice has been given to the Member in accordance with Rule 13.4.
- 13.4 For the purposes of giving notice in accordance with Rule 13.3, the Secretary must, as soon as practicable, cause to be given to the Member a written notice:
- (a) setting out the resolution of the Committee and the grounds on which it is based; and

- (b) stating that the Member, or the Member's representative, may address the Committee at a meeting to be held not earlier than 14 days and not later than 28 days after the notice has been given to that Member; and
 - (c) stating the date, place and time of that meeting; and
 - (d) informing the Member that the Member may do one or more of the following:
 - (i) attend that meeting;
 - (ii) give to the Committee before the date of that meeting a written statement seeking the revocation of the resolution;
 - (e) informing the Member that, if at that meeting, the Committee confirms the resolution, the Member may not later than 48 hours after that meeting, give the Secretary a notice to the effect that the Member wishes to appeal to the Association in General Meeting against the resolution.
- 13.5 At a meeting of the Committee to confirm or revoke a resolution passed under Rule 13.1, the Committee must:
- (a) give the Member, or the Member's representative, an opportunity to be heard; and
 - (b) give due consideration to any written statement submitted by the Member; and
 - (c) determine whether to confirm or to revoke the resolution.
- 13.6 If at the meeting of the Committee, the Committee confirms the resolution, the Member may, not later than 48 hours after that meeting, give the Secretary a notice to the effect that the Member wishes to appeal to the Association in General Meeting against the resolution.
- 13.7 If the Secretary receives a notice under Rule 13.6, the Secretary must notify the Committee and the Committee must convene a General Meeting of the Association to be held within 21 days after the date on which the Secretary received the notice.
- 13.8 At a General Meeting of the Association convened under Rule 13.7:
- (a) no business other than the question of the appeal shall be conducted; and
 - (b) the Committee may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution; and
 - (c) the Member, or the Member's representative, must be given an opportunity to be heard; and
 - (d) the Members present must vote by secret ballot on the question whether the resolution should be confirmed or revoked.
- 13.9 If at the General Meeting:
- (a) two-thirds of the Members vote in person, or by proxy (also being a Member), in favour of the resolution - the resolution is confirmed; and
 - (b) in any other case - the resolution is revoked.

14 Disputes and mediation

- 14.1 The grievance procedure set out in this Rule 14 applies to disputes under these Rules between:
- (a) a Member and another Member; or
 - (b) a Member and a Committee Member; or
 - (c) a Member and the Association.

- 14.2 The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- 14.3 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days following the meeting, hold a further meeting in the presence of a mediator.
- 14.4 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 Committee; or
 - (ii) in the case of a dispute between a Member and the Committee or the Association – a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- 14.5 A Member of the Association can be a mediator but must not be a person who has a personal interest in the dispute or is biased in favour of or against any party to the dispute.
- 14.6 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- 14.7 The mediator, in conducting the mediation, must:
- (a) give the parties to the mediation process every opportunity to be heard; and
 - (b) allow due consideration by all parties by 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.
- 14.8 The mediator must not determine the dispute.
- 14.9 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.

15 Annual general meeting

- 15.1 Subject to the Act, the Committee must convene an annual general meeting within five months after the end of each Financial Year.
- 15.2 The Committee may determine the date, time and place of the annual general meeting of the Association.
- 15.3 The notice convening the annual general meeting must specify that the meeting is an annual general meeting.
- 15.4 To the extent applicable to the Association, the ordinary business of the annual general meeting shall be to:
- (a) confirm the minutes of the preceding annual general meeting and of any General Meeting held since that meeting;
 - (b) receive and consider the annual report of the Committee on the activities of the Association during the preceding Financial Year and the financial statements of the Association for the preceding Financial Year submitted by the Committee in accordance with the Act; and

- (c) elect the Committee Members.
- 15.5 The annual general meeting may conduct any special business of which notice has been given in accordance with these Rules.

16 Special general meeting

- 16.1 In addition to the annual general meeting, any other General Meetings may be held in the same year.
- 16.2 All General Meetings other than the annual general meeting are special general meetings.
- 16.3 The Committee may, whenever it thinks fit, convene a special general meeting of the Association.
- 16.4 If, but for this Rule, more than 15 months would elapse between annual general meetings, the Committee must convene a special general meeting before the expiration of that period.
- 16.5 The Committee must, on the request in writing of Members representing at least 5% of the total number of Members, convene a special general meeting of the Association.
- 16.6 The request for a special general meeting must:
- (a) be in writing;
 - (b) state the business to be considered at the meeting and any resolutions to be proposed;
 - (c) include the names, and be signed by, the Members requesting the meeting; and
 - (d) be given to the Secretary.
- 16.7 If the Committee does not cause a special general meeting to be held within one month after the date on which the request is given to the Secretary, the Members making the request, or any of them, may convene a special general meeting to be held within 3 months after that date.
- 16.8 If a special general meeting is convened by Members in accordance with this Rule 16:
- (a) it must be convened in the same manner as far as possible as a meeting convened by the Committee;
 - (b) all reasonable expenses incurred in convening the meeting shall be refunded by the Association to the persons incurring the expenses; and
 - (c) may only consider the business stated in the request.

17 Special business

All business that is conducted at a special general meeting and all business that is conducted at the annual general meeting, except for business conducted under these Rules as ordinary business of the annual general meeting, is deemed to be special business.

18 Notice of meeting

- 18.1 The Secretary of the Association must give each Member at least 14 days' notice, or if a special resolution has been proposed at least 21 days' notice, of a General Meeting in accordance with Rule 18.2.

- 18.2 A notice of a General Meeting must:
- (a) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate the meeting);
 - (b) state the general nature of the meeting's business;
 - (c) if a special resolution is to be proposed at the meeting, specify the intention to propose the resolution as a special resolution and set out in full the proposed special resolution; and
 - (d) contain a statement specifying that:
 - (i) the Member has a right to appoint a proxy; and
 - (ii) the proxy must need to be a Member, except for the purposes of a meeting called under Rule 13.7.
- 18.3 Notice may be sent in accordance with Rule 32, including:
- (a) by prepaid post to the address appearing in the register of members; or
 - (b) by email; or
 - (c) by including the notice in a postal or pick-up delivery of ostomy appliances and associated products.
- 18.4 No business other than that set out in the notice convening the meeting shall be conducted at the meeting.
- 18.5 A Member intending to bring any business before a meeting may notify, in writing or by electronic transmission, the Secretary of that business, who must include that business in the notice calling the next General Meeting.
- 18.6 The failure or accidental omission to send notice of a General Meeting to, or the non-receipt of a notice by, any person entitled to notice does not invalidate the proceedings or any resolution passed at the meeting.
- 18.7 Subject to the Act, the Committee may at any time prior to the time at which a General Meeting is to be held, postpone or cancel any General Meeting or change the place of any General Meeting. Any such postponement, cancellation or change must be communicated to each Member and each other person to whom notice was given, in any manner permitted under Rule 31.

19 Proceedings at General Meetings

- 19.1 No business shall be conducted at any General Meeting unless a quorum of Members entitled under these Rules to vote is present.
- 19.2 Five Members present personally or by proxy (being, or representing, Members entitled under these Rules to vote at a General Meeting) constitute a quorum for the conduct of the business of a General Meeting. Each Member present at a General Meeting may only be counted once toward a quorum.
- 19.3 If, within half an hour after the notified time for the commencement of a General Meeting, a quorum is not present:
- (a) in the case of a meeting convened by, or at the request of, Members – the meeting must be dissolved; and
 - (b) in any other case – the meeting must be adjourned to the same day in the next week at the same time and (unless another place is specified by the Chairperson

at the time of the adjournment or by written notice to Members given before the day to which the meeting is adjourned) at the same place.

- 19.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members personally present (being not less than 3) shall be a quorum.
- 19.5 The President, or in the President's absence, the Vice-President, shall preside as Chairperson at each General Meeting of the Association.
- 19.6 If the President and the Vice-President are both absent from a General Meeting, or are unable to preside, the Members present must select one of their number to preside as Chairperson.
- 19.7 The Chairperson of a General Meeting may, with the consent of a majority of Members present at the meeting, adjourn the meeting from time to time and place to place.
- 19.8 No business may be conducted at an adjourned meeting other than the unfinished business from the meeting that was adjourned.
- 19.9 If a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given in accordance with Rule 18.
- 19.10 Except as provided in Rule 19.9, it is not necessary to give notice of an adjournment or of the business to be conducted at an adjourned meeting.
- 19.11 Subject to these Rules and any rights or restrictions imposed on any Member, every Member who is present at a General Meeting and entitled to vote, has one vote.
- 19.12 All votes must be given personally or by proxy.
- 19.13 A resolution of Members must be passed by a majority of the votes cast by Members entitled to vote on the resolution unless otherwise required under the Act or these Rules.
- 19.14 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.
- 19.15 A Member is not entitled to vote at any General Meeting unless all moneys due and payable by that Member to the Association have been paid.
- 19.16 If at a meeting a poll on any question is demanded (where votes are cast in writing) by not less than 5 Members, it must be taken at that meeting in such manner as the Chairperson may direct and the resolution on the basis of the poll shall be deemed to be a resolution of the meeting on that question.
- 19.17 A poll that is demanded on the election of a Chairperson or on a question of an adjournment shall 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.
- 19.18 If a question arising at a General Meeting of the Association is determined on a show of hands:
 - (a) a declaration by the Chairperson that a resolution has been:
 - (i) carried; or
 - (ii) carried unanimously; or
 - (iii) carried by a particular majority; or
 - (iv) lost; and
 - (b) an entry to that effect in the minute book of the Association,

is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

- 19.19 Each Member who is entitled to attend and vote at a General Meeting is entitled to appoint a person as the Member's proxy by notice given to the Secretary no later than 24 hours before the time of commencement of the meeting in respect of which the proxy is appointed.
- 19.20 The form appointing a proxy must be:
- (a) for a meeting of the Association convened under Rule 13.7, in the form set out in Appendix 2; or
 - (b) in any other case, in the form set out in Appendix 3; and
 - (c) signed by the Member.

20 Committee of management

- 20.1 Subject to the Act, the Committee Members shall consist of:
- (a) a President;
 - (b) a Vice-President;
 - (c) Secretary;
 - (d) Treasurer; and
 - (e) up to three additional members who do not hold either of the offices referred to in Rules 20.1(a) to 20.1(b) (inclusive),
- each of whom shall be elected at the annual general meeting of the Association in each year.
- 20.2 Subject to the Act, the Committee must appoint a Secretary who may (but need not) be a Committee Member elected in accordance with Rule 20.1. If the Secretary is not also a Committee Member the provisions of Rule 26 apply.
- 20.3 In the event of a casual vacancy on the Committee:
- (a) if the office of President or Vice-President becomes vacant, the Committee may appoint another Committee Member who does not hold either of those offices, to the vacant office; and
 - (b) in any other case, the Committee may appoint a Member of the Association to fill the vacancy and the Member appointed shall hold office, subject to these Rules, until the conclusion of the next annual general meeting following the date of the appointment,
- and the person appointed may continue in office up to and including the conclusion of the next annual general meeting following the date of appointment.
- 20.4 Subject to Rules 20.5 and 26, if the office of Secretary becomes vacant, the Committee must appoint another person to the office of Secretary within 14 days after the vacancy occurs.
- 20.5 If the Secretary:
- (a) is a Committee Member elected by Members; and
 - (b) vacates the office of Secretary,

the Committee must appoint another person to the office of Secretary within 14 days after the vacancy occurs until the next annual general meeting but is eligible for re-election by Members.

- 20.6 Subject to these Rules, each Committee Member shall hold office until the next annual general meeting following the date of election but is eligible for re-election.
- 20.7 A Committee Member may, but need not be a Member of the Association

21 Election of Committee Members

- 21.1 Nominations of candidates for election as Committee Members and to the office of President and Vice-President must be:
- (a) made in writing, referred by any Member of the Association and approved by the Committee; and
 - (b) be delivered to the Secretary not less than 7 days before the date fixed for the holding of the annual general meeting.
- 21.2 A candidate may only be nominated for one office, or as an ordinary Committee Member under Rule 20.1(e).
- 21.3 If insufficient nominations are received to fill all vacancies on the Committee, the candidates nominated shall be deemed to be elected and further nominations may be received at the annual general meeting.
- 21.4 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.
- 21.5 If the number of nominations exceeds the number of vacancies to be filled, a ballot must be held.
- 21.6 If a ballot is required, the ballot shall be conducted at the annual general meeting in such manner determined by the Committee.
- 21.7 The office of a Committee Member becomes vacant if the person:
- (a) resigns from office by written notice to the Committee; or
 - (b) dies; or
 - (c) is removed from office under Rule 25; or
 - (d) ceases to be a Member of the Association if the Committee Member is at that time a Member of the Association;
 - (e) fails to attend 3 consecutive Committee meetings without prior approval of the Committee.
 - (f) becomes an insolvent under administration within the meaning of the *Interpretation of Legislation Act 1984*; or
 - (g) becomes a represented person within the meaning of the *Guardianship and Administration Act 1986*; or
 - (h) in the case of a Secretary who is Committee Member, ceases to reside in Australia, and all Committee Members and the Secretary cease to hold office if a statutory manager is appointed under the Act to conduct the affairs of the Association.

22 Powers and duties of Committee

22.1 Management of the Association

- (a) The affairs of the Association shall be controlled and managed by, and under the direction of, the Committee.
- (b) The Committee:
 - (i) may, subject to these Rules, the Act and the Regulations, exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by these Rules or the Act to be exercised by General Meetings of the Members of the Association;
 - (ii) subject to these Rules, the Act and the Regulations, has power to perform all such acts and things as appear to the Committee to be essential for the proper management of the business and affairs of the Association; and
 - (iii) shall perform all other duties imposed from time to time by resolution of Members at a General Meeting.

22.2 Specific powers

Without limiting the generality of Rule 22.1, the Committee may exercise all the powers of the Association to:

- (a) borrow money;
- (b) grant Security Interests in relation to any of the Association's property or business to secure any debt, liability or obligation of the Association or any other person;
- (c) guarantee, indemnify or otherwise become liable for the payment of money or the performance of any obligation by or of any other person; and
- (d) pay out of the Association's funds all expenses of the promotion, formation and registration of the Association and the vesting in it of the assets acquired by the Association,

on any terms determined by the Committee.

22.3 Duties under the Act

A Committee Member must comply with the Act and fulfil any duties prescribed in it.

22.4 Disclosure of interests

If required by the Act, a Committee Member must disclose to the Committee any material personal interest the Committee Member has in a matter relating to the affairs of the Association. The Secretary must record details of any such disclosures in the minutes of the relevant Committee meeting.

22.5 Conflict of interest

Except as provided in the Act or Rule 22.6, a Committee Member who has a material personal interest in a matter being considered at a Committee meeting:

- (a) must disclose the nature and extent of that interest to the Committee;
- (b) must not be present while the matter is being considered at the Committee meeting; and
- (c) must not vote on the relevant matter.

22.6 Voting if Committee Member has an interest

If a Committee Member discloses a material personal interest in a matter being considered at a Committee meeting but the interest is not one which requires disclosure under the Act

or which prevents the Committee Member participating at the meeting while the matter is being considered:

- (a) the Committee Member may vote on matters that relate to the interest and may be counted towards a quorum;
- (b) any transactions that relate to the interest may proceed and the Committee Member may participate in the execution of any relevant document; and
- (c) if disclosure is made before the transaction is entered into:
 - (i) the Committee Member may retain benefits under the transaction; and
 - (ii) the Association cannot avoid the transaction merely because of the existence of the interest.

22.7 Obligation of secrecy

Every Committee Member and other agent or officer of the Association must:

- (a) keep the transactions and affairs of the Association confidential, except:
 - (i) to the extent necessary to enable the person to perform that person's duties to the Association;
 - (ii) as required by the Committee or the Members in general meeting; and
 - (iii) as required by law; and
- (b) if requested by the Committee, sign a confidentiality undertaking consistent with this Rule 22.7.

23 Delegation of Committee's powers

23.1 Power to delegate

The Committee may delegate any of its powers to:

- (a) a subcommittee of its members;
- (b) a Committee Member;
- (c) an employee or adviser of the Association; or
- (d) an agent or attorney,

with the exception of this power to delegate or any duty imposed on the Committee by the Act or any other law.

23.2 Terms of delegation

A delegation of powers under Rule 23.1 may be made:

- (a) for a specified period or without specifying a period; and
- (b) on the terms (including the power to delegate further) and subject to any restrictions that the Committee determines.

A document of delegation may contain provisions for the protection and convenience of those who deal with the delegate that the Committee thinks appropriate.

23.3 Delegate to comply with directions

A delegate under Rule 23.1 must exercise its powers subject to any direction from the Committee.

23.4 Committee may revoke delegation

The Committee may revoke a delegation of its powers at any time.

24 Proceedings of Committee

- 24.1 The Committee must meet at least three times in each year at the dates, times and places as the Committee may determine.
- 24.2 Special meetings of the Committee may be convened by the President or by any two Committee Members.
- 24.3 Written notice of each Committee meeting must be given to each Committee Member at least two business days before the date of the meeting.
- 24.4 Written notice must be given to Committee Members of any special meeting specifying the general nature of the business to be conducted and no other business shall be conducted at such a meeting.
- 24.5 A Committee meeting may be held using any audio, audio-visual or other technology:
- (a) that enables the participating Committee Members to simultaneously hear each other and participate in discussion; or
 - (b) to which all Committee Members have consented.
- A minute certified by the Chairperson of such a meeting will be conclusive evidence of the proceedings at that meeting and the observance of all necessary formalities.
- 24.6 Any three Committee Members constitute a quorum for the conduct of the business of a meeting of the Committee.
- 24.7 No business shall be conducted unless a quorum is present.
- 24.8 If within half an hour of the time appointed for the meeting a quorum is not present:
- (a) in the case of a special meeting – the meeting lapses;
 - (b) in any other case – the meeting shall stand adjourned to the same place and at the same time and day in the following week.
- 24.9 At meetings of the Committee:
- (a) the President or, in the President's absence, the Vice-President presides; or
 - (b) if the President and the Vice-President are both absent, or are unable to preside, the Committee Members present must choose one of their number to preside.
- 24.10 Questions arising at a meeting of the Committee, or of any meeting of any sub-committee appointed by the Committee, shall be decided by a majority of votes.
- 24.11 Each Committee Member present at a meeting of the Committee, or at a meeting of any sub-committee appointed by the Committee (including the person presiding at the meeting), is entitled to one vote and, in the event of an equality of votes on any question, the person presiding will not have a second or casting vote.

25 Removal of Committee Member

- 25.1 The Association in General Meeting may, by special resolution:
- (a) remove a Committee Member before the expiration of that member's term of office; and
 - (b) appoint another person in that Committee Member's place to hold office until the expiration of the term of the Committee Member removed.

- 25.2 A Committee Member who is the subject of a proposed resolution referred to in Rule 25.1 may make representations in writing to the Secretary or President of the Association (not exceeding a reasonable length) and may request that the representations be provided to the Members of the Association.
- 25.3 The Secretary or the President may give a copy of the representations to each Member of the Association or, if they are not given, the Committee Member may require that they be read out at the meeting.

26 Secretary

26.1 Appointment

If a Secretary has not been elected by Members in accordance with Rule 20, the Committee must appoint a Secretary. The appointment pursuant to this Rule may be made for a specified period or without specifying a period and the Committee may remove the Secretary from office at any time.

26.2 Terms

The appointment of a Secretary pursuant to this Rule will be on the terms that the Committee determines.

26.3 Duties under the Act and Rules

The Secretary must perform the duties and functions required under the Act and these Rules.

26.4 Cessation of appointment

A person appointed pursuant to Rule 26.1 automatically ceases to be a Secretary if:

- (a) the person is not permitted by the Act to be a Secretary;
- (b) becomes an insolvent under administration within the meaning of the *Interpretation of Legislation Act 1984*; or
- (c) becomes a represented person within the meaning of the *Guardianship and Administration Act 1986*; or
- (d) the person resigns by written notice to the Committee; or
- (e) the person is removed from office under Rule 26.1; or
- (f) the term for which the person was appointed expires.

27 Minutes of meetings

- (a) The Secretary must prepare and keep accurate minutes of:
 - (i) each General Meeting of Members and each Committee meeting;
 - (ii) the names of persons present at each Committee meeting;
 - (iii) any resolutions passed by Members at any General Meeting and any resolutions passed by members of the Committee;
 - (iv) any disclosures or notices of interests; and
 - (v) any other matters for which the Act requires minutes to be kept.
- (b) In accordance with and subject to the Act, the Association must ensure that the minutes of General Meetings of Members (including accounting records and financial statements) are available for inspection by Members without charge unless otherwise permitted under the Act.

- (c) A Member entitled to have access to minutes of General Meetings (including accounting records and financial statements) may ask the Association, in writing, for a copy of any minutes of General Meeting (including accounting records and financial statements).
- (d) A Member is not entitled to have access to, or to obtain copies of, any minutes of Committee meetings unless otherwise determined by the Committee either generally or in any particular case or unless otherwise required under the Act.

28 Funds

28.1 The Secretary of the Association must:

- (a) collect and receive all moneys due to the Association and make all payments authorised by the Association; and
- (b) keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association.

28.2 The funds of the Association shall be derived from Annual Subscriptions, donations, fundraising activities, interest, grants, commissions and such other sources approved by the Committee.

29 Cheques

All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by two members of the Committee.

30 Seal and execution of documents

30.1 The Association may have a common seal.

30.2 If the Association has a common seal, it shall be kept in the custody of the Secretary.

30.3 The common seal must not be affixed to any instrument except by the authority of the Committee and the affixing of the common seal shall be attested by the signatures either of two Committee Members or, if the Secretary is not a Committee Member, by one Committee Member and the Secretary.

30.4 If a document is not required at law to be executed under the common seal, it will be binding on the Association if signed by -

- (f) the persons referred to in Rule 30.3; or
- (g) by some other person or persons appointed by the Committee for that purpose in accordance with the Act.

31 Financial statements

31.1 Obligations

The Association must keep written financial records in accordance with the Act and prepare any statements required by the Act.

31.2 Review or audit

The Committee must, if required under the Act, appoint an independent person to review the financial statements of the Association or appoint an auditor in accordance with the Act.

32 Notices

32.1 Method

A notice is properly given by the Association to a person if it is:

- (a) in writing signed on behalf of the Association (by original or printed signature); and
- (b) either:
 - (i) delivered personally;
 - (ii) sent by post to that person's registered address or an alternative address nominated by that person;
 - (iii) included in a delivery of ostomy appliances and associated products (irrespective of whether the delivery is delivered to or collected by that person);
 - (iv) sent electronically to an email address nominated by that person.

32.2 Receipt

A notice given in accordance with Rule 32.1 is taken as having been given and received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post either:
 - (i) on the day on which the relevant postal service estimates delivery will occur; or
 - (ii) on the first day of the period during which the relevant postal service estimates delivery will occur,based on the most recent estimate published by the relevant postal service as at the date on which the Notice is sent.
- (c) if transmitted by e-mail, on transmission; or
- (d) if transmitted by facsimile, at the time recorded on the transmission report indicating successful transmission of the entire notice,

but if the delivery or transmission is not on a business day or is after 5.00pm (recipient's time) on a business day, the notice is taken to be received at 9.00am (recipient's time) on the next business day.

32.3 Evidence of service

A certificate in writing signed by a Committee Member or, if the Secretary is not a Committee Member, the Secretary, that a notice was sent is conclusive evidence of service.

33 Winding up and cancellation

33.1 On the first to occur of:

- (a) the winding up or cancellation of the Association; or

- (b) if the Association is endorsed as a deductible gift recipient under subdivision 30-BA of the Tax Act, revocation of the Association's endorsement as a deductible gift recipient; or
- (c) if the Association is endorsed as an income tax exempt charity under subdivision 50-B of the Tax Act, revocation of the Association's endorsement as an income tax exempt charity,

all surplus assets of the Association, after satisfaction of all debts and liabilities of the Association, must be paid, distributed or transferred to:

- (d) one or more Eligible Charities; or
- (e) to the extent required or permitted by the Tax Act, funds, charitable at law, which comply with the requirements of item 2 of the table in section 30-15 of the Tax Act,

but if the Association is never endorsed as a deductible gift recipient under subdivision 30-BA of the Tax Act, paragraph (b) of the definition of Eligible Charity will not apply.

33.2 If the Association maintains a Gift Fund, on the first to occur of:

- (a) the winding up or dissolution of the Gift Fund; or
- (b) the revocation of the endorsement of the Gift Fund as a deductible gift recipient under subdivision 30-BA of the Tax Act,

the remaining assets or property (if any) forming part of the Gift Fund must be transferred to one or more Eligible Charities.

33.3 Where gifts to an Eligible Charity are deductible only if, among other things, the conditions set out in the relevant table item in subdivision 30-B of the Tax Act are satisfied, a transfer under this Rule 33 must be made in accordance with those conditions.

33.4 The identity of an Eligible Charity for the purposes of this Rule 33 will be determined by the Committee and (if applicable) approved by the Commissioner and, in default, will be determined by the Supreme Court of Victoria.

34 Custody and inspection of books and records

34.1 Except as otherwise provided in these Rules, the Secretary must keep custody and control of all books, documents and securities of the Association.

34.2 Except as otherwise provided in these Rules and the Act all financial records, books, securities and any other Relevant Documents of the Association must be available for inspection free of charge to any Member on request.

34.3 A Member may make a copy of any accounts, books, securities and any other Relevant Documents of the Association.

35 Indemnity and insurance

35.1 Indemnity and insurance

Subject to and to the maximum extent permitted under the Act, the Association:

- (a) indemnifies each of its office holders; and
- (b) may enter into and pay premiums on a contract insuring any of its office holders, against any liability incurred by an office holder in that capacity, including any legal costs incurred in defending an action for such a liability.

35.2 Survival of indemnity

The indemnity in Rule 35.1 will continue notwithstanding that an office holder ceases to be an office holder of the Association.

35.3 Indemnity and insurance subject to law

For the avoidance of doubt:

- (a) the indemnity in Rule 35.1 does not apply so as to indemnify an officer from any liability for which the Association is prohibited from indemnifying the office holder under the Act; and
- (b) the Association may not insure an office holder against any liability for which the Association is prohibited from indemnifying the office holder under the Act.

APPENDIX 1

APPLICATION FOR MEMBERSHIP OF OSTOMY ASSOCIATION OF MELBOURNE INC



Ostomy Association of Melbourne Inc

Reg No: A0025655X ABN: 93 953 917 074

Burwood Industrial Park, Unit 14, 25-37 Huntingdale Rd Burwood VIC 3125

Ph: 03 9888 8523 Fax: 03 9888 8094 Email: orders@oam.org.au

NEW MEMBER FORM

Mr, Mrs, Miss, Ms, other: _____ First Name: _____ Surname: _____

Address: _____ Suburb: _____

State: _____ Postcode: _____ Phone: _____ Mobile: _____

Email: _____ Pension No: _____

Date of Surgery: _____ Hospital: _____

Delivery Method: Patient/hospital to send courier
 Collect from distribution centre
 Deliver to above address
 Deliver to another address

NB: please call to ensure order is ready before collection

Delivery Address (if different): _____

Suburb: _____ State: _____ Postcode: _____

Brand Name	Product Code	Description	Quantity
FREIGHT		Victoria \$13/Interstate \$16	\$
ANNUAL FEES/SUBS		Full membership \$65 Pension/healthcare card \$55	\$
TOTAL PAYMENT			\$

Payment Method: Cheque/Money Order Visa/Mastercard Invoice new member

Card No: ____ / ____ / ____ / ____ Expiry: ____ / ____

Cardholder's signature _____

Only for Transferring Members	Transferring from:	Membership number:
--------------------------------------	--------------------	--------------------

APPENDIX 2

PROXY FORM FOR MEETING OF ASSOCIATION CONVENED UNDER RULE 13.7

I.....

of.....

being a member of.....
(name of Incorporated Association)

appoint.....

of.....

being a member of that Incorporated Association, as my proxy to vote for me on my behalf at the
meeting of the General Meeting of the Association convened under Rule 13.7 to be held at
on theday ofand at any adjournment of that
meeting.

I authorise my proxy to vote on my behalf at their discretion in respect of the following resolution:

[insert details of resolution passed under Rule 13.7).

Signed

Date

APPENDIX 3

PROXY FORM

I/We

of

being a member of the Association and being entitled to vote

Appoint

of

or failing such person the Chairperson of the meeting as my/our proxy to vote for and on my/our behalf at the General Meeting of Members of the Association to be held at

on _____ at _____ am/pm and at any adjournment of that meeting and I/we direct my/our proxy to vote as follows in respect of the following resolution/s -

Business	For	Against	Abstain*
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

* If you mark the abstain box for a particular item, you are directing your proxy **not** to vote on a show of hands or a poll and your vote will not be counted in computing the required majority on a particular item.

PLEASE SIGN BELOW

Individual/Officer of corporate member¹

¹ State position/authority below

Contact Name (**print below**)

Contact Telephone No:

Date

_____/_____/_____
/ /

PROXY NOTES

- Members of the Association are entitled to attend and vote at this Meeting and may appoint a proxy to attend this Meeting and vote in that Member's stead.
- A proxy must be another Member of the Association.
- A proxy must be under the hand of the individual or his or her attorney duly authorised in writing.
- Any Member may, by power of attorney, appoint an attorney to act on his or her behalf and such power of attorney or certified copy thereof must be produced to the Association as provided in paragraph 6.
- This proxy form (and any power of attorney or other authority under which it is signed) must be received at the registered address or other address given on the notice of the meeting no later than 24 hours before the commencement of the meeting. Any proxy form received after that time will not be valid for the scheduled meeting