

CONSTITUTION OF ASIA PACIFIC OCCUPATIONAL SAFETY AND HEALTH ORGANISATION

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A company limited by guarantee

November 2023

Table of contents

Preliminary

- 1 Name of the company
- 2 Type of company
- 3 Limited liability of Members
- 4 The guarantee
- 5 Definitions

Charitable purposes and powers

- 6 Object
- 7 Powers
- 8 Not-for-profit
- 9 Amending the Constitution

Members

- 10 Membership and register of the Members
- 11 Who can be a Member
- 12 How to apply to become a Member
- 13 Directors decide whether to approve membership
- 14 When a person becomes a member
- 15 When a person stops being a Member

Dispute resolution and disciplinary procedures

- 16 Dispute resolution
- 17 Disciplining Members

General meetings of Members

- 18 General meetings called by Directors
- 19 General meetings called by Members
- 20 Annual General Meeting
- 21 Notice of General Meetings
- 22 Quorum at General Meetings
- 23 Auditor's right to attend meetings
- 24 Representatives of Members
- 25 Using technology to hold meetings
- 26 Chairperson for General Meetings
- 27 Role of the chairperson
- 28 Adjournment of meetings

Members' resolutions and statements

- 29 Members' resolutions and statements
- 30 APOSHO must give notice of proposed resolution or distribute statement
- 31 Circular resolutions of Members

Voting at General Meetings

- 32 How many votes a member has
- 33 Challenge to Member's right to vote
- 34 How voting is carried out
- 35 When and how a vote in writing must be held
- 36 Appointment of proxy
- 37 Voting by proxy

Directors

- 38 Number of Directors
- 39 Election and appointment of Directors
- 40 Election of the Secretary General
- 41 Term of office
- 42 When a Director stops being a Director

Powers of Directors

- 43 Powers of Directors
- 44 Delegation of Directors' powers
- 45 Payments to Directors
- 46 Execution of Documents

Duties of Directors and Secretary General

- 47 Duties of Directors
- 48 Conflicts of interest

Directors' Meetings

- 49 When the Directors meet
- 50 Calling Directors' Meetings
- 51 Chairperson for Directors' meetings
- 52 Quorum at Directors' Meetings

53 Using technology to hold Directors' Meetings

54 Passing Directors' resolutions

55 Circular resolutions of Directors

Secretary

56 Appointment and role of secretary

Minutes and records

57 Minutes and records

58 Financial and related records

By-laws

59 By-laws

Notice

60 What is notice

61 Notice to APOSHO

62 Notice to the Members

63 When notice is taken to be given

Financial year

64 APOSHO financial year

Indemnity, insurance, and access

65 Indemnity

66 Insurance

67 Directors' access to documents

Winding up

68 Surplus assets not to be distributed to the Members

69 Distribution of surplus assets

Definitions and interpretation

70 Definitions

71 Reading this Constitution with the Corporations Act

72 Interpretation

Preliminary

1. Name of the company

The company is referred to as APOSHO, which stands for the Asia Pacific Occupational Safety and Health Organisation.

2. Type of the company

APOSHO is a not-for-profit company limited by guarantee, established to be and to continue as a charity organisation.

3. Limited liability of the Members

The liability of the Members is limited to the amount of the guarantee in clause 4.

4. The guarantee

Each Member must contribute an amount not more than US\$10 (the guarantee) to the property of APOSHO if APOSHO is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:

- (a) debts and liabilities of APOSHO incurred before the Member stopped being a member, or
- (b) costs of winding up.

5. Definitions

Within this Constitution, the capitalized words and phrases shall bear the definitions as specified in clauses 7070 and 72.

Charitable purposes and powers

6. Object

APOSHO's object is to advance the following charitable purposes:

- (a) Promoting, facilitating, and enabling the sharing of knowledge and exchange of information to enhance understanding and learning in the Asia Pacific Region regarding Occupational Safety and Health awareness and practice
- (b) Promoting, facilitating, and enabling networking, cooperation, and collaboration to enhance improvement actions for occupational safety and health in the Asia Pacific Region; and
- (c) Undertaking any other activities, as agreed upon by APOSHO from time to time, which align with the board purpose of the organisation.

7. Powers

Subject to clause 8, APOSHO has the following powers, which may only be used to carry out its purposes set out in clause 6:

- (a) the powers of an individual, and
- (b) all the powers of a company limited by guarantee under the Corporations Act.

8. Not-for-profit

- 8.1 APOSHO is registered with the Australian Charities and Not-for-profits Commission (ACNC) and recognised as a not-for-profit organisation. The income and property of APOSHO must be applied solely for the advancement and promotion of APOSHO's objects. APOSHO is prohibited from distributing any income or assets, whether directly or indirectly, to its Members in the form of dividends, bonuses, or any other means, except as stipulated in clauses 8.2 and 69.

- 8.2 Clause 8.1 does not restrict APOSHO from engaging in the following actions, provided they are conducted in good faith:
- (a) paying a Member or a Director for goods or services they have provided or reimbursing them for expenses they have legitimately incurred, at fair and reasonable rates, or rates that are advantageous to APOSHO
 - (b) making payments to a Member or a Director in the pursuit of APOSHO's charitable purposes; or
 - (c) Repaying reasonable out-of-pocket expenses properly incurred by any Member or Director.
- 8.3 Any payment authorised under clause 8.2 can only be made after obtaining the prior written approval of the Board.

9. Amending the Constitution

- 9.1 Subject to clause 9.2, Members may amend this Constitution by passing a special resolution.
- 9.2 Members must not pass a special resolution that amends this Constitution if passing it causes APOSHO to no longer be a charity.

Members

10. Membership and Register of Members

- 10.1 APOSHO comprises memberships from organizations, associations, institutions, and societies located in the Asia Pacific Region and beyond, who are involved in activities associated with the advancement and improvement of occupational safety and health (OSH) practices.
- 10.2 The Members of APOSHO are:
- (a) initial Members, and
 - (b) any other person that APOSHO allows to be a Member, in accordance with this Constitution.
- 10.3 Classes of Membership

APOSHO shall have four (4) categories of membership, namely Full Member, Associate Member, Affiliate Member, and Honorary Member.

- (a) A Full Member
An independent, non-governmental, non-profit, and non-political organisation/ association/ institution/ society based in the Asia Pacific Region, engaged mainly in promoting activities and programs related to Occupational Safety and Health practices, is eligible for full membership in APOSHO. Full Members are entitled to voting rights in all APOSHO meetings, including Annual General Meetings.
- (b) An Associate Member
If no organization qualifies for the (a) above in the mentioned countries or areas within the Asia Pacific region, any governmental organization engaged in activities related to Occupational Safety and Health in that specific country or area may seek to become an Associate Member. Associate Members, except for an organisation representing a country or area without a Full Member, shall not possess voting rights during Annual General Meetings.
- (c) An Affiliate Member
In addition to granting full membership to non-government organizations within the Asia Pacific Region, independent, non-governmental, non-profit, and non-political organizations outside the Asia Pacific Region primarily involved in promoting activities and programs related to Occupational Safety and Health practices are eligible for Affiliate Membership.
Furthermore, non-governmental organizations within the Asia Pacific Region engaged

in activities related to the promotion of Occupational Safety and Health practices are also eligible for Affiliate Membership.

Affiliate Members shall not have voting rights at Annual General Meetings.

(d) An Honorary Member

An individual from a Full or Associate Member Organisation in the Region having voting rights, who has made outstanding and significant contributions to APOSHO, may be nominated by their Member Organisation for honorary membership. Such nomination shall be supported in writing by a minimum of 5 (five) additional Full Members. Such nomination shall be made in writing to the Secretary General. Honorary Members shall not have voting rights at General Meetings.

10.4 This Constitution shall not affect the status and rights of current Members, except clause 10.3 is applicable. The rights associated with any membership category may be modified with the approval of the Members during an Annual General Meeting.

10.5 APOSHO is required to establish and maintain a Register of Members. The Board is responsible for keeping the Register of Members, which must include the following information for each current Member:

- (a) name
- (b) address
- (c) any alternative address nominated by the Member for the service of notices, and
- (d) date the Member entered into the register.
- (e) for each person who stopped being a Member within the last 7 years:
 - (i) name
 - (ii) address
 - (iii) any alternative address nominated by the Member for the service of notices, and
 - (iv) dates the membership started and ended.

10.6 APOSHO is required to provide current Members access to the Register of Members.

10.7 Any information obtained from the Register of Members must only be used in a manner that is relevant to the interests or rights of the Members.

11. Who can be a Member

11.1 A person who supports the purposes of APOSHO is eligible to apply to be a Member of APOSHO under clauses 10.3 and 12.

11.2 In this Constitution, the term "person" refers to a natural person or an individual (for the class of Honorary Member), corporations, trusts, associations, partnerships, government authorities, and other legal entities. Where necessary, it also includes successors and assigns.

12. How to apply to become a Member

An application for any category of membership (as defined in clause 11.2) may apply to become a Member of APOSHO by writing to the Board three (3) months prior to an Annual General Meeting stating that they:

- (a) want to become a Member
- (b) support the purpose(s) of APOSHO
- (c) agree to comply with APOSHO's Constitution, including paying the guarantee under clause 4 if required
- (d) agree to pay the annual membership fee and any other fees and levies imposed by APOSHO under clause 14.3
- (e) agree to bear its own expenses for attending General Meetings, meetings, and conferences
- (f) agree to update the Board when there are any changes in contact information and representative, and

- (g) agree that the official language of administration for APOSHO shall be English.

13. Approval of membership

- 13.1 The Board is responsible for processing and forwarding the membership application to the Membership Screening Committee.
- 13.2 Determination of membership
 - (a) Upon receiving an application from the Board, the Membership Screening Committee shall review all applications in accordance with the provisions outlined in the Constitution within a reasonable timeframe
 - (b) The Membership Screening Committee will present recommendations for ratification at an Annual General Meeting
 - (c) The approval or rejection of membership applications at an Annual General Meeting will be determined by the consensus of the Members with voting rights present at the meeting.
- 13.3 Notification of determination

The Board has the following obligations:

 - (a) Once an application for membership has been accepted, the Board must promptly provide written notice of the acceptance to the applicant and include the applicant's name in the Register
 - (b) If an application for membership is rejected, the Board must send a written notice of the rejection to the applicant. If the applicant has paid an entrance fee, it will be refunded in full.
- 13.4 APOSHO retains the authority to approve a membership application even if the application does not explicitly state the matters listed in clause 12. In such cases, by submitting the application to become a Member, the applicant agrees to be bound by those matters as outlined in the Constitution.

14. When a person becomes a Member

Apart from the initial Members, an applicant will be considered a Member once their information is entered into the Register of Members.

- 14.1 Certificates

APOSHO has the authority to issue a certificate of membership to any Member. However, it is important to note that any certificate issued will remain the property of APOSHO, and the Member is required to return the certificate to APOSHO upon written demand by the Board.
- 14.2 Membership not transferable

Membership of APOSHO cannot be transferred by operation of law or any other means. Upon a person ceasing to be a Member for any reason, all rights and privileges associated with APOSHO membership will cease immediately.
- 14.3 Fees and levies

APOSHO have the authority to collect levies in the form of annual membership subscriptions and/or voluntary contributions if deemed necessary for the future development of APOSHO. The following provisions apply:

 - (a) Members must pay annual membership fees and other fees in the amounts and at the times determined by the Board and ratify at an Annual General Meeting from time to time.
 - (b) Members have the authority to decide and modify the membership entrance and annual membership fees at an Annual General Meeting
 - (c) Members are obligated to pay APOSHO the annual membership fees as follows:
 - (i) Full Membership and Associate Members with voting rights at Annual General Meetings: USD \$500

- (ii) Associate and Affiliate Members, without voting rights at Annual General Meetings: USD \$250
 - (iii) Honorary Members: no charges apply.
 - (d) To secure additional funds required for APOSHO's operations, the Board may determine the imposition of levies on Members. The Board has the authority to set the amount and payment dates for such levies. However, no levies will be payable by Members until determined by the Board and ratified at an Annual General Meeting. The collection of levies requires approval at an Annual General Meeting.
 - (e) When determining fees or levies under this clause, the Board has the discretion to differentiate between classes of Members in terms of the amounts and timing of fees or levies to be paid.
- 14.4 Responsibilities of Members
- Members of all classes are expected to uphold the following responsibilities:
- (a) Understand the objectives and scope of APOSHO and ensure strict compliance with the provisions of the Constitution
 - (b) Explore opportunities to expand APOSHO's membership base while maintaining the organization's objectives, nature, constitutional framework, and harmony
 - (c) Respond promptly to communications from the Board and the Conference Chairperson regarding APOSHO matter
 - (d) Foster equity, trust, and strong relationships with all Members, projecting APOSHO as a united family dedicated to occupational safety and health in the region
 - (e) Promote APOSHO and its activities at various forums within member countries or districts, as well as on the international stage whenever possible
 - (f) Share any news, articles, or incidents involving Members, including their achievements or any negative publicity, with other Members, the Board, and the Conference Chairperson
 - (g) Maintain objectivity while scrutinizing and reviewing membership applications, providing opinions and comments to ensure genuine applicants are admitted, re-graded, or upgraded to the appropriate membership category
 - (h) Interact with other Members and non-members to gather their views and opinions on the future development and membership enhancement of APOSHO, and
 - (i) Strictly adhere to and comply with all clauses outlined in the Constitution.
- 14.5 Members having undergone significant changes in their organisational structure, functional activities, resources, and profit allocation, or any other status that may impact the provisions stated in clause 10.3 have an absolute obligation to promptly notify APOSHO. They must provide a written report to the Board for consideration by the Membership Screening Committee. This ensures that APOSHO remains informed about any relevant changes within its membership.
- 14.6 The official language of administration for APOSHO, as well as its Functional Committee meetings and conferences, is English. All meetings conducted within APOSHO shall be conducted in English.
- 14.7 Each Member shall be responsible for covering their own expenses related to attending General Meetings, Functional Committees' meetings, and APOSHO conferences.
- 14.8 The following Functional Committees are currently formed within APOSHO;
- (a) Communication Committee
 - (b) Education & Training Committee
 - (c) Governance Committee
 - (d) Health & Wellbeing Committee
 - (e) Membership Screening Committee
 - (f) Management and Development Committee

- (g) OSH Management Systems Committee
- 14.9 Other functional committees may be formed as deemed necessary in an Annual General Meeting.
- 14.10 The chairperson of each Functional Committee, apart from the Membership Screening Committee and the Governance Committee, shall be appointed from among Full Members or Associate Members with voting rights at an Annual General Meeting. The chairperson of the Membership Screening Committee is limited to Full Members and requires approval at the relevant Annual General Meeting. The Secretary General chairs the Governance Committee, which acts as an advisory body to the Board.
- 14.11 The Membership of the Functional Committees is open to Members of all categories, except for the Membership Screening Committee, which is limited to Full Members and requires approval at the relevant Annual General Meeting. The Governance Committee consists of the chairperson of each Functional Committee, the Directors, and the Immediate Past Secretary General. Additionally, the Secretary General shall serve as an ex-officio member in all Function Committees.
- 14.12 In each Functional Committee, at least one Director shall serve as an ex-officio member or take on other roles within the committee including the chairperson position.
- 14.13 Term of office of the Functional Committees
The term of office of the chairperson and members of each Functional Committee shall be three (3) years.

15. When a person ceases to be a Member of APOSHO

- 15.1 A person immediately stops being a Member of APOSHO if they:
 - (a) are wound up, defaulted, or otherwise dissolved or deregistered (for an incorporated member)
 - (b) resign, by writing to the Board
 - (c) are expelled under clause 17, or
 - (d) have not responded within eight (8) months to a written request from the Board, asking them to confirm in writing whether they wish to continue their membership, will be considered as no longer wanting to remain a Member.
- 15.2 Suspension of membership shall apply if a Member, regardless of category, fails to attend three (3) consecutive Annual General Meetings. The Member must write to the Board, providing an explanation for their absence. Subsequently, a decision regarding the future status of the Member shall be made at an Annual General Meeting.
- 15.3 An Honorary Member must refrain from engaging in any actions that could constitute improper representation of APOSHO. They are also obligated to inform APOSHO about any instances of misconduct, professional negligence, breach of professional ethics, or expulsion from the Member Organization to which they originally belonged. The Member Organization to which the Honorary Member originally belonged also has a responsibility to report such information to APOSHO. These reports should be provided in writing to the Board for consideration by the Membership Screening Committee. A resolution from the Membership Screening Committee shall be presented at an Annual General Meeting for approval.

Dispute resolution and disciplinary procedures

16. Dispute resolution

- 16.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this Constitution between a Member or Director and:
 - (a) one or more Members

- (b) one or more Directors, or
 - (c) APOSHO.
- 16.2 A Member shall not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 17 until the disciplinary procedure has been concluded.
- 16.3 Parties involved in a dispute must try to resolve the matter among themselves within a period of 14 days from the time they become aware of the dispute.
- 16.4 If the parties involved in the dispute are unable to resolve it as per clause Error! Reference source not found., they must take the following steps within 10 days:
 - (a) notify the Board about the dispute in writing
 - (b) agree or request the appointment of a mediator, and
 - (c) Make a genuine effort to settle the dispute through mediation in good faith.
- 16.5 The mediator must:
 - (a) be chosen by agreement of those involved, or
 - (b) where those involved do not agree:
 - i. for disputes between Members, a person chosen by the Board, or
 - ii. for other disputes, a person is chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which APOSHO has its registered office.
- 16.6 A mediator is chosen by the Board under the above clause:
 - (a) maybe a current or former Member of APOSHO
 - (b) must not have a personal interest in the dispute, and
 - (c) must not be biased towards or against any party involved in the dispute.
- 16.7 When conducting the mediation, the mediator must:
 - (a) allow those involved a reasonable chance to be heard
 - (b) allow those involved a reasonable chance to review any written statements
 - (c) ensure that those involved are given natural justice, and
 - (d) not make a decision on the dispute.

17. Disciplining Members

- 17.1 In accordance with this clause, the Board may resolve to propose to APOSHO at an Annual General Meeting to warn, suspend or expel a Member from APOSHO if the Board considers that:
 - (a) the Member has breached this Constitution
 - (b) the Member's behaviour is causing, has caused, or is likely to cause harm to APOSHO
 - (c) if a Member fails to pay any fees or levies within eight (8) months after the due date for payment or as determined by the Board, the Board may, by resolution at an Annual General Meeting, suspend the Member's rights and privileges, including the right to vote or terminate the Member's membership of APOSHO. The Board has the discretion to reinstate the member upon payment of all arrears if they deem it appropriate to do so
 - (d) until otherwise specified by the Board, the duration for which a Member's fees or levies must remain unpaid, as stated in clause 14.3, shall be eight (8) calendar months.
- 17.2 At least 14 days before the Annual General Meeting at which a resolution under clause Error! Reference source not found. will be considered, the Board must notify the Member in writing:
 - (a) that the Board is considering a resolution at the Annual General Meeting to warn, suspend or expel the Member
 - (b) that this resolution will be considered at the Annual General Meeting and the date of that meeting

- (c) what the Member is said to have done or not done
 - (d) the nature of the resolution that has been proposed, and
 - (e) that the Member may provide an explanation to the Board, and details of how to do so.
- 17.3 Before the Board pass any resolution under clause Error! Reference source not found., the Member must be given a chance to explain or defend themselves by:
 - (a) sending the Board a written explanation before that Board Meeting, and/or
 - (b) speaking at the meeting.
- 17.4 After considering any explanation under clause Error! Reference source not found., the Board may propose to APOSHO at an Annual General Meeting:
 - (a) take no further action
 - (b) warn the Member
 - (c) suspend the Member's rights as a Member for a period of no more than 12 months
 - (d) expel the Member
 - (e) refer the decision to an unbiased, independent person on conditions that the Board considers appropriate however, the person can only make a decision that the Board could have made under this clause), or
 - (f) require the matter to be determined at a General Meeting.
- 17.5 The Board cannot fine a Member.
- 17.6 The Board must give written notice to the Member of the decision under clause Error! Reference source not found. as soon as possible.
- 17.7 Disciplinary procedures must be concluded within a reasonable timeframe as soon as reasonably practical.
- 17.8 There will be no liability for any loss or injury incurred by the Member due to any decision made in good faith under this clause.
- 17.9 Continuing rights and liabilities.

The termination of a Member's membership will not prejudice, lessen or affect the rights, duties, liabilities and obligations of the Member whether they:

 - (a) arise under the Constitution or otherwise; or
 - (b) exist at the date of the termination or arise or crystallise after that date,

and in particular, (but without limitation) that termination will not relieve a Member from any obligation to record or account for or pay any levies or fees referred to in the Constitution.

General Meetings of Members

18. General Meetings called by the Board

The Board has the authority to convene a General Meeting with consideration of the advice from the Governance Committee.

19. General Meetings called by Members

- 19.1 If Members with voting rights representing at least 5% of the total votes or a minimum of five (5) Members with voting rights, whichever is greater, submit a written request to the Board for a General Meeting to be conducted, the Board, with consideration of the advice from the Governance Committee, must:
 - (a) within 21 days of the Members' request, give all Members notice of a General Meeting, and
 - (b) hold the General Meeting within two (2) months of the Members' request.

- 19.2 The calculation of the percentage or number of votes that Members possess, as mentioned in clause 19.1, shall be determined as of midnight prior to the Members' request for the meeting.
- 19.3 The Members who make the request for a General Meeting must:
- (a) include in their request any resolution(s) they intend to propose at the meeting.
 - (b) sign the request, and
 - (c) submit the request to the Board in writing.
- 19.4 Separate copies of a document setting out the request may be signed by Members if the wording of the request is the same in each copy.

20. Annual General Meeting

- 20.1 A General Meeting, called the Annual General Meeting, must be held:
- (a) within 18 months after the registration of APOSHO, and
 - (b) after the first Annual General Meeting, at least once in every calendar year at the APOSHO Conference-area/region
 - (c) Matters and issues relating to APOSHO shall be discussed at an Annual General Meeting and decisions arrived at shall be by consensus of the Full Members and Associate Members having voting rights, and
 - (d) The agenda for an Annual General Meeting shall be distributed to all Members one (1) month in advance.
- 20.2 Even if these items are not set out in the notice of the meeting, the business of an Annual General Meeting may include:
- (a) a review of APOSHO's activities
 - (b) a review of APOSHO's finances
 - (c) any auditor's report
 - (d) the election of Directors and the Secretary General, and
 - (e) the appointment and payment of auditors, if any.
- 20.3 Before or during an Annual General Meeting, the Board is obligated to provide Members with information regarding APOSHO's activities and finances during the period since the last Annual General Meeting.
- 20.4 The chairperson of the Annual General Meeting must ensure that Members have a reasonable opportunity to ask questions or make comments about the management of APOSHO during the meeting.
- 20.5 Members have the authority to propose a review of the Constitution at an Annual General Meeting whenever deemed necessary.
- 20.6 All expenses related to organizing APOSHO events, including Annual General Meetings, Functional Committee meetings, and secretariat support for conferences, shall be covered by the Member Organization of the Conference Chairperson.

21. Notice of General Meetings

- 21.1 Notice of a General Meeting must be given to:
- (a) each Member entitled to vote at the meeting
 - (b) each Director
 - (c) the auditor (if any), and
 - (d) other members for information.
- 21.2 Notice of a General Meeting must be provided in writing at least 21 days before the meeting.
- 21.3 Subject to clause 21.4, notice of a meeting may be provided less than 21 days before the meeting if:

- (a) for Annual General Meetings, all the Members entitled to attend and vote at the Annual General Meeting agree beforehand, or
 - (b) for any other General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 21.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
 - (a) remove a Director
 - (b) appoint a Director to replace a Director who was removed, ~~or~~
 - (c) remove an auditor, if any, or
 - (d) expel a Member.
- 21.5 Notice of a General Meeting must include:
 - (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, or online, and the technology that will be used to facilitate this)
 - (b) the general nature of the meeting's business
 - (c) if applicable, that a special resolution is to be proposed and the words of the proposed resolution
 - (d) a statement that Members have the right to appoint proxies and that, if a Member appoints a proxy:
 - i. the proxy does not need to be a Member of APOSHO
 - ii. the proxy form must be delivered to the Board at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
 - iii. the proxy form must be delivered to the Board at least 48 hours before the meeting.
- 21.6 If a General Meeting is adjourned (postponed for one (1) month or more, Members must be provided with a fresh notice of the resumed meeting.

22. Quorum at General Meetings

- 22.1 For a General Meeting to be considered valid, a quorum must be present, which comprises at least fifty percent of the total membership of Full Members and Associate Members who possess voting rights. This quorum can be fulfilled by Members attending in person, by proxy, or through a representative for the entire duration of the meeting. If the required quorum is not achieved, the number (greater than 5) of Full Members and Associate Members with voting rights present shall constitute the quorum, and the chairperson will proceed to commence the meeting. All matters discussed and decisions made during the meeting shall be deemed valid, except for Constitutional amendments. When determining the presence of a quorum, an individual can only be counted once, even if they are representing multiple Members or serving as a proxy. This principle applies to online meetings as well.
- 22.2 If a quorum is not present at a General Meeting, no business can be conducted during that meeting.
- 22.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of the General Meeting, the General Meeting is adjourned to the date, time and place that the chairperson of the General Meeting specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
 - (a) if the date is not specified – the same day in the next day
 - (b) if the time is not specified – the same time, and
 - (c) if the place is not specified – the same place.
- 22.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

23. Auditor's right to attend meetings

- 23.1 The auditor, if appointed, has the right to attend any General Meeting and express their views to the Members on any matters of the meeting that are relevant to their role as an auditor.
- 23.2 The Board is obligated to provide the auditor, if there is one, with any communications pertaining to the General Meeting that a Member is entitled to receive.

24. Representatives of Members

- 24.1 Full Members and Associate Members with voting rights may designate up to two (2) individuals, namely the Head and Deputy Head of the Member's delegation, to officially represent them at a General Meeting and Functional Committees' meetings.
- (a) One individual is designated to represent the Member at Functional Committee meetings and is authorized to sign circular resolutions as outlined in clause 31
 - (b) Member's representatives can speak at Functional Committee meetings but only one vote will be counted for each Member
 - (c) the same individual or the other individual may also be a Director, and
 - (d) Other delegates of the Members can also attend the meetings but shall have no speaking or voting rights.
- 24.2 The appointment of a representative by Member must:
- (a) be in writing
 - (b) include the name and email address of each representative
 - (c) be signed on behalf of the Member, and
 - (d) be given to the Board or, for representation at meetings, be given to the meeting chairperson before the meeting starts.
- 24.3 A representative has all the rights of a Member relevant to the purposes of the appointment as a representative. An Honorary Member shall not be appointed as a representative but can act as a proxy for a Member.
- 24.4 The appointment may be standing (ongoing).

25. Using technology to hold meetings

- 25.1 APOSHO may hold a General Meeting, Functional Committee meeting, Board Meeting or any meeting at two or more venues using any technology that gives the Members a reasonable opportunity to participate, including to hear and be heard.
- 25.2 Anyone using this technology is taken to be present in person at the meeting.
- 25.3 Each Member and Director, on becoming a Member or a Director, consents to the use of the following technology for calling or holding a meeting
- (a) video conference
 - (b) teleconference
 - (c) any other technology which permits each Member or Director to communicate with every other Member or Director in real time; or
 - (d) Any combination of the technologies described in the clauses above.

26. Chairperson for General Meetings

- 26.1 The Secretary General is the elected chairperson to chair General Meetings. The Secretary General may delegate the Immediate Past Secretary General, Secretary General-Elect or a Director to chair the General Meeting.
- 26.2 The Members present and entitled to vote at a General Meeting may choose a Director or Member to be the chairperson for that meeting if:
- (a) there is no elected chairperson, or

- (b) the elected chairperson is not present within 30 minutes after the starting time set for the meeting, or
- (c) the elected chairperson is present but says he/she does not wish to act as chairperson of the meeting.

27. Role of the chairperson

- 27.1 The chairperson is responsible for the conduct of the General Meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions, including to the auditor (if any).
- 27.2 If voting is necessary to arrive at a decision and if there is a tie, the chairperson will cast his/her vote.

28. Adjournment of meetings

- 28.1 If a quorum is present, a General Meeting must be adjourned if a majority of Members with voting rights present direct the chairperson to adjourn it.
- 28.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.
- 28.3 The chairperson may adjourn any meeting of Members.

Members' resolutions and statements

29. Members' resolutions and statements

- 29.1 Members with at least 5% of the votes, or five (5) Members with voting rights, whichever is higher, that may be cast on a resolution may give:
 - (a) written notice to the Board of a resolution they propose to move at a General Meeting (Members' resolution), and/or
 - (b) a written request to the Board that the Board give all its Members a statement about a proposed resolution or any other matter that may properly be considered at a General Meeting (Members' statement).
- 29.2 A notice of a Members' resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- 29.3 A request to distribute a Member's statement must set out the statement to be distributed and be signed by the Member making the request.
- 29.4 Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.
- 29.5 The percentage of votes that Members have (as described in clause 29.1) is to be worked out as at midnight before the request or notice is given to the Board.
- 29.6 If the Board has been given notice of Members' resolution under clause 29.1(a), the resolution must be considered at the next General Meeting held more than two months after the notice is given.
- 29.7 This clause does not limit any other right that a Member must propose a resolution at a General Meeting.

30. APOSHO must give notice of proposed resolution or distribute statement

- 30.1 If the Board has been given a notice or request under clause 29:
 - (a) in time to send the notice of the proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, it must do so at APOSHO's cost, or

- (b) too late to send the notice of the proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, then the Members who proposed the resolution or made the request must pay the expenses reasonably incurred by the Board in giving Members notice of the proposed Members' resolution or a copy of the Members' statement. However, at a General Meeting, the Members may pass a resolution that APOSHO will pay these expenses.
- 30.2 The Board, with consideration of the advice from the Governance Committee, does not need to send the notice of proposed Members' resolution or a copy of the Members' statement to Members if:
 - (a) it is more than 1,000 words long
 - (b) the Board considers it may be defamatory
 - (c) clause 30.1(b) applies, and the Members who proposed the resolution or made the request have not paid the Board enough money to cover the cost of sending the notice of the proposed Members' resolution or a copy of the Members' statement to Members, or
 - (d) in the case of a proposed Members' resolution, the resolution does not relate to a matter that may be properly considered at a General Meeting or is otherwise not a valid resolution able to be put to the Members.

31. Circular resolutions of Members

- 31.1 Subject to clause 31.3, the Board, with consideration of the advice from the Governance Committee, may put a resolution to Members to pass a resolution without a General Meeting being held (a circular resolution).
- 31.2 The Board, with consideration of the advice from the Governance Committee, must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to Members, and set out the wording of the resolution.
- 31.3 Circular resolutions cannot be used:
 - (a) for a resolution to remove an auditor, appoint a Director or remove a Director
 - (b) for passing a special resolution
 - (c) expel a Member, or
 - (d) where the Corporations Act or this Constitution requires a meeting to be held.
- 31.4 A circular resolution is passed if all Members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 31.5 or clause 31.6.
- 31.5 Members may sign:
 - (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording is the same in each copy.
- 31.6 The Board may send a circular resolution by email to Members and the Members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

Voting at General Meetings

32. How many votes a Member has

Each Member having the right to vote has one vote regardless of the number of Member representatives present.

33. Challenge to Member's right to vote

- 33.1 A Member or the chairperson may only challenge a person's right to vote at a General Meeting at that meeting.

- 33.2 If a challenge is made under clause 33.1, the chairperson must decide whether the person may vote, subject to clause 10.3. The chairperson's decision is final.
- 33.3 A Member is only entitled to vote at a General Meeting if all fees and levies and other amounts presently payable by the Member have been paid.

34. How voting is carried out

- 34.1 Voting must be conducted and decided by:
- (a) a show of hands
 - (b) a vote in writing, or
 - (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- 34.2 Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 34.3 During a vote conducted through a show of hands or any other agreed-upon means at a meeting, the decision made by the chairperson is considered final and serves as conclusive evidence of the voting outcome.
- 34.4 The chairperson and the meeting minutes are not required to indicate the specific number or proportion of votes cast in favour or against during a show of hands.

35. When and how a vote in writing must be held

- 35.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) at least five Members with voting rights present
 - (b) Members present with at least 5% of the votes or five (5) Members with voting rights, whichever is higher, that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
 - (c) the chairperson.
- 35.2 A vote in writing must be taken when and how the chairperson directs unless clause 35.3 applies.
- 35.3 A vote in writing must be held immediately if it is demanded under clause 35.1:
- (a) for the election of a chairperson under clause 26.2, or
 - (b) to decide whether to adjourn the meeting.
- 35.4 A demand for a vote in writing may be withdrawn.

36. Appointment of proxy

- 36.1 A Member may appoint a proxy to attend and vote (applicable to those having the rights to vote) at a General Meeting on their behalf.
- 36.2 A proxy appointed to attend and vote for a Member has the same rights as the Member to:
- (a) speak at the meeting
 - (b) vote in a vote in writing (but only to the extent allowed by the appointment), and
 - (c) join in to demand a vote in writing under clause 35.1.
- 36.3 An appointment of proxy (proxy form) must be signed by the Member appointing the proxy and must contain:
- (a) the Member's name and address
 - (b) APOSHO's name
 - (c) the proxy's name or the name of the office held by the proxy, and
 - (d) the meeting(s) at which the appointment may be used.
- 36.4 A proxy appointment may be standing (ongoing).

- 36.5 A proxy does not have the authority to speak and vote for a Member at a meeting while the Member is at the meeting.
- 36.6 Unless the Board receives written notice before the start or resumption of a General Meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Member:
- (a) dies
 - (b) is mentally incapacitated
 - (c) revokes the proxy's appointment, or
 - (d) revokes the authority of a representative or agent who appointed the proxy.
- 36.7 A proxy appointment may specify the way the proxy must vote on a particular resolution.

37. Voting by proxy

- 37.1 A proxy is not entitled to vote on a show of hands, but this does not prevent a Member appointed as a proxy from voting as a Member on a show of hands.
- 37.2 When a vote in writing is held, a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way they must vote
 - (b) if the way they must vote is specified on the proxy form, must vote that way, and
 - (c) If the proxy who is also a Member or holds more than one proxy, may cast the votes held in different ways.

Directors

38. Number of Directors

- 38.1 APOSHO must have at least three (3) and no more than six (6) Directors. The Board may by ordinary resolution passed at a General Meeting of the Members increase or reduce the number of Directors but must not reduce the minimum number of Directors below three (3).
- 38.2 Directors are the officers of APOSHO and form the Board of APOSHO.

39. Election and appointment of Directors

- 39.1 The initial Directors are the people who have agreed to act as Directors and who are named as proposed Directors in the application for registration of APOSHO.
- 39.2 Apart from the initial Directors and the Directors appointed to fill a casual vacancy under clause 39.5, Members may elect a Director by a resolution passed in a General Meeting.
- 39.3 Each of the Directors must be appointed by a separate resolution, unless:
- (a) Members present have first passed a resolution that the appointments may be voted on together, and
 - (b) no votes were cast against that resolution.
- 39.4 An individual is eligible for election as a Director of APOSHO if he/she:
- (a) is a Member of APOSHO nominated by their Member Organisation who must be a Full Member with all fees and levies paid up
 - (b) gives APOSHO a signed consent to act as a Director of APOSHO
 - (c) is not ineligible to be a Director under the Corporations Act or the ACNC Act, and
 - (d) must be in possession of an Australian Directors' ID at the time of nomination.
- 39.5 The Directors may appoint a person as a Director to fill a casual vacancy on the Board or as an additional Director if that person:
- (a) a Member nominated by their Member Organisation who must be a Full Member with all fees and levies paid up
 - (b) gives APOSHO their signed consent to act as a Director
 - (c) is not ineligible to be a Director under the Corporations Act or the ACNC Act, and

- (d) must be in possession of an Australian Directors' ID at the time of nomination.
- 39.6 If the number of Directors falls below three or is insufficient to form a quorum, the remaining Directors have the authority to take action to increase the number of Directors to at least three (or higher if necessary for a quorum) or to convene a General Meeting. However, their powers are limited to these specific purposes and cannot be exercised for any other objective.
- 39.7 After the conclusion of each Annual General Meeting, the Board is empowered to select a Director to serve as the Company Secretary (or an honorary secretary, as allowed by clause 56) and another Director to serve as the Treasurer, both of whom will assist the Secretary General in fulfilling the Board's responsibilities.

40. Election of the Secretary General

- 40.1 Election of the Secretary General
Only an individual from a Full Member with all fees and levies paid up shall be eligible for nomination and election to the position of the Secretary General at an Annual General Meeting.
- 40.2 Subordinate regulations can be established to lay down the process for the nomination and election of the Secretary General.

41. Term of office

- 41.1 At each Annual General Meeting:
 - (a) any Director appointed by the Board to fill a casual vacancy or as an additional Director shall retire, and
 - (b) at least one-third of the remaining Directors shall retire.
- 41.2 The Directors who are scheduled to retire at each Annual General Meeting, as stated in clause 41.1(b), will be those who have served the longest since their last election. In cases where Directors were elected on the same day, the Director(s) to retire will be determined by drawing lots unless they come to a mutual agreement.
- 41.3 Other than a Director appointed to fill a casual vacancy under clause 39.5, a Director's term of office starts at the end of the Annual General Meeting at which they are elected and ends at the end of the Annual General Meeting at which they retire.
- 41.4 Every Director is required to retire at least once within three years.
- 41.5 A Director who retires under clause 41.1 may nominate for election or re-election, subject to clause 41.6.
- 41.6 A Director who has held office for a continuous period of nine years or more may only be re-appointed or re-elected by a special resolution at an Annual General Meeting.
- 41.7 The term of the Secretary General shall be a period of three (3) consecutive Annual General Meetings with a maximum of 2 (two) terms. However, a special resolution passed during an Annual General Meeting can extend the term by one (1) year.

42. When a Director stops being a Director

A Director stops being a Director if they:

- (a) give written notice of resignation as a Director to APOSHO
- (b) die or becomes mentally incapacitated or the Director's estate is liable to be dealt with under a law relating to mental health
- (c) are removed as a Director by a resolution of the Members
- (d) the Director becomes bankrupt or makes any arrangement or composition with creditors

- (e) are associated with a Member Organisation, and that Member Organisation stops being a Member
- (f) are associated with a Member Organisation, and the Member Organisation notifies APOSHO that the Director is no longer associated with the Member Organisation
- (g) are absent for three (3) consecutive Board Meetings or at least six (6) months, whichever is longer in time, without approval from the Directors
- (h) are holding any other office of profit under APOSHO without the consent of APOSHO in General Meetings, or
- (i) become ineligible to be a Director of APOSHO under the Corporations Act or the ACNC Act.

Powers of Directors

43. Powers of Directors

- 43.1 The Directors, as the Board members of APOSHO, are responsible for managing and directing the activities of APOSHO, with consideration of the advice from the Governance Committee, to achieve the purposes set out in clause 6, except the running of the APOSHO conference, which is the responsibility of the Conference Chairperson.
- 43.2 The Directors, with consideration of the advice from the Governance Committee, may use all the powers of APOSHO except for powers that, under the Corporations Act or this Constitution, may only be used by Members.
- 43.3 The Board must decide on the responsible financial management of APOSHO including:
 - (a) any suitable written delegations of power under clause 44, and
 - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 43.4 The Board cannot remove a Director or auditor. Directors and auditors may only be removed by Member's resolution at a General Meeting.

44. Delegation of Directors' powers

- 44.1 The Directors, with consideration of the advice from the Governance Committee, may delegate any of their powers and functions to a Functional Committee or a Director, as they consider appropriate.
- 44.2 The delegation must be recorded in APOSHO's minute book.

45. Payments to Directors

- 45.1 APOSHO must not pay fees to a Director for acting as a Director.
- 45.2 APOSHO may reimburse a Director for expenses properly incurred by the Director in connection with the affairs of APOSHO.
- 45.3 Any payment made under this clause must be approved by the Board.
- 45.4 APOSHO may pay premiums for insurance indemnifying the Directors, as allowed for by law (including the Corporations Act) and this Constitution.

46. Execution of documents

APOSHO may execute a document without using a common seal if the document is approved by the Board, with consideration of the advice from the Governance Committee, and signed by:

- (a) The Secretary General and two Directors of APOSHO, or
- (b) The Secretary General, a Director and the Company Secretary.

Duties of Directors and Secretary General

47. Duties of Directors

The Directors must comply with their duties as Directors under the legislation and common law (judge-made law) and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of APOSHO
 - (b) to act in good faith in the best interests of APOSHO and to further the charitable purpose(s) of APOSHO set out in clause 6
 - (c) not to misuse their position as a Director
 - (d) not to misuse information they gain in their role as a Director
 - (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 48
 - (f) to ensure that the financial affairs of APOSHO are managed responsibly, and
 - (g) not to allow APOSHO to operate while it is insolvent.
- 47.2 The Directors have a collective responsibility to support the decisions made by the Board, which includes refraining from publicly criticizing or speaking out against them outside of official Board Meetings.
- 47.3 The Secretary General shall be responsible for promoting, developing, and fostering the activities and operation of APOSHO and inter alia, and have the following duties and responsibilities:
- (a) chair the Governance Meetings and General Meetings
 - (b) sit on the Board advising the day-to-day management of APOSHO
 - (c) present a brief report on the activities of APOSHO at Annual General Meetings
 - (d) set activity plans for the Board and the Governance Committee to meet the objects of the APOSHO
 - (e) coordinate and liaise with Members and the Directors in resolving issues
 - (f) act as the spoke person for APOSHO and attend external events for APOSHO
 - (g) visit the proposed APOSHO conference venue about six to ten (6-10) months in advance before the holding of the conference, the cost should be borne by Members' funds.
- 47.4 The Board, with consideration of the advice from the Governance Committee, shall have the following duties and responsibilities:
- (a) to keep an updated list of the mailing addresses, faxes, e-mails, telephone numbers, etc., of all Members along with the names of their respective President / Chairman / Chief Executive Officer or any designated official representative
 - (b) to maintain an updated record of the approved minutes of Annual General Meetings and Functional Committee meetings.
 - (c) to maintain a list of all Functional Committees and their membership as constituted by the General Meetings.
 - (d) to provide general information on APOSHO
 - (e) to attend and assist the Secretary General in the conduct of General Meetings
 - (f) to process applications for new membership
 - (g) to process payment and fee collections from Members
- 47.5 The Immediate Past Secretary General shall stay for at least one (1) year to work closely with the current Secretary General to ensure the smooth transition and continuation of the outstanding projects/activities. He / She may be required to attend special meetings, Board and Functional Committee meetings, General Meetings, and discussions with the incumbent Secretary General. He / She will hold the title of Immediate Past Secretary General till the incumbent Secretary General becomes the new Immediate Past Secretary General.

48. Conflicts of interest

- 48.1 A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a Board Meeting (or that is proposed in a circular resolution):
- (a) to the other Directors, or
 - (b) if all the Directors have the same conflict of interest, to the Members at the next General Meeting, or at an earlier time if reasonable to do so.
- 48.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.
- 48.3 Each Director who has a material personal interest in a matter that is being considered at a Board meeting (or that is proposed in a circular resolution) must not, except as provided under the clause below:
- (a) be present at the meeting while the matter is being discussed, or
 - (b) vote on the matter.
- 48.4 A Director may still be present and vote if:
- (a) their interest arises because their Member Organisation is a Member of APOSHO, and other Members have the same interest
 - (b) their interest relates to an insurance contract that insures or would insure, the Director against liabilities that the Director incurs as a Director of APOSHO (see clause 66)
 - (c) their interest relates to payment by APOSHO under clause 65 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act
 - (d) the Australian Securities and Investments Commission (ASIC) or ACNC makes an order allowing the Director to vote on the matter, or
 - (e) Directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of APOSHO, and
 - (ii) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

Directors' Meetings

49. When the Directors meet

The Directors may decide how often, where and when they meet in the Directors' meeting, which is called the Board Meeting in the Constitution.

50. Calling Board Meetings

- 50.1 A Director may call a Board Meeting by giving reasonable notice to all the other Directors. The Board must convene a meeting at the request of the Secretary General.
- 50.2 A Director may give notice in writing or by any other means of communication that has previously been agreed to by all the Directors. A written notice of a Board Meeting must be sent to each Director within seven (7) days after a request to convene a meeting. The notice may be given by telephone or other electronic means of communication. The notice must specify:
- (a) the date and time for the proposed meeting;
 - (b) the venue for the meeting unless the meeting is conducted under clause 50.1
 - (c) if the meeting is to be conducted under clause 50.1, the method for conducting the meeting; and
 - (d) the nature of the business to be transacted at the meeting.

51. Chairperson for Board Meetings

- 51.1 The Board shall elect a chairperson to chair Board Meetings.
- 51.2 The Directors at a Board Meeting may choose another Director to be the chairperson for that meeting if the elected chairperson is:
 - (a) not present within 30 minutes after the starting time set for the meeting, or
 - (b) present but does not want to act as chairperson of the meeting.

52. Quorum at Board Meetings

- 52.1 Unless the Directors determine otherwise, the quorum for a Board Meeting is a majority (more than 50%) of Directors, with at least two (2) Directors entitled to vote on any motion that may be moved by the meeting.
- 52.2 A quorum must be present for the whole Board Meeting. If a quorum is not present at any time the meeting is not validly convened but without affecting the validity of any business conducted before the absence of a quorum occurs.

53. Using technology to hold Board Meetings

- 53.1 The Directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all the Directors.
- 53.2 The Directors' agreement may be a standing (ongoing) one.
- 53.3 A Director may only withdraw their consent within a reasonable period before the meeting.

54. Passing Directors' resolutions

A Directors' resolution must be passed by a majority of the votes cast by the Directors present and entitled to vote on the resolution.

55. Circular resolutions of Directors

- 55.1 The Directors may pass a circular resolution without a Board Meeting being held.
- 55.2 A circular resolution is passed if all Directors are entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 55.3 or clause 55.4.
- 55.3 Each Director may sign:
 - (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, if the wording of the resolution is the same in each copy.
- 55.4 The Board may send a circular resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 55.5 A circular resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in clause 55.3 or clause 55.4.

Secretary

56. Appointment and role of the Company Secretary

- 56.1 APOSHO must have at least one Company Secretary, who may also be a Director.
- 56.2 A Company Secretary must be appointed by the Board (after giving APOSHO their signed consent to act as the Company Secretary) and may be removed by the Board or Members at a General Meeting.

- 56.3 The Directors must decide the terms and conditions under which the Company Secretary is appointed, including any remuneration. If the Company Secretary is a Director or a Member, no remuneration is allowed. If the Company Secretary is a paid position, a Director can assume the role of honorary secretary of APOSHO to oversee the work of the Company Secretary.
- 56.4 The role of the Company Secretary includes:
- (a) maintaining a register of APOSHO's Members,
 - (b) manage documents for the Board,
 - (c) manage membership applications, and
 - (d) maintaining the minutes and other records of General Meetings (including notices of meetings), Board Meetings, and circular resolutions.

Minutes and records

57. Minutes and records

- 57.1 APOSHO must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of General Meetings
 - (b) minutes of circular resolutions of Members
 - (c) a copy of a notice of each General Meeting, and
 - (d) a copy of Members' statements distributed to Members under clause 30.
- 57.2 APOSHO must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of Board Meetings, including meetings of any Functional Committees, and
 - (b) minutes of circular resolutions of the Board.
- 57.3 To allow Members to inspect APOSHO's records:
- (a) APOSHO must give a member access to the records set out in clause 57.1, and
 - (b) the Directors may authorise Member to inspect other records of APOSHO, including records referred to in clause 57.2 and clause 58.1.
- 57.4 The Directors must ensure that minutes of a General Meeting or a Board Meeting are signed within a reasonable time after the meeting by:
- (a) the chairperson of the meeting, or
 - (b) the chairperson of the next meeting.
- 57.5 The Board must ensure that minutes of the passing of a circular resolution (of Members or Directors) are signed by the Directors within a reasonable time after the resolution is passed.

58. Financial and related records

- 58.1 The Board must make and keep written financial records that:
- (a) correctly record and explain its transactions, financial position and performance, and
 - (b) enable true and fair financial statements to be prepared and to be audited.
- 58.2 The Board must also keep written records that correctly record its operations.
- 58.3 The Board must retain its records for at least 7 years.
- 58.4 The Board must take reasonable steps to ensure that APOSHO's records are kept safe.
- 58.5 Auditor
- Where required by the Law, the Board, with consideration of the advice from the Governance Committee, must appoint an auditor or auditors, whose duties will be regulated in accordance with the Law.
- 58.6 Reserves
- The Board, with consideration of the advice from the Governance Committee, may:

- (a) write off from APOSHO's earnings any amount for loss or depreciation of any property;
- (b) set aside any amount out of APOSHO's profits,

as a reserve fund to meet contingencies or for repairing, improving and/or maintaining any of APOSHO's property and/or for any other purposes which are conducive to the interests of APOSHO.

By-laws

59. By-laws

- 59.1 The Board, with consideration of the advice from the Governance Committee, may, from time to time, establish subordinate regulations for APOSHO to give effect to this Constitution.
- 59.2 The Board shall present subordinate regulations at General Meetings for Members' approval before they will take effect.
- 59.3 Subordinate regulations include, but are not limited to, by-laws, a code of conduct, standards, regulations, or guidelines, for APOSHO, such as:
 - (a) the process for the admission and/or disqualification or termination of the membership application and termination process of Members
 - (b) the process for managing fees and levies payment
 - (c) the process of running APOSHO conferences
 - (d) the process of electing Directors, Functional Committee chairs, etc.
 - (e) conditions of membership
 - (f) availability of services or facilities of APOSHO and/or access to them by Members
 - (g) the rights attached to membership
 - (h) code of conduct, ethics, and professionalism
 - (i) dispute resolution and disciplinary processes in support of the related procedures
 - (j) the conditions for the use or licence of any trade or other mark or property of APOSHO; and/or
 - (k) qualifications required for membership.
- 59.4 Members and the Directors must comply with subordinate regulations approved at General Meetings as if they were part of this Constitution.

Notice

60. What is notice

- 60.1 Anything written to or from APOSHO under any clause in this Constitution is written notice and is subject to clauses 61 to 63 unless specified otherwise.
- 60.2 Clauses 61 to 63 do not apply to a notice of proxy under clause Error! Reference source not found..

61. Notice to APOSHO

Written notice or any communication under this Constitution may be given to APOSHO by:

- (a) delivering it to the Board's registered office
- (b) posting it to the Board's registered office or to another address chosen by the Board for notice to be provided
- (c) sending it to an email address or other electronic address notified by the Board to the Members as APOSHO's email address or other electronic address, or
- (d) sending it to the fax number notified by the Board to the Members as APOSHO's fax number.

62. Notice to Members

- 62.1 Written notice or any communication under this Constitution may be given to a Member:
- (a) in person
 - (b) by posting it to, or leaving it at the address of the Member in the Register of Members or an alternative address (if any) nominated by the Member for service of notices
 - (c) sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any)
 - (d) sending it to the fax number nominated by the Member as an alternative address for service of notices (if any), or
 - (e) if agreed to by the Member, by notifying the Member at an email or other electronic address nominated by the Member, that the notice is available at a specified place or address (including an electronic address).
- 62.2 If APOSHO does not have an address for the Member, the Board is not required to give notice in person.

63. When notice is taken to be given

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent, and
- (d) given under clause 62.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

64. APOSHO financial year

APOSHO's financial year is from [1 July] to [30 June], unless the Members pass a resolution at an Annual General Meeting to change the financial year.

Indemnity, insurance and access

65. Indemnity

- 65.1 APOSHO indemnifies the Secretary General and each officer of APOSHO out of the assets of APOSHO, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of APOSHO.
- 65.2 In this clause, 'officer' means a Director or the Company Secretary and includes a Director or the Company Secretary after they have ceased to hold that office.
- 65.3 In this clause, 'to the relevant extent' means:
- (a) to the extent that the Board or the Secretary General is not precluded by law (including the Corporations Act) from doing so, and
 - (b) for the amount that the Secretary General or the officer is not otherwise entitled to be indemnified and is not indemnified by another individual (including an insurer under an insurance policy).
- 65.4 The indemnity is a continuing obligation and is enforceable by an officer even though that individual is no longer an officer of APOSHO.

66. Insurance

To the extent permitted by law (including the Corporations Act), and if the Board, with consideration of the advice from the Governance Committee, considers it appropriate, the Board may pay or agree to pay a premium for a contract insuring a ~~person~~ individual who is or has been a Director of APOSHO against any liability incurred by the ~~person~~ individual as a Director of APOSHO.

67. Directors' access to documents

- 67.1 A Director has a right of access to the financial records of APOSHO at all reasonable times.
- 67.2 If the Board agrees, the Board must give a Director or former Director access to:
 - (a) Certain documents, including documents provided for or available to the Board, and
 - (b) any other documents referred to in those documents.

Winding up

68. Surplus assets not to be distributed to Members

- 68.1 If APOSHO is wound up, any surplus assets must not be distributed to a Member or a former Member, unless that Member or former Member is a charity described in clause 69.1.
- 68.2 Every Member undertakes to contribute to the property of APOSHO the amount which is agreed to be paid by each Member in clause 4.
- 68.3 The liability of each Member under clause 6(a), will terminate on the day which is one (1) year after the date on which the Member's membership of APOSHO ceases.

69. Distribution of surplus assets

- 69.1 Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets that remain after APOSHO is wound up must be distributed to one or more charities:
 - (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6, and
 - (b) which also prohibits the distribution of any surplus assets to its Members to at least the same extent as APOSHO.
- 69.2 The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of Members at or before the time of winding up. If the Members do not make this decision, APOSHO may apply to the Supreme Court to make this decision.

Definitions and interpretation

70. Definitions

In this Constitution:

ACNC means the Australian Charities and Not-for-profits Commission

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

Active Participation / Significant Contribution (use of following criteria)

- (a) Attendance in APOSHO conferences and meetings
- (b) Presentations at Conferences
- (c) Chairmanship in Conferences
- (d) Chairmanship and/or Membership of functional committee(s) of APOSHO
- (e) Suggestions, opinions, proposals, and assistance offered to APOSHO
- (f) Prepared documents for APOSHO
- (g) Others: Contributions and Presentations

Annual General Meeting means a General Meeting held annually under clause Error! Reference source not found..

APOSHO is the Company referred to in clause 1, the Asia Pacific Occupational Safety and Health Organization, hereinafter referred to as “APOSHO”, is an international body composed of non-profit and professional organisations dedicated to promoting occupational safety and health practices in the Asia Pacific Region. The first APOSHO Annual Conference took place in Singapore in August 1985 and was chaired by the Chairman of the National Safety Council of Australia. Representatives from the Safety Councils of India, Malaysia, New Zealand, Philippines and Singapore attended and founded the Organisation initially called the “Coordinating Committee of Asia Pacific National Safety Councils”. In 1992, with the consensus of the Annual General Meeting, it was renamed the Asia Pacific Occupational Safety and Health Organisation

Asia Pacific is the area generally regarded as encompassing littoral East Asia, Southeast Asia and Australia near the Pacific Ocean, plus the status in the ocean itself (Oceania). Specifically, the component areas of the Asia Pacific region generally include the following countries/areas namely: Australia, Brunei, Cambodia, Fiji Indonesia, Japan Kiribati, Vietnam, Korea, Laos, Malaysia, Marshall Islands, Federated States of Micronesia, Nauru, New Zealand, Papua New Guinea, Philippines, Samoa, Singapore, Solomon Islands, Sri Lanka, Thailand, Timor Leste, Tonga, Taiwan, Tuvalu, Vanuatu, People’s Republic of China, Hong Kong, Macao, American Samoa, Guam, Northern Mariana Islands (US Territories), India, Mongolia, Myanmar and Russia (sometimes included)

Board is a collective term of the Directors

Board Meeting means the Directors’ Meeting

Conference Chairperson is assigned by the Member hosting the conference. The conference chairperson’s term of office shall be for the period to organise the conference till the end of the conference activities

Company means APOSHO referred to in clause 1

Company Secretary means the secretary and any assistant or acting secretary, and any other person appointed to perform, whether alone or in addition to any other person or persons, the *governance administrative functions usually required of a Company Secretary* The Company Secretary and the Secretary General are NOT the same individual. Subject to the Constitution, if the Company Secretary is a paid position, a Director can assume the role of honorary secretary of APOSHO to oversee the work of the Company Secretary.

Constitution means those rules for the operation of APOSHO set out in this Constitution

Corporations Act means the Corporations Act 2001 (Cth)

Directors mean the officers of APOSHO and form the Board of APOSHO

Directors’ Meeting means the *Board Meeting*

General Meeting means a meeting of Members and includes the Annual General Meeting, under clause Error! Reference source not found..

Independent

- (a) Independent of govt. control
- (b) Not affiliated to any political; religious; profit; business organisation; private organisation

initial Member means a person who is named in the application for registration of APOSHO, with their consent, as a proposed Member of APOSHO

Law means the Corporations Act 2001 (Cth)

Member means the Member of APOSHO as described in clause 10

Member Organisation means the entity of an individual associated with

Member present means, in connection with a General Meeting, a Member present in person, by a representative or by proxy at the venue or venues for the meeting

non-government – An organisation independent from government control, provided it is not for profit. It should be a registered society having a copy of the registration.

- (a) At least having 2 years existence – (UN requirement)
- (b) Annual Report with financial statement
- (c) Must have a democratic decision-making mechanism--Board of Governors, Executive Committee
- (d) Majority of funding should come from Members, contributions from affiliates or other NGO(s)

not-for-profit / non-profit

- (a) Purpose is other than making a profit
- (b) Profits applied /spent to further achieve the cause or mission of the organisation
- (c) Surplus is not distributed to organisation Members

non-political Not affiliated with any political party, political identity, or philosophy

ordinary resolution means a resolution passed by a simple majority of Members

persons include a natural person or an individual (for the class of Honorary Member), corporations, trusts, associations, partnerships, government authorities, and other legal entities, and where necessary, includes successors and assigns

prescribed rate means the rate specified by APOSHO from time to time expressed as a rate per cent per annum or if no rate is specified, the Prescribed Rate is 8% per annum

register means the Register of Members of APOSHO is required to be kept by section 169 of the Law

registered charity means a charity that is registered under the ACNC Act

Related Body Corporate is a body corporate which is related to that body corporate within the meaning of the Law

Rules means the provisions of this Constitution and Rule means any one of them

Secretary General is the elected individual responsible for promoting, developing and fostering the activities and operation of APOSHO and inter alia. He/she chairs the Governance Committee Meetings and General Meetings

special resolution means a resolution:

- (d) of which notice has been given under clause 21.5(c), and
- (e) that has been passed by at least 75% of the votes cast by Members present and entitled to vote on the resolution, and

surplus assets means any assets of APOSHO that remain after paying all debts and other liabilities of APOSHO, including the costs of winding up.

subordinate regulations mean any code of conduct, rules, by-laws, regulations, standards, regulations, or guidelines issued from time to time by APOSHO

Treasurer means the Treasurer and any assistant or acting Treasurer, and any other person appointed to perform, where alone or in addition to any other person or persons, the duties of the Treasurer of APOSHO

71. Reading this Constitution with the Corporations Act

71.1 The replaceable rules set out in the Corporations Act do not apply to APOSHO.

71.2 While APOSHO is a registered charity, the ACNC Act and the Corporations Act override any clauses in this Constitution which are inconsistent with those Acts.

- 71.3 If APOSHO is not a registered charity (even if it remains a charity), the Corporations Act overrides any clause in this Constitution which is inconsistent with that Act.
- 71.4 A word or expression that is defined in the Corporations Act, or used in that Act and covering the same subject, has the same meaning as in this Constitution.

72. Interpretation

In this Constitution:

- (a) capitalized words are defined terms
- (b) the words 'including', 'for example, or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression
- (c) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations)
- (d) unless the context or subject matter otherwise requires, references to:
 - (i) singular words include the plural and vice versa
 - (ii) any gender includes every gender
- (e) writing includes printing, typing, facsimile and other means of representing or reproducing words, figures, drawings or symbols in a visible and tangible or electronic form, in English
- (f) signature and signing means due execution of a document by a person, corporation or other relevant entity and include signing by an agent or attorney or representative (if a body corporate) by written signature or electronic means
- (g) months mean calendar months
- (h) statutes include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws and ordinances made under those statutes
- (i) sections of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes
- (j) an agreement or document means that an agreement or document as amended, novated or supplemented
- (k) a party includes that party's executors, administrators, substitutes, successors and assigns
- (l) sell or sold include transfer, lease, assign, grant options and/or any other form of disposing of or creating an interest in the thing being considered and buy or purchase will be interpreted correspondingly
- (m) where a person is entitled to vote or holds the right to vote on any matter by virtue of this Constitution, the person may vote by proxy or attorney or representative (if a body corporate)
- (n) headings and the table of contents are for convenience only and will be disregarded in the interpretation of this Constitution
- (o) if a word or phrase is given a defined meaning, another grammatical form of that word or phrase has a corresponding meaning; and
- (p) each clause or sub-clause in a list is to be read independently from the others in the list.