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YHA LTD
ACN 008 387 791

By-law 1 – Director nomination & election

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1. Definitions

In this By-law:

- (a) **AGM Date** means the date scheduled for the next AGM, as determined by the directors and advised to the Election Committee and the company secretary under paragraph 3(a).
- (b) **company** means YHA Ltd ACN 008 387 791.
- (c) **constitution** means the constitution of the company.
- (d) **Election Committee** means the election committee established under paragraph 2(b).
- (e) Words and phrases defined in the constitution have the same meanings when used in this By-law.

2. General principles of Board Membership and the establishment of the Election Committee

- (a) So far as practicable and appropriate in the prevailing circumstances, the following principles must always be borne in mind and advanced in the application of this By-law:
 - (1) The board of directors should be comprised of persons with a broad range of interests, skills, expertise and experience which will assist the directors in carrying on the activities and furthering the objects of the company.
 - (2) The board of directors should consist of a mix of both sexes and a range of ages.
 - (3) The board of directors should be comprised of persons:
 - (A) with an interest in travel and education; and
 - (B) who are committed to, and supportive of, the objects of the company.
- (b) The company will have an election committee consisting of:
 - (1) 2 directors of the company, each of whom must be a Chair, Vice-Chair or Committee Chair; and
 - (2) up to 2 other persons, each of whom must be a Vice-President or former Chair of the company as determined by the directors from time to time,provided that the election committee must include 1 or more persons who are not current directors.

3. Call for nominations and assessment of nominations

- (a) No later than the day which is 23 weeks prior to the AGM Date:
 - (1) the directors must advise the Election Committee and the company secretary of the date for the next AGM; and
 - (2) any stipulations of the Election Committee (and any changes of the directors) made under paragraph 4(c) must be communicated to the company secretary, and no further stipulations or changes may then be made in relation to the current election process.
- (b) No later than the day which is 22 weeks prior to the AGM Date, the company secretary must send to each Member who is entitled to vote at a general meeting at the time of sending (or such earlier time not exceeding 14 days prior to the commencement of sending, as the directors determine), and who has:

- (1) an email address in the company's register of Members; and
- (2) not previously indicated to the company that he, she or it does not wish to receive voting material,

a notice of the forthcoming election of directors containing:

- (3) the names of the directors who, under the constitution, retire at such meeting;
- (4) the eligibility criteria for directors under rule 7.5(a) of the constitution (including the proposed date for completion of any necessary director's familiarisation program);
- (5) the names of each corporation that a director would become a director of (being the company and specified subsidiaries of the company);
- (6) details of any information, material or assistance that must be provided, or requirements that must be satisfied, in accordance with paragraph 4(c); and
- (7) the deadline for receipt of nominations set under paragraph 3(e).

The non-receipt of such notice by any Member does not invalidate the election or any part of it.

(c) A nomination of a candidate for election as a director must:

- (1) be proposed by not less than 2 Members entitled to vote at a general meeting;
 - (2) contain the consent of the candidate to be a director of each corporation identified by virtue of paragraph 3(b)(5) in the notice sent under paragraph 3(b);
 - (3) be in or to the effect of any form approved by the directors for this purpose; and
 - (4) be accompanied by any information or material referred to in paragraph 3(b)(6),
- and the nomination may be accompanied by a resume.

(d) Any resume provided under paragraph 3(c) must:

- (1) be no longer than 125 words in length;
- (2) include details in relation to:
 - (A) the candidate's qualifications and relevant experience;
 - (B) the candidate's contribution to the YHA movement and the company to date;
and
 - (C) key issues the candidate sees as facing the company;
- (3) not endorse, disparage or otherwise refer to any other candidate or any director; and
- (4) not contain anything defamatory.

(e) A nomination of a candidate for election as a director must be received by the company no later than 4:00pm on the day which is 19 weeks prior to the AGM Date.

(f) The Election Committee must ensure that a director's familiarisation program within the meaning of rule 7.5(a)(7) of the constitution, which will be able to be completed before the day which is 17 weeks prior to the AGM Date, is offered to each candidate who has not already completed such a program.

- (g) The company secretary must assess each nomination, including for compliance with paragraphs 3(b)(4) and 3(c), and non-compliant nominations are to be disregarded.
- (h) The company secretary must refer all nominations, other than non-compliant nominations, to the Election Committee as soon as practicable after the assessment under paragraph 3(g) is complete, including all documentation and materials received in relation to those nominations.

4. Deliberations of the Election Committee

- (a) The Election Committee is responsible for:
 - (1) considering each candidate for Board Membership and providing a written report and recommendation to the directors in relation to the proposed Board Membership of each such candidate by:
 - (A) in the case of a proposed election under rule 7.4 of the constitution – no later than the day which is 9 weeks prior to the AGM Date; or
 - (B) in the case of a proposed appointment under rule 7.2(b) of the constitution – at least 20 Business Days (or such lesser period allowed by the directors) prior to the date on which the appointment is proposed to be made by the directors, and the directors must use all reasonable efforts to give at least 40 Business Days notice to the Election Committee of any such proposed appointment date; and
 - (2) other matters determined by the directors from time to time.
- (b) The Election Committee may on its own motion source, assess and recommend to the directors, candidates for Board Membership. In such circumstances, the Election Committee must provide a written report and recommendation to the directors on the candidate in accordance with the timeframes set out in paragraph 4(a)(1).
- (c) The Election Committee may from time to time stipulate any information, material or assistance that a candidate for Board Membership must provide, or requirements that a candidate must satisfy, to assist the Election Committee to prepare a written report and recommendation under paragraph 4(a)(1) or 4(b). Stipulations of the Election Committee made under this paragraph 4(c) are subject to any changes made to them from time to time by the directors.
- (d) The Election Committee:
 - (1) will meet whenever its members consider necessary to discharge its responsibilities promptly and efficiently; and
 - (2) may delegate any of its powers and responsibilities to a member or members of the Election Committee.
- (e) The provisions of the constitution that apply to:
 - (1) meetings and resolutions of directors apply, so far as they can, subject to this paragraph 4 and any applicable determinations of the directors, and with any necessary changes, to meetings and resolutions of the Election Committee; and
 - (2) committees of directors apply, so far as they can, subject to this paragraph 4 and any applicable determinations of the directors, to the Election Committee.
- (f) A quorum of the Election Committee is 2 members. Unless the directors decide otherwise, the chair of the company's Nominations and Remuneration Committee will chair the Election Committee.

- (g) Without affecting the operation of the Act, where a director at a meeting of the Election Committee has a material personal interest in a matter to be considered by the Election Committee, including:
- (1) the reappointment or re-election of that person as a director; or
 - (2) that person's performance as a director,
- that director must not be present whilst the matter is being considered, and if he or she is a member of the Election Committee he or she must also not participate in any vote in respect of the matter.
- (h) Unless the directors decide otherwise in relation to any general or specific case, information and material provided to the Election Committee, deliberations of the Election Committee and written reports and recommendations of the Election Committee are confidential information of the company.
- (i) The Election Committee may enlist the assistance of, or obtain advice and counsel from, any other person or entity, whether or not associated with the company, in the discharge of its responsibilities. Subject to the constitution, any such assistance, advice or counsel will be at the cost of the company.

5. Deliberations of the Board

- (a) In the case of candidates for election or re-election as a director, as soon as reasonably practicable after the written reports and recommendations of the Election Committee in relation to those candidates have been provided to the directors in accordance with paragraphs 4(a)(1) and 4(b), and in any event before the day which is 5 weeks prior to the AGM Date, the directors must resolve whether or not to approve each such candidate as a nominee for Board Membership.
- (b) The directors, in making any decision to approve a candidate as a nominee for Board Membership under paragraph 5(a), or appoint a person as a director under rule 7.2(b) of the constitution:
- (1) must advance the principles described in paragraph 2(a); and
 - (2) may otherwise, in their absolute discretion subject only to paragraph 5(c), take into account any matters they are legally entitled to have regard to.
- (c) The directors are not bound by any report or recommendation of the Election Committee in their consideration of any candidate for Board Membership, but they must take each such report and recommendation into consideration in making their decision whether or not to:
- (1) approve a candidate as a nominee for Board Membership under paragraph 5(a); or
 - (2) appoint a person as a director under rule 7.2(b) of the constitution.
- (d) To the extent permitted by law, the power of the directors to decide whether to:
- (1) approve or not approve a candidate as a nominee for Board Membership under paragraph 5(a); or
 - (2) appoint or not appoint a person as a director under rule 7.2(b) of the constitution,
- may only be exercised once the Election Committee has, in its opinion:
- (3) been provided with all information and material it reasonably requires from any such candidate; and
 - (4) had a reasonable opportunity to:

- (A) consider the candidate for Board Membership; and
 - (B) prepare and provide a written report and recommendation to the directors in relation to the candidate in accordance with paragraphs 4(a)(1) or 4(b).
- (e) As soon as reasonably practicable after the resolutions have been passed under rule 5(a), the directors must notify each candidate whether the candidate has been approved as a nominee for Board Membership. A notice may, but is not required to, set out reasons for the directors' decision.

6. Assessment of whether an election is required

- (a) In paragraphs 6(b) to 6(e) and in paragraphs 7 and 8, a 'candidate' means a person who has:
- (1) complied with paragraphs 3(c) and 3(e);
 - (2) satisfies the eligibility criteria set out in rule 7.5(a) of the constitution; and
 - (3) been:
 - (A) recommended by the Election Committee under paragraph 4; and
 - (B) approved as a nominee for Board Membership by the directors under paragraph 5(a).
- (b) If there are less than or no greater number of candidates than vacancies to be filled, there is no need to hold an election, and the Chair of the relevant AGM in relation to which the election is to take place must at that AGM declare all such candidates duly elected.
- (c) If there are less candidates than vacancies to be filled, the unfilled positions are casual vacancies for the purposes of rule 7.3 of the constitution.
- (d) If there are less than or no greater number of candidates than vacancies to be filled, the question of which candidate fills which vacancy under rule 7.1(b) of the constitution will be:
- (1) determined as all the directors agree between themselves; or
 - (2) failing agreement under paragraph 6(d)(1) within 7 days of the AGM – resolved by lot in such manner as the Chair determines.
- (e) If there are more candidates than vacancies to be filled, an election must be conducted in accordance with paragraphs 7 and 8.

7. Preparation and dispatch of voting documentation if an election is required

- (a) The company secretary, assisted by 2 scrutineers appointed by the directors and who are independent of the company and of each candidate, must determine the order of listing on the voting form of all candidates by 'Robson rotation' where practicable, and otherwise by lot.
- (b) The company secretary may:
- (1) disregard any resume received later than the day which is 19 weeks prior to the AGM Date; and
 - (2) in consultation with the scrutineers, in good faith edit any resume provided under rule 3(c) in such manner as he or she sees fit to ensure compliance with paragraphs 3(d)(1) and 3(d)(4), and he or she must remove any personal contact details from the resume before it is included in any voting documentation prepared & sent under paragraph 7(c).

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- (c) No later than the day which is 4 weeks prior to the AGM Date, the company secretary must send to each Member who under the constitution is entitled to vote in the election, and who has:
- (1) an email address in the company's register of Members; and
 - (2) not previously indicated to the company that he, she or it does not wish to receive voting forms,
- voting documentation:
- (3) containing a statement of the number of vacancies to be filled at the election;
 - (4) including a voting form containing the names of all candidates listed in the order determined under paragraph 7(a);
 - (5) including all resumes submitted (as amended under paragraph 7(b)(2)), in the same order as the candidates' names appear on the voting form;
 - (6) containing directions on how votes may be cast electronically, including:
 - (A) the period for which the ballot will be open – being between the days which are:
 - (i) 4 weeks prior to the AGM Date; and
 - (ii) 2 weeks prior to the AGM Date; and
 - (B) closing date and time for the ballot – being 4:00pm on the day which is 2 weeks prior to the AGM Date;
 - (7) containing directions on how to vote anonymously; and
 - (8) including any documents required to be sent under paragraph 7(e).
- (d) To the extent practicable, subject only to paragraph 7(f), a Member entitled to vote must cast a vote by email or any other form of electronic data transmission permitted by the company secretary.
- (e) Where an email containing voting documentation is not received by a Member, whether or not the company secretary is aware of that non-receipt, the company secretary is not obliged to attempt to send voting documentation to the Member by any other means.
- (f) The company secretary may, in his or her absolute discretion, in circumstances he or she determines as exceptional, make arrangements for a Member to cast votes other than by email. Such votes are to be treated and counted, as near as possible, as votes cast by email or another permitted form of electronic data transmission.
- (g) The non-receipt by any Member of any or all voting documentation does not invalidate the election or any part of it.
- (h) To indicate his, her or its votes, a Member entitled to vote must complete the voting form by numbering in his, her or its order of preference for at least as many candidates as there are vacancies to be filled at the election and for as many more candidates as he, she or it pleases, opposite the names of each of the candidates for whom he, she or it votes.
- (i) To submit a voting form validly, a Member entitled to vote must comply with the directions given in the voting documentation sent to the Member under paragraph 7(c).

8. Vote counting

- (a) To provide an overview of the process for determining the result of an election and to assist in the interpretation of paragraphs 8(e) to 8(ff), the following points set out in general terms the stages of the process of counting votes, and the objectives of that process:
- (1) scrutiny of voters and voting forms to assess eligibility;
 - (2) determination of a quota;
 - (3) initial handling of 1st preference votes;
 - (4) determination of candidates elected by having 1st preference votes in excess of a quota on the 1st count;
 - (5) initial transfer to next-preferred candidates of surplus 1st preference votes of candidates elected;
 - (6) exclusion of lowest-scoring candidate in respect of 1st preference votes and transfer of those votes to higher-scoring candidates; and
 - (7) continued exclusion of low-scoring candidates and distribution of their preferences until all positions are filled.
- (b) If there is any inconsistency between anything in paragraph 8(a) and the detailed procedures in paragraphs 8(e) to 8(ff), the detail in those paragraphs prevails.

Votes to be included in the count

- (c) All validly submitted voting forms received by the company no later than 4:00pm on the day which is 2 weeks prior to the AGM Date must be counted in the ballot.

Determination of the result of the election

- (d) The result of the election must be determined in accordance with the procedure set out in this paragraph 8, by the company secretary assisted by the scrutineers.

Review of voters and voting forms

- (e) After the closing of the ballot the company secretary assisted by the scrutineers must:
- (1) in accordance with paragraphs 8(e) to 8(ff), determine the result of the election; and
 - (2) report in writing the result of the election to the Chair.

1st preference votes

- (f) The company secretary and scrutineers must ascertain the total number of 1st preference votes recorded for each candidate on all voting forms and the total of all such votes for all candidates.
- (g) The company secretary and scrutineers must then determine a quota by dividing the total number of 1st preference votes for all candidates by the sum of the number of vacancies plus 1, and then by increasing the quotient obtained (disregarding any remainder) by 1.
- (h) Any candidate who has received a number of 1st preference votes equal to or greater than a quota is elected.
- (i) Where the number of 1st preference votes received by a candidate is equal to a quota, the voting forms containing those 1st preference votes must be set aside as finally dealt with.

Initial transfer of surplus votes

- (j) If the number of 1st preferences received by any candidate is greater than a quota, then unless all vacancies have been filled, and unless paragraph 8(y) applies, the surplus votes of each elected candidate are transferred to the continuing candidates as follows:
 - (1) the voting forms allotted to the elected candidate in the last transfer shall be re-examined, and, for each unelected candidate, the number of these voting forms on which he or she is indicated as preferred to any other unelected candidate must be counted and recorded;
 - (2) if the total value of the voting forms recorded according to paragraph 8(j)(1) is greater than the surplus, the surplus must be divided by the number of these voting forms and the result is the transfer value. However, if the total value of these voting forms is less than or equal to the surplus, the transfer value is the value at which the voting papers were allotted to the elected candidate;
 - (3) the number of voting forms recorded for each unelected candidate under paragraph 8(j)(1) is then multiplied by the transfer value and, in each case, the whole number remaining after any fraction in the result is discarded must be credited to the unelected candidate and added to his or her progressive total; and
 - (4) if more than 1 candidate has a surplus, the surpluses must be transferred in order of size, beginning with the larger or largest, provided that no surplus may be transferred before a surplus that arose earlier in the counting whether larger or not, and if 2 or more surpluses arising from the same transfer are equal, the surplus of the candidate whose progressive total was highest when they last had unequal totals must be transferred first, and if their progressive totals were never unequal, the company secretary must decide by lot which surplus is transferred first.
- (k) When the surplus votes of all elected candidates have been transferred to the continuing candidates under paragraph 8(j), any continuing candidate who has received a number of votes equal to or greater than a quota is elected.
- (l) Unless all the vacancies have been filled, the surplus votes of the elected candidate are to be transferred to the continuing candidates in accordance with paragraph 8(j), but, in the application of paragraph 8(j), only those voting forms which have been transferred to the elected candidate from a candidate previously elected are to be taken into consideration.
- (m) If as a result of the transfer of the surplus votes of a candidate elected by virtue of paragraph 8(l) or elected at a later stage of the count, a continuing candidate receives a number of votes equal to or greater than a quota, he or she is elected.
- (n) Unless all the vacancies have been filled, the surplus votes of the elected candidate are transferred to the continuing candidates in accordance with paragraph 8(j) but in the application of that paragraph only those voting forms which have been transferred to the elected candidate from the candidate or candidates elected at the last preceding count are to be taken into consideration.

Transfer of voting forms and continued counting

- (o) The voting forms containing the 1st preference votes of a candidate who has been elected under paragraph 8(k), 8(l), 8(m) or 8(n) together with the voting forms transferred to him or her from a candidate previously elected or excluded which have not been further transferred, must be set aside as finally dealt with.
- (p) If after the transfer of the surplus votes of all the elected candidates, no continuing candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to or greater than a quota, the candidate who has received the least votes is excluded and the whole of his or her voting forms are transferred to the continuing candidate next highest in order of the voters' available preferences behind the most recently elected candidate.

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- (q) If as a result of the transfer of voting forms under paragraph 8(p) or as the result of the exclusion of a candidate at any subsequent stage of the count a continuing candidate has received a number of votes equal to or greater than a quota, he or she is elected.
- (r) Unless all the vacancies have then been filled, the surplus votes of the elected candidate are transferred to the continuing candidates in accordance with paragraph 8(j) but in the application of that paragraph, only those voting forms which have been transferred to the elected candidate from the candidate last excluded are to be taken into consideration.
- (s) The voting forms containing the 1st preference votes of the elected candidate together with the voting forms transferred to him or her from a candidate previously elected or excluded which have not been further transferred must be set aside as finally dealt with.
- (t) If no continuing candidate has then received a number of votes equal to or greater than a quota, the process of excluding the candidate with the least votes and the transferring of voting forms containing those votes to the continuing candidates as described in paragraph 8(p) must be repeated until a continuing candidate receives a number of votes equal to or greater than a quota or in respect of the last vacancy a majority of the votes remaining in the count, but the process of excluding candidates must not be repeated after the number of continuing candidates is equal to the number of unfilled vacancies.
- (u) A voting form which pursuant to the exclusion of a candidate is otherwise required to be transferred to a continuing candidate must be set aside as finally dealt with if it does not indicate a next available preference for a continuing candidate.
- (v) After all the candidates who have received a number of votes equal to or greater than a quota are elected:
- (1) where there is 1 remaining unfilled vacancy – the candidate who has received a majority of the votes remaining in the count; or
 - (2) where the number of continuing candidates is equal to the number of remaining unfilled vacancies,
- those candidates are elected.
- (w) Where on the count of the 1st preference votes or at the same time at any subsequent stage of the count, 2 or more candidates are elected by reason of their having received a number of votes equal to or greater than a quota, any transfer of the surplus votes of those candidates is to be carried out in the order 1st of the candidate with the larger or largest surplus, 2nd of the candidate with the next largest surplus and so on.
- (x) Notwithstanding any other paragraph, a transfer of the surplus votes of an elected candidate must be deferred (but without affecting the order of that transfer) so long as the total number of those surplus votes and any other surplus votes deferred is less than the difference between the total votes of the 2 continuing candidates with the least votes.
- (y) Where a transfer of surplus votes is deferred under paragraph 8(x), unless all vacancies have been filled the candidate with the least votes is then excluded and the voting forms containing his or her votes are transferred to the continuing candidates as described in paragraph 8(p).

Dealing with equal numbers of votes

- (z) If on any account 2 or more candidates have an equal number of votes and 1 of them has to be excluded the candidate whose name is on the slip drawn in accordance with paragraph 8(cc) is to be excluded.
- (aa) If at the time of their election 2 or more candidates have an equal number of votes that is more than a quota the candidate whose name is on the slip drawn in accordance with paragraph 8(cc) is for the purposes of paragraph 8(w) deemed to have had the larger or largest surplus.

- (bb) If on the final count for filling the last vacancy 2 candidates have an equal number of votes 1 candidate must be excluded in accordance with paragraph 8(z) and the other is elected.
- (cc) For the purposes of paragraphs 8(z) and 8(aa), where candidates have an equal number of votes:
- (1) the names of those candidates must be written on similar slips of paper;
 - (2) the slips must be folded so as to prevent the name being seen;
 - (3) the slips must be mixed up; and
 - (4) 1 of the slips must be drawn by lot by the company secretary, or an electronic process for drawing by lot may be implemented.

Declaration of the result of the election

- (dd) The Chair of the AGM in relation to which the election has taken place must at that AGM declare all successful candidates duly elected, and advise the meeting of the number of votes received for each candidate.

Formality of voting forms

- (ee) Any paper voting form which is not completed and received in accordance with the relevant directions given under paragraphs 7(c)(6) and 7(h) is, subject to paragraph 8(ff), informal and must be removed from the counting process.
- (ff) In any case of a minor irregularity in compliance with relevant directions given under paragraphs 7(c)(6) or 7(h) or in any other case of doubt as to the formality of any voting form, the matter must be referred to the company secretary, whose decision on the matter is conclusive and binding.

Directors' additional powers

- (gg) The directors may direct the destruction of voting forms at any time after the expiration of 1 month after the date of the declaration of the election.

all or any of their powers or functions, or those of the company secretary, in this paragraph 8, and

- (hh) The directors (or their delegate or contractor) may utilise electronic systems and other technology to carry out all or any part of the counting process set out in paragraphs 8(a) to 8(ff). Any such electronic system or other technology must be capable of ensuring, and must be implemented in such a manner, that its counting process is as consistent with the manual counting process outlined in paragraphs 8(a) to 8(ff) as is practicable in the circumstances.

9. Directors' additional powers

The directors may:

- (a) delegate to a person, committee or other entity; and/or
- (b) engage and delegate to a contractor to assist them or to exercise or discharge,

all or any of their powers or functions, or those of the company secretary, in paragraphs 0, 5, 7 or 8, including, without limitation, to dispense with the requirement for the 2 scrutineers (provided any person, entity or contractor to have the role of the scrutineers is independent of the company and of each candidate).