



Russell Kennedy
Lawyers

YOUR COMMUNITY HEALTH

ACN 136 472 403

ABN 31 905 329 561

Effective 25 February 2022

CONSTITUTION

A public company limited by guarantee under the *Corporations Act 2001* (Cth) for the charitable purpose of operating a registered community health centre under the *Health Services Act 1988* (Vic)

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TABLE OF CONTENTS

1	PURPOSES OF THE COMPANY	1
1.1	Principal Purpose	1
1.2	Supporting Purposes	1
2	BENEVOLENT, CHARITABLE AND NOT-FOR-PROFIT NATURE OF THE COMPANY	2
2.1	Income applied for the Purposes	2
2.2	Benevolent, Charitable and Not-for-profit Purposes Only.....	2
2.3	Winding Up.....	2
2.4	Gift Fund.....	3
3	MEMBERSHIP	3
3.1	Limited liability of members.....	3
3.2	Classes of Members and eligibility	3
3.3	Limit on Number of members.....	3
3.4	Members Rights and obligations.....	3
3.5	Rights Not Transferrable.....	3
3.6	Membership Period.....	4
3.7	Subscription Fees.....	4
3.8	Register of Members including Closure of Register	4
3.9	Change of Member details.....	4
4	BECOMING AND CEASING TO BE A MEMBER.....	4
4.1	Admission of Members	4
4.2	Resignation of Members	5
4.3	Ceasing to be a Member	5
4.4	Disciplining Members.....	5
5	GENERAL MEETINGS	6
5.1	Convening Meetings - annual/special	6
5.2	Ordinary and special business	6
5.3	Notice of Meeting.....	6
5.4	Postponement	7
5.5	Quorum	7
5.6	Meeting Chair	7
5.7	Adjournment	8
5.8	Voting show of hands/poll.....	8
5.9	Proxies	9
5.10	Use of Technology.....	9
5.11	Circular resolution.....	9
6	BOARD.....	9
6.1	Structure of Board (no of Directors)	9
6.2	Election of Directors.....	10
6.3	Appointment of Directors	10
6.4	Eligibility to be a Director	11
6.5	Limit on continuous period of office as a Director.....	11
6.6	Term of Office - elected/appointed.....	11
6.7	Casual vacancies elected/appointed.....	11
6.8	Office bearers	12
6.9	Resignation of Directors	12
6.10	Ceasing to be a Director	12
6.11	Director Remuneration and reimbursements	13

7	BOARD POWERS	13
7.1	Company Powers as a body corporate	13
7.2	Management vests in Board	13
7.3	Power to delegate.....	14
7.4	Power to appoint Chief Executive Officer.....	14
7.5	Power to Appoint Secretary	14
7.6	Power to make Regulations	14
8	BOARD MEETINGS	14
8.1	Number of Meetings	15
8.2	Convening Meetings.....	15
8.3	Notice of meeting.....	15
8.4	Quorum	15
8.5	Chair.....	15
8.6	Voting	15
8.7	Use of technology	15
8.8	Circulating Resolutions.....	16
8.9	Conflicts and personal interests	16
8.10	Minutes.....	16
8.11	Validity of acts / procedural defects	16
8.12	Alternate directors	17
9	COMMITTEES	17
9.1	Board's power to establish committees.....	17
9.2	Standing Committees	17
10	ADMINISTRATION	17
10.1	Amendment of this Constitution	17
10.2	Accounts.....	17
10.3	Audits	18
10.4	Records and inspection	18
10.5	Service of Notices.....	18
10.6	Indemnity of officers.....	18
10.7	Insurance.....	18
10.8	Company Seal.....	19
10.9	Definitions.....	19
10.10	Interpretation Rules	20
10.11	Application of Act.....	20
10.12	Application of ACNC Act.....	21

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CONSTITUTION

1 PURPOSES OF THE COMPANY

1.1 Principal Purpose

The Principal Purpose of the Company is to provide benevolent, charitable and not-for-profit relief to people in need, in particular:

- 1.1.1 to people who suffer sickness, disability, helplessness, disadvantage or poverty;
- 1.1.2 using a social model of health which recognises the needs of individuals who cannot readily access the health and welfare system; and
- 1.1.3 through innovation and excellence in direct delivery of community health and well-being services,

so that people helped can live healthy and empowered lives.

1.2 Supporting Purposes

In support of the Principal Purpose, the Supporting Purposes of the Company are to:

- 1.2.1 operate a registered community health service under the *Health Services Act 1988 (Vic)*;
- 1.2.2 provide health, community health, allied health, wellbeing and welfare services in Victoria, particularly northern and western metropolitan areas of Melbourne;
- 1.2.3 prioritise and focus especially on individuals who have complex health needs, such as those who are frail, aged, youth, disabled or mentally ill;
- 1.2.4 provide services in a culturally appropriate, effective and empowering manner;
- 1.2.5 collaborate and partner with other organisations with similar purposes to the Principal Purpose to deliver community health and well-being services in an efficient, effective, strategic and population based manner; and
- 1.2.6 do all lawful things consistent with, necessary or desirable to support and further the Principal Purpose.

2 BENEVOLENT, CHARITABLE AND NOT-FOR-PROFIT NATURE OF THE COMPANY

2.1 Income applied for the Purposes

2.1.1 The income and property of the Company:

- (a) must be applied solely towards the Purposes; and
- (b) must not be paid or given to a Member, directly or indirectly, by way of dividend, bonus or otherwise.

2.1.2 Clause 2.1.1 does not prevent the Company from paying a Member or Officer a reasonable and proper amount with the Board's prior approval in good faith for:

- (a) interest on money lent to the Company; or
- (b) rent for premises let to the Company.

2.2 Benevolent, Charitable and Not-for-profit Purposes Only

Despite anything to the contrary in this Constitution, the Company is established:

2.2.1 solely to be a not-for-profit, charitable and benevolent institution; and

2.2.2 to pursue not-for-profit, charitable and benevolent Purposes in Australia only.

2.3 Winding Up

Subject to clause 2.4, the Company's surplus assets, after satisfying all liabilities on wind up or dissolution:

2.3.1 must not be paid or given to Members;

2.3.2 must be paid to one or more funds, authorities or institutions which:

- (a) have both charitable and benevolent purposes similar to the Purposes;
- (b) prohibit both their income and property from being paid to the members on at least the terms of this clause 2;
- (c) are registered under the ACNC Act if the Company has been;
- (d) are income tax exempt under the ITAA if the Company has been;
- (e) are a registered public benevolent institution or health promotion charity under the ITAA;
- (f) are selected before wind up or dissolution by:
 - (1) special resolution by the Members;
 - (2) failing clause 2.3.2(f)(1), resolution of the Board;
 - (3) failing clause 2.3.2(f)(2), application to the Victorian Supreme Court.

2.4 Gift Fund

The Company must establish and maintain a gift fund as follows:

- 2.4.1 the gift fund is for pursuing the Purposes;
- 2.4.2 the gift fund is to be maintained in a separate bank account;
- 2.4.3 the gift fund must receive all gifts of money or property received by the Company for the Purposes;
- 2.4.4 any money received because of gifts referred to in clause 2.4.2 must be credited to the gift fund's account;
- 2.4.5 the gift fund must not receive any other money or property; and
- 2.4.6 if the Company is wound up or has its deductible gift recipient endorsement revoked (whichever occurs first), the gift fund's surplus assets must be paid to a fund, authority or institution determined according to clause 2.3.2 which is also endorsed on the same basis as the gift fund.

3 MEMBERSHIP

3.1 Limited liability of members

- 3.1.1 A Member's liability is limited to the guaranteed amount in clause 3.1.2.
- 3.1.2 If the Company is wound up, each Member and former Member in the previous year must contribute up to one dollar (\$1) towards:
 - (a) the Company's liabilities contracted before the person ceased to be a Member; and
 - (b) costs, charges and expenses to wind up and adjust the rights of the contributories among themselves.

3.2 Classes of Members and eligibility

- 3.2.1 The Members of the Company comprise one class of ordinary Members.
- 3.2.2 To be eligible to be a Member, the person must be an individual aged 18 years and over.

3.3 Limit on Number of members

The number of Members is unlimited unless the Members set a limit in general meeting, subject always to clause 4.1.4.

3.4 Members Rights and obligations

Members have the right to receive notice of, attend, speak at and vote at general meetings while they remain a Member.

3.5 Rights Not Transferrable

A person's membership rights and privileges:

- 3.5.1 apply only whilst the person is a Member; and
- 3.5.2 are personal and may not be transferred or transmitted.

3.6 Membership Period

- 3.6.1 Membership of the Company is for up to 3 years expiring on a common expiry date as determined by the Board.
- 3.6.2 Members must renew their membership in the two months before each common expiry date.
- 3.6.3 No person may be admitted as a Member after 30th of June in any year until the register reopens on the day after the annual general meeting.

3.7 Subscription Fees

The Board may determine:

- 3.7.1 fees payable by Members including any application fee to apply for membership, any entrance fee to be admitted as a Member and any membership subscriptions; and
- 3.7.2 whether fees are refundable or non-refundable.

3.8 Register of Members including Closure of Register

- 3.8.1 The Company must maintain a register of Members in accordance with the Act and the ACNC Act which contains the following details for current and recent former Members:
 - (a) name;
 - (b) addresses for notices; and
 - (c) membership start and end dates.
- 3.8.2 In addition to closing the register under clause 3.6.3, the Board may close the register for up to a further 60 days per year.
- 3.8.3 Separate to the register, the Company may maintain a database of personal Member details which are not used for notices.

3.9 Change of Member details

A Member must notify the Company if the Member's addresses for notices change within 28 days of the change.

4 BECOMING AND CEASING TO BE A MEMBER

4.1 Admission of Members

- 4.1.1 The Board may admit in its absolute discretion a person as Member upon application by that person in accordance with any procedures, forms and other requirements specified in the Regulations.

- 4.1.2 The Board must consider all membership applications within a reasonable time after their receipt but need not provide reasons for admitting or refusing to admit a person as Member.
- 4.1.3 Successful applicants become Members when they are added to the register of Members.
- 4.1.4 If a person who is not a Member is elected or appointed as a Director, the Board is deemed to have approved that person's application for membership, however, that person must complete a membership application before that person is entered into the register.

4.2 Resignation of Members

- 4.2.1 A Member may resign as Member by written notice to the Company.
- 4.2.2 The resignation takes effect when the Company receives the Member's notice or on a later date specified in the notice.

4.3 Ceasing to be a Member

A person automatically ceases to be a Member if the person:

- 4.3.1 does not renew the membership by the common expiry date under clause 3.6;
- 4.3.2 has not paid the membership subscription (if any) for three (3) months after the due date;
- 4.3.3 becomes untraceable for three (3) months because the Member cannot be contacted using the address on the register of members;
- 4.3.4 dies;
- 4.3.5 becomes bankrupt or makes any arrangement or composition with the Member's creditors generally; or
- 4.3.6 ceases to have any legal capacity to enter into contracts under laws relating to mental illness.

4.4 Disciplining Members

The Board may at any time terminate a person's membership or warn, fine, censure, suspend or expel a Member if the Member:

- 4.4.1 engages in Terminable Conduct subject to:
 - (a) the decision being made by two thirds of the Directors;
 - (b) the member being afforded a reasonable opportunity to respond, in accordance with any Regulations, to the Board's allegations; and
 - (c) the Members appeal rights (if any) set out in the Regulations
- 4.4.2 refuses or neglects to comply with the provisions of this constitution or the Regulations;
- 4.4.3 is found guilty by a court of an indictable offence; or

4.4.4 has a debt to the Company which remains unpaid for one (1) year or more.

5 GENERAL MEETINGS

5.1 Convening Meetings - annual/special

5.1.1 General meetings other than annual general meetings are called special general meetings.

5.1.2 The Board must convene and hold annual and special general meetings of the Members if required by the Act and the ACNC Act.

5.1.3 The following persons may convene special general meetings of the Members:

- (a) the Board;
- (b) the Chair; or
- (c) a majority of Directors.

5.2 Ordinary and special business

5.2.1 The ordinary business of an annual general meeting is to:

- (a) consider the Board's report, the financial report and the auditor's report;
- (b) declare the election results;
- (c) appoint an auditor if that office has or will become vacant at the meeting; and
- (d) consider any other matter required by the Act or the ACNC Act.

5.2.2 Special business means:

- (a) for an annual general meeting - business which is not ordinary business according to clause 5.2.1; and
- (b) for a special general meeting - all business specified in the notice of meeting.

5.2.3 Subject to the Act and the ACNC Act, the notice of meeting must specify the general nature of any special business.

5.3 Notice of Meeting

5.3.1 Subject to the ACNC Act and section 249H(2) of the Act, at least 21 days' notice of any general meeting must be given specifying the place, date and time of the meeting.

5.3.2 Notice of every general meeting must be given in accordance with clause 10.5 only to:

- (a) every Director;

- (b) every entitled Member who supplied an address for notices to the Company; and
- (c) the Company's auditor.

5.3.3 No other person is entitled to receive notices of general meetings.

5.3.4 A general meeting and any resolution passed at the meeting is not invalid merely because of:

- (a) the accidental omission to give notice of the meeting; or
- (b) the non-receipt of any such notice.

5.4 Postponement

5.4.1 The Board may postpone, relocate or cancel a general meeting which it convened by giving at least 5 days' notice to the Members.

5.4.2 Clause 5.4.1 does not apply to a meeting requisitioned by Members or convened by the Members or by court order.

5.5 Quorum

5.5.1 A general meeting may not transact business unless a quorum is present when the meeting proceeds to business.

5.5.2 The quorum for general meetings is 5 percent of the total number of Members or 20 Members whichever is the lesser.

5.5.3 If a quorum is not present within half an hour of the time scheduled to start the general meeting:

- (a) the meeting, if requisitioned by Members, is dissolved; and
- (b) in any other case the meeting is adjourned to such other place, date and time as the Board determines and notifies the Members (if required to do so by clause 5.7).

5.5.4 If a quorum is not present within 30 minutes from the scheduled time to start the adjourned meeting the meeting is dissolved.

5.6 Meeting Chair

5.6.1 The Chair may chair a general meeting.

5.6.2 If the Chair is not present and willing to act the Deputy Chair may chair.

5.6.3 If the Chair and Deputy Chair are not present and willing to act:

- (a) the Directors present may choose one of their number to chair the meeting;
- (b) if no Director is present, or if all the Directors present decline to chair, the Members present must choose one of their number to chair.

5.6.4 In addition to powers conferred by law, the meeting chair may:

- (a) determine the meeting's conduct and procedures to ensure proper and orderly discussion or debate;
- (b) make rulings without putting a question to the vote, or terminate discussion or debate and require the matter to be put to a vote;
- (c) refuse to allow debate or discussion on any matter which is not ordinary or special business; and
- (d) refuse any person admission to a general meeting (whether for causing offence or disruption), or expel the person from the general meeting and not permit them to return.

5.6.5 All procedural decisions by the meeting chair are final.

5.7 Adjournment

5.7.1 The meeting chair:

- (a) may, with the consent of any general meeting at which a quorum is present; and
- (b) must, if so directed by the meeting,

adjourn the meeting from time to time and from place to place.

5.7.2 The adjourned meeting may only transact unfinished business from the original meeting.

5.7.3 If a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as required for the original meeting. It is not otherwise necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

5.8 Voting show of hands/poll

5.8.1 By default, resolutions at general meetings must be voted on by a show of hands.

5.8.2 The meeting chair must declare whether resolutions were carried, carried unanimously, carried by particular majority or lost. These voting results must be minuted.

5.8.3 The minutes of the voting results are conclusive without the need to record the number or proportion of, or manner in which votes were cast.

5.8.4 A poll may be demanded by the meeting chair or at least three Members present in person and entitled to vote.

5.8.5 A demand for a poll must be made on or before the result being declared, and may be withdrawn.

5.8.6 A poll to elect a meeting chair or adjourn the meeting must be taken immediately. Polls must otherwise be taken at that meeting in the manner directed by the meeting chair.

5.8.7 The meeting chair must decide all voting disputes, and that decision is final.

5.9 Proxies

- 5.9.1 A Member may appoint a proxy to act on the Member's behalf at any general meeting at which the Member may attend and vote.
- 5.9.2 A proxy must be a Member.
- 5.9.3 For the instrument appointing a proxy to be valid, it must be:
- (a) in writing and signed by the appointor;
 - (b) in a Board approved form consistent with the Act and the ACNC Act; and
 - (c) lodged with the Company at least 48 hours before the time for holding the meeting or adjourned meeting.
- 5.9.4 A vote given according to the proxy instrument is valid despite:
- (a) the death, or unsoundness of mind, of the appointor; or
 - (b) revocation of the instrument or of the authority under which the instrument was executed,

if no knowledge in writing of that fact was received by the Company before commencing the meeting or adjourned meeting at which the instrument was used.

5.10 Use of Technology

General meetings may be held at more than one place, provided that the technology that is used enables each Member present at all places the meeting is held to clearly and simultaneously communicate with every other such Member.

5.11 Circular resolution

- 5.11.1 Subject to the requirements of the Act as to special resolutions and the ACNC Act, the Board may if it thinks fit submit any question or resolution to the vote of all Members entitled to vote at a general meeting by circular resolution.
- 5.11.2 The Board may determine in the Regulations:
- (a) the form of the circular resolution;
 - (b) the polling date;
 - (c) the method for responding to the circular resolution; and
 - (d) whether voting on the circular resolution is to be by secret ballot.

6 BOARD

6.1 Structure of Board (no of Directors)

The Board will comprise between 9 and 12 Directors as follows:

- 6.1.1 9 directors elected by and from the Members ("Elected Directors") whose terms are staggered so that three will retire at each annual general meeting; and
- 6.1.2 up to 3 directors appointed by the Board ("Appointed Directors").

6.2 Election of Directors

- 6.2.1 Nominations of candidates for election as a Director must be signed by the Member, contain a consent to act as a Director signed by the candidate, and must be received at least 30 days before the annual general meeting.
- 6.2.2 If the number of nominations of candidates for election does not exceed the number of vacancies, those candidates will be declared elected at the annual general meeting.
- 6.2.3 If the number of nominations of candidates exceeds the number of vacancies, a balloting list must be printed containing in randomised order the names of the candidates nominated and sent to each Member at least 15 days before the annual general meeting.
- 6.2.4 Voting will be preferential as specified from time to time by the Victorian Electoral Commission, unless the Board determines otherwise in Regulations.
- 6.2.5 The returning officer appointed by the Board must be an independent organisation such as the Victorian Electoral Commission or another experienced person, and declare the election result of the annual general meeting.

6.3 Appointment of Directors

- 6.3.1 Subject to this Constitution, the Board must determine any other procedures or matters in relation to the conduct of the appointment of Appointed Directors and has the power to make Regulations for that purpose.
- 6.3.2 Unless the Board resolves otherwise the Secretary:
 - (a) is responsible for the conduct of the appointment of Appointed Directors; and
 - (b) may decide all matters in relation to the conduct of the appointment of Appointed Directors subject to this Constitution and the Regulations.
- 6.3.3 The Regulations pursuant to clause 6.3.1 must be consistent with the following:
 - (a) The Secretary must publicly call for Appointed Director candidates who need not be Members.
 - (b) The Secretary must convene a committee for the purpose of conducting the selection process.
 - (c) The committee may, but is not required to, interview all Appointed Director candidates.

- (d) The committee must recommend candidates to be appointed as Appointed Directors on the basis of their skills, background and expertise deemed necessary or desirable by the Board (including, without limitation, to complement the Elected Directors) for the effective operation of the Board.
- (e) The Board may appoint Appointed Directors after considering the recommendations from the committee conducting the selection process. Appointments take effect at the end of the meeting.

6.4 Eligibility to be a Director

A person is eligible to become a Director if he or she:

- 6.4.1 is over the age of 18 years;
- 6.4.2 consents in writing to become a Director;
- 6.4.3 is not prohibited or disqualified or otherwise prevented from being a director of a company under the Act or a responsible person of a registered charity under the ACNC Act; and
- 6.4.4 is not an employee of the Company.

A person need not be a Member to be eligible to become a Director.

6.5 Limit on continuous period of office as a Director

If a Director has served 9 years or more continuously then the Director may finish serving his or her current term of office and does not become eligible to be elected or appointed (whether or not to a casual vacancy) until he or she has not been a director for a subsequent period of 12 months.

6.6 Term of Office - elected/appointed

- 6.6.1 An Elected Director holds office:
 - (a) from immediately after the annual general meeting at which is or her election was declared;
 - (b) until the end of the third annual general meeting after the one at which his or her election was declared.
- 6.6.2 An Appointed Director holds office:
 - (a) from the date the Board resolves to appoint the person at the Board Meeting first held after the annual general meeting;
 - (b) until the end of the third annual general meeting after commencing as an Appointed Director.
- 6.6.3 The Board may appoint an Appointed Director for a shorter term than under clause 6.6.2 if the Board so determines at the time of appointment.

6.7 Casual vacancies elected/appointed

- 6.7.1 If a casual vacancy occurs for the office of an Elected Director, the Board may appoint another eligible person in his or her place until the end of the

next annual general meeting. The Members must then elect a person to fill the Elected Director in accordance with clause 6.2. The person elected will serve only for the balance of the term of the original Elected Director.

6.7.2 If a casual vacancy occurs for the office of an Appointed Director, the Board may appoint another eligible person in his or her place until the end of the next annual general meeting.

6.7.3 The Board may continue to act despite vacancies on the Board. However, if there are less than six (6) directors, the Board may only:

- (a) act in the case of emergencies;
- (b) appoint persons to fill casual vacancies; or
- (c) convene a general meeting.

6.8 Office bearers

6.8.1 The Board may elect and remove the following office bearers from the Directors:

- (a) Chair;
- (b) Deputy Chair;
- (c) Treasurer; and
- (d) such other office bearers determined by the Board.

6.8.2 The Board may establish procedures for the election and removal of office bearers.

6.9 Resignation of Directors

6.9.1 A Director may resign as Director by written notice to the Company.

6.9.2 The resignation takes effect when the Company receives the Director's notice or on a later date specified in the notice.

6.10 Ceasing to be a Director

6.10.1 The Members may remove any Director in accordance with the Act.

6.10.2 A directorship automatically ceases if the Director:

- (a) dies or is physically incapable of fulfilling his or her duties as a Director;
- (b) was a Member at the time he or she commenced as a Director but ceases to be a Member;
- (c) becomes disqualified from being a Director pursuant to the Act or ACNC Act;
- (d) for more than three consecutive meetings (excluding urgent meetings) is absent without permission of the Board from meetings

of the Board held during that period, unless the Board decides otherwise;

- (e) becomes a bankrupt or makes any arrangement or composition with personal creditors generally; or
- (f) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the laws relating to mental illness.

6.11 Director Remuneration and reimbursements

The Directors are not entitled to any fees or remuneration for undertaking the ordinary duties of a Director. Despite clause 2.1.1, the Directors may be reimbursed for reasonable travel and other expenses incurred by them when engaged in the Company's business, attending meetings or otherwise in carrying out the duties of a Director where payment does not exceed any amount previously approved by the Board.

7 BOARD POWERS

7.1 Company Powers as a body corporate

7.1.1 Solely to carry out the Purposes, the Company may, in any manner permitted by the Act:

- (a) exercise any power;
- (b) take any action; and
- (c) engage in any conduct or procedure,

which under the Act a company limited by guarantee may exercise, take or engage in if authorised by its constitution.

7.1.2 Without limiting clause 7.1.1, the Company may pursue the Purposes by:

- (a) raising money to further the Purposes and secure sufficient funds to pursue the Purposes; and
- (b) receiving any funds and applying those funds in a manner that best attains the Purposes.

7.2 Management vests in Board

7.2.1 The Board is responsible for the governance, business and affairs of the Company. In addition to the specific powers conferred on the Board by this Constitution, the Board may exercise all the Company's powers which are not by the Act, the ACNC Act or this Constitution required to be exercised by the Members in general meeting.

7.2.2 The powers under clause 7.2.1 are subject to:

- (a) this Constitution;
- (b) the Act and the ACNC Act; and

- (c) such resolution, not being inconsistent with those provisions, as may be passed by the Members in general meeting.

7.2.3 A resolution under clause 7.2.2 does not invalidate any prior act of the Board which would have been valid before the resolution was passed or made.

7.3 Power to delegate

7.3.1 The Board may delegate its powers and functions in writing to:

- (a) an officer or employee of the Company; or
- (b) a committee under clause 9.

7.3.2 The Board may amend or revoke the terms of its delegation at any time.

7.4 Power to appoint Chief Executive Officer

7.4.1 The Board may appoint a Chief Executive Officer on such terms and conditions as the Board determines from time to time.

7.4.2 The Board may remove a Chief Executive Officer, subject to the terms of any agreement between the Company and the Chief Executive Officer.

7.4.3 The Chief Executive Officer is entitled to attend Board meetings and general meetings, if so directed by the Board from time to time.

7.4.4 The Chief Executive Officer will have the responsibilities determined by the Board or as set out in the Chief Executive Officer's position description determined by the Board.

7.5 Power to Appoint Secretary

7.5.1 The Board must appoint at least one Secretary on such terms and conditions as the Board determines from time to time.

7.5.2 A Secretary may attend Board meetings and general meetings, if so directed by the Board from time to time.

7.5.3 The Secretary will have the responsibilities set out in the Act and the ACNC Act.

7.6 Power to make Regulations

7.6.1 The Board may from time to time make, vary and rescind Regulations in relation to the Company.

7.6.2 The Regulations for the time being in force, and which are not inconsistent with this Constitution, are binding on Members and have full effect accordingly.

8 BOARD MEETINGS

Subject to this clause 8, the Board may meet to consider business, adjourn and otherwise regulate the meetings as it thinks fit.

8.1 Number of Meetings

The Board must meet at least nine times per year.

8.2 Convening Meetings

The Secretary must arrange a Board meeting:

- 8.2.1 at the request of the Chair; or
- 8.2.2 on the written requisition of 3 or more Directors.

8.3 Notice of meeting

- 8.3.1 At least six business days' notice of any Board meeting must be given for routine meetings. The Board may convene on shorter notice if the Board decides or in emergencies.
- 8.3.2 The notice should specify any non-routine business to be transacted. The Board may transact business of a routine nature and any other business at regular Board meetings, whether or not it is specified in the notice of meeting.

8.4 Quorum

- 8.4.1 The quorum for a Board meeting is half of the Directors eligible to attend, and if there is a fraction, it is rounded up to the nearest whole number. A meeting at which a quorum is present may exercise all powers and discretions of the Board.
- 8.4.2 If a Board meeting is adjourned due to lack of quorum, the Chair must set a further meeting date for the adjourned meeting

8.5 Chair

- 8.5.1 The Chair may chair a Board meeting.
- 8.5.2 If the Chair is absent the Deputy Chair may chair.
- 8.5.3 In the absence of the Chair and the Deputy Chair, the Directors may appoint a meeting chair from among their number.

8.6 Voting

- 8.6.1 Each Director present and entitled to vote at a Board meeting has one vote. Proxy voting is not permitted.
- 8.6.2 In the event of an equality of votes the meeting chair has a second or casting vote.

8.7 Use of technology

The Board may hold a technology enabled meeting if:

- 8.7.1 all Directors (other than any Director on leave of absence) have access to the technology to be used for the meeting; and

- 8.7.2 those Directors participating by technological means can hear, or can hear and read the communications of all other participating Directors.

8.8 Circulating Resolutions

- 8.8.1 A written resolution signed or approved by technological means (other than any Director on leave of absence) is taken to be a decision of the Board passed at a Board meeting convened and held.
- 8.8.2 The written resolution may consist of:
- (a) several documents in the same form, each signed by one or more Directors and, such a resolution takes effect when the last Director signs one of the documents; or
 - (b) permanent records indicating the identity of each Director, the text of the resolution and the Director's agreement or disagreement to the resolution, as the case may be, and such a resolution takes effect when the last Director indicates his or her approval.

8.9 Conflicts and personal interests

- 8.9.1 A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of the interest unless the ACNC Act or section 191(2) of the Act require otherwise.
- 8.9.2 A Director who has a material personal interest in a matter that is being considered by the Board must not be present while the matter is being considered, or vote on the matter, unless permitted to do so under the ACNC Act or section 195 of the Act.

8.10 Minutes

- 8.10.1 The Board must ensure that minutes of all proceedings of general, Board and committee meetings are recorded in a minute book (which may be kept electronically) within one month after the relevant meeting is held.
- 8.10.2 The minutes must be signed by the meeting chair at which the proceedings took place or by the meeting chair of the next succeeding meeting.
- 8.10.3 Minutes entered and signed are prima facie evidence of the proceedings to which they relate.

8.11 Validity of acts / procedural defects

- 8.11.1 An act or decision of the Board will not be invalid by reason only of a defect or irregularity in connection with the election or appointment of a Director.
- 8.11.2 For entered and signed minutes, unless the contrary is proved:
- (a) the meeting is deemed to have been convened and held;
 - (b) all proceedings that are recorded in the minutes as having taken place are deemed to have taken place; and

- (c) all appointments that are recorded in the minutes as having been made are deemed to have been validly made.

8.12 Alternate directors

A Director is not entitled to appoint an alternate director.

9 COMMITTEES

9.1 Board's power to establish committees

The Board may establish committees as follows:

- 9.1.1 a committee will comprise two or more committee members, of which at least one must be a Director;
- 9.1.2 the committee members otherwise need not be a Director or Member;
- 9.1.3 the committee has the purpose set out in its Terms of Reference approved by the Board, and may undertake the powers and functions delegated to it by the Board; and
- 9.1.4 in the absence of any provision in the committee Terms of Reference, meetings and proceedings of any committee are governed by the provisions of clause 8.

9.2 Standing Committees

The following standing committees are established under this Constitution:

- 9.2.1 Quality Committee; and
- 9.2.2 Finance and Audit Committee.

10 ADMINISTRATION

10.1 Amendment of this Constitution

- 10.1.1 The Members may amend this Constitution by special resolution in accordance with the Act and the ACNC Act.
- 10.1.2 If the Company is registered under the ACNC Act, a special resolution under clause 10.1.1 does not take effect if it would cause the Company to lose its entitlement to registration under the ACNC Act.

10.2 Accounts

The Board must cause:

- 10.2.1 proper accounting and other records to be kept in accordance with the requirements of the Act and the ACNC Act, and
- 10.2.2 financial statements to be made and laid before each annual general meeting as required by the Act and the ACNC Act.

10.3 Audits

A properly qualified auditor must be appointed and the auditor's duties regulated in accordance with the requirements of the Act and the ACNC Act.

10.4 Records and inspection

A Member (other than a Director) is not entitled to inspect any document of the Company, except as provided by law or authorised by the Board.

10.5 Service of Notices

10.5.1 A notice may be given by the Company to any Member:

- (a) personally;
- (b) by sending it by post to the Member at the Member's registered address; or
- (c) by sending it to the address, facsimile number, e-mail address or other address supplied for receiving notices.

10.5.2 A notice sent by post is deemed to have been given 6 business days after it has been posted. A notice sent by fax, or by other electronic means, is deemed to have been given on the next business day after it was sent.

10.6 Indemnity of officers

10.6.1 To the Relevant Extent, the Company must indemnify current and former Officers out of its assets against any Liability incurred by the Officer in or arising out of:

- (a) the conduct of the Company's affairs or business; or
- (b) the discharge of the Officer's duties,

unless the Liability arises out of conduct involving a lack of good faith.

10.6.2 To the Relevant Extent, the Company may execute any deed in favour of any current or former Officer to confirm the indemnities conferred by clause 10.6.1 in relation to that person to the extent the law does not preclude the Company from doing so.

10.6.3 Clause 10.6.1 applies whether or not any deed is executed under clause 10.6.2.

10.6.4 In this clause 10.6 and clause 10.7:

- (a) "Liability" includes cost, charge, loss, damage, expense or penalty;
- (b) "To the Relevant Extent" means to the extent the Company is not precluded from doing so by law (including the Act).

10.7 Insurance

To the Relevant Extent:

- 10.7.1 the Company may pay or agree to pay premiums for directors and officers insurance to insure current or former Officers against any Liability incurred by the Officer in or arising out of:
- (a) the conduct of the Company's affairs or business; or
 - (b) the discharge of the Officer's duties;
- 10.7.2 the Company may execute any deed in favour of any current or former Officer to take out insurance referred to in clause 10.7.1 on such terms as the Board considers appropriate.

10.8 Company Seal

- 10.8.1 The Board will determine whether or not the Company is to have a common seal and, if so, will provide for the safe custody of such seal.
- 10.8.2 The common seal, if any, of the Company must only be affixed to any instrument with the authority of the Board.
- 10.8.3 The affixing of the common seal must be attested by the signatures of persons authorised by the Board for that purpose.

10.9 Definitions

In this Constitution:

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

"**Act**" means the *Corporations Act 2001* (Cth);

"**Appointed Director**" means a director appointed for the purposes of clause 6.1.2;

"**Board**" means the board of Directors of the Company with a quorum to transact business;

"**Company**" means the company named on page 1 of this Constitution;

"**Constitution**" means this constitution of the Company;

"**Director**" means a person for the time being who performs the role of director of the Company;

"**Elected Director**" means a Director elected for the purposes of clause 6.1.1;

"**ITAA**" means the *Income Tax Assessment Act 1997* (Cth);

"**Member**" means a person who is a member of the Company pursuant to clauses 3 and 4;

"**Officer**" has the meaning given in the Act;

"**Principal Purpose**" has the meaning given in clause 1.1;

"**Purposes**" means the Principal Purpose and the Supporting Purpose;

"**Regulations**" means regulations made by the Board under clause 7.6;

"**Secretary**" means a secretary appointed under clause 7.5;

"**Supporting Purposes**" has the meaning given in clause 1.2;

"**Terminable Conduct**" means conduct of a Member which, in the reasonable opinion of the Board:

- (a) is, has been or will be prejudicial to the Company's interests;
- (b) is not that of a fit and proper person or a person of good fame and character;
- (c) is unbecoming of Members; and
- (d) is conduct similar to the above which is set out in the Regulations.

10.10 Interpretation Rules

Unless the contrary intention appears in this Constitution:

- 10.10.1 words importing the singular include the plural, and words importing the plural include the singular;
- 10.10.2 words importing a gender include every other gender;
- 10.10.3 words used to denote persons generally or importing a natural person include any company, corporation, body corporate or other body (whether or not the body is incorporated);
- 10.10.4 a reference to a person includes that person's successors, legal personal representatives and permitted transferees;
- 10.10.5 a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- 10.10.6 where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- 10.10.7 headings and bold text are for convenience only and do not affect its interpretation; and
- 10.10.8 a Member is to be taken to be present at a general meeting if the Member is present in person or by proxy or attorney.

10.11 Application of Act

- 10.11.1 This Constitution is to be interpreted subject to the Act. However, the rules that apply as replaceable rules to companies under the Act do not apply to the Company.
- 10.11.2 Unless the contrary intention appears, a word or expression in a clause that is defined in section 9 of the Act has the same meaning in this Constitution as in that section.

10.12 Application of ACNC Act

This Constitution is to be interpreted subject to the ACNC Act.