
Constitution

Company limited by guarantee

WA Primary Health Alliance Limited

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1 Defined terms and interpretation

- (a) The Dictionary in Schedule 1:
 - (i) defines some of the terms used in this constitution;
 - (ii) sets out the rules of interpretation which apply to this constitution; and
 - (iii) clarifies the effect of the Corporations Act on this constitution.
- (b) The interpretation clause in Schedule 1 (Dictionary) sets out rules of interpretation for this constitution.

2 Nature of company and liability

- (a) The company is a public company limited by guarantee.
- (b) The liability of each member is limited. Each member guarantees to contribute up to a maximum of ten dollars to the assets of the company if it is wound up while the member is a member, or within one year afterwards, and at the time of winding up the debts and liabilities of the company exceed its assets. The liability of each member is limited to making such contribution and no more.

3 Objects of the company

The objects for which the company is established are to:

- a) Enhance the relevance, efficiency and effectiveness of primary health services at the local level through outcomes-based commissioning
- b) Coordinate primary health care and community services to simplify the patient journey
- c) Engage effectively with the broader health system in Western Australia and drive integration of care across funders, providers and jurisdictions
- d) Promote innovation within the healthcare system
- e) Advocate for the primary care sector in Western Australia

4 Membership

4.1 Members of the company

- (a) In addition to the directors, who are automatically members of the company pursuant to rule 4.2, the company will have a maximum of 11 organisational members.

Membership of the company will therefore comprise directors and organisations who have been admitted as a member of the company by the directors in accordance with rule 4.2.

- (b) When a new member is admitted as a member of the company, the secretary must ensure that:
 - (i) the new member is given notice of admission as a member of the company;
 - (ii) the name and details of the new member are entered in the members' register in accordance with rule 4.6;
 - (iii) existing members are notified of the admission of the new member.
- (c) The secretary must ensure that each person or organisation not admitted as a member of the company is informed of this decision. Neither the directors nor the secretary are required to give reasons for the decision not to admit a person or organisation as a member of the company.

4.2 Membership eligibility

Directors of the Company are automatically members of the company, effective from the date of their appointment as a director. On cessation of directorship for any reason, director membership automatically ceases effective from the date of cessation of directorship.

If not a director of the company, a member of the company must:

- (a) be an organisation invited to apply for membership by the directors in their sole discretion in whichever manner the directors deem appropriate;
- (b) have a commitment to the purposes of the company and aligned objectives;
- (c) complete and lodge a membership application in such form as determined by the directors from time to time which, for the avoidance of doubt, may include applying using the Internet;
- (d) pay any joining and annual fee as determined by the directors under rule 4.7;
- (e) ensure that all information provided when applying for membership of the company is true and accurate and is not misleading or deceptive;
- (f) be admitted into membership by the directors in their sole discretion, on the recommendation of the company's Nominations, Remuneration and Governance (NRG) Committee. In assessing an application for membership, the NRG Committee may take into account an applicant organisation's scope of operations,

extent of infrastructure, breadth of capability and/or influence within Western Australia; and

- (g) satisfy such other membership criteria as the directors may determine from time to time.

4.3 Membership categories

The categories of membership shall be as follows:

- (a) Director members
Director membership is automatic pursuant to rule 4.2.
- (b) Organisational members
Organisational membership is open by invitation at the discretion of the directors to organisations with significant operations within Western Australia and demonstrated aligned interests to those of the company in primary care and the broader healthcare system.

4.4 Members' rights

Each member (whether director or organisational) has the right to:

- (a) receive notices of and to attend and be heard at any general meeting of the company; and
- (b) vote at any general meeting of the company.

4.5 Membership not transferable

Membership of the company and the associated rights cannot be transferred or sold in any manner whatsoever, other than by operation of law.

4.6 Register of members

- (a) A register of members must be kept in accordance with the law.
- (b) Without limiting the requirement under rule 4.6(a), the following must be entered in the register in respect of each member:
 - (i) the name and address of the member;
 - (ii) if available, the telephone, facsimile and email address of the member;
 - (iii) the date of admission to and cessation of membership; and
 - (iv) any other information required by the directors or the law from time to time.
- (c) Each member must notify the company secretary in writing of any change in the information referred to in rule 4.6(b) within one month after the change.
- (d) The register of members shall be available for inspection by written application to the company at its registered address consistent with the Corporations Act. Only the information required to be maintained in the register of members under the Corporations Act shall be available for inspection.

4.7 Membership fees

- (a) The joining fee for membership as an organisational member of the company is \$100 (excluding any GST that may be payable) or, subject to rule 4.7(d), such other amount as determined by the directors from time to time. The joining fee is payable within two weeks after being admitted into membership, or such other time as determined by the directors from time to time.
- (b) The annual membership fee for membership as an organisational member of the company is \$50 excluding any GST that may be payable or, subject to rule 4.7(d), such other amount as determined by the directors from time to time.
- (c) Annual membership fees are to be paid by organisational members at such times and in such manner as the directors determine from time to time.
- (d) The directors may at their complete discretion:
 - (i) waive all or some of the fees payable by one or more members at any time; and
 - (ii) change the annual fee and joining fee so long as any increase greater than 25% in any one year is approved by the members in general meeting.

5 Ceasing to be a member

5.1 General overview

- (a) There are a number of circumstances that will result in a member's membership ceasing. For instance, a member will cease to be a member of the company if that member:
 - (i) resigns from membership. See rule 5.2;
 - (ii) automatically ceases to be a member. See rule 5.2;
 - (iii) is expelled from membership. See rule 5.3; or
 - (iv) no longer complies with the membership eligibility criteria set out at rule 4.2.
- (b) The directors may adopt such other policies and procedures relating to the disciplining, suspension and expulsion of members as they so determine from time to time so long as they are consistent with the requirements set out in this rule 5.

5.2 Cessation of membership

A member's membership will cease immediately:

- (a) in the case of a director member, if the member's directorship ceases for any reason.
- (b) in the case of an organisational member, if the member:
 - (i) resigns or surrenders that membership by written notice to the secretary;
 - (ii) has their membership terminated under this constitution;
 - (iii) has a receiver or receiver and manager appointed, or enters into official management, administration or liquidation; or
 - (iv) being a corporation, has a petition for its winding up presented to a Court having appropriate jurisdiction, or passes a resolution of its members for its winding up, or enters into a scheme of arrangement (not being merely for the purpose of amalgamation or reconstruction)
 - (v) fails to pay any joining fee or initial annual fee within four weeks after being notified of admission into membership of the company or such later time as the directors may determine; or
 - (vi) fails to pay any required membership fee within three months after the date on which that membership fee becomes due or such later time as the directors may determine.

5.3 Expulsion of member

- (a) This rule describes what needs to happen when considering whether or not to expel a member from membership of the company. In summary the process involves:

- (i) putting the member in question on notice; and
 - (ii) passing a directors' resolution to expel that member (**Member Expulsion Resolution**).
- (b) The directors may resolve to expel a member from membership of the company if that member:
 - (i) has refused or neglected to comply with the provisions of this constitution; or
 - (ii) has acted in a way that, in the opinion of the directors in their sole discretion, is unbecoming of the member or prejudicial to the interests or reputation of the company.
- (c) The directors must give the member in question at least 14 days' notice of the date that the directors will consider the proposed Member Expulsion Resolution. This notice must be in writing and let the member know:
 - (i) that the directors are to consider expelling the member from membership of the company;
 - (ii) the reasons why the member is to be expelled.
- (d) Directors will notify all members, including the expelled member, within 14 days of a Member Expulsion Resolution being passed by directors.

6 General meetings

6.1 Calling general meetings

- (a) A general meeting of members may be initiated by:
 - (i) a resolution of the directors; or
 - (ii) the members or the court in accordance with the law.
- (b) A meeting of members may be held in two or more places linked together by any technology so long as it:
 - (i) gives the members as a whole in those places a reasonable opportunity to participate in proceedings;
 - (ii) enables the chair to be aware of proceedings in each place; and
 - (iii) enables the members in each place to vote on a show of hands and on a poll.
- (c) A member can attend and participate remotely using appropriate technology.
- (d) A member who participates in a general meeting as allowed under rule 6.1(c) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

6.2 Notice of general meetings

- (a) Subject to any relevant law relating to special resolutions and consent to short notice, if a general meeting of members (including an annual general meeting) is to be convened, at least 21 days' notice of that meeting must be given to each person who is at the date of the notice:
 - (i) a member of the company eligible to receive notices of meetings;
 - (ii) a director of the company; or
 - (iii) an auditor of the company.
- (b) A notice of a general meeting must specify:
 - (i) the date, time and place of the meeting;
 - (ii) if the meeting is to be held using technology, the technology that will be used to facilitate the meeting;
 - (iii) the general nature of the business to be transacted at the meeting;
 - (iv) the full wording of any special resolutions that are proposed for consideration at the meeting; and
 - (v) any other matters required under the law.
- (c) A person who is entitled to receive notice of a meeting or who is requested by the

chair to attend a general meeting is entitled to be present, whether the person is a member or not.

- (d) Notice of a general meeting can be waived by agreement of all members.

6.3 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum is present when the meeting proceeds to business and remains present throughout the meeting.
- (b) The quorum for a general meeting of members is twenty percent (20%) of members present in person or by proxy and entitled under this constitution to vote at a general meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (i) if the meeting was convened by or on the requisition of members, the meeting must be dissolved; otherwise
 - (ii) the meeting stands adjourned to the same day in the next week at the same time and place;
 - (iii) at the adjourned meeting the quorum is ten members or 50% of members (whichever is the lower) present in person or by proxy and entitled under this constitution to vote at a general meeting; and
 - (iv) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

6.4 Chair of general meetings

- (a) The chair of directors must preside as chair at each general meeting.
- (b) If the chair of directors is absent or is unwilling to act, then the deputy-chair of directors, if one has been appointed, must preside as chair at the meeting.
- (c) If both the chair and deputy-chair are absent or are both unwilling to act, then the members present at that meeting may elect a person present to chair the meeting.

6.5 Conduct of general meetings

- (a) The chair of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting and may require the adoption of any procedures which are in the opinion of the chair necessary or desirable for:
 - (i) proper and orderly debate or discussion; and
 - (ii) the proper and orderly casting or recording of votes.
- (b) The chair of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place. However, no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place. Any resolutions passed at the adjourned meeting take effect on the date of the adjourned meeting.

- (c) Notice of an adjournment and the business to be transacted at an adjourned meeting must be given to all persons who were entitled to receive notice of the meeting the subject of the adjournment.
- (d) The directors by resolution may change the venue for, postpone or cancel a general meeting by providing such notice to members as the directors determine is reasonably practicable and appropriate in the circumstances.

6.6 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special resolution, questions arising at a general meeting are to be decided by a majority of votes cast by the members present at the meeting (including being present by technological means) and that decision is for all purposes a decision of the members.
- (b) The chair does not have a casting vote.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded.
- (d) A member may only cast one vote on a show of hands regardless of whether that member also holds one or more proxies.
- (e) A poll may be demanded before a vote being decided by a show of hands is taken or before or immediately after the declaration of the result of the show of hands:
 - (i) by the chair of the meeting;
 - (ii) by at least five members present and entitled to vote on the relevant resolution; or
 - (iii) by a member or members present at the meeting and representing at least 5% of the votes that may be cast on the resolution on a poll.
- (f) Unless a poll is demanded, a declaration by the chair of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (g) If a poll is demanded at a general meeting, it will be taken when and in the manner that the chair directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (h) A poll cannot be demanded at a general meeting on the election of a chair of the meeting.
- (i) The demand for a poll may be withdrawn.

6.7 Voting rights

Each member has the right to exercise one vote on a show of hands and on a poll.

6.8 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
 - (i) in person;
 - (ii) by proxy in a form as the directors may prescribe or accept; or
 - (iii) by attorney in a form as the directors may prescribe or accept.
- (b) A proxy or attorney may be a member of the company but does not need to be.
- (c) The chair of a meeting may require any person purporting to act as a proxy or attorney to establish to the satisfaction of the chair that the person has been validly appointed as a proxy or attorney and is the person named in the relevant instrument of appointment, failing which the person may be excluded from attending or voting at the meeting.
- (d) If the company receives a proxy form without the name of the proxy filled in, then the proxy is:
 - (i) the person specified by the company in the proxy form; or
 - (ii) if no person is specified in the proxy form, the chair of the meeting for which that proxy applies.
- (e) A proxy or attorney may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy or attorney is received:
 - (i) at the registered office of the company, at the facsimile number at its registered office or at another place, facsimile number or electronic address specified for that purpose in the notice convening the meeting; and
 - (ii) at least 48 hours before the time scheduled for the commencement of the meeting, as specified in the notice of meeting.
- (f) The authority of a proxy or attorney to speak and vote for a member at a general meeting is suspended while that member is present at the meeting unless the members present at the meeting resolve otherwise.
- (g) The chair may hold as many proxies as are given to the chair. All other proxy holders may hold a maximum of three proxies.

6.9 Resolution in writing

- (a) Subject to rule 6.9(b), a resolution in writing signed by a majority of the members and containing a statement that they are in favour of the resolution is valid as if it had been passed at a duly convened general meeting.
- (b) A resolution in writing cannot be used:
 - (i) for a resolution to remove the auditor, appoint a director or remove a director;
 - (ii) for passing a special resolution; or
 - (iii) where the Corporations Act or this constitution requires a meeting to be held.

- (c) A resolution in writing may consist of several documents in like form, each signed by one or more of the members and if so signed, it takes effect once passed by a majority of members.
- (d) A document generated by electronic means which purports to be a facsimile of a resolution of the members is to be treated as a resolution in writing.

7 No profits for members

- (a) Subject to rule 7(b), the assets and income of the company must be applied solely in furtherance of the objects of the company and no portion of the income or assets of the company may be paid or transferred, directly or indirectly, to any director or member except in good faith in the promotion of the objects.
- (b) Rule 7(a) does not prohibit making a payment approved or ratified by the directors:
 - (i) for out-of-pocket expenses incurred by a director in performing a duty as director of the company;
 - (ii) for any reasonable remuneration of a director determined under rule 8.6;
 - (iii) in good faith for a good or service supplied to the company by a director (other than in the capacity as a director of the company) or member, where:
 - (A) the supply has the prior approval of the board; and
 - (B) the amount payable is a commercially reasonable payment for the supply;
 - (iv) of reasonable and proper interest on money borrowed from a member or director by the company;
 - (v) of reasonable and proper rent for premises let by any member or any director to the company; or
 - (vi) for indemnification of or payment of premiums on contracts of insurance for any director to the extent permitted by law and this constitution.

8 Directors

8.1 Role of Directors

- (a) The governance of the company shall be the responsibility of the directors duly elected and appointed under and in accordance with this constitution and the Corporations Act.
- (b) The directors may exercise all of the powers of the company which are not, by the Corporations Act or by this constitution, required to be exercised by the members in a general meeting.

8.2 Number of directors

- (a) The minimum number of directors is seven (7). Subject to rule 8.2(b), the maximum number of directors is ten (10).
- (b) The directors may change the maximum number of permitted director positions in accordance with the law and any other applicable regulation.

8.3 Appointment and retirement of directors

- (a) Appointment of Directors
Subject to rule 8.4, the company may by resolution appoint or remove a director.
- (b) Subject to rule 8.4, the directors may appoint any individual as a director, either to fill a casual vacancy or as an addition to the existing directors, provided that the total number of directors does not exceed the maximum number allowed under this constitution. Any director so appointed will hold office for the period up to the conclusion of the next annual general meeting at which point that director must retire and, if desired, seek re-election.
- (c) Rotation of Directors
Each director is to remain as a director until the term of his or her office expires or until he or she dies, resigns, or is otherwise removed as a director of the company in accordance with the law and this constitution.

At the conclusion of every annual general meeting of the company, one-third of the directors for the time being, or, if their number is not a multiple of 3, then such number as is appropriate to ensure that no director holds office for more than 3 years, shall retire from office. The directors to retire at the conclusion of an annual general meeting are those who have been longest in office since their last election, but, as between persons who became directors on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by drawing lots. A retiring director is eligible for re-election.

8.4 Qualifications and composition of directors

- (a) The company will be governed by a skills based board which will ensure that, collectively, it has the appropriate level of skills and experience required to properly fulfil its responsibilities. The board will, where practicable, consist at any one time of directors with combined expertise in areas including, but not limited to, knowledge of commissioning, primary health care, the broader health system, local and rural healthcare providers and communities,

Aboriginal culture and health, business management, accounting and legal issues.

- (b) A person is prohibited from being a director if that person is disqualified from being a director under the Corporations Act or has been disqualified from being a responsible entity by the ACNC Commissioner under the ACNC Act.

8.5 Vacation of office

In addition to the circumstances in which the office of a director becomes vacant under the Corporations Act or rule 8.3, the office of director becomes vacant if a director:

- (a) dies;
- (b) resigns or retires from office by written notice to the company;
- (c) is no longer eligible to be a director under rule 8.4;
- (d) becomes of unsound mind or a person whose property is liable to be dealt with in any way under a law relating to mental health;
- (e) is or becomes Bankrupt;
- (f) is absent without the consent of the directors from 3 consecutive directors' meetings and the directors resolve that the office of that director be vacated;
- (g) becomes disqualified from being a Director under the Corporations Act; or
- (h) becomes prohibited or disqualified from being a responsible entity by the ACNC Commissioner under the ACNC Act.

8.6 Payments to directors

- (a) To the extent permitted by law and under the ACNC Act, directors may be paid by way of fees for their services the amounts, if any, determined in aggregate from time to time by the company in general meeting and allocated as approved by board. Directors may be paid additional fees for special roles including but not limited to acting as chair, deputy chair or a committee member as approved by board.
- (b) Directors are entitled to be paid all reasonable authorised travelling and other expenses properly incurred by them in connection with the affairs of the company, including but not limited to attending and returning from general meetings of the company, meetings of the directors and meetings of committees.
- (c) Nothing in this rule 8.6 restricts the remuneration to which a director may be entitled as an officer or employee of the company in a capacity other than director.
- (d) Notwithstanding anything else in this constitution, no payment of any kind which is permitted to be paid to a director by this constitution can be made by the company to a director until that payment is approved by the directors or such other person or persons to which the directors may have delegated such authority.

- (e) The directors will adopt a Director Remuneration Policy or such other policies and procedures relating to director payments as they so determine from time to time so long as they are consistent with the requirements set out in this rule 8.6.

8.7 Interested directors

- (a) A director may hold any other position in the company, other than auditor, in conjunction with his or her directorship. A director may be appointed to that office on the terms as to remuneration, tenure of office and otherwise as the directors determine.
- (b) No contract or other arrangement made between a director and the company is voided merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (c) Where a director has a material personal interest in a matter to be considered at a meeting, that director must not be present while the matter is being considered at the meeting or vote on the matter, unless the directors who do not have a material personal interest pass a resolution in accordance with the law which permits that director to do so.
- (d) Subject to rule 8.7(e), a director who is in any way interested in an arrangement (other than by having a material personal interest) may, despite that interest:
 - (i) be counted in determining whether a quorum is present at any meeting of directors considering that arrangement;
 - (ii) sign or countersign any document relating to that arrangement; and
 - (iii) vote in respect of the arrangement or any matter arising out of it
- (e) Rule 8.7(d) does not apply to the extent that it would be contrary to law.
- (f) The directors may adopt a Conflict of Interest Policy or such other policies and procedures relating to director interests as they so determine from time to time so long as they are consistent with the requirements set out in this rule 8.7

8.8 Powers and duties of directors

The directors are responsible for managing the business of the company and may exercise all the powers of the company which are not required by the law or this constitution to be exercised by the company in general meeting.

8.9 Directors' meetings

The directors may hold meetings (including by technological means) for the conduct of business and regulate them as they think fit.

8.10 Convening of meetings of directors

A meeting of directors may be convened by the board, chair or any director.

8.11 Notice of directors' meetings

- (a) Notice of a directors' meeting must be given to each current director, other than a director on leave of absence approved by the directors.

- (b) A notice of a directors' meeting must:
 - (i) be given in writing to each director on reasonable notice before the meeting unless all directors waive in writing the required period of notice for a particular meeting;
 - (ii) specify the time and place of and, if relevant, the form of technology for, the meeting; and
 - (iii) state the nature of the business to be transacted at the meeting.
- (c) A resolution passed at a directors meeting is not invalid just because a director did not receive notice of the meeting provided that:
 - (i) the notice was not received because of accident or error;
 - (ii) before or after the meeting, the director notifies the company of his or her agreement to the resolution; or
 - (iii) the director attended the meeting.

8.12 Quorum for directors' meetings

- (a) No business may be transacted at a directors' meeting unless there is a quorum of directors at the time the business is dealt with.
- (b) A quorum consists of 50% of directors in office at the time of the meeting (rounded up if not divisible by two).
- (c) For the avoidance of doubt, a director is present at a meeting if participating by electronic means such as by telephone or video conferencing.
- (d) If at any time there are less than three directors, the remaining director or directors may act but only:
 - (i) in an emergency;
 - (ii) for the purpose of convening a general meeting of the company; or
 - (iii) for the purpose of increasing the number of directors to three.
- (e) If, within 30 minutes after the time appointed for the meeting, a quorum is not present, then, without prejudice to the right of those present to discuss but not to vote on any matter, the meeting will be dissolved or stand adjourned to such time, date and place as those present at the meeting decide.

8.13 Chair and deputy-chair

- (a) The directors must, subject to the rules relating to term of office found at rule 8.3, appoint a director to the office of chair and may determine the period for which the chair will hold office.
- (b) The directors may, subject to the rules relating to term of office found at rule 8.3, appoint a director to the office of deputy-chair.
- (c) A person may only fill the office of chair or deputy-chair for so long as that person is a director of the company.
- (d) The chair must preside as chair at each directors' meeting unless he or she is unable to attend or unwilling to act.
- (e) If the chair is unable to attend a directors' meeting or unwilling to act, then the deputy-chair, if one has been appointed, must preside as chair of that meeting.

- (f) If both the chair and deputy-chair are unable to attend a directors' meeting or are unwilling to act, then the directors present at that meeting must elect a person from among their number to preside as chair for that meeting.

8.14 Decisions of directors

- (a) A directors' meeting at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under the law and this constitution.
- (b) Questions arising at a directors' meeting are to be decided by a majority of votes cast by the directors present and a decision of that kind is for all purposes a determination of the directors.
- (c) If there are an equal number of votes cast for and against a resolution at a directors' meeting, then the chair may cast a second vote.

8.15 Decisions without meetings

- (a) Directors may pass resolutions and otherwise make decisions outside of a directors' meeting in any manner (including through the use of technology) so long as such manner complies with:
 - (i) the law; and
 - (ii) any policies and procedures relating to the passing of director resolutions as determined by the directors from time to time.
- (b) The directors may pass a circular resolution without a directors' meeting being held.
- (c) A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in rule 8.15(d).
- (d) Each director may sign or otherwise agree to a circular resolution by:
 - (i) signing a single document setting out the resolution and containing a statement that they agree to the resolution;
 - (ii) signing separate copies of that document, as long as the wording of the resolution is the same in each copy; or
 - (iii) notifying the company of their agreement by post, electronic means or other method of written communication.
- (e) A resolution in writing may consist of several documents in like form, each signed or otherwise agreed by one or more directors and if so agreed, it takes effect once passed by a majority of directors in the manner set out in rule 8.15(d).

8.16 Sub Committees

- (a) Subject to rules 8.16.1 and 8.16.2 below or as required by any law or deed of funding, the directors may resolve to:

- (i) establish one or more sub committees consisting of such persons as they determine;
 - (ii) delegate to each sub-committee such of their powers required for the effective and efficient running and administration of the sub-committee;
 - (iii) revoke any or all of the powers delegated to each sub-committee and vary the nature and scope of the powers delegated; and
 - (iv) change the makeup of a sub-committee at any time or dissolve it all together.
- (b) A sub-committee must be conducted, and exercise the powers delegated to it, in accordance with any directions of the directors which, for the avoidance of doubt, may be contained within policies, guidelines or protocols.
- (c) The directors may continue to exercise all of their powers despite any delegation made under this rule.

8.16.1 Finance, Audit and Risk Management Committee

The directors will appoint from among themselves a Finance, Audit and Risk Management Committee (**FARM**), comprised of at least 3 members, to assist the board in fulfilling its responsibilities in overseeing the integrity of the Company's financial reporting, systems of internal control and risk management, audit and compliance with legal and contractual obligations, in accordance with a charter adopted by the board from time to time and provided that the board chair must not be the chair of the FARM.

8.16.2 Nominations, Remuneration and Governance Committee

The directors will appoint from among themselves a Nominations, Remuneration and Governance (**NRG**) Committee, comprised of at least 3 members, to assist the board in fulfilling its responsibilities in overseeing the integrity of the Company's board nomination, remuneration and governance systems in accordance with a charter adopted by the board from time to time and provided that the board chair must not be the chair of the NRG.

8.17 Delegation to individuals

- (a) The directors may resolve to delegate any of their powers:
- (i) to one or more directors;
 - (ii) to one or more members; or
 - (iii) to one or more employees.
- (b) The directors may delegate their powers for such time as they determine and may revoke or vary any power so delegated.
- (c) A person to whom any powers have been delegated must exercise the powers delegated in accordance with any directions of the directors.
- (d) The directors may continue to exercise all of their powers despite any delegation.

- (e) A delegation under this rule need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position.

8.18 Validity of acts

An act done by a director or by a meeting of the directors or a committee attended by a director is not invalidated just because:

- (a) of a defect in the appointment of the director;
- (b) the person is disqualified from being a director or has vacated office; or
- (c) the person is not entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, when the act was done.

9 Secretaries

- (a) The directors must appoint at least one secretary.
- (b) The appointment of a secretary may be for the period, on the conditions and at the remuneration (if any) as the directors determine.
- (c) Subject to any contract between the company and the relevant secretary, a secretary of the company may be removed or dismissed by the directors at any time, with or without cause.
- (d) The duties of the secretary include, but are not limited to:
 - (i) ensuring that the necessary registers required by the law are established and properly maintained;
 - (ii) ensuring that any required annual returns and annual reports are lodged with the appropriate regulator on time; and
 - (iii) ensuring the organisation of, and attend, meetings of the members and the directors, including the sending out of notices, the preparation of agenda and the compilation of minutes.
- (e) An act done by a person acting as a secretary is not invalidated just because:
 - (i) of a defect in the person's appointment as a secretary; or
 - (ii) the person is disqualified from being a secretary,

10 Chief Executive Officer

- (a) The board must appoint a Chief Executive Officer who is responsible for the day to day management of the business and affairs of the company and has the powers and undertakes the responsibilities as determined and in the manner determined by the board.
- (b) The Chief Executive Officer will be remunerated in the manner and amounts as the board determines.

11 Winding up

- (a) The company may resolve to wind up by special resolution.
- (b) If upon the winding up of the company there remains, after satisfaction of all its debts and liabilities, any assets whatsoever (**Surplus Assets**), the assets must not be paid to or distributed among the members or directors of the company but must be transferred to one or more institutions, funds or authorities which:
 - (i) have objects similar to the objects of the company;
 - (ii) is a Registered Charity;
 - (iii) is a DGR in the form of a Registered Health Promotion Charity; and
 - (iv) prohibit distribution of its income and property among its members and directors (if any) to an extent at least as great as is imposed on the company by rule 7.
- (c) If, upon the revocation of the company's endorsement as a DGR, there remains, after satisfaction of all its debts and liabilities, any gifts, Contributions or money received because of such gifts or Contributions, the same must not be paid to, or distributed among, the members or directors of the company, but must be transferred to one or more institutions, funds or authorities which:
 - (i) have objects similar to the objects of the company;
 - (ii) is a Registered Charity;
 - (iii) is a DGR in the form of a Registered Health Promotion Charity; and
 - (iv) prohibit distribution of its income and property among its members and directors (if any) to an extent at least as great as is imposed on the company by rule 7.
- (d) The identity of the institutions, funds or authorities referred to in rules 11(b) and 11(c) must be decided by special resolution of the members.
- (e) Where gifts to an institution, fund or authority are deductible only if, among other things, the conditions set out in the relevant table item in subdivision 30-B of the ITAA 97 are satisfied, a transfer under this rule must be made in accordance with those conditions.
- (f) Any part of the Surplus Assets consisting of property supplied by a government department or public authority, including any unexpended portion of a grant, must be returned to the department or authority that supplied it or to a body nominated by the department or authority.

12 Minutes and records

12.1 Minutes

- (a) The directors must ensure that the following minutes are recorded, approved and kept in accordance with the law:
 - (i) meetings and resolutions of members;
 - (ii) meetings and resolutions of directors; and
 - (iii) meetings and resolutions of committees.
- (b) When minutes have been entered and signed as correct under this rule, they are, until the contrary is proved, evidence that:
 - (i) the meeting to which they relate was duly convened and held;
 - (ii) all proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and
 - (iii) all appointments or elections purporting to have been made at the meeting have been validly made.

12.2 Accounts

The directors must ensure that proper accounting and other records are kept in accordance with the law.

12.3 Reports

To the extent required by the Corporations Act and the ACNC Act, the directors must cause the company to:

- (a) Prepare financial reports in accordance with the Corporations Act.
- (b) Prepare directors' reports in accordance with the Corporations Act.
- (c) Notify each member of the member's rights to receive reports from the company.
- (d) Provide members with reports, in a form and within such timeframe as may be required by the Corporations Act.

12.4 Audit

- (a) A registered company auditor must be appointed. The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Corporations Act.
- (b) The company must have its financial report (including any documents required to be attached to or prepared with the financial report) audited in accordance with all relevant laws.

12.5 Inspection of records

- (a) Unless otherwise determined by the board, the members are entitled to inspect only those documents of the company required to be available for inspection under the Corporations Act or the ACNC Act.

- (b) The board may determine at what time and place a member is entitled to inspect company documents and under what conditions.
- (c) Unless proved incorrect, the register is sufficient evidence of the matters shown in the register.
- (d) The company must keep all financial and other records required by law.

13 Indemnity, insurance and access

- (a) To the extent permitted by law, the company indemnifies its officers and auditors (both current and past) for all losses or liabilities incurred by the person as an officer or auditor of the company including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis.
- (b) This indemnity:
 - (i) may only be for losses or liabilities incurred as an officer or auditor of the company (either before or after the adoption of this rule); and
 - (ii) operates only to the extent that the loss or liability is not paid by insurance.
- (c) To the extent permitted by law and practicable in light of the company's activities at any one time, the company will take out and pay for insurance for the benefit of its officers (both current and past) against any liability incurred by the person as an officer of the company including, but not limited to, a liability for negligence or for legal costs)
- (d) A director has a right of access to the financial records of the company at all reasonable times. If the directors agree, the company must give a director or former director access to certain documents, including documents provided for or available to the directors, and any other documents referred to in those documents.

14 Notices

- (a) Subject to this rule, a notice is anything written to or from the company under any rule in this Constitution.
- (b) Written notice under this Constitution may be given to the company by:
 - (i) delivering it to the company's registered office;
 - (ii) posting it to the company's registered office or to another address chosen by the company for notice to be provided; or
 - (iii) sending it to an email or other electronic address notified by the company.
- (c) Written notice under this Constitution may be given to a member or officer of the company:
 - (i) by delivering it to them in person;
 - (ii) by posting it to, or leaving it at, in respect of:
 - (A) a member, at the address of the member recorded in the register of members, or such alternative address nominated by the member; or
 - (B) an officer, the address nominated by the officer for service of notices;
 - (iii) sending it to an email address nominated by the member or officer for service of notices; or
 - (iv) by notifying the member or officer at an email or other electronic address nominated by them, that the notice is available at a specified place or address (including an electronic address, such as a website).
- (d) A notice is taken to be given when:
 - (i) delivered in person, or left at the recipient's address, on the day it is delivered;
 - (ii) sent by post, on the fifth day after it is posted;
 - (iii) sent by email, on the business day it was sent; and
 - (iv) if given under rule 14(c)(iv), on the business day after the notification that the notice is available was sent.

15 Amending this Constitution

This constitution may be amended by a special resolution of the members.

Schedule 1

Dictionary

In this constitution:

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

ACNC Commissioner means the Commissioner of the Australian Charities and Not-for-profits Commission for the purposes of the ACNC Act.

Bankrupt means, in relation to a person, the state of being “insolvent under administration” as defined in the Corporations Act or having signed an authority under section 188 of the *Bankruptcy Act 1966* (Cth).

Business Day means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in the place where the company’s registered office is located.

Contribution means:

- (a) a contribution of money or property as described in item 7 of the table contained in section 30-15 of the ITAA 97 in relation to a fundraising event; or
- (b) a contribution of money as described in item 8 of the table contained in section 30-15 of the ITAA 97 in relation to a successful bidder at an auction that was a fundraising event,

held for the objects of the company.

Corporations Act means the *Corporations Act 2001* (Cth).

DGR means a “deductible gift recipient” within the meaning of section 30-227 of ITAA 97.

Expulsion Notice has the meaning at rule 5.4(e).

ITAA 97 means Income Tax Assessment Act 1997 (Cth).

Member Expulsion Resolution has the meaning at rule 5.4(b).

Registered Charity means an entity registered by the ACNC Commissioner as a charity in accordance with the ACNC Act.

Registered Health Promotion Charity has the meaning contained in section 995(1) of the ITAA 97.

Surplus Assets has the meaning given in rule 11(a).

Interpretation

General

- (a) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (b) In this constitution, headings are for convenience only and do not affect the interpretation of this constitution and, unless the contrary intention appears:

- (i) an expression used but not defined in this constitution has the same meaning as given in the Corporations Act;
- (ii) words importing the singular include the plural and vice versa;
- (iii) words importing a gender include every other gender;
- (iv) words used to denote persons generally or importing a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
- (v) a reference to any statute, regulation, proclamation, ordinance or by-laws 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;
- (vi) the words 'including', 'such as', 'for example' and the like are not, and should not be interpreted to be, words of limitation, unless explicitly stated otherwise; and
- (vii) 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.

Application of the Corporations Act and ACNC Act

- (a) Subject to the interpretation clause in this Schedule 1, a word or expression used in a rule that deals with a matter dealt with by a provision of the Corporations Act or the ACNC Act has the same meaning as in that provision.
- (b) Subject to the law, the provisions of this constitution displace each section or subsection of the Corporations Act and the ACNC Act that applies (or would apply but for this rule) to the company.
- (c) The replaceable rules do not apply to the company except those which operate as mandatory rules for public companies limited by guarantee under the Corporations Act.
- (d) Except as otherwise provided in this constitution, whilst the company is a Registered Charity, the provisions of the Corporations Act which do not apply to a body corporate registered under the ACNC Act by virtue of section 111L of the Corporations Act, do not apply to the company.