



**LATROBE COMMUNITY HEALTH
SERVICE LIMITED**

ACN 136 502 022
ABN 74 136 502 022

CONSTITUTION

A public company limited by guarantee
under the *Corporations Act 2001* (Cth)

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CONSTITUTION

1 PURPOSE OF THE COMPANY

1.1 Principal purpose

The Company's principal Purpose is to be a public benevolent institution providing benevolent relief to persons suffering from poverty, distress, sickness, disability, destitution, misfortune or helplessness primarily by being a community health service providing community health services in Australia.

1.2 Supporting activities

In support of the Purpose, the Company's supporting activities and services include, but are not limited to, providing:

1.2.1 aged care and carer support; general health services; disability support services; health assessment services; gambling, alcohol and drug support services; diabetes and chronic disease management; children and family services and community connection services; and

1.2.2 doing all other lawful things as are incidental or conducive to the attainment of these supporting services and activities and that are consistent with, necessary or desirable to support and further the Purpose.

1.3 Powers

Solely to carry out the Purpose, the Company has all the powers of an individual and a company limited by guarantee under the Corporations Act.

2 NOT-FOR-PROFIT

2.1 Income applied solely for the Purpose

The Company's income and property:

2.1.1 must be applied solely towards the Purpose; and

2.1.2 must not be paid or given to a Member, directly or indirectly, by way of dividend, bonus or otherwise, unless permitted by clause 2.2 or 3.2.

2.2 Permitted payments to Members

The Company may pay a Member in good faith with prior Board approval up to a fair and reasonable amount for:

2.2.1 expenses properly incurred for the Company;

2.2.2 goods or services supplied to the Company;

2.2.3 interest on money lent to the Company; or

2.2.4 rent for premises let to the Company.

3 WINDING UP AND REVOCATION

3.1 Application of property on winding up

Subject to clause 3.4, the Company's surplus assets, after satisfying all liabilities on winding up or dissolution:

3.1.1 must not be paid or given to current or former Members unless eligible under clause 3.2; and

3.1.2 must be paid to eligible recipients selected under clauses 3.2 and 3.3.

3.2 Eligible recipients

A fund, authority or institution is eligible to receive any surplus under clause 3.1.2 and 3.4 if it:

3.2.1 has benevolent purposes similar to the Purpose;

3.2.2 prohibits its income and property from being paid to members on at least the terms of clause 2;

3.2.3 is a charity registered under Relevant Laws; and

3.2.4 can receive Deductible Gifts under the Tax Act.

3.3 Selection of eligible recipients

Eligible recipients to receive any surplus referred to in clause 3.2 must be selected:

3.3.1 by Member special resolution;

3.3.2 failing clause 3.3.1, by Board resolution; and

3.3.3 failing clause 3.3.2, by application to the Supreme Court in the state or territory in which the Company's registered office is located.

3.4 Deductible Gifts

Any surplus Deductible Gifts must be transferred to eligible recipients selected under clauses 3.2 and 3.3 on the earlier of:

3.4.1 the Company's deductible gift recipient endorsement being revoked; or

3.4.2 the winding up of the Company.

4 MEMBERSHIP

4.1 Limited liability of Members / guarantee

4.1.1 A Member's liability is limited to the guaranteed amount in clause 4.1.2.

4.1.2 If the Company is wound up, each Member and former Member in the previous year must contribute up to ten dollars (\$10) towards:

- (a) the Company's liabilities contracted before the person ceased to be a Member; and

- (b) costs, charges and expenses for winding up and the adjustment of the rights of the contributories among themselves.

4.2 **Director Members**

The Members of the Company will be the current Directors from time to time.

4.3 **Member rights and obligations**

4.3.1 Members have the right to receive notice of, participate in the requisition of, attend, speak at, vote at and join in the demand for a poll at general meetings.

4.3.2 A person's membership rights and privileges:

- (a) apply only whilst the person is a Member; and
- (b) are personal to that Member and may not be transferred or transmitted.

4.4 **Register of Members**

The Company must maintain a register of Members in accordance with the Corporations Act which contains the name, addresses for notices and membership start/end dates for current and recent former Members.

5 **BECOMING AND CEASING TO BE A MEMBER**

5.1 **Resignation of Members**

5.1.1 A person may resign as Member by written notice to the Company. If the person who resigns as a Member by written notice to the Company is a Director, then that notice is also taken to be their resignation as a Director.

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

5.2 **Ceasing to be a Member**

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

- 5.2.1 ceases to be a Director;
- 5.2.2 does not attend or provide an apology in respect of the annual general meeting for 2 or more consecutive years;
- 5.2.3 becomes an employee of the Company;
- 5.2.4 becomes untraceable for 3 months because the Member cannot be contacted using the address on the register of Members;
- 5.2.5 dies;
- 5.2.6 becomes bankrupt, or makes any arrangement or composition with the Member's creditors generally; or
- 5.2.7 no longer has capacity to give informed consent as defined under mental health legislation which provides for the decision-making capacity of an individual.

6 GENERAL MEETINGS

6.1 Convening an annual general meeting

- 6.1.1 The Board may convene an annual general meeting to be held at least once every year in accordance with the Corporations Act. The requirements for convening an annual general meeting may otherwise be set out in the Corporations Act or Relevant Laws.
- 6.1.2 The business of an annual general meeting is to:
- (a) consider the Board's, financial and auditor's report;
 - (b) declare the Director appointment results;
 - (c) appoint an auditor if that office is or will become vacant;
 - (d) consider any other matter required by the Corporations Act or Relevant Laws; and
 - (e) consider any special business, the general nature of which is specified in the notice of meeting.

6.2 Convening a special general meeting

- 6.2.1 General meetings other than annual general meetings are called special general meetings.
- 6.2.2 The Board must convene and hold special general meetings of the Members if required by the Corporations Act or Relevant Laws.
- 6.2.3 The Chair, or 3 or more Directors via application to the Chair, may convene special general meetings of the Members.
- 6.2.4 The notice of special general meeting must specify the general nature of special business, unless the Corporations Act or Relevant Laws require otherwise.

6.3 Notice of meeting

- 6.3.1 Subject to clause 6.11, at least 21 days' notice of any general meeting must be given specifying the meeting's place, date and time, unless the Corporations Act or Relevant Laws require or permit some other period of notice.
- 6.3.2 Notice of a general meeting must specify the meeting's format (including if it is a Hybrid Meeting), place, date and time, and include Electronic Voting instructions if applicable.
- 6.3.3 Notice of every general meeting must be given in writing in accordance with clause 11.6 to:
- (a) every Director;
 - (b) every Member; and
 - (c) the Company's auditor.
- 6.3.4 No other person is entitled to receive notices of general meetings.

6.3.5 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.

6.4 **Postponement**

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

6.4.2 Clause 6.4.1 does not apply to a meeting requisitioned by the Chair or by 3 or more Directors under clause 6.2.3 or by court order.

6.5 **Quorum**

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

6.5.2 The quorum for general meetings is a majority (more than 50%) of Members present in person or by Representative.

6.5.3 If a quorum is not present within 30 minutes 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 to Members (if required to do so by clause 6.7).

6.5.4 If a quorum is not present within 30 minutes of the time scheduled to start the adjourned general meeting, the meeting is dissolved.

6.6 **Meeting chair**

6.6.1 The Chair may chair a general meeting.

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

6.6.3 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; and
- (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.

6.6.4 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 that 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 (including for causing offence or disruption), or expel the person from the general meeting and not permit them to return.

6.6.5 All procedural decisions by the meeting chair are final.

6.7 **Adjournment**

6.7.1 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 to some other time or place.

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

6.7.3 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.

6.8 **Voting – show of hands / poll**

6.8.1 By default, resolutions at general meetings must be voted on by a show of hands. Voting at a Hybrid Meeting or a wholly virtual meeting will be by ballot, which may occur via Electronic Voting.

6.8.2 In the event of an equality of votes the meeting chair does not have a second or casting vote.

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

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

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

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

6.8.7 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.

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

6.9 Proxies

- 6.9.1 A Member may appoint a proxy to act on the Member's behalf at any general meeting at which that Member may attend and vote.
- 6.9.2 A proxy must be another Member.
- 6.9.3 For the instrument appointing a proxy to be valid, it must be:
- (a) in writing and signed by the appointor;
 - (b) in the form complying with the Corporations Act or some other Board approved form; and
 - (c) lodged with the Company at least 48 hours before the time for holding the meeting or adjourned meeting.
- 6.9.4 A vote given according to the proxy instrument is valid despite:
- (a) the death, or loss of decision making capacity, 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 is used.

6.10 Meeting format and use of technology

- 6.10.1 Subject to the Corporations Act, a general meeting may be held as a physical meeting in two or more places, as a wholly virtual meeting, or as a Hybrid Meeting, as determined by the Board acting reasonably.
- 6.10.2 Such meetings must be held using any technology approved by the Board that gives Members as a whole a reasonable opportunity to participate.

6.11 Ballot – Members Circular Resolution

- 6.11.1 The Board may if it thinks fit submit any question or resolution, including special resolutions, to the vote of all Members entitled to a vote at a general meeting by postal or electronic Ballot, including by Electronic Voting, without a general meeting, unless the Corporations Act or Relevant Laws require a general meeting.
- 6.11.2 The Board may determine in the Regulations:
- (a) the form of the Ballot or Electronic Voting;
 - (b) the polling date;
 - (c) the method for responding to the Ballot; and
 - (d) whether voting on the Ballot is to be secret.
- 6.11.3 A resolution approved by a majority or specific majority of the Members has the same force and effect as such a resolution passed in a general meeting.

7 BOARD

7.1 Structure of Board / Number of Directors

The Board will comprise up to nine (9) Directors as determined by the members and as appointed by the Board in accordance with clause 7.2 (**Appointed Directors**).

7.2 Appointment of Appointed Directors

7.2.1 Subject to this Constitution, the Board must determine any other procedures or matters in relation to the selection process to appoint Appointed Directors and may make Regulations or Policies for that purpose.

7.2.2 Unless the Board resolves otherwise, the Board:

- (a) is responsible for the conduct of the selection process of Appointed Directors; and
- (b) may decide all matters in relation to the conduct of the selection process, subject to this Constitution, the Regulations and Policy made by the Board for this purpose.

7.2.3 The Regulations or Policy made by the Board pursuant to clause 7.2.1 must be consistent with the following:

- (a) Before an appointment of a Director or Directors is required, the Company Secretary may publicly call for Appointed Director candidates or seek assistance from an external recruitment agency to assist with the selection process.
- (b) The Company Secretary must convene a committee for the purpose of conducting the selection process.
- (c) The committee may, but is not required to, interview all candidates seeking to be an Appointed Director.
- (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 for the effective operation of the Board.
- (e) After considering the recommendations from the Chair and the committee conducting the selection process, the Board may appoint Appointed Directors at a Board meeting.
- (f) Appointments take effect at the end of the Board meeting at which the appointments are made.

7.3 Eligibility to be a Director

A person is eligible to become a Director if they:

- 7.3.1 are 18 years of age or older;
- 7.3.2 consent in writing to become a Director;
- 7.3.3 hold or have applied for a Director Identification Number (**DIN**);

- 7.3.4 in the opinion of the Board, meets or contributes appropriate skills, expertise and experience, complements the Board's diversity and meets the suitability and eligibility requirements imposed on Directors as to the composition of the Board under Relevant Laws and any Regulations or Policies;
- 7.3.5 complete the relevant national police check, working with children check and any other required suitability assessment;
- 7.3.6 do not have any personal or familial relationship with an officer or employee of the Company;
- 7.3.7 are not prohibited, disqualified or otherwise prevented from being a Director under the Corporations Act or Relevant Laws; and
- 7.3.8 are not currently, or within the past two (2) years, an Employee or Contractor of the Company.

7.4 **Limits on period of office as a Director**

- 7.4.1 If a Director has served 9 Years or more either in total or continuously, then:
 - (a) the Director may finish serving their current term of office but does not become eligible to again to be appointed as a Director (whether or not to a casual vacancy) until they have not been a Director for a subsequent continuous period of two (2) Years and if reappointed after such time their maximum 9 Year term is re-set; and
 - (b) the Board may determine to appoint a retiring Director for a further term of three (3) years as determined by the Board by resolution from time to time.

7.5 **Term of office of Directors**

- 7.5.1 Subject to clause 7.5.4, an Appointed Director holds office for a term of three (3) Years:
 - (a) commencing from the date the Board resolves to appoint the person;
 - (b) concluding at the end of the third year after commencing as an Appointed Director.
- 7.5.2 An Appointed Director:
 - (a) is eligible for and may be reappointed as determined by the Board by resolution made pursuant to clause 7.5.1(a) or 7.5.5; and
 - (b) may only be reappointed:
 - (1) after a review of their performance against any applicable Key Performance Indicators (KPIs); and
 - (2) after an assessment that they remain eligible under clause 7.3.

The selection process, set out in clause 7.2 is not required for the reappointment of an Appointed Director.

- 7.5.3 The review required by clause 7.5.2 may be conducted by the Chair, a committee of the Board or an independent consultant, as determined by the Board or set out in Regulations made for this purpose.

7.5.4 Pursuant to clause 9.10, the retiring Director is not entitled to be on the Committee, present for deliberations nor vote on any resolutions made pursuant to clauses 7.5.2 and 7.5.3.

7.5.5 The Board may appoint an Appointed Director for a shorter term than under clause 7.5.1 if the Board so determines at the time of appointment.

7.6 Casual vacancies

7.6.1 If a casual vacancy occurs for any Appointed Director office, the Board may appoint another eligible person in their place for such term as they determine in accordance with clauses 7.5.1 and 7.5.4.

7.6.2 The Board may continue to act despite vacancies on the Board. However, if there are less than three (3) 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.

7.7 Office bearers

7.7.1 The Board may elect and remove the following office bearers from the Directors for such terms, and on such conditions, as the Board determines by resolution from time to time:

- (a) Chair;
- (b) Deputy Chair; and
- (c) such other office bearers with titles determined from time to time by the Board.

7.7.2 Subject to the terms and conditions of the resolution made by the Board under clause 7.7.1, the Chair is eligible for re-election as Chair after a review of their performance against any applicable Key Performance Indicators (KPIs), terms and conditions of the Board resolution or any other matters as determined by the Board and also after an assessment of their remaining eligible to appointment as a Director under clause 7.3.

7.7.3 In order to conduct the Chair review required by clause 7.7.2, the Board may form a committee in accordance with clause 10, or delegate this review function to an external, independent agent or contractor as they determine in their absolute discretion.

7.7.4 Pursuant to clause 9.10, the Chair is not entitled to be on the Committee, present for deliberations nor vote on any resolutions pursuant to clauses 7.7.2 and 7.7.3.

7.8 Alternate Directors

A Director does not have the right to appoint an alternate director.

7.9 Resignation of Directors

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

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

7.10 **Ceasing to be a Director**

7.10.1 The Members may remove any Director at a general meeting in accordance with the Corporations Act.

7.10.2 A directorship automatically ceases if the Director:

- (a) is removed from office as a Director by an ordinary resolution of the Members at a general meeting;
- (b) is no longer eligible to be a Director under clause 7.3 or, if appointed to meet a certain requirement of the Relevant Laws, the person no longer meets that requirement;
- (c) dies or is physically incapable of fulfilling their duties as a Director;
- (d) ceases to be a Member;
- (e) becomes banned or disqualified from being a Director pursuant to the Corporations Act or Relevant Laws;
- (f) due to a change in circumstance, the Director is no longer considered suitable or eligible in accordance with Relevant Laws;
- (g) for more than 3 months is absent without Board permission from Board meetings held during that period;
- (h) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of such interest;
- (i) becomes a bankrupt or makes any arrangement or composition with personal creditors generally;
- (j) no longer has capacity to give informed consent as defined under mental health legislation which provides for the decision-making capacity of an individual; or
- (k) is found guilty by a court of an indictable offence.

7.11 **Director remuneration and reimbursement**

7.11.1 Despite clause 2, the Directors may be paid reasonable remuneration for undertaking the ordinary duties of a Director where such remuneration does not exceed any amount previously approved by the Board. The Directors must not otherwise be paid any other remuneration for those duties.

7.11.2 Despite clause 2, 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.

7.11.3 Despite clause 2, the Directors may be paid for any service rendered to the Company in a professional or technical capacity outside the scope of the Director's ordinary duties where:

- (a) the service and amount payable is on reasonable and proper terms; and
- (b) the provision of that service has the Board's prior approval.

8 BOARD POWERS

8.1 Management vests in Board

- 8.1.1 The Board is responsible for the governance, strategic direction, 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 Corporations Act, Relevant Laws or this Constitution required to be exercised by the Members in general meeting.
- 8.1.2 The powers under clause 8.1.1 are subject to:
- (a) this Constitution;
 - (b) the Corporations Act;
 - (c) Relevant Laws, including the ACNC Governance Standards; and
 - (d) such resolution, not being inconsistent with those provisions, as may be passed by the Members in general meeting.
- 8.1.3 A resolution under clause 8.1.2(c) does not invalidate any prior act of the Board which would have been valid before the resolution was passed or made.

8.2 Power to delegate

- 8.2.1 The Board may delegate its powers and functions in writing to:
- (a) an officer or employee of the Company; or
 - (b) a committee or advisory body under clause 10.
- 8.2.2 The Board may amend or revoke the terms of its delegation at any time.

8.3 Power to appoint Chief Executive Officer

- 8.3.1 The Board may appoint and remove a Chief Executive Officer on such terms and conditions as the Board determines from time to time.
- 8.3.2 The Chief Executive Officer may attend Board meetings and general meetings unless directed not to do so by the Board from time to time.
- 8.3.3 The Chief Executive Officer will have the responsibilities determined by the Board.

8.4 Power to appoint Company Secretary

- 8.4.1 The Board must appoint at least one Company Secretary on such terms and conditions as the Board determines from time to time.
- 8.4.2 A Company Secretary will not be a Director or the Chief Executive Officer.
- 8.4.3 A Company Secretary may attend Board meetings and general meetings unless directed not to do so by the Board from time to time.

8.4.4 A Company Secretary will have the responsibilities set out in the Corporations Act and Relevant Laws.

8.5 Power to make Regulations

8.5.1 The Board may from time to time make, vary and rescind Regulations for the organisation, management and good governance of the Company or as required from time to time.

8.5.2 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.

8.6 Power to make Policies

Subject to and consistent with this Constitution, the Board may from time to time make, vary and rescind Policies for or with respect to all matters relating to the organisation, management and good governance of the Company or as required by Relevant Laws.

9 BOARD MEETINGS

Subject to this clause 9, the Board may meet to consider business, adjourn and otherwise regulate its meetings as it thinks fit.

9.1 Observers and Visitors

The Board may permit the attendance of any person at any Board meeting where, in the opinion of the Directors, such person may be able to assist the Board regarding any matter before it or for any other reason as determined by the Board from time to time.

9.2 Number of meetings

The Board must meet at least 6 times per year.

9.3 Convening meetings

The Company Secretary must arrange a Board meeting:

9.3.1 at the request of the Chair; or

9.3.2 on the requisition of two (2) Directors.

9.4 Notice of meeting

9.4.1 At least 7 days' notice of any Board meeting must be given unless the Board decides otherwise or in emergencies.

9.4.2 The notice must specify the business to be transacted. The Board may only transact business of a routine nature unless notice of any other business has been given either in the notice convening the meeting or in some other notice given at least 3 days' before the meeting.

9.4.3 The decision of the meeting chair as to whether business is routine is final.

9.5 Quorum

9.5.1 The quorum for a Board meeting is a majority (more than 50%) of Directors entitled to attend and vote. A meeting at which a quorum is present may exercise all powers and discretions of the Board.

- 9.5.2 If a Board meeting is adjourned due to lack of quorum, the Chair must set a further date for the adjourned meeting.

9.6 Meeting chair

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

9.7 Voting

- 9.7.1 Each Director present and entitled to vote at a Board meeting has one vote. Proxy voting and alternate Directors are not permitted.
- 9.7.2 Questions arising at a Board meeting must be decided by a majority of votes, 51% or over. Such a decision is for all purposes a decision of the Board.
- 9.7.3 In the event of an equality of votes the meeting chair does not have a second or casting vote.

9.8 Use of technology

The Board may hold a meeting in two or more places and conducted in a wholly virtual format or as a Hybrid Meeting if:

- 9.8.1 all Directors (other than any Director on leave of absence) have access to the technology to be used for the meeting, and
- 9.8.2 those Directors participating by technological means can communicate with all other participating Directors.

9.9 Circulating resolutions

- 9.9.1 A written resolution which has:
- (a) been circulated to all the Directors who are entitled to vote on the resolution, and
 - (b) which is then signed or approved by technological means by a majority of the Directors entitled to vote on the resolution
- is taken to be a decision of the Board passed at a Board meeting convened and held.
- 9.9.2 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 required to form a majority of Directors signs such a document; 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 required to form a majority of Directors indicates their approval.

9.10 **Conflicts and personal interests**

- 9.10.1 A Director who has a material personal interest in a matter that relates to the Company's affairs must give the other Directors written or verbal notice of the interest unless the Corporations Act or Relevant Laws require otherwise.
- 9.10.2 Subject to clause 9.10.3, to the maximum extent required by the Corporations Act or the Conflict of Interest Policy of the Company, 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.
- 9.10.3 The Director may be present and vote if allowed by the Corporations Act or the Directors who do not have a material personal interest in the matter have passed a resolution that:
- (a) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the Company; and
 - (b) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present.

9.11 **Minutes**

- 9.11.1 The Board must ensure that minutes of all proceedings of general, Board, committee meetings (and meetings of any other Board entity) are signed by the Chair within a reasonable time after the meeting and recorded and stored electronically in a digital minute book within one month after the relevant meeting is held.
- 9.11.2 The minutes must be approved as the authorised record of that meeting at the next meeting.
- 9.11.3 Minutes approved as an authorised record are prima facie evidence of the proceedings to which they relate.

9.12 **Validity of acts / procedural defects**

- 9.12.1 A Board act or decision will not be invalid by reason only of a defect or irregularity in connection with the appointment of a Director.
- 9.12.2 For stored and approved 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.

10 **COMMITTEES AND ADVISORY BODIES**

10.1 **Board's power to establish committees and advisory bodies**

The Board may establish committees and such advisory bodies required by Relevant Laws, as follows:

- 10.1.1 a committee will comprise two or more members, of which at least one must be a Director;
- 10.1.2 an advisory body will comprise two or more members, of which at least one must be a Director;
- 10.1.3 the committee or advisory body members otherwise need not be a Director or Member;
- 10.1.4 the committee or advisory body has the purpose set out in its charter approved by the Board, and may undertake the powers and functions delegated to it by the Board; and
- 10.1.5 in the absence of any provision in the committee or advisory body charter or Regulations, meetings and proceedings of any committee or advisory body are governed by the provisions of clause 9.

11 ADMINISTRATION

11.1 Change of name

The Members may change the Company's name by special resolution in accordance with the Corporations Act. Such a resolution authorises the Board to update all references to the Company's name in this Constitution.

11.2 Amendment of Constitution

- 11.2.1 The Members may amend this Constitution by special resolution in accordance with the Corporations Act and Relevant Laws.
- 11.2.2 If the Company is registered under Relevant Laws, a special resolution under clause 11.2.1 (unless it expressly provides otherwise) does not take effect if it would cause the Company to lose any entitlements to registration under Relevant Laws.

11.3 Accounts

The Board must cause:

- 11.3.1 proper accounting and other records to be kept in accordance with the requirements of the Corporations Act and Relevant Laws, and
- 11.3.2 financial statements to be made and laid before each annual general meeting as required by the Corporations Act and Relevant Laws or at other general meetings as determined by the Board from time to time.

11.4 Audits

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

11.5 Records and inspection

A Member is not entitled to inspect any document of the Company, except as provided by the Corporations Act or authorised by the Board.

11.6 Service of notices

- 11.6.1 Notices must be in writing and may be given by the Company to any Member:
- (a) in person;
 - (b) by sending it by post to the Member at the Member's registered address; or
 - (c) by sending it to the postal, e-mail or other address supplied for receiving notices.
- 11.6.2 A notice sent by post is deemed to have been given three (3) Business Days after it was posted. A notice sent by electronic or other means, is deemed to have been given on the next Business Day after it was sent.

11.7 Indemnity of officers

- 11.7.1 Subject to clause 11.7.4, the Company indemnifies current and former Officers (**Indemnified Officer**) out of its assets against any Liability incurred by the Indemnified Officer in or arising out of:
- (a) the conduct of the Company's affairs or business; or
 - (b) the discharge of the Indemnified Officer's duties during the time of their active appointment,
- but only to the extent that:
- (c) the Indemnified Officer:
 - (1) has acted in good faith;
 - (2) has not engaged in conduct which is fraudulent, criminal, dishonest or a wilful default of the Indemnified Officer's duties as an Officer;
 - (3) has not engaged in conduct attributable to a pecuniary penalty order against the Indemnified Officer for non-compliance with the Indemnified Officer's duties under the Relevant Law;
 - (4) has not engaged in misconduct under the Indemnified Officer's terms and conditions of appointment or engagement as an Officer or a breach of those terms and conditions (if any); and
 - (5) is not otherwise entitled or actually indemnified by a third party;
 - (d) the Company is not precluded by Law from doing so;
 - (e) there is no non-indemnification order of a Court that precludes the Company from doing so;
 - (f) the Liability does not arise in connection with a Claim against the Indemnified Officer by the Company; and
 - (g) the Liability is not a cost or expense for an unsuccessful application to a Court for relief under the Corporations Act, or the defence of civil or criminal proceedings where judgement is given against the Indemnified Officer or in which the Indemnified Officer is not acquitted.

- 11.7.2 The Company may execute any deed in favour of any Indemnified Officer to confirm the indemnities conferred by clause 11.7.1 in relation to that person.
- 11.7.3 Clause 11.7.1 does not apply where a deed is executed under clause 11.7.2.
- 11.7.4 The obligations of the Company to indemnify the Indemnified Officer as set out in this clause 11.7 are extinguished and terminated immediately prior to the Company taking any steps required under the Corporations Act for the Company to be voluntary de-registered or wound up.

11.8 Insurance

- 11.8.1 The Company may pay or agree to pay premiums for directors and officers insurance to insure Indemnified Officers against any Liability incurred by the Indemnified Officer referred to in clause 11.7.
- 11.8.2 The Company may execute any deed in favour of any Indemnified Officer to take out insurance referred to in clause 11.8.1, on such terms as the Board considers appropriate.

11.9 Execution of documents

Documents executed for and on behalf of the Company must be executed by:

- 11.9.1 two Directors;
- 11.9.2 a Director and the Secretary; or
- 11.9.3 such other persons as the Directors by resolution appoint or authorise from time to time.

11.10 Definitions

In this Constitution:

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

ACNC Governance Standards means the standards set out in the *Australian Charities and Not-for-profits Commission Regulations 2022* (Cth);

Ballot means any question or resolution submitted by the Board to the vote of all Members entitled to a vote at a general meeting by a postal or Electronic Voting process and as set out in clause 6.11;

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

Business Day means a weekday which is not a public holiday in the state or territory of the Company's registered office;

Chair means the Director and office bearer elected under clause 7.7.1(a);

Chief Executive Officer means the person appointed to that role under clause 8.3 and who reports directly to the Board;

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

Company Secretary means a secretary appointed under clause 8.4;

Constitution means this constitution of the Company;

Contractor means a person or firm engaged by the Company as a contractor;

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

Deductible Gifts means gifts of money or property for the Purpose of the Company and fundraising contributions as defined by, and which can be deducted under, Division 30 of the Tax Act;

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

Deputy Chair means the Director and office bearer under clause 7.7.1(b);

Electronic Voting means an electronic vote of members (including voting using electronic means, computer-mediated voting and voting via email) as determined by the Board and conducted in accordance with this Constitution and any Regulations made for this purpose from time to time;

Employee means any person engaged by the Company as an employee;

General meeting includes both the annual general meeting and any special general meeting;

Hybrid Meeting means a meeting held in two or more locations where some or all of the participants' attendance is enabled by audio and video conferencing or similar technology;

Indemnified Officer has the meaning given in clause 11.7 and includes current and previous Directors;

Law includes statute, regulation, legislative instrument, rules, standards, proclamation, ordinance or by-law which, by or under statute, bind a person from time to time;

Liability includes cost, charge, loss, damage, expense or penalty;

Member means a person who is a member of the Company pursuant to clauses 4 and 5;

Membership means being a current Member of the Company;

NDIS means the National Disability Insurance Scheme;

NDIS Act means the *National Disability Insurance Scheme Act 2013* (Cth);

Officer means an officer for the purposes of the Corporations Act;

Purpose has the meaning given in clause 1;

Regulations means regulations made by the Board under clause 8.5;

Relevant Laws means Laws regulating the registration, reporting or governance obligations of the Company and includes the:

- (a) *Health Services Act 1988* (Vic);
- (b) ACNC Act;
- (c) ACNC Governance Standards;
- (d) Tax Act;

- (e) *Charities Act 2013* (Cth);
- (f) Corporations Act; and
- (g) NDIS Act.

Representative of a Member means:

- (a) a proxy appointed in accordance with clause 6.9;
- (b) an attorney of the Member, whose instrument of appointment has been provided to the Company;

and includes a Representative appointed on a standing basis;

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

Year, in relation to a Director's term of office, means the period of approximately one calendar year from the date of their appointment.

11.11 Interpretation rules

Unless the contrary intention appears in this Constitution:

- 11.11.1 words importing the singular include the plural, and words importing the plural include the singular;
- 11.11.2 words importing a gender include every other gender;
- 11.11.3 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;
- 11.11.4 headings and bold text are for convenience only and do not affect its interpretation; and
- 11.11.5 a Member is to be taken to be present at a general meeting if the Member is present in person, or by technology or by Representative.

11.12 Interpretation subject to Relevant Laws

- 11.12.1 This Constitution is to be interpreted subject to Relevant Laws. If there is any inconsistency, Relevant Laws prevail.
- 11.12.2 To the extent that Relevant Laws require this Constitution to include provisions so that the Company can hold a registration or exemption status, those provisions are taken to form part of this Constitution.

11.13 Interpretation subject to the Corporations Act

- 11.13.1 Provisions which are replaceable rules under the Corporations Act do not apply to the Company.
- 11.13.2 While the Company is a registered charity under the ACNC Act:
 - (a) subject to clause 12.13.2(b), the provisions of the Corporations Act in Part 2G.2 (except for section 250N) and 2G.3 apply to the Company as if section 111L(1) of the Corporations Act was not enacted; and

- (b) if one of those provisions includes a reference to ASIC, including a reference to lodge any document with, or seek consent or approval from ASIC, that particular requirement does not apply to the Company.