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AUSTRALIAN COLLEGE OF CARE WORKERS LTD

CONSTITUTION

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

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AUSTRALIAN COLLEGE OF CARE WORKERS LIMITED

CONSTITUTION

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Constitution:

Appointed Director means a Director appointed for the purposes of clause 7.3;

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 under clause 7.8.1;

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

Company Secretary means a secretary appointed under clause 8.5;

Constitution means this constitution of the Company;

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

Director means a person for the time being who performs the role of director of the Company, and includes a Managing Director;

Deputy Chair means the Director and office bearer under clause 7.8.2;

Elected Director means a Director elected for the purposes of clause 7.1.1;

Founding Members means those persons named as members in the application to the Australian Securities and Investments Commission to register the Company;

Indemnified Officer has the meaning given in clause 11.7;

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;

Managing Director means a person appointed under clause 8.3 to be a managing director of the Company and who is also a Director;

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

Purpose has the meaning given in clause 2;

Regulations means regulations made by the Board under clause 8.6;

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

(a) *Australian Charities and Not-for-profits Commission Act 2012* (Cth);

(b) *Income Tax Assessment Act 1997* (Cth); and

(c) *Charities Act 2013* (Cth);

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;

(c) a representative appointed by the body corporate Member in accordance with the Corporations Act,

and includes a Representative appointed on a standing basis;

Transitional Period means the period commencing on the date the Company is incorporated and ending at the conclusion of the fourth annual general meeting;

Unacceptable Conduct means conduct of a Member which, in the reasonable opinion of the Board:

(a) is, has been or will be prejudicial to the Company's interests;

(b) is not that of a fit and proper person or a person of good fame and character;

(c) is unbecoming of Members; and

(d) is conduct similar to the above which is set out in the Regulations.

Year, in relation to a Director's term of office, means the period of approximately one calendar year between annual general meetings.

1.2 Interpretation

In this Constitution, unless the contrary intention appears:

1.2.1 the singular includes the plural and vice versa;

1.2.2 words importing one gender include other genders;

1.2.3 a reference to an individual or person includes a partnership, body corporate, government authority or agency and vice versa (whether or not incorporated);

1.2.4 a reference to a person includes that person's executors, administrators, successors, substitutes and permitted assigns;

1.2.5 a reference to a document or instrument, including this Constitution, includes that document or instrument as novated, altered or replaced from time to time;

1.2.6 a reference to a statute, code or other law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them;

1.2.7 other grammatical forms of defined words or expressions have corresponding meanings;

- 1.2.8 headings and the provision of a table of contents are for convenience only and do not affect the interpretation of this Constitution; and
- 1.2.9 a Member is to be taken to be present at a general meeting if the Member is present in person or by Representative.

1.3 Interpretation subject to Relevant Laws

- 1.3.1 This Constitution is to be interpreted subject to the Corporations Act and the Relevant Laws. If there is any inconsistency, Relevant Laws prevail.
- 1.3.2 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.
- 1.3.3 Provisions which are optional replaceable rules under the Corporations Act do not apply to the Company.

2 PURPOSE OF THE COMPANY

The Company is a not-for-profit and charitable institution established and operated in Australia solely to pursue the principal purpose in clause 2.1 and the supporting purposes in clause 2.2 (**Purpose**).

2.1 Principal purpose

The Company's principal purpose is to protect the public and recipients of aged care, health, community care, disability, mental health care, independent living centre care and other care services (**Care Services**) in Australia from avoidable harm through improving the quality of care and services provided by:

- 2.1.1 providing initial and ongoing registration and certification to individuals who provide Care Services (**Care Workers**) through annual registration;
- 2.1.2 providing a platform for education, training and certification to Care Workers to improve the standard and quality of Care Services being provided to Australians;
- 2.1.3 certifying and accrediting Care Workers based on their skills, qualifications and experience for the benefit of the public, recipients of Care Services, registered providers of Care Services (**Care Providers**) and employers of Care Workers;
- 2.1.4 conducting, delivering and arranging educational programs and courses for Care Workers to improve and maintain the required standards of Care Services being provided;
- 2.1.5 educating Care Workers on appropriate care to increase understanding of treatment options clients who receive Care Services and raise the standard of care;
- 2.1.6 providing certification to Care Workers who meet minimum and desirable standards of competency, education and experience to ensure safety and quality assurance in the delivery of Care Services;
- 2.1.7 maintaining a register of Care Workers and their corresponding qualifications to ensure currency in the education and training of Care Workers and to connect appropriately qualified Care Workers with Care Providers; and
- 2.1.8 increase public confidence that Care Workers are suitably qualified to meet and exceed the standard of care expected in the provision of Care Services.

2.2 **Supporting purposes**

In support of clause 2.1, the Company's supporting purposes are to:

- 2.2.1 encourage and support individual and organisational Members in their provision of quality standards of care for people who are aged, have a disability or those who are otherwise disadvantaged;
- 2.2.2 undertake research in order to further the Principal Purpose; and
- 2.2.3 do all lawful things consistent with, necessary or desirable to support and further the principal purpose in clause 2.1.

3 **NOT-FOR-PROFIT AND CHARITABLE NATURE OF THE COMPANY**

3.1 **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.

3.2 **Income applied for the Purpose**

The Company's income and property:

- 3.2.1 must be applied solely towards the Purpose; and
- 3.2.2 must not be paid or given to a Member, directly or indirectly, by way of dividend, bonus or otherwise, unless permitted by clause 3.3 or 3.5.

3.3 **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:

- 3.3.1 expenses properly incurred for the Company;
- 3.3.2 goods or services supplied to the Company;
- 3.3.3 interest on money lent to the Company; or
- 3.3.4 rent for premises let to the Company.

3.4 **Winding up**

The Company's surplus assets, after satisfying all liabilities on wind up or dissolution:

- 3.4.1 must not be paid or given to current or former Members unless eligible under clause 3.5; and
- 3.4.2 must be paid to eligible recipients selected under clauses 3.5 and 3.6.

3.5 **Eligible recipients**

A fund, authority or institution is eligible to receive any surplus under clause 3.4.2 if it:

- 3.5.1 has not-for-profit and charitable purposes similar to the Purpose;

- 3.5.2 prohibits its income and property from being paid to members on at least the terms of this clause 3;
- 3.5.3 is a charity registered under Relevant Laws if the Company had been; and
- 3.5.4 is income tax exempt under Commonwealth taxation Laws if the Company had been.

3.6 Selection of eligible recipients

Eligible recipients to receive any surplus referred to in clause 3.5 must be selected:

- 3.6.1 by Member special resolution;
- 3.6.2 failing clause 3.6.1, by Board resolution; and
- 3.6.3 failing clause 3.6.2, by application to the Supreme Court in the state or territory in which the Company's registered office is located.

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 one dollar (\$1.00) towards:
- (a) the Company's liabilities contracted before the person ceased to be a Member; and
 - (b) costs, charges and expenses to wind up and adjust the rights of the contributories among themselves.

4.2 Classes of Members and eligibility

The Members of the Company comprise the classes of Members with the eligibility and rights set out in the table below and such other voting or non-voting categories whose rights, benefits, privileges, entitlements, obligations, liabilities, eligibility and status will be determined by the Board.

Class	Eligibility	Rights (see also clause 4.3)
Student Member	Students studying to obtain a qualification in a relevant discipline (as determined by the Board) to enable the student to provide Care Services	Voting rights after one year of membership
Allied Health Member	Individuals with allied health qualifications working as allied health professionals for Care Providers	Voting rights after one year of membership
Care Worker Member	Personal care workers and attendants, registered nurses, nursing staff and other care workers who provide Care Services to clients	Voting rights after one year of membership

Class	Eligibility	Rights (see also clause 4.3)
Approved Provider Member	A company, association, partnership or other incorporated or unincorporated organisation which is a registered as an approved provider within the meaning of the <i>Aged Care Act 1997</i> (Cth)	Voting rights after one year of membership
Care Provider Member	A company, association, partnership or other incorporated or unincorporated organisation which is registered to provide Care Services, but is not an Approved Provider Member	Voting rights after one year of membership
Industry Member	A company, association, partnership or other incorporated or unincorporated organisation which supports the provision of Care Services by providing relevant services (as determined by the Board), but is not a Care Provider	Voting rights after one year of membership
Life Member	The Board may from time to time elect as Life Member individuals who have made a distinguished contribution to the Company.	Voting, but with no obligation to pay membership fees

4.3 Member rights and obligations

- 4.3.1 Voting 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. These rights are suspended if membership fees are payable but are unpaid.
- 4.3.2 Non-voting Members have the right to receive notice of and attend the annual general meeting, but may not participate in the requisition of, speak at, vote at or join in the demand for a poll at that meeting.
- 4.3.3 Members have the right to appoint a Representative to exercise all the Member's rights.

4.4 Rights not transferrable

A person's membership rights and privileges:

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

4.5 Membership period and fees

The Board may determine:

- 4.5.1 the membership period (including common expiry dates) as well as how and when membership is renewed;
- 4.5.2 fees payable by the classes of Members, including any fee to apply for membership or be admitted as a Member; and
- 4.5.3 whether fees are refundable or non-refundable.

4.6 **Register of Members, including closure of register**

- 4.6.1 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.
- 4.6.2 The Board may establish Regulations to close the register to new Members for up to 60 days per year.
- 4.6.3 The Company may maintain a database of other Member details which is separate to the register of Members.

4.7 **Change of Member details**

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

4.8 **Transitional membership arrangements**

Despite any clause to the contrary during the Transitional Period:

- 4.8.1 each Founding Member remains a Member unless he or she resigns as a Member in accordance with clause 5.2,;
- 4.8.2 each Founding Member has one vote; and
- 4.8.3 unless clause 04.8.1 applies, the Founding Members cease to be a Members at the end of the Transitional Period, however may be admitted by the Board as Members in another class of membership.

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

5.1 **Admission of Members**

- 5.1.1 The Board may admit in its absolute discretion a person as Member upon application in accordance with any requirements specified in the Regulations.
- 5.1.2 The Board must consider membership applications as soon as reasonably practicable.
- 5.1.3 The Board need not provide reasons for refusing to admit a person as Member.
- 5.1.4 Successful applicants become Members when added to the register of Members.

5.2 **Resignation of Members**

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

5.3 **Ceasing to be a Member**

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

- 5.3.1 does not attend or provide an apology in respect of the annual general meeting for 3 consecutive years;

- 5.3.2 does not renew the membership by the due date;
- 5.3.3 has not paid membership fees for 3 months after the due date;
- 5.3.4 has a debt to the Company which remains unpaid for one year;
- 5.3.5 ceases to be eligible to be a Member in the relevant class;
- 5.3.6 no longer meets the criteria relevant to each class of Member as set out in Regulations;
- 5.3.7 becomes untraceable for 3 months because the Member cannot be contacted using the address on the register of Members;
- 5.3.8 dies or, in the case of a body corporate, is wound up or deregistered;
- 5.3.9 becomes bankrupt, or makes any arrangement or composition with the Member's creditors generally; or
- 5.3.10 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.

5.4 **Disciplining Members**

The Board may warn, fine, censure, suspend or expel a Member if the Member:

- 5.4.1 engages in Unacceptable Conduct, subject to:
 - (a) the decision being made by a two-thirds majority of all Directors whether they are all present and voting;
 - (b) the Member being afforded a reasonable opportunity to respond, in accordance with any Regulations, to the Board's allegations; and
 - (c) the Member's appeal rights (if any) set out in the Regulations;
- 5.4.2 refuses or neglects to comply with the provisions of this Constitution or the Regulations;
- 5.4.3 is found guilty by a court of an indictable offence; or
- 5.4.4 has a debt to the Company which remains unpaid for at least six months.

5.5 **Initial Members**

The initial Members of the Company are the Founding Members.

6 **GENERAL MEETINGS**

6.1 **Convening an annual general meeting**

- 6.1.1 The Board must convene an annual general meeting to be held at least once every year. 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 election 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 Board or 2 Directors 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 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 every general meeting must be given in writing in accordance with clause 11.6 to:
 - (a) every Director;
 - (b) every Member entitled to attend who has supplied an address for notices to the Company; and
 - (c) the Company's auditor.
- 6.3.3 No other person is entitled to receive notices of general meetings.
- 6.3.4 A general meeting and any resolution passed at the meeting is not invalid merely because of:
 - (a) the accidental omission to give notice of the meeting; or
 - (b) the non-receipt of any such notice.

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 Members or convened by the Members, by 2 individual 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 the greater of 10% or 4 voting 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.

6.8.2 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 conclusive 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 need not be a 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 unsoundness of mind, of the appointor; or

- (b) revocation of the instrument or of the authority under which the instrument was executed,

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

6.10 Use of technology

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

6.11 Circular resolution

6.11.1 The Board may if it thinks fit submit any question or resolution to the vote of all Members entitled to a vote at a general meeting by circular resolution, 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 circular resolution;
- (b) the polling date;
- (c) the method for responding to the circular resolution; and
- (d) whether voting on the circular resolution is to be by secret ballot.

6.11.3 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

Subject to clause 7.12, the Board will comprise between 6 and 9 Directors as follows:

7.1.1 6 Directors elected by the Members in accordance with clause 7.2 (**Elected Directors**); and

7.1.2 up to 3 Directors appointed by the Board in accordance with clause 7.3 (**Appointed Directors**).

7.2 Election of Elected Directors

7.2.1 Nominations of candidates for election as a Director must be signed by the candidate and a proposing Member, contain a consent to act as a Director signed by the candidate, and must be received at least 14 days before the annual general meeting.

7.2.2 If the number of nominations of candidates for election does not exceed the number of vacancies, those candidates will be declared elected at the annual general meeting. However, where vacancies are for different terms of office, an election must proceed to determine which candidates receive which terms of office.

- 7.2.3 If candidates are not declared elected pursuant to clause 7.2.2, then balloting lists must be printed containing candidate names in alphabetical order and sent to each Member at least 5 days before the annual general meeting.
- 7.2.4 Vacancies (from longest to shortest term of office) will be filled by candidates with the most votes according to the election system previously approved by the Board.
- 7.2.5 The returning officer appointed by the Board must declare the election result at the annual general meeting.

7.3 **Appointment of Appointed Directors**

- 7.3.1 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 for that purpose.
- 7.3.2 Unless the Board resolves otherwise, the Company Secretary:
- (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 and the Regulations.
- 7.3.3 The Regulations pursuant to clause 7.3.1 must be consistent with the following:
- (a) Before each annual general meeting, the Company Secretary must publicly call for Appointed Director candidates who need not be Members.
 - (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 for becoming 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 (including, without limitation, to complement the Elected Directors) for the effective operation of the Board.
 - (e) At the Board meeting preceding each annual general meeting, the Board may appoint Appointed Directors after considering the recommendations from the committee conducting the selection process.
 - (f) The meeting chair must announce the Appointed Directors at the annual general meeting. Appointments take effect at the end of the annual general meeting at which the appointments are announced.
- 7.3.4 Unless the Board resolves otherwise, the Company Secretary:
- (a) is responsible for the conduct of the selection process of Directors; and
 - (b) may decide all matters in relation to the conduct of the selection process, subject to this Constitution and the Regulations.

7.4 **Eligibility to be a Director**

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

- 7.4.1 in the case of Elected Directors — is a Member or a Representative of a Member;
- 7.4.2 is over the age of 18 years;
- 7.4.3 consents in writing to become a Director;
- 7.4.4 is not prohibited, disqualified or otherwise prevented from being a Director under the Corporations Act or Relevant Laws; and
- 7.4.5 except for the Managing Director, is not an employee of the Company.

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

If a Director has served 9 Years or more continuously, then the Director may finish serving his or her current term of office but does not become eligible to be elected or appointed (whether or not to a casual vacancy) until he or she has not been a Director for a subsequent continuous period of 3 Years.

7.6 **Term of office of Directors**

- 7.6.1 An Elected Director holds office for a term of three Years:
 - (a) commencing immediately after the annual general meeting at which his or her election was declared;
 - (b) concluding at the end of the third annual general meeting after the one at which he or she was declared elected.
- 7.6.2 An Appointed Director holds office for a term of three Years:
 - (a) commencing from the date the Board resolves to appoint the person (for example, the appointment may take effect immediately after the next annual general meeting);
 - (b) concluding at the end of the third annual general meeting after commencing as an Appointed Director.
- 7.6.3 The Board may appoint an Appointed Director for a shorter term than under clause 7.6.2 if the Board so determines at the time of appointment.

7.7 **Casual vacancies**

- 7.7.1 If a casual vacancy occurs for any Elected Director office, the Board may appoint another eligible person in his or her place until the end of the next annual general meeting. The Members must then elect a person to fill the Elected Director in accordance with clause 7.1.2. The person elected will serve only for the balance of the term of the original Elected Director.
- 7.7.2 If a casual vacancy occurs for any Appointed Director office, the Board may appoint another eligible person in his or her place until the end of the next annual general meeting.
- 7.7.3 The Board may continue to act despite vacancies on the Board. However, if there are less than 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.

7.8 Office bearers

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

- 7.8.1 Chair;
- 7.8.2 Deputy Chair; and
- 7.8.3 such other office bearers with titles determined from time to time by the Board.

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 in accordance with the Corporations Act.
- 7.10.2 A directorship automatically ceases if the Director:
 - (a) dies or is physically incapable of fulfilling his or her duties as a Director;
 - (b) in the case of an Elected Director, was but ceases to be a Member;
 - (c) becomes disqualified from being a Director pursuant to the Corporations Act or Relevant Laws;
 - (d) for more than 6 months is absent without Board permission from Board meetings held during that period;
 - (e) becomes a bankrupt or makes any arrangement or composition with personal creditors generally; or
 - (f) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.

7.11 Director remuneration and reimbursement

- 7.11.1 Despite clause 3, the Directors may be paid reasonable remuneration for undertaking the ordinary duties of a Director. The Directors must not otherwise be paid any other remuneration for those duties.
- 7.11.2 Despite clause 3, 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 3, 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.

7.12 Initial Board

Despite any provision to the contrary:

7.12.1 On registration of the Company and, subject to clause 7.12.3(b), for the Transitional Period, the Board will comprise between 3 and 9 Directors as follows:

- (a) the 3 Directors named in the application to the Australian Securities and Investments Commission to register the Company (**Initial Directors**) for the terms specified in clause 7.12.3;
- (b) 3 Elected Directors elected in accordance with clause 7.12.2; and
- (c) up to 3 Appointed Directors.

7.12.2 The election of the Elected Directors in accordance with clause 7.12.1(b), will be staggered as follows:

- (a) 1 will be declared elected at the 2020 annual general meeting (and so on every three years);
- (b) 1 will be declared elected at the 2021 annual general meeting (and so on every three years); and
- (c) 1 will be declared elected at the 2022 annual general meeting (and so on every three years).

7.12.3 Despite anything to the contrary in clause 7.6, the Initial Directors will hold office as follows and are eligible for re-election at the end of their term:

- (a) Bruce Craike and Nisha Bhatnagar will hold office until the end of the 2022 annual general meeting; and
- (b) Janet Lawrence will hold office until the end of the 2024 annual general meeting.

7.12.4 At the 2022 annual general meeting, two Elected Directors are to be elected in place of the Initial Directors specified in clause 7.12.3(a) as follows:

- (a) 1 will be declared elected for a term of 1 Year; and
- (b) 1 will be declared elected for a term of 3 Years.

7.12.5 At the 2024 annual general meeting, one Elected Director is to be elected for a term of 3 Years in place of the Initial Director specified in clause 7.12.3(b).

8 BOARD POWERS

8.1 Management vests in Board

8.1.1 The Board is responsible for the governance, business and affairs of the Company. In addition to the specific powers conferred on the Board by this Constitution, the Board may exercise all the Company's powers which are not by the 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 and Relevant Laws; and
- (c) 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 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 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 Managing Director

8.3.1 The Board may appoint a Director to the office of Managing Director on such terms and conditions as the Board determines from time to time.

8.3.2 Subject to the Board's decisions or directions to the contrary, the Managing Director will be responsible for the day to day operations of the Company in accordance with any policies and strategies set by the Board.

8.3.3 Despite clauses 3 the Managing Director is entitled to be paid such reasonable remuneration for his or her services in accordance with clause 7.11.

8.3.4 Subject to the terms of any agreement between the Company and the Managing Director and any Relevant Laws, the Board may remove the Managing Director, however the person will remain a Director unless also removed in accordance with clause 7.10.

8.4 Power to appoint Chief Executive Officer

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

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

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

8.4.4 The Chief Executive Officer will have the responsibilities determined by the Board.

8.5 Power to appoint Company Secretary

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

8.5.2 The Company Secretary may, but need not, be a Director or the Chief Executive Officer.

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

8.5.4 The Company Secretary will have the responsibilities set out in the Corporations Act and Relevant Laws.

8.6 Power to make Regulations

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

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

8.6.3 The Board has power to make Regulations under clause 8.6 to set and deliver continuing professional development activities in furtherance of the Purposes.

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 Number of meetings

The Board must meet at least 4 times per year.

9.2 Convening meetings

The Company Secretary must arrange a Board meeting:

9.2.1 at the request of the Chair or a Managing Director; or

9.2.2 on the requisition of 2 or more Directors.

9.3 Notice of meeting

9.3.1 At least 5 days' notice of any Board meeting must be given unless the Board decides otherwise or in emergencies.

9.3.2 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.

9.3.3 The decision of the meeting chair as to whether business is routine is conclusive.

9.4 **Quorum**

9.4.1 The quorum for a Board meeting is a simple majority of the Directors entitled to attend and vote. A meeting at which a quorum is present may exercise all powers and discretions of the Board.

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

9.5 **Meeting chair**

9.5.1 The Chair may chair a Board meeting.

9.5.2 If the Chair is absent the Deputy Chair may chair.

9.5.3 In the absence of the Chair and the Deputy Chair, the Directors may appoint a meeting chair from among their number.

9.6 **Voting**

9.6.1 Each Director present and entitled to vote at a Board meeting has one vote. Proxy voting and alternate Directors are not permitted.

9.6.2 Questions arising at a Board meeting must be decided by a majority of votes. Such a decision is for all purposes a decision of the Board.

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

9.7 **Use of technology**

The Board may hold a technology enabled meeting if:

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

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

9.8 **Circulating resolutions**

9.8.1 A written resolution signed or approved by technological means (other than any Director on leave of absence) is taken to be a decision of the Board passed at a Board meeting convened and held.

9.8.2 The written resolution may consist of:

(a) several documents in the same form, each signed by one or more Directors and, such a resolution takes effect when the last Director signs 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 indicates his or her approval.

9.9 **Conflicts and personal interests**

- 9.9.1 A Director who has a material personal interest in a matter that relates to the Company's affairs must give the other Directors written notice of the interest unless the Corporations Act or Relevant Laws require otherwise.
- 9.9.2 To the maximum extent required by Law, 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 **Minutes**

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

9.11 **Validity of acts / procedural defects**

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

10 **COMMITTEES**

10.1 **Board's power to establish committees**

The Board may establish committees as follows:

- 10.1.1 a committee will comprise two or more committee members, of which at least one must be a Director;
- 10.1.2 the committee members otherwise need not be a Director or Member;
- 10.1.3 the committee 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
- 10.1.4 in the absence of any provision in the committee charter, meetings and proceedings of any committee are governed by the provisions of clause 9.

11 ADMINISTRATION

11.1 Change of name

11.1.1 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.

11.1.2 Despite clause 11.1.1, the Board may apply under the Corporations Act to omit from or reinstate "Limited" in its name.

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.

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 (other than a Director) is not entitled to inspect any document of the Company, except as provided by law 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 address, facsimile number, e-mail address or other address supplied for receiving notices.

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

11.7 Indemnity of officers

11.7.1 The Company indemnifies current and former Directors (**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.

but only to the extent that:

- (c) the Indemnified Officer has acted in good faith and is not otherwise entitled or actually indemnified by a third party;
- (d) the Company is not precluded by Law from doing so; and
- (e) 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 applies whether or not any deed is executed under clause 11.7.2.

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 Seal

11.9.1 The Board will determine whether or not the Company is to have a seal (known as the common seal) and, if so, will provide for the safe custody of such seal.

11.9.2 The seal, if any, of the Company may only be affixed to any instrument with the Board's authority.

11.9.3 The affixing of the seal must be attested by the signatures of persons authorised by the Board for that purpose.