

# North Richmond Community Health Limited

ABN 21 820 901 634

## CONSTITUTION

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## PART 2 – THE COMPANY

### 2. Name

The name of the company is “North Richmond Community Health Limited”.

### 3. Objects

3.1 The objects of the company are:

- (a) to deliver culturally appropriate, high quality health and social services:
  - (i) using a social model of health that recognises the needs of individuals and families who cannot readily access the health and welfare system;
  - (ii) focussing on individuals and families who are from socially, culturally and linguistically diverse communities so as to reduce the social and health inequalities experienced by those individuals and families; and
  - (iii) giving priority to individuals and families who, aside from illness, are experiencing distress, misfortune, helplessness or poverty;
- (b) to develop and deliver culturally appropriate programs to improve the health and welfare, and the access to services, of the community; and
- (c) to undertake research relevant to these objects.

3.2 In pursuing its objects, the company must not discriminate except on the basis of need.

### 4. Legal Capacity, Powers and Location

4.1 The company has:

- (a) the legal capacity and powers of an individual, and
- (b) all the powers of an incorporated body.

See section 124 of the Corporations Act.

4.2 The company may only:

- (a) exercise its powers; and
- (b) use its income and assets (including any surplus);

for:

- (c) its objects, and

- (d) purposes incidental or ancillary to its objects.

4.3 The company:

- (a) is established and legally recognised in Australia; and
- (b) makes operational and strategic decisions only in Australia.

See item 1 of section 30-15 of the *Income Tax Assessment Act 1997* (Cth).

### 5. Not For Profit Organisation

5.1 The company must not make any distribution (including of any income or assets) directly or indirectly to its members.

5.2 Clause 5.1 does not prevent the company from paying its members:

- (a) reimbursement for expenses properly incurred by them in carrying out their duties on behalf of the company, and
- (b) for goods supplied and services provided by them,

if this is done in good faith on terms no more favourable than if the member were not a member.

## PART 3 – DIRECTORS AND COMPANY SECRETARY

### 6. Positions

6.1 The company has 9 directors, 3 appointed each year under clause 7, with staggered 3 year terms.

6.2 Before being appointed, each director must give the company:

- (a) a signed\* consent to act as a director of the company, and

See section 201D of the Corporations Act.

- (b) an undertaking in writing\* to contribute up to \$1 to the company’s property as a member of the company, if the company is wound up.

6.3 The company does not have:

- (a) alternate directors, or
- (b) a managing director.

## **7. Appointment**

- 7.1 The Board must at its last meeting before each annual general meeting appoint 3 individuals as directors.
- 7.2 In appointing directors, the Board must ensure that the composition of the Board as a whole includes a mix of skills and experience appropriate for the company and its activities.

## **8. Term of Office**

- 8.1 Directors hold office:
- (a) from the end of the first annual general meeting after they are appointed,
  - (b) until the end of the fourth annual general meeting after they are appointed,
- subject to clauses 8.2–8.6.
- 8.2 Directors may be re-appointed, subject to clause 8.3.
- 8.3 Directors may not hold office for more than 3 terms (not including filling a casual vacancy).
- 8.4 Directors may resign by writing\* to the company.
- 8.5 Directors cease to hold office if they:
- (a) fail to attend 3 consecutive Board meetings without leave of absence under clause 30;
  - (b) accept any payment from the company otherwise than in accordance with this constitution and the Corporations Act; or  
See Chapter 2E of the Corporations Act.
  - (c) become disqualified under the Corporations Act.  
See Part 2D.6 of the Corporations Act.
- 8.6 Directors may be removed by a general meeting in accordance with the Corporations Act. The resulting vacancy may be filled at the general meeting.  
See section 203D of the Corporations Act.
- 8.7 If there is a vacancy in directors (including a vacancy under clause 8.6 not filled at the general meeting), the Board may appoint an individual to fill the vacancy for the remainder of the term of office.

- 8.8 The Board may continue to act despite any vacancy in directors.
- 8.9 Even if it is subsequently found that a person who has acted as a director was not properly appointed, the validity of:
- (a) the acts of that person as a director, and
  - (b) decisions of Board meetings in which that person has participated;
- is not affected.

See section 201M of the Corporations Act.

## **9. Notification to ACNC**

If a person becomes or ceases to be a director, the company must notify the ACNC\* in the approved form within 28 days.

See section 65-5 of the ACNC Act.

## **10. Duties**

- 10.1 Each director is subject to, and must comply with, the following duties under the ACNC Regulation:
- (a) to exercise the director's powers and discharge the director's duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the company;
  - (b) to act in good faith in the company's best interests, and to further the objects of the company;
  - (c) not to misuse the director's position;
  - (d) not to misuse information obtained in the performance of their duties as a director of the company;
  - (e) to disclose perceived or actual material conflicts of interest of the director – see clause 29.1;
  - (f) to ensure that the company's financial affairs are managed in a responsible manner; and
  - (g) not to allow the company to operate while insolvent.

See section 45.25 of the ACNC Regulation.

- 10.2 This constitution is an enforceable contract between the company and each director.

See section 140 of the Corporations Act.

## **11. Access to Records**

11.1 Directors may inspect the financial records of the company at any reasonable time.

See section 290(1) of the Corporations Act.

11.2 Directors may make copies of the financial records inspected, unless the court orders otherwise.

See section 290(3) of the Corporations Act.

11.3 Directors may inspect and make copies of the other records of the company at any reasonable time:

(a) for the purposes of a legal proceeding to which they are or will be a party; or

See section 198F of the Corporations Act.

(b) for the purposes of carrying out their duties as a director.

## **12. Company Secretary**

The Board must appoint a company secretary in accordance with the Corporations Act.

See Part 2D.4 of the Corporations Act.

## **13. Indemnity**

The company indemnifies its directors and company secretary against any liability incurred in that capacity (other than to the company or a related body corporate), unless the liability did not arise out of conduct in good faith.

See section 199A(2) of the Corporations Act.

## **PART 4 – OFFICE-BEARERS**

### **14. Positions**

The company has the following office-bearers:

(a) Chair,

(b) Deputy Chair, and

(c) any other office-bearer positions established by the Board by regulation\*.

### **15. Election**

15.1 At its first meeting after the annual general meeting each year the Board must elect the office-bearers from among the directors.

15.2 A director who has already been elected to a particular office-bearer position 5 times (not including filling a vacancy) is not eligible to be elected again to that position.

### **16. Term of Office**

16.1 Office-bearers hold office from the time of their election until their successor is elected, subject to clauses 16.2–16.4.

16.2 Office-bearers may resign by writing\* to the company.

16.3 Office-bearers who cease to be directors, other than by the expiry of their term of office, cease to be office-bearers.

16.4 Office-bearers may be removed by resolution passed by an absolute majority\* of the Board.

16.5 The Board must as soon as practicable fill vacancies in office-bearer positions for the remainder of the term.

## **PART 5 – THE BOARD**

### **17. Membership**

The members of the Board are the directors of the company.

### **18. Responsibility and Powers**

18.1 The Board is responsible for both the governance and management of the company.

18.2 The Board must by regulation\* delegate the management of the company to the Chief Executive Officer.

18.3 The Board may exercise all powers of the company on its behalf.

18.4 The Board may delegate its powers as it considers appropriate.

18.5 No delegation by the Board under this clause limits the duties and liability of each director.

### **19. Community and Consumer Advisory Committee**

19.1 The Board must by regulation\* establish a Community and Consumer Advisory Committee (“CCAC”) to advise the Board on issues of concern to the local community and to consumers of the services provided by the company.

- 19.2 The role of the CCAC is advisory only and it has no power to direct the Board.
- 19.3 The CCAC must comprise members of the local community and consumers.
- 19.4 The regulation\* under clause 19.1 must otherwise prescribe the membership and terms of reference of the CCAC.

## 20. Other Committees

- 20.1 The Board may establish other committees with such membership and terms of reference as it considers appropriate.
- 20.2 Without limiting clause 20.1, the Board must by regulation\* establish a committee (or committees) with responsibility for finance, audit and risk management.

## 21. Regulations

- 21.1 The Board may by resolution passed by an absolute majority\* make regulations to give effect to this constitution.
- 21.2 Members and directors must at all times comply with the regulations as if they formed part of this constitution.

## 22. Public Statements

- 22.1 The Board may by regulation\* or resolution authorise the Chief Executive Officer, Chair or other person to make public statements on behalf of the company.
- 22.2 No person may make any public statement on behalf of the company unless authorised by the Board.

## PART 6 – BOARD MEETINGS

### 23. Convening

- 23.1 The company secretary, Chair or any 3 directors may convene\* a Board meeting.
- 23.2 Ordinary Board meetings must be held at least 6 times each year.
- 23.3 At its first meeting after the annual general meeting each year the Board must by resolution set the dates, times and places of ordinary meetings until the next annual general meeting.
- 23.4 The Board may by resolution subsequently change the dates, times and places of ordinary meetings.

### 24. Notice

- 24.1 Each director must be given at least 7 days notice in writing\* of Board meetings, subject to clause 24.4.
- 24.2 Notice may be given of more than 1 Board meeting at the same time.
- 24.3 The notice must state the date, time and place (or places) of the meeting, but need not include the business to be considered.
- 24.4 In cases of urgency a meeting may be held without the notice required by clause 24.1, provided that:
- (a) as much notice as practicable is given to each director by the quickest practicable means; and
  - (b) resolutions may only be passed by an absolute majority\*.

### 25. Virtual Meeting Technology

- 25.1 Board meetings may be held using virtual meeting technology, provided the technology enables each director attending the meeting to communicate clearly and simultaneously with every other such director.
- Compare section 253Q of the Corporations Act.
- 25.2 Without limiting clauses 24.4(a) and 25.1, Board meetings may be convened\* and held by telephone.
- 25.3 A director attending a Board meeting using technology is taken to be present in person at the meeting.
- As under section 253Q(3) of the Corporations Act.

### 26. Quorum

The quorum for Board meetings is the presence in person of a majority of the directors at the time.

### 27. Chairing

- 27.1 The Chair is entitled to chair Board meetings.
- 27.2 If the Chair is not present, or does not wish to chair the meeting, the Deputy Chair is entitled to chair.
- 27.3 If neither the Chair nor the Deputy Chair is present, or if neither wishes to chair the meeting, the Board must elect another director to chair.

27.4 The chair of the meeting does not have a casting vote.

## **28. Voting**

28.1 Each director present at a Board meeting has 1 vote.

28.2 There is no voting by proxy.

28.3 If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.

## **29. Conflict of Interest**

29.1 Each director who has a perceived or actual material conflict of interest in a matter that relates to the affairs of the company must disclose the conflict:

- (a) to the other directors, or
- (b) to the members of the company.

See section 45.25 of the ACNC Regulation.

29.2 Each director who has a material personal interest in a matter that is being considered at a Board meeting:

- (a) must not be present while the matter is being considered; and
- (b) must not vote on the matter;

except as provided by the Corporations Act.

See section 195 of the Corporations Act.

## **30. Leave of Absence**

30.1 The Board may by resolution grant directors leave of absence from Board meetings for up to 3 months.

30.2 The Board may not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the director concerned to seek leave of absence in advance.

30.3 The Board may by resolution grant directors additional periods of leave of absence.

## **31. Resolutions without Meeting**

31.1 A resolution agreed to in writing\* by all directors has the same effect as a resolution passed at a Board meeting.

31.2 In clause 31.1, “all directors” does not include those directors who:

- (a) would be prohibited by clause 29.2 from voting on the matter at a Board meeting; or
- (b) have leave of absence from Board meetings under clause 30.

## **PART 7 – MEMBERSHIP**

### **32. Members**

32.1 The only members of the company are its directors.

32.2 When a person becomes a member:

- (a) the name and address of the new member, and
  - (b) the date of becoming a member,
- must be entered in the register of members.

### **33. Subscriptions**

There are no subscriptions or other amounts to be paid in respect of membership of the company.

### **34. Rights and Obligations**

34.1 The rights of members are not transferable, and end when the member ceases to be a member in accordance with clause 36.

34.2 By becoming and remaining members, members agree to support the objects of the company.

34.3 Members must at all times comply with the constitution and regulations\*.

34.4 This constitution is an enforceable contract between the company and each member.

See section 140 of the Corporations Act.

### **35. Liability**

35.1 The liability of members is limited to the amount specified in clause 35.2.

35.2 If the company is wound up, each member undertakes to contribute up to \$1 to the company’s property.

35.3 In clause 35.2, “member” includes a former member who was a member at any time during the year ending on the day of the commencement of the winding up, subject to clause 35.4.

35.4 Former members need not contribute in respect of a debt or liability of the company contracted after they ceased to be a member.

### **36. Cessation**

36.1 Members cease to be members on ceasing to be a director.

36.2 When a member ceases to be a member, the date of ceasing to be a member must be entered in the register of members.

### **37. Register of Members**

The Board must ensure that a register of members is kept in which are entered:

- (a) the name of each member,
- (b) the address for notices last given by the member,
- (c) the date of becoming a member, and
- (d) in the case of former members – the date of ceasing to be a member.

See section 169 of the Corporations Act.

### **38. Grievance Procedure**

38.1 The grievance procedure in this clause applies to disputes under this constitution between a member and the company (including the Board).

38.2 The parties must first attempt to resolve the dispute themselves.

38.3 If the parties are unable to resolve the dispute, the Board must appoint a conciliator and arbitrator (in this clause, “conciliator”).

38.4 The conciliator:

- (a) must not have a personal interest in the dispute;
- (b) must not be biased in favour of or against any party;
- (c) may be a member or former member; and
- (d) if possible, must be appointed with the agreement of all parties.

38.5 The conciliator must conduct a conciliation at which each party is given a reasonable opportunity to be heard.

38.6 The parties must in good faith attempt to resolve the dispute by conciliation.

38.7 The conciliator may during, and must at the end of, the conciliation attempt to resolve the dispute by agreement between the parties.

38.8 If the conciliator is unable to resolve the dispute by agreement between the parties, the conciliator must determine the respective rights and obligations under this constitution of the parties and any other members.

38.9 A determination of a conciliator under clause 38.8 is binding on the parties and all members.

38.10 A party may appoint another person to act on its behalf in the grievance procedure.

38.11 The State, Territory and Commonwealth Acts applying to commercial arbitrations do not apply to the grievance procedure in this clause.

## **PART 8 – GENERAL MEETINGS**

### **39. Annual General Meeting**

39.1 The Board must convene\* an annual general meeting to be held in October or November each year.

Compare section 250N of the Corporations Act.

39.2 The Board must send members copies of the financial report and auditor’s report for the last financial year referred to in clause 51 with the notice of the annual general meeting.

Compare section 316A of the Corporations Act.

39.3 The Board must lay before the annual general meeting the financial report and auditor’s report.

As under section 317 of the Corporations Act.

39.4 The ordinary business of the annual general meeting is:

- (a) to verify the minutes of:
  - (i) the last annual general meeting, and
  - (ii) any special general meetings since the last annual general meeting; and

- (b) to consider the financial report and auditor’s report (including questions and comments from members on the management of the company).

As under section 250S of the Corporations Act.

39.5 The annual general meeting may only consider other business of which notice has been given in accordance with clause 41.3(b).

#### **40. Special General Meetings**

40.1 The Board may convene\* a special general meeting.

40.2 The Board must convene\* a special general meeting if requested by members on the same basis as under the Corporations Act.

See section 249D of the Corporations Act.

40.3 Members may themselves convene\* a special general meeting on the same basis as under the Corporations Act.

See section 249F of the Corporations Act.

40.4 Special general meetings may only consider business of which notice has been given in accordance with clause 41.3(b).

#### **41. Notice**

41.1 At least 21 days notice in writing\* of general meetings must be given to:

- (a) each member and director, and
  - (b) the company's auditor,
- subject to clause 41.2.

As under sections 249H(1), 249J(1) and 249K of the Corporations Act.

41.2 Less than 21 days notice may be given of a general meeting if:

- (a) all members agree beforehand; and
- (b) no resolution will be moved to remove a director or the auditor.

As under section 249H(2) of the Corporations Act.

41.3 The notice must state:

- (a) the date, time and place of the meeting,
- (b) if virtual meeting technology is to be used – sufficient information to allow members to participate in the meeting by means of the technology,
- (c) the general nature of each item of business to be considered, and
- (d) if a special resolution\* is to be proposed:
  - (i) the proposed resolution, and

- (ii) that it is intended that the resolution be proposed as a special resolution\*.

As under section 249L(1) of the Corporations Act.

41.4 The notice must include under clause (b) any business that any member has requested in writing\* be considered at least 7 days before the notice is sent.

41.5 The notice must also include:

- (a) a statement that:
  - (i) all members may appoint a proxy to attend, speak and vote instead of the member in accordance with clause 42, and

- (ii) proxies must be members, and

Compare section 249L(1) of the Corporations Act.

- (b) a copy of clause 42.

41.6 The notice may (but need not) include a form of appointment for the purposes of clauses 41.5 and 42.

41.7 If a general meeting is adjourned for 1 month or more, new notice of the resumed meeting must be given.

41.8 Despite clause 41.1, the accidental omission to give notice of the meeting to a person entitled to notice, or the non-receipt of notice of the meeting by a person entitled to notice does not invalidate the meeting.

Compare section 1322(3) of the Corporations Act.

#### **42. Proxies**

42.1 Members entitled to vote at the general meeting may appoint any other member as a proxy.

Compare section 249X(1) of the Corporations Act.

42.2 Appointments of proxies must be:

- (a) in writing\*, naming the member (or members, in order) appointed;
- (b) signed\* by the member making the appointment; and
- (c) sent to the company or given to the chair of the meeting before the commencement of the meeting.

42.3 Appointments of proxies are valid if they contain the information required by clause 42.2.

Compare section 250A(1) of the Corporations Act.

42.4 Proxies may exercise all the rights of members at general meetings.

### **43. Virtual Meeting Technology**

43.1 General meetings may be held using virtual meeting technology, provided the technology enables each member attending the meeting to communicate clearly and simultaneously with every other such member.

Compare section 253Q of the Corporations Act.

43.2 A member attending a general meeting using technology is taken to be present at the meeting.

As under section 253Q(3) of the Corporations Act.

### **44. Quorum**

The quorum for general meetings is the presence in person or by proxy of a majority of the members at the time.

### **45. Voting**

Members may vote at general meetings in person or by proxy.

### **46. Procedure Otherwise**

46.1 Except as provided in this Part, the procedure for the conduct of general meetings is the same as for meetings of the Board under Part 6.

46.2 A resolution required by the Corporations Act to be passed at a general meeting (including a special resolution) cannot be passed by a resolution without meeting under clause 31.

## **PART 9 – FINANCIAL AND LEGAL**

### **47. Chief Executive Officer**

47.1 The Board must appoint a Chief Executive Officer of the company.

47.2 The Chief Executive Officer is responsible to the Board for the management of the company.

47.3 The Chief Executive Officer must attend all meetings of the Board, unless the Board:

(a) excuses the Chief Executive Officer from attending; or

(b) resolves to proceed “in camera”.

### **48. Financial Year**

The financial year of the company is from 1 July to 30 June, unless the Board otherwise determines under the Corporations Act.

See section 323D of the Corporations Act.

### **49. Financial and Other Records**

49.1 The company must keep written financial records that:

(a) correctly record and explain its transactions and financial position and performance; and

(b) enable true and fair financial statements to be prepared and to be audited.

See section 55-5(1) of the ACNC Act.

49.2 The company must also keep written records that correctly record its operations.

See section 55-5(2) of the ACNC Act.

49.3 The company must retain the records for at least 7 years.

See section 55-5(4) of the ACNC Act.

49.4 The Board must provide for the safe keeping of the records of the company.

### **50. Auditor**

50.1 The Board must within 1 month fill a vacancy in the office of auditor until the next annual general meeting.

See section 327C(1) of the Corporations Act.

50.2 The annual general meeting must fill any vacancy in the office of auditor.

See section 327B(1)(b) of the Corporations Act.

### **51. Financial Reporting and Audit**

51.1 For each financial year, the company must prepare a financial report in accordance with the ACNC Act and the ACNC Regulation.

See section 60-15 of the ACNC Act and Division 60 of the ACNC Regulation.

51.2 The company must have the financial report audited in accordance with the ACNC Act, and obtain an auditor's report.

See section 60-25 of the ACNC Act.

51.3 The financial report and auditor's report must be considered by the annual general meeting in accordance with clause 39.4(b).

## 52. Payments

52.1 All payments by the company must be specifically authorised in writing\* by at least 2 persons nominated by the Board by regulation\* or resolution.

52.2 The Board may nominate a list of individuals or positions for the purposes of clause 52.1.

52.3 This clause does not apply to credit card and petty cash payments where the amount is within limits set by the Board by regulation\* or resolution.

## 53. Execution of Documents

53.1 The company may execute deeds and other documents either:

(a) by having the document signed by:

- (i) 2 directors, or
- (ii) 1 director and the company secretary; or

See section 127(1) of the Corporations Act.

(b) by using a common seal under clause 54.

For deeds, see section 127(3) of the Corporations Act.

53.2 A document may only be signed under clause 53.1(a) if authorised by resolution of the Board.

## 54. Common Seal

54.1 The company may have a common seal, in which case the remainder of this clause applies.

See section 123(1) of the Corporations Act.

54.2 The company must set out its name and ABN (or ACN) on the common seal.

See section 123(1)(b) of the Corporations Act.

54.3 A document may only be sealed with the common seal if authorised by resolution of the Board.

54.4 The sealing must be witnessed by the signatures of:

- (a) 2 directors, or
- (b) 1 director and the company secretary.

See section 127(2) of the Corporations Act.

54.5 The Board must provide for the safe keeping of the common seal.

## 55. Minutes

55.1 The Board must ensure that:

- (a) minutes are taken and kept of all general meetings, Board meetings and resolutions without a meeting; and
- (b) in the case of minutes of meetings – the minutes are signed\* within a reasonable time after the meeting by the chair of the meeting or the chair of the next meeting; or
- (c) in the case of minutes of resolutions without a meeting – the minutes are signed\* by a director within a reasonable time after the resolution is passed.

For general meetings, as under, and for Board meetings, see, section 251A(1) of the Corporations Act.

55.2 Minutes may be kept in electronic form.

For general meetings, as under, and for Board meetings, see, 253S of the Corporations Act.

## 56. Amendment

56.1 This constitution may only be amended by special resolution\*.

See section 136(2) of the Corporations Act.

56.2 The company must notify the ACNC\* of the amendment in the approved form:

- (a) if the revenue of the company for the financial year is \$250,000 or more – within 28 days; or
- (b) if the revenue of the company for the financial year is less than \$250,000 – within 60 days.

See section 65-5 of the ACNC Act.

## 57. Winding Up

57.1 If the company is wound up, its surplus assets must not be distributed to any member.

57.2 The surplus assets must be given to a charity that:

- (a) has similar objects to the company; and
- (b) also prohibits the distribution of any surplus, income and assets to its members to at least as great an extent as the company;

subject to clauses 58.2(e) and 58.2(f).

57.3 If the company is wound up voluntarily, the charity to which its surplus assets are to be given must be decided by special resolution\*.

## 58. Tax Deductibility

58.1 In this clause:

- (a) “contributions” and “fund-raising event” have the same meaning as in Division 30 of the Tax Act;
- (b) “DGR” means a deductible gift recipient under Division 30 of the Tax Act;
- (c) “gift funds” means:
  - (i) gifts and contributions to the company, and
  - (ii) money received by the company because of such gifts and contributions; and
- (d) “the Tax Act” means the *Income Tax Assessment Act 1997* (Cth).

58.2 As a DGR:

- (a) receipts for gifts to the company must include:
  - (i) the name and ABN of the company, and
  - (ii) the fact that the receipt is for a gift;
- (b) receipts for contributions to the company in relation to a fund-raising event must include:
  - (i) the name and ABN of the company, and
  - (ii) the other information required by section 30-228 of the Tax Act;
- (c) the company must keep records that record and explain all transactions and other acts it engages in relevant to its status as a DGR for at least 5 years;

(d) the records must show that the company uses gift funds only for the principal purpose of the company;

(e) on winding up of the company or revocation of its endorsement (whichever occurs earlier), any surplus gift funds must be transferred to another DGR that satisfies the requirements under clause 57.2; and

(f) on winding up of the company its surplus assets other than any surplus gift funds must also be given to another DGR that satisfies the requirements under clause 57.2.

## 59. Notices

59.1 Members and directors must give the company their address for notices, and any change in that address.

59.2 The address for notices may include an email address.

59.3 The company must enter any change in the address of a member in the register of members.

59.4 Notice may be given to a member or director by sending it to the address last given by the member or director.

59.5 In this constitution a period of notice of a meeting expressed in days:

(a) does not include the day on which notice is given; but

(b) includes the day on which the meeting is held.

See section 105 of the Corporations Act.

59.6 Notices sent by priority post are taken to have been given on the 4th day after posting that is not a Saturday, Sunday or public holiday at that address.

59.7 Notices sent by email are taken to have been given on the 1st day after sending that is not a Saturday, Sunday or public holiday at that address.

## 60. Replaceable Rules

60.1 The replaceable rules in the Corporations Act do not apply to the company, except those in sections 204F and 248G(1).

60.2 The replaceable rules in sections 249M, 249U(4), 249W(2), 250C(2) and 250J(2) of the Corporations Act are also taken to apply to the company.

Compare item 9 of section 111L(1) of the Corporations Act.

## 61. Interpretation

61.1 In this constitution, unless the contrary intention appears:

- (a) “absolute majority” means a majority of the votes of all directors entitled to vote at the time, whether or not those directors are present, and whether or not they vote;
- (b) “the ACNC” means the Australian Charities and Not-for-profits Commission;
- (c) “ACNC Act” means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth);
- (d) “ACNC Regulation” means the *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth);
- (e) “the company” means the company named in clause 2;
- (f) “convene” means call and arrange to hold, and includes setting the date, time and place of the meeting;
- (g) “Corporations Act” means the *Corporations Act 2001* (Cth);
- (h) “regulations” means regulations of the company made under clause 21, and “regulation” has a corresponding meaning;
- (i) “signed” includes agreed to in writing\*;
- (j) “special resolution” means a resolution at a general meeting:
  - (i) of which notice has been given in accordance with clause 41.3(d); and
  - (ii) that is passed by at least 75% of the votes cast (in person or by proxy) by those members entitled to vote on the resolution; and

See sections 9 and 249L(1)(c) of the Corporations Act.

- (k) “writing” includes emails and other written communications in electronic form.

61.2 The headings form part of this constitution.

61.3 The explanatory notes inserted in a smaller font size after provisions of this constitution are for guidance only and do not form part of this constitution.

61.4 This constitution is to be interpreted on the same basis as the Corporations Act and the ACNC Act, except as otherwise provided in this clause.

61.5 The Board is responsible for the interpretation of the constitution and regulations\*.

## 62. Transitional

62.1 This clause takes effect at the end of the 2021 annual general meeting at which this constitution is adopted.

62.2 In this clause, “in 2019”, “in 2020” and “in 2021” means at the last Board meeting before the annual general meetings in those years.

62.3 For the purpose of this constitution, including clause 7.1:

- (a) Hatice Yilmaz, Tim O’Leary and Richard Wong are taken to have been appointed in 2019;
- (b) Terri Jackson, Natalie Savin and Sally Mitchell are taken to have been appointed in 2020; and
- (c) Jane Herington, Tim Woodruff and Andrew Cresswell are taken to have been appointed in 2021.

62.4 For the purposes of clause 8.3:

- (a) Hatice Yilmaz, Tim O’Leary and Richard Wong are taken to have held office for 2 terms before the term referred to in clause 62.3; and
- (b) Terri Jackson, Natalie Savin and Sally Mitchell are taken to have held office for 1 term before the term referred to in clause 62.3; and
- (c) Jane Herington, Tim Woodruff and Andrew Cresswell are taken not to have held office for any term before the term referred to in clause 62.3.

62.5 The persons referred to in clause 62.3 become the only directors and members of the company, subject to clause 6.2.

62.6 Any other persons who were previously directors cease to be directors.

62.7 Any other persons who were previously members cease to be members, and the register of members must be altered accordingly.

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