

Constitution

of

Congress of Aboriginal and Torres Strait Islander Nurses and Midwives Limited



A company limited by guarantee

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Preliminary

Principal Purpose

CATSINaM Ltd is a company limited by guarantee formed for the benefit of the public by the promotion of the stated purpose and Objects of the company and through the coordination and sponsorship of activities, events, ventures and endeavours in the health support sector in Australia in order to achieve the stated Objects of CATSINaM Ltd.

1. Definitions

In this Constitution:

"the Act" means the *Corporations Act 2001 (Cth)* and the other Acts and instruments referred to in that Act and as enacted and amended by the Commonwealth of Australia and the States and Territories of Australia from time to time as it applies to the Company for the time being;

Application of the Corporations Act 2001 (Cth): In this Constitution unless the contrary intention appears an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act 2001 (Cth), the same meaning as in that provision of the Corporations Act 2001 (Cth); and "section" means a section of the Corporations Act 2001 (Cth). This Constitution shall comply with the subscribed matters specified in any relevant and applicable sections of the Corporations Act 2001 (Cth) and such matters that may be prescribed.

"ACNC" means the *Australian Charities and Not-for-profits Commission* and, depending on the context, includes reference to the *ACNC Act 2012(Cth)*, the *ACNC Regulation 2013 (Cth)*. The Company is required to deal with the ACNC for the following:

- (a) Applying to register a charity (and request to revoke registration of a charity or notify of no longer being entitled to registration as a charity or if charity has closed)
- (b) Notify of change to name of a company
- (c) Apply to change the name of a company to omit the word 'Limited'
- (d) Notify of changes to address for service, directors (responsible persons), constitution (governing documents)
- (e) Submit an Annual Information Statement for each reporting period
- (f) Submit financial reports for medium and large charities
- (g) Notify external administration of a company
- (h) Apply to deregister a company;

"ACNC Act" means and the *Australian Charities and Not-for-profits Commission Act 2012* as enacted and amended by the Commonwealth of Australia and the States and Territories of Australia from time to time as it applies to the Company for the time being;

Application of the ACNC Act applies if the Company is registered with the ACNC and while certain provisions of the Corporations Act apply to it, it is subject to the ACNC's governance standards.

"ACNC Regulation" means and the *Australian Charities and Not-for-profits Commission Regulation 2013* as enacted and amended by the Commonwealth of Australia and the

States and Territories of Australia from time to time as it applies to the Company for the time being;

Application of the ACNC Regulation applies if the Company is registered with the ACNC and it will be subject to the ACNC's governance standards [Ref: ACNC Regulation 2013 Reg.45.25]

"Affiliate Member - Corporate" means a corporate entity having a commitment to the Objects of the Company, who may on application and pursuant to Articles 13(f)(i)B and 15 be admitted as an Affiliate Member - Corporate of the Company;

"Affiliate Member – Corporate Representative" means a natural person authorised by an Affiliate Member – Corporate, pursuant to this Constitution, to act as its representative at a general meeting of the Company. Affiliate Member – Corporate Representatives may attend a general meeting of the Company as observers, but are not eligible to vote but may speak with the permission of the Chair of the meeting;

"Affiliate Member – Individual" means a natural person having a commitment to the Objects of the Company, who may on application and pursuant to Articles 13(f)(i)A and 15 be admitted as an Affiliate Member – Individual of the Company;

"Associate Member" means a natural person who is:

- (a) an Aboriginal and/or Torres Strait Islander person; and
- (b) retired from their profession as an Enrolled Nurse, Registered Nurse or Midwife; and who may on application and pursuant to Articles 13(e) and 15 be admitted as an Associate Member of the Company;

"Annual General Meeting" means the Annual General Meeting of the Company that shall be held at least once in each calendar year and within five (5) months after the end of the Company's financial year and may, for the internal purposes of the Company, be cited in the abbreviated form as the **"AGM"**;

"ASIC" means the Australian Securities and Investment Commission. The Company is required to deal with ASIC for the following:

- (a) Applying to register a company (and apply to deregister a company)
- (b) Notify of change to name of a company
- (c) Apply to change the name of a company to omit the word 'Limited'
- (d) Criminal liability for director duties
- (e) Notify of resignation or removal of an auditor
- (f) Notify external administration of a company;

"attendee" means a person or persons permitted, at the discretion of the Board, to attend any part of the Company's Board meetings but with no status as a director under the meaning of such in this Constitution or the Act, and only in a non-voting capacity. Attendees permitted to attend Board meetings may speak with the consent of the Chair on agenda items to provide advice, counsel, guidance and information on matters or answer questions as requested by directors through the presiding Chair of the meeting. For the sake of legal clarity, attendees in this capacity, are recognised as having no role or authority in either making, or participating in making decisions that affect the whole,

or a substantial part of the business of the Company; or are they understood to have the capacity to affect significantly the Company's financial standing; or are they understood to be issuing directions, instructions or wishes in accordance which the directors of the Company are accustomed to act; or in any other way be deemed to be a director of the Company under the meaning of such in this Constitution or the Act. An attendee in this context includes a person or persons giving advice in the proper performance of functions attaching to their professional capacity or their business relationship with the Company;

“Attorney” is a person who exercises power under the terms of a **power of attorney** [A **power of attorney** is an authorisation to act on another person's behalf and in their name in a legal or business matter. The person granting the power of attorney is known as the grantor and the person authorised to act is the agent or attorney-in-fact. The power granted may be very wide in scope and may include the power to sign documents on behalf of the grantor, deal with their financial affairs and property, vote in the capacity of a Member, etc. This is distinct from a proxy which commonly refers only to authorisation to vote on another's behalf and is therefore more limited in scope than a power of attorney. For example, a Member entitled to attend and vote at a company meeting may appoint a proxy to attend and vote in their place noting that a **proxy** is also the person to whom authorisation is granted.];

“Auditor” means a person appointed pursuant to the Corporations Act s.327B for the purpose of and as required to audit the Company's accounts pursuant to Subdivision 60-C of the ACNC Act;

“Board” means the governing body of directors of the Company in office for the time being however described or any number of directors assembled at a meeting of the Board transacting business in accordance with this *Constitution*, being not less than a quorum, and as set out in Article 58(j) of this Constitution and who may, for the internal purposes of the Company, be cited (collectively) as the **“Directors”** who shall be construed as referencing the Board unless the context requires otherwise;

“(Board Appointed) Director” means an eligible natural person who is duly appointed as Director of the Company by resolution of the Board pursuant to Article 46(b) and who is validly recognised as a Company Director pursuant to the Act and acknowledged as such regardless of the name that is given to their position;

“Business Day” means a day except a Saturday, Sunday or public holiday in the State or Territory in which the Company is subject to jurisdictional enforcement pursuant to Article 3(c);

“by lot” means to choose someone by random selection through a process whereby each person in a group puts their name on a piece of paper in a container and the person's name drawn from the container is chosen;

“Chair” means any person appointed to the office of Chair pursuant to Article 62 and who is to preside as Chair at each general meeting of the Company and Board meeting pursuant to the authorities, powers and functions described in this Constitution and any policies, protocols, practices or processes determined by the Board from time to time that give effect to the Chair’s authorities, powers and functions described in this Constitution; and who may for the internal purposes of the Company be cited as the **“President”** or any other title the Board may so determine from time to time;

“Chief Executive Officer” of the Company means the title given to any person so appointed by, and responsible to the Board as the Company's principal corporate executive to act within written Board-delegated authorities for the overall day-to-day operations of the Company; and who may for the internal purposes of the Company be cited as the **“CEO”** or any other title the Board may so determine from time to time; or as otherwise expressed pursuant to Article 64;

“Committee” means a committee constituted by and accountable to the Board pursuant to Article 55 and are governance advisory bodies for the purpose of assisting and advising the Board in areas fundamental to the Company’s Objects and otherwise providing the Board with recommendations relevant to select *governance* matters of the Company and consisting of one or more directors and/or other persons as the directors from time to time think fit;

“Company” means *Congress of Aboriginal and Torres Strait Islander Nurses and Midwives Limited*, being the company constituted by this document and shall be **the Company's name** for the purposes of the Corporations Act s.148;

“Company Secretary” means any person appointed in accordance with the Act and pursuant to Article 65 to the statutory office of Company Secretary to perform the specific duties set out on the Act and this Constitution of a Company Secretary and includes an assistant Company Secretary or any person appointed to act as the Company Secretary or assistant Company Secretary temporarily;

“Constitution” means this registered *Constitution* of the Company (and includes its schedules and annexure, if any), as amended from time to time pursuant to Article 69, which binds the Company and its Members to the same extent as if it were a contract between them under which they each agree to observe its provisions;
Corporations Act 2001 s.136 “Constitution of a company”; s.140(1): “A company’s constitution that applies to the company has effect as a contract between (a) the company and each member; and (b) the company and each director and Company Secretary; and (c) a member and each other member”.

“corporate entity” means a body corporate (including incorporated associations, co-operatives, companies, chartered corporations, government-owned corporate entities or statutory corporations) and includes a "corporation" as defined in the Corporations Act s.57A of and without limitation, any incorporated entity with the legal capacity and powers of a natural person;

“Corporations Act” means the *Corporations Act 2001* (Cth) and the other Acts and instruments referred to in that Act and as enacted and amended by the Commonwealth of Australia and the States and Territories of Australia from time to time;

“Corporations Regulations” means the *Corporations Regulations 2001* (Cth);

“Deputy Chair” means any person appointed to the office of Deputy Chair of the Company pursuant to Article 63 pursuant to the Deputy Chair’s authorities, powers and functions described in this Constitution and any policies, protocols, practices or processes determined by the Board from time to time that give effect to the authorities, powers and functions described in this Constitution; and who may for the internal purposes of the Company be cited as the **“Deputy President”** or any other title the Board may so determine from time to time;

“Director” means an eligible natural person pursuant to Articles 46(a) and 46(b), who is duly appointed or elected to the Board; and who may for the internal purposes of the Company be cited (individually) as a *“member of the Board”* or a *“Board member”* and *“responsible person”* pursuant to the ACNC. For the avoidance of doubt a reference to a Director includes an Office Bearer, unless otherwise expressly stated;

Note: An office bearer is first and foremost a director, who happens to also hold an additional delegated board position (with corresponding delegated authority) as well as their director role, e.g. the Chair. So, at Article 62 & 63 - the "Office Bearers" are the Chair and the Deputy Chair but are also directors - so in the Constitution, a reference to a Director includes the Chair and the Deputy Chair (i.e. office bearers). A reference to an office bearer is to that position and that position ONLY. A reference to a director is to ALL directors (office bearers included).

"electronic address" means a multi-part address typed in lower-case without any spaces separating the different parts where the first part (the user name) identifies a unique user. The '@' separates the user name from the host name which uniquely identifies the mail server. The three-letter suffix following a period (dot) identifies the kind of organization operating the mail server. Addresses outside the US use another (two-letter) suffix that identifies the country where the mail server is located;

"electronic means" means, in relation to:

- (i) **the methods of giving or sending certain notices**, documents produced, etc., the same as that in the Corporations Act s.600G and includes telephone, fax, electronic mail and other forms of electronic transmission or technology consented to by all Directors;
- (ii) **the activity of either aiding or taking care of the chores of casting and counting votes**, the use of some form of electronic process for the transmission of ballots and votes via telephones, private computer networks, or the Internet;

“Fee” means a subscription, fee or levy referred to in Article 23;

"Financial year" means 1 July to 30 June;

“General Meeting” means any general meeting of the Company (including the AGM) duly called and held (and any adjourned holding of it) in accordance with this Constitution or as otherwise prescribed by any relevant or applicable sections of the Act at which all Members are entitled to attend and otherwise participate and vote at in accordance with this Constitution;

“General Funds” means any and all monies and contributions paid to the Company pursuant to Article 11 [other than money and property credited to a Gift Fund pursuant to Article 8]and which may be used in connection with any purpose that the Board may deem necessary or convenient for the furtherance of the Objects of the Company;

“Gift Fund” means the bank account established, maintained and used pursuant to Articles 7-10;

"Governance Charter" means a Board established document pursuant to Article 53(f) that contains and details the Company’s internal control framework of Board-determined **governing policies**, that give effect to the powers assigned to the Board pursuant to this Constitution and that relate to the effective and prudent internal control, administration and management of the Company that the Board deem necessary or expedient or convenient for the proper regulation of the competent business, governance, conduct and direction of the Company;

"governing policies" means all the Board established internal control "rules" (usually contained in the Governance Charter) that relate to the effective and prudent internal control, administration and management of the Company that give effect to the assigned powers of the Board under this Constitution in order to regulate the business of the Company. Such governance policies will be those deemed necessary, expedient or convenient for the proper regulation of the competent governance, management, conduct, control and direction of the Company and shall define how those with delegated powers in the Company (Board, directors, office bearers, officers, employees, delegated persons, persons, committees and/or agents of the Company, volunteers, etc) are expected to act and behave in the exercise of their delegated powers and authorities, the performance of their assigned roles and functions and the discharge their obligatory duties. Governing policies assist the Board to be clear about its own job and the delegated jobs of its office bearers, committees and officers and the connection between these parties and articulate who is responsible for what, who they are accountable to and the respective roles and functions and authorities and constraints each person must work within and as such, describe a range of *values* that apply to the Company and its people;

"in camera" means in relation to a meeting, in private, in which only the formally sanctioned persons permitted to attend the meeting may do so in a closed session not open to any other persons unless or as otherwise permitted in this Constitution;

"leave of absence" means any form of leave of absence from service likely to exceed three (3) months in duration;

“Legal Costs” of a person means legal costs incurred by that person in defending or resisting any proceedings (whether criminal, civil, administrative or judicial), appearing before or responding to actions taken by any court, tribunal, government authority or agency, other body or commission, a liquidator, an administrator, a trustee in bankruptcy or other authorised official, where that proceeding, appearance or response relates to a liability of that person;

“Liability” of a person means any liability (except a liability for legal costs) incurred by that person in or arising out of the discharge of duties as an Officer of the Company or in or arising out of the conduct of the business of the Company, including as result of appointment or nomination by the Company or a subsidiary as a trustee or as a Director, Officer or employee of another body corporate;

“Member” means any person who:

- (i) meets the criteria for membership set out in Article 13; and
- (ii) has applied for membership and/or been determined by the Board to have met the criteria for membership of that category pursuant to Article 15; and
- (iii) whose name is entered in the Register as a Member of the Company;

“(Member) Director” means an eligible natural person who is duly appointed as Director of the Company by pursuant to Articles 46(a) and 47 and who is validly recognised as a Company Director pursuant to the Act and acknowledged as such regardless of the name that is given to their position;

"not-for-profit" means (as defined by the Australian Taxation Office) an *“...organisation which is not operating for the profit or gain of its individual members, whether these gains would have been direct or indirect. This applies both while the organisation is operating and when it winds up. Any profit made by the organisation goes back into the operation of the organisation to carry out its purposes and is not distributed to any of its members. The Australian Tax Office accepts an organisation as non-profit where its constituent or governing documents prevent it from distributing profits or assets for the benefit of particular people - both while it is operating and when it winds up. These documents should contain acceptable clauses showing the organisation's non-profit character. The organisation's actions must be consistent with this requirement”*;

“Notice” means a notice given pursuant to, or for the purposes of, this Constitution or any relevant and applicable sections of the Act;

"Objects" of the Company means the Objects set out in Article 4 that define the purpose or raison d'être of the Company;

"observer" means a person or persons permitted, at the discretion of the Board, to observe any part of the Company's Board meetings but with no status as a director under the meaning of such in this Constitution or the Act, and only in a non-voting capacity. Observers permitted to attend Board meetings may speak with the consent of the Chair

for the sole purpose to raise questions in relation to and gain insights into the Board's meeting and decision-making processes to gain an instructional understanding of governance practice and methods. An observer in this context includes a person or persons who may be deemed as a "governance trainee" for the purpose of introducing them to the methods, practice and process of governance as a learning exercise and skills development opportunity to encourage and foster leadership and participatory pathways for participants. For the sake of legal clarity, observers in this capacity, are recognised as having no role or authority in either making, or participating in making decisions that affect the whole, or a substantial part of the business of the Company; or are they understood to have the capacity to affect significantly the Company's financial standing; or are they understood to be issuing directions, instructions or wishes in accordance which the directors of the Company are accustomed to act; or in any other way be deemed to be a director of the Company under the meaning of such in this Constitution or the Act;

"Office Bearers" means directors who hold a Board appointed or delegated position (with corresponding delegated authority), pursuant to Articles 62 and 63, in addition to their director roles on the Board. **"Office Bearer"** means one of those persons;

"Officer" means

- (a) a director or Company Secretary of the Company; or
 - (b) a person:
 - (i) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the Company; or
 - (ii) who has the capacity to affect significantly the Company's financial standing; or
 - (iii) in accordance with whose instructions or wishes the directors of the Company are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the Company); or
 - (c) a receiver, or receiver and manager, of the property of the Company; or
 - (d) an administrator of the Company; or
 - (e) an administrator of a deed of company arrangement executed by the Company; or
 - (f) a liquidator of the Company; or
 - (g) a trustee or other person administering a compromise or arrangement made between the Company and someone else, as defined in the Dictionary of the Act;
- (Note: An officer does not include a patron or holder of another honorary office of the Company if the office does not give its incumbent a right to participate in the management of the Company's affairs);

Ref: CORPORATIONS ACT 2001 s.9 "Definition of "officer"

"Ordinary Member" means a natural person who are:

- (a) an Aboriginal and/or Torres Strait Islander person; and:
- (b) a Registered Nurse; or
- (c) a Midwife; or
- (d) an Enrolled Nurse.

and who may, on application and pursuant to Articles 13(c) and 15, be admitted as an Ordinary Member of the Company;

“Patron” means a person described in Article 66;

“Personal Representative” means the legal personal representative, executor or administrator of the estate of a deceased person;

“Poll” is a form of casting votes by **ballot** to determine a preference of the voters either in writing consisting of a slip or sheet of paper or the like or using electronic means to either aid or take care of the chores of casting and counting votes on or by which a voter marks his or her vote and which includes votes cast on behalf of absent Members who have appointed proxies or attorneys;

“Public Benevolent Institution” means a Public Benevolent Institution as defined by the Australian Taxation Office as *“a non-profit institution organised for the direct relief of poverty, sickness, suffering, distress, misfortune, disability or helplessness. The characteristics of a PBI are:*

- (a) it is set up for needs that require benevolent relief*
- (b) it relieves those needs by directly providing services to people suffering from them*
- (c) it is carried on for the public benefit*
- (d) it is non-profit*
- (e) it is an institution, and*
- (f) its dominant purpose is providing benevolent relief”;*

“public statement” and **“statement”** means an oral or written statement or statements communicated whether verbal, in writing, in electronic form or any other form whatsoever that could or would be seen, heard or by any other means communicated to a person in the public sphere, e.g. to the press, via social media or at a public event, etc. That is, any statement made otherwise than internally within the confines of the membership or Company;

“real or personal property” means the basic types of property in common law, roughly corresponding to the division between immovables and movables in civil law. Real property consists of land, buildings, crops, and other resources, improvements, or fixtures still attached to the land. Personal property is essentially all property other than real property, including goods, animals, money, and vehicles;

“Register” or **“Register of Members”** means the register of members required to be kept pursuant to the Corporations Act 2001 s.169 and may contain additional information related to the membership as the Board shall determine from time to time;

Ref: Corporations Act 2001 s.169

(1) The register of members must contain the following information about each member:

- (a) the member's name and address;*
- (b) the date on which the entry of the member's name in the register is made.*

"Registered Office" means the primary location and principal place of administration and/or business of the Company as notified to the relevant regulatory authorities under the Act where the Company's business is performed and where the Company's books and records are kept, which may, for the internal purposes of the Company and this Constitution be cited as the "National Office Secretariat";

"Relevant Officer" means a person who is, or has been, a Director or an Officer of the Company;

"requisition" means the act of officially or formally demanding, asking or requesting for something, especially in relation to requesting the summoning of a meeting that is usually in a written form signed by the requisitioners;

"Resolution" means a resolution passed at a (General or Board) meeting of which (unless as indicated otherwise in this Constitution) **more than 50% of the total eligible votes cast on the resolution** (i.e. those votes cast by persons eligible to vote who are present at the meeting in person or by proxy as the Constitution allows) are in favour of the resolution, noting that a motion put that results in a tied vote at 50-50 is NOT deemed to have been passed. The determination of such a resolution may for the internal purposes of the Company be cited as a **"simple majority"**;

"Resolutions and proceedings of meetings" (in relation to minutes) means:

- *meeting validity matters* (time/place, attendance, apologies, quorum, etc.)
- *statutory item approvals* (previous minutes/correspondence/disclosures/use of seal, etc.)
- *formal decisions resolved by the required voting margin* (and may include at the valid meeting participant's discretion -*essential contextual information* that provides background to the decision, risk issues considered, etc.)
- items noted, matters delegated, reports and documents tabled, guest presentations and attendances, etc.
- (at the valid meeting participant's discretion) any relevant *summary of strategic discussions* – e.g. options/alternatives/opportunities/risks canvassed;

"Seal" means the common seal of the Company (if applicable) and includes any official seal of the Company (noting that the Act allows the Company to *"make contracts and execute documents without using a seal"* in which case the Company must act in accordance with provisions in the Corporations Act (2001) s.126 and s.127);

"Special Business" is business of a general meeting that the Act requires to be passed as a "special resolution" by no less than **75%** (i.e. three-quarters ($\frac{3}{4}$)) of the votes of those members of the Company who, being entitled to vote, vote in person or by proxy at the meeting (as opposed to *ordinary* business that requires only a simple majority);

"Special Resolution" means a resolution passed at a general meeting of the Company that no less than twenty-one (21) days' notice of the meeting has been given to the members of the Company* together with a notice of intention to propose the

resolution as a special resolution. At the meeting, the special resolution must be passed by no less than **75%** (i.e. three-quarters ($\frac{3}{4}$)) of the total eligible votes [pursuant to Article 14(c)(i)] cast on the resolution (i.e. those votes cast by persons eligible to vote who are present at the meeting in person or by proxy as the Constitution allows) are in favour of the resolution, and of which notice has been given. It is not required that three-quarters ($\frac{3}{4}$) of the total membership pass the resolution, only three-quarters ($\frac{3}{4}$) of the total eligible votes cast at the meeting either in person or by proxy. Special resolutions are usually decisions that change something fundamental about the Company, for example:

- (a) altering the Company's Constitution, Objects or purposes;
- (b) changing the Company's name;
- (c) amalgamating with another Company;
- (d) winding up the Company;

or as otherwise, a matter that specifically requires a special resolution as stated in the Constitution;

**Unless at least 95% of the members agree the notice for a meeting to pass a special resolution must be given at least 21 days before the meeting.*

"Standing Orders" means the Board determined written code of guiding procedural devices that indicate the generally accepted practices and customs that may be used by the Chair for the orderly conduct of formal Company meetings, be they General, Board, Committee or other meetings;

"Strategic Direction" means and is restricted to, matters encapsulating the purpose and aspirations of the enterprise and pertaining to the outcomes and result priorities the Company is to accomplish and includes the associated evaluation measures and standards used to determine the satisfactory accomplishment of those outcomes and result priorities as agreed and approved by the Board from time to time but excludes, without limitation, operational plans, means, actions and decisions;

"Student Member" means a natural person who is:

- (a) an Aboriginal and/or Torres Strait Islander person; and
- (b) are currently enrolled and actively studying as a Student of nursing or midwifery; and who may on application and pursuant to Articles 13(d) and 15 be admitted as an Associate Member of the Company;

"Voting Members" means the collective grouping of Ordinary Members and the Student Members pursuant to Articles 13(c) and 13 (d).

2. Interpretation

Headings are for convenience only and do not affect interpretation.

Reference to an **Article** in this Constitution, refers to a section, phrase, paragraph, or segment that relates to a particular point.

NOTE: The wording which is in bold print italics at the end of certain paragraphs is explanatory only and does not form part of the Constitution. References to Sections relate to relevant provisions of the Corporations Act 2001 and the ACNC Act 2012.

Unless the context indicates a contrary intention, in this Constitution:

- (a) **(amendments and statutes)** all references to statutory provisions includes its delegated legislation and are construed as references to any statutory modification, consolidation, amendment, replacement or re-enactment for the time being in force;
- (b) **(corresponding meaning)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (c) **(currency)** a reference to "\$" or "dollars" is a reference to Australian currency;
- (d) **(exercise of a function or role)** a reference to the exercise of a function or role includes, where the function or role is a duty, a reference to the performance of the duty;
- (e) **(from time to time)** a power, an authority or a discretion assigned to a director, the directors, the Company in general meeting or a Member of the Company may be exercised at any time and from time to time;
- (f) **(function)** a reference to a function includes a reference to a power, authority or duty;
- (g) **(gender)** a word indicating a gender includes every other gender;
- (h) **(meaning not limited)** a reference to the words "include", "including", "for example" or "such as", when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (i) **(person)** words importing person includes a reference to:
 - a natural person (i.e. an individual, aka a human being) and
 - an "artificial" person means a body corporate (including incorporated associations, co-operatives, companies, chartered corporations and government-owned corporate entities or statutory corporations whether by

Act of Parliament or otherwise) and includes a "corporation" as defined in Section 57A of the Act and without limitation, any incorporated entity with the legal capacity and powers of a natural person.

- (j) (**regulations**) a reference to a statute, ordinance, code or other law includes regulations and instruments made under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction)
- (k) (**rounding**) where a vote is to be rounded to the nearest whole number, the rule is: if the number behind the decimal point is *less than 5*, it is rounded **down** to the next whole number: example: 11.4 is rounded to 11; if the number behind the decimal point is *5 or more*, it is rounded **up** to the next whole number.
- (l) (**sending**) references to the sending of a document or notice includes the sending of that document or notice via electronic means, including, but not limited to, electronic mail and other forms of recognised widely-used electronic transmission or communication.
- (m) (**signed**) where, by a provision of this Constitution, a document [including, but not limited to, a notice, minutes, proxy, common seal, financial instruments, requisition, membership form or written resolution] is required to be signed, that requirement may be satisfied or authenticated by any manner permitted by any relevant and applicable sections of the Act or any other law and in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law [including the relevant provisions of the *Electronic Transactions Act 1999*] relating to electronic transmissions or in any other manner approved by the directors;
- (n) (**singular includes plural**) a word importing the singular includes the plural (and vice versa);
- (o) (**writing**) "in writing" and "written" includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise;

Interpreting any inadvertent omission, ambiguity, inconsistency or contradiction of the Constitution

- (p) (inadvertent ambiguity, inconsistency or contradiction and interpretation of the Constitution) if there is **any matter relating to the Company on which this Constitution is silent, ambiguous, vague, inconsistent or contradictory**, this Constitution shall be interpreted according to the relevant law (statute or regulation) or otherwise **the Board shall**, pursuant to Article 53(g) and consistent with and in pursuance of this *Constitution*, **have authority to interpret**, in good faith and in the exercise of reasonable discretion and having regard to the best

interests of the Company, **the meaning of this Constitution**. The decision of the Board is final and binding on all Members subject to any amendment of the Constitution made by the Members pursuant to Article 69 to add to, delete from or amend the Constitution to clarify the omission, ambiguity, inconsistency, contradiction or meaning;

Validity of acts done where some formality required by this Constitution is inadvertently omitted or is not carried out

- (q) (formality omitted or not carried out) if some formality required by this Constitution is inadvertently omitted or is not carried out, the omission does not invalidate anything, including any resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the Board that the omission has directly and unfairly prejudiced any Member financially.

3. Application of Corporations Act and ACNC Act

- (a) Unless the context indicates a contrary intention and except for the definitions and interpretations in the preceding Article, in this Constitution:
 - (i) a reference to the Corporations Act or ACNC Act (or respective Regulations) is to any relevant and applicable sections of the Act or ACNC Act (or respective Regulations) in force in relation to the Company after taking into account any waiver, modification or exemption which is in force either generally or in relation to the Company; and
 - (ii) a word, expression or phrase given a meaning in any relevant and applicable sections of the Act or ACNC Act (or respective Regulations) has the same meaning in this Constitution where it relates to the same matters as the matters for which it is defined in the Corporations Act or ACNC Act (or respective Regulations), unless that word or phrase is otherwise defined in this Constitution.

This means the words used in this Constitution shall, unless the contrary intention appears, have the same meaning as they have in the Law.

Replaceable Rules Inapplicable

- (b) The replaceable rules in the Corporations Act now and hereafter contained in the Corporations Act do not apply to the CATSINaM Ltd unless repeated in this Constitution or specifically made applicable to CATSINaM Ltd by a provision of this Constitution noting that the operation of each of the sub-sections of any relevant and applicable sections of the Act which are defined as replaceable rules are displaced by this Constitution and do not apply to the Company.

Enforcement

- (c) Each Member submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory, the Federal Court of Australia and the courts competent to

determine appeals from those courts with respect to any proceedings that may be brought at any time relating to this Constitution.

- (d) If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, then that does not affect or impair:
 - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
 - (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.
-

Objects and Powers

4. The OBJECTS of the Company

- (a) The Objects of the Company are to:
 - (i) maintain a Public Benevolent Institution which will be a non-profit entity organised for **the direct relief of suffering among Aboriginal and Torres Strait Islander peoples and communities** which the Company serves and that, as a not-for-profit entity, all its funds and revenue are directed at achieving the Objects of the Company and undertaking pursuits that may be considered desirable for the promotion of, or deemed necessary or convenient for the purpose of and with a view to carrying out and furthering the Objects of the Company;
 - (ii) contribute to and advise on the recognition, management and prevention of the disproportionate burden of complex ill health faced by Aboriginal and Torres Strait Islander peoples and communities in pursuit of the objectives to “Close the Gap” and to advocate for the promotion of the principles of the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP);
 - (iii) address the impacts which led to Aboriginal and Torres Strait Islander peoples suffering economic, social, health and housing disadvantages, and result in or accentuate medical ill health beyond that of the general community;
 - (iv) encourage and promote the improvement of health and well-being of Aboriginal and Torres Strait Islander peoples across the social determinants of health, including the relief of poverty, economic hardship and lack of opportunity and to promote education and employment for Aboriginal and Torres Strait Islander peoples. In particular the relief of any such disabilities that may impede their development, advancement, education and employment;

- (v) increase public awareness support and prevention of health issues faced by Aboriginal and Torres Strait Islander peoples and communities;
 - (vi) promote that “Aboriginal and Torres Strait Islander Health” means not just the physical well-being of an individual but also spiritual, social and emotional wellbeing;
- (b) In order to achieve the Objects, the Company shall pursue a range of activities, programs and means which naturally may need to change as circumstances change and which shall include (but are not necessarily limited to) **representing and promoting the interests of Aboriginal and Torres Strait Islander Nurses, Midwives and Students and associated carers and service providers** for Aboriginal and Torres Strait Islander peoples and communities in order to ensure:
- (i) Exemplary **professionalism and standards among Aboriginal and Torres Strait Islander Nurses, Midwives and Students and associated carers and service providers** by:
 - A developing, promoting, encouraging and advancing **broad-based affirmative action education strategies that** ensure Aboriginal and Torres Strait Islander Nurses, Midwives and Students and associated carers and service providers for Aboriginal and Torres Strait Islander peoples and communities **provide holistic and culturally safe and respectful care** by facilitating development and understanding of a **culturally safe and respectful health workforce and health services**;
 - B encouraging, promoting and facilitating the contributions of Aboriginal and Torres Strait Islander Nurses, Midwives and Students in nursing and midwifery with the aim of **improving health services** to Aboriginal and Torres Strait Islander peoples and communities and **contributing to Aboriginal and Torres Strait Islander health literacy** in the home and community;
 - C providing Aboriginal and Torres Strait Islander Nurses, Midwives and Students with **skills of resilience and cultural significance**;
 - D reviving and preserving **Indigenous knowledges and practices** (such as Birthing on Country);
 - E providing for activities of preservation, resilience, respect and the sharing of **traditional healing knowledges**;
 - (ii) **Aboriginal and Torres Strait Islander Nurses, Midwives and Students and associated carers and service providers effectively carry out their professional and business practices** by:

- A encouraging, promoting and facilitating **Aboriginal and Torres Strait Islander people to consider a career in health** and encouraging, promoting and facilitating **non-Aboriginal and Torres Strait Islander people to consider Aboriginal and Torres Strait Islander Health as a career**
- B encouraging, promoting and facilitating **the growth, recruitment and retention of Aboriginal and Torres Strait Islander Nurses and Midwives** (through recruitment and retention strategies, networking, mentoring, information sharing and career pathways) thus contributing to:
 - a. improved clinical and health services for Aboriginal and Torres Strait Islander peoples and communities in Australia;
 - b. Aboriginal and Torres Strait Islander Nurses and Midwives economic participation in the Australian economy;
 - c. role modelling for the future workforce;

(iii) Aboriginal and Torres Strait Islander Nurses, Midwives and Students and associated carers and service providers operate within a supportive regulatory environment and beneficial policy imperatives by:

- A developing, promoting, encouraging and advancing **broad-based affirmative action policy strategies that ensure carers and service providers for Aboriginal and Torres Strait Islander peoples and communities provide holistic and culturally safe and respectful care** by facilitating development and understanding of a **culturally safe and respectful health workforce and health services;**
- B representing Aboriginal and Torres Strait Islander Nurses, Midwives and Students at all levels, including to and at international governance structures, professional bodies, Aboriginal health leadership, educational institutions and government relations;

(iv) The public have a positive image of Aboriginal and Torres Strait Islander Nurses, Midwives and Students and associated carers and service providers and the nursing and midwifery profession and industry by:

- A advising all key stakeholders and the wider Australian public on issues relating to all care services (and in particular nursing and midwifery) as they pertain to Aboriginal and Torres Strait Islander health and its advancement;
- B monitoring and encouraging the commitment of all key stakeholders in ensuring the advancement of, and broad-based education regarding, Aboriginal and Torres Strait Islander Health, culture and history and **the**

elimination of discrimination as a key barrier to the advancement of Aboriginal and Torres Strait Islanders peoples;

(v) The Company's business practices and membership issues are effectively managed by:

- A sourcing and administering funds to enable and assist **Aboriginal and Torres Strait Islander Nurses, Midwives and Students and associated carers and service providers** facing financial hardship to **participate in the Objects of the Company activities;**
- B ensuring that **the Company is efficiently managed, is financially and ethically accountable to Members and funding bodies, and maintains high standards of excellence and innovation;**

BUT AT ALL TIMES recognising that the Company may be constrained to pursue only some of those Objects to exclusion of others from time to time or pursue some Objects with differing priorities.

5. The POWERS of the Company

In addition to the **powers** conferred on the Company by any relevant or applicable sections of the Act or Regulations, this Constitution and consistent with the assigned authorities in Article 53, the Company has all such powers as are necessary or convenient to carry out its Objects and, in particular, shall have the following powers solely for and consistent with the purpose of carrying out and the furtherance of the aforesaid Objects and not otherwise to:

- (i) **Employ, appoint and/or engage** and at its discretion **remove, dismiss or suspend** any employees, officers, staff, servants, agents, contractors, and tradespersons or professional **persons;**
- (ii) Determine **wages, salaries and gratuities** of officers, employees and other appointed contractors, agents, service providers where appropriate;
- (iii) Establish and support, or aid in the establishment and support, of services, institutions, funds, trusts, schemes and conveniences calculated to benefit employees or past employees of the Company and their dependants, and the granting of pensions, allowances or other **benefits to employees or past employees of the Company** and their dependants, and the making of payments towards insurance or superannuation in relation to any of those purposes;
- (iv) Print and publish by any technological means newsletters, periodicals, books, leaflets or other **documents;**

- (v) Receive or make **gifts, grants, devises, bequests, subscriptions or donations** from or to any person, fund, authority, organisation or institution and accept any gift whether subject to special trust or not and to act as trustee of money or other property vested in the Company on trust;
- (vi) Take any measures from time to time as the Company may deem expedient or appropriate for the purpose of facilitating **the raising of revenue and the procuring of contributions to the funds of the Company**, whether through charity fundraising or other events or by way of donations, subscriptions, grants or otherwise;
- (vii) Draw, make, accept, endorse, discount and issue cheques, draft bills of exchange, promissory notes and other **negotiable instruments**;
- (viii) Borrow or raise **money** and other funds in such manner and on such terms as the Company may think fit;
- (ix) Secure the repayment of money raised or borrowed or the payment of a **debt or liability of the Company** by giving mortgages, charges or securities upon or over all or any of the real or personal property of the Company;
- (x) **Invest** in authorised trustee investments of any monies of the Company not immediately required for any of its Objects or purposes in any manner in which trustees are authorised by law to administer money held on trust;
- (xi) Enter into **contracts**;
- (xii) Establish and support or aid in the establishment or support of, any **other service** formed for any of the Objects, consistent with any of the aforesaid Objects of the Company;
- (xiii) Establish, maintain and manage any **building or works** and arrange for the construction maintenance and alteration of buildings or works and expend money and do any other thing necessary, convenient or advisable in relation to any building or works to achieve the Objects of the Company;
- (xiv) Purchase, take on lease or in exchange and the hiring or otherwise acquiring of any **real or personal property** that may be deemed necessary or convenient to achieve the Objects of the Company;
- (xv) Buy, sell and supply of and deal in, **goods or services** of any kind to achieve the Objects of the Company;
- (xvi) **Co-operate** with any person or organisation on matters relating to the Objects of the Company;

(xvii) Form a solely owned **incorporated entity** as a subsidiary entity or participate in the formation of an incorporated entity with any other persons or bodies whose Objects are similar to those of the Company if it is deemed necessary or convenient to or in connection with, or with a view to promoting, pursuing or achieving the Objects of the Company;

(xviii) Subscribe to, become a member of, form or participate in the formation of or enter into a **partnership or joint venture** with or co-operate with or amalgamate with any other persons or bodies whose Objects are similar to those of the Company if it is deemed necessary or convenient to or in connection with, or with a view to promoting, pursuing or achieving the Objects of the Company;

In relation to (xvii) and (xviii), *provided* that the Company shall not subscribe to, become a member of, form or participate in the formation of or enter into any such arrangement with any other persons or bodies unless it is deemed necessary or convenient to or in connection with, or with a view to promoting, pursuing or achieving the Objects of the Company.

(xix) establish and support, or aid in the establishment and support of such internal **units** of the Company including but not limited to divisions, departments, societies, colleges interest groups, panels, chapters or other practical body or by whichever other name is deemed suitable that function as logical elements or segments of the Company representing a specific internal organisational function;

(xx) undertake **exhibitions, seminars and consultative forums or similar** in Australia and overseas deemed necessary or convenient to achieve the Objects of the Company;

(xxi) prepare and make **submissions or representations** to State and Federal governmental departments and agencies deemed necessary or convenient to achieve the Objects of the Company;

(xxii) **Do any other lawful act** as may be necessary, incidental or conducive to the achievement of the aforesaid Objects of the Company.

PROVIDED ALWAYS THAT the Company shall **not** support with its funds any object, or endeavour to impose on or procure to be observed by its Members or others any regulation or condition which being an object of the Company would **make it a trade union**.

Income and Property

6. Application of income and property

- (a) Subject to Articles 6(b) and 6(c), the Company must apply the profits (if any) or other income and property of the Company solely towards the promotion and furtherance of the Objects of the Company set out in Article 4 and no portion of it may be paid or transferred, directly or indirectly whether by way of dividend, bonus or otherwise to any Member of the Company.
- (b) Nothing in Article 6(a) prevents **the Company making any payment to any Member** in good faith of:
 - (i) reasonable and proper remuneration for **any services actually rendered or goods supplied** to the Company in the ordinary and usual course of business of the Company;
 - (ii) the payment or reimbursement of **out-of-pocket expenses** incurred on behalf of the Company where the amount payable does not exceed an amount previously approved by the Board;
 - (iii) reasonable and proper **rent or fees** for premises leased or licensed by any Member to the Company;
 - (iv) money to any Member, being a person engaged in any business or trade profession, for all usual **professional or other charges** for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
 - (v) **interest** at a rate not exceeding a rate approved by the Board on money borrowed by the Company from the Member;
 - (vi) **grants, vouchers or other payments** made pursuant to the Objects of the Company [and in particular Article 4(b)(v)A] to Members assessed as facing extreme or unexpected financial hardship to enable and assist them to participate in the Objects of the Company activities;
 - (vii) an amount pursuant to Article 78 [winding up].
- (c) The Company must not pay fees to or on behalf of Directors except that **the Company may make payments to a Director** in good faith for:
 - (i) the payment or reimbursement of **out-of-pocket expenses** reasonably incurred by a director in the performance of any duty as a Director of the Company including in travelling to or attending Board meetings where that payment or reimbursement has been approved by the Board;

- (ii) the payment of a reasonable and proper amount in compensation for **services actually rendered** by a Director in representing the Company and/or travelling to or attending meetings, events, conferences, etc for or on behalf of the Company at the request of the Board and where the payment has been approved by the Board;
- (iii) the payment of a reasonable and proper amount in **remuneration** for attending upon the functions and duties of a Director or office bearer on reasonable commercial terms commensurate with similar not for profit entities and which remuneration has been approved by the Board and does not exceed the total global amount (if any) approved annually by the Members in a general meeting of the Company as the remuneration payable to all directors and office bearers for undertaking such functions and duties;
- (iv) money to any Director, being a person engaged in any business or trade profession, for all usual **professional or other charges** for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
- (v) any **salary or wage** due to the Company Secretary as an employee of the Company where the terms of employment have been approved by the Board;
- (vi) an **insurance premium** in respect of a contract insuring a Director or Officer for a liability incurred as an Officer of the Company where the Board has approved the payment of the premium; or
- (vii) any payment in relation to **indemnity or insurance** under Article 68(a), 68(c) or 68(d) or a payment under any agreement or deed referred to in Article 68(e).

Gift and General Funds

GIFT FUND

7. Establishment of a Gift Fund

- (a) If the purposes of the Company are held on application to the Commissioner of Taxation to constitute a charitable purpose, permitting the Company to be an entity to which tax-deductible gifts can be made, then the Company shall set up, establish and maintain for the purpose a separate Gift Fund:
 - (i) into which all gifts of money or property gifted for charitable purpose for the Objects of the Company are to be made; and
 - (ii) into which any money received by the Company by reason of such gifts is to be credited; and

- (iii) that does not receive any other money or property other than the property or the money gifted to the Company for charitable purpose.
- (b) For the purpose of establishing the Gift Fund, the Company must establish a separate bank account in the name of the Gift Fund.
- (c) The name of the Gift Fund is the **CATSINaM Gift Fund**.

8. Money and property credited to Gift Fund

- (a) Any and all monies and contributions paid to the Company as **tax deductible gifts** (other than money and property credited to a General Funds pursuant to Article 11 shall be under the control of the Board and shall be deposited in a Gift Fund account with an accredited bank in the name of the Company pursuant to Article 7(b).

For the avoidance of doubt, money or property received by the Company in respect of:

- (i) fundraising (e.g. sponsorships, raffles, charity auctions, dinners, etc) and commercial activities pursuant to the powers in Article 5; or

- (ii) membership fees and levies,

must not be made or credited to the Gift Fund.

- (b) If money or property is incorrectly made or credited to the Gift Fund, the money or property must be removed from the Gift Fund as soon as practicable.

9. Use and records of gifts made to Gift Fund

- (a) The Company must use the following only in the furtherance of the Company's Objects:
 - (i) gifts made to the Gift Fund; and
 - (ii) any money received because of such gifts. This includes the proceeds of sale of gifted property and investment returns (including interest and rents) from gifted money and property.
- (b) Details of the Gift Fund (including all uses referred to in Article 9(a)) must be properly recorded in records maintained by the Company.
- (c) Gifts of property to the Gift Fund must be specifically identified as gifts to the Gift Fund.

- (d) The Company may use the Gift Fund to pay for reasonable costs and expenses expressly relating to the administration of the Gift Fund.
- (e) The Company must issue a receipt to the donor of gifts to the Gift Fund. A receipt must state:
 - (i) the name of the Gift Fund, the name of the Company and the donor and the amount gifted;
 - (ii) the ABN of the Company; and
 - (iii) the fact that the receipt is for a gift.

10. Winding up of Gift Fund

- (a) At the earlier of either:
 - (i) the winding up of the Gift Fund; or
 - (ii) the revocation of the Company's endorsement as a Deductible Gift Recipient;

any surplus assets of the Gift Fund remaining after payment of liabilities attributable to it shall be transferred to a fund, authority or institution whose Objects are similar to those in Article 4 and to which income tax deductible gifts can be made as selected by Ordinary and Student Members by resolution in general meeting of the Company.
- (b) If the Company is wound up, Article 78 will apply.

GENERAL FUNDS

11. Establishment of a General Funds

- (a) The Company may **establish and maintain separate funds ("General Funds")** for any money or other property of the Company which is not eligible for inclusion in the Gift Fund. The Company shall apply the whole of the income of the General Fund pursuant to Articles 4 and 6.
- (b) The **General Fund** shall
 - (i) be **controlled** by the Board;
 - (ii) shall be **deposited in** a General Fund account with an accredited bank in the name of the Company;
 - (iii) **consist of** any and all monies and contributions paid to the Company [other than money and property credited to a Gift Fund pursuant to Article 8 and may include (but not be limited to):

- A. any **real or personal property** of which the Board by the Constitution or by any established practice not inconsistent with the Constitution, has, or in the absence of any limited term lease, bailment or arrangement, would have the right of custody, control or management,
 - B. the **membership fees, levies and subscriptions** imposed by the Board,
 - C. **contributions and payments** to the Company from any other source,
 - D. any **interest, rents, dividends** or other income derived from investment or use of the General Fund,
 - E. any **superannuation or long service leave, or other fund** operated or controlled in accordance with rules relating to the Company as a whole for the benefit of members, their employees, officers and employees of the Company,
 - F. any **sick pay fund, accident pay fund, funeral fund, or like fund** operated in accordance with rules relating to the Company as a whole for the benefit of its members,
 - G. any **property acquired** wholly or mainly by expenditure of the monies of the General Fund or derived from other assets of the General Fund,
 - H. the **proceeds of any disposal** of parts of the General Fund,
 - I. any **funds from any other source** due to or generated by the Company.
- (c) The Board may, determine from time to time the proportion of **General Funds to be allocated to the National Office Secretariat** that are deemed necessary or convenient to achieve the Objects of the Company

Liability of Members

12. Extent of liability guarantee

The liability of the members is limited to the extent that each Member undertakes to contribute an amount not exceeding **\$10.00** to the property of the Company if the Company is wound up at a time when that person is a Member, or within one year of the time that person ceased to be a Member, for:

- (a) payment of the Company's debts and liabilities contracted before that person ceased to be a Member; and
- (b) payment of the costs, charges and expenses of winding up the Company; and

- (c) adjustment of the rights of the contributories among themselves.
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Membership

13. Membership categories and eligibility

- (a) The Members of the Company are:
- (i) the current Ordinary, Student, Associate and Affiliated Members of the Company as at the date of the adoption of this Constitution; and
 - (ii) such other persons the Board admit to membership in accordance with this Constitution from time to time.
- (b) Membership of the Company consists of the following **categories**:
- (i) Ordinary Members
 - (ii) Student Members
 - (iii) Associate Members
 - (iv) Affiliate Member
 - A Affiliate Member - Individual
 - B Affiliate Member - Corporate
- (c) **Ordinary Membership**
- (i) A natural person is **eligible** to apply for membership as an *Ordinary Member* of the Company if, in the opinion of the Board, they are an Aboriginal and/or Torres Strait Islander person; and:
 - A a Registered Nurse; or
 - B a Midwife; or
 - C an Enrolled Nurse.
- (d) **Student Membership**

- (i) A natural person is **eligible** to apply for membership as a *Student Member* of the Company if, in the opinion of the Board, they are an Aboriginal and/or Torres Strait Islander person; and

- A are currently enrolled and actively studying as a Student of nursing or midwifery;

(e) **Associate Membership**

- (i) A natural person is **eligible** to apply for membership as an *Associate Member* of the Company if, in the opinion of the Board, they are an Aboriginal and/or Torres Strait Islander person; and

- A are retired from their profession as an Enrolled Nurse, Registered Nurse or Midwife;

(f) **Affiliated Membership**

- (i) A natural person or corporate entity is **eligible** to apply for membership as an Affiliated Member of the Company in the following categories:

A Affiliate Member – Individual

- a) A natural person is eligible to apply for membership as an *Affiliate Member - Individual* of the Company if the individual, in the opinion of the Board, has demonstrated a commitment to support the Objects of the Company;

B Affiliate Member – Corporate

- b) A corporate entity is eligible to apply for membership as an *Affiliate Member - Corporate* of the Company if the corporate entity, in the opinion of the Board, has demonstrated a commitment to support the Objects of the Company and the interests of the applicant corporate entity do not conflict with the Objects of the Company as set out in the Constitution;

Membership Obligations

- (g) Each Member shall be obliged to:

- (i) comply with the law, Corporations Act and ACNC Act and this Constitution;
 - (ii) comply with any governing policy established by the Board and any other reasonable direction of the Board or its appropriately authorised Office Bearers or Officers that is deemed necessary, expedient or convenient for the proper

- regulation of the competent governance, management, conduct, control and direction of the Company;
- (iii) inform the Company Secretary of any changes in relation to the Member's eligibility:
- A for their category of Membership pursuant to Article 16(f); or
 - B to their registration or relevant qualifications as an Enrolled Nurse, Registered Nurse or Midwife (if applicable) including the suspension or cancellation of that registration;
- within ten (10) business days of such change occurring;
- (iv) inform the Board within ten (10) business days of any corrective or disciplinary action being taken by a regulator or professional body in relation to the Member's professional practice or conduct;
- (v) treat other Members, the Directors, officers and staff with respect and dignity; and
- (vi) not behave in a way that significantly interferes with the operation of the Company or general meetings of the Company or in any way or manner liable to bring the Company into disrepute through their activities or inactivity or in any way or manner liable to be prejudicial or detrimental to the interests of the Company or the pursuit of the Objects of the Company.

14. Membership rights

In addition to those rights and powers that are permitted by this Constitution to benefit or otherwise be performed by Members of the Company:

- (a) **All Members** may attend the Company's general meetings.
- (b) **All Members** may enjoy reduced fees for the Company's product and service offerings as the Board may determine from time to time.
- (c) **Ordinary and Student Members**, subject to this Constitution:
 - (i) have **full voting rights** as Members of the Company;
 - (ii) have **speaking rights** at a general meeting of the Company;
 - (iii) **may nominate proxies** for the Company's general meetings pursuant to article 40; and

- (iv) **may nominate persons to stand for election as a (Member) Director** of the Company and may, if applicable, **nominate themselves for election or be appointed as a (Member) Director**;
 - (v) may **requisition a general meeting of the Company** pursuant to Article 28(b)(i) and otherwise **call and arrange a general meeting of the Company** pursuant to Article 28(b)(ii);
 - (vi) may put **forward resolutions to be voted on at a general meeting of the Company** pursuant to Article 29(e)(iii);
 - (vii) have the right to **have disputes with the Company dealt with** pursuant to Article 70.
- (d) **Associate, Affiliated Members**, subject to this Constitution are entitled to exercise the following rights:
- (i) **receive notices** of all general meetings of the Company;
 - (ii) **attend as observer** to (but not entitled to appoint proxies for) the Company's general meetings
 - (iii) **may speak with the consent of the Chair** of the meeting on agenda items to provide advice, counsel and information on matters or answer questions if so requested but only by permission of and through the presiding Chair of the meeting,
 - (iii) have the right to **have disputes with the Company dealt with** pursuant to Article 70.
- and, for the sake of clarity, shall NOT have the right to:
- (iv) **vote** at general meetings of the Company; and
 - (v) nominate persons to stand for election as a (Member) Director, nor themselves **nominate for election or be appointed as a (Member) Director** but are eligible to be appointed as a (Board Appointed) Director pursuant to Article 46(b);
 - (vi) **requisition or call a general meeting of the Company**;
 - (vii) put **forward resolutions to be voted on at a general meeting of the Company**.
- (f) Subject to any relevant and applicable sections of the Act and the rights of particular categories of Members, the Company may vary or cancel rights of Members in that category:
- (i) by a special resolution passed at the Company's general meetings; or

- (ii) with the written consent of at least 75% of the Members entitled to vote at the Company's general meetings.

15. Application and acceptance of Members

- (a) An **application** from a natural person or a corporate entity for membership of the Company pursuant to Articles 13(c), (d), (e) or (f) must:
 - A be in a form determined by the Board from time to time ("**Membership Application Form**") and include:
 - (i) a declaration as to the eligibility for membership and the signature (or where applicable, the seal or equivalent) of the applicant, or such other form of authentication (electronic or otherwise) approved by the Board from time to time;
 - (ii) a signed undertaking on the part of the applicant to be bound by the Constitution;
 - (iii) the postal address and/or electronic mail address of the applicant being the nominated address for the receipt of Company notices;
 - (iv) if the applicant is a corporate entity, the name of **one (1) nominated Affiliate Member – Corporate Representative** (being a natural person) **who will represent the Member at the Company's general meetings;** and
 - (v) be accompanied by the relevant fee (if any and where applicable).
 - B be lodged with the Company Secretary at the Company's Registered Office.
- (b) The Company Secretary must **refer** any Membership Application Forms to the Board.
- (c) The Board shall, after **considering the application**, and applying the criteria for eligibility as set out for the relevant category of Member in Article 13, determine by resolution in its absolute discretion whether an applicant may become a Member. The Board may require an applicant to give such further information as it desires before approving or refusing the admission of an applicant for Membership.
- (d) If an application as a Member is **accepted** by the Board, the notice of acceptance and the fee paid by the applicant is, within ten (10) business days of the meeting at which acceptance was granted, to be forwarded to the Company Secretary who must, without reasonable delay, give written notice of the acceptance to the applicant and enter the applicant's details pursuant to Article 16(b) in the Register and deposit the fee in a General Fund.

- (e) If an application as a Member is **rejected** by the Board, the notice of rejection is, within ten (10) business days of the meeting at which acceptance was granted, to be forwarded to the Company Secretary who must, without reasonable delay, give written notice of the rejection to the applicant and refund in full any fee paid by the applicant. The Board or Company Secretary is not required to give any reason for the rejection of any application to become a Member.
- (f) Inadvertent failure by the Company to comply with any notice requirement in this Article does **not invalidate** the decision by the Board regarding an application.

16. Register of members

- (a) The Company Secretary must establish and maintain a Register of the Members of the Company which accurately reflects who is a Member.
- (b) The Register must contain the following information about each **Ordinary, Associate and Student Members and Affiliate Members – Individual**:
 - (i) the Member's name and postal and electronic mail address;
 - (ii) the category of membership; and
 - (iii) the date on which the Member's details was entered in the Register;and any additional information relevant to the membership as the Board shall determine from time to time.
- (c) Where a corporate entity is an **Affiliate Member – Corporate**, a natural person authorised by an Affiliate Member – Corporate Representative, in accordance with this Constitution, to act as its representative at a general meeting of the Company shall be registered as the Member. The Register must contain:
 - (i) the Affiliate Member – Corporate's name and postal and electronic mail address; and
 - (ii) the name and address of the authorised Affiliate Member – Corporate Representative.
 - (iii) the date on which the Member's details was entered in the Register;and any additional information related to the membership as the Board shall determine from time to time.
- (d) The Register must be kept at the Company's Registered Office (or other place as determined by the Board from time to time).

- (e) The Company Secretary must ensure that only those particulars required by any relevant and applicable sections of the Act relating to a Member are available for inspection in accordance with any relevant and applicable sections of the Act. The registrar of members:
 - (i) must only be given to a person with the right to have such information in accordance with any relevant and applicable sections of the Act; and
 - (ii) the inspection must take place at the Registered Office of the Company (or other place as determined by the Board from time to time) during business hours at any reasonable hour, having first given the Company reasonable notice in writing to, and made prior arrangement with, the Company Secretary to inspect (noting the inspection may be supervised by the Company Secretary and undertaken at a time convenient to both parties); and
 - (iii) is not to be photographically, electronically or manually copied and/or removed from the Registered Office of the Company (or other place determined as by the Board from time to time) and remains the property of the Company to be used solely for the purposes of the Company pursuant to the matters required as described in this Constitution, the Act and Corporations Regulations.
- (f) A Member shall, within a reasonable time by notice in writing lodged with the Company Secretary, inform the Company of any change in the Member's eligibility for their category of membership as well as any change in the Member's name, address or circumstances (including any change in the authorised Affiliate Member – Corporate Representative) within ten (10) business days of such change occurring. The Company may require reasonable verification of the change.
- (g) Where a member of the Company ceases to be a member, the Company Secretary shall make an appropriate entry in the register of members recording the date on which the member ceased to be a member.
- (h) The Company must ensure that it has at least one (1) Member at all times.

17. No transfers

The rights, privileges or obligations of being a Member remain with that person or corporate entity and are not transferable whether by operation of law or otherwise. All rights and privileges of membership of the Company cease on termination of membership.

Cessation of membership

18. Acceptance and renewal of membership

- (a) Each membership shall be recognised as being effective from the date the Member is accepted by the Board pursuant to Article 15(d) and shall remain a Member subject to

resignation, expulsion or other cessation or termination event pursuant to this Constitution.

- (b) The Board may determine from time to time whether to establish a:
 - (i) membership renewal process in a form and method prescribed by the Board;
 - (ii) prescribed membership fee pursuant to Articles 23-26.

19. Resignation of a Member

- (a) A Member may at any time **resign** as a Member of the Company by giving the Company notice in writing to the Company Secretary. Unless the notice provides otherwise and subject to Article 22, a resignation by a Member takes effect immediately on the giving of that notice to the Company.
- (iii) If a Member resigns, the Company must remove the Member's name from the Register pursuant to Article 16(g).
- (iv) If there is only one (1) Member and the Member gives proper notice of resignation or on the same day all of the Members give proper notice of resignation, the notice or notices will be ineffective, and the Member or Members cannot resign until either another person is appointed as a Member or the Company is wound up

20. Expulsion of a Member

- (a) Subject to Article 20(b), if:
 - (i) a Member is in **breach of, or has refused or wilfully neglected to comply with a provision of this Constitution** or a provision of any governing policies, guidelines, procedures, protocols, practices or processes prescribed by the Board from time to time (pursuant to their powers under Article 53); or
 - (ii) any act or omission of a Member is, in the opinion of the Board, unbecoming of a Member, **prejudicial or detrimental to the interests or reputation of the Company** or is not consistent with the Objects of the Company; or
 - (iii) a Member, acting as a volunteer on behalf of the Company, **mismanages and/or negligently and/or recklessly conducts the affairs of the Company**; or
 - (iv) a person who at the time of application was not eligible for membership but who was **accepted as a member on the faith of a false statement**; or
 - (v) a Member is, or any step is taken for that Member to become, either an **insolvent** under administration or an externally administered body corporate; or

(vi) the succession by another body corporate or entity to the assets and liabilities of an Affiliate Member - Corporate occurs such that they **no longer satisfy any criteria for admission to membership** of the Company which may be established from time to time; or

(vii) the Member's registration or relevant qualifications to practice as a Registered Nurse or Midwife are revoked or suspended;

the Company may, following due regard to the process of natural justice and procedural fairness, expel the Member by a resolution of the Board and remove the Member's name from the Register. The term of the expulsion, before the person is eligible to re-apply for membership, shall be determined by the Board and stated in the resolution of expulsion.

(b) The Company must not expel a Member under Article 20(a) unless:

(i) at least twenty-one (21) days' notice has been given to the Member stating the date, time and place at which the question of expulsion of that Member is to be considered by the Board (or their delegated and authorised Committee), and the nature of alleged event giving rise to the expulsion; and

(ii) the affected Member is given the opportunity of explaining to the Board (or their delegated and authorised Committee), orally (in person or by representation) or in writing, and with due regard to the process of natural justice and procedural fairness, why the Member should not be expelled.

21. Other Member cessation events

If a Member:

(a) being a natural person, **dies** or becomes of **unsound mind** or a person whose property is liable to be dealt with under a protective jurisdictional law relating to mental health; or

(b) being a corporate entity, **becomes** (or steps are taken for it to become) **insolvent**, has a receiver, receiver and manager, administrator or liquidator appointed, or has an externally administered body corporate appointed, or is wound up (except for the purposes of reconstruction or amalgamation to a successor corporate entity with substantially the same objectives and purposes as the original corporate entity) or is otherwise deregistered under the laws of the jurisdiction in which it is incorporated; or

(c) being a corporate entity, either through a change of the nature of the business of the entity or the occurrence of succession by another body corporate or entity to the assets and liabilities of an Affiliated Member - Corporate **ceases to satisfy any criteria**

for admission to membership of the Company which may be established from time to time;

the Member ceases to be a Member of the Company and the Company must remove the Member's name from the Register.

22. Effect of cessation

- (a) The resignation or termination of a membership for any reason does not in any way prejudice, lessen or otherwise affect the **liabilities and obligations** of a Member (whether they arise under this Constitution or otherwise) existing at the date of resignation or termination or which arise or crystallises after that date out of, or by reason of, facts or circumstances occurring or in existence at or before that date.
- (b) Without limiting the previous clause, termination of membership does not relieve a Member from:
 - (i) any obligation to pay any **fees** payable (pursuant to Articles 23-27) on or before the date of termination and does not entitle the Member to any refund of any such fees in part or in whole; and
 - A a Member remains liable to pay, and must immediately pay, to the Company all amounts that at date of cessation were payable by the person to the Company as a Member; and
 - B a Member must pay to the Company interest at the rate the Board resolves on those amounts from the date of cessation until and including the date of payment of those amounts;
 - (ii) any obligation to pay the **Member's guarantee** amount specified in Article 12 if that amount becomes payable within one (1) year of cessation of the Member's membership.

The Company may by resolution of the Board waive any or all of its rights under this Article 22(a) and 22(b)(i).

Fees and other Payments

23. Setting of Fees

- (a) The Company may by resolution of the Board from time to time
 - (i) require the payment of fees or levies by Members in the amount, on any terms and at any times as the Board resolves, including payment by instalments.

- (ii) when admitting Members make fees payable for one or more category of Members for different amounts and at different times as the Board from time to time resolves.
- (iii) revoke or postpone a fee or extend the time for payment of a fee, at any time prior to the date payment of that fee is due.

24. Notice of Fees

- (a) The Company must give notice of fees to the Members who are required to pay the fees at least ten (10) business days before the due date for payment. The notice must specify the time or times and place and manner of payment and any other information as the Board from time to time resolves.
- (b) The late delivery or non-receipt of a notice of a fee by, or the accidental omission to give notice of a fee to, any Member does not invalidate the fee.

25. Payment of Fees

- (a) Each Member must pay to the Company the amount of each fee payable by the Member in the manner, at the time and at the place specified in the notice of the fee.
- (b) If a Member fails to pay a Fee within three (3) months of it falling due, their Membership will automatically be suspended with immediate effect until the Fee is paid or the suspension is lifted by a resolution of the Board. If a Member fails to pay a Fee within six (6) months of it falling due, their Membership may be terminated with immediate effect, and no right of appeal, by a resolution of the Board
- (c) In a proceeding to recover a fee, or an amount payable due to the failure to pay or late payment of a fee, proof that:
 - (i) the name of the Member is entered in the Register as a Member;
 - (ii) the Member is in the category of Members liable to pay the fee;
 - (iii) there is a record in the minute books of the Company of the resolution of the Board determining the fee or the terms of membership of a category of Members requiring the payment of the fee pursuant to Article 23; and
 - (iv) notice of the fee was given or taken to be given to the Member in accordance with this Constitution,

is conclusive evidence of the obligation of that Member to pay the fee.

26. Interest payable

- (a) If an amount payable to the Company as a fee is not paid before or on the time for payment, the Member who owes the amount must pay to the Company:
 - (i) interest on the unpaid part of the amount from the date payment is due to the date of payment at the rate (if any) the Board from time to time resolves; and
 - (ii) all costs and expenses the Company incurs due to the failure to pay or the late payment.
- (b) Interest under Article 26(a) accrues daily and may be capitalised at any interval that the Board from time to time resolves.
- (c) The Company may by resolution of the Board from time to time waive payment of some or all of the interest, costs or expenses payable under Article 26(a).

27. Company payments

- (a) A Member or the Personal Representative of a deceased Member must pay to the Company on written demand an amount equal to all payments the Company makes to a government or taxation authority in respect of the Member or the death of the Member, where the Company is either:
 - (i) obliged by law to make the relevant payment; or
 - (ii) advised by a lawyer qualified to practice in the jurisdiction of the relevant government or taxation authority that the Company is obliged by law to make the relevant payment.
- (b) The Company is not obliged to notify a Member in advance of its intention to make a payment under Article 27(a).
- (c) An amount payable by a Member to the Company under Article 27(a) is treated under this Constitution as if it is a fee properly made by the Board of which notice has been given on the date on which the written demand is given by the Company to the Member or the Personal Representative of a deceased Member.
- (d) Nothing in this Article affects any right or remedy which any law confers on the Company.

Proceedings of General Meetings

28. Calling General Meetings

- (a) The Company may by resolution of the **Board** call a general meeting of the Company to be held at the time and place (including 2 or more locations using technology which

gives eligible attending Members as a whole a reasonable opportunity to participate) and in the manner the Board from time to time may resolve.

(b) No **Member** may call or arrange to hold a general meeting of the Company except where permitted by the Corporations Act as follows:

(i) **A general meeting of the Company shall be convened by the Board on such requisition by** at least 10% of the total number of **Voting Members**. [For the sake of clarity, if the combined membership of Voting Members is 100, a minimum of 35 members may requisition the Board to convene a general meeting.] The Board must call the meeting within twenty-one (21) days after the request is given them and the meeting is to be held not later than forty (40) business days after the request is received.

Corporations Act 2001 s.249D "Calling of general meeting by directors when requested by members"

(ii) **Voting Members** with at least 10% of the votes who make a requisition under Article 28(b)(i) **may call and arrange to hold a general meeting of the Company if the Board do not do so within twenty-one (21) days after the request is given to the Board** to be held not later than sixty (60) business days after that date.

Corporations Act 2001 s.249E "Failure of directors to call general meeting"

A Voting Members seeking to convene a general meeting of the Company pursuant to Article 28(b)(ii) must pay the Company's the expenses of convening and holding the general meeting of the Company subject to Articles 28(b)(ii)B & (ii)C.

B The Company must pay the reasonable expenses the Voting Members incurred in convening and holding a meeting under Article 28(b)(ii)B because the Board failed to call and arrange to hold the meeting pursuant to Article 28(b)(i);

C The Company may recover the amount of the expenses incurred pursuant to Article 28(b)(ii)B from the Directors. However, a director is not liable for the amount if they prove that they took all reasonable steps to comply with Article 28(b)(i). The Directors who are liable are jointly and individually liable for the amount.

(iii) **Voting Members** with at least 10% of the votes **may call, and arrange to hold, a general meeting**. The members calling the meeting must pay the expenses of calling and holding the meeting

Corporations Act 2001 s.249F "Calling of general meetings by members"

A The meeting must be called in the same way, so far as is possible, in which general meetings of the company may be called;

B The percentage of votes that members have is to be worked out as at the midnight before the meeting is called.

(c) The Company must hold an **Annual General Meeting** at least once in each calendar year and within five (5) months after the end of its financial year.

29. Notice of General Meetings

- (a) Where the Company has called a general meeting of the Company, at least twenty-one (21) days' **notice** of the meeting must be given to the Members and Directors, unless 95% of Members agree to a shorter period.
- (b) A person may waive notice of any general meeting of the Company by written notice to the Company.
- (c) Subject to any relevant or applicable sections of the Act, anything done (including the passing of a resolution) at a general meeting of the Company is not invalid because a person does not receive either or both notice of the meeting or a proxy form, or the Company accidentally does not give notice of the meeting or a proxy form to a person.
- (d) The Company must give its auditor:
 - (i) notice of general meetings of the Company in the same way that a Member is entitled to receive notice under Article 29(a); and
 - (ii) any other communication relating to the general meeting of the Company that a Member is entitled to receive.
- (e) A notice of a general meeting of the Company must:
 - (i) set out the **place, date and time for the meeting** (and, if the meeting is to be held in two (2) or more places, the technology that will be used to facilitate this); and
 - (ii) state the **general nature of the meeting's business**; and
 - (iii) if a resolution is to be proposed at the meeting, set out an intention to do so either as a resolution or a special resolution and **state that resolution**; and
 - (iv) in the case of an election of Directors, state the **names of the candidates for election** (and if submitted by the candidate, a **qualification résumé** pursuant to Article 47(c)(iii)); and
 - (v) contain a statement setting out the following information:
 - A that an Ordinary and Student Member has the right to appoint a proxy; and
 - B that the proxy must be a natural person; and
 - C any **proxy form** for the meeting may be given in the form pursuant to Article 40(d).

30. Business of General Meetings

(a) All business will be **special business** that is **transacted at a general meeting of the Company**, not being an Annual General Meeting, or at an Annual General Meeting with the exception of the business pursuant to Article 30(c), and **shall include items of business submitted by:**

(i) **the Board;**

(ii) **Voting Members** with at least 10% of the votes that may be cast on the resolution;

(b) The notice of the item of business submitted by Members pursuant to Article 30(a)(ii) must:

(i) be in writing; and

(ii) set out the wording of any proposed resolution; and

(iii) be signed by the Voting Members proposing to move the resolution.

Separate copies of a document setting out the notice may be used for signing by Voting Members if the wording of the notice is identical in each copy.

(c) In addition to any special business pursuant to Article 30(a)&(b), the business that may be transacted at an **Annual General Meeting** is:

(i) the confirmation of the minutes of the preceding Annual General Meeting;

(ii) the consideration of the annual:

A Financial report,

B Directors' report; and

C Auditor's report.

(iii) the election of Directors;

(iv) if required at that particular AGM, the appointment of auditor and the fixing of their remuneration.

(d) Except with the approval of the Board or with the permission of the Chair of the meeting, no person may move at any general meeting of the Company:

- (i) any resolution except in the form set out in the notice of meeting pursuant to Articles 29(e)(iii) and 30(b); or
- (ii) any amendment that substantially changes the intent of any resolution or of a document which relates to any resolution. Any objection raised under this Article 30(d)(ii) in relation to the question of the validity of the amendment of the resolution must be decided by the Chair of the general meeting of the Company, whose decision, made in good faith, is final and conclusive.

31. Quorum of General Meetings

- (a) No business may be transacted at a general meeting of the Company except, subject to Article 32, the election of the Chair of the meeting and the adjournment of the meeting, unless a quorum for a general meeting of the Company is present at the time when the meeting commences and for the duration of the meeting.
- (b) A **quorum** for a general meeting of the Company shall be constituted by **not less than five (5) Voting Members** present in person or by proxy (or by technological means subject to Board consent) or if there are less than 10 Voting Members of the Company, fifty per cent (50%), rounded to the nearest whole number, of those Voting Members].
 - (i) Where there is only **one Member** then a quorum is that Member attending or otherwise resolving in writing any matter required to be decided by that Member.
- (c) If a quorum is not present within thirty (30) minutes after the time appointed for the commencement of a general meeting of the Company, the meeting is dissolved unless the Chair of the meeting adjourn the meeting to a date, time and place determined by that Chair.
- (d) If a quorum is not present within thirty (30) minutes after the time appointed for the commencement of an adjourned general meeting of the Company, **the Voting Members** present in person or by proxy (or by technological means subject to Board consent) constitute a quorum.

32. Chair of General Meetings

- (a) Subject to Articles 32(b) and 32(c), the Chair shall preside at each general meeting of the Company or in the Chair's absence; the Deputy Chair may preside as Chair at every general meeting of the Company.
- (b) If at a general meeting of the Company:
 - (i) there is no Chair or Deputy Chair; or

- (ii) the Chair or Deputy Chair is not present within 15 minutes after the time appointed for the commencement of a general meeting of the Company or either is not willing to chair all or part of the meeting;
 - A the Directors present may (by majority vote) elect one of their number; or
 - B in the absence of all the Directors or if none of the Directors present is willing to act, the Voting Members of the Company present in person or by proxy (or by technological means subject to Board consent) may elect one of their number, to preside at that meeting.
- (c) A Chair of a general meeting of the Company may, for any item of business at that meeting or for any part of that meeting, vacate the chair in favour of another person nominated by him or her (**Acting Chair**). Where an instrument of proxy appoints the Chair as proxy for part of proceedings for which an Acting Chair has been nominated, the instrument of proxy is taken to be in favour of the Acting Chair for the relevant part of the proceedings.

33. Conduct of General Meetings

- (a) Subject to any relevant and applicable sections of the Act, the Chair of a general meeting of the Company is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting.
- (b) The Chair of a general meeting of the Company may:
 - (i) make **rulings** without putting the question (or any question) to the vote if that action is required to ensure the orderly conduct of the meeting;
 - (ii) determine the **procedures** to be adopted for proper and orderly discussion or debate at the meeting;
 - (iii) determine, in the absence of such pursuant to Article 36(b), the **rules and procedures in relation to a poll** to be adopted for the casting of votes, the circumstances in which such a vote will be valid and the recording of votes at the meeting;
 - (iv) be guided in their determination of the rulings, procedures and conduct of general meetings of the Company by any **Standing Orders** that the Board may determine, pursuant to Article 53(e), that are not inconsistent with this Constitution that it considers as a readily accessible guide to influence the proper conduct of all Company meetings. It should be noted that any ruling of the Chair pursuant to Articles 33(b)(i)-(iii) or any decision made by a validly constituted meeting shall not be void by reason only of a departure from such Standing Orders.

- (c) The Chair of a general meeting of the Company may:
- (i) at his/her discretion and with his/her assent, permit interested persons (other than Members) to attend general meetings of the Company but who, subject to Article 34(d), have no right to speak at or otherwise participate in the meeting and must follow any directions of the Chair;
 - (ii) where they deem necessary to maintain a safe, respectful and professional environment, refuse to admit a person, or require them to leave and not return to a general meeting of the Company if the person:
 - A refuses to permit examination of any article in the person's possession; or
 - B is in possession of any electronic or recording device; placard or banner; or other similar sign or other inappropriate article which the Chair considers in "good faith" (i.e. a sincere intention to deal fairly with others and without any malice) to be dangerous, offensive or liable to cause disruption or distress; or
 - C. acts or behaves or uses abusive language in a manner unbecoming of appropriate decorum or in conflict with or disregard for the Chair's rulings.
- (d) The Chair of a general meeting of the Company may determine any dispute concerning the admission, validity or rejection of a vote or proxy at the meeting.
- (e) The Chair of a general meeting of the Company may, subject to any relevant and applicable sections of the Act, at any time terminate discussion or debate on any matter being considered at the meeting and require that matter be put to a vote.
- (f) The Chair of a general meeting of the Company may refuse to allow debate or discussion on any matter which is not business referred to in the notice of that meeting or is not business of the meeting permitted under any relevant and applicable sections of the Act without being referred to in the notice of meeting.
[Note: The only business that can be conducted at a General Meeting of members is the business which they have been advised of in the notice of meeting. There is in effect no "business arising" or "other business". General Meetings can only deal with the business in the notice. Members only have specific matters they can deal with in General Meetings and they need notice to deal with them, in the main the matters are: amend the Constitution; appoint/remove directors; appoint/remove Auditor; receive particular information and disclosures (accounts, reports, etc); wind up the organisation.]
- (g) If (at a meeting held in one physical location) the Chair of a general meeting of the Company considers that there are too many persons present at the meeting to fit into the venue where the meeting is to be held, the Chair may nominate a separate meeting place using any technology that gives eligible attending Members as a whole a reasonable opportunity to participate.
- (h) The Chair of a general meeting of the Company may delegate any power conferred by this Article to any person.

- (i) Nothing contained in this Article 33 limits the powers conferred by law on the Chair of a general meeting of the Company.

34. Attendance at General Meetings

- (a) Subject to this Constitution and any rights and restrictions of a category of Members pursuant to Article 14,
 - (i) an Ordinary or Student Member may, if so entitled, attend, speak and vote in person, by proxy, or by attorney at a general meeting of the Company;
 - (ii) an Associate or Affiliate Member may, if so entitled, attend, speak with consent of the Chair but not vote at a general meeting of the Company.
- (b) The Chair of a general meeting of the Company may require a person acting as a proxy or attorney at that meeting to establish to the Chair's satisfaction that the person is the person duly appointed to act. If the person fails to satisfy this requirement, the Chair may exclude the person from attending or voting at the meeting.
- (c) A **Director** is entitled to receive notice of all general meetings of the Company, pursuant to Article 29(a), and to attend all general meetings of the Company and is entitled to speak at those meetings.
- (d) A person, whether a Member or not, requested by the Board to attend a general meeting of the Company is entitled, with the permission of the Chair of the meeting, to attend that meeting and to speak at that meeting pursuant to Article 33(c)(i).
- (e) The **Company's auditor** is entitled to receive notice of all general meetings of the Company, pursuant to Article 29(d), and entitled to attend any general meeting of the Company.

35. Authority of Members at General Meetings

- (a) An Ordinary or Student Member has the rights to act in accordance with Member's rights under this Constitution at a general meeting of the Company pursuant to Article 14(a)&(c).
- (b) An Ordinary or Student Member (or their validly appointed proxy or attorney) also has authority to:
 - (i) vote on any permitted amendment moved to a proposed resolution subject to Article 30(d)(ii), and on any motion that a proposed resolution not be put or any similar motion; and

- (ii) vote on any procedural motion, including any motion to elect the Chair of the general meeting of the Company to which the appointment relates, to vacate the chair or to adjourn the meeting,
- (iii) attend and vote at a meeting which is rescheduled, postponed or adjourned to another time or changed to another place, even though in the case of a validly appointed proxy or attorney, the appointment may refer to a specific meeting to be held at a specified time or place.

36. Voting at General Meetings

- (a) A resolution put to the vote at a general meeting of the Company at a meeting held in:
 - (i) one physical location must be decided on a show of hands, unless a poll is demanded pursuant to Article 39 and that demand is not withdrawn.
 - (ii) two (2) or more places that uses technology that gives eligible attending Voting Members as a whole a reasonable opportunity to participate, a poll will be held that relies on either a vocal "yes" or "no" response with each voter counted separately or otherwise some electronic means of casting and counting votes as determined by the Board.
- (b) The Board may determine, pursuant to Article 53(e), the rules and procedures in relation to a poll to be adopted for the casting of, the circumstances in which such a vote will be valid and the recording of votes at the meeting.
 - (i) Where a notice of meeting specifies a poll, a vote cast by an Ordinary or Student Member is taken to have been cast by that person at the meeting if the rules and procedures in relation to a poll (whether set out in the notice of meeting or otherwise determined by the Chair) are complied with.
- (c) Subject to this Constitution and any rights or restrictions of a category of Members pursuant to Article 14, on a **show of hands** at a general meeting of the Company, **each Ordinary or Student Member** having the right to vote on the resolution **has one vote** each.
- (d) Subject to this Constitution and any rights or restrictions of a category of Members pursuant to Article 14, on a **poll** at a general meeting of the Company, **each Ordinary or Student Member** having the right to vote on the resolution **has one vote** each.
- (e) Subject to this Constitution and any rights or restrictions of a category of Members pursuant to Article 14, where the Board has determined **other means** (including postal and electronic) permitted by law for the casting and recording of votes by Ordinary or Student Members on any resolution to be put at a general meeting of the Company, **each Ordinary or Student Member** having a right to vote on the resolution **has one vote** each.

- (f) An objection to a right to vote at a general meeting of the Company or to a determination to allow or disregard a vote at the meeting may only be made at that meeting (or any resumed meeting if that meeting is adjourned). Any objection under this Article must be decided by the Chair of the general meeting of the Company, whose decision, made in good faith, is final and conclusive.
- (g) Except where a resolution at a general meeting of the Company is a special resolution that requires a special majority pursuant to any relevant or applicable sections of the Act, the resolution is passed if more votes are cast by Ordinary or Student Members in favour of the resolution than against it [and for the sake of clarity, a tied vote is NOT passed].
- (h) In the case of an equality of votes [i.e. a tied vote] on a resolution at a general meeting of the Company, **the Chair** of that meeting, if they are an Ordinary or Student Member has a right to their deliberative vote in respect of that resolution but **does not have a casting vote** on that resolution and, pursuant to Article 36(g), the resolution is NOT passed.
- (i) Unless a poll is demanded and the demand is not withdrawn, a determination by the Chair of a general meeting of the Company following a vote on a show of hands that a resolution has been passed or not passed is conclusive, and an entry to that effect in the book containing the minutes of the proceedings of the Company signed by the Chair will be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour or against the resolution.

37. Voting by proxy or attorney

- (a) The validity of any resolution passed at a general meeting of the Company is not affected by the failure of any proxy or attorney to vote in accordance with directions (if any) of the appointing Ordinary or Student Member.
- (b) If a proxy of an Ordinary or Student Member purports to vote in a way or circumstances that contravene any relevant and applicable sections of the Act, on a show of hands the vote of that proxy is invalid, and the Company must not count it. If a poll is demanded, votes which any relevant and applicable sections of the Act require a proxy of an Ordinary or Student Member to be cast in a given way must be treated as cast in that way.
- (c) Subject to this Constitution and any relevant and applicable sections of the Act, a vote cast at a general meeting of the Company by a person appointed by an Ordinary or Student Member as a proxy or attorney is valid despite the revocation of the appointment (or the authority under which the appointment was executed), if no notice in writing of that matter has been received by the Company at least 48 hours before the commencement of that meeting.

38. Restrictions on voting rights

- (a) The authority of a proxy or attorney for an Ordinary or Student Member to speak or vote at a general meeting of the Company to which the authority relates is suspended while the appointing Ordinary or Student Member is present in person at that meeting.
- (b) An Ordinary or Student Member is not entitled to vote on any resolution on which any fee or other amount due and payable to the Company in respect of that Member's membership of the Company has not been paid.
- (c) An Ordinary or Student Member is not entitled to vote on a resolution at a general meeting of the Company where that vote is prohibited by any relevant and applicable sections of the Act or an order of a court of competent jurisdiction.
- (d) The Company must disregard any vote on a resolution at a general meeting of the Company purported to be cast by an Ordinary or Student Member, proxy or attorney where that person is not entitled to vote on that resolution. A failure by the Company to disregard a vote on a resolution as required by this Article 38 does not invalidate that resolution or any act, matter or thing done at the meeting, unless that failure occurred by wilful default of the Company or of the Chair of that meeting.

39. Polls

- (a) A poll on a resolution at a general meeting of the Company may be demanded by:
 - (i) at least five (5) Ordinary or Student Members only in accordance with any relevant and applicable sections of the Act and any Board determined rules and procedures in relation to a poll pursuant to Article 36(b), or
 - (ii) by the Chair of that meeting.
- (b) No poll may be demanded at a general meeting of the Company on:
 - (i) the election of a Chair of that meeting; or
 - (ii) (unless the Chair of the meeting otherwise determines) the adjournment of that meeting.
- (c) A demand for a poll may be withdrawn.
- (d) A poll demanded on a resolution at a general meeting of the Company for the adjournment of that meeting (subject to Article 39(b)(ii)) must be taken immediately. A poll demanded on any other resolution at a general meeting of the Company must be taken in the manner and at the time and place the Chair of the meeting directs.

- (e) The result of a poll demanded on a resolution of a general meeting of the Company is a resolution of that meeting.
- (f) A demand for a poll on a resolution of a general meeting of the Company does not prevent the continuance of that meeting or that meeting dealing with any other business.

40. Proxies

- (a) An Ordinary or Student Member who is entitled to attend and vote at a general meeting of the Company may appoint **another natural person** to attend and vote at that general meeting of the Company, as proxy for the Ordinary or Student Member but not otherwise.
 - (i) In respect of any one general meeting of the Company, a person may not be appointed as proxy for more than two Ordinary or Student Members other than the Chair who may be appointed as proxy for any number of Ordinary or Student Members.
- (b) If the name of the proxy in a form of appointment of proxy is not filled in, the proxy of that Ordinary or Student Member is:
 - (i) the person specified by the Company in the form of appointment of proxy in the case the Ordinary or Student Member does not choose; or
 - (ii) if no person is so specified, the Chair of that meeting.
- (c) A proxy appointed in accordance with this Constitution to attend and vote may only exercise the rights of the Ordinary or Student Member on the basis and subject to the restrictions provided in this Constitution.
- (d) A form of appointment of proxy is valid if it is in writing, or in any other form (including electronic) which the Board may determine or accept.

Corporations Act 2001 s.250A(1)
An appointment of a proxy is valid if it is signed, or otherwise authenticated in a manner prescribed by the regulations, by the member of the company making the appointment and contains the following information:

 - (a) the member's name and address;*
 - (b) the company's name;*
 - (c) the proxy's name or the name of the office held by the proxy;*
 - (d) the meetings at which the appointment may be used.*

41. Receipt of appointments of proxy or attorney

- (a) An appointment of proxy or attorney for a general meeting of the Company is effective only if the Company receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) not less than 48 hours before the time appointed for the meeting to commence or (in the case of an adjourned meeting) resume.

- (b) Where a notice of meeting specifies an electronic address or other electronic means by which an Ordinary or Student Member may give the Company a proxy appointment (and any authority under which the appointment is signed), a proxy given at that electronic address or by that other electronic means is taken to have been given by the Ordinary or Student Member and received by the Company if the requirements set out in the notice of meeting are complied with.

42. Multiple appointments of proxy or attorney

- (a) If more than one proxy or attorney appointed by an Ordinary or Student Member is present at a general meeting of the Company and the Company has not received notice of any revocation of any of the appointments:
 - (i) a proxy or attorney appointed to act at that particular meeting may act to the exclusion of a proxy or attorney appointed under a standing appointment; and
 - (ii) subject to Article 42(a)(i), a proxy or attorney appointed under the most recent appointment may act to the exclusion of a proxy or attorney appointed earlier in time.
- (b) An appointment of a proxy of an Ordinary or Student Member is revoked (or, in the case of a standing appointment, suspended for that particular general meeting of the Company) if the Company receives a further appointment of a proxy from that Member which would result in there being more than one proxy of that Member entitled to act at the meeting. The appointment of proxy made first in time is the first to be treated as revoked or suspended by this Article.
- (c) The appointment of a proxy for an Ordinary or Student Member is not revoked by an attorney for that Member attending and taking part in a general meeting of the Company to which the appointment relates, but if that attorney votes on a resolution at that meeting, the proxy is not entitled to vote, and must not vote, as the Member's proxy on that resolution.

43. Adjournments of a General Meeting

- (a) The Chair of a general meeting of the Company may at any time during the meeting adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered at the meeting or any discussion or debate, either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by the Chair.
- (b) If the Chair of a general meeting of the Company exercises the right to adjourn that meeting under Article 43(a), the Chair may (but is not obliged to) obtain the approval of those present at the meeting entitled to vote to the adjournment.

- (c) No person other than the Chair of a general meeting of the Company may adjourn that meeting.
- (d) The Company may give notice of a general meeting of the Company resumed from an adjourned meeting as the Board resolves. Failure to give notice of an adjournment of a general meeting of the Company or the failure to receive any notice of the meeting does not invalidate the adjournment or anything done (including the passing of a resolution) at a resumed meeting.
- (e) Only business left unfinished is to be transacted at a general meeting of the Company resumed after an adjournment.

44. Cancellations and postponements of a General Meeting

- (a) The Company may by resolution of the Board cancel or postpone **a general meeting of the Company called in accordance with this Constitution by the Board** or change the place for the meeting, prior to the date on which the meeting is to be held.
- (b) Article 44(a) does not apply to a meeting **called by Members or by the Board on the request of Members**, unless those Members consent to the cancellation or postponement.
- (c) The Company may give notice of a cancellation or postponement or change of place of a general meeting of the Company as the Board resolves. Failure to give notice of a cancellation or postponement or change of place of a general meeting of the Company or the failure to receive any notice of the meeting does not invalidate the cancellation, postponement or change of place of a meeting or anything done (including the passing of a resolution) at a postponed meeting or the meeting at the new place.
- (d) The only business that may be transacted at a general meeting of the Company the holding of which is postponed is the business specified in the original notice calling the meeting.

45. Resolutions determined without General Meetings

- (a) The company may pass a resolution of Ordinary or Student Members without a general meeting being held if **all the members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document** and that resolution is as valid and effectual as a resolution duly passed at a general meeting of the Company.
- (b) Any such written resolution under Article 45(a) may consist of:
 - (i) several copies of a document each signed by one or more Ordinary or Student Members and takes effect at the date and time on which the last Ordinary or

Student Member necessary for the resolution to be passed, signs a copy of the resolution; or

- (ii) a record of several messages by electronic means each indicating the identity of the sender, the text of the resolution and the sender's agreement to the resolution and such a resolution takes effect on the date on which the last Ordinary or Student Member's message necessary for the resolution to be passed is received.

Directors

46. General

Member Directors

- (a) Subject to Article 46(b) and Article 50 (d), (e), (f) and (g), **only Ordinary or Student Members who are natural persons may be appointed/elected as a (Member) Director**, with one (Member) Director to be appointed or elected from each Australian State and Territory in which they reside pursuant to Article 47;

- (i) (Member) Directors are elected as individuals and are not appointed/elected as "representatives" of any State/Territory, Member, stakeholder or other related constituent body or any internal unit or group within the Company for the reason that all Directors have a duty to act in the Company's best interests, to act for the proper purposes of the Company, to not use their position as a Director to gain advantage for someone else and must place the interests of the Company ahead of other personal interests they may have in another entity and give their prime loyalty to the Company over other competing interests.

Ref: ACNC Regulation 2013 Reg.45.25(2)

Board Appointed Directors

- (b) **Up to two (2) natural persons may be appointed to the position of (Board Appointed) Director** at any time by resolution of, and at the discretion of the Board to ensure an appropriate mix of skills and attributes on the Board pursuant to Article 46(e)(i), or to ensure an Enrolled Nurse, Registered Nurse or Midwife (as applicable) is appointed pursuant to Article 46(e)(i)&(iii).

- (i) A (Board Appointed) Director may be an Ordinary, Student or Associate Member or Affiliate Member – Individual or an Affiliate Member - Corporate Member Representative, or alternatively, may not have any association with any Member or the Company (but may NOT be an employee of the Company).

- (ii) A (Board Appointed) Director, holds office until:

- A. the conclusion of the AGM next following their appointment, at which time they must retire but are eligible to be re-appointed by the Board, noting that

- they cease to be a Director if they retire at the conclusion of the AGM next following their appointment and are not re-appointed by the Board; or
- B. they are removed by resolution of the Board at any time; or
- C. the person ceases to be Director pursuant to Article 50(a-h); or otherwise.
- (iii) (Board Appointed) Directors are not considered for the purposes of assessing whether or not there are more than one (1) Director normally residing in any State or Territory.
- (c) A (Member) Director of the Company must be a financial member of Company throughout the term of his/her appointment as a (Member) Director.
- (d) **There shall be not less than three (3) (Member) Directors and not more than ten (10) Directors of the Company** which shall consist of:
- (i) not be less than three (3) and **not more than eight (8) (Member) Directors** appointed or elected by Voting Members pursuant to Article 46(a)(i) and 47; and
- (ii) **not more than two (2) (Board Appointed) Directors** appointed at the Board's discretion pursuant to Article 46(b).
- (e) The Company must use its best endeavours to ensure that the Board to the extent possible includes:
- (i) **Directors** that have a mix of governance **skills and attributes**, as prescribed by the Board from time to time pursuant to Article 53(e), that are commensurate with those expected of a person to adequately govern an entity of similar size and complexity as that of the Company and to exercise the duties pursuant to Article 46(f);
- (ii) at least one **Enrolled Nurse or Registered Nurse**; and
- (iii) at least one **Midwife**;
- (iv) to the extent possible, Directors from across **a wide geographical coverage** of the Australian states and territories.
- (f) In relation to Director **duties**, all Directors shall be and are required, pursuant to the ACNC Act, and any additional duty set out in the ACNC Regulation, this Constitution or the law, to:
- (i) act with reasonable **care and diligence** in the exercise of their powers;

- (ii) act in **honestly and fairly, in the best interest of the Company** and for its **charitable purpose** (i.e. act in a manner considered desirable for the promotion of, or deemed necessary or convenient for the purpose of and with a view to carrying out and furthering the Objects of the Company pursuant to Article 4);
- (iii) not misuse their **position** or **information** they may gain as a director to advantage themselves or someone else or cause detriment to the Company;
- (iv) disclose **conflicts of interest**;
- (v) ensure that the **financial affairs** of the Company are managed responsibly;
- (vi) not allow the Company to operate while it is **insolvent**.

Ref: ACNC Regulation 2013 Reg.45.25(2)

47. Appointment and Procedure for Election of (Member) Directors

- (a) A person becomes a (Member) Director when either:
 - (i) the Board appoints a (Member) Director to fill a casual vacancy pursuant to Article 48(a); or
 - (ii) the Company elects that person as a Director:
 - A at an Annual General Meeting pursuant to Article 30(c)(iii) [annual election of Directors]; or
 - B at a general meeting of the Company pursuant to Article 58(j)(iv)C [election of additional Directors when number falls below three Directors].
- (b) When a position of a (Member) Director falls due for election due to the expiry of a (Member) Director's term pursuant to Article 49,
 - (i) Voting Members from that State or Territory may nominate one or more Ordinary or Student Members who usually reside in that State or Territory for election;
 - (ii) If more than one Ordinary or Student Member is nominated from that State or Territory, all Voting Members entitled to vote at general meetings of the Company may participate in a vote pursuant to Article 47(e) conducted in such a manner as determined by the Board from time to time;
 - (iii) In the event a State or Territory does not nominate any person as a (Member) Director, the vacant position shall be treated as a casual vacancy and dealt with pursuant to Article 48(a) (i.e. in a similar manner to Article 47(d)(ii)).

- (c) Other than a person appointed by the Board pursuant to Article 46(b) [Board appointed Director] or pursuant to Article 48(a) [casual vacancy], no eligible person may be nominated as a (Member) Director pursuant to Article 47(a)(ii) unless a **(Member) Director Nomination** (in the form determined by the Board from time to time) is:
- (i) signed by two (2) Ordinary Members endorsing the nominee's eligibility (who must be a financial Ordinary or Student Member) and accompanied by the consent of the nominee to act (which may be endorsed on the form of nomination); and
 - (ii) is delivered to the Company Secretary at least fifteen (15) business days (or such other time as is allowed for by the Board) before the date fixed for the holding of the meeting at which the election is being held; and
 - (iii) accompanied by a written statement containing not more than one hundred words, signed by the nominee setting out the relevant skills and attributes, against those prescribed by the Board from time to time pursuant to Article 53(e) which, in the opinion of the nominee, constitutes his or her attributes and qualifications for the position of Director of the Company. This statement is referred to as a “**qualification résumé**”.
- (d) If on the close of nominations, **the number of nominating candidates for election as (Member) Directors is:**
- (i) **equal to the number of vacancies**, all the nominating candidates shall be declared elected at the general meeting of the Company.
 - (ii) **less than the number of vacancies**, the Board may fill any remaining positions (or sufficient a number required to form a quorum required by this Constitution) as set out in Article 48(a) [casual vacancy].
- (e) If **the number of nominating candidates for election as Directors is greater than the number of vacancies**, a ballot must be held for the election of (Member) Directors at the general meeting of the Company conducted in such manner as the Board may direct.
- (f) If a ballot is required, balloting lists must be prepared by the Company Secretary listing the names of the nominating candidates in the order drawn by lot.
- (g) Each Ordinary or Student Member entitled to vote may cast the number of votes equal to the number of vacancies, provided that no person so voting may cast more than 1 vote in favour of each candidate.
- (h) The nominating candidates receiving the greatest number of votes in their favour must be declared by the Chair of the meeting to be elected as (Member) Directors.

- (i) In the event of a tied vote for a (Member) Director position the result will be decided by lot.

48. Board may appoint a (Member) Director to fill a casual vacancy

- (a) Pursuant to Article 47(d)(ii) or otherwise where a (Member) Director retires or otherwise ceases to be a Director:
 - (i) prior to the time at which that person would have been required to retire under Article 49; or
 - (ii) pursuant to Article 50(a-g) or because of Article 50(j)(i);

the **Board may appoint an Ordinary or Student Member to fill the casual vacancy**, provided that the person appointed to fill the vacancy meets the eligibility requirements that apply pursuant to Article 46(e) in relation to the Company's appointment of a person to that position other than their State or Territory of residency.

- (b) A person appointed by the Board to fill a vacancy under this Article 48(a) holds office for a duration determined by the Board, but no longer than three years.

49. Tenure of (Member) Directors

- (a) A (Member) Director appointed pursuant to Article 46(a) and 47, must **retire** from office three (3) AGMs following that Director's last election or appointment and is eligible to **re-nominate**, pursuant to Article 47(c), for **re-appointment** pursuant to the requirements of Articles 46(a) and subject to 49(a)(i).

- (i) Such a retirement/re-nomination/re-appointment may occur three consecutive times (i.e. on a 3yr x 3yr x 3yr tenure) at which point, the Director may not be eligible to nominate again as a (Member) Director for a minimum period of two years at which point they may be eligible to nominate for the position of Director and hold office again pursuant to this Constitution.

A Notwithstanding that a (Member) Director completes three consecutive times pursuant to Article 49(a)(i), that person may be appointed by the Board pursuant to Article 46(b) as a (Board Appointed) Director subject to eligibility requirements of that position.

- (b) A (Member) Director who retires under Article 49(a) holds office as Director until the end of the meeting at which the Director retires and is eligible for re-election pursuant to the requirements of Articles 46(a) and pursuant to Article 47.

- (c) The Board may, on application of a (Member) Director, grant that **Director leave of absence** from the Board that is likely to exceed three (3) months in duration, but not beyond their designated tenure pursuant to Article 49(a) (i.e. three (3) AGMs following that Director's last election or appointment). As Director leave of absence is not a formal casual vacancy, the Director cannot be replaced during the term of the leave of absence subject to Article 58(j)(iii).

50. Termination of office

A person ceases to be a Director and ceases to occupy that position if the person:

- (a) **fails to attend** two (2) consecutive Board meetings without the consent of the Board;
- (b) **resigns** by notice in writing to the Company;
- (c) is **removed** from office under any relevant and applicable sections of the Act;
- (d) is, or becomes a **paid employee or has been in the past two years a paid employee** (whether full-time or part-time) of, or holds (or held) paid employment in the Company or of any related body corporate of the Company;
 - (i) Note that acting as a volunteer worker, or engaged in a voluntary or honorary capacity or position within the Company, does not disqualify a person from being a Director of the Company;
- (e) becomes an **insolvent** under administration;
- (f) becomes of **unsound mind** or a person whose property is liable to be dealt with under a protective jurisdictional law relating to mental health; or
- (g) is **not permitted** to be a Director, or to manage a corporation, pursuant to any relevant and applicable sections of the Act;
- (h) **retires** pursuant to Article 49(a) and fails to gain relevant nomination for another term pursuant to Article 47(c);
- (i) **retires** pursuant to Article 49 or ceases to hold office under Article 48(b), and is not re-elected or re-appointed;
- (j) is **removed** from office by resolution of the Members entitled to attend and vote in general meeting of the Company as follows:
 - (i) Subject to article 50(j)(iv), **the Company may**, by resolution in a general meeting of the Company, **remove any (Member) Director** appointed pursuant to Article 47 before the expiration of that Director's term of office and a new (Member) Director may be appointed in his or her place pursuant to Article 48;

- (ii) **The Board may**, by resolution in a meeting of Directors, **remove any (Board Appointed) Director** at any time pursuant to Article 46(b)(ii)B before the expiration of that (Board Appointed) Director's term of office and a new (Board Appointed Director) may be appointed in his or her place pursuant to Article 46(b);
- (iii) **The Board may**, by resolution of not less than a $\frac{3}{4}$ (75%) majority (of the total number of Directors) of the Board, **suspend a (Member) Director** from their position as a Director with immediate effect, provided that:
 - A in their opinion they establish sufficient legitimate grounds for them to determine a breach of the Act or the conduct of a Director is in persistent breach of this Constitution or the governing policies of the Company or such that continuance in office would be prejudicial to the interests of the Company;
 - B they then call a general meeting of the Company within fourteen (14) days of that suspension to be held within twenty (20) business days of the suspension taking effect to consider whether the (Member) Director should be removed pursuant to Article 50(j)(i);
- (iv) A (Member) Director who is the subject of a proposed resolution referred to in Article 50(j)(i):
 - A may make representations in writing to the Company Secretary (not exceeding a reasonable length) which shall be provided to the Voting Members of the Company unless the Company Secretary, acting reasonably, deems the representations to be defamatory in character, in which case, such defamatory statements are to be redacted;
 - B may attend and speak at that general meeting of the Company in person;
 - C shall be removed as a (Member) Director if the resolution of the meeting **supports** the Board's motion or otherwise shall be re-instated immediately as a (Member) Director if the resolution of the meeting **rejects** the Board's motion.

51. Interests of Directors

- (a) A Director is not disqualified by reason only of being a Director (or the fiduciary obligations arising from that office) from:
 - (i) holding an office or place of profit or employment in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest;

- (ii) being a Member, creditor or otherwise be interested in any body corporate (including the Company), partnership or entity, except auditor of the Company;
 - (iii) contracting or entering into any agreement or arrangement with the Company; or
 - (iv) acting in a professional capacity (or being a Member of a firm, which acts in a professional capacity) for the Company, except as auditor of the Company.
- (b) Each Director must comply with the ACNC Act and ACNC Regulation in relation to the disclosure of the Director's interests.
- (c) A Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present while the matter is being considered at the meeting nor vote on the matter, except that the director may be present and vote if directors who do not have a material personal interest in the matter have passed a resolution that:
- (i) 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
 - (ii) states that those directors are satisfied that the interest should not disqualify the director from voting or being present.
- (d) If a Director has an interest in a matter, then subject to Article 51(c), Article 51(e) and this Constitution:
- (i) that Director may be counted on in a quorum at the Board meeting that considers matters that relate to the interest provided that Director is entitled to vote on at least one of the resolutions to be proposed at that Board meeting;
 - (ii) that Director may participate in and vote on matters that relate to the interest subject to Article 51(c);
 - (iii) the Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company;
 - (iv) the Director may retain the benefits under any transaction that relates to the interest even though the Director has the interest; and
 - (v) the Company cannot avoid any transaction that relates to the interest merely because of the existence of the interest.
- (e) If an interest of a Director is required to be disclosed under Article 51(b), Article 51(d)(iv) applies only if the interest disclosed before the transaction is entered into.

Board

52. Composition and role of Board

- (a) The Board will comprise of the Directors of the Company appointed pursuant to Article 46(a), 47 and, if so appointed, any Directors pursuant to Article 46(b).
- (b) Without limiting the general powers of the Board pursuant to Article 53 and as otherwise stated in this Constitution, **the role, functions and activities of the Board** include (in the main, but not necessarily limited to):
 - (i) formulating the Company's strategic direction that is consistent with furthering the Objects of the Company pursuant to Article 4;
 - (ii) determining the Company's governance policies (pursuant to Article 53(e));
 - (iii) appointing and working with and through the CEO (pursuant to Article 64);
 - (iv) monitoring, overseeing and supervising the Company's CEO's strategic, organisational and financial performance and risk and compliance management processes;
 - (vi) providing accountability to the Members and complying with the ACNC governance standards.

Powers of the Board

53. General powers of the Board

- (a) The Board is **responsible for the management, control and direction of the affairs of, and the pursuit of the furtherance of the Objects of, the Company**, and may exercise, to the exclusion of the Company in general meeting, **all powers of the Company** which are not, by the law or this Constitution, required to be exercised by the Company in General Meeting provided that no resolution of the Company in General Meeting shall invalidate any prior act of the Board.
- (b) Subject to any relevant or applicable sections of the Act and this Constitution, **the Board has power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management, control and direction of the affairs of the Company** including those powers pursuant to Article 5.
- (c) A power of the Board can only be exercised by a **resolution passed at a meeting of the Board** pursuant to Article 58, a **resolution passed by signing a document** pursuant to Article 57, or in accordance with a delegation of the power under Article 55 or 56. A

reference in this Constitution to the Company exercising a power by a resolution of the Board includes an exercise of that power in accordance with a delegation of the power pursuant to Article 55 or 56.

- (d) Except in the case permitted by a specific delegation of authority pursuant to Article 55 or 56 or as otherwise pursuant to Article 64(b), the Board shall approve any and all **public statements** made on behalf of the Company by any Member, director, office bearer, officer, employee, delegated person, persons, or committee and/or agent of the Company or their members, volunteers, etc. prior to that person or body making such statement.
- (e) Pursuant to Article 53(b), the Board shall have the power to establish **governing policies** relating to the effective and prudent internal control, administration and management of the Company that give effect to the Board's powers under the Constitution, the achievement of the Objects of the Company and to regulate the business of the Company. Such governance policies will be those deemed necessary, expedient or convenient for the proper regulation of the competent governance, management, conduct, control and direction of the Company and shall define how those with delegated powers in the Company (the Board, directors, office bearers, officers, employees, delegated person or persons, committees, agents and/or volunteers, etc of the Company.) are expected to act and behave in the exercise of their delegated powers and authorities, the performance of their assigned roles and functions and the discharge their obligatory duties.
 - (i) The Board may at any time add to, rescind, modify, change or vary any of the governing policies and make others to replace them in accordance with the changing needs and requirements of the Company.
 - (ii) The governing policies must not be contrary to this Constitution or any relevant or applicable sections of the Act.
 - (iii) Each Member, Board, director, office bearer, officer, employee, delegated person or persons, committee, agent, volunteers, etc. of the Company shall be **bound by and must comply with any governing policies** in force from time to time.
- (f) The Board shall set out its governing policies in the Company's **Governance Charter**.
 - (i) The Governance Charter may also specify requirements for reporting to government agencies in relation to any funds raised and held on a specific Gift Fund established and, maintained by the Company and reporting of distributions made from that Gift Fund so as to maintain any endorsement of the Company as an income tax exempt charity or public benevolent institution and any endorsement of the Company as a deductible gift recipient under income tax legislation.

- (g) The Board shall, pursuant to Article 2(p), have authority to **interpret the meaning of the Articles in this Constitution** and any other matter relating to the Company on which this Constitution is silent, subject to any amendment of the Constitution made pursuant to Article 69.

54. Execution of documents and financial instruments

- (a) If the Company has a **common seal**, the Company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by either of:

- (i) two (2) Board authorised Directors; or
- (ii) one (1) Board authorised Director and the Company Secretary; or
- (iii) two (2) persons as the Board may authorise for that purpose;

and that witnessing is sufficient for all purposes that was affixed by those signatures by authority of the Board.

- (b) The Company may execute a document **without a common seal** provided the dealing or deed is signed and attested by the signatures either of:

- (i) two (2) Board authorised Directors; or
- (ii) one (1) Board authorised Director and the Company Secretary; or
- (iii) two (2) persons as the Board may authorise for that purpose;

and that attestation is sufficient for all purposes that was affixed by those signatures by authority of the Board.

This provision is in accordance with provisions of the Corporations Act (2001) s.123(1): A company may have a common seal. If a company does have a common seal, the company must set out on it the company's name; and the company's ACN. Note 1: A company may ...execute documents without using a seal (see s.126 and s.127).

- (c) The Board shall ensure that:

- (i) all cheques, drafts, bills of exchange, promissory notes and other **financial, negotiable or transferable instruments**; and
- (ii) all **payments** (which may include electronic fund transfers, writing cheques, use of credit cards, payment of cash and any other lawful means of disbursement of funds) by the Company; and
- (iii) **receipts** for money paid to the Company;

are specifically authorised by (and in the case where physical signatures are required, attested by the signatures of) one or more persons as authorised by the Board and are

signed, drawn, accepted, endorsed or otherwise executed in a manner and in accordance and consistent with:

- (iii) their delegated and authorised powers as are specified in the instrument of delegation;
- (iv) any directions of the Board; or
- (v) the governing policies of the Company as determined by the Board pursuant to Article 53(e).

and nothing in this provision shall prevent the use of petty cash from time to time once funds have been disbursed for that purpose and all other provisions of this Constitution have been complied with.

55. Delegation authority of the Board

- (a) The Board may, by instrument in writing, delegate the exercise of the functions of the Board or any of its powers for any period and on any terms (including the power to further delegate), as the Board resolves, to:

- (i) a **committee** of the Board made up of any reliable and competent persons as determined at the Board's discretion;

or

- (ii) a **Director** or officer bearer;
- (iii) an **employee** of the Company; or;
- (iv) any other **person, group or body**;

as are deemed as reliable and competent by the Board to exercise the power and as are specified in the instrument of delegation and/or any directions of the Board, other than:

- (v) this power of delegation; and
 - (vi) a function which is a duty imposed specifically on the Board by the Act or by any other law.
- (b) A committee or delegate must exercise the powers delegated in accordance with any directions of the Board.

- (c) A function, the exercise of which has been delegated under this rule, may, while the delegation remains unrevoked, be exercised from time to time by the delegated person, persons, or committee pursuant to the terms of the delegation.
- (d) A delegation under this rule may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to the period, terms, time or circumstances as may be specified in the instrument of delegation by the Board.
- (e) The Board may, subject to this Constitution, by instrument in writing, determine, or vary any determination of, the functions, responsibilities, powers, authorities of (and any constraints, related processes and protocols and relevant accountability obligations applying to) the delegated person, persons, or committee at any time;
- (f) The Board may, by instrument in writing, add to, revoke wholly or in part or vary any delegation under this rule.
- (g) Notwithstanding any delegation under this rule, the Board may continue to exercise any function delegated.
- (h) Any act or thing done or suffered by the delegated person, persons, or committee acting in the exercise of a delegation under this Article has the same force and effect as it would have if it had been done or suffered by the Board and noting that the exercise of the power by the delegate is as effective as if the Directors themselves had exercised it.
- (i) Any person, persons or committee appointed under this Article shall report in writing to the Board on the exercise of the delegated functions or powers as and when and by a method and at a frequency the Board shall determine from time to time.
- (j) Subject to the Terms of Reference of a committee, Article 58 [except for the provisions of Articles 58 (k), (l) & (m)] applies, with the necessary changes, to meetings of a committee of the Board.

Directors have the right and entitlement to delegate any of their powers to a committee, a director, a company employee, any other person remembering however that a director is responsible for the exercise of the power by the delegate as if the power had been exercised by the directors themselves (Ref: Corporations Act 2001 s.190(1))

56. Attorney or agent

- (a) The Board may appoint any person to be attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) as the Board resolves. Subject to the terms of appointment of an attorney or agent of the Company, the Board may revoke or vary that appointment at any time, with or without cause.

- (b) The Board may delegate any of their powers (including the power to delegate) to an attorney or agent. The Board may add to, revoke or vary any power delegated to an attorney or agent at any time.

Proceedings of the Board

57. Written resolutions of Directors

- (a) The **Board may pass a resolution without a Board meeting** being held if notice in writing of the resolution is given to all Directors and a majority of all Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of Directors) sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) A resolution under Article 57(a) may consist of several documents in the same form each signed by one or more Directors and is effective when signed by the last of the Directors constituting the majority. A document produced by electronic means under the name of a Director with the Director's authority is taken to be a document signed by the Director for the purposes of Article 57(a) and is taken to be signed when received by the Company in legible form.

58. Board Meetings

- (a) The **Board must meet at least twice each year but may otherwise may meet, adjourn and otherwise regulate their meetings** as it thinks fit on dates and at a location and by a method and at a frequency the Board shall determine from time to time.
- (b) The Chair or any three (3) Directors may **call a Board meeting** at any time. On request of the Chair or any three (3) Directors, the Company Secretary must call a meeting of the Directors.
- (d) **Notice of a Board meeting** must be given to each Director (except a Director on leave of absence approved by the Board pursuant to Article 40(c)) and the Chief Executive Officer within seven (7) days or such period as may be unanimously agreed by the Board before the time appointed for the holding of the meeting. Notice of a Board meeting may be given in person in writing or by post or by electronic means.
- (e) A Director may waive notice of a Board meeting by giving written notice to that effect to the Company in person in writing or by post or by electronic means.
- (f) A Director who attends a Board meeting waives any objection that person may have to a failure to give notice of the meeting.
- (g) Anything done (including the passing of a resolution) at a Board meeting is not invalid because either or both a person does not receive notice of the meeting or the Company accidentally does not give notice of the meeting to a person.

- (h) For the purposes of the relevant and applicable sections of the Act, each Director, by consenting to be a Director, or by reason of the adoption of this Constitution, consents to the **use of technology** which permits each Director to communicate with every other participating Director or any combination of technologies for the holding of a Board meeting;
 - (i) A Director may withdraw the consent given under this Article.
- (i) If a Board meeting is held in 2 or more places linked together by any technology:
 - (i) a Director present at one of the places is taken to be present at the meeting unless and until the Director states to the Chair of the meeting that the Director is discontinuing her or her participation in the meeting; and
 - (ii) the Chair of that meeting may determine at which of those places the meeting will be taken to have been held.
- (j) A **quorum** for a Board meeting is fifty-one per cent (51%) [rounded to the nearest whole number] of the total number of Directors (or such greater number as may be fixed by the Board from time to time). Under this formula, the minimum quorate number of Directors for a Board meeting to be valid is three (3) Directors. A quorum for a Board meeting must be present at all times during the meeting. Each individual present may only be counted once towards a quorum.
 - (i) No formal business shall be transacted, or resolutions passed by the Board unless a quorum is present and if within half an hour of the time appointed for the meeting a quorum is not present the meeting stands adjourned to the same place and at the same hour of the same day in the following week.
 - (ii) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting shall be dissolved.
 - (iii) The **attending Directors may act notwithstanding any vacancy in the Board** as long as there is the number required to form a quorum required by this Constitution;
 - (iv) If the number of Directors in office at any time falls below the minimum number of Directors required by this Constitution pursuant to Article 46(d), the remaining Directors shall not act in the affairs of the Company, other than to:
 - A appoint suitable and eligible persons to fill casual Director vacancies pursuant to Article 48 up to at least the minimum number required by this Constitution pursuant to Article 46(d); or otherwise

- B appoint suitable and eligible persons to fill any (Board Appointed) Director vacancies pursuant to Article 46(b) to help make up the minimum number required by this Constitution pursuant to Article 46(d); or otherwise
 - C call a general meeting pursuant to Article 28(a) for the purpose of the election of additional Directors until the number of Directors is made up to at least the minimum number required by this Constitution pursuant to Article 46(d).
- (k) The **Chief Executive Officer**:
- (i) shall, unless otherwise excused or directed by the Board, attend all Board meetings.
 - (ii) does not have any right to vote at Board meetings.
- (l) The **Company Secretary** (or their delegate) [unless the Company Secretary is also a formally appointed Director pursuant to Article 46(a), 46(b) or Article 47]:
- (i) shall, unless otherwise excused or directed by the Board, attend all Board meetings to fulfil their delegated governance administrative functions pursuant to Article 65.
 - (ii) does not have any right to vote at Board meetings.
- (m) Anything done (including the passing of a resolution) at a Board meeting is not invalid because of non-attendance by the Chief Executive Officer or Company Secretary.
- (n) Except for the provisions of Articles 58 (k) & (l), the Board shall ordinarily hold all Board meetings as *in camera* sessions, but may invite, at their own discretion, any person or persons to attend for any part of the Board meeting as either:
- (i) **attendees** to make representations or, by permission of the Chair, speak (either in person or via telecommunication means if thought most practical and appropriate) on agenda items to provide reports, advice, counsel, guidance and information or answer questions on matters as requested by Directors; or as
 - (ii) **observers** who may, by permission of the Chair, speak for the sole purpose to raise questions in relation to and gain insights into the Board's meeting and decision-making processes to gain an instructional understanding of governance practice and methods.

59. Chair of the Board

- (a) Subject to Article 59(b) the Chair of the Board must preside at each Board meeting or in the Chair's absence, the Deputy Chair may preside as Chair at each Board meeting.

- (b) If at a Board meeting:
 - (i) there is no Chair or Deputy Chair; or
 - (ii) the Chair or Deputy Chair is not present within 15 minutes after the time appointed for the holding of a Board meeting or is not willing to preside at all or part of that meeting,

the Directors present must elect one of their number to preside at that meeting or part of the meeting.

- (c) Subject to Article 62(a) [appointment of Chair], a person does NOT cease to be a Chair of the Board if that person retires as a Director at a general meeting of the Company and is re-elected as a Director at that meeting (or any adjournment of that meeting).
- (d) A person does cease to be a Chair of the Board if that person retires as a Director at a general meeting of the Company and is NOT re-elected as a Director at that meeting (or any adjournment of that meeting).

60. Board resolutions

- (a) A resolution of the Board is passed if more votes are cast by Directors entitled to vote in favour of the resolution than against it [and for the sake of clarity, a tied vote is NOT passed].
- (b) Subject to Article 51 [interests of directors] and this Article 60, each Director present in person has **one vote** on a matter arising at a Board meeting.
 - (i) A Director may NOT appoint an alternate, deputy, substitute or proxy director to act or vote on their behalf.
- (c) In case of an equality of votes [i.e. a tied vote] on a resolution at a Board meeting, **the Chair** of that meeting has a deliberative vote in his or her capacity as a Director in respect of that resolution but **does not have a casting vote** on that resolution and the resolution is decided in the negative.

61. Valid proceedings

- (a) An act at any Board meeting or a committee of the Board or an act of any person acting as a Director is not invalidated by:
 - (i) a defect in the appointment or continuance in office of a person as a Director, a Member of the committee or of the person so acting; or
 - (ii) a person so appointed being disqualified or not being entitled to vote,

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

Office Bearers of the Board

62. Chair

- (a) At the first meeting of the Board after the Annual General Meeting in each year, **the Board shall appoint one of the Directors from among their number to the office of Chair.**
- (i) The Chair will hold office until the conclusion of the next Annual General Meeting but is eligible for re-appointment as Chair by the Board if the person is a validly appointed Director, notwithstanding that the Board may, at any time, terminate the appointment of a Chair, with or without cause and appoint another of the Directors from among their number to the office of Chair who will hold office for the remainder of the term but is eligible for re-appointment.
- (b) A person who is appointed Chair is, for the purposes of this Constitution, first and foremost a Director who has the same tenure as any other Director pursuant to Article 46(b)(ii) and 49 [tenure of directors]. If the Chair:
- (i) retires as a Director or otherwise ceases to be a Director, the person ceases to be the Chair at which time the Board shall elect one of the Directors from among their number to the office of Chair pursuant to Article 62(a);
- (ii) retires as Chair or otherwise ceases to be the Chair, the person may continue as a Director pursuant to Article 49 and article 50.
- (c) The person appointed Chair, in addition to their Director role, has all the corresponding authorities delegated in this Constitution and those further delegated by the Board pursuant to Articles 53(e) [governing policies] and 62(d), (e) & (f).
- (d) The Board may, subject to this Constitution, determine, or vary any determination of, the functions, responsibilities, powers, authorities of (and any constraints, related processes and protocols and relevant accountability obligations applying to), and subject to Article 6 [application of income and property], the remuneration of the Chair.
- (e) The Board may delegate any of its powers to the Chair for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may add to, revoke or vary any power delegated to the Chair.
- (f) The Chair must exercise the powers delegated to him or her in accordance with any directions of the Board pursuant to Article 55 [delegation authority of the Board].

63. Deputy Chair

- (a) At the first meeting of the Board after the Annual General Meeting in each year, the Board *may* appoint one of the Directors from among their number to the office of Deputy Chair.
 - (i) The Deputy Chair will hold office until the conclusion of the next Annual General Meeting but is eligible for re-appointment by the Board if the person is a validly appointed Director, notwithstanding that the Board may, at any time, terminate the appointment of a Deputy Chair, with or without cause and appoint another of the Directors from among their number to the office of Deputy Chair who will hold office for the remainder of the term but is eligible for re-election.
 - (b) A person who is appointed Deputy Chair is for the purposes of this Constitution first and foremost a Director who has the same tenure as any other Director pursuant to Article 46(b)(ii) and 49. If the Deputy Chair:
 - (i) retires as a Director or otherwise ceases to be a Director, the person ceases to be the Deputy Chair at which time the Board shall elect one of the Directors from among their number to the office of Deputy Chair pursuant to Article 63(a);
 - (ii) retires as Deputy Chair or otherwise ceases to be the Deputy Chair, the person may continue as a Director pursuant to Article 49 and article 50.
 - (c) The person elected Deputy Chair, in addition to their Director role, has all the corresponding authorities delegated in this Constitution and those further delegated by the Board pursuant to Articles 53(e) and 63(d), (e) & (f).
 - (d) The Board may, subject to this Constitution, determine, or vary any determination of, the functions, responsibilities, powers, authorities of (and any constraints, related processes and protocols and relevant accountability obligations applying to), and subject to Article 6, the remuneration of, the Deputy Chair.
 - (e) The Board may delegate any of its powers to the Deputy Chair for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power delegated to the Deputy Chair.
 - (f) The Deputy Chair must exercise the powers delegated to him or her in accordance with any directions of the Board pursuant to Article 55 [delegation authority of the Board].
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CEO

64. Chief Executive Officer

- (a) The CEO is appointed by the Board on terms and conditions (including as to remuneration) as determined by the Board and, subject to any agreement or contract of employment between the Company and the CEO, the Board may vary or terminate the appointment of a CEO at any time, with or without cause with due regard to the law and the process of natural justice and procedural fairness.
- (b) The Board may, subject to this Constitution, determine, or vary any determination of, the functions, responsibilities, powers, authorities of (and any constraints, related processes and protocols and relevant accountability obligations applying to) the CEO who may perform any such function or exercise any other power specified or delegated by the Board.
- (c) The CEO may (subject to any other direction of the Board) delegate to an employee of the Company a function or power delegated to the CEO under Article 64(b), but that power or function may not be further delegated.
- (d) The CEO must exercise the powers delegated to him or her in accordance with any directions of the Board pursuant to Article 55 [delegation authority of the Board].

Company Secretary

65. Company Secretary

- (a) The Board **shall** appoint a **Company Secretary** (who may be any other eligible person including either an employee, a Member, or alternatively may not have any association with any Member or the Company and could include - but preferably not - a Director), who shall hold office for any period and on such terms and conditions (including as to remuneration) as the Board determines and who may vary or revoke any determination of, the functions, responsibilities, powers, authorities of (and any constraints, related processes and protocols and relevant accountability obligations applying to) the Company Secretary.
- (b) Subject to any agreement between the Company and the Company Secretary, the Board may vary or terminate the appointment of a Company Secretary at any time, with or without cause with due regard to the law and the process of natural justice and procedural fairness.
- (c) The person appointed Company Secretary has all the corresponding authorities delegated in this Constitution and those further delegated by the Board pursuant to pursuant to Articles 53(e) and 65(a).

- (d) The Board may, by resolution, delegate some or all of the above duties to another person pursuant to Article 55 not acting formally as the Company Secretary of the Company. The Company Secretary may also, delegate some or all of the above duties to another person from time to time.

66 Patron

- 66.1 One or more patrons *may* be appointed by resolution of the Board. Such appointment must be by unanimous vote of all Directors.
- 66.2 A patron of the Company is a person who, having accepted an invitation from the Board, willingly and publicly supports the Objects of the Company. A patron may make public statements on behalf of the Company at functions that have been pre-approved by the Board for the patron to attend.
- 66.3 The term of patronage will be determined by resolution of the Board. A term of patronage may be terminated without notice with due regard to the law and the process of natural justice and procedural fairness, by resolution of the Board.
- 66.4 The role of a patron is to act as an “ambassador” of the Company to increase the public profile of the Company in such a way as to promote the Objects and good standing of the Company and may be called upon to act in a representative capacity on behalf of the Company at public functions and in particular to promulgate and proselytise the Company’s merits.

Minutes

67. Minutes

- (a) The Board shall cause minutes to be kept and entered up in accordance with the Law:
- (i) of the names of the Directors present at each meeting of the Directors and of any Committee; and
 - (ii) of all resolutions and proceedings of general meeting of the Company and of meetings of Directors and of Committees.
- (b) The minutes are to be signed by the Chair of the meeting at which the proceedings were held or by the Chair of the next succeeding meeting.

Indemnity and Insurance

68. Indemnity and insurance

- (a) To the extent permitted by law, the Company may indemnify each relevant officer against a liability of that person incurred by that person in or arising out of the discharge of duties as an officer of the Company or in or arising out of the conduct of the business of the Company and the legal costs of that person

Corporations Act 199A

(1) A company...must not exempt a person...from a liability to the company incurred as an officer...of the company.

*...indemnity for liability (other than for legal costs) [is] **not allowed** [in the following circumstances] ...*

(2) A company must not indemnify a person...against any of the following liabilities incurred as an officer...of the company:

- (a) a liability owed to the company;*
- (b) a liability for a pecuniary penalty order under s.1317G or a compensation order under section 961M, 1317H, 1317HA or 1317HB;*
- (c) a liability that is owed to someone other than the company...and did not arise out of conduct in good faith.*

- (b) Where an indemnity is provided by the Company under Article 68(a), that indemnity:

- (i) is enforceable without the relevant officer having first to incur any expense or make any payment;
- (ii) is a continuing obligation and is enforceable by the relevant officer even though the relevant officer may have ceased to be an Officer of the Company; and
- (iii) applies to liabilities and legal costs incurred both before and after this Article became effective.

- (c) To the extent permitted by law, the Company may make a payment (whether by way of advance, loan or otherwise) to a relevant officer in respect of legal costs of that person.

Corporations Act 199A

*...indemnity for legal costs [is] **not allowed** [in the following circumstances] ...*

(3) A company...must not indemnify a person...against legal costs incurred in defending an action for a liability incurred as an officer of the company if the costs are incurred:

- (a) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under subsection (2); or*
- (b) in defending or resisting criminal proceedings in which the person is found guilty; or*
- (c) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established; or*
- (d) in connection with proceedings for relief to the person under the Corporations Act in which the court denies the relief (except costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order). This does include proceedings by ASIC for an order under s.206C, 206D, 206E or 206EAA (disqualification), s.232 (oppression), section 961M, 1317E, 1317G, 1317H, 1317HA Or 1317HB (civil penalties) or s.1324 (injunction).*

The company may be able to give the person a loan or advance in respect of the legal costs (see s.212)

- (d) To the extent permitted by law, the Company may:

(i) enter into, or agree to enter into; or

(ii) pay, or agree to pay, a premium for,

a contract insuring a relevant officer against a Liability of that person and the legal costs of that person. Any such premium in relation to an Officer is in addition to, and not regarded as part of, any remuneration approved by Members under this Constitution.

Corporations Act 199B

(1) A company...must not pay, or agree to pay, a premium for a contract insuring a person who is or has been an officer of the company against a liability (other than one for legal costs) arising out of:

(a) conduct involving a wilful breach of duty in relation to the company; or

(b) a contravention of s.182 (misuse of position) s.183 (misuse of information).

(e) To the extent permitted by law, the Company may enter into an agreement or deed with a relevant officer or a person who is, or has been, an Officer of the Company or a subsidiary of the Company, under which the Company must do all or any of the following:

(i) keep books of the Company and allow either or both that person and that person's advisers access to those books on the terms agreed;

(ii) indemnify that person against any liability and legal costs of that person;

(iii) make a payment (whether by way of advance, loan or otherwise) to that person in respect of legal costs of that person; and

(iv) keep that person insured in respect of any act or omission by that person while a relevant officer or an Officer of the Company or a subsidiary of the Company, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

Amendment of Constitution

69. Amendment of Constitution

(a) This Constitution, including the statement of Objects in Article 4, may be altered, rescinded and/or added to only by a Special Resolution passed by Voting Members at a general meeting of the Company. The change must be consistent with any relevant and applicable section of the Corporations Act and the ACNC Act and Regulation and this Constitution.

(b) No alteration or amendment which may affect the tax-exempt status of the income of the Company shall be made to or in the Constitution unless not less than twenty-eight (28) days' prior written notice specifying the alterations proposed to be made shall have been given to the Commissioner of Taxation.

This is to ensure that income of the Company which attracts a tax concession is used for the purpose for which the Company was granted tax exempt status.

- (c) The Company must, within twenty-eight (28) days of the Special Resolution notify and send a copy of the amended Constitution to the ACNC or provide a reference to where the ACNC can access the amended Constitution.

Dispute and Grievance Resolution

70. Dispute and Grievance Resolution Procedure and Appeal

- (a) If any Member has a **grievance with, or disputes any decision made by the Company which directly affects that Member**, the Member may write to the Company Secretary setting out the details of the decision made and the basis of the grievance of the Member.
 - (i) The Company Secretary shall, within fifteen (15) business days, acknowledge the Member's communication and set out the reasons for the decision.
 - (ii) If the Member is dissatisfied with that explanation, the Member may request that the Board (at their discretion themselves or through a committee or delegate), mediate the grievance or dispute (via telecommunication means if thought most practical and appropriate), within a period of not more than two calendar months.
 - (iii) The Member, if dissatisfied with the outcome of any such mediation, may at any time withdraw from the process and request that the Board meet with the Member at such place as the Board may agree (including via telecommunication means if thought most practical and appropriate), to endeavour to resolve the matter. The Board may, at their discretion, but cognisant of the rules of natural justice and their duty to act fairly, refuse to conciliate the matter if they believe the matter is of an irrelevant, frivolous or vexatious nature. Subject to the inherent jurisdiction of the judicial system, the decision of the Board shall be final and binding.

Member Communication with the Board

71. Member Communication with the Board

- (a) A Member may raise, comment on, or generally input feedback, suggestions and counsel on any matter **in relation to the direction, control and management of the affairs of the Company** with the Board that the Member sees fit to raise.
- (b) The Member shall adhere to the following procedure for raising a matter with the Board:

- (i) The comment, feedback, suggestion or counsel must be clearly stated in writing, addressed to the Company Secretary, signed by the Member;
- (ii) The Company Secretary shall ensure provision on the agenda of the next Board meeting for the correspondence relating to the matter to be considered by the Board at that Board meeting but no later than forty (40) business days from the date of receipt of the correspondence.
- (iii) The Board may, at their discretion, but cognisant of the rules of natural justice and their duty to act fairly, refuse to discuss or consider the matter if they believe the matter is of an irrelevant, frivolous or vexatious nature. The Company Secretary shall inform the Member in writing of the outcome of the Board's consideration of the matter within fifteen (15) business days of the meeting at which the matter was discussed or considered.
- (iv) Following receipt of notification of the outcome of any Board deliberation of the matter, the Member may, if they so choose, pursue the matter further, by making a request, in writing, to be invited to attend (either in person at their own expense or via telecommunication means if thought most practical and appropriate) and address the Board as an **attendee** at the next Board meeting, notwithstanding that the Board can accept or reject the request for invitation for the Member to address the Board at their absolute discretion pursuant to Article 58(n).
- (v) Within fifteen (15) business days of receipt of such a request pursuant to Article 71(b)(iv) the Company Secretary will notify the Member of the outcome of the request, and if accepted, shall notify the Member of the date and time that the Member may attend the next Board meeting to address the matter and be dealt with pursuant to Article 58(n). The date of the meeting must be no more than forty (40) business days from the date of receipt of the request.

Notices

72. Notices to Members

- (a) The Company may give notice to a Member by any of the following means at the Board's discretion:
 - (i) delivering it to that Member or person;
 - (ii) leaving it at, or sending it by post to, the address of the Member in the Register or the alternative address (if any) nominated by that Member or person for that purpose;
 - (iii) sending it to the fax number or electronic address (if any) nominated by that Member or person for that purpose;

- (iv) if permitted by any relevant and applicable section of the Corporations Act, notifying that Member of the notice's availability by an electronic means nominated by the Member for that purpose; or
 - (v) any other means permitted by any relevant and applicable section of the Corporations Act.
- (b) Where a Member does not have an address in the Register or where the Board believes that a Member is not at the address in the Register, the Company may give Notice to that Member by exhibiting the Notice at the registered office of the Company for a period of 48 hours, unless and until the Member gives the Company written notice of an address for the giving of Notices.
 - (c) The Company must send all documents to a Member whose address for Notices is not within Australia by air-mail, air courier or electronic means.
 - (d) Any Notice required or allowed to be given by the Company to one or more Members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.
 - (e) Pursuant to Article 29(c), the accidental omission to give notice of any general meeting of the Company, the Board, a Committee or the non-receipt of notice of a meeting by any Member shall not invalidate the proceedings at that meeting

73. Notice to Directors

The Company may give notice to a Director by:

- (a) delivering it to that person;
- (b) sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person for that purpose;
- (c) sending it to the fax number or electronic address (if any) nominated by that person for that purpose; or
- (d) any other means agreed between the Company and that person.

74 Notice to the Company

A person may give notice to the Company by:

- (a) leaving it at, or by sending by post to, the registered office of the Company;

- (b) leaving it at, or by sending it by post to, a place nominated by the Company for that purpose;
- (c) sending it to the fax number at the registered office of the Company nominated by the Company for that purpose;
- (d) sending it to the electronic address (if any) nominated by the Company for that purpose; or
- (e) any other means permitted by any relevant and applicable section of the Corporations Act.

75. Time of service

- (a) A notice sent by post is taken to be given five (5) business days from the date it is posted.
- (b) A notice sent by fax or other electronic transmission is taken to be given when the transmission is sent provided that in the case of notice to the Company or a Director, the sender meets any action required by the recipient to verify the receipt of the document by the recipient.
- (c) A notice given pursuant to Article 72(a)(iv) is taken to be given on the day after the date on which the Member is notified that the Notice is available.
- (d) A notice given pursuant to Article 72(b) is taken to be given at the commencement of the 48-hour period referred to in that Article.
- (e) A certificate by a Director or Company Secretary to the effect that a notice by the Company has been given in accordance with this Constitution is conclusive evidence of that fact.

76. Notice requirements

The Board may specify, generally or in a particular case, requirements in relation to notices given by any electronic means, including requirements as to:

- (a) the classes of, and circumstances in which, Notices may be sent;
- (b) verification (whether by encryption code or otherwise); and
- (c) the circumstances in which, and the time when, the notice is taken to be given.

Accounts

77. Financial and Accounting and Inspection of Records

Financial and Accounting

- (a) The Board shall cause (either by their own actions or pursuant to Article 55) proper and accurate written **financial and accounting records** to be kept:
- (i) of all money received and spent by the Company and the matter in respect of which such **receipt and expenditure** takes place, and of the assets and liabilities of the Company and of all relevant activities involving the Company;
 - (ii) in such a manner as will enable true and fair **financial statements** to be prepared and audited;
 - (iii) for at least seven (7) years after the transactions covered by the records are completed.

ACNC Act 2001 s.55.5

Member Inspection of Records

- (b) The Board shall from time to time determine, pursuant to Article 53(e), at what times and places and under what conditions, arrangements or regulations the **records, books and other documents** of the Company (other than legal documents related to Court action or current litigation, personnel files and documents and other privileged, legally restricted or commercial-in-confidence information) and including minutes of all board meetings and general meetings of the Company shall be open to **inspection by a Member** of the Company (who must be up to date with all financial obligations to the Company at the time of request) as permitted pursuant to the Act;

"...the company by a resolution passed at a general meeting, may authorise a member to inspect books of the company" Corporations Act 247D

- (c) The **records, books and other documents** (financial or otherwise) of the Company and minutes of all board meetings and general meetings of the Company are not to be electronically or manually **copied** (except for hand-written notations) and/or removed from the principal place of administration of the Company and shall be kept in the custody or under the control of the Company Secretary or their delegate (except as otherwise provided by this Constitution, any relevant or applicable sections of the Act or the law) and remain the property of the Company to be used solely for the purposes of the Company pursuant to the matters required as described in this Constitution or the law.

"A person permitted by this Act to inspect a book may make copies of, or take extracts from, the book..." Corporations Act 247D s.1300(3)

Director Inspection of Records

- (d) Each **Director** of the Company has the **right of access** personally, to the records, books and all other documents (financial or otherwise) of the Company at all reasonable times for the purposes of their duties pursuant to Article 46(f), while specifically

acknowledging their duty pursuant to Article 46(f)(iv), and may ask those records, books or documents to be tabled at a Board meeting if necessary;

- (e) The Director may make **copies** of those records and other documents for the purposes of a legal proceeding to which the person is a party; or that the person proposes in good faith to bring; or that the person has reason to believe will be brought against them.

Winding up

78. Winding Up

On a winding up of the Company, any surplus assets of the Company remaining after the payment of its debts must not be paid to or distributed among the Members, but must be given or transferred:

- (a) to one or more bodies corporate, associations or institutions selected by the Ordinary and Student Members by resolution at or before the dissolution of the Company:

- (i) having object similar to the Objects of the Company; and

- (ii) whose Constitution prohibits the distribution of its or their income or property to no lesser extent than that imposed on the Company under Article 6; and

- (iii) to which income tax deductible gifts can be made; or

if there are no bodies corporate, associations or institutions which meet the requirements of this Article 78(a)(i)-(iii),

- (iv) to one or more bodies corporate, associations or institutions selected by the Ordinary and Student Members by resolution at or before dissolution of the Company, the Objects of which are the promotion of charity and to which gifts allowable deductions under the Income Tax Assessment Act 1997 (Cth); or

- (b) if the Ordinary and Student Members do not make a selection pursuant to Article 78(a) for any reason, to one or more bodies corporate, associations or institutions meeting the requirements of Article 78(a), any surplus assets of the Company remaining after the payment of its must be given or transferred to one or more such bodies corporate, associations or institutions selected by the Board, subject to Board obtaining court approval under any relevant and applicable section of the Act to exercise this power.

SCHEDULE 1. TRANSITION ARRANGEMENTS

- A. The newly amended Constitution will be deemed approved pursuant to Article 69.
- B. To enable the most convenient and efficient process of transition from the current Constitution to the newly adopted Constitution, and notwithstanding the amendments made to the Constitution, **the newly amended Constitution will come into effect at the conclusion of the general meeting of the Company that approved the newly adopted Constitution.**
- C. All current members of the Board who were in place as eligible members of Board at the conclusion of the general meeting of the Company that approved the newly adopted Constitution will be deemed to hold that position until the completion of the next annual general meeting following the general meeting of the Company that approved the newly adopted Constitution.
- D. At the conclusion of the next annual general meeting following the general meeting of the Company that approved the newly adopted Constitution, all current members of Board shall retire, and the newly elected directors of the Company elected pursuant to Article 46(d)(i) of the approved newly amended Constitution will take up their positions.
- E. All tenure requirements under the newly amended Constitution shall begin afresh pursuant to Article 49, except that **one third of the directors** elected pursuant to Article 47(d) or 47(e) at the next annual general meeting following the general meeting of the Company that approved the newly adopted Constitution **shall be chosen by lot to only hold office for a term of one (1) year, one third of the directors shall be chosen by lot to only hold office for a term of two (2) years and one third of the directors shall be chosen by lot to only hold office for a term of three (3) years** so that a split rotation of directors may be commenced. The directors chosen to serve a term of either one (1) or two (2) years shall be eligible for re-election for a subsequent two (2) x three-year terms pursuant to Article 49 – i.e. their first term of one (1) or two (2) years shall be deemed to count as a full three (3) year term.
- F. Following the completion of these Transition Arrangements, they will become redundant and may be removed from the Constitution