



Huon Eldercare Limited
Constitution

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HUON ELDERCARE LIMITED



CONSTITUTION

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

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HUON ELDERCARE LIMITED
ABN 63 683 694 146

CONSTITUTION

1 PURPOSES OF THE COMPANY

1.1 Principal Purpose

The Principal Purpose of the Company is to:

- 1.1.1 provide benevolent, charitable and not-for-profit relief to people who suffer from age-related conditions, sickness, disability, helplessness or disadvantage in the community; and
- 1.1.2 provide residential aged care, community care, medical services, housing and rural health services and other benevolent and charitable services.

1.2 Supporting Purposes

In support of the Principal Purpose, the Company may do all lawful things consistent with, necessary or desirable to support and further the Principal Purpose.

1.3 Company powers as a body corporate

- 1.3.1 Solely to carry out the Purposes, the Company may, in any manner permitted by the Act:
 - (a) exercise any power;
 - (b) take any action; and
 - (c) engage in any conduct or procedure,which under the Act a public company limited by guarantee may exercise, take or engage in if authorised by its constitution.
- 1.3.2 Without limiting clause 1.3.1, the Company may pursue the Purposes by:
 - (a) raising money to further the Purposes and secure sufficient funds to pursue the Purposes; and
 - (b) receiving any funds and applying those funds in a manner that best attains the Purposes.

2 BENEVOLENT, CHARITABLE AND NOT-FOR-PROFIT NATURE OF THE COMPANY

2.1 Income applied for the Purposes

- 2.1.1 The income and property of the Company:
 - (a) must be applied solely towards the Purposes; and
 - (b) must not be paid or given to a Member, directly or indirectly, by way of dividend, bonus or otherwise.

2.1.2 Clause 2.1.1 does not prevent the Company from paying a Member or Officer a reasonable and proper amount with the Board's prior approval in good faith for:

- (a) goods or services supplied to the Company;
- (b) interest on money lent to the Company at the Company's bank's current overdraft rate; or
- (c) rent for premises let to the Company.

2.2 Benevolent and Charitable purposes only

Despite anything to the contrary in this Constitution, the Company is established:

2.2.1 solely to be a not-for-profit, charitable and benevolent institution; and

2.2.2 to pursue not-for-profit, charitable and benevolent Purposes in Australia only.

2.3 Winding up

Subject to clause 2.4, the Company's surplus assets, after satisfying all liabilities on wind up or dissolution:

2.3.1 must not be paid or given to Members or former Members; and

2.3.2 must be paid to one or more funds, authorities or institutions which:

- (a) have charitable and benevolent purposes similar to the Purposes;
- (b) prohibit their income and property from being paid to members on at least the terms of this clause 2;
- (c) are registered under the ACNC Act if the Company had been;
- (d) are income tax exempt under the ITAA if the Company had been;
- (e) can receive deductible gifts under the ITAA if the Company could and on the same basis; and
- (f) are selected at or before wind up or dissolution by:
 - (1) special resolution of the Members;
 - (2) failing clause 2.3.2(f)(1), by resolution of the Board;
 - (3) failing clause 2.3.2(f)(2), by application to the Tasmanian Supreme Court.

2.4 Surplus gifts

On winding up of the Company or revocation of the Company's deductible gift recipient endorsement (whichever is the earlier), any surplus gifts, fundraising contributions or money received because of them as set out in section 30-125(6)(b) of the ITAA must be transferred to one or more funds, authorities or institutions determined according to clause 2.3.2 which is also endorsed as a deductible gift recipient on the same basis as the Company.

3 MEMBERSHIP

3.1 Limited liability of Members / guarantee

3.1.1 A Member's liability is limited to the guaranteed amount in clause 3.1.2.

3.1.2 If the Company is wound up, each Member and former Member in the previous year must contribute up to one dollar (\$1) towards:

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

3.2 Classes of Members and eligibility

The Members of the Company comprise ordinary Members, being persons who support the Purposes.

3.3 Limit on number of Members

The number of Members is limited to the then current number of Directors.

3.4 Member rights and obligations

Members have the right to receive notice of, attend, speak at and vote at general meetings of the Company.

3.5 Rights not transferrable

A person's membership rights and privileges:

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

3.6 Membership period

The Board may, subject to clause 6.3, determine the membership period (including common expiry dates) and the timing for membership to be renewed,

3.7 Register of Members, including closure of register

3.7.1 The Company must maintain a register of Members in accordance with the Act and the ACNC Act which contains the following details for current and recent former Members:

- (a) name;
- (b) addresses for notices; and
- (c) membership start and end dates.

3.7.2 Separate to the register, the Company may maintain a database of personal Member details which are not used for notices.

3.8 Change of Member details

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

4 BECOMING AND CEASING TO BE A MEMBER

4.1 Admission of Members

The Board is to admit Directors as Members in accordance with clause 6.3 and any other procedure, form and other requirement specified in the Regulations.

4.2 Resignation of Members

4.2.1 A Member may resign as Member by written notice to the Company.

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

4.3 Ceasing to be a Member

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

4.3.1 was, but ceases to be, a Director;

4.3.2 dies;

4.3.3 becomes bankrupt or makes any arrangement or composition with the Member's creditors generally; or

4.3.4 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.

4.4 Disciplining Members

The Board may at any time terminate a person's Membership or warn, fine, censure, suspend or expel a Member if the Member:

4.4.1 engages in Terminable Conduct, subject to:

(a) the decision being made by at least half of all Directors (excluding any conflicted Directors) whether they are all present and voting;

(b) the Member being afforded a reasonable opportunity to respond, in accordance with any Regulations, to the Board's allegations; and

(c) the Member's appeal rights (if any) set out in the Regulations;

4.4.2 refuses or neglects to comply with the provisions of this Constitution or the Regulations;

4.4.3 is found guilty by a court of an indictable offence; or

4.4.4 has a debt to the Company which remains unpaid for one year or more.

5 GENERAL MEETINGS

5.1 Convening meetings — annual / special

- 5.1.1 General meetings other than annual general meetings are called special general meetings.
- 5.1.2 The Board must convene and hold annual and special general meetings of the Members if required by the Act and the ACNC Act.
- 5.1.3 A minimum of three Directors may convene special general meetings of the Members.

5.2 Ordinary and special business

- 5.2.1 Unless otherwise set out in Regulations, the ordinary business of an annual general meeting is to:
 - (a) consider and vote on the election of Directors;
 - (b) consider the Board's financial and auditor's report;
 - (c) appoint an auditor if that office has or will become vacant at the meeting; and
 - (d) consider any other matter required by the Act or the ACNC Act.
- 5.2.2 Special business means:
 - (a) for an annual general meeting — business which is not ordinary business according to clause 5.2.1; and
 - (b) for a special general meeting — all business specified in the notice of meeting.
- 5.2.3 The notice of meeting must specify the general nature of any special business, unless the Act or the ACNC Act requires otherwise.

5.3 Notice of meeting

- 5.3.1 At least 21 days' notice of any general meeting must be given specifying the place, date and time of the meeting, unless section 249H(2) of the Act or the ACNC Act requires or permits some other period of notice.
- 5.3.2 Notice of every general meeting must be given in writing in accordance with clause 10.6 to:
 - (a) every Director;
 - (b) every Member in addition to the Directors (if any) entitled to attend who has supplied an address for notices to the Company; and
 - (c) the Company's auditor.
- 5.3.3 No other person is entitled to receive notices of general meetings.
- 5.3.4 A general meeting and any resolution passed at the meeting is not invalid merely because of:

- (a) the accidental omission to give notice of the meeting; or
- (b) the non-receipt of any such notice.

5.4 Postponement

- 5.4.1 The Board may postpone, relocate or cancel a general meeting which it convened by giving at least five days' notice to the Members.
- 5.4.2 Clause 5.4.1 does not apply to a meeting requisitioned by Members or convened by the Members, by individual Directors under clause 5.1.3 or by court order.

5.5 Quorum

- 5.5.1 A general meeting may not transact business unless a quorum is present when the meeting proceeds to business.
- 5.5.2 The quorum for general meetings is five Members eligible to vote present in person (including by way of technology under clause 5.10).
- 5.5.3 If a quorum is not present within half an hour of the time scheduled to start the general meeting:
 - (a) the meeting, if requisitioned by Members, is dissolved; and
 - (b) in any other case, the meeting is adjourned to such other place, date and time as the Board determines and notifies to Members (if required to do so by clause 5.7).
- 5.5.4 If a quorum is not present within 30 minutes from the scheduled time to start the adjourned meeting, the meeting is dissolved.

5.6 Meeting chair

- 5.6.1 The Chairperson may chair a general meeting.
- 5.6.2 If the Chairperson is not present and willing to act the Deputy Chairperson may chair.
- 5.6.3 If the Chairperson and the Deputy Chairperson are not present and willing to act:
 - (a) the Directors present may choose one of their number to chair the meeting; and
 - (b) if no Director is present, or if all the Directors present decline to chair, the Members present must choose one of their number to chair.
- 5.6.4 In addition to powers conferred by law, the meeting chair may:
 - (a) determine the meeting's conduct and procedures to ensure proper and orderly discussion or debate; and
 - (b) refuse any person admission to or participation in all or part of a general meeting in accordance with policies and procedures set or endorsed by the Board.

5.6.5 All procedural decisions by the meeting chair are final.

5.7 Adjournment

5.7.1 The meeting chair:

- (a) may, with the consent of any general meeting at which a quorum is present; and
- (b) must, if so directed by the meeting, adjourn the meeting to some other time or place.

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

5.7.3 If a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given as required for the original meeting. It is not otherwise necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

5.8 Voting – show of hands / poll

5.8.1 A resolution put to the vote of the general meeting must be decided by a show of hands unless a poll is demanded pursuant to clause 5.8.3.

5.8.2 Subject to clause 5.8.3, a declaration by the meeting chair that a resolution has on a show of hands been carried, carried unanimously, carried by a particular majority or lost, and an entry to that effect made in the minutes is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

5.8.3 A poll must be held on a resolution before the general meeting if demanded by at least three of the Members present in person and entitled to vote (whether demanded before, on or after the meeting chair declaring the result).

5.8.4 The demand for a poll may be withdrawn.

5.8.5 If a poll is demanded:

- (a) when electing a meeting chair under clause 5.6 or on a question of adjournment, it must be taken immediately; and
- (b) otherwise, it must be taken at the general meeting at which it is demanded (or at its adjournment), in such manner as the meeting chair directs.

5.8.6 Any dispute regarding voting must be referred to the meeting chair, whose decision is final.

5.9 Proxies

A Member is not entitled to appoint a proxy.

5.10 Use of technology

- 5.10.1 General meetings may be held at more than one place, provided that the technology that is used enables each Member present at all places the meeting is held to clearly and simultaneously communicate with every other such Member.
- 5.10.2 If a Member attends a general meeting by way of technology in accordance with clause 5.10.1, that Member is taken to be physically present in person at the general meeting.

5.11 Circular resolution

- 5.11.1 The Board may if it thinks fit submit any question or resolution to the vote of all Members entitled to a vote at a general meeting by circular resolution, unless the Act or the ACNC Act requires a special or ordinary resolution to be passed at a general meeting.
- 5.11.2 The Board may determine in the Regulations:
- (a) the form of the circular resolution;
 - (b) the polling date;
 - (c) the method for responding to the circular resolution; and
 - (d) whether voting on the circular resolution is to be by secret ballot.

6 BOARD

6.1 Structure of board / Number of directors

The Board will comprise six to eleven Directors as follows:

- 6.1.1 a Chairperson;
- 6.1.2 a Deputy Chairperson; and
- 6.1.3 four to nine other Directors,

each elected by the Members or appointed by the Board in accordance with this Constitution and any Regulations.

6.2 Eligibility to be a Director

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

- 6.2.1 is over the age of 18 years;
- 6.2.2 consents in writing to become a Director;
- 6.2.3 is not prohibited or disqualified or otherwise prevented from being a director of a company under the Act or any other law applicable to the Company or a responsible person of a registered charity under the ACNC Act;
- 6.2.4 is not an employee of the Company;

6.2.5 has not been an employee of the Company or employed or engaged to work for or advise the Company within the last five years or any other period determined by a Specified Majority at the time of appointment; and

6.2.6 is not ineligible to become a Director under clause 6.5.

6.3 Election of Directors

6.3.1 Nominations by the Members of candidates eligible for election as a Director must be:

- (a) called for by the Board, prior to each annual general meeting (if vacated places are to be filled) or if there is no annual general meeting in a year, prior to a general meeting convened by the Board for the purposes electing Directors; and
- (b) in a form and returned in the manner directed by the Board.

6.3.2 A retiring Director, if seeking re-election and not being prevented by the Constitution from holding office as a Director, will be deemed to have been re-elected, unless:

- (a) at the meeting it is expressly resolved not to fill the vacated office; or
- (b) nominations for the vacated position are received, in which case the retiring Director will be deemed to be a candidate for the vacated position and will be eligible for election in accordance with clause 6.3.3.

6.3.3 On any vote of the Members to appoint a Director:

- (a) votes must be tallied in simple form, not a preferential system;
- (b) the eligible candidates with the most votes will be declared elected; and
- (c) if votes are tied:
 - (1) Members will re-vote on the tied candidates, in simple form, not a preferential system;
 - (2) the candidate with the most votes on the revote will be declared elected; and
 - (3) if on a re-vote, votes remain tied, the elected candidates are to be determined by lot, conducted by the Board.

6.4 Admission to membership

Each Director is to be admitted as a Member.

6.5 Limits on period of office as a Director

If a Director has served nine years or more, whether or not continuously, then the Director may finish serving his or her current term of office but is not eligible to serve as a Director.

6.6 Term of office of Directors

A Director holds office:

- 6.6.1 for a term of up to three years, as resolved at the time of election, being the term of office for each vacated position set by the Board; and
- 6.6.2 from immediately after their appointment until the end of the annual general meeting in the year their term of office ends or if no annual general meeting is convened in that year, until the end of their term of office (calculated in calendar years).

6.7 Casual vacancies

- 6.7.1 If a casual vacancy occurs for any Director's office, the Board may appoint another eligible person in his or her place for a term of up to three years, as resolved by the Board at the time of appointment.
- 6.7.2 The Board may continue to act despite vacancies on the Board. However, if there are fewer than six Directors, the Board may only:
 - (a) act in the case of emergencies;
 - (b) appoint persons to fill casual vacancies; or
 - (c) convene a general meeting.

6.8 Office bearers

- 6.8.1 The office bearers are Directors elected to the following offices:
 - (a) the Chairperson; and
 - (b) the Deputy Chairperson.
- 6.8.2 If the office of an office bearer becomes vacant the Board may elect another Director to fill the vacant office.

6.9 Resignation of directors

- 6.9.1 A Director may resign as Director by written notice to the Company.
- 6.9.2 The resignation takes effect when the Company receives the Director's notice or on a later date specified in the notice.

6.10 Ceasing to be a director

- 6.10.1 The Members may remove any Director in accordance with the Act.
- 6.10.2 A directorship automatically ceases if the Director:
 - (a) dies or is physically incapable of fulfilling his or her duties as a Director;
 - (b) was but ceases to be a Member;
 - (c) becomes disqualified from being a director pursuant to the Act, the ACNC Act or any other law applicable to the Company;

- (d) fails to attend three consecutive Board meetings (excluding urgent or emergency Board meetings) without permission of the Board from meetings of the Board held during that period;
- (e) becomes a bankrupt or makes any arrangement or composition with personal creditors generally; or
- (f) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.

6.11 Director remuneration and reimbursements

Despite clause 2.1.1:

- 6.11.1 the Directors may be paid reasonable remuneration for undertaking the ordinary duties of a Director. The Directors must not otherwise be paid any other remuneration for those duties;
- 6.11.2 the Directors may be reimbursed for reasonable travel and other expenses incurred by them when engaged in the Company's business, attending meetings or otherwise in carrying out the duties of a Director where payment does not exceed any amount previously approved by the Board; and
- 6.11.3 the Directors may be paid for any service rendered to the Company in a professional or technical capacity outside the scope of the ordinary duties of a Director where:
 - (a) the service and amount payable is on reasonable and proper terms; and
 - (b) the provision of that service has been approved by the Board in advance, by a majority of at least 66% of the Directors entitled to vote on the resolution.

7 BOARD POWERS

7.1 Management vests in Board

- 7.1.1 The Board is responsible for the governance, business and affairs of the Company. In addition to the specific powers conferred on the Board by this Constitution, the Board may exercise all the Company's powers which are not by the Act, the ACNC Act or this Constitution required to be exercised by the Members in general meeting.
- 7.1.2 The powers under clause 7.1.1 are subject to:
 - (a) this Constitution;
 - (b) the Act and the ACNC Act; and
 - (c) such resolution, not being inconsistent with those provisions, as may be passed by the Members in general meeting.
- 7.1.3 A resolution under clause 7.1.2 does not invalidate any prior act of the Board which would have been valid before the resolution was passed or made.

7.2 Power to delegate

7.2.1 The Board may delegate its powers and functions in writing to:

- (a) an officer or employee of the Company; or
- (b) a committee under clause 9.

7.2.2 The Board may amend or revoke the terms of its delegation at any time.

7.3 Power to appoint Chief Executive Officer

7.3.1 The Board may appoint a Chief Executive Officer on such terms and conditions (including his or her remuneration package) as the Board determines from time to time.

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

7.3.3 The Chief Executive Officer must attend Board meetings and general meetings, if so directed by the Board from time to time.

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

7.4 Power to appoint Company Secretary

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

7.4.2 The Company Secretary will have the responsibilities set out in the Act and the ACNC Act.

7.4.3 The Company Secretary must attend Board meetings and general meetings, if so directed by the Board from time to time.

7.5 Power to make Regulations

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

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

8 BOARD MEETINGS

Subject to this clause 8, the Board may meet to consider business, adjourn and otherwise regulate its meetings as it thinks fit.

8.1 Number of meetings

The Board must meet at least six times per year.

8.2 Convening meetings

The Company Secretary must arrange a Board meeting at the request of any two Directors.

8.3 Notice of meeting

- 8.3.1 At least five days' notice of any Board meeting must be given unless the Board decides otherwise or in emergencies.
- 8.3.2 The notice must specify the business to be transacted. The Board may only transact business of a routine nature unless notice of any other business has been given either in the notice convening the meeting or in some other notice given at least three days' before the meeting.
- 8.3.3 The decision of the meeting chair as to whether business is routine is conclusive.

8.4 Quorum

- 8.4.1 Subject to clause 4.4.1(a), the quorum for a Board meeting is as follows:

Number of Directors (excluding conflicted Directors or Directors on an approved leave of absence)	Quorum
8 or fewer Directors	4 Directors
9-10 Directors	5 Directors
11 Directors	6 Directors

- 8.4.2 A meeting at which a quorum is present may exercise all powers and discretions of the Board.
- 8.4.3 If a Board meeting is adjourned due to lack of quorum, the Chairperson must set a further date for the adjourned meeting.

8.5 Chairperson

- 8.5.1 The Chairperson may chair a Board meeting.
- 8.5.2 If the Chairperson is absent, the Deputy Chairperson may chair.
- 8.5.3 In the absence of the Chairperson and the Deputy Chairperson, the Directors may appoint a meeting chair from among their number.

8.6 Voting

- 8.6.1 Each Director present (including by way of technology in accordance with clause 8.7) and entitled to vote at a Board meeting has one vote. Proxy voting and alternate Directors are not permitted.
- 8.6.2 In the event of an equality of votes the meeting chair does not have a second or casting vote in addition to the meeting chair's vote in his or her capacity as a Director, and the motion does not carry.

8.7 Use of technology

The Board may hold a technology enabled meeting if:

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

- 8.7.2 those Directors participating by technological means can hear and be heard, or can read the communications of and issue communications to all other participating Directors.

8.8 Circulating resolutions

- 8.8.1 A written resolution signed or approved by technological means by each Director (other than any Director who has a conflict of interest or is on a leave of absence) is taken to be a decision of the Board passed at a Board meeting convened and held.
- 8.8.2 The written resolution may consist of:
- (a) when evidence of all participating Directors having signed the document is received by the person appointed by the Board for that purpose; or
 - (b) when all participating Directors have indicated their approval to the person appointed by the Board for that purpose.

8.9 Conflicts and personal interests

- 8.9.1 A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors written notice of the interest unless the ACNC Act or section 191(2) of the Act require otherwise and comply with any conflict of interest policy or protocols set or endorsed by the Board.
- 8.9.2 A Director who has a material personal interest in a matter that is being considered by the Board must not be present while the matter is being considered, or vote on the matter, unless permitted to do so under the ACNC Act or section 195 of the Act and any conflict of interest policy or protocols set or endorsed by the Board.

8.10 Minutes

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

8.11 Validity of acts / procedural defects

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

- (c) all appointments that are recorded in the minutes as having been made are deemed to have been validly made.

9 COMMITTEES

9.1 Board's power to establish committees

The Board may establish committees as follows:

- 9.1.1 a committee will comprise two or more committee members, which need not include a Director or Member;
- 9.1.2 the committee has the purpose set out in its charter approved by the Board, and may undertake the powers and functions delegated to it by the Board; and
- 9.1.3 in the absence of any provision in the committee charter, meetings and proceedings of any committee are governed by the provisions of clause 8 except that:
 - (a) clause 8.1 does not apply;
 - (b) the quorum will be a majority of the Committee members; and
 - (c) the Committee will choose one of its members to be meeting chair.

10 ADMINISTRATION

10.1 Change of name

The Members may change the Company's name by special resolution in accordance with the Act.

10.2 Amendment of Constitution

- 10.2.1 The Members may amend this Constitution by special resolution in accordance with the Act and the ACNC Act.
- 10.2.2 If the Company is registered under the ACNC Act, a special resolution under clause 10.2.1 does not take effect if it would cause the Company to lose its entitlement to registration under the ACNC Act.

10.3 Accounts

The Board must cause:

- 10.3.1 proper accounting and other records to be kept in accordance with the requirements of the Act and the ACNC Act, and
- 10.3.2 financial statements to be made and laid before each annual general meeting as required by the Act and the ACNC Act.

10.4 Audits

A properly qualified auditor must be appointed and the auditor's duties regulated in accordance with the requirements of the Act, the ACNC Act and any other applicable laws and professional and regulatory standards and supporting policies and procedures adopted by the Board.

10.5 Records and inspection

A Member (other than a Director) is not entitled to inspect any document of the Company, except as provided by law or authorised by the Board.

10.6 Service of notices

10.6.1 Notices must be in writing and may be given by the Company to any Member:

- (a) in person;
- (b) by sending it by post to the Member at the Member's registered address; or
- (c) by sending it to the address, facsimile number, e-mail address, or other electronic address supplied for receiving notices (including by upload to an online system for receiving notices).

10.6.2 A notice sent by post is deemed to have been given five business days after it was posted. A notice sent by electronic means, is deemed to have been given on the next business day after it was sent.

10.7 Indemnity of officers

10.7.1 To the Relevant Extent, the Company indemnifies current and former Officers out of its assets against any Liability incurred by the Officer in or arising out of:

- (a) the conduct of the Company's affairs or business; or
- (b) the discharge of the Officer's duties,

unless the Liability arises out of conduct involving a lack of good faith.

10.7.2 To the Relevant Extent, the Company may execute any deed in favour of any current or former Officer to confirm the indemnities conferred by clause 10.7.1 in relation to that person to the extent the law does not preclude the Company from doing so.

10.7.3 Clause 10.7.1 applies whether or not any deed is executed under clause 10.7.2.

10.7.4 In this clause 10.7 and clause 10.8:

- (a) **Liability** includes cost, charge, loss, damage, expense or penalty; and
- (b) **To the Relevant Extent** means to the extent the Company is not precluded from doing so by law (including the Act).

10.8 Insurance

To the Relevant Extent:

10.8.1 the Company must pay premiums for directors and officers insurance to insure current or former Officers against any Liability incurred by the Officer in or arising out of:

- (a) the conduct of the Company's affairs or business; or
- (b) the discharge of the Officer's duties; and

10.8.2 the Company may execute any deed in favour of any current or former Officer to take out insurance referred to in clause 10.8.1, on such terms as the Board considers appropriate.

10.9 Company seal

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

10.9.2 The common seal, if any, of the Company may only be affixed to any instrument with the authority of the Board.

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

10.10 Definitions

In this Constitution:

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

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

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

Chairperson means the Director and office bearer under clause 6.8.1(a);

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

Company Secretary means a person holding the office of company secretary under this Constitution;

Constitution means this constitution of the Company;

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

Deputy Chairperson means a Director and office bearer under clause 6.8.1(b).

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

Member means a person who is a member of the Company pursuant to clauses 3 and 4;

Officer has the meaning given in the Act, other than a receiver, manager, liquidator administrator or administering trustee;

Principal Purpose means the principal purposes set out in in clause 1.1;

Purposes means the Principal Purpose and the Supporting Purposes;

Regulation” means regulations made by the Board under clause 7.4 and includes, without limitation, policies and other governance documents;

Specified Majority means a majority of at least 66% of the votes of all members of the Board entitled to vote at the time, whether or not those Board members are present, and whether or not they vote;

Supporting Purposes means the supporting purposes set out in clause 1.2; and

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

- (a) is, has been or will be prejudicial to the Company’s interests;
- (b) is not that of a fit and proper person or a person of good fame and character;
- (c) is unbecoming of Members; and
- (d) is conduct similar to the above which is set out in the Regulations.

10.11 Interpretation rules

Unless the contrary intention appears in this Constitution:

- 10.11.1 words importing the singular include the plural, and words importing the plural include the singular;
- 10.11.2 words importing a gender include every other gender;
- 10.11.3 words used to denote persons generally or importing a natural person include any company, corporation, body corporate or other body (whether or not the body is incorporated);
- 10.11.4 a reference to a person includes that person’s successors, legal personal representatives and permitted transferees;
- 10.11.5 a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- 10.11.6 where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings; and
- 10.11.7 headings and bold text are for convenience only and do not affect its interpretation.

10.12 Application of Act

- 10.12.1 This Constitution is to be interpreted subject to the Act. However, the rules that apply as replaceable rules to companies under the Act do not apply to the Company.

- 10.12.2 Unless the contrary intention appears, a word or expression in a clause that is defined in section 9 of the Act has the same meaning in this Constitution as in that section.

10.13 Application of ACNC Act and ITAA

- 10.13.1 This Constitution is to be interpreted subject to the ACNC Act and the ITAA.
- 10.13.2 Any provision of the ACNC Act or the ITAA which must be provided for in the governing documents of the Company, forms part of this Constitution and any provision which is inconsistent with the ACNC Act or the ITAA must be read down to the extent of the inconsistency, to the extent necessary to maintain the taxation concession, deductible gift recipient endorsement and/or charitable status of the Company.