



## Constitution

---

**Cerebral Palsy Alliance**

ABN 45 000 062 288

*ACT Buchanan*

## Contents

### Table of contents

<b>1</b>	<b>Company's name</b>	<b>3</b>
<b>2</b>	<b>Company's purpose</b>	<b>3</b>
<b>3</b>	<b>Company's powers</b>	<b>3</b>
<b>4</b>	<b>Not for profit</b>	<b>3</b>
4.1	Application of the company's income and property .....	3
4.2	Payments of directors' fees .....	4
4.3	Other payments to directors .....	4
<b>5</b>	<b>Membership</b>	<b>4</b>
5.1	Members .....	4
5.2	Subscription fee .....	4
5.3	Register .....	5
5.4	When membership ceases .....	5
5.5	Grievance procedure .....	5
5.6	Expulsion .....	6
<b>6</b>	<b>Liability and guarantee of member</b>	<b>6</b>
<b>7</b>	<b>Winding up</b>	<b>7</b>
<b>8</b>	<b>Deductible Gift Recipient status</b>	<b>7</b>
8.1	Application of this rule .....	7
8.2	Gift Account .....	7
8.3	Winding up or revocation of deductible gift recipient endorsement .....	7
<b>9</b>	<b>Altering this constitution</b>	<b>8</b>
<b>10</b>	<b>General meetings</b>	<b>8</b>
10.1	Accountability to members .....	8
10.2	Calling general meetings .....	8
10.3	Notice of general meetings .....	8
10.4	Changing, postponing or adjourning general meetings .....	9
10.5	Quorum at general meetings .....	9
10.6	Digital general meetings .....	10
10.7	Chair of general meetings .....	10
10.8	Decisions of the members .....	10
10.9	Voting by show of hands or ballot .....	11
10.10	Voting by proxy .....	11
10.11	Voting by notice .....	12
10.12	Written resolutions of members .....	12
<b>11</b>	<b>Directors</b>	<b>12</b>
11.1	Appointing directors .....	12
11.2	Process for retirement and re-election .....	12
11.3	Nomination of directors .....	13
11.4	Vacation of office .....	13
11.5	Powers and duties of directors .....	14
11.6	Directors conflict of interest .....	14

## Contents

	11.7 Committees .....	15
	11.8 Validity of acts .....	15
<b>12</b>	<b>Meetings of directors</b>	<b>15</b>
	12.1 Convening meetings of directors .....	15
	12.2 Digital meetings .....	16
	12.3 Quorum at board meetings .....	16
	12.4 Chair .....	16
	12.5 Decisions of directors .....	16
	12.6 Decisions without a meeting .....	16
	12.7 Minutes and records .....	17
<b>13</b>	<b>Secretary</b>	<b>17</b>
<b>14</b>	<b>Indemnity and insurance</b>	<b>17</b>
	14.1 Persons to whom the indemnity and insurance apply .....	17
	14.2 Indemnity .....	18
	14.3 Insurance .....	18
	14.4 Savings .....	18
<b>15</b>	<b>Notice</b>	<b>18</b>
	15.1 Notice from the company .....	18
	15.2 Notice to the company .....	18
	15.3 Time of service .....	19
	15.4 Other communications and documents .....	19
<b>16</b>	<b>Definitions and interpretation</b>	<b>19</b>
	16.1 Definitions .....	19
	16.2 Interpretation .....	20
<b>17</b>	<b>Corporations Act and ACNC Act</b>	<b>20</b>

Herbert Smith Freehills Kramer owns the copyright in this document and using it without permission is strictly prohibited.

# Constitution

## **Cerebral Palsy Alliance**

### **A company limited by guarantee**

#### **1 Company's name**

---

The name of the company is Cerebral Palsy Alliance.

#### **2 Company's purpose**

---

The company's purpose is to support people with cerebral palsy, and others with similar disabilities, and their families and carers by, without limitation:

- (a) providing and assisting access to specialised programs and support services;
- (b) supporting research into cerebral palsy;
- (c) supporting the development of innovative products and technology to improve the lives of people with cerebral palsy;
- (d) raising awareness about the rights and needs of people with cerebral palsy;
- (e) influencing policy change to support equality, inclusion and diversity;
- (f) providing training and education for disability professionals and service providers.

#### **3 Company's powers**

---

Solely for carrying out the company's purpose, the company may exercise all the powers of a company limited by guarantee under the Corporations Act.

#### **4 Not for profit**

---

##### **4.1 Application of the company's income and property**

- (a) The company's income and property must be applied solely towards promoting the company's purpose.
- (b) No part of the income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend or other profit distribution, to any member or director in their capacity as member or director.

- (c) This rule 4 does not prohibit indemnification of, or payment of premiums on contracts of insurance for, any director to the extent permitted by law and this constitution.

## **4.2 Payments of directors' fees**

No directors' fees may be paid to the directors.

## **4.3 Other payments to directors**

All other payments to directors must be approved by the directors including, but not limited to:

- (a) out-of-pocket expenses incurred by a director in performing a duty as a director of the company; or
- (b) a service rendered to the company by a director in a professional or technical capacity or as an employee, other than in the capacity as a director of the company, where:
  - (1) the provision of the service has the prior approval of the directors; and
  - (2) the amount payable is not more than an amount that commercially would be reasonable payment for the service.

# **5 Membership**

---

## **5.1 Members**

- (a) The members are:
  - (1) the persons who are members at the time of adopting this constitution;
  - (2) the directors; and
  - (3) any other persons the directors admit to membership in accordance with this constitution and any membership policy adopted by the directors.
- (b) Every applicant for membership of the company must apply in the form and manner decided by the directors.
- (c) After receipt of an application for membership, the directors must consider the application and decide whether to admit or reject the applicant. The directors need not give any reason for rejecting an application.
- (d) Every member agrees to comply with this constitution and support the purpose of the company set out in rule 2.

## **5.2 Subscription fee**

- (a) An annual subscription fee may be decided by the directors and notified to the members.
- (b) The directors must notify all persons entered on the register of members of the amount and time for payment of any annual subscription fee and of any alteration to the annual subscription fee. Varying amounts may be applied as

decided by the directors and made available to the members in a notice or a membership policy.

### **5.3 Register**

The company must maintain a register of members setting out the name, address, alternate electronic or other address (if any) for receipt of notices and date membership starts and ceases.

### **5.4 When membership ceases**

A person immediately ceases to be a member if the person:

- (a) dies;
- (b) resigns as a member by giving notice to the company;
- (c) becomes bankrupt or insolvent or makes any arrangement or composition with creditors;
- (d) is expelled under rule 5.5;
- (e) is a member because they are a director and they cease to be a director;
- (f) becomes, if the directors so decide in their absolute discretion, an untraceable member; or
- (g) fails to pay any annual subscription fee within three calendar months of the due date.

### **5.5 Grievance procedure**

- (a) Any party to a dispute between members may refer the dispute to the directors for determination or mediation.
- (b) If there is a dispute between the company and a member, either party may require the dispute be referred to mediation.
- (c) The mediator must be unbiased.
- (d) Subject to rule 5.5(c), the mediator may be:
  - (1) a director;
  - (2) a member; or
  - (3) a third party appointed by the directors.
- (e) The mediator will be decided by agreement between the parties to the dispute, or in the absence of agreement within 14 days:
  - (1) in the case of a dispute between a member and another member, a person appointed by the directors; or
  - (2) in the case of a dispute between a member and the company, a person who is a mediator appointed by the Chair of the Resolution Institute, or the Chair's designated representative.
- (f) Any party to a dispute may appoint any person to act on behalf of that party.
- (g) In each dispute:

- (1) the parties to the dispute must have a reasonable opportunity to be heard;
- (2) due consideration must be given to any statement submitted by a party; and
- (3) natural justice must be accorded to the parties to the dispute throughout the process.
- (h) If the mediation does not result in the dispute being resolved, within a reasonable time as decided by the mediator, or, if the mediator does not specify a time, within one month of the mediation, any party to the dispute may refer the matter to an unbiased decision maker.
- (i) A determination made under this rule is final and binding on all parties to the dispute.

## **5.6 Expulsion**

- (a) The directors may by resolution expel a member from the company if, in their absolute discretion, they decide it is not in the interests of the company for the person to remain a member.
- (b) If the directors intend to consider a resolution under rule 5.6(a), at least ten days before the meeting at which the resolution is to be considered, they must give the member notice:
  - (1) stating the date, place and time of the meeting;
  - (2) setting out the intended resolution and the grounds on which it is based; and
  - (3) informing the member that they may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.
- (c) The resolution referred to in rule 5.6(a) will only be passed if it receives the support of at least 75% of the directors eligible to vote and voting on the resolution.

## **6 Liability and guarantee of member**

---

- (a) The liability of the members is limited to the amount of the guarantee given in rule 6(b).
- (b) Every member must contribute an amount not more than \$20 to the property of the company if it is wound up while the person is a member or within one year after the person ceases to be a member, for:
  - (1) payment of the company's debts and liabilities contracted before the time the person ceased to be a member; and
  - (2) expenses of winding up.

## 7 Winding up

---

- (a) If, on the winding up or dissolution of the company, any property remains after satisfaction of all its debts and liabilities, and after application of rule 8, this property must only be transferred to an entity that is charitable.
- (b) The entity referred to in rule 7(a) must be decided by the directors, or if the directors do not wish to decide or do not decide, it must be decided by the members by ordinary resolution at or before the time of winding up of the company and, if the members do not decide, by the Supreme Court of New South Wales.

## 8 Deductible Gift Recipient status

---

### 8.1 Application of this rule

This rule 8 only applies if the company is a deductible gift recipient under the ITAA 97.

### 8.2 Gift Account

The company must maintain a management account (**Gift Account**):

- (a) to identify and record Gifts;
- (b) to identify and record any money received by the company because of those Gifts; and
- (c) that does not record any other money or property.

### 8.3 Winding up or revocation of deductible gift recipient endorsement

- (a) Upon:
  - (1) the winding up of the company; or
  - (2) the company ceasing to be endorsed as a deductible gift recipient,
 whichever is earlier, any surplus funds in the Gift Account must be transferred to an entity:
  - (3) which is charitable; and
  - (4) is a deductible gift recipient under the ITAA 97.
- (b) The entity referred to in rule 8.3(a) must be decided by the directors, or if the directors do not wish to decide or do not decide, it must be decided by the members by ordinary resolution at or before the time of winding up of the company and, if the members do not decide, by the Supreme Court of New South Wales.



## 9 Altering this constitution

---

- (a) The company must not pass a special resolution altering the constitution, if, as a result, the company would cease to be a charity.
- (b) A resolution purporting to alter this rule 9, or this constitution in breach of rule 9, will have no effect.

## 10 General meetings

---

### 10.1 Accountability to members

- (a) The company must be accountable to the members within the terms of the law, including, as applicable, the Corporations Act, the ACNC Act and this constitution.
- (b) The directors may decide the manner in which the company will be accountable to the members and the manner in which they will provide an adequate opportunity for members to raise any concerns about the governance, activities and finances of the company.

### 10.2 Calling general meetings

- (a) The directors may convene a general meeting at such time and place as the directors see fit.
- (b) If members with at least 5% of the votes that may be cast at a general meeting make a written request to the company for a general meeting to be held for a proper purpose and with a valid resolution, the directors must:
  - (1) within 2 months of the members' request, give all members notice of a general meeting; and
  - (2) hold the meeting within 3 months of the members' request.
- (c) The members who make the request for a general meeting must:
  - (1) state in the request the resolution to be proposed at the meeting;
  - (2) sign the request; and
  - (3) give the request to the company.
- (d) The directors may not postpone or cancel a general meeting convened in response to a members requisition under rule 10.2(b) in accordance with rule 10.4 without the prior written consent of the persons who requisitioned or convened the meeting.

### 10.3 Notice of general meetings

- (a) At least 21 days' notice of a general meeting must be given to each member and director in any manner authorised by rule 15.
- (b) A notice of a general meeting must:
  - (1) specify the date, time and place of the meeting;

- (2) state the general nature of the business to be transacted at the meeting and if a special resolution is proposed, state the full terms of the special resolution; and
  - (3) specify any details of voting such as proxies, voting by notice or other methods, if any, as decided by the directors.
- (c) A person may waive notice of a general meeting or consent to shorter notice by giving notice to the company.
- (d) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting does not invalidate anything done or resolution passed at the general meeting if:
  - (1) the non-receipt or failure occurred by accident or error; or
  - (2) before or after the meeting, the person notifies the company of that person's agreement to that thing or resolution.
- (a) A person's attendance at a general meeting waives any objection to a failure to give notice, or the giving of a defective notice, of the meeting.

#### **10.4 Changing, postponing or adjourning general meetings**

- (a) The directors may change the venue for, postpone, adjourn or cancel a general meeting if:
  - (1) they reasonably consider that the meeting has become unnecessary;
  - (2) the venue would be unreasonable or impractical;
  - (3) a change is necessary in the interests of conducting the meeting efficiently; or
  - (4) a quorum is not present under rule 10.5.
- (b) No business may be transacted at any adjourned meeting except the business left unfinished at the meeting from which the adjournment took place.
- (c) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.
- (d) Except as provided by rule 10.4(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

#### **10.5 Quorum at general meetings**

- (a) No business may be transacted at a general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of members is present at the time the business is dealt with.
- (b) A quorum consists of at least 5 members entitled to vote and who are present personally, by proxy or who have submitted a vote by notice in accordance with rule 10.11 (if permitted).
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting the meeting stands adjourned to the day, and at the time and place, that the directors decide or, if the directors do not make a decision, to the same day in the next week at the same time and place.

- (d) If at the adjourned meeting under rule 10.5(c), a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

## **10.6 Digital general meetings**

- (a) The simultaneous linking together by telephone or digital means of a sufficient number of the members to constitute a quorum constitutes a general meeting, provided the members have a reasonable opportunity to participate at the meeting.
- (b) All the provisions in this constitution relating to meetings of the members apply, as far as they can, with any necessary changes, to meetings of the members by telephone or digital means.
- (c) A member who takes part in a meeting by telephone or digital means is taken to be present in person at the meeting.
- (d) A meeting by telephone or digital means is taken as held at the place decided by the chair of the meeting, as long as at least one of the members involved was at that place for the duration of the meeting.
- (e) The directors may decide the procedures in relation to voting at a meeting by telephone or digital means, including specifying the form, method and timing of voting by notice.

## **10.7 Chair of general meetings**

- (a) The chair of directors must preside as chair at a general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.
- (b) If there is no chair of directors or both the conditions in rule 10.7(a) have not been met, the members present must elect another chair of the meeting.
- (c) A chair elected under rule 10.7(b) must be:
  - (1) another director who is present and willing to act; or
  - (2) if no other director present at the meeting is willing to act, a member who is present and willing to act.
- (d) A question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the meeting, whose decision is final.
- (e) Where the votes on a proposed resolution are equal, the chair has a second or casting vote.

## **10.8 Decisions of the members**

- (a) Every member has one vote.
- (b) The directors may decide the manner voting is held at a meeting or, where a meeting is not required, by postal, electronic or any other means of voting.
- (c) Subject to this constitution, each member entitled to vote at a meeting of members may vote as decided by the directors:
  - (1) in person;
  - (2) by one proxy (if permitted); or

- (3) by notice in accordance with rule 10.11 (if permitted).
- (d) A proxy (if any) is entitled to a separate vote for each member the person represents, in addition to any vote the person may have as a member in his or her own right.
- (e) If the directors decide, voting by notice may be permitted in addition to or instead of proxy voting.
- (f) An objection to the qualification of a person to vote must be:
  - (1) raised before the vote objected to is counted; and
  - (2) referred to the chair, whose decision is final.
- (g) A vote not disallowed by the chair under rule 10.8(f) is valid for all purposes.
- (h) Except where by law a resolution requires a special majority, resolutions must be decided by a majority of the votes cast by the members.

## **10.9 Voting by show of hands or ballot**

- (a) A resolution put to the vote of a general meeting must be decided on a show of hands unless, before the vote is taken or before or immediately after the declaration of the result of the show of hands, a ballot (poll) is demanded by:
  - (1) the chair of the meeting; or
  - (2) at least 2 members present and with the right to vote on the resolution.
- (b) A demand for a ballot does not prevent a general meeting continuing to transact any business except the question on which the ballot has been demanded.
- (c) Unless a ballot is duly demanded, a declaration by the chair of a general meeting that a resolution has on a show of hands been carried or lost and an entry to that effect in the book containing the minutes of the company's proceedings, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (d) If a ballot is duly demanded at a general meeting, it must be taken in such manner, and either at once or after an interval or adjournment or otherwise, as the chair of the meeting directs. The result of the ballot is the resolution of the meeting at which the ballot was demanded.
- (e) A ballot demanded at a general meeting on the election of a chair of the meeting or on a question of adjournment must be taken immediately.
- (f) The demand for a ballot may be withdrawn.

## **10.10 Voting by proxy**

- (a) A member may, by notice to the company, appoint a proxy to attend meetings and vote on behalf of the member.
- (b) The proxy does not need to be a member of the company.
- (b) The written appointment of a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution and, where this is provided, the proxy is not entitled to vote on the proposed resolution except as directed in the appointment.

- (c) The appointment of a proxy is not revoked by the individual member appointer attending and taking part in the general meeting but, if the appointer votes on a resolution in person, the person acting as proxy for the appointer is not entitled to vote, and must not vote, as the appointer's proxy on the resolution.

### **10.11 Voting by notice**

- (a) The directors may decide that a member who is entitled to attend and vote on a resolution at a general meeting is entitled to vote by notice in respect of that resolution.
- (b) The directors may decide the procedures in relation to voting by notice, including specifying the form, method and timing of casting a vote at a meeting.
- (c) A person who has cast a vote by notice prior to a meeting is entitled to attend the meeting. If a member attempts to cast more than one vote on a particular resolution, the vote cast in person at the meeting prevails over the vote cast by notice prior to the meeting.

### **10.12 Written resolutions of members**

A members' resolution may be passed without a meeting (unless a meeting is required under this constitution or the Corporations Act, such as a resolution to remove an auditor or a director, or for passing a special resolution). Such a resolution is passed if all the members entitled to vote sign or agree in writing to the resolution. The resolution is taken to be passed on the date the last member signs or agrees to the resolution.

## **11 Directors**

---

### **11.1 Appointing directors**

- (a) The minimum number of directors is 3.
- (b) The individuals who were directors immediately before the adoption of this constitution remain as directors.
- (c) The directors may appoint any individual as a director either to fill a casual vacancy or as an additional director, provided:
  - (1) that individual has signed a consent to act as director; and
  - (2) the individual is not disqualified from managing a corporation under the Corporations Act nor disqualified from being a responsible entity under the ACNC Act.
- (d) At all times, at least 50% of the directors must have lived experience of cerebral palsy either by having cerebral palsy or a similar disability or by being a relative or carer of someone with cerebral palsy or a similar disability.
- (e) Subject to rule 11.4, a director must retire from office as provided in rule 11.2.

### **11.2 Process for retirement and re-election**

- (a) The directors must hold an election each financial year, where at least one-third of the directors will be eligible for re-election (subject to rules 11.2(b) and

11.2(h)) as determined in accordance with this rule. Elections may take place at a general meeting or by written vote as decided by the directors.

- (b) An individual may be elected or re-elected as a director, provided that the requirements in rules 11.1(c)(1) – 11.1(c)(2) and rule 11.1(d) are met.
- (c) A director appointed by the directors under rule 11.1(c) holds office only until the next election following their appointment.
- (d) At every election, if the number of directors (after excluding any director appointed since the last election by the directors under rule 11.1(c)):
  - (1) is 6 or less, then at least 2 of the remaining directors must retire from office; or
  - (2) if the number is more than 6, at least one third of those directors (to the nearest whole number) must retire from office.
- (e) No director may hold office without re-election beyond the third election following the election at which the director was last elected or re-elected.
- (f) The directors to retire under rule 11.2(d) are those directors who wish to retire and not offer themselves for re-election, those directors required to retire under rule 11.2(e) and, so far as is necessary to obtain the number required, those who have been longest in office since their last election. As between directors who were last elected on the same day, those to retire must, unless they can agree among themselves, be decided by lot.
- (g) The directors to retire under rule 11.2(d) (both as to number and identity) is decided having regard to the composition of the board of directors at the date of the notice calling the election general meeting or sending the information to enable written voting on the election. A director is not required to retire and is not relieved from retiring because of a change in the number or identity of the directors after this date but before the voting closes.
- (h) The retirement of a director from office and the re-election of the director or the election of another person to that office (as the case may be) takes effect at the conclusion of the election.

### **11.3 Nomination of directors**

The process for nominating candidates for election as directors will be carried out in accordance with the rules outlined in a board composition policy adopted by the directors, or if there is no board composition policy, as decided by the directors.

### **11.4 Vacation of office**

The office of a director becomes vacant:

- (a) if the director dies;
- (b) if the director resigns by notice to the company;
- (c) if the director is removed from office by resolution of the members;
- (d) if the director is appointed for a specific term of office and is not reappointed;
- (e) if the director is disqualified from managing a corporation under the Corporations Act or disqualified from being a responsible entity under the ACNC Act;



- (f) except to the extent of a leave of absence granted by the directors, if the director fails to attend at least two consecutive meetings of the directors or at least four meetings over a period of one year; or
- (g) in the circumstances outlined in the Corporations Act.

### **11.5 Powers and duties of directors**

- (a) The directors are responsible for managing the company's affairs and carrying out the company's purpose set out in rule 2.
- (b) The directors may exercise all the company's powers which are not required, by the Corporations Act or by this constitution, to be exercised by the members in a general meeting.
- (c) The directors must ensure they are aware of, and comply with, their duties as directors, including the ACNC governance standards and ACNC external conduct standards.
- (d) The directors must ensure the company's financial affairs are managed responsibly, including:
  - (1) maintaining financial records that correctly record and explain its transactions and financial performance, and enable true and fair financial statements to be prepared annually;
  - (2) deciding how payments are to be approved or executed by or on behalf of the company; and
  - (3) ensuring the company does not operate while insolvent.
- (e) The directors may delegate any of their powers or functions to one or more of the directors, a committee, an employee, agent or other person as the directors decide.

### **11.6 Directors conflict of interest**

- (a) A director must disclose a perceived or actual material conflict of interest to the other directors.
- (b) The directors must manage conflicts of interest in accordance with the ACNC governance standards, the Corporations Act and any conflict of interest policy adopted by the directors.
- (c) Subject to rule 11.6(b):
  - (1) a director is not disqualified from entering into an arrangement with the company as vendor, purchaser or in another capacity;
  - (2) an arrangement entered into by the company in which a director is in any way interested is not invalid or voidable;
  - (3) a director who has an interest in an arrangement involving the company is not liable to account to the company for any profit realised under the arrangement,
 merely because of the director's fiduciary obligations.

## **11.7 Committees**

- (a) The directors may delegate their powers to one or more committees consisting of any number of directors or others.
- (b) A committee must exercise its powers within the terms of the delegation.
- (c) The procedures in rule 12 apply as far as possible to the decision-making of any committees.
- (d) The directors may establish one or more advisory committees consisting of any number of directors or others.

## **11.8 Validity of acts**

An act done by a person acting as a director, a meeting of directors, or a person exercising a power or function delegated to them by a director is not invalidated merely because of one of the following circumstances, if that circumstance was not known by that person, the directors or the committee (as applicable) when the act was done:

- (a) a defect in the appointment of the person as a director or delegate;
- (b) the person being disqualified as a director or having vacated office; or
- (c) the person not being entitled to vote.

# **12 Meetings of directors**

---

## **12.1 Convening meetings of directors**

- (a) A director may call a meeting of directors by giving reasonable notice to the other directors, or by the secretary giving notice of the meeting to all directors.
- (b) A notice of meeting of directors:
  - (1) must specify the date, time and place of the meeting;
  - (2) need not state the nature of the business to be transacted at the meeting;
  - (3) may be given immediately before the meeting; and
  - (4) must be given in accordance with rule 15.
- (c) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any thing done or resolution passed at the meeting if:
  - (1) the non-receipt or failure occurred by accident or error;
  - (2) the director waives notice of that meeting before or after the meeting;
  - (3) the director notifies the company of their agreement to that thing or resolution personally or by post, telephone, email or other electronic means before or after the meeting; or
  - (4) the director attended the meeting.



## **12.2 Digital meetings**

- (a) A director who takes part in a meeting by telephone or digital means is taken to be present in person at the meeting.
- (b) The simultaneous linking together by telephone or digital means of a sufficient number of the directors to constitute a quorum constitutes a meeting of directors.
- (c) All the provisions in this constitution relating to meetings of directors apply, as far as they can and with any necessary changes, to meetings of directors by telephone or digital means.
- (d) A meeting by telephone or other digital means is taken as held at the place decided by the chair of the meeting, as long as at least one of the directors was at that place for the duration of the meeting.
- (e) If a technical difficulty occurs which means that one or more directors cannot participate, the chair may adjourn the meeting until the difficulty is remedied or may, if a quorum of directors remains present, continue with the meeting.

## **12.3 Quorum at board meetings**

- (a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (b) A quorum consists of a majority of directors, or at least 3 directors, whichever is the greater number.
- (c) If the number of directors in office is less than the minimum number of directors fixed under this constitution, the remaining directors must act as soon as possible to appoint additional directors, as required, and, until that has happened, may only act if and to the extent that there is an emergency requiring them to act.

## **12.4 Chair**

- (a) The directors may elect one of the directors as chair and may decide the period for which that person is to be the chair.
- (b) The chair of directors must preside as chair at each meeting of directors if present within 10 minutes after the time appointed for the meeting and willing to act.
- (c) If there is no chair or the conditions in rule 12.4(b) have not been met, the directors present must elect one of the directors as chair of the meeting.

## **12.5 Decisions of directors**

- (a) A resolution at a meeting of directors must be decided by a majority of votes cast by the directors present.
- (b) Where the votes on a proposed resolution are equal, the chair of the meeting has a second or casting vote.

## **12.6 Decisions without a meeting**

- (a) A resolution is taken to have been passed if:

- (1) all of the directors who would be entitled to receive notice of a meeting and to vote on a resolution are given a document setting out that resolution;
  - (2) at least 75% of the directors sign or consent to the resolution within the time specified, or if no time is specified, within 14 days of the document being sent to the directors; and
  - (3) the directors who sign or consent to the resolution would have constituted a quorum at a meeting held to consider that resolution.
- (b) A director may consent to a resolution by:
- (1) signing the document containing the resolution (or a copy of that document);
  - (2) giving the company notice agreeing to the resolution and either setting out its terms or otherwise clearly identifying them; or
  - (3) telephoning the secretary or the chair and signifying assent to the resolution and clearly identifying its terms.
- (c) The resolution is taken as passed when the last director required to constitute at least 75% of the directors signs or consents to that resolution within the time period specified in rule 12.6(a)(2).

## **12.7 Minutes and records**

- (a) The directors must ensure:
- (1) minutes of general meetings, directors meetings and committee meetings (including all resolutions proposed); and
  - (2) records of resolutions passed by members, directors and committees, without a meeting,
- are recorded and kept as part of the company's records. The records must be made within one month after the relevant meeting is held or resolution passed.
- (b) The minutes of a meeting must be signed within a reasonable time by the chair of the meeting or the chair of the next meeting.

## **13 Secretary**

---

- (a) The directors must appoint at least one secretary who ordinarily resides in Australia and who may also be a director.
- (b) The secretary must provide consent to the appointment.
- (c) The secretary can be removed by the directors.

## **14 Indemnity and insurance**

---

### **14.1 Persons to whom the indemnity and insurance apply**

The indemnity and insurance referred to in this rule 14 applies to Indemnified Officers.

## **14.2 Indemnity**

- (a) The company must indemnify, on a full indemnity basis and to the full extent permitted by law, each Indemnified Officer against all losses or liabilities (including costs and expenses) incurred by the person as an officer of the company.
- (b) This indemnity:
  - (1) is a continuing obligation and is enforceable by an Indemnified Officer even though that person has ceased to be an officer of the company; and
  - (2) is enforceable without that person having first to incur any expense or make any payment.

## **14.3 Insurance**

The company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any Indemnified Officer against any liability incurred by the person as an officer of the company where the directors consider it appropriate to do so.

## **14.4 Savings**

Nothing in this rule 14:

- (a) affects any other right or remedy that an Indemnified Officer may have in respect of any loss or liability referred to in this rule 14; or
- (b) limits the capacity of the company to indemnify or provide or pay for insurance for any person to whom this rule 14 does not apply.

# **15 Notice**

---

## **15.1 Notice from the company**

The company may give notice and any communication:

- (a) personally;
- (b) by post to the person's nominated address;
- (c) by email or other electronic means; or
- (d) by notifying the person by email or other electronic means, that the notice or communication or publication is available at a specified electronic address.

## **15.2 Notice to the company**

Notice may be given to the company:

- (a) by personal service at its registered address;

- (b) by post to its registered address;
- (c) by sending it to the company's principal email address, or if there is no principal email address, to the email address of the secretary;
- (d) in relation to voting by notice, in the manner decided by the directors.

### 15.3 Time of service

- (a) A notice from the company properly addressed and posted is taken to be served at 10.00am on the day that is three Business Days after the date it was posted.
- (b) Where the company sends a notice by email or other electronic means, the notice is taken as served at the time it is sent.
- (c) If service under rule 15.3(b) is on a day which is not a Business Day or is after 4.00pm (addressee's time), the notice is regarded as having been received at 9.00am on the following Business Day.

### 15.4 Other communications and documents

Rules 15.1 to 15.3 apply, as far as they can, with any necessary changes, to the service of any communication or document.

## 16 Definitions and interpretation

### 16.1 Definitions

Term	Meaning
ACNC Act	the <i>Australian Charities and Not-for-profits Commission Act 2012</i> (Cth).
Business Day	Monday to Friday inclusive, excluding New Years' Day, Australia Day, Good Friday, Easter Monday, ANZAC Day, Christmas Day and Boxing Day.
Corporations Act	the <i>Corporations Act 2001</i> (Cth).
Gift	<ol style="list-style-type: none"> <li>1 a voluntary transfer of money or property (including financial assets such as shares) where the donor receives no material benefit or advantage; or</li> <li>2 a voluntary transfer of money or property in relation to an eligible fundraising event as described in item 7 or item 8 of the table in section 30-15 of the ITAA 97.</li> </ol>

<b>Indemnified Officer</b>	<ol style="list-style-type: none"> <li>1 each person who is or has been a director, secretary or executive officer of the company; and</li> <li>2 any other officer or former officer of the company as the directors in each case decide.</li> </ol>
<b>ITAA 97</b>	the <i>Income Tax Assessment Act 1997</i> (Cth).
<b>Registered Address</b>	a member's addresses (including any email addresses) as notified to the company by the member and recorded in the company's records.
<b>vote by notice</b>	a vote submitted by a member by giving notice to the company for or against the identified resolution.

## 16.2 Interpretation

In this constitution:

- (a) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (b) a word or expression defined or used in the Corporations Act, covering the same subject, has the same meaning in this constitution;
- (c) a reference to 'written' or 'in writing' includes electronic communications;
- (d) a reference to a document being 'signed' or to 'signature' includes that document being executed under hand or under seal or by any other method and, in the case of a communication in electronic form, includes the document being authenticated in accordance with the Corporations Act or any other method approved by the directors;
- (e) a reference to a member present at a general meeting is a reference to a member present in person or by proxy or attorney; and
- (f) the singular includes the plural and the plural includes the singular.

## 17 Corporations Act and ACNC Act

- (a) The replaceable rules set out in the Corporations Act do not apply to the company.
- (b) If at any time, the company is not a registered charity under the ACNC Act, the Corporations Act applies and (unless it is a replaceable rule) overrides any part of this constitution, or policy of the company, which is inconsistent with the Corporations Act.