



# Constitution of Cancer Council Queensland

ACN 009 784 356

ABN 48 321 126 727

A company limited by guarantee



**Cancer  
Council**  
Queensland

Approved by members on 28 April 2020

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# Constitution

## 1. Introduction

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### 1.1 Definitions

In this Constitution:

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

**Auditor** means the auditor of the Company from time to time.

**Board** means the Directors of the Company acting collectively in accordance with this Constitution.

**Chair** means the person appointed to that role in accordance with clause 5.8(a).

**Charter** means the Corporate Governance Charter of the Company adopted by the Board.

**Company** means Cancer Council Queensland ACN 009 784 356.

**Constitution** means this Constitution as amended or added to from time to time.

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

**Deputy Chair** means the Director appointed to that role in accordance with clause 5.8(a).

**Director** means any person acting as a Director, from time to time.

**Eligible Person** means a person who can demonstrate, to the satisfaction of the Board, that they have the ability and capacity to make a meaningful and constructive contribution to the Company that is consistent with the objects set out in clause 2.1.

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

**Insolvency Event** means if that person commits any act of bankruptcy or calls or threatens to call any meeting with a view to entering into a composition or arrangement with their creditors.

**Member** means a person admitted to membership of the Company in accordance with clause 3.1(a).

**Members' Meeting** means a duly constituted meeting of Members being either;

- (a) an annual general meeting; or
- (b) a general meeting.

**Register** means the register of Members kept pursuant to sections 168 and 169 of the Corporations Act.

**Regulations** means:

- (a) the Charter; and
- (b) any other regulations of the Company, approved and adopted from time to time by the Board pursuant to the power afforded by clause 5.12(c);

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**Secretary** means, during the term of that appointment, any person appointed to perform the duties of secretary of the Company, in accordance with this Constitution.

## 1.2 Interpretation

- (a) Terms used in this Constitution and not defined in clause 1.1 shall have the meaning ascribed to them in the Corporations Act or the ACNC Act, as applicable, and to the extent that a term is defined in both of those Act the definition set out in the ACNC Act will prevail.
- (b) A reference to:
  - (1) legislation (including subordinate legislation) is to that legislation as amended, modified in relation to the Company, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (2) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, renamed, replaced or novated;
  - (3) a person is limited to individuals and does not include any type of entity or body of persons, whether or not it is incorporated or a separate legal identity, or any executor, administrator or successor in law of the person; and
  - (4) anything (including a right, obligation or concept) includes each part of it.
- (c) Words importing the singular include the plural and vice versa.
- (d) A word which suggests one gender includes the other genders.
- (e) A reference to something being **written** or **in writing** includes that thing being represented or reproduced in any mode in a visible form.
- (f) The index and headings shall not affect the construction of this Constitution.

## 1.3 Replaceable Rules

The replaceable rules set out in the Corporations Act do not apply to the Company.

## 2. Objects of the Company

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### 2.1 Objects

The objects for which the Company is established are:

- (a) to support, fund and conduct research activities into the causes, prevention, detection, diagnosis and treatment of cancer;
- (b) to provide support and information to individuals diagnosed with cancer, their families, carers and communities;
- (c) to educate the community about prevention and early detection of cancer;
- (d) to acquire and disseminate knowledge on all matters related to cancer control;
- (e) to advocate for improvements in the prevention and detection of cancer, treatment and care of persons with cancer and for public health initiatives to reduce the impact of cancer in the community and to improve the lives of those diagnosed with cancer;

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- (f) to communicate and advertise the activities of the Company using all available media; and
- (g) to become a member of, establish or cooperate with any organisation (both within Australia and overseas) having objects whole or in part similar to the objects of the Company.

## 2.2 Exercise of Powers

The Company can only exercise the powers in section 124(1) of the Corporations Act to:

- (a) carry out the objects of the Company set out in clause 2.1; and
- (b) do all things incidental or convenient in relation to the exercise of power under clause 2.2(a).

## 2.3 Application of income and property

- (a) The income and property of the Company will be used solely for promotion of the objects of the Company.
- (b) No part of the Company's income or property may be distributed, paid or transferred by way of bonus, dividend or other similar payment to any Member of the Company except to the extent permitted by this document.

## 2.4 Certain Payments Allowed

Clause 2.3 does not prevent the payment of reasonable remuneration to any employee of the Company or to any Member or other person in return for services rendered to the Company. In addition, clause 2.3 does not prevent the Company paying to a Member:

- (a) interest on money lent by the Member to the Company at a rate not exceeding the rate charged by Australian banks for overdrawn accounts; and
- (b) commercially reasonable remuneration for any service rendered or goods supplied to the Company in the ordinary and usual course of business.

## 3. Membership

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### 3.1 General

- (a) Upon appointment as a Director, each Director shall automatically become a Member.
- (b) A person who becomes a Member agrees:
  - (1) to observe and perform the provisions of the Constitution of the Company and any Regulations which may be made in accordance with provisions of the Constitution of the Company; and
  - (2) if the Company is wound up, to contribute to the assets of the Company up to an amount not exceeding AU\$20.00 for payment of debts and liability of the Company including the costs of winding up. (This undertaking continues for one year after cessation of membership.)

### 3.2 Members rights, privileges and duties

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- (a) All Members shall, so far as they are able, take part in the activities of the Company and shall aid the Company in the promotion of its objects from time to time.
- (b) All Members admitted to membership shall be deemed to have accepted and be bound by this Constitution.
- (c) All Members shall take all necessary and reasonable steps to ensure that resolutions of the Board and the Company at a Members' Meeting from time to time are carried out and observed by them.
- (d) The rights of membership in the Company are not transferable.
- (e) All Members shall have the right to:
  - (1) either personally or by their proxy attend and vote at Members' Meetings of the Company; and
  - (2) exercise such other rights as are granted by the Constitution or by law.

## 3.3 Cessation of Membership

A Member's membership will cease on the date the Member ceases to become a Director.

## 3.4 Register of Members

A Register of Members of the Company must be kept in accordance with section 168 and 169 of the Corporations Act.

## 4. Meetings of the Members of the Company

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### 4.1 General

- (a) The Company must hold an annual general meeting at least once in every calendar year.
- (b) The Company may hold a Members' Meeting in person or by electronic device, provided that at all times the Members shall be able to hear and be heard by all other Members at the meeting.
- (c) A general meeting of Members of the Company may be convened at any time at the request of a Member and the Directors shall comply with any provisions of this Constitution with respect to the convening of such Members' Meetings.
- (d) Subject to the provisions of the Corporations Act relating to special resolutions, special notice and agreements for shorter notice, at least 21 days' notice (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) must be given to such persons as are entitled to receive notice of a Members' Meeting from the Company pursuant to this Constitution.
- (e) A notice to call a Members' Meeting must:
  - (1) specify the place, day and time of the Members' Meeting;
  - (2) state the general nature of the business to be transacted at the Members' Meeting; and

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- (3) if applicable, that a special resolution is to be proposed and the words of the proposed resolution.
- (f) The accidental omission to give the notice required by this Constitution to any of the Members or the non-receipt of such notice by any Member shall not invalidate any resolution passed at a Members' Meeting or adjournment.

## 4.2 Quorum at Members' Meetings

- (a) No business shall be transacted at any Members' Meeting unless a quorum of Members is present at the time when the Members' Meeting proceeds to business.
- (b) For the purpose of determining whether a quorum is present, a person attending as a proxy shall be deemed to be a Member.
- (c) Unless otherwise provided in this Constitution a quorum for any Members' Meeting shall be at least 50.1% of the Members entitled to attend and vote.
- (d) If a quorum is not present within half an hour or such other time as the Chair (or other person designated by this Constitution to be the Chair) may determine:
  - (1) where the Members' Meeting was convened upon the requisition of the Members, the Members' Meeting shall be dissolved; and
  - (2) in any other case:
    - (A) the Members' Meeting shall stand adjourned to such day, and at such time and place, as the Chair (or such other person designated by this Constitution to be the Chair) determines, or if no such determination is made, to the same day in the next week at the same time and place; and
    - (B) if at the adjourned Members' Meeting a quorum of the Members entitled to attend and vote is not present within half an hour from the time appointed for the Members' Meeting, the Members' Meeting shall be dissolved.

## 4.3 Chair at Members' Meetings

- (a) The person elected or appointed under this Constitution to be the Chair shall act as chair of Members' Meetings.
- (b) If the Chair is not present within 15 minutes after the time appointed for the holding of the Members' Meeting, or is unwilling to act, or if there is no Chair, then the Deputy Chair shall be entitled to act as chair. If the Deputy Chair is not present within 15 minutes after the time appointed for the Members' Meeting, then the Members present shall elect one of their number to be chair of the Members' Meeting.
- (c) Unless otherwise provided in this Constitution, the form, conduct and procedure of any Members' Meeting shall be at the discretion and under the control of the Chair, who shall at all times exercise their discretion so as to ensure the Members' Meeting is conducted in a fair and proper manner, and that every person present and entitled to do so has a reasonable opportunity to put forward their views.

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## 4.4 Adjournments of Members' Meetings

- (a) The Chair may with the consent of any Members' Meeting at which a quorum is present, and shall, if so directed by a majority of the Members' present, adjourn the Members' Meeting.
- (b) Only unfinished business may be dealt with at a Members' Meeting resumed after an adjournment.
- (c) When a Members' Meeting is adjourned for 30 days or more, notice of the adjourned Members' Meeting shall be given as in the case of an original Members' Meeting.
- (d) Except as provided by this Constitution, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned Members' Meeting.

## 4.5 Voting rights of Members

- (a) A Member may vote in person or by proxy and on a show of hands or on a poll every Member present has one vote.
- (b) An ordinary resolution put to the vote at a Members' Meeting may be passed by a simple majority on a show of hands.
- (c) A declaration by the Chair that a resolution has been:
  - (1) carried;
  - (2) carried unanimously;
  - (3) carried by a particular majority; or
  - (4) lost,

and an entry to that effect in the Company's minute book is prima facie evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

## 4.6 Casting vote

In every case of an equality of votes by the Members the Chair shall have a second or casting vote.

## 4.7 Proxies

- (a) Any person who is entitled to attend and vote at any Members' Meeting may appoint another Member as their proxy to attend and vote at the Members' Meeting on their behalf.
- (b) The instrument appointing a proxy shall be in writing under the hand of the Member and must be given to the Secretary no less than 48 hours before the Members' Meeting.

## 4.8 Circular Resolutions of Members

- (a) The Members may pass a circular resolution without a Members' Meeting being held.
- (b) Circular resolutions cannot be used:



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- (1) for a resolution to remove an Auditor, appoint a Director or remove a Director;
  - (2) for passing a special resolution; or
  - (3) where the Corporations Act or this Constitution requires a Members' Meeting to be held.
- (c) A circular resolution is passed if all the Members entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 4.8(d) or clause 4.8(e).
- (d) A resolution may be passed by all or a majority of the Members (as the circumstances require) signing and dating a document containing the text of the resolution. Any such resolution may consist of several documents in like form each signed by one or more Members.
- (e) The Company may send a circular resolution by email to the Members and the Members may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

## 4.9 Minutes of meetings

- (a) The Secretary (or such other person selected by the Members) must make and keep minutes of:
- (1) names of Members present at each Members' Meeting;
  - (2) proceedings and resolutions of Members' Meetings; and
  - (3) circular resolutions of the Members.
- (b) Such minutes shall be signed by the Chair of the Members' Meeting at which the proceedings were held or by the Chair of the next succeeding Members' Meeting, and if so signed will be conclusive evidence of the matters stated in such minutes.

## 5. The Board of Directors

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### 5.1 Number of Directors

Unless and until the Company shall otherwise resolve, the number of Directors shall not be less than three (3) or more than ten (10).

### 5.2 Vacation of office of Director

- (a) The office of a Director shall become vacant if the Director:
- (1) becomes ineligible to be a director of the Company under the Corporations Act or the ACNC Act;
  - (2) dies;
  - (3) becomes mentally incapacitated or a person whose personal estate is liable to be dealt with in any way under the law relating to mental health;

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- (4) resigns their office, upon giving notice in writing to the Company of their intention to do so, with such resignation taking effect on the date specified in that notice; or
  - (5) other than by reason of sickness or accident or with the leave of absence of the Board, fails to attend three (3) consecutive meetings of the Board.
- (b) Subject to the provisions of the Corporations Act, the Company at a Members' Meeting may by resolution remove any Director before the expiration of that Director's term of office and may appoint a person as a Director in that Director's stead.

## 5.3 Qualification of Directors

A person is eligible for election as a Director of the Company if they:

- (a) are an Eligible Person;
- (b) give the Company their signed consent to act as a Director of the Company; and
- (c) are not ineligible to be a Director under the Corporations Act or the ACNC Act.

## 5.4 Term of office of Directors

- (a) A Director's term of office is for a period of three years.
- (b) A retiring Director shall remain in office until the conclusion of the annual general meeting which falls prior to the third anniversary of their most recent election.
- (c) Subject to Clause 5.5, a retiring Director shall be eligible for re-election.
- (d) The Company, at any Members' Meeting at which the Directors retire in the manner provided for in this Constitution, may re-elect the retiring Director or elect a like person to fill the vacancy left by the retiring Director.
- (e) The Board may fill a casual vacancy from time to time, but any Director so appointed shall remain in office only until the next following Members' Meeting.

## 5.5 Compulsory retirement of Directors

- (a) A Director must retire at an annual general meeting (**Relevant Meeting**) if, prior to the next annual general meeting after the Relevant Meeting, the Director will have held office (irrespective of whether the Director has retired and been re-elected in accordance in clause 5.4) for a period exceeding nine (9) consecutive years.
- (b) A Director retiring under clause 5.5(a) (**Retiring Director**) shall not be eligible for re-election except pursuant to a special resolution to that effect.
- (c) Despite anything else in this clause 5, any period of office as a Director prior to the appointment of that Director as Chair shall be disregarded for the purpose of determining the number of consecutive years that the Chair may be a Director under clause 5.5(a), which for the avoidance of doubt, shall be three (3) consecutive years commencing from the date the Director is appointed as Chair.
- (d) Despite anything else in this clause 5, but subject to clause 5.5(c), any period of office as a Director prior to the appointment of that Director as Deputy Chair shall be disregarded for the purpose of determining the number of consecutive years that the Deputy Chair may be a Director under clause 5.5(a), which for the avoidance of doubt,

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shall be three (3) consecutive years commencing from the date the Director is appointed as Deputy Chair.

## 5.6 Directors' meetings

- (a) The Directors may meet together in person or by electronic device, provided that at all times the Directors shall be able to hear and may be heard by all other Directors at the meeting, for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- (b) The Board shall meet at least five (5) times each year.
- (c) The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed shall be at least 50.1% of the Directors entitled to attend and vote thereat.
- (d) The Secretary shall, upon the requisition of one (1) Director, convene a meeting of the Directors.
- (e) At least seven days' notice (or such shorter period as may be agreed by resolution of the Board) of every meeting of Directors shall be given to each Director in writing or by any other means of communication that has previously been agreed to by all of the Directors.
- (f) Questions arising at any meeting of the Directors shall be determined by a majority of votes and such a determination shall be deemed a determination of the Directors.
- (g) In case of an equality of votes the Chair of the meeting shall not have a casting vote and the resolution shall be deemed to have lapsed.
- (h) A meeting of the Directors at which a quorum is present shall be competent to exercise all or any of the authority's powers and discretions by or under this Constitution or by or under statute for the time being vested in or exercisable by the Directors generally.

## 5.7 Circular Resolutions of Directors

- (a) The Directors may pass a circular resolution without a Directors' meeting being held.
- (b) A circular resolution is passed if the requisite number of Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 5.7(c) or clause 5.7(d).
- (c) A resolution may be passed by all or a majority of the Directors (as the circumstances require) signing and dating a document containing the text of the resolution. Any such resolution may consist of several documents in like form each signed by one or more Directors.
- (d) The Company may send a circular resolution by email to the Directors and the resolution may be passed by all or a majority of the Directors (as the circumstances require) sending a reply email agreeing to the resolution, including the text of the resolution in their reply.

## 5.8 Chair and Deputy Chair

- (a) The Directors may elect a Director as Chair and a Director as Deputy Chair.
- (b) The Chair shall be entitled, if present, to take the chair at meetings of the Directors. If the Chair is not present within 15 minutes after the time appointed for the meeting, the

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Deputy Chair shall be entitled to take the chair. If the Deputy Chair is not present within 15 minutes after the time appointed for the meeting, the Directors shall choose one of their number to be Chair of the meeting.

- (c) The Chair and/or Deputy Chair must retire from those respective roles at an annual general meeting (**Relevant Meeting**) if, prior to the next annual general meeting after the Relevant Meeting, the Chair and/or Deputy Chair, as applicable, will have held that office for a period exceeding three (3) consecutive years.
- (d) A Chair and/or Deputy Chair retiring under clause 5.7(c) shall not be eligible for re-election except pursuant to a special resolution to that effect.

## 5.9 Defective appointment of Directors

All acts done at a meeting of the Directors or of a committee of the Directors or by any person acting as a Director are valid even if it is later discovered that there was a defect in the appointment of any of such Directors or that any of them were disqualified or were not entitled to vote.

## 5.10 Delegation

- (a) The Directors may delegate any of their powers to committees, a director, an employee of the Company or any other person or group of people, as they consider appropriate.
- (b) Except as provided in a direction of the Board, the meetings and proceedings of a committee formed by the Board must be governed by the charter for the committee approved by the Board.

## 5.11 Minutes of meetings

- (a) The Secretary must make and keep minutes of:
  - (1) names of Directors present at each Directors' meeting; and
  - (2) proceedings and resolutions of meetings of Directors' meetings; and
  - (3) circular resolutions of the Directors.
- (b) Such minutes shall be signed by the chair of the meeting at which the proceedings were held or by the chair of the next succeeding meeting and if so signed will be conclusive evidence of the matters stated in such minutes.

## 5.12 General powers of Directors

- (a) The management and control of the business and affairs of the Company shall be vested in the Directors.
- (b) The Directors may exercise all powers of the Company except those powers that must be exercised or done by the Members or by the Company at a Members' Meeting.
- (c) The Board may from time to time prescribe such Regulations and policies of the Company as it sees fit. The Board may amend, modify, add to, delete from or cancel any Regulation or policy at any time as it sees fit. Such Regulations and policies shall not be inconsistent with this Constitution, the Corporations Act or the ACNC Act.
- (d) The powers of the Directors under this Constitution shall be subject to the provisions of the Corporations Act, the ACNC Act and of this Constitution, and to any Regulations and policies from time to time and at all times to resolutions made by the Company in

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Members' Meeting provided that no Regulations nor policies so made shall invalidate any prior act of the Directors which would have been valid if such Regulation or policy had not been made.

- (e) So far as shall be practicable and not inconsistent with the provisions of this Constitution, any power authority or discretion vested in the Directors may be exercised at any time and from time to time as they shall think fit.

## 5.13 Reimbursement of Directors

The reimbursement of out of pocket expenses incurred by the Director in the performance of any duty as a Director of the Company may be approved by the Chair.;

## 5.14 Payments to Directors

Subject to clause 5.13, no payment will be made to Directors of the Company other than payment:

- (a) for any service rendered or goods supplied to the Company in the ordinary and usual course of business, at commercially reasonable rates;
- (b) of any salary or wage due to the Director as an employee of the Company;
- (c) in relation to an indemnity in favour of the Director and permitted by section 199A of the Corporations Act or a contract of insurance permitted by section 199B of the Corporations Act;
- (d) of a grant to a Director for the purposes of advancing the objects of the Company, in good faith and at arm's length; or
- (e) interest on money lent by the Director to the Company at a rate not exceeding the rate charged by Australian banks for overdrawn accounts,

and all such payments must be approved by the Board.

## 5.15 Compliance with duties under the ACNC Act and general law

Each Director must comply with their duties described in governance standard 5 of the *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth) and under the general law.

## 5.16 Directors can hold other interests

A Director may:

- (a) hold any office or place of profit or employment other than that of the Company's auditor or any, partner, director or employee of the auditor;
- (b) be a member of any corporation (including the Company) or partnership other than the Company's auditor; or
- (c) be a creditor of any corporation (including the Company) or partnership; or
- (d) enter into any agreement with the Company.

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## 5.17 Directors' Interests

- (a) Each Director who has a material personal interest in a matter that is being considered at a meeting of the Board (or that proposed in a circular resolution) must disclose to the Board the nature and extent of that interest and must not, except as provided under paragraph (b):
  - (1) be present at the meeting while the matter is being discussed; or
  - (2) vote on the matter.
- (b) The disclosure of an interest by a Director must be recorded in the minutes of the meeting.
- (c) A Director may be counted in a quorum at a Board meeting that considers, and votes on, any matter in which that Director has an interest.
- (d) 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.
- (e) Unless otherwise determined by the Board, the Director may retain benefits under the transaction even though the Director has the interest.
- (f) The Company cannot avoid the transaction merely because of the existence of the interest.

## 6. General administration

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### 6.1 Attorneys for Company

- (a) The Directors may from time to time by resolution appoint any person to be the attorney or agent of the Company:
  - (1) for such purposes,
  - (2) with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution),
  - (3) for such period, and
  - (4) subject to such conditions,as they may think fit.
- (b) Any such appointment may contain such provisions for the protection and convenience of persons dealing with any such attorney or agent as the Directors may think fit and may also authorise any such attorney or agent to sub-delegate all or any of the powers, authorities, and discretions vested in it.

### 6.2 Contracts and Deeds

The Board must decide the manner (including the use of electronic signatures if thought appropriate) in which contracts and deeds can be executed, accepted or endorsed for and on behalf of the Company. The Company may execute, accept or endorse contracts and deeds only in the manner decided by the Board.

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## 6.3 Secretary

- (a) The Board must appoint one or more persons to be the Secretary, on such terms as they determine, and may at any time terminate the appointment.
- (b) The Secretary will carry out any act or deed required by this Constitution, the Corporations Act, or by any other statute, to be carried out by the secretary of the Company.

## 7. Financial statements

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### 7.1 Accounts

- (a) The Directors shall cause the Company to keep written financial records that:
  - (1) correctly record and explain the transactions (including any transactions as trustee) and financial position and performance of the Company; and
  - (2) enable true and fair financial statements to be prepared and audited.
- (b) Subject to any law to the contrary, the Directors shall lay before each annual general meeting of the Company:
  - (1) a duly audited statement of financial position made up to the end of the Company's financial year giving a true and fair view of the state of affairs of the Company as at the end of that financial year; and
  - (2) a duly audited statement of financial performance for the last financial year of the Company, being an account that gives a true and fair view of the state of affairs of the Company as at the end of that financial year,

such statement of financial position and statement of financial performance to comply with the requirements of the Corporations Act; regardless of whether the Company is exempt from such requirements, provided that, the Directors may unanimously agree that such an exemption is appropriate, in which case the reasons for such decision will be prominently noted in the statement of financial position and statement of financial performance.

- (c) The Company shall by way of note attached to the statement of financial position send to Members such details required to be specified by the Corporations Act (regardless of whether the Company is exempt from such requirements) of any material contracts involving Directors' interests, and which is either still subsisting at the end of the financial year or, if not then subsisting, has been entered into since the end of the previous financial year.
- (d) For the purposes of clause 7.1(c) **contract** shall be deemed to include any agreement or arrangement whether formal or informal, and whether expressed or implied, and includes an agreement that is not enforceable by legal proceedings whether or not it was intended to be so enforceable. A contract with a related corporation of the Company shall be taken into account as if it were a contract with the Company.

### 7.2 Directors report

The Directors of the Company shall cause to be attached to every statement of financial position a report made in accordance with a resolution of the Directors and signed by not less than two of the Directors with respect to the financial performance of the Company for that financial year and the state of the Company's affairs as at the end of that financial year, stating

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the matters required by the Corporations Act (regardless of whether the Company is exempt from such requirements).

## 7.3 **Distribution of accounts**

A printed copy of such statement of financial performance, statement of financial position and report, together with such other material as is required to be sent by the Corporations Act (regardless of whether the Company is exempt from such requirements), shall be sent direct to every person entitled to receive notice of Members' Meetings of the Company at least 14 days before the date of the Members' Meeting at which they are to be considered.

## 7.4 **Audit**

An Auditor or Auditors must be appointed by the Company and the Auditor's duties will be regulated in accordance with applicable laws and standards.

## 7.5 **Financial Year**

The Company's financial year is from 1 January to 31 December, unless the Board passes a resolution to change the financial year.

## 8. **Notices**

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### 8.1 **Formal requirements for notices**

Any notice or other communication to or by any party must be:

- (a) in writing and in the English language;
- (b) addressed to the address of the recipient as notified from time to time by the parties; and
- (c) be signed by the sender.

### 8.2 **How notices may be given**

In addition to any other method of service authorised by law, the notice may be:

- (a) personally served on a party;
- (b) left at the party's current address for service;
- (c) sent to the party's current address for service by prepaid ordinary mail;
- (d) sent by facsimile to the party's current numbers for service; or
- (e) sent by electronic mail to the party's electronic mail address.

### 8.3 **When a notice is deemed to be received**

If a notice is sent or delivered in the manner provided in clause 8.2 it must be treated as given to or received by the addressee in the case of:

- (a) delivery in person, when delivered;
- (b) delivery by post, the third business day after posting;



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- (c) facsimile, when a transmission report is printed by the sender's facsimile machine stating that the document has been sent to the recipient's facsimile number; or
- (d) electronic mail, on the day of its transmission,

but if delivery is made after 5.00pm on a business day it must be treated as received on the next business day in that place.

## **9. Miscellaneous**

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### **9.1 Confidential information**

Every Director or member of a committee of the Company may be required by the Company to sign a declaration pledging to observe strict secrecy respecting all transactions of the Company. Such a declaration may require the person so signing to pledge not to reveal any of the matters which may come to their knowledge in the discharge of their duties except when required to do so by the Directors or a member of a Committee or by any Members' Meeting or by a Court of law and except so far as may be necessary in order to comply with any of the provisions in this Constitution.

### **9.2 Indemnity and liability of Directors and other Officers**

- (a) To the extent permitted by law, the Company shall indemnify a person who is or has been an Officer of the Company:
  - (1) against liability incurred by the person as such an Officer to another person (other than the Company or a related body corporate); and
  - (2) against liability for legal costs and expenses incurred by the person in defending proceedings.
- (b) To the extent permitted by law (including the Corporations Act), the Company may pay, or agree to pay, at the discretion of the Directors, a premium in respect of a contract insuring a person who is or has been an Officer of the Company against the liability incurred by the person as such an Officer.

### **9.3 Distribution of surplus assets**

- (a) Subject to the Corporations Act and any other applicable law, and any court order, if upon the winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatsoever, (including 'gift funds' as defined in paragraph (d)(1) of this clause) the same shall be given or transferred to some other charities or charities, (excluding any Member of the Company):
  - (1) having objects similar to those of the Company;
  - (2) whose constitution/s prohibit/s the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company;
  - (3) that is or are Registered Charitable Institutions (as defined in paragraph (d)(3) of this clause); and
  - (4) that is or are deductible gift recipients within the meaning of the ITAA.

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- (b) Such charity or charities shall be determined by the Members of the Company at or before the time of the dissolution and in default thereof by application to the Supreme Court for determination.
- (c) If the Company's deductible gift recipient endorsement is revoked (whether or not the Company is to be wound up), any surplus gift funds must be transferred to one or more charities that meet the requirements of paragraphs (a)(1),(2) and (3) of this clause, as decided by the Board.
- (d) For the purpose of this clause:
  - (1) 'gift funds' means:
    - (A) gifts of money or property for the principal purpose of the Company;
    - (B) contributions made in relation to a fund-raising event held for the principal purpose of the Company; and
    - (C) money received by the Company because of such gifts and contributions.
  - (2) 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the ITAA.
  - (3) 'Registered Charitable Institutions' means, in relation to the *Taxation Administration Act 2001* (Qld):
    - (A) an institution that, under section 149C, may be registered; or
    - (B) to an institution the Commissioner is satisfied has a principal object or pursuit mentioned in section 149C(3)(a); or
    - (C) for a purpose the Commissioner is satisfied is charitable or for the promotion of the public good.