

Board Matters Legal
s.cullen@boardmatters.com.au
e.jameson@boardmatters.com.au
PO Box 377, Red Hill QLD 4059

**Corporations Act 2001
A Public Company Limited by Guarantee
Constitution**

**Australian Council on Healthcare Standards Limited
ACN 008 549 773**

ACHS President

22 June 2017

Amended on:

23 November 2023,

27 November 2025

Table of Contents

1	Nature of the Company	1
2	Objects	1
3	Membership	1
	<i>Membership</i>	1
	<i>2 Classes of Membership (Voting and Life)</i>	2
	<i>Full Voting Members</i>	2
	<i>Life Members</i>	2
	<i>By-Laws Relating to Categories of Membership</i>	2
	<i>Becoming a Member</i>	3
	<i>Ongoing Member Obligations and Rights</i>	4
	<i>Register of Members</i>	4
4	Entrance Fee and Annual Subscription Fee	5
	<i>Amount of fees</i>	5
5	Removal and cessation of Membership	5
	<i>Resignation</i>	5
	<i>Removal from Membership</i>	5
	<i>Other cessation of Membership</i>	6
6	No profits for members	6
	<i>Transfer of income or property</i>	6
	<i>Payments, services and information</i>	6
7	General meetings of Members	7
	<i>Convening of meetings</i>	7
	<i>Notice of general meeting</i>	7
	<i>Quorum at general meetings</i>	7
	<i>Appointment of chair and powers of chair</i>	8
	<i>No casting vote of Chair</i>	8
	<i>Adjournment of meetings</i>	8
	<i>Vote on a poll</i>	9
	<i>Decisions by Ballot</i>	9
8	Proxies	10
	<i>Proxies and representatives of Members</i>	10
	<i>Appointment of proxies</i>	10
	<i>Verification of proxies</i>	10
	<i>Revocation of appointment of proxy</i>	10
9	Members' Representatives	11
10	Board of Directors	11
	<i>Board of Directors</i>	11
	<i>Number of Directors</i>	11
	<i>Eligibility for appointment or election as a Director</i>	12
	<i>Member Elected Directors</i>	12
	<i>Appointment of Board Appointed Directors</i>	13

	<i>President</i>	13
	<i>Resignation from office</i>	14
	<i>Vacation of office</i>	14
	<i>Casual vacancies of Member Elected Directors</i>	15
11	Proceedings of directors	15
	<i>Convening of Directors' meetings</i>	15
	<i>Quorum and voting at directors' meetings</i>	15
	<i>No casting vote of President</i>	15
	<i>Delegation of powers to committee</i>	16
	<i>Validity of acts of Directors</i>	16
	<i>Minutes</i>	16
	<i>Resolution in writing</i>	16
12	Existing Board	17
	<i>Retirement of Existing Directors</i>	17
13	Council	17
	<i>Council role and functions</i>	17
	<i>Composition of the Council</i>	17
	<i>Chair of the Council</i>	17
14	Proceedings of Council	18
	<i>Convening of Council meetings</i>	18
15	Directors' remuneration	18
	<i>Remuneration</i>	18
	<i>Expenses</i>	18
16	Board and Council Conflict of Interest	18
17	Board composition requirements and Nominations Committee	19
18	CEO	20
19	Secretary	20
20	By-laws	20
21	Seals and execution of documents	21
22	Surplus assets on winding up or dissolution	21
23	Indemnity	22
	<i>Liabilities to third parties</i>	22
	<i>Costs and expenses</i>	22
	<i>Insurance premiums</i>	22
24	Accounts, audit and records	22
	<i>Accounts</i>	22
	<i>Audit</i>	23
	<i>Rights of Inspection</i>	23
25	Notices	23
	<i>Persons authorised to give notices</i>	23
	<i>Method and time of giving notices</i>	23
	<i>Addresses for giving notices to Members and to the Company</i>	24

Persons entitled to notice of meeting 24

26 Interpretation**24**

References to law and the Constitution 24

Replaceable rules 25

Presumptions of interpretation 25

27 Definitions**26**

1 Nature of the Company

- 1.1 The Company is a not-for-profit public company limited by guarantee.
- 1.2 The liability of the Members is limited. Every Member undertakes to contribute \$50.00 to the assets of the Company if it is wound up while they are a Member, or within one year afterwards.

2 Objects

- 2.1 The objects for which the Company is established are:
- (a) to achieve public benefit for all Australians by strengthening safe, quality healthcare through advancing standards and education nationally and internationally;
 - (b) to build strategic alliances to support collaboration and engagement to enhance safe, quality healthcare;
 - (c) to promote sharing of information and knowledge to support the delivery of safe, quality healthcare;
 - (d) to develop and deliver products that meet the needs of our national and international membership;
 - (e) to do all such other things as are incidental to or conducive to the attainment of all or any of the objects of the company.

3 Membership

Membership

- 3.1 The Members of the Company as and from the adoption of this Constitution are:
- (a) the persons that were members of the Company immediately prior to the adoption of this Constitution apart from Delegates so called under the Constitution that was then in effect;
 - (b) the persons that, immediately prior to adoption of this Constitution, were Organisations that had appointed or were entitled to appoint a Delegate so called under the Constitution that was then in effect; and
 - (c) such other persons as the Board admits to Membership in accordance with this Constitution.

2 Classes of Membership (Voting and Life)

3.2 Membership of the Company shall be unlimited in number. There are two Classes of Membership of the Company, namely:

- (a) Full Voting Members; and
- (b) Life Members.

Full Voting Members

3.3 The Full Voting Members of the Company comprise:

- (a) the persons that, immediately prior to the adoption of this Constitution, were incorporated organisation members of the Company under the constitution of the Company that was then in effect;
- (b) the persons that, immediately prior to the adoption of this Constitution, were Organisations that had appointed or were entitled to appoint a Delegate so called under the Constitution of the Company that was then in effect.
- (c) such other persons as the Board admits as Full Voting Members in accordance with this Constitution, provided that they are Organisations that, in the absolute opinion of the Board from time to time, are bona fide supporters of the Objects of the Company and otherwise meet the eligibility criteria for Full Voting Membership from time to time prescribed by the Board.

For the avoidance of doubt, persons that, immediately before the adoption of the Constitution, were members of the Company known as 'Delegates' under the Constitution of the Company that was then in effect, cease to be members of the Company on adoption of this Constitution. The Board may adopt By-laws with respect to the recognition and admission of those Organisations which are not legally recognised as separate legal entities.

Life Members

3.4 The Life Members of the Company comprise the persons that, immediately prior to the adoption of this Constitution, were the Life Members under the constitution of the Company that was then in effect.

By-Laws Relating to Categories of Membership.

3.5 The Board may make and adopt by-laws in accordance with clause 20 setting out, in relation to the Full Voting Class of Membership, the following matters:

- (a) the different categories (if any) within the Full Voting Class of Membership in respect of which differential Entrance Fees and Annual Subscription Fees may apply (eg. according to the size of the Organisation);

- (b) eligibility criteria, in addition to those set out in this Constitution, for the Full Voting Class of Membership and for each separate category (if any) of Membership within the Full Voting Class; and
- (c) the entitlements, if any, attaching to specific categories of Membership in the Full Voting Class of Membership provided that for the avoidance of doubt the Board cannot remove the fundamental rights of Members set out in clauses 3.12 and 3.13 of this Constitution.

Becoming a Member

- 3.6 A person who qualifies for Membership may apply for Membership by completing and submitting an application in the form and manner approved by the Board and paying the Entrance Fee and Annual Subscription as set out in clause 4 below.
- 3.7 The following provisions apply to applications for admission as a Member:
- (a) Membership is open to persons that are supportive of or have a bona fide interest in the achievement of the objects of the Company and who, in the sole and absolute opinion of the Board or its duly authorised delegate, fulfil the eligibility criteria for Membership as set out in this Constitution and in any by-laws promulgated pursuant to clause 3.5;
 - (b) the application must be made by completing and signing the form approved for the purpose by the Board, and lodging it with the Secretary or such other person as the Board may direct from time to time; and
 - (c) upon lodging the application, the applicant must pay the relevant entrance fee (see clause 4).
- 3.8 In respect of each application for Membership duly made in accordance with this Constitution:
- (a) The Secretary shall provide the application promptly to the Board, or to the Board's duly authorised delegate;
 - (b) the Board, or the Board's duly authorised delegate, shall consider the application promptly and may, after considering it, determine in the sole and absolute discretion of the Board (or the delegated discretion of the Board's duly authorised delegate as the case may be) to accept or reject the application;
 - (c) if the application is accepted, the applicant shall be admitted forthwith as a Member and shall be notified accordingly;
 - (d) the Board, or the Board's duly authorised delegate, does not have to give reasons for rejecting an application; and

- (e) if the application is rejected, all amounts paid by the applicant on account of the application shall be refunded in full.

Notifying Applicant of Admission as Member

- 3.9 Following admission of a new Member, the Secretary must promptly:
- (a) notify the Member in writing of the admission to Membership by issuing a receipt for the entrance fee paid by the Member on account of the application for Membership; and
 - (b) cause the required details to be entered in the Register.

Ongoing Member Obligations and Rights

- 3.10 The Members of the Company agree to be bound by the provisions of this Constitution.
- 3.11 For so long as a Member abides by the provisions of this Constitution, the Member shall enjoy the rights and privileges of Membership under this Constitution and the Act.
- 3.12 Full Voting Members have the rights to:
- (a) receive notices of, attend and be heard at any general meeting;
 - (b) cast 1 vote through its Representative in person or by proxy at any properly convened general meeting of Members; and
 - (c) cast 1 vote through its Representative in any properly held ballot.
- 3.13 Life Members have the rights to receive notices of, attend and be heard at any general meeting but do not have any right to vote at any general meeting or in any ballot.

Register of Members

- 3.14 A Register of the Members must be kept in accordance with the Act.
- 3.15 The following details must be entered and kept current in the Register in respect of each Member:
- (a) the full name and contact details of the Member;
 - (b) the date of admission to and cessation of Membership; and
 - (c) such other information as the Board requires.
- 3.16 Each Member is responsible to notify the Secretary in writing of any change in that person's name, address, telephone or facsimile number within 1 month after the change.

4 Entrance Fee and Annual Subscription Fee

Amount of fees

- 4.1 The Entrance Fee (if any), payable by applicants for Membership of the Company (if demanded):
- (a) shall be the amount as determined from time to time by resolution of the Board; and
 - (b) may vary as between applicants for Membership in the different categories within the Full Voting Class of Membership as contemplated by clause 3.5(a).
- 4.2 The Annual Subscription Fee (if any), payable by the Members of the Company:
- (a) shall be determined from time to time by resolution of the Board; and
 - (b) may vary as between Members in the different categories within the Full Voting Class of Membership as contemplated by clause 3.5(a).
- 4.3 Notwithstanding any other provision Life Members shall not be required to pay an Entrance Fee or an Annual Subscription Fee.

5 Removal and cessation of Membership

Resignation

- 5.1 A Member may resign from Membership of the Company by giving written notice to the Secretary, and:
- (a) the resignation shall take effect from the date of receipt of the notice of resignation or such later date as may be stated in the notice; and
 - (b) the Member's liability for any fees, subscriptions or other moneys in arrears at the date of such resignation shall continue until discharged by payment.

Removal from Membership

- 5.2 A Member may be removed by ordinary resolution of the Members in a general meeting, if the Member fails to comply with any of the provisions of this Constitution or conducts itself in a manner considered to be injurious or prejudicial to the character or interest of the Company, provided that:
- (a) the Board has first, pursuant to an ordinary resolution of the Board, given at least 2 months' written notice to the Member of the intention to terminate their Membership and the grounds of the intended termination;

- (b) the Member has been invited, in the written notice, to provide to the Board any written representations which the Member wishes to be put to the meeting of the Members;
- (c) the Board has included a copy of the Member's representations in the notices calling the meeting (unless they were not provided by the Member in sufficient time);
- (d) if copies of the representations have not been included in the notices of meeting, for any reason, the Member may require the representations to be read out at the meeting; and
- (e) whether or not representations have been circulated or read, the Member must be given a full and fair opportunity to address the meeting.

Other cessation of Membership

5.3 A Member otherwise ceases to be a Member if the Member:

- (a) fails or declines to complete and lodge with the Secretary an annual Membership renewal in the form and manner from time to time required by the Board;
- (b) fails to pay the Annual Subscription Fee as determined from time to time by resolution of the Board;
- (c) dies;
- (d) becomes bankrupt;
- (e) goes into liquidation;
- (f) is convicted of an indictable offence; or
- (g) becomes insolvent.

6 No profits for members

Transfer of income or property

6.1 Subject to clause 6.2, all of the assets and income of the Company shall be applied solely in the furtherance of the objects of the Company and no portion of the profits of the Company shall be distributed directly or indirectly to any Member.

Payments, services and information

6.2 Nothing in clause 6.1 prevents the payment, in good faith, of an amount, calculated on arm's length terms, in respect of:

- (a) remuneration payable to an employee of the Company, who is also a Member's Representative under clause 9, for services actually rendered to the Company;
- (b) goods or services actually supplied to the Company by a Member in the ordinary and usual course of the Member's business; or
- (c) subject to clause 15, payment to a Member's Representative in their capacity as a Director.

7 General meetings of Members

Convening of meetings

- 7.1 The President or any 3 or more Directors or at least 10 Full Voting Members may at any time request the Secretary to convene a general meeting of the Members and the Secretary must comply with all such requests.

Notice of general meeting

- 7.2 Notice of a general meeting of the Members:
- (a) may be given by any form of communication permitted by the Act, as if the Company was not an ACNC Registered Entity; and
 - (b) must specify the place, the day and the hour of meeting, the general nature of the business to be transacted and any other matters as are required by the Act, as if the Company was not an ACNC Registered Entity. General meetings may be held using technology in a hybrid or fully virtual format.
- 7.3 The accidental omission to give notice of any general meeting to, or the non-receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the general meeting.

Quorum at general meetings

- 7.4 A quorum for the purposes of a general meeting of Members shall be 30% of the Full Voting Members of the Company or 20 Full Voting Members, whichever is less.
- 7.5 Members will be regarded as present for these purposes whether present personally, by their Representative or by proxy.
- 7.6 If a quorum is not present within half an hour from the time appointed for the meeting or a longer period allowed by the chair:
- (a) if the meeting was convened by or on the requisition of Members, it must be dissolved; or

(b) in any other case it must stand adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Board.

7.7 If a meeting has been adjourned to another time and place determined by the Board, then notwithstanding any other provision, not less than 7 days' notice of the adjourned meeting must be given in the same manner as in the case of the original meeting.

7.8 If, at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

Appointment of chair and powers of chair

7.9 The President shall preside as chair at every general meeting of Members and is responsible for the conduct of the general meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions (including of the auditor (if any)).

7.10 If for any reason there is not then a President, or they are not present within 15 minutes of the time nominated for the meeting to start, the Directors who are present shall select one of their number to chair the meeting.

7.11 The chair of a general meeting may, in their discretion, expel any person from a general meeting if the chair reasonably considers that the person's conduct is inappropriate.

No casting vote of Chair

7.12 The chair of a general meeting is not entitled to a second or casting vote on any resolution, whether by show of hands or on a poll. For the avoidance of doubt, in the event of a tied vote the resolution fails.

Adjournment of meetings

7.13 The chair may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to another time and to another place.

7.14 The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

7.15 When a meeting is adjourned for 30 days or more notice of the adjourned meeting must be given as in the case of an original meeting.

7.16 When a meeting is adjourned for less than 30 days, it is not necessary to give a further notice of the adjourned meeting.

Voting at meetings

- 7.17 All resolutions put to the vote at a general meeting of Members, must be decided on a show of hands unless a poll is demanded in accordance with clause 7.20.
- 7.18 On a show of hands, every Full Voting Member present in person has one vote.
- 7.19 On a show of hands, a declaration by the chair that a resolution has been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

Vote on a poll

- 7.20 A poll may be demanded in respect of a resolution at a general meeting:
- (a) by the chair; or
 - (b) by at least 3 Full Voting Members present and entitled to vote on the resolution:
 - (i) before the vote on that resolution is taken;
 - (ii) before the result is declared on a show of hands; or
 - (iii) immediately after the result is declared on a show of hands.
- 7.21 On a poll every Full Voting Member present in person or by proxy has one vote.
- 7.22 If a poll is duly demanded, it must be taken in the manner and, except as to the election of a chair or on a question of adjournment, either at once or after an interval or adjournment or otherwise as the chair directs. The result of the poll is the resolution of the meeting at which the poll is demanded.
- 7.23 A poll demanded on the election of a chair or on a question of adjournment must be taken immediately.

Decisions by Ballot

- 7.24 Notwithstanding any other provision, to the extent permitted by law, a resolution of the Full Voting Members decided by ballot conducted in accordance with this Constitution shall be as valid and effective as if it had been passed at a meeting of the Company duly called and constituted.
- 7.25 All ballots shall be held in such a manner as to provide a reasonable opportunity for the Full Voting Members to cast a vote and otherwise in the manner prescribed by the Board from time to time in by-laws promulgated by the Board.

7.26 A ballot may be held by postal or electronic means.

8 Proxies

Proxies and representatives of Members

8.1 At meetings of Members, each Full Voting Member entitled to vote may vote in person, by its Representative (see clause 9) or by proxy.

8.2 A person attending as a proxy shall be deemed to have all the powers of the relevant Member, except where expressly stated to the contrary in this Constitution or the Act.

Appointment of proxies

8.3 A Member whose Representative is not present at the meeting may appoint another Member's Representative as their proxy to attend and vote in their place at a general meeting.

8.4 The proxy must be appointed in writing, in the form from time to time required by the Board, and signed by the Member appointing the proxy.

8.5 If the document appointing a proxy specifies the manner in which the proxy is to vote in respect of a particular resolution, the proxy is not entitled to vote on the resolution except in the manner specified in the document.

Verification of proxies

8.6 Notwithstanding any other provision, a proxy shall be deemed to be invalid unless the Member appointing a proxy sends or delivers to the Company, for receipt by 5pm on the last business day before the time for holding the meeting or adjourned meeting at which the proxy proposes to vote, the following:

- (a) the document appointing the proxy; and
- (b) if the appointment is signed by the Member's attorney, the authority under which the appointment was signed or a certified copy of that authority.

8.7 The required documents must be either sent or delivered to the Company's office address, fax number or electronic address, and marked to the attention of the relevant person, as specified for that purpose in the notice convening the meeting.

Revocation of appointment of proxy

8.8 A vote given in accordance with the terms of a proxy document or power of attorney is valid despite:

- (a) the death or unsoundness of mind of the appointor; or

- (b) the revocation of the instrument or of the authority under which the instrument was executed,

except where the Secretary has been notified in writing of such event before the commencement of the meeting or adjourned meeting at which the proxy is used, in which case the proxy shall be deemed to be invalid.

9 Members' Representatives

- 9.1 Members that are Organisations shall appoint an individual as a representative to exercise all or any of the powers of the Member under this Constitution or the Act or otherwise at law.
- 9.2 The appointment may be a standing one.
- 9.3 The appointment may set out restrictions on the Representative's powers. If the appointment is to be by reference to a position held, the appointment must identify the position.
- 9.4 A Member may appoint only one Representative.
- 9.5 Unless otherwise specified in the appointment, the Representative may exercise, on the Member's behalf, all of the powers that the Member could exercise at a meeting or in voting on a resolution.

10 Board of Directors

Board of Directors

- 10.1 The governance of the Company shall be the responsibility of the Board of Directors duly elected and appointed under and in accordance with this Constitution.
- 10.2 The Directors may exercise all of the powers of the Company which are not, by the Act or by this Constitution, required to be exercised by the Members in a general meeting.
- 10.3 Directors must comply with their duties as directors at law, including without limitation the duties described in the ACNC Governance Standards.

Number of Directors

- 10.4 The number of Directors of the Company shall be a minimum of 5 and a maximum of 12.
- 10.5 The Board shall comprise:
- (a) At least 5 and up to 6 Member Elected Directors; and

(b) up to 6 Board Appointed Directors.

10.6 The Company may, by ordinary resolution of its Full Voting Members, increase or decrease the minimum or maximum number of Directors (provided that the minimum must not fall below 3 as required by the Act) and may also determine in what rotation the Directors appointed as the result of any such alteration are to go out of office.

Eligibility for appointment or election as a Director

10.7 A person is only eligible for election or appointment as a Director if as at the election or appointment date:

- (a) they are not an employee of the Company or of any related entity employing staff of the Company;
- (b) in the case of a Member Elected Director they are a duly appointed Representative of a Full Voting Member;
- (c) prior to election or appointment of the person, the Nominations Committee has affirmed in writing to the Full Voting Members (in the case of a candidate for a Member Elected Director position) or the Board (in the case of a candidate for a Board Appointed Director position) that:
 - (i) the person fulfils the Director Eligibility Criteria; and
 - (ii) upon election or appointment of the person the Board Composition Requirements will be fulfilled provided that if this assessment is contingent upon any other factors or circumstances, the Nominations Committee specifies those factors or circumstances in their written affirmation; and
- (d) the person is not ineligible to be a director under the Act or the ACNC Act.

10.8 A Director must notify the Board if any circumstance arises which has the potential to impact on their eligibility to continue to act as a director.

Member Elected Directors

10.9 Each Member Elected Director will serve for a term of approximately 3 years from the conclusion of the annual general meeting at which they take office until the conclusion of the annual general meeting 3 years later, but is eligible for re-election if not then disqualified by law or by this Constitution from being re-elected.

10.10 Elections of Member Elected Directors shall be held annually by ballot (pursuant to clauses 7.24 - 7.26) amongst the Full Voting Members on a

staggered rotational basis such that at least one Member Elected Director position is open for election each year in accordance with the following requirements:

- (a) The ballot must include sufficient time for the calling of nominations from amongst the Full Voting Members;
- (b) The election must be conducted such that it is completed no later than 14 days before the relevant annual general meeting at which the result is to be declared; and
- (c) The ballot must comply with the requirements of this Constitution and of any by-laws relating to the conduct of the elections and the conduct of ballots that have been made and adopted by the Board in accordance with clause 20.

Appointment of Board Appointed Directors

- 10.11 The Board may at any time appoint persons to the Board (**Board Appointed Directors**) such that there are at any given time no more than 6 such Board Appointed Directors.
- 10.12 Subject to any compliance that may be required under the Act with respect to confirmation of appointment of Directors, each Board Appointed Director will serve for a term of up to 3 years, or such lesser period as the Board may determine, but is eligible for re-appointment if not then disqualified by law or by this Constitution from being re-appointed.
- 10.13 In addition to the requirements of clause 10.7, in considering persons for appointment as Board Appointed Directors, the Board shall have regard to the desired skills and other competencies which will assist the Board in discharging its role and functions in view of the skills and other competencies brought to the Board by the existing Directors then on the Board.

President

- 10.14 Where the President is required to vacate their office as a Director under clause 10.9 or clause 10.12, the Board shall elect from amongst their number, subject to clause 10.15, a President.
- 10.15 A Director is not eligible to be re-elected as a President under clause 10.14 if they have served in the role of President elected by the Directors for 3 years or more (including any period prior to adoption of this Constitution and any period of absence under clause 10.17) unless:
- (a) not less than 3 years has elapsed since the person was last the President (including any period prior to adoption of the Constitution, but

excluding any temporary selection to chair a meeting in the absence of the President under clause 10.17); or

(b) all Directors otherwise agree.

10.16 The President shall preside as chair at every meeting of the Board.

10.17 If for any reason there is not then a President, or they are not present within 15 minutes of the time nominated for the Board meeting to start, the Directors who are present and entitled to vote at the meeting shall select one of their number to chair the meeting.

Resignation from office

10.18 A Director may resign from office by giving notice in writing to the Company of that Director's intention to resign.

10.19 A notice of resignation takes effect at the time of giving the notice to the Company or, if another time is specified in the notice, at that time.

Vacation of office

10.20 Without limiting any other provision, the office of a Director becomes vacant if required by the Act or the ACNC Act or if the Director:

(a) becomes bankrupt or makes any arrangement or composition with their creditors generally;

(b) cannot fully perform their duties in the governance of the Company because of their mental incapacity, or a person whose estate is liable to have a person appointed to administer it under a law relating to the administration of estates of persons who, through mental or physical infirmity, is incapable of managing their affairs and fully performing their duties in the governance of the Company.

(c) is absent without the prior consent of the Directors from 3 consecutive meetings of the Directors and the Board resolves that the office of that Director be vacated;

(d) becomes prohibited from being a director by reason of the Act or the ACNC Act, an order made under the Act or the ACNC Act or otherwise at law;

(e) in the case of a Member Elected Director, ceases to be a Representative of a Full Voting Member as evidenced in writing by the relevant Full Voting Member or the Full Voting Member for which they are a Representative ceases to be a Member; or

(f) dies.

Casual vacancies of Member Elected Directors

- 10.21 If a casual vacancy arises in the office of a Member Elected Director:
- (a) the Council may appoint a person to fill the casual vacancy, provided that the person is not disqualified from being appointed by law or by this Constitution;
 - (b) the person's appointment to the Board shall continue until the person who vacated the office of Member Elected Director early would have been required to retire pursuant to this Constitution if they had not vacated office early; and
 - (c) that person shall then be eligible for re-election provided that they are not otherwise disqualified by law or by this Constitution.

11 Proceedings of directors**Convening of Directors' meetings**

- 11.1 The Board shall meet not less than 4 times per year, but otherwise as necessary to discharge their duties and functions.
- 11.2 The Secretary must convene a meeting of the Board at any time on the request of any Director.
- 11.3 Notice of each meeting of the Directors must be given to each Director at least 48 hours before the meeting, or otherwise as determined by resolution of the Board, except in the case of a Director who is out of Australia or who has been given leave of absence from the Board.
- 11.4 A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting. The Directors may otherwise regulate their meetings as they think fit.

Quorum and voting at directors' meetings

- 11.5 A quorum for the purposes of a meeting of the Board is a simple majority of the Board as then constituted.
- 11.6 Questions arising at a meeting of the Board must be decided in the manner from time to time determined by the Board, and in the absence of any such agreement, by a majority of votes of Directors present and voting.

No casting vote of President

- 11.7 The President, or in their absence any other chair of a meeting of the Board, has a single vote equal with other Directors and not a casting vote. For the avoidance of doubt, in the event of a tied vote the resolution fails.

Delegation of powers to committee

- 11.8 The Board may delegate any of their powers, except this power to delegate, to committees consisting of such Directors and such other persons as they think fit.
- 11.9 In the exercise of any powers delegated to it, a committee formed by the Board:
- (a) must conform to the directions of the Board; and
 - (b) otherwise shall conduct its meetings and proceedings in accordance with the provisions of this Constitution, as far as practicable, as if they were meetings and proceedings of the Board.

Validity of acts of Directors

- 11.10 All acts done by a meeting of the Board or of a committee appointed by the Board or by a person acting as a Director are valid even if it is later discovered that there is a defect in the appointment of a person to be a Director or a member of the committee or that they or any of them were disqualified or were not entitled to vote.

Minutes

- 11.11 The Board must cause minutes of all proceedings of general meetings, of meetings of the Board (except resolutions in writing treated as determinations of the Board), and of committees formed by the Board to be signed by the chair of the meeting at which the proceedings took place or by the chair of the next succeeding meeting and entered, within one month after the relevant meeting is held, in books kept for the purpose.

Resolution in writing

- 11.12 A resolution in writing approved by all Directors via a technology platform or signed by all Directors, excluding Directors who have been given leave of absence, is to be treated as a determination of the Board passed at a meeting of the Board duly convened and held.
- 11.13 A resolution in writing may consist of several documents in like form, each signed by one or more Directors or approved via a technology platform and if so signed it takes effect on the latest date on which a Director signs one of the documents.
- 11.14 In relation to a resolution in writing:
- (a) a document generated by electronic means which sets out the resolution of Directors is to be treated as a resolution in writing; and
 - (b) a document bearing an electronic signature is to be treated as signed.

12 Existing Board

Retirement of Existing Directors

- 12.1 Notwithstanding clause 10.10 the Directors in office at the close of the general meeting at which this Constitution is adopted must retire on the expiry of their respective terms of appointment (including any period prior to adoption of this Constitution), but are eligible for re-election if not then disqualified by law or by this Constitution from being re-elected.
- 12.2 At least 2 months before the first annual general meeting next following adoption of this Constitution, the Board will agree which of the board positions will, at the expiration of the then current terms of service, be filled by appointment of a Board Appointed Director and ` by election of a Member Elected Director, and in the event the Board is unable to agree, then the question will be resolved by the drawing of lots.

13 Council

Council role and functions

- 13.1 The Board must convene, as required by this Constitution, meetings of Member Representatives known as the Council for the purposes of acting as a strategic and policy advisory to the Board.
- 13.2 The functions of the Council are:
- (a) providing advice to the Board on matters of policy;
 - (b) providing advice to the Board on strategic planning relating to accreditation activities and policy development; and
 - (c) other functions to benefit the Company as determined by the Board from time to time.

Composition of the Council

- 13.3 The Council shall comprise all of the duly appointed Representatives of each of the Full Voting Members.

Chair of the Council

- 13.4 The President (see clause 10.14) shall preside as chair at every meeting of the Council.
- 13.5 If for any reason there is not then a President, or they are not present within 15 minutes of the time nominated for the Council meeting to start, the Councillors who are present and entitled to vote at the meeting shall select one of their number to chair the meeting.

14 Proceedings of Council**Convening of Council meetings**

- 14.1 The Council shall meet at least once per calendar year as necessary to discharge their duties and functions.
- 14.2 The costs of attendance at meetings of the Council shall be borne by the Members represented at Council and not by the Company itself unless agreed otherwise by the Board in its sole and absolute discretion.
- 14.3 The President or any other 20 Full Voting Members may request the Secretary to convene a meeting of the Council at any time and the Secretary must comply with such request.
- 14.4 Notice of each meeting of the Council must be given to each Councillor at least 48 hours before the meeting, or otherwise as determined by resolution of the Council, except in the case of a Councillor who is out of Australia or who has been given leave of absence from the Council.
- 14.5 Meetings of Council shall be conducted in the manner set out from time to time in by-laws promulgated or amended by the Board in accordance with clause 20 and approved by the Council (Council By-Laws) in relation to the conduct of the affairs of the Council.

15 Directors' remuneration**Remuneration**

- 15.1 Directors are entitled to be reasonably remunerated for their role as Directors, provided that such fees are approved annually in advance by the Board.

Expenses

- 15.2 Directors may in the discretion of the Board be reimbursed for all reasonable travelling, accommodation, and other expenses properly incurred by them in attending and returning from meetings of the Board or any of its committee or general meetings or otherwise in the execution of their duties as Directors provided that such expenses have first been approved by the Board.

16 Board and Council Conflict of Interest

- 16.1 In addition to the requirements of the law, the Board shall, agree from time to time in writing on its policy for the regulation of conflicts of interest, which shall include a requirement that Directors or Councillors only be engaged to provide goods or services to or on behalf of the Company if:

- (a) that Director or Councillor is for bona fide reasons considered by the Board and agreed to be a suitable person to provide, such goods or services;
- (b) bona fide attempts have been made to identify others who provide the goods or services and to compare rates and service levels of such others compared with the Director's or Councillor's rates and service levels;
- (c) the goods or services are provided on arms-length terms;
- (d) the provision of the goods and services is disclosed clearly and expressly to the Members in the annual report of the Company; and
- (e) the Board agrees by ordinary resolution (excluding the interested Director) to the provision of the goods or services by the Director or Councillor.

17 Board composition requirements and Nominations Committee

- 17.1 As and from the adoption of this Constitution, there shall be a Nominations Committee, comprising, subject to clause 17.5, 3 Directors, 2 members of the Council and such other persons (if any) as determined by the Board.
- 17.2 The Nominations Committee shall be convened on an as-needs basis to review and assess the extent to which persons being considered for election and/or appointment to the Board fulfil the Director Eligibility Criteria and the Board Composition Requirements.
- 17.3 The Nominations Committee must report the results of its assessments referred to in clause 17.2 to the Full Voting Members in relation to Member Elected Directors and to the Board in relation to Board Appointed Directors as contemplated by clause 10.7(c).
- 17.4 In promulgating by-laws in relation to the composition and appointment of the Nominations Committee the Board must take in to account any recommendations of the Nominations Committee in relation to the content of those by-laws.
- 17.5 In addition to the requirements of clause 17.4 and any other criteria which may be set out in the by-laws, a person is only eligible for appointment to, and membership of, the Nominations Committee, if the person:
 - (a) is not a candidate being considered by the Nominations Committee for election (or re-election) or appointment (or reappointment) to the Board;
 - (b) has not at the relevant time been a member of the Nominations Committee for more than 5 years; and

(c) is not, and has not during the previous 12 month period been, an employee of the Company.

18 CEO

18.1 The Board may appoint any person, to the position of CEO, to act as chief executive officer of the Company for the period and on the terms (including as to remuneration) the Board see fit.

18.2 The Board may, upon terms and conditions and with any restrictions they see fit, confer on the CEO any of the powers that the Board can exercise.

18.3 The Board may at any time revoke or vary an appointment of, or any of the powers conferred on, the CEO.

18.4 If the CEO becomes incapable of acting in that capacity the Directors may appoint any other person, not being a Director, to act temporarily as CEO until such time as the position can be permanently filled.

19 Secretary

19.1 The Directors:

(a) must appoint a Secretary;

(b) may terminate the appointment of a Secretary;

(c) may determine the terms and conditions of appointment of the Secretary.

19.2 A Secretary shall be responsible to carry out all acts and deeds required by this Constitution, the Act or by law to be carried out by the secretary of the Company.

20 By-laws

20.1 The Board may by resolution make and adopt, or amend, by-laws with respect to any matter or thing for the purposes of giving effect to any provision of this Constitution or generally for the purposes of carrying out the objects of the Company, which by-laws shall be binding on the Members, provided that to the extent of any inconsistency, this Constitution shall prevail over all such by-laws.

21 Seals and execution of documents

- 21.1 If the Company has one, the Board must provide for the safe custody of the Seal.
- 21.2 The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by:
- (a) 2 Directors;
 - (b) a Director and the Secretary; or
 - (c) a Director and some other person appointed by the Directors for the purpose.
- 21.3 The Company may execute a document without the use of a seal if the document is signed by:
- (a) 2 Directors; or
 - (b) a Director and a Secretary.

22 Surplus assets on winding up or dissolution

- 22.1 Upon the winding up or dissolution of the Company or its endorsement as a deductible gift recipient being revoked (whichever first occurs), any remaining property after satisfaction of all debts and liabilities, must not be paid to or distributed among the Members, but must be given or transferred to some other charity which:
- (a) has objects similar to the objects of the Company; and
 - (b) whose constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of clause 6.1; and
 - (c) if the Company is endorsed as a deductible gift recipient, to which income tax deductible gifts can be made as a deductible gift recipient within the meaning of the *Income Tax Assessment Act 1997*,
- as determined by the Members at or before the time of winding up or dissolution of the Company and, in default of any determination, by the Supreme Court of New South Wales.

23 Indemnity**Liabilities to third parties**

23.1 Every officer and past officer of the Company is indemnified against a liability incurred by that person as an officer to a person other than the Company or a related body corporate, to the extent that the Company is not precluded by law (including the Act) from doing so.

Costs and expenses

23.2 Every officer and past officer of the Company is indemnified by the Company against a liability for costs and expenses incurred by that person as an officer other than:

- (a) in defending any proceedings, whether civil or criminal, in which judgement is made against the person or in which the person is found guilty;
- (b) in connection with any application in relation to those proceedings in which the Court does not grant relief to the person under the Act;
- (c) in defending or resisting proceedings in which the person is found to have a liability for which the person could not be identified under clause 23.1; or
- (d) in defending or resisting proceedings brought by the Australian Securities and Investments Commission after commencing proceedings for a court order or by a liquidator for a court order if the grounds for making the order are found by the court to have been established.

Insurance premiums

23.3 Unless prohibited by law, the Company may pay the premium on a contract insuring a person who is or has been an officer of the Company against:

- (a) a liability for costs and expenses incurred by the person in defending proceedings arising out of the person's conduct as an officer, whether civil or criminal and whatever their outcome; and
- (b) other liability incurred by the person as an officer of the Company except a liability which arises from conduct that involves a wilful breach of duty in relation to the Company or a contravention of sections 182 (misuse of position) or 183 (misuse of information) of the Act.

24 Accounts, audit and records**Accounts**

24.1 The Company must make and keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance; and
- (b) enable true and fair financial statements to be prepared and to be audited.

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

Audit

- 24.2 A registered Company auditor must be appointed.
- 24.3 The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.
- 24.4 The auditor or their representative is entitled to attend any general meeting and to be heard on any part of the business of the meeting which concerns the auditor. The auditor or their representative, if present at the meeting, may be questioned by the Members about the audit.

Rights of Inspection

- 24.5 Subject to the Act, the Board shall determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them are open to the inspection of Members other than Directors, and a Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by resolution of the Board.

25 Notices

Persons authorised to give notices

- 25.1 A notice given by either the Company or a Member in connection with this Constitution may be given on behalf of the Company or Member by a solicitor, or, in the case of the Company, by the Secretary or a Director.
- 25.2 The signature of a person on a notice given by the Company may be written, printed or stamped.

Method and time of giving notices

- 25.3 In addition to the method for giving notices permitted by statute, a notice by the Company or a Member in connection with this Constitution may be given by:
 - (a) delivering it to the street address of the addressee and shall be taken to have been received at the time of delivery;

- (b) sending it by prepaid express post (airmail if outside Australia) to a street or postal address of the addressee and shall be taken to have been received on the next business day (or 5th business day if sent outside Australia) after posting;
- (c) sending it by post, other than express post, to the street or postal address of the addressee in Australia, shall be taken to have been received on the 5th business day after posting;
- (d) sending it by e-mail to the e-mail address of the addressee and shall be taken to have been received when the transmission is complete; or
- (e) sending it by means of any other technology including making it available in electronic form on a website which the Members in general meeting agree to be permissible for the purpose of giving notices.

Addresses for giving notices to Members and to the Company

25.4 For the purposes of clause 25.3:

- (a) The address, facsimile, email or other contact details of a Member are the last details formally notified by the Member to the Company with a request that they be recorded in the Register or the other records of the Company.
- (b) The street and postal address of the Company is the registered office of the Company and the facsimile, e-mail or other contact details are as the Company may specify from time to time by written notice to the Members as the contact details for the Company.

Persons entitled to notice of meeting

25.5 Notice of every general meeting must be given by a method authorised by this Constitution to every Member, Director and the auditor for the time being of the Company, if any. No other person is entitled to receive notices of general meetings.

26 Interpretation

References to law and the Constitution

26.1 A reference to:

- (a) any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation; or
- (b) this Constitution, where amended, means this Constitution as so amended.

Replaceable rules

26.2 Each of the provisions of the Act which would but for this clause apply to the Company as a replaceable rule within the meaning of the Act are displaced and do not apply to the Company.

Presumptions of interpretation

26.3 Unless the context otherwise requires a word which denotes:

- (a) the singular denotes the plural and vice versa;
- (b) any gender denotes the other genders; and
- (c) a person denotes an individual and a body corporate.

26.4 Where a word or phrase is given a defined meaning any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

26.5 Headings and any table of contents must be ignored in the interpretation of this Constitution.

26.6 Unless the context otherwise requires a reference to a time of day means that time of day in the state or territory in which the Company's registered office is situated.

26.7 For the purposes of determining the length of a period (but not its commencement) a reference to:

- (a) a day means a period of time commencing at midnight and ending 24 hours later; and
- (b) a month means a calendar month which is a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of that next month.

26.8 Where a period of time is specified and is to be calculated before or after a given day, act or event it must be calculated without counting that day or the day of that act or event.

26.9 A provision of this Constitution, except that specifying the time for deposit of proxies with the Company, which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.

- 26.10 A reference to a business day means a day during which banks are open for general banking business in the state or territory in which the Company's registered office is situated.
- 26.11 A reference to an Act of Parliament, whether State or Federal, includes a reference to that Act of Parliament as amended from time to time, and a reference to a specific provision of an Act of Parliament means, unless the context demands otherwise, a reference to the equivalent provision in any later amended version of that Act of Parliament, or if the original Act of Parliament has been repealed in any Act of Parliament substituted in its place.

27 Definitions

- 27.1 In this Constitution, except where the context requires otherwise:

ACNC Act means the Australian Charities and Not-for-profit Commission Act 2012.

ACNC Governance Standards means the governance standards prescribed by Division 45 of the Australian Charities and Not-for-profit Commission Regulation 2013.

ACNC Registered Entity means an entity which is registered under the ACNC Act.

Act means the Corporations Act 2001.

Annual Subscription Fees means an amount referred to in clause 4.2.

Board means the board of Directors of the Company referred to in clause 10.

Board Appointed Director means a Director appointed to the Board, pursuant to clause 10.11 and otherwise in accordance with this Constitution.

Board Composition Requirements means the requirements from time to time set out in by-laws promulgated by the Board in relation to the preferred composition of skills and other competencies within the Board.

books has the same meaning as in the Act and includes any record of information in written, digital or other form approved by the Board.

CEO means the chief executive, referred to in clause 18.

Class of Membership or Classes of Membership means to the different classes of Full Voting Members and Life Members (referred to in clause 3.2).

Company means Australian Council on Healthcare Standards Limited ACN 008 549 773.

Council means the body of Member Representatives convened from time to time in accordance with clause 13.

Council By-Laws means the by-laws relating to the conduct of the affairs of Council referred to in clause 14.5.

Councillor means a Representative of a Full Voting Member.’

Councillor Eligibility Criteria means the criteria set out in by-laws promulgated by the Board in relation to the eligibility of persons for election to the Council.

Director means a person elected or appointed to the Board in accordance with this Constitution to perform the duties of a director of the Company.

Director Eligibility Criteria means the criteria set out in by-laws promulgated by the Board in relation to the eligibility of persons for election or appointment to the Board.

Full Voting Members means those Members admitted to Membership pursuant to clause 3.3.

Life Member means a Member of the kind referred to in clause 3.4.

Member means the persons that, at the relevant time, are Full Voting or Life Members of the Company admitted in accordance with this Constitution and ‘**Membership**’ shall have a corresponding meaning.

Member Elected Director means a Director appointed to the Board by the Full Voting Members in accordance with this Constitution.

Nominations Committee means the committee formed from time to time pursuant to clause 17.

Organisation means an organisation which meets the criteria from time to time prescribed by the Board in respect of its formation as a legally recognised organisation including without limitation State or Territory Health Departments, other government departments, universities or university faculties, discrete hospital or health services etc.

President means the chairperson of the Board, elected from time to time in accordance with this Constitution and/or, in relation to proceedings of the Council, the chairperson of the Council designated or elected from time to time in accordance with this Constitution.

Register means the register of Members kept by the Company under the Act.

Representative means, in relation to a Member, the duly appointed representative of the Member appointed under clause 9.

Seal means the common seal of the Company, if any.

Secretary means a person appointed to perform the duties of a secretary of the Company.