

## **CONSTITUTION OF**

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# **Bundaberg Friendly Society Medical Institute Limited ACN 087 649 223**

### **HISTORY OF AMENDMENTS/PROPOSED CHANGES**

- 24.10.2006 – new r 37-39 and associated definitions
- 19.11.2018 – proposed changes as per Notice of Meeting dated 26.10.2018 incorporated assuming resolutions pass on 19.11.2018

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**CORPORATIONS LAW**

Company Limited by Shares and by Guarantee

**CONSTITUTION**

of

**Bundaberg Friendly Society Medical Institute Limited**

**ACN 087 649 223**

**1. NAME OF COMPANY**

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- 1.1 The name of the company is Bundaberg Friendly Society Medical Institute Limited ('Company').

**2. OBJECTS AND NON-PROFIT NATURE OF COMPANY**

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- 2.1 The objects for which the Company is established are:

- (a) to provide health and welfare benefits, services facilities and products for Members, including but not limited to hospital, medical, dental, pharmaceutical, nursing, optical, physiotherapy and speech therapy benefits, services and facilities;
- (b) to provide benefits, services and facilities for the relief and maintenance of Members in the case of birth, death, sickness, disability, accident, retirement, old age and unemployment;
- (c) to provide benefits, services and facilities for the education of Members;
- (d) to provide financial and investment benefits, services and facilities for Members including, but not limited to, benefits, services and facilities relating to annuities, life insurance and superannuation;
- (e) to sell or supply medical requisites and therapeutic goods and dispense or sell medicines to members of the public generally, whether Members of the Company or not, in the same manner and to the same extent a pharmacist registered under the Queensland Pharmacy Act 1976-1987 may so sell, supply or dispense, provided the practice of pharmacy is under the actual personal supervision of a pharmacist registered under the Queensland Pharmacy Act 1976-1987;
- (f) to provide or manage social facilities, social function and leisure services for Members;
- (g) to appoint agents to act on it's behalf;
- (h) to act as an agent of it's Members and receive commission in that capacity;
- (i) to enter into a joint venture with any other body corporate, person or corporation;

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- (j) to invest the funds of the Company or any part thereof in the purchase of land or the erection of buildings on land however acquired, for the purpose of providing hospitals, sanatoria, homes, orphanages or dispensaries for Members;
- (k) to subscribe out of its management fund or any other fund expressly provided for the purpose to any hospital, dispensary, old people's home, or charitable or provident institution any annual or other sum necessary to secure to Members the benefits of such hospital, dispensary, infirmary, old people's home, or charitable or provident institution according to the Company's Constitution;
- (l) to seek or encourage gifts, donations, endowments or bequests to the Company;
- (m) to do all such things as are, in the opinion of the Board of the Company, ancillary or conducive to the attainment of all or any of the above objects; and
- (n) to provide reduced cost on dispensed medicines, therapeutical goods, medical requisites and any other goods and services to Members and to members of the public as approved and determined by the Board from time to time.

2.2 Each of the above objects constitutes a separate object of the Company, and no such object shall be construed by reference to any other such object.

2.3 The powers of the Company are:

- (a)
  - (i) to provide, conduct and operate private hospital services and facilities including ancillary services and facilities relating to the operation of a private hospital;
  - (ii) to carry on the practice of pharmacy and employ pharmacists who are registered under the pharmacy law of the relevant state or territory;
  - (iii) to subscribe to, become a member of and co-operate with or amalgamate with any other company, club, association or organisation, whether incorporated or not, whose objects are altogether or in part similar to those of the Company;
  - (iv) to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, clubs, associations or organisations with which the Company is authorised to amalgamate; and
  - (v) to transfer all or any part of the property, assets, liabilities and engagements of the Company to any one or more of the companies, clubs, associations or organisations with which the Company is authorised to amalgamate,

but the Company shall only subscribe to and support with its funds or amalgamate with any company, club, association or organisation which prohibits the distribution of its income and property amongst its Members to

## Constitution of Bundaberg Friendly Society Medical Institute Limited

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an extent at least as great as that imposed on the Company under or by virtue of **rule 12** of this Constitution;

- (b) to co-ordinate, initiate and undertake efforts for the raising of funds for its objects including without limitation take such steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purpose of procuring contributions to the Company by way of donations, sponsorships, annual subscriptions, levies or otherwise;
- (c) in furtherance of the objects of the Company to buy, sell and deal in all kinds of commodities and provisions, both liquid and solid, for or to the Members of the Company or persons entering, visiting or using the Company's premises;
- (d) to fairly impose and collect Membership fees and affiliation fees from Members of the Company and fees from Members of the Company and other persons for use of the Company's premises, property and assets and for entering or visiting the Company's premises. The Board may at its sole discretion exempt from payment (or part payment) and Membership fees and affiliation fees from Members or groups of Members;
- (e) to appoint such honorary staff, paid administrators and professional advisers as may be appropriate from time to time;
- (f) to appoint, employ, remove or suspend such Boards, clerks, secretaries, servants, workmen and other person as may be necessary or convenient for the purposes of the Company;
- (g) to remunerate any person or body corporate for services rendered or to be rendered, and whether by way of brokerage or otherwise in placing or assisting to place or guaranteeing the placing of any unsecured notes, debentures or other securities of the Company or promotion of the Company or in furtherance of its objects;
- (h) to promote and hold either alone or together with any other company, club, association or organisation meetings and displays and, without limitation, take any action considered necessary to further the objects and be in the interests of the Company;
- (i) to make rules and by-laws for the better carrying out of its objects and to equitably enforce such rules;
- (j) to suspend, terminate, disqualify or otherwise cause to be dealt with any Member of the Company who has committed a breach of the Constitution of the Company, or of any of its rules and by-laws or for any action considered to be unfair, unbecoming or contrary to the interests, ideals or objects of the Company,
- (k) to form subcommittees or organisational sections or units to assist in the execution of its objects;
- (l)
  - (i) to purchase, take on lease, or in exchange, hire and otherwise acquire any land, buildings, easements or property, real and personal, and any rights or privileges which may be requisite for

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the purpose of, or capable of being conveniently used in connection with, any of the objects of the Company; and

- (ii) where the Company takes or holds any property subject to a trust, to only deal with it in such manner as is allowed by law having regard to the trust;
- (m) to enter into any arrangements with any government or authority that are incidental or conducive to the attainment of the objects and any rights, privileges and concessions which the Company may think it desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (n) to construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which seem calculated directly or indirectly to advance the Company's interests and to contribute to subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control of them;
- (o) to invest and deal with the money of the Company not immediately required in such manner as the Company thinks fit;
- (p) to take or otherwise acquire and hold securities, debentures or other securities of any company or body corporate;
- (q) to lend and advance money or give credit to any person or body corporate, to guarantee and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or body corporate and otherwise to assist any person or body corporate in furtherance of the objects of the Company;
- (r) to borrow or raise money either alone or jointly with any other person or legal entity in such manner as the Company thinks fit and to secure the same or the repayment of performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Company in any way and in particular by the issue of debenture perpetual or otherwise charged upon all or any of the Company's property (both present and future), and to purchase, redeem and pay off such securities;
- (s) to make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (t) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Company in furtherance of the objects of the Company;
- (u) to take or hold mortgages, liens or charges, to secure payment of the purchase price, or any unpaid balance of the purchase price of any kind of the Company's property of whatever kind sold by the Company or any money due to the Company from purchasers and others;
- (v) to take any gift of property whether subject to any special trust or not, for any one or more of the objects of the Company;

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- (w) to insure against all risks, liabilities and eventualities as may seem advisable and to apply the proceeds of any claim under any insurance in such manner and for such purpose or purposes as may be thought fit;
- (x) to print and publish any articles, releases, newspapers, periodicals, books or leaflets that the Company may think desirable for the promotion of its objects;
- (y) to give or contribute towards the giving of gifts, prizes, medals, awards or trophies and make donations for patriotic, charitable or community purposes; and
- (z) to do all such things as are incidental and conducive to the attainment of the objects and the exercise of the powers of the Company.

### **2.4**

- (a) The income and property of the Company, wherever derived, shall be applied solely towards the promotion of the objects of the Company as set out in this Constitution.
- (b) No portion of the income and property of the Company shall be paid or transferred, directly, indirectly, by way of dividend, bonus or otherwise by way of profit, to the Members of the Company.
- (c) Nothing in this Constitution shall prevent:
  - (i) the payment, in good faith, of reasonable and proper remuneration to any officer or servant of the Company, or to any Member or member of the Board of the Company, in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;
  - (ii) the payment of interest at a rate not exceeding interest at the rate for the time being charged by the Company's bankers for overdrawn accounts on money borrowed from a Member of the Company;
  - (iii) reasonable and proper rent for premises demised or let by any Member of the Company.

2.5 The liability of the members is limited.

2.6 Each Member of the Company who becomes a Member of the Company after adoption of this Constitution undertakes to contribute to the assets of the Company in the event of its being wound up while he is a Member or within one year after he ceases to be a Member for the payment of the debts and liabilities of the Company contracted before he ceases to be a Member and of the costs charges and expenses of winding up and for adjustment of the rights of the contributors among themselves such amount as may be required not exceeding \$2.00 per Member.

2.7 The Company shall not carry on business for the purpose of profit or gain to its individual Members and is prohibited from making a distribution whether in money, property or otherwise to its Members.

2.8 Intentionally deleted.



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- 2.9 The Company has the power to issue or allot fully or partly paid securities to any person or corporation.
- 2.10 Nothing in this Constitution shall prohibit the Company from providing its Members with Benefits.

### 3. PRELIMINARY

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- 3.1 Replaceable Rules do not apply to the Company.

#### Definitions

- 3.2 In this Constitution except to the extent that the context otherwise requires:

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

'**ACNC Entity**' means a body corporate registered under the ACNC Act.

'**Act**' means either the ACNC Act or the Law, as the context dictates.

'**Benefits**' includes the provision of services and products to Members at a discount or at a price less than that charged to other persons (non-Members) but shall not include the payment or distribution of cash;

'**Board**' means the Directors for the time being of the Company;

'**business day**' means a day on which banks (as that term is defined in the Banking Act 1959) are open for business in Bundaberg;

'**call**' includes any instalment of a call and any amount due on allotment of any share;

'**Chairman**' includes an acting Chairman under **rule 18.5**;

'**Class of Membership**' means a class of membership as described in clause 4.2 (b);

'**Committee**' means a committee to which powers have been delegated by the Board pursuant to **rule 27.7**;

'**Company**' means **Bundaberg Friendly Society Medical Institute Limited**;

'**Constitution**' means the Constitution for the time being of the Company;

'**Deductible Gift Recipient**' has the same meaning as in the Income Tax Assessment Act 1997;

'**Director**' means a person appointed or elected from time to time to the office of Director of the Company in accordance with these rules and includes any alternate Director duly acting as a Director;

'**Excluded Provisions**' has the meaning provided for in rule 3.5(b);

**'Full (Lodge) Member'** means a person who was a full member of the Company as at 31 December 2018 by virtue of having been a member of a lodge or a member of a past lodge associated with the Company;

**'Gift Certificate'** means a certificate issued by the Company allowing credit against goods or services sold by the Company on terms determined by the Board from time to time;

**'Governing Body'** means Hospital Governing Body consisting of the Governing Body Members for the time being of the Company;

**'Governing Body Member'** the persons appointed from time to time to the office of Governing Body Member of the Company in accordance with these rules;

**'Hospital'** means any hospital forming part of the operations of the Company from time to time including where the context permits, any inpatient/day service;

**'Law'** means the *Corporations Act 2001* (Cth) and the *Corporations Regulations* (as defined in the *Corporations Act 2001* (Cth)) or the ACNC Act as the context dictates);

**'Managing Director'** means the Director appointed by the Board in accordance with **rule 26**;

**'Member'** means any person who becomes a Member of the Company in accordance with this Constitution provided that this term will only apply to a particular Class or Classes of Membership where the case requires or permits having regard to any particular restrictions or rights attaching to that Class of Membership;

**'Office'** means the registered office from time to time of the Company;

**"Pharmacy"** means any pharmacy operated by the Company from time to time;

**"Pharmacy Product"** means any products sold by any Pharmacy except for:

- (a) already discounted items or special promotions/offers; and
- (b) sleep apnea medications or prescriptions; and
- (c) any other products as determined by the Board from time to time;

**'person'** and words importing persons include partnerships, associations and corporations unincorporated and incorporated by Ordinance, Act of Parliament or registration as well as individuals;

**'Register'** means the register of security holders and Members of the Company;

**'Registered address'** means the address of a security holder specified on a transfer in the Register or any other address of which the security holder or Member notifies the Company as a place at which the security holder or Member will accept service of notices;

**'Relevant Fee'** means the application fee or annual fee payable for a Class of Membership set by the Board from time to time but initially to be as follows:

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- (a) Bronze Member – a one off application fee of \$1.00 inclusive of GST.
- (b) Silver Member – an annual fee of \$50.00 inclusive of GST payable yearly in advance on acceptance of an application for Membership.
- (c) Gold Member – nil.

**'relevant interest'** has the meaning provided in section 9 of the Law;

**'Replaceable Rules'** means all or any of the replaceable rules contained in the Law from time to time and includes any replaceable rule that was or may become, a provision of the Law;

**'Retiring Director'** means a Director who is required to retire under **rule 25** and a Director who ceases to hold office under **rule 24.1**;

**'rules'** means the rules of this constitution as altered or added to from time to time;

**'Seal'** means the common seal if any, from time to time of the Company;

**'Secretary'** means a person appointed as secretary of the Company and includes any person appointed to perform the duties of secretary;

**'securities'** includes securities, rights to securities, options to acquire securities and other securities with rights of conversion to equity;

**'security holder'** means a Member and holder of securities of the Company in accordance with the Law;

**'security holders present'** means security holders present at a general meeting of the Company in person or by duly appointed representative, proxy or attorney;

**'security holding account'** means an entry made in the Register in respect of a security holder for the purpose of providing a separate identification of some or all of the securities registered from time to time in the name of the security holder;

**'special resolution'** has the meaning assigned to it under the Law;

**'writing'** and **'written'** includes printing, typing, lithography and other modes of reproducing words in a visible form;

### Interpretation

- 3.3 In this Constitution except to the extent that the context otherwise requires:
- words importing persons include partnerships, associations and corporations, unincorporated and incorporated;
  - words of the plural number include the singular and vice-versa; and
  - words importing a gender include each other gender.
- 3.4 The headings do not affect the construction of this Constitution.

### **3.5 Replaceable Rules and ACNC Entity provisions**

- (a) If the provisions of the Law or the ACNC Act conflict with the terms of this Constitution on the same matter, the provisions of the relevant Act prevail to the extent of the conflict.
- (b) If the Company is an ACNC Entity and the Law operates such that a provision of the Law specifically included or referred to in this Constitution does not apply to the Company because it is an ACNC Entity (**Excluded Provision**):
  - (i) a provision in the same terms (together with relevant definitions in the Law) as the Excluded Provision is deemed to be included in this Constitution; and
  - (ii) the Excluded Provision (together with relevant definitions in the Law) apply to the Company to the extent that the Excluded Provision would apply to the Company if it was not an ACNC Entity.

## **4. MEMBERSHIP**

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### **Admission of Members**

4.1 Subject to **rules 4.2 to 4.19**, the subscribers of the Company, those persons who were Members as at the date of adoption of this Constitution and such other persons as the Board admits to Membership in accordance with this Constitution shall be Members of the Company.

4.2 Membership of the Company shall consist of:-

- (a) security holders;
- (b) Members, being individuals but categorised into the following classes:
  - (i) Bronze Member;
  - (ii) Silver Member;
  - (iii) Gold Member,

subject to the rights and restrictions set out in clause 4.2A and subject to the criteria for membership for that class set out in clause 4.2B (each a **Class of Membership**).

### **4.2A Rights and restrictions attached to Class of Membership**

- (a) **Bronze Members** shall be entitled to the following rights and subject to the following restrictions:
  - (i) a right to receive discounts on Pharmacy Products purchased by the Member at a rate determined by the Board from time to time, but initially at a rate of 15%;
  - (ii) such other Benefits (including Gift Certificates) to be conferred on this Class of Membership as determined by the Board from time to time;

- (iii) a right to receive notice of any general meeting of the Company;
  - (iv) no right to vote as set out in this Constitution.
- (b) **Silver Members** shall be entitled to the following rights and subject to the following restrictions:
- (i) a right to receive discounts on Pharmacy Products purchased by the Member at a rate determined by the Board from time to time, but initially at a rate of 15%;
  - (ii) such other Benefits (including Gift Certificates) to be conferred on this Class of Membership as determined by the Board from time to time;
  - (iii) a right to receive notice of any general meeting of the Company;
  - (iv) a right to vote as set out in this Constitution.
- (c) **Gold Members** shall be entitled to the following rights and subject to the following restrictions:
- (i) a right to receive discounts on Pharmacy Products purchased by the Member at a rate determined by the Board from time to time, but initially at a rate of 15%;
  - (ii) such other Benefits (including Gift Certificates) to be conferred on this Class of Membership as determined by the Board from time to time;
  - (iii) a right to receive notice of any general meeting of the Company;
  - (iv) a right to vote as set out in this Constitution.

#### **4.2B Criteria for Membership**

- (a) The qualifying criteria for admission to each Class of Membership is set out below:
- (i) **Bronze Member:** a person who:
    - (A) subject to clause 4.2C, applies for Membership of that Class and pays the Relevant Fee after 1 January 2019:
  - (ii) **Silver Member:** a person who:
    - (A) applies for Membership of that Class and pays the Relevant Fee after 1 January 2019:
  - (iii) **Gold Member:** a person who:
    - (A) was a Full (Lodge) Member as at midnight on 31 December 2018 either alone or as a couple membership; and
    - (B) subject to clause 4.2C, applies for Membership and pays the Relevant Fee after 1 January 2019.

**4.2C Transitional Rules for Classes of Membership**

- (a) In this clause, 'Member' has the meaning of 'Member' under the Constitution of the Company before amendment to create the Classes of Membership provided by clauses 4.2A and 4.2B of this Constitution.
- (b) The following transitional rules for Classes of Membership apply:
  - (i) Any person who was a Member and also a Full (Lodge) Member as at midnight on 31 December 2018 will automatically become a Gold Member on 1 January 2019 and the Relevant Fee required to become a Gold Member (if any) will be waived. For the avoidance of doubt, for any Full (Lodge) Member that had a couple membership, each couple will transition so as to have its own Gold Membership;
  - (ii) All other persons who were Members as at midnight on 31 December 2018 (not being Full (Lodge) Members), will automatically become Bronze Members on 1 January 2019 and the Relevant Fee required to become a Bronze Member will be waived, unless that Member:
    - (A) applies for Membership as a Silver Member; and
    - (B) pays the Relevant Fee,in which case that Member will become a Silver Member.
  - (iii) A Member who becomes a Bronze Member on 1 January 2019 who has paid any membership fees relating to a period after 1 January 2019 (**Overpaid Membership Fees**), will be entitled upon written request to the Company to receive credit for any Pharmacy Products to an equal value to the Overpaid Membership Fees.

4.3 Each application for Membership shall be made in writing to the Company in such form as the Board may from time to time determine. The Board may in its absolute discretion admit or refuse admission of any applicant to Membership.

4.4 Intentionally deleted.

4.5 Each person applying for Membership shall, in conjunction with the application for Membership, pay to the Secretary a donation or an application fee which is at least the amount determined by the Board for the class of Membership applied for, together with any applicable annual subscription. If the Membership applied for is not granted then all money so paid by the applicant shall be refunded to him by the Company.

4.6 Intentionally deleted.

4.7 Membership of the Company is not transferable, the rights, privileges or benefits of Membership of the Company being personal to the Member.

**4.8 Intentionally deleted.**

- 4.9 The Board shall cause to be kept in accordance with the requirements of the Law a Register of Members and security holders of the Company and such Registers shall contain the following particulars:
- (a) the name and address of each Member and security holder and a description of the type of Membership and security held;
  - (b) the date on which the name of each Member and security holder was entered in the Register;
  - (c) the date on which a Member ceased to be a Member or security holder ceased to hold securities.

**Termination of Membership**

- 4.10 Membership of the Company will terminate upon the death of the Member or as otherwise provided in this Constitution.
- 4.11 A Member may terminate his Membership of the Company by giving notice in writing to the Secretary and that termination will be effective on the date of receipt of the notice by the Secretary.
- 4.12 The Board may by resolution censure, fine, suspend or expel from the Company a Member on the grounds that:
- (a) the Member wilfully refuses or neglects to comply with the provisions of the Constitution or Constitution; or
  - (b) the Member is guilty of conduct which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interests of the Company.
- 4.13 Where a Member's Membership rights are to be terminated by resolution of the Board, the Board must give that Member:
- (a) at least one week's notice of the meeting, the substance of the allegations against him and the intended resolution; and
  - (b) an opportunity of lodging a written explanation or defence with the Secretary at least 24 hours before the meeting to consider his expulsion.
- 4.14 If the full amount of the annual subscription fee for a Member is not received by the Secretary within 28 days after the due date for payment, the Membership of the Member shall without any further action lapse.
- 4.15 A Member who for whatever cause ceases to be a Member of the Company shall not have any claim, monetary or otherwise, on the Company's funds or property.
- 4.16 Intentionally deleted.
- 4.17 Upon ceasing to be a Member of the Company the Member shall:
- (a) remain liable for any monies due to the Company and unpaid at the date of his ceasing to be a Member; and
  - (b) if the Member is also a security holder, the Member shall transfer the securities held by the Member to a Member nominated by the Board.

- 4.18 If a Member fails to comply with a direction by the Board pursuant to **rule 4.17((b))** the Board may:
- (a) appoint a person to execute on behalf of the security holder the transfer of the securities and to receive and to give a good discharge for the purchase money;
  - (b) register the transfer notwithstanding that the certificates for the securities may not have been delivered to the Board, and issue a new certificate to the transferee, in which event the previous certificates shall be deemed to have been cancelled.

The purchase money in respect of the securities so sold less the expenses of sale shall be paid to the person in whose name the securities were registered immediately prior to the sale thereof. After the purchaser's name has been entered into the Register in respect of the securities, the title of the purchase to the securities shall not be called into question on any legal ground in relation to the terms of this rule.

- 4.19 Notwithstanding anything else contained in this Constitution, where a Member's Membership has been terminated or lapsed, the Board may at its total and unfettered discretion reinstate that Member's Membership subject to such conditions (if any) the Board considers appropriate.

## **5. SECURITIES**

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### **5.1 Issue of Securities and Options**

Without prejudice to any special rights conferred on the holders of any securities, any share in the capital of the Company may be issued with preferred, deferred or other special rights, obligations or restrictions, whether in regard to voting, payment of calls or otherwise, as the Board may from time to time determine. Except as provided by contract or these rules to the contrary, all unissued securities are under the control of the Board which may grant options on the securities, issue option certificates in respect of the securities, allot or otherwise dispose of the securities on the terms and conditions and for the consideration it thinks fit. The Company is to maintain a register of options in accordance with the Law.

### **5.2 Power to Pay Commission and Brokerage**

The Company may pay a commission to any person in consideration of the person subscribing or agreeing to subscribe, whether absolutely or conditionally, for any securities in the Company, or procuring or agreeing to procure subscriptions, whether absolutely or conditionally, for any securities in the Company. The commission may be paid or satisfied in cash or in securities, debentures or debenture stock of the Company or otherwise. The Company may in addition to or instead of commission pay any brokerage permitted by law.

### **5.3 Surrender of Securities**

In its discretion, the Board may accept a surrender of securities by way of compromise of any question as to whether or not those securities have been validly issued or in any other case where the surrender is within the powers of the Company. Any securities surrendered may be sold or re-issued in the same manner as forfeited securities.



#### **5.4 Joint Holders**

Where 2 or more persons are registered as the holders of any securities, they are deemed to hold the securities as joint tenants with benefits of survivorship subject to the following provisions:

- (a) (Number of Holders) - the Company is not bound to register more than 3 persons as the holders of the securities (except in the case of trustees, executors or administrators of a deceased security holder);
- (b) (Liability for Payments) - the joint holders of the securities are liable severally as well as jointly in respect of all payments which ought to be made in respect of the securities;
- (c) (Death of Joint Holder) - on the death of any one of the joint holders, the survivor is the only person recognised by the Company as having any title to the securities but the Board may require evidence of death;
- (d) (Power to Give Receipt) - any one of the joint holders may give a receipt for any dividend, bonus or return of capital payable to the joint holders;
- (e) (Notices and Certificates) - only the person whose name stands first in the Register as one of the joint holders of the securities is entitled, if the Company is required by the Law to issue certificates for securities, to delivery of a certificate relating to the securities or to receive notices from the Company and any notice given to that person is deemed notice to all the joint holders;
- (f) (Votes of Joint Holders) - any one of the joint holders may vote at any meeting of the Company either personally or by duly authorised representative, proxy or attorney, in respect of the securities as if that joint holder was solely entitled to the securities. If more than one of the joint holders are present at any meeting personally or by duly authorised representative, proxy or attorney, the joint holder who is present whose name stands first in the Register in respect of the securities is entitled alone to vote in respect of the securities.

#### **5.5 Non-recognition of Equitable Interests, etc.**

Except as otherwise provided in these rules, the Company is entitled to treat the registered holder of any share as the absolute security holder of the share and is not, except as ordered by a Court or as required by statute, bound to recognise (even when having notice thereof) any equitable or other claim to or interest in the share or the part of any other person.

#### **5.6 Issue of redeemable preference securities**

Subject to the Law, any preference securities may be issued on the terms that they are, or at the option of the Company, are liable to be redeemed.

#### **5.7 Issue of new preference securities**

The rights conferred upon the holders of the securities of any class issued with preferred or other rights are, unless otherwise expressly provided by the terms of issue of the securities of that class, deemed not to be varied by the creation or issue of further securities ranking equally with the first-mentioned securities or with the rights of Members.

## **6. CERTIFICATES**

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### **6.1 Availability of certificates**

Notwithstanding **rule 5.4((e))**, it is a condition of issue of any securities that the Company need not have ready for delivery any certificate relating to those securities unless the person who is registered as the current holder of the securities makes a request in writing for the Company to complete and deliver the share certificates in which case the Company must do so within one calendar month of receipt by the Company of such a request. Where the Company is required to issue certificates for securities, every security holder is entitled, without payment, to one certificate for the securities registered in that security holder's name or to several certificates in reasonable denominations, each for a part of the securities.

### **6.2 Forwarding of certificates**

The Company may send any certificate to a security holder by prepaid post addressed to the security holder at that security holder's Registered address or as is otherwise directed by the security holder and every certificate so sent shall be at the risk of the security holder entitled thereto.

### **6.3 How certificates are issued**

If the Board wishes to issue certificates for securities, or where the Company is required by the Law to issue certificates for securities, security certificates may be issued under the Seal or by authority of the Board (whether or not in accordance with **rule 29.3**) in any form prescribed by the Board permitted under the Law and are to be signed in any manner determined by the Board.

### **6.4 Old or defaced certificates**

If a certificate is worn out or defaced, upon production of the certificate to the Company, the Board may order it to be cancelled and may issue a new certificate.

### **6.5 Indemnity to Company**

If a certificate is lost, stolen or destroyed, upon the giving of such indemnity (if any) and any evidence that the certificate has been lost, stolen or destroyed which the Board may require and upon the payment of any fee the Board may from time to time determine, a new certificate may be issued instead of the lost, stolen or destroyed certificate. A certificate issued to replace a certificate which has been lost, stolen or destroyed may be endorsed as having been issued instead of a lost, stolen or destroyed.

## **7. CALLS**

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### **7.1 Power to Make calls**

Subject to the terms upon which any securities may have been issued, the Board may make calls from time to time upon the security holders in respect of all moneys unpaid on their securities. Each security holder is liable to pay the amount of each call in the manner, at the time and at the place specified by the Board. Calls may be made payable by instalments.

**7.2 Obligation for calls**

The Company may make arrangements on the issue of securities for a difference between the holders of those securities in the amount of calls to be paid and the time of payment of the calls.

**7.3 When a Call is Made**

A call is deemed to have been made at the time when the resolution of the Board authorising the call was passed. The call may be revoked or postponed at the discretion of the Board at any time prior to the date on which payment in respect of the call is due.

**7.4 Interest on the Late Payment of calls**

If any sum payable in respect of a call is not paid on or before the date for payment, the security holder from whom the sum is due is to pay interest on the unpaid amount from the due date to the date of payment at the rate the Board from time to time determines. The Board may waive the whole or part of any interest paid or payable under this rule.

**7.5 Instalments**

If, by the terms of an issue of securities, any amount is payable in respect of any securities by instalments, every instalment is payable as if it is a call duly made by the Board of which due notice had been given, and all provisions of these rules with respect to the payment of calls and of interest or to the forfeiture of securities for non-payment of calls or with respect to liens or charges apply to the instalment and to the securities in respect of which it is payable.

**7.6 Payment in Advance of calls**

If the Board thinks fit it may receive from any security holder all or any part of the moneys unpaid on all or any of the securities held by that security holder beyond the sums actually called up and then due and payable either as a loan repayable or as a payment in advance of calls. The Company may pay interest on the moneys advanced at the rate and on the terms agreed by the Board and the security holder paying the sum in advance.

**7.7 Non-receipt of Notice of Call**

Notice of any call is to be in writing including such information as the Law may require, but the non-receipt of a notice of any call by, or the accidental omission to give notice of any call to, any security holder does not invalidate the call.

**8. FORFEITURE AND LIEN**

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**8.1 Notice Requiring Payment of Sums Payable**

If any security holder fails to pay any sum payable on or in respect of any securities, either for allotment money, calls or instalments, on or before the day for payment, the Board may, at any time after the day specified for payment whilst any part of the sum remains unpaid, serve a notice on the security holder requiring that security holder to pay the sum together with interest accrued and all expenses incurred by the Company by reason of the non-payment.

## **8.2 Time and Place for Payment**

The notice referred to in **rule 7.1** is to name a day on or before which the sum, interest and expenses (if any) are to be paid and the place where payment is to be made. The notice is also to state that, in the event of non-payment at or before the time and at the place specified, the securities in respect of which the sum is payable will be liable to be forfeited.

## **8.3 Forfeiture on Non-compliance with Notice**

If there is non-compliance with the requirements of any notice given pursuant to **rule 8.1**, any securities in respect of which notice has been given may, at any time after the day specified in the notice for payment whilst any part of allotment moneys, calls, instalments, interest and expenses (if any) remains unpaid, be forfeited by a resolution of the Board to that effect. The forfeiture is to include all dividends, interest and other moneys payable by the Company in respect of the forfeited securities and not actually paid before the forfeiture.

## **8.4 Notice of Forfeiture**

When any share is forfeited, notice of the resolution of the Board is to be given to the security holder in whose name it stood immediately prior to the forfeiture, and an entry of the forfeiture and the date of forfeiture is to be made in the Register. Failure to give notice or make the entry as required by this rule does not invalidate the forfeiture.

## **8.5 Disposal of Forfeited Securities**

Any forfeited share is deemed to be the property of the Company and the Board may sell or otherwise dispose of or deal with the share in any manner it thinks fit and with or without any money paid on the share by any former holder being credited as paid up.

## **8.6 Annulment of Forfeiture**

The Board may, at any time before any forfeited share is sold or otherwise disposed of, annul the forfeiture of the share upon any condition it thinks fit.

## **8.7 Liability Notwithstanding Forfeiture**

Any security holder whose securities have been forfeited is, notwithstanding the forfeiture, liable to pay and is obliged forthwith to pay to the Company all sums of money, interest and expenses owing upon or in respect of the forfeited securities at the time of forfeiture, together with expenses and interest from that time until payment at the rate the Board from time to time determines. The Board may enforce the payment or waive the whole or part of any sum paid or payable under this rule as it thinks fit.

## **8.8 Company's Lien or Charge**

The Company has a first and paramount lien or charge for unpaid calls, instalments, interest due in relation to any calls or instalments and any amounts the Company is called upon by law to pay in respect of the securities of a security holder upon securities registered in the name of the security holder in respect of which the calls, instalments and interest are due and unpaid (whether presently payable or not) or in

respect of which the amounts are paid and upon the proceeds of sale of the securities.

#### **8.9 Sale of Securities to Enforce Lien**

The Company may do all such things as may be necessary or appropriate for it to do to effect a transfer or to protect any lien, charge or other right to which it may be entitled under any law or these rules.

#### **8.10 Title of Securities Forfeited or Sold to Enforce Lien**

- (a) In a sale or a re-allotment of forfeited securities or in the sale of securities to enforce a lien or charge, an entry in the Board's minute book that the securities have been forfeited, sold or re-allotted in accordance with these rules is sufficient evidence of that fact as against all persons entitled to the securities immediately before the forfeiture, sale or re-allotment of the securities. The Company may receive the purchase money or consideration (if any) given for the securities on any sale or re-allotment.
- (b) In a re-allotment, a certificate signed by a Director or the Secretary to the effect that the securities have been forfeited and the receipt of the Company for the price of the securities constitutes a good title to them.
- (c) In a sale, the Company may appoint a person to execute or effect a transfer in favour of the person to whom the securities are sold.
- (d) Upon the issue of the receipt or the execution of the transfer the person to whom the securities have been re-allotted or sold is to be registered as the holder of the securities, discharged from all calls or other money due in respect of the securities prior to the re-allotment or purchase and the person is not bound to see to the regularity of the proceedings or to the application of the purchase money or consideration; nor is the person's title to the securities affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale or re-allotment.
- (e) The net proceeds of any sale or re-allotment are to be applied first in payment of all costs of or in relation to the enforcement of the lien or charge or the forfeiture (as the case may be) and of the sale or re-allotment, next in satisfaction of the amount in respect of which the lien exists as is then payable to the Company (including interest) and the residue (if any) paid to, or at the direction of, the person registered as the holder of the securities immediately prior to the sale or re-allotment or to the person's executors, administrators or assigns upon the production of any evidence as to title required by the Board.
- (f) If a certificate for the securities is not produced to the Company, the Board may, where the Company is required by the Law to issue certificates for securities, issue a new certificate distinguishing it from the certificate (if any) which was not produced.

### **9. PAYMENTS BY THE COMPANY**

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#### **9.1 Payments by the Company**

If any law of any place imposes or purports to impose any immediate or future or possible liability on the Company to make any payment or empowers any

government or taxing authority or government official to require the Company to make any payment in respect of any securities held either jointly or solely by any holder or in respect of any transfer of those securities whether in consequence of:

- (a) the death of the holder;
- (b) the non-payment of any estate, probate, succession, death, stamp or other duty by the holder or the trustee, executor or administrator of that holder or by or out of the holder's estate;
- (c) any other act or thing,

the Company may exercise any of the rights set out in **rule 9.2**.

## **9.2 Rights of the Company**

In each of the situations described in **rules 9.1((a)) to ((c))** the Company:

- (a) is to be fully indemnified from all liability by the holder or the holder's trustee, executor or administrator and by any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate;
- (b) has a lien or charge upon the securities for all moneys paid by the Company in respect of the securities under or in consequence of any law;
- (c) has a lien upon all moneys payable in respect of the securities registered in the Register as held either jointly or solely by the holder for all moneys paid or payable by the Company in respect of the securities under or in consequence of any law, together with interest at a rate the Board may determine from time to time from the date of payment to the date of repayment, and may deduct or set off against any moneys payable any moneys paid or payable by the Company together with interest;
- (d) may recover as a debt due from the holder or the holder's trustee, executor or administrator or any person who becomes registered as the holder of the securities on the distribution of the deceased holder's estate, any moneys paid by the Company under or in consequence of any law which exceed any money then due or payable by the Company to the holder together with interest at a rate the Board may determine from time to time from the date of payment to the date of repayment; and
- (e) may, if any money is paid or payable by the Company under any law, refuse to register a transfer of any securities by the holder or the holder's trustee, executor or administrator until the money and interest is set off or deducted or, in case the money and interest exceeds the amount of any money then due or payable by the company to the holder, until the excess is paid to the Company.

## **9.3 Rights not prejudiced**

Nothing in **rules 9.1** or **9.2** prejudices or affects any right or remedy which any law confers on the Company, and, as between the Company and each holder, each holder's trustee, executor, administrator and estate, any right or remedy which the law confers on the Company is enforceable by the Company.

## **10. TRANSFER AND TRANSMISSION OF SECURITIES**

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### **10.1 Instrument of Transfer**

Subject to these rules including **rule 36**, a security holder may only with the unanimous approval of the Board transfer all or any of the security holder's securities by an instrument in writing in the form that the Directors approve.

### **10.2 Registration Procedure**

Where an instrument of transfer approved by the Board is used by a security holder to transfer securities the following provisions apply:

- (a) it must be executed by or on behalf of both the transferor and the transferee unless it is a sufficient transfer of marketable securities within the meaning of the Law;
- (b) the instrument of transfer must be left for registration with the Company, or, if applicable, at the share registry of the Company, accompanied by the certificate for the securities to which it relates (if any) and such information as the Directors properly require to show the right of the transferor to make the transfer, and in that event, the Company must, subject to the powers vested in the Directors by these rules, register the transferee as a Security Holder;
- (c) the Company may register all registrable transfer forms, split certificates, renunciations and transfers, issue certificates and transmission receipts and mark or note transfer forms without charge except in the case the Company issues a certificate for securities where the issue of a certificate is to replace a lost or destroyed certificate;
- (d) on registration of a transfer of securities, the Company must cancel the old certificate (if any);
- (e) the Board may refuse to register any transfer or transmission of securities without assigning a reason; and
- (f) the instrument of transfer referred to in **rule 10.1** must be accompanied by any additional documentation required by the Board.

### **10.3 Entry in the Register**

A transferor of securities remains the holder of the securities transferred until the transfer (if any) is registered and the name of the transferee is entered in the Register in respect of the securities. The right to vote any share passes to the transferee on the day the transfer is entered in the Register in respect of the securities.

### **10.4 Closing Register**

Subject to the provisions of the Law, the Register may be closed at any time the Board thinks fit.

### **10.5 Right to refuse registration**

Notwithstanding any other provisions contained in these rules, the Company may, in the Directors' absolute discretion and without assigning any reason therefor,

## **Constitution of Bundaberg Friendly Society Medical Institute Limited**

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refuse to register or may prevent or interfere with the registration of a transfer of securities in the Company.

### **10.6 Transmission by Death**

On the death of a security holder, the only person recognised by the Company as having any title to securities registered in the name of the deceased security holder shall be the chairman of the Company.

## **11. SUBSCRIPTIONS AND DONATIONS**

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The donation amounts, application fees and the annual subscription fees for the various classes of Membership shall be such amounts and due at such times as the Board may from time to time determine.

## **12. INCOME AND PROPERTY**

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12.1 The Company is to be a non-profit organisation and none of its income, property, profits or financial surplus shall be paid to or distributed amongst the Members, the Board or security holders except as provided in this Constitution.

12.2 The income and property of the Company shall be applied in promotion of its objects.

12.3 All the monies of the Company shall be banked in the name of the Company in a bank account at such bank as the Board may from time to time direct.

## **13. GENERAL ACCOUNTS**

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13.1 The financial year of the Company shall commence on the first day of July and end on the thirtieth day of June in the following calendar year.

13.2 Proper books and accounts shall be kept and maintained showing correctly the financial affairs of the Company. The Company shall ensure the relevant accounting and auditing requirements of the Act are duly complied with.

13.3 The Company shall appoint and retain a properly qualified auditor whose duties shall be determined in accordance with the Act.

13.4 The Board shall cause to be made out and laid before each annual general meeting a balance sheet and profit and loss account made up to date not more than six months before the date of the meeting.

## **14. INSPECTION OF RECORDS**

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The Board shall determine whether and to what extent, and at what time and place and under what conditions the accounting records and other documents of the Company or any of them will be open to the inspection of Members other than the Board, and a Member other than the members of the Board does not have the right to inspect any document of the Company except as provided by law or authorised by the Board or by the Company in general meeting.

## **15. GENERAL MEETINGS**

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15.1 General meetings of the Company may be called and held at the times and places and in the manner determined by the Board. Except as permitted by the Law, the



Members may not convene a meeting of the Company. By resolution of the Board any general meeting (other than a general meeting which has been requisitioned by Members in accordance with the Law) may be cancelled or postponed prior to the date on which it is to be held.

- 15.2 The Chairman of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:
- (a) in possession of a pictorial-recording or sound-recording advice;
  - (b) in possession of a placard or banner;
  - (c) in possession of an object considered by the Chairman to be dangerous, offensive or liable to cause disruption;
  - (d) who refuses to produce or to permit examination of any object, or the contents of any object or container, in the person's possession;
  - (e) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
  - (f) who is not:
    - (i) a Member or a proxy, attorney or representative of a Member;
    - (ii) a Director; or
    - (iii) an auditor of the Company.

## **16. NOTICE OF GENERAL MEETING**

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- 16.1 Not less than 21 days' notice of a general meeting may be given by the Board in the form and in the manner the Board thinks fit (which may be by publication in a newspaper operating within the area in which the Company operates) including notice of any general meeting at which the Board proposes or these rules require that an election of Directors be held. The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice does not invalidate any resolution passed at that meeting.
- 16.2 If the meeting is to be held at 2 or more places the notice is to set out details of the technology that will be used to facilitate such a meeting and any other matters required to be stated by the Law in relation to the use of such technology.
- 16.3 Section 249P of the Law applies to statements given to the Company by Members for distribution.

## **17. NOTICE OF SPECIAL BUSINESS**

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### **17.1 Notice of Special Business**

Any Member who wishes to place an item of special business before the annual general meeting of the Company, must lodge the request with the Company no later than 30 days after the end of the financial year of the Company.

## **17.2 Board to Consider Item of Special Business**

The Board will consider each item of special business received in accordance with **rule 17.1** and may at its discretion determine whether to include the item or not in the agenda and notice to the annual general meeting.

## **18. PROCEEDINGS AT MEETINGS**

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### **18.1 Business of General Meetings**

- (a) The business of an annual general meeting is to receive and consider the financial and other reports required by the Law to be laid before each annual general meeting, to elect Directors in the place of those retiring under these rules or those appointed pursuant to rule 22.2 of these rules, when relevant to appoint an auditor, and to transact any other business which, under these rules, is required to be transacted at any annual general meeting. All other business transacted at an annual general meeting and all business transacted at other general meetings is deemed to be special. Except with the approval of the Board, with the permission of the Chairman or pursuant to the Law, no person may move at any meeting either:
- (i) in regard to any special business of which notice has been given under **rule 17**, any resolution or any amendment of a resolution; or
  - (ii) any other resolution which does not constitute part of special business of which notice has been given under **rule 17**.
- (b) The auditors and their representative are entitled to attend and be heard on any part of the business of a meeting which concerns the auditors. The auditors or their representative, if present at the meeting, may be questioned by the security holders, as a whole, about the audit.

### **18.2 Quorum**

Seven Members (of which 2 must be Directors) must be present to constitute a quorum for any meeting. No business may be transacted at any meeting except the election of a Chairman and the adjournment of the meeting unless the requisite quorum is present at the commencement of the business.

### **18.3 Adjournment in Absence of Quorum**

If within 15 minutes after the time specified for a general meeting a quorum is not present, the meeting, if convened upon a requisition by security holders, is to be dissolved, and in any other case it is to be adjourned to the same day in the next week (or, where that day is not a business day, the business day next following that day) at the same time and place and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time specified for holding the meeting, the meeting is to be dissolved.

### **18.4 Chairman**

- (a) The Chairman of the Board is entitled to take the chair at every general meeting.
- (b) If at any general meeting:

- (i) The Chairman of the Board is not present at the specified time for holding the meeting; or
- (ii) the Chairman of the Board is present but is unwilling to act as Chairman of the meeting,

the deputy Chairman of the Board is entitled to take the chair at the meeting.

(c) If at any general meeting:

- (i) there is no Chairman of the Board or deputy Chairman of the Board;
- (ii) the Chairman of the Board and deputy Chairman of the Board are not present at the specified time for holding the meeting; or
- (iii) the Chairman of the Board and the deputy Chairman of the Board are present but each is unwilling to act as Chairman of the meeting,

the Directors present may choose another Director as Chairman of the meeting.

### **18.5 Acting Chairman**

If during any general meeting the Chairman acting pursuant to **rule 18.4** is unwilling to act as chairman for any part of the proceedings, the Chairman may withdraw as Chairman during the relevant part of the proceedings and may nominate any person who immediately before the general meeting was a Director or who has been nominated for election as a Director at the meeting to be Acting Chairman of the meeting during the relevant part of the proceedings. Upon the conclusion of the relevant part of the proceedings the Acting Chairman is to withdraw and the Chairman is to resume acting as Chairman of the meeting.

### **18.6 General Conduct of Meeting**

Except as provided by the Law, the general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined by the Chairman. The Chairman may at any time the Chairman considers it necessary or desirable for the proper and orderly conduct of the meeting demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present. The Chairman may require the adoption of any procedure which is in the Chairman's opinion necessary or desirable for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll. The Chairman at his total discretion limits the time each person may speak on a resolution and the number of times a person may speak on a resolution or item of business.

### **18.7 Adjournment**

The Chairman may at any time during the course of the meeting adjourn from time to time and place to place the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question, resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting. If the Chairman exercises a right of adjournment of a meeting pursuant to

this rule, the Chairman has the sole discretion to decide whether to seek the approval of the Members present to the adjournment and, unless the Chairman exercises that discretion, no vote may be taken by the Members present in respect of the adjournment. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

#### **18.8 Voting**

- (a) Each question submitted to a general meeting is to be decided in the first instance by a show of hands of the Members and security holders present and entitled to vote. Subject to paragraph (b), in the case of an equality of votes, the Chairman has, both on a show of hands and at a poll, a casting vote in addition to the vote or votes to which the Chairman may be entitled as a Member or security holder or as a proxy, attorney or duly appointed representative of a Member or security holder.
- (b) On a show of hands, where the Chairman has 2 or more appointments that specify different ways to vote on a resolution, the Chairman cannot vote but has a casting vote in the case of an equality of votes cast by Members and security holders entitled to vote at the meeting.

#### **18.9 Declaration of Vote on a Show of Hands; When Poll Demanded**

- (a) At any meeting, unless a poll is demanded, a declaration by the Chairman that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the book to be kept of the proceedings of the Company signed by the Chairman of that or the next succeeding meeting, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution. A poll may be demanded:
  - (i) before a vote is taken;
  - (ii) before the voting results on a show of hands are declared; or
  - (iii) immediately after the voting results on a show of hands are declared.
- (b) A poll may be demanded by:
  - (i) the Chairman;
  - (ii) at least 5 Members or security holders present entitled to vote on the resolution;
  - (iii) by a Member or security holder present with at least 5% of the votes that may be cast on the resolution on a poll.
- (c) No poll may be demanded on the election of a Chairman of a meeting.

#### **18.10 Taking a Poll**

If a poll is demanded as provided in **rule 18.9**, it is to be taken in the manner and at the time and place as the Chairman directs, and the result of the poll is deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn. In the case of any dispute as to the admission or rejection of

a vote, the Chairman's determination in respect of the dispute made in good faith is final.

**18.11 Continuation of Business**

A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting immediately and without adjournment.

**18.12 Special Meetings**

All the provisions of these rules as to general meetings apply to any special meeting of any class of security holders which may be held pursuant to the operation of these rules or the Law.

**18.13 Voting Rights**

- (a) Subject to **rule 18.14** a Member is entitled to exercise only one vote on any question arising for determination by Members and security holders.
- (b) A security holder is entitled to exercise only one vote for each security held on any question arising for determination by Members and security holders.
- (c) This rule does not prevent a Member or security holder who has been appointed to represent a Member from voting both as a Member, security holder and in that other capacity.

**18.14 Closing of Member Register**

A Member is entitled to vote at a meeting, if and only if the Member is a financial Member of the Company on the date of the meeting. However, for the purpose of determining who is a Member, the Company shall close the Register twenty-one (21) days prior to the date of the meeting, and only those Members who both appear on the Register and are current financial Members at the date of the meeting are entitled to vote.

**19. APPOINTMENT OF PROXY**

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- 19.1 Any Member or security holder who has the right to vote at a general meeting may appoint a proxy to vote at a general meeting on that Member's or security holder's behalf. A proxy need not be a Member or security holder who is entitled in their own right to vote at a general meeting.
- 19.2 An instrument appointing a proxy shall be in writing under seal or the hand of an officer or attorney duly authorised by the appointor.
- 19.3 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.
- 19.4 An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

- 19.5 An instrument appointing a proxy shall be in the common or usual form or in a form issued by the Board.

## **20. DEPOSIT OF PROXY AND OTHER INSTRUMENTS**

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An instrument appointing a proxy shall not be treated as valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are deposited, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 48 hours before the time appointed for the taking of the poll, at the registered office of the Company or at such other place as is specified for that purpose in the notice convening the meeting.

## **21. VALIDITY OF VOTE IN CERTAIN CIRCUMSTANCES**

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- 21.1 A vote given in accordance with the terms of an instrument of proxy or a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal or the revocation of the instrument of proxy (or of the authority under which the instrument was executed) or of the power of attorney, if no intimation in writing of the death, unsoundness of mind or revocation has been received by the Company at its registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

## **22. DIRECTORS**

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### **22.1 Number and Appointment of Directors**

- (a) The number of Directors (not including alternate Directors) is required to be the number, not being less than 4 nor more than 6, which the Board may from time to time determine provided that the Board may not reduce the number below the number of Directors in office at the time of the reduction.
- (b) All Directors are required to be natural persons.
- (c) All Directors are required to be Members, unless specified otherwise by the Board in accordance with **rule 25.3**.

### **22.2 Power to Appoint Directors**

The Board has the power at any time to appoint a Member as a Director, either to fill a casual vacancy or as an addition to the Board but so that the number of Directors does not exceed the maximum number determined pursuant to **rule 22.1((a))**. Any Director appointed under this rule may hold office only until the conclusion of the next annual general meeting of the Company and is then eligible for election at that meeting but is not to be taken into account in determining the number of Directors who are to retire by rotation at the meeting.

### **22.3 Remuneration of Directors**

- (a) Subject to paragraph (b), the Directors are to be paid out of the funds of the Company as remuneration for their services as Directors, such sum accruing from day to day as the Company in general meeting determines to be divided among them in such proportion and manner as they agree or in default of agreement, equally.

- (b) The Directors' remuneration for their services as Directors is by fixed sum and not a commission on or percentage of profits or operating revenue and may not be increased except at a general meeting where particulars of the proposed increase have been given to the Members and security holders in the notice convening the meeting.

#### **22.4 Remuneration of Directors for Extra Services**

Any Director who serves on any Committee, or who devotes special attention to the business of the Company, or who otherwise performs services which in the opinion of the Board are outside the scope of the ordinary duties of a Director, or who at the request of the Board engages in any journey on the business of the Company, may be paid extra remuneration as determined by the Board.

#### **22.5 Travelling and Other Expenses**

Every Director is, in addition to any other remuneration provided for in these rules, entitled to be paid from Company funds all reasonable travel, accommodation and other expenses incurred by the Directors in attending meetings of the Company or of the Board or of any Committees or while engaged on the business of the Company.

#### **22.6 Retirement Benefits**

Any Director may be paid a retirement benefit, as determined by the Board, in accordance with the Law. The Board is authorised to make arrangements with any Director with respect to the payment of retirement benefits in accordance with this rule.

#### **22.7 Directors may contract with Company**

- (a) A Director is not disqualified by the office of Director from contracting or entering into any arrangement with the Company or any other person either as vendor, purchaser or otherwise and no contract or arrangement entered into with the Company or any other person by a Director or any contract or arrangement entered into by or on behalf of the Company or any other person in which a Director is in any way interested, may be avoided for that reason. A Director is not liable to account to the Company for any profit realised by any contract or arrangement, by reason of holding the office of Director or of the fiduciary relationship established by the office.
- (b) The declaration of the Director's interest must be made at a meeting of the Directors at which the contract or arrangement is determined if the Director's interest then exists, or in any other case at the first meeting of the Directors after the acquisition of the Director's interest.
- (c) A general notice that a Director is a member of a specified company or firm and is to be regarded as interested in any subsequent transaction with the company or firm is sufficient disclosure if:
  - (i) the notice states the nature and extent of the interest of the Director in the company or firm; and
  - (ii) there has been no material change in the Director's interest in the company or firm when a later transaction is considered by the Board.

- (d) Subject to a standing notice given under **rule 22.7(g)**, a Director who has a material interest in a matter that is being considered at a Directors' meeting must not:
  - (i) be present at the meeting while the matter is being considered; and
  - (ii) must not vote on the matter unless the preceding provisions of this **rule 22.7** have been complied with and the other Directors have passed a resolution in accordance with section 195 of the Law.
- (e) The giving of a general notice under **rules 22.7(b)** or **(c)** does not entitle a Director to be present or to vote at a meeting in relation to a particular contract unless a resolution of the Board under **rule 22.7(d)** has first been passed.
- (f) Notwithstanding any other provision of this **rule 22.7**, section 191 of the Law governs a Directors duty to disclose a material personal interest.
- (g) A Director who has an interest in a matter may give the other Directors standing notice of the nature and extent of the interest in the matter. The notice may be given at any time and whether or not the matter relates to the affairs of the Company at the time the notice is given.
- (h) A notice under **rule 22.7(g)** may be given:
  - (i) at a Directors' meeting (either orally or in writing); or
  - (ii) to the other Directors individually in writing.
- (i) If the standing notice is given to the other Directors individually in writing:
  - (i) the notice is effective when it has been given to every Director; and
  - (ii) the notice must be tabled at the next Directors' meeting after it is given.
- (j) The Director must ensure that the nature and extent of the interest is recorded in the minutes of the meeting at which the standing notice is given or tabled.
- (k) Subject to a Director having complied with the relevant provisions of this **rule 22.7**, the Director may sign or countersign any contract in which they are interested.

## **22.8 Director May Hold Other Office**

- (a) A Director may only hold a position under the Company (except that of auditor) in conjunction with the office of Director, on terms and at a remuneration in addition to remuneration (if any) as a Director, as the Board approves.
- (b) A Director may be or become a director of or hold any other office or position under any corporation promoted by the Company, or in which it may be interested, whether as a vendor or security holder or otherwise, or with any other corporation or organisation, and the Director is not



accountable for any benefits received as a director or security holder of or holder of any other office or position under that corporation or organisation.

## **22.9 Exercise of Voting Power in Other Corporations**

The Board may exercise the voting power conferred by the securities in any corporation held or owned by the Company as the Board thinks fit (including the exercise of the voting power in favour of any resolution appointing the Directors or any of them directors of that corporation or voting or providing for the payment of remuneration to the directors of that corporation) and a Director of the Company may vote in favour of the exercise of those voting rights notwithstanding that the Director is, or may be about to be appointed, a director of that other corporation and may be interested in the exercise of those voting rights.

## **22.10 Directors May Lend to the Company**

Any Director may lend money to the Company at interest with or without security or may, for a commission or profit, guarantee the repayment of any money borrowed by the Company and underwrite or guarantee the subscription of securities or other securities of the Company or of any corporation in which the Company may be interested without being disqualified in respect of the office of Director and without being liable to account to the Company for the commission or profit.

## **23. ALTERNATE DIRECTORS**

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Subject to these rules, each Director has power from time to time to appoint any person to act as an alternate Director in the Director's place for any temporary period for which they are unable to act, whether for a stated period or periods or until the happening of a specified event or from time to time, whenever by absence or illness or otherwise the Director is unable to attend to duties as a Director. The Director must first seek and obtain the consent of the Board to the appointment, which consent is not to be unreasonably withheld or delayed. The appointment is to be in writing and signed by the Director and a copy of the appointment is to be given by the appointing Director to the Company by forwarding or delivering it to the Office. The appointment takes effect immediately upon receipt of the appointment at the Office. The following provisions apply to an alternate Director:

- (a) the alternate Director may be removed or suspended from office upon receipt at the Office of written notice, letter, facsimile transmission or other form of visible communication from the Director by whom the alternate Director was appointed to the Company;
- (b) the alternate Director is entitled to receive notice of meetings of the Board and to attend and vote at the meetings if the Director by whom the alternate Director was appointed is not present;
- (c) the alternate Director is entitled to exercise all the powers (except the power to appoint an alternate Director) and perform all duties of a Director, in so far as the Director by whom the alternate Director was appointed had not exercised or performed them;
- (d) the alternate Director is not, unless the Board otherwise determines, (without prejudice to the right to reimbursement for expenses pursuant to **rule 22.5**) entitled to receive any remuneration as a Director from the Company, and any remuneration (not including remuneration authorised by the Board or reimbursement for expenses) paid to the alternate Director by

the Company is to be deducted from the remuneration of the Director by whom the alternate Director was appointed;

- (e) if the Director making the appointment ceases to be a director, the alternate Director ceases to be an alternate Director;
- (f) the alternate Director is not to be taken into account in determining the number of Directors or rotation of Directors; and
- (g) the alternate Director is, while acting as a Director, responsible to the Company for the alternate Director's own acts and defaults and is not to be deemed to be the agent of the Director by whom the alternate Director was appointed.

## **24. VACATION OF OFFICE OF DIRECTOR**

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### **24.1 Vacation of Office by Director**

- (a) The Office of a Director is vacated:
  - (i) upon the Director becoming an insolvent under administration, suspending payment generally to creditors or compounding with or assigning the Director's estate for the benefit of creditors;
  - (ii) upon the Director's death or becoming a person of unsound mind or a person who is a patient under laws relating to mental health or whose estate is administered under laws relating to mental health;
  - (iii) upon the Director being absent from meetings of the Board during a period of 3 consecutive calendar months without leave of absence from the Board where the Board has not, within 14 days of having been served by the Secretary with a notice giving particulars of the absence, resolved that leave of absence be granted;
  - (iv) intentionally deleted
  - (v) upon the Director resigning office by notice in writing to the Company;
  - (vi) upon the Director being removed from office pursuant to the Law;
  - (vii) upon the Director being prohibited from being a Director by reason of the operation of the Law; or
  - (viii) if the director is found guilty of a criminal offence.
- (b) A Director who vacates office pursuant to **rule 24.1(a)** is not to be taken into account in determining the number of Directors who are to retire by rotation at any annual general meeting.

### **24.2 Directors Who are Employees of the Company**

The office of a Director who is an employee of the Company and/or any of its subsidiaries as nominated by the Board pursuant to **rule 25.3** becomes vacant upon the Director ceasing to be employed (so that he is no longer employed by the

Company or any subsidiary of the Company) but the person concerned is eligible for reappointment or re-election as a Director of the Company.

## **25. ELECTION OF DIRECTORS**

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### **25.1 Retirement of Directors**

- (a) Subject to **rules 22.2, 24.1(b)** and **26.2**, at every annual general meeting Directors who have held office since their last election for three years must retire from office.
- (b) If the number of Directors who must retire under sub-rule (a) is less than one third of the total number of Directors (or if the number of Directors is not a multiple of 3 then the nearest whole number to one third) (Rotation Requirement) (Rotation Requirement), then further Directors will be required to retire to reach the Rotation Requirement. The Directors that must retire under this provision to reach the Rotation Requirement will be determined based on their length of tenure on the Board, with the Director with the longest tenure (notwithstanding those Directors in sub-rule (a)), being required to retire first. As between those Directors who have the same tenure and were appointed on the same day, the Director to retire will be determined by ballot (unless otherwise agreed between the relevant Directors).

### **25.2 Who Must Retire?**

- (a) A Director that retires under **rules 25.1 (a)** or **(b)** will be eligible for re-election.
- (b) The retirement of a Director who retires under this rule will be effective from the close of the relevant annual general meeting.
- (c) If a Director is required to retire at or before the annual general meeting or if there will otherwise any vacancies on the Board at the time that the notice of the annual general meeting will be provided, the Board must give a notice to Members calling for nominations for the vacant position.

### **25.3 Nomination of Directors**

Only a Member is eligible to be elected as a Director. An employee of the Company is only eligible to be elected as a Director if that person is nominated by the Board. No Member (other than a Retiring Director) is eligible for election to the office of Director at any general meeting unless the Member intending to nominate the Member candidate has given notice in writing signed by the nominee giving consent to the nomination and signifying either candidature for the office or the intention of the Member to nominate the Member nominee. To be valid, the notice is required to be left at the Office not less than 30 business days nor more than 40 business days before the meeting unless the nominee has been recommended by the Board for election, in which case the notice is required to be left at the Office at least 10 business days before the notice of meeting is dispatched.

## **26. MANAGING DIRECTOR**

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### **26.1 Appointment of a Managing Director**

The Board may from time to time appoint one of the Board to be Managing Director (who may bear that title or any other title determined by the Board) for a period ending on the happening of events (if any) stipulated by the Board, at a remuneration which may be by way of salary or commission on or participation in profits or by any or all of these methods (but not by a commission on or percentage of operating revenue) and otherwise on terms as determined by the Board from time to time. The Board may confer upon a Managing Director any of the powers exercisable under these rules by the Board as it thinks fit and upon any conditions it thinks expedient but the conferring of powers by the Board upon a Managing Director does not exclude the exercise of those powers by the Board.

### **26.2 Managing Director Not to be Subject to Retirement by Rotation**

A Managing Director is not subject to retirement as a Director by rotation while continuing to hold the office of Director and is not to be taken into account in determining the rotation or retirement of Directors or the number of Directors to retire, but is subject to the same provisions as to resignation and removal as the other Directors of the Company. A Managing Director ceases to be a Managing Director if the Managing Director ceases to hold office as a Director.

## **27. PROCEEDINGS OF DIRECTORS**

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### **27.1 Procedures Relating to Directors' Meetings**

The Board may meet together, upon each Director being given reasonable notice, for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit. Until otherwise determined by the Board, 2 Directors form a quorum. Notice is deemed to have been given to a Director, and all Directors are hereby deemed to have consented to the method of giving notice, if notice is sent by mail, personal delivery, facsimile transmission or by electronic mail to the usual place of residence, fax number or electronic address of the Director (if any fax number or electronic address is notified to the Company) or at any other address given to the Secretary by the Director from time to time subject to the right of the Director to withdraw such consent within a reasonable period before a meeting.

### **27.2 Meetings by Telephone or Other Means of Communication**

The Directors may meet either in person or by telephone or by other means of communication consented to by all Directors subject to the right of a Director to withdraw their consent within a reasonable period before a meeting. All persons participating in the meeting must be able to hear and be heard by all other participants. A meeting conducted by telephone or other means of communication is deemed to be held at the place agreed upon by the Directors attending the meeting, provided that at least one of the Directors present at the meeting is at that place for the duration of the meeting.

### **27.3 Votes at Meetings**

Questions arising at any meeting of the Board are decided by a majority of votes. Where there is an equality of votes the Chairman has a casting vote in addition to his/her deliberative vote.

**27.4 Convening of Meetings**

The Board may at any time, and the Secretary, upon the request of any one Director, must convene a meeting of the Board.

**27.5 Chairman**

The Board may elect a Chairman and a deputy Chairman of its meetings and determine the period for which each is to hold office. If no Chairman or deputy Chairman is elected or if at any meeting the Chairman and the deputy Chairman are not present at the time specified for holding the meeting (or, if being present, the relevant Directors refuse to act as Chairman or deputy Chairman), the Directors present may choose one of their number to be Chairman of the meeting,

**27.6 Powers of Meetings**

A meeting of the Board or any adjournment of a meeting at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

**27.7 Delegation of Powers**

The Board may, subject to the constraints imposed by law, delegate any of its powers to a Committee or any person or persons consisting of one or more Directors or any other person or persons as the Board thinks fit. Any Committee formed or person or persons appointed must, in the exercise of the powers delegated, conform to any regulations that may from time to time be imposed by the Board. A delegate of the Board may be authorised to sub delegate any of the powers for the time being vested in the delegate.

**27.8 Proceedings of Committees**

The meetings and proceedings of any Committee are to be governed by the provisions of these rules for regulating the meetings and proceedings of the Board so far as they are applicable and are not superseded by any regulations made by the Board under **rule 27.7**.

**27.9 Validity of Acts**

- (a) All acts done at any meeting of the Board, by a Committee, by an authorised person or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any of the Directors, the Committee, by an authorised person or the person acting as a Director or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a Director, an authorised person or a member of the Committee (as the case may be).
- (b) If the number of Directors is reduced below the minimum number fixed pursuant to these rules, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of calling a general meeting of the Company but for no other purpose.

## **27.10 Resolution in Writing**

A resolution in writing of which notice has been given to all Directors and which is signed by all of the Directors entitled to vote on the resolution is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted and may consist of several documents in the same form each signed by one or more of the Directors. For the purposes of this rule the references to 'Directors' include any alternate Director for the time being present in Australia who is appointed by a Director not for the time being present in Australia but do not include any other alternate Director. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is deemed to be a document in writing signed by the Director.

## **28. POWERS OF THE BOARD**

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### **28.1 General Powers of the Board**

The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred upon them by these rules) may exercise all powers and do all things as are within the power of the Company and are not by these rules or by Law directed or required to be exercised or done by the Company in general meeting.

### **28.2 Power to Borrow and Guarantee**

Without limiting the generality of **rule 28.1**, the Board may exercise all the powers of the Company to raise or borrow money, may guarantee the debts or obligations of any person and may enter into any other financing arrangement, in each case in the manner and on the terms it thinks fit.

### **28.3 Power to Give Security**

Without limiting the generality of **rule 28.1**, the Board may charge any property or business of the Company or any of its uncalled capital and may issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person, in each case, in the manner and on the terms it thinks fit.

### **28.4 Power to Authorise Debenture Holders, etc to Make calls**

Without limiting the generality of **rule 28.1**, if any uncalled capital of the Company is included in or charged by any debenture, mortgage or other security, the Board may, by instrument under the Seal or other appropriate instrument, authorise the person in whose favour the debenture, mortgage or other security is executed or any other person in trust for him to make calls on the security holders in respect of that uncalled capital and to sue in the name of the Company or otherwise for the recovery of moneys becoming due in respect of calls made and to give valid receipts for those moneys, and the authority subsists during the continuance of the debenture, mortgage or other security, notwithstanding any change in the Directors, and is assignable if expressed to be so.

### **28.5 Power to Issue securities**

Any bonds, debentures or other securities may be issued with or without the right of or obligation on the holder thereof to exchange the same in whole or in part of securities in the Company at a certain or uncertain time or with any special

privileges as to redemption, surrender, drawings, allotment of securities, attending and voting at general meetings of the Company, appointment of Directors and otherwise and generally with such rights and options and upon such conditions in all respects as the Board thinks fit.

**28.6 Personal Liability of Officer**

If the Board or any member thereof or any officer of the Company becomes personally liable for the payment of any sum primarily due from the Company, the Board may execute or cause to be executed any charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the persons or person so becoming liable as aforesaid from any loss in respect of such liability.

**29. THE SEAL**

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**29.1 Execution of Cheques, Bills, etc**

All cheques, bills of exchange and promissory notes are to be signed, drawn, made, accepted or endorsed (as the case may be) for and on behalf of the Company by 2 directors, or by one Director and the Secretary or some other officer authorised by the Board, or in such other manner as the Board from time to time determines.

**29.2 Company seal is optional**

The Company may have a Seal.

**29.3 Affixing the Seal**

If the Company has a Seal, the Board is to provide for its safe custody and it should only be used by the authority of the Board. Every instrument to which the Seal is affixed is to be signed by a Director and countersigned by the Secretary or by a second Director or by another person appointed by the Board for the purpose. The Board may determine either generally or in any particular case that a signature may be affixed by a mechanical means specified in the determination.

**29.4 Execution of documents without a Seal**

The Company may execute a document, including a deed, by having the document signed by:

- (a) 2 Directors;
- (b) a Director and the Secretary; or
- (c) any two persons authorised by the Board; and

if the Company executes a deed, the document is to be expressed to be executed as a deed and be executed in accordance with the appropriate procedures set out in **rule 29.3** or this rule.

**29.5 Other ways of executing documents**

Notwithstanding the provisions of **rules 29.3** and **29.4**, any document including a deed, may also be executed by the Company in any other manner permitted by law.

**30. MINUTES**

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The Board must ensure that minutes are duly recorded in any manner it thinks fit:

- (a) of the names of the Directors present at each meeting of the Board and of any Committees; and
- (b) of all resolutions and proceedings of general meetings of the Company and of meetings of the Board and any Committees,

and the minutes of any meeting of the Board or of any Committee or of the Company, if purporting to be signed by the Chairman of the meeting or by the Chairman of the next succeeding meeting, are prima facie evidence of the matters stated in the minutes.

**31. REGISTERED OFFICE**

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The registered office of the Company shall be at such place as the Board may from time to time determine.

**32. SECRETARY**

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- 32.1 The Secretary of the Company holds office on such terms and conditions as to remuneration and otherwise, as the Board determines.
- 32.2 The Secretary shall, in addition to his other duties, ensure that the Company complies with Sections 251A and 25 IB of the Corporations Law.

**33. NOTICES**

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**Service**

- 33.1 A notice may be given by the Company to any Member by serving it on him personally or by leaving it or sending it by prepaid post, telex or facsimile transmission to him at his address as shown in the Register or the address supplied by him to the Company for the giving of notices to him.
- 33.2 Any notice sent by prepaid post is deemed to have been served at the expiration of 48 hours after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a Member personally or left at the Member's address is deemed to have been served when delivered. Any notice on a Member by telex is deemed to have been served on receipt by the company of the answer back code of the recipient at the end of the transmission. Any notice served on a Member by facsimile transmission is deemed to have been served when the transmission is sent.

**34. INDEMNITY AND INSURANCE**

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**Indemnity**

- 34.1 Subject to the Corporations Law, the Company shall indemnify any person who is or has been a member of the Board, Secretary or Board officer of the Company against a liability:



- (a) incurred by the person acting in their capacity as a member of the Board, Secretary or Board officer to a person other than the Company or a related body corporate where the liability does not arise out of a lack of good faith;
- (b) for the costs and expenses incurred by the person:
  - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
  - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the person under the Corporations Law.

34.2 Every employee who is not a member of the Board, Secretary or Board officer of the Company may be indemnified out of the property of the Company against a liability:

- (a) incurred by the employee acting in that capacity;
- (b) for the costs and expenses incurred by an employee:
  - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which the person is acquitted; or
  - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under the Corporations Law.

**Insurance**

34.3 Subject to the Corporations Law, the Company may pay insurance premiums in respect of insurance for the benefit of a member of the Board, Secretary or executive officer acting in that capacity against:

- (a) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
- (b) a liability arising from negligence or other conduct not being a liability incurred by the person acting in that capacity and arising out of conduct involving a wilful breach of duty in relation to the Company or a breach of the provisions of the Corporations Law dealing with improper use of inside information or position.

34.4 The Company may pay insurance premiums in respect of insurance for the benefit of the auditor or an employee of the Company who is not a member of the Board, Secretary or executive officer concerned in the management of the Company.

**35. WINDING UP**

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- (a) If the Company is wound up or its status as a deductible gift recipient is revoked and any property remains after satisfaction of all its liabilities, that property:
  - (i) must not be paid to or distributed among the Members; but

- (ii) must be given or transferred to other institutions having similar objects to the Company that are Deductible Gift Recipients (Default Fund).
- (b) The Default Fund will be determined:
  - (i) by the Members at or before the time of dissolution; but
  - (ii) if no determination is made by the Members, the Default Fund will be determined by a Judge of the Supreme Court of the state in which the registered office of the Company is located.

## **36. LIMITATION OF SECURITY ENTITLEMENT**

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### **36.1 Interpretation**

In this rule:

- (a) the term 'securities\* where used shall have the meaning given to that term by the Corporations Law;
- (b) the term 'the prescribed value' shall mean two or more securities in the Company.

### **36.2 Limitation**

Except as provided in this rule, a person shall not, either alone or together with any other person, acquire securities if any person who is not entitled to securities or is entitled to not more than the prescribed value would immediately after the acquisition be entitled to more than the prescribed value.

### **36.3 Board's Consent**

The restriction contained in **rule 36.2** of this **rule 36**, shall not apply to or in relation to an acquisition or holding of a security or securities to which the Board has given its unanimous prior written consent, which it may grant or withhold in its absolute discretion and subject to any conditions which the Board in its absolute discretion may impose.

### **36.4 Relevant Interest**

For the purposes of this rule a person shall be taken to acquire a security (in this **rule 36.4** referred to as 'the security concerned') if:

- (a) he acquires a relevant interest in the security concerned as a direct or indirect result of a transaction entered into by him or on his behalf in relation to the security concerned or in relation to any other securities; or
- (b) he acquires any legal or equitable interest in securities or in any other securities and, as a direct or indirect result of the acquisition, another person acquires a relevant interest in the security concerned.

### **36.5 Person Concerned**

For the purposes of this rule the security or securities to which a person (in this **rule 36.5** and **rule 36.6** referred to as the 'person concerned') is entitled includes:

- (a) securities in which the person concerned has a relevant interest; and
- (b) securities in which a person who is an associate of the person concerned has a relevant interest.

### **36.6 Associate**

A reference in **rule 36.5((b))** to a person who is an associate of the person concerned shall be construed as a reference to:

- (a) if the person is a corporation:
  - (i) a director or secretary of the corporation;
  - (ii) a corporation that is related to the person concerned; or
  - (iii) a director or secretary of such a related corporation;
- (b) a person with whom the person concerned has, or proposes to enter into, an agreement, arrangement, understanding or undertaking, whether formal or informal and whether express or implied:
  - (i) by reason of which the first-mentioned person, or the person concerned, may exercise, directly or indirectly control the exercise of, or may substantially influence the exercise of, any voting power attached to the securities;
  - (ii) under which the first-mentioned person may acquire from the person concerned, or the person concerned may acquire from the first-mentioned person, securities; or
  - (iii) under which the first-mentioned person, or the person concerned, may be required to dispose of securities in accordance with the directions of the person concerned, or of the first-mentioned person, as the case may be;
- (c) a person in concert with whom the person concerned is acting, or proposes to act, in relation to the acquisition or proposed acquisition of securities;
- (d) a person with whom the person concerned is, or proposes to become, associated, whether formally or informally, in any other way in relation to the securities; or
- (e) if the person concerned has entered into, or proposes to enter into, a transaction, or has done, or proposes to do, any other act or thing, with a view to becoming associated with another person as mentioned in **rules 36.6((b)), ((c)) or ((d))** above, that other person.

### **36.7 Control**

Subject to this **rule 36.7**, a person has a relevant interest in a security for the purposes of this rule if that person has power:

- (a) to exercise, or control the exercise of, the right to vote attached to that security; or
- (b) to dispose of, or to exercise control over the disposal of, that security; or

- (c) a relevant interest in a security shall be disregarded:
  - (i) if the security is subject to a trust, the relevant interest is that of a trustee; and
  - (ii) the trustee is a bare trustee; or
- (d) for the purposes of **rule 36.7((c))(ii)** above, a trustee shall not be taken not to be a bare trustee by reason only of the fact that the trustee is entitled in his capacity as a trustee to be remunerated out of the income or property of the trust.

### **36.8 Power of Board**

- (a) The Board may, in its absolute discretion, decline to allot or to register any transfer or transmission of a security if in the Board's unanimous opinion, the allotment or registration thereof would or might result in or have the effect of causing an infringement or contravention of **rule 36.2**.
- (b) Where the Board is satisfied that a person has acquired securities in such circumstances as might or would in the opinion of the Board result in or have the effect of causing an infringement or contravention of **rule 36.2**, the Board may do either or both of the following:
  - (i) by notice in writing to such person, require him to dispose of the securities so acquired, or any part thereof, (in this **rule 36.8** referred to as the 'specified Securities') within such time as is specified in the notice, PROVIDED THAT in the absence of any such requirement by the Board, the person concerned shall not be entitled in any way to set aside or cancel the transaction whereby he acquired the specified securities, nor to claim any refund or to otherwise recover any monies paid in respect thereto; and
  - (ii) prohibit the exercise of any voting or other rights attached to such securities and in the event of an exercise or purported exercise of such rights the same shall be disregarded for all purposes.
- (c) If the requirements of any such notice are not complied with by the person to whom the notice is addressed within the time specified in the notice, the Board may cause the specified securities to be sold on any securities exchange on which they are quoted or, if they are not so quoted, in such other manner as the Board may determine.
- (d) The Board may:
  - (i) appoint a person to execute as transferor a transfer in respect of any securities sold in accordance with the provisions of **rule 36.8((c))** and to receive and give good discharge of the purchase money thereof; and
  - (ii) register the transfer notwithstanding that the certificate for such securities may not have been delivered to the Board and issue a new certificate to the transferee, in which event the previous certificate shall be deemed to have been cancelled.

- (e) Nothing in this **rule 36.8** shall render the Board liable or responsible by reason of any person acquiring securities in contravention of **rule 36.2** or failing to comply with the obligation imposed by **rule 36.8((b))**.
- (f) The Board, before or at any time after allotting any securities or approving or rejecting any transfer or transmission of securities or at any other time and from time to time, may, by notice in writing to the applicant, allottee, transferee, transmittee or security holder, require him (or, where such person is a corporation, a competent officer thereof) to furnish the Board such information or evidence (on oath or otherwise verified if the Board should so require) as the Board may consider likely to be of assistance in determining whether or not such person is eligible to become or remain an security holder.

### **36.9 Disposal**

The Board may at any time by notice in writing require a security holder within two (2) business days after service of the notice, to furnish to the Board:

- (a) a statement in writing setting out:
  - (i) full particulars of his relevant interests in securities ('the Securities') and of the circumstances by reason of which he/she has that interest; and
  - (ii) so far as it lies within his knowledge:
    - (A) full particulars of the name and address of every other person (if any) who has a relevant interest in any of the securities;
    - (B) full particulars of each such interest and of the circumstances by reason of which the other person has that interest; and
    - (C) full particulars of the name and address of each person (if any) who has given to the security holder instructions in relation to any matter concerning the securities and of those instructions, and the date or dates on which those instructions were given; and
  - (iii) a true copy of every letter, agreement, declaration of trust, deed and without limitation document in his possession or within his control creating, evidencing or referring to the interest of every other person (if any) who has a relevant interest in any of the securities held by him.
- (b) Where the Board received, pursuant to a notice under **rule 36.9((a))** given to a security holder or pursuant to a notice under this **rule 36.9((b))** information that:
  - (i) another person has a relevant interest in any of the securities; or
  - (ii) another person has given instructions in relation to any matter concerning the securities;

the Board may by notice in writing require that other persons within two (2) business days after service of the notice, to furnish to the Board:

- (iii) a statement in writing setting out:
    - (A) full particulars of any relevant interest that the person has in any of the securities and of the circumstances by reason of which he has that interest; and
    - (B) so far as it lies within his knowledge:
      - (I) full particulars of the name and address of every other person (if any) who has a relevant interest in any of the securities;
      - (II) full particulars of each such interest and of the circumstances by reason of which the other person has that interest; and
      - (III) full particulars of the name and address of each person (if any) who has given to the person to whom the notice is addressed instructions in relation to any matter concerning the securities and of those instructions, and the date or dates on which those instructions were given; and
  - (iv) a true copy of every letter, agreement, declaration of trust, deed and without limitation document in his possession or within his control creating, evidencing or referring to the interest of every other person (if any) who has a relevant interest in any of the securities;
- (c) If the requirements of any notice referred to in **rules 36.9((a))** or **36.9((b))** above are not complied with within the time so specified, the Board may:
- (i) refuse to register a transfer of the securities;
  - (ii) prohibit the exercise of any voting or other rights attached to the securities and in the event of any exercise or purported exercise of such rights the same shall be disregarded for all purposes;
  - (iii) cause the securities to be sold upon any securities exchange or at such place as the Board determines and at a price which the Board, acting in good faith, determines or accepts.
- (d) In the event of any Securities being sold pursuant to **rule 36.9((c))**, the Board may:
- (i) appoint a person to execute on behalf of an security holder the transfer of the securities and to receive and to give a good discharge for the purchase money;
  - (ii) register the transfer notwithstanding that the certificates for the securities may not have been delivered to the Board, and issue a new certificate to the transferee, in which event the previous Certificate shall be deemed to have been cancelled.

- (e) The purchase money in respect of the securities so sold less the expenses of sale shall be paid to the person in whose name the securities were registered immediately prior to the sale thereof. After the purchaser's name has been entered into the Register in respect of the securities, the title of the purchaser to the securities shall not be called into question on any legal ground in relation to the terms of this **rule 36**.

## **37. THE HOSPITAL GOVERNING BODY**

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### **37.1 Governing Body Particulars**

- (a) The number of Governing Members shall not be less than 5 nor more than 13, which the Board may from time to time determine.
- (b) All Governing Body Members are required to be natural persons.
- (c) The Governing Body Members consist of all the following natural persons:
  - (i) All current Directors of the Company;
  - (ii) The Chief Executive Officer of the Hospital; and
  - (iii) Up to 2 medical practitioners nominated by the Medical Advisory Board and approved by the Board.
- (d) Unless otherwise provided for in the rules:
  - (i) A Governing Body Member that is also a Director of the Company will hold office of Governing Body Member for such period as that person holds the office of Director.
  - (ii) A Governing Body Member that is also the Chief Executive Officer of the Hospital will hold office of Governing Body Member for such period as that person holds the office of Chief Executive Officer of the Hospital.
  - (iii) A Governing Body Member that is nominated by the Medical Advisory Board will hold office of Governing Body Member for such period as that person does not lose the approval of either the Medical Advisory Board or of the Board.

### **37.2 Vacation of Office by Governing Body Member**

The Office of a Governing Body Member is vacated:

- (a) Upon the Governing Body Member becoming an insolvent under administration, suspending payment generally to creditors or compounding with or assigning the Governing Body Member's estate for the benefit of creditors;
- (b) Upon the Governing Body Member's death or becoming a person of unsound mind or a person who is a patient under laws relating to mental health or whose estate is administered under laws relating to mental health;
- (c) Upon the Governing Body Member being absent from meetings of the Governing Body during a period of 6 consecutive calendar months without

leave of absence from the Governing Body where the Governing Body has not, within 14 days of having been served by the Secretary with a notice giving particulars of the absence, resolved that leave of absence be granted;

- (d) Upon the Governing Body Member resigning office by notice in writing to the Company;
- (e) Upon the Governing Body Member being removed from office pursuant to the Law;
- (f) Upon the Governing Body Member being prohibited from being a Governing Body Member by reason of the operation of law; or
- (g) Upon the relevant Governing Body Member being removed from their office or losing the approval as indicated in **rule 37.1(d)**.

### **37.3 Governing Body Members May Contract with Company**

- (a) A Governing Body Member is not disqualified by the office of Governing Body Member from contracting or entering into any arrangement with the Company or any other person either as vendor, purchaser or otherwise and no contract or arrangement entered into with the Company or any other person by a Governing Body Member or any contract or arrangement entered into by or on behalf of the Company or any other person in which a Governing Body Member is in any way interested, may be avoided for that reason. A Governing Body Member is not liable to account to the Company for any profit realised by any contract or arrangement, by reason of holding the office of Governing Body Member or of the fiduciary relationship established by the office.
- (b) No Governing Body Member may as a Governing Body Member vote in respect of any contract or arrangement in which the Governing Body Member has directly or indirectly any material interest and if the Governing Body Member does vote his/her vote may not be counted nor shall the Governing Body Member be counted in the quorum present at the meeting.

### **37.4 Governing Body Member May Hold other Office**

A Governing Body Member may hold a position under the Company (except that of auditor) in conjunction with the office of Governing Body Member as per their entitlement to be a Governing Body Member as per **rule 37.1(c)**.

## **38. POWERS OF THE GOVERNING BODY**

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### **38.1 Power of the Governing Body**

The Governing Body is authorised to make recommendations to the Board with respect to the operations of the Hospital on a day to day basis and make recommendations in relation to ongoing strategy that governs the directions of the Hospital.

### **38.2 Power to Bind**

The Governing Body is a Governing Body for the purpose of making recommendations and does not have the power to bind the Company or the Board.



In accordance with **rule 28.1** the management and control of the business and affairs of the Company are vested in the Board.

**39. PROCEEDINGS OF THE GOVERNING BODY**

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**39.1 Procedures Relating to Governing Body Member's Meetings**

- (a) The Governing Body may meet together, upon each Governing Body Member being given reasonable notice, for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- (b) Until otherwise determined by the Board, a simple majority of the Governing Body (such number that are holding office at that time) forms a quorum.
- (c) Notice is deemed to have been given to a Governing Body Member, and all Governing Body Members are hereby deemed to have consented to the method of giving notice, if notice is sent by mail, personal delivery, facsimile transmission or by electronic mail to the usual place of residence, fax number or electronic address of the Governing Body Member (if any fax number or electronic address is notified to the Company) or at any other address given to the Secretary by the Governing Body Member from time to time subject to the right of the Governing Body Member to withdraw such consent within a reasonable period before a meeting.
- (d) Any Governing Body Member of the Hospital Governing Body that has a conflict of interest or is a related party within the definitions of the Law in relation to any matter under discussion must absent himself or herself from the meeting of the Governing Body and not vote in relation to those matters.

**39.2 Meetings by Telephone or Other Means of Communication**

The Governing Body Members may meet either in person or by telephone or by other means of communication consented to by all Governing Body Members subject to the right of a Governing Body Member to withdraw their consent within a reasonable period before a meeting, all persons participating in the meeting must be able to hear and be heard by all other participants. A meeting conducted by telephone or other means of communication is deemed to be held at the place agreed by the Governing Body Members attending the meetings, provided that at least one of the Governing Body Members present at the meeting is at that place for the duration of the meeting.

**39.3 Votes at Meeting**

Questions arising at any meeting of the Governing Body are decided by a majority of votes. Where there is an equality of votes the Chairman has a casting vote in addition to his/her deliberative vote.

**39.4 Convening of Meetings**

The Governing Body will meet on or before the date of every scheduled Board meeting. A Board meeting may only be convened in accordance with the terms of the constitution.

**39.5 Chairman**

The Chairman of the Governing Body is the Chairman of the Board and the deputy Chairman is the Chief Executive Officer of the Hospital. If no Chairman or deputy Chairman is present at the time specified for holding the meeting (or, if being present, the relevant Governing Body Member refuse to act as Chairman or deputy Chairman), the Governing Body Members present may choose one of their number to be Chairman of the meeting.

**39.6 Delegation of Powers**

The Governing Body may not delegate any of their powers.