

As amended by special resolution of Members at the AGM held on 5 May 2017

CONSTITUTION

Northern Australia Primary Health
Limited

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Constitution

Northern Australia Primary Health Limited

PRELIMINARY

1. Defined terms & interpretation

- 1.1 In this Constitution unless the contrary intention appears:
- 1.2 “**Act**” means the *Corporations Act 2001* (Cth);
- 1.3 “**AGM**” means an annual general meeting of the Company;
- 1.4 “**Associate Members**” means:
 - (a) a Specialist; and
 - (b) other individuals as approved from the Board from time to time.
- 1.5 “**Auditor**” means the Company's auditor;
- 1.6 “**Board**” means the board of Directors of the Company;
- 1.7 “**Board Appointed Directors**” means the Directors appointed to the Board, rather than being elected by the Members, in accordance with this Constitution;
- 1.8 “**Board Composition Requirements**” means the requirements from time to time set out in by-laws promulgated by the Board in relation to the preferred composition of skills and other competencies within the Board;
- 1.9 “**Chairperson**” means the person occupying the position of Chairperson elected under rule 46;
- 1.10 “**Company**” means Northern Australia Primary Health Limited A.C.N. 063 397 231;
- 1.11 “**Constitution**” means the constitution of the Company as amended from time to time;
- 1.12 “**Director**” a person appointed in accordance with this Constitution to perform the duties of a director of the Company;
- 1.13 “**Director Eligibility Criteria**” means the criteria set out in by-laws promulgated by the Board in relation to the eligibility of persons for election or appointment to the Board;
- 1.14 “**Eligible Organisation**” means an organisation whether being a company, incorporated association, joint venture or any other form of organisation (whether or not incorporated) which the Board determines may be treated as an

organisation for the purposes of being a Member, and which provide medical or allied health or who are otherwise interested in the level of health care services.

- 1.15 **“Eligible Primary Health Care Provider”** means a natural person who holds current registration with the Australian Health Practitioner Regulation Agency (or any other recognised national health professional body) whether as a General Practitioner or other health practitioner other than a Specialist;
- 1.16 **“General Practitioner”** means a registered medical practitioner who usually practises in such a way as to provide unreferral, whole person care **“General Practice”** means the practice of a General Practitioner;
- 1.17 **“Member”** means a member of the Company;
- 1.18 **“Member Elected Directors”** means the Directors elected to the Board by Members in accordance with this constitution;
- 1.19 **“Nominations Committee”** means the committee established by the Board pursuant to rule 53;
- 1.20 **“Office”** means the Company's registered office;
- 1.21 **“Register”** means the register of Members of the Company;
- 1.22 **“Region”** means Northern Australia and any other geographic area in which the Company operates from time to time;
- 1.23 **“Registered Address”** means the last known address of a Member as noted in the Register;
- 1.24 **“Representative”** has the meaning attributed to it in rule 25;
- 1.25 **“Secretary”** means any person appointed by the Board to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of such joint secretaries;
- 1.26 **“Specialist”** means a natural person who holds current registration with the Australian Health Practitioner Regulation Agency (or any other recognised national health professional body) as a specialist health practitioner.
- 1.27 In this Constitution, unless the contrary intention appears:
- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
 - (b) words importing natural persons include corporations;
 - (c) words and expressions defined in the Act have the same meaning in this Constitution;
 - (d) headings are for ease of reference only and do not affect the construction of this Constitution; and
 - (e) Unless the contrary intention appears in this Constitution, an expression in

a rule of this Constitution has the same meaning as in a provision of the Act that deals with the same matter as the rule.

- (f) To the extent permitted by law, the replaceable rules in the Act do not apply to the Company.

OBJECTS

2. Objects

2.1 The objects for which the Company is established are to promote the health and well-being of people in the Region:

- (a) leading the development and implementation of innovative models of service delivery in the primary healthcare setting including General Practice, allied health, mental health, alcohol and other drugs and preventative health;
- (b) supporting the effective integration of General Practice and other primary health care with other elements of the health care system;
- (c) advocating for General Practitioners and other primary health care providers to contribute to health planning at the local level;
- (d) supporting better access to available General Practitioner and other primary health care provider services for patients;
- (e) working with partners and others to meet the special (and localised) health needs of groups (such as Aboriginal and Torres Strait Islanders and those with non-English speaking backgrounds) or people with chronic conditions;
- (f) advocating the advancement of General Practice and other primary health care; and
- (g) working to increase General Practitioner and other primary health care providers' capacity to focus on illness prevention, health promotion activities and research.

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

- (a) carry out the objects in this rule 2; and
- (b) do all things incidental or convenient in relation to the exercise of power under rule 2.2(a).

INCOME AND PROPERTY OF COMPANY

3. Income and property of Company

- 3.1 The income and property of the Company will only be applied towards the promotion of the objects of the Company set out in rule 2.
- 3.2 No income or property will be paid or transferred directly or indirectly to any Member of the Company except for payments to a Member:
- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
 - (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.

MEMBERSHIP & RIGHTS OF MEMBERS

4. Membership

- 4.1 The number of Members of the Company is unlimited.
- 4.2 Membership of the Company is open to:
- (a) Every natural person who is any or all of the following:
 - (i) An Eligible Primary Health Care Provider;
 - (ii) A Director of the Company ; or
 - (iii) An Associate Member.
 - (b) Every Eligible Organisation,

provided that they also fulfil the admission requirements determined from time to time by the Board in accordance with clause 5 of this Constitution.
- 4.3 There are two classes of membership in the Company:
- (a) voting Members; and
 - (b) non-voting Members.
- 4.4 The voting Members are:
- (a) Eligible Primary Health Care Providers;
 - (b) Directors of the Company; and
 - (c) Eligible Organisations.

- 4.5 The non-voting Members are Associate Members, unless otherwise determined by the Board.
- 4.6 Voting Members whose annual subscriptions are not more than 30 days in arrears (see clause 6) at the relevant time have the rights to:
- (a) receive notice of all general meetings;
 - (b) attend and speak at all general meetings; and
 - (c) exercise 1 vote at all general meetings and/or cast a vote in any properly held postal ballot.

For the avoidance of doubt all persons who were voting members of the Company prior to the adoption of this Constitution, shall continue to be Members after its adoption, and shall enjoy all of the rights referred to in this clause 4.6.

- 4.7 The non-voting Members have the right:
- (a) to receive notice of all general meetings; and
 - (b) to attend and speak at all general meetings,
- but do not have the right to vote at any general meeting.

For the avoidance of doubt all Specialists who were members of the Company prior to the adoption of this Constitution, shall continue to be Associate Members after its adoption, and shall enjoy all of the rights as non-voting members referred to in this clause 4.7.

5. Admission to Membership

- 5.1 Employees of the Company are not eligible to be admitted as Members.
- 5.2 Persons who are not, in the opinion of the Board, bona fide supporters of the objects of the Company are not eligible to be admitted as Members.
- 5.3 Applications for membership of the Company will be in writing, signed by the applicant in the form required by the Board may from time to time, and must be accompanied by any applicable entrance fee and annual subscription as determined by the Board in accordance with clause 6.
- 5.4 At the next meeting of the Board after the receipt of an application for membership, the application will be considered by the Directors. The Board will:
- (a) determine the admission or rejection of the applicant; or
 - (b) decide to call on the applicant to supply any evidence of eligibility for the relevant category of membership that they consider reasonably necessary.

5.5 If the Board:

- (a) requires further evidence under rule 5.4, determination of the application will be deferred until this evidence has been supplied;
- (b) rejects an application for membership, they will not be required to give reasons for the rejection.

5.6 The rights and privileges of every Member will be personal to each Member and will not be transferable by the Member's own act or by operation of law.

6. Subscriptions

6.1 The Board may determine the entrance fee and annual subscription payable by each Member or each class or category of Member.

6.2 Until otherwise determined by the Board the entrance fee will be nil.

6.3 The annual subscription period will commence on 1 July of each year, and the annual subscription will be due in advance within thirty (30) days of this date.

6.4 The Board may determine that any Member admitted to membership between 1 December and 30 June will pay only one-half of the annual subscription until that Member's next annual subscription falls due.

6.5 If a Member does not pay a subscription within thirty (30) days after it becomes due the Board:

- (a) will give the Member notice of that fact; and
- (b) if the subscription remains unpaid twenty-one (21) days from the date of that notice, may declare that Member's membership forfeited.

7. Ceasing to be a Member

7.1 A Member's membership of the Company will cease:

- (a) if the Member gives the Secretary written notice of resignation, from the date of receipt of that notice by the Secretary;
- (b) if membership is forfeited under rule 6.5(b);
- (c) where the Member is an individual, if the Member:
 - (i) dies;
 - (ii) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health; or
 - (iii) is convicted of an indictable offence;
- (d) where the Member is an organisation, and that organisation,

- (i) becomes insolvent;
 - (ii) is dissolved;
 - (iii) is deregistered; or
 - (iv) otherwise ceases to exist;
- (e) is removed from membership under rule 8.

7.2 Any Member ceasing to be a Member:

- (a) will not be entitled to any refund (or part refund) of a subscription; and
- (b) will remain liable for and will pay to the Company all subscriptions and moneys which were due at the date of ceasing to be a Member.

7.3 Each Member must notify the Secretary in writing of any change in that Member's address within a period of one (1) month next following such change and all notices given in accordance with rule 61 to the address last notified will be considered fully received.

- (a) If the Board believe that a Member's address is invalid they may write to, or otherwise contact the Member, requesting that the address be clarified.
- (b) If, after a period of three months has elapsed since the request for further information in rule 7.3(b), the Board may terminate the membership unless the Member has provided a satisfactory explanation of the Member's circumstances.

8. Removal from Membership

8.1 The Board may remove a Member from membership of the Company if:

- (a) that Member is no longer eligible for Membership; or
- (b) in the opinion of the Board, the conduct of the Member renders it undesirable that the Member continue to be a Member of the Company, and:
 - (i) a member is given at least 30 days written notice of the intention to terminate their membership and the grounds of the intended termination; and
 - (ii) the Member has been invited, in the written notice, to provide to the Board any written representations it would like considered by the Board and the Member is given the opportunity to be heard at the Board meeting at which the resolution is proposed.

8.2 Any resolution of the Board under this rule to remove a Member from membership of the Company must be passed by a majority of three-quarters of the Board present and voting at the meeting of the Directors that considers the resolution.

9. Powers of attorney

- 9.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the Attorney to the Company for notation.
- 9.2 If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- 9.3 The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

GENERAL MEETINGS

10. Calling general meeting

- 10.1 The Secretary must, on the request of three (3) Directors, call a general meeting.
- 10.2 A Member may only request the Directors to call a general meeting in accordance with the Act.

11. Notice of general meeting

- 11.1 Subject to the provisions of the Act allowing general meetings to be held with shorter notice, at least twenty-one (21) days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members of any general meeting.
- 11.2 A notice calling a general meeting:
 - (a) must specify the place, date and time of the meeting and if the meeting is to be held in two (2) or more places, the technology that will be used to facilitate this; and
 - (b) must state the general nature of the business to be transacted at the meeting; and
 - (c) may specify a place for the purposes of proxy appointment.
- 11.3 The business to be transacted at an AGM may include:
 - (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
 - (b) the election of Member Elected Directors; or
 - (c) the appointment and fixing of the remuneration of the Auditor,without the need for the notice of meeting to state such business.

- 11.4 The Board may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under rule 10.2).
- 11.5 The Board must give notice of the postponement or cancellation of a general meeting to all persons referred to in rule 62.1 entitled to receive notices from the Company.
- 11.6 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

PROCEEDINGS AT GENERAL MEETINGS

12. Quorum

- 12.1 No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.
- 12.2 For the purpose of a general meeting, the quorum of Members is:
- (a) where the number of Members is less than 100 - 20% of the Members (rounded up to the nearest whole number) whether present in person or by proxy; or
 - (b) where the number of Members is greater than 100 - 20 Members whether present in person or by proxy.
- 12.3 If a quorum is not present within thirty (30) minutes after the time appointed for a general meeting:
- (a) if the general meeting was called on the requisition of Members, it is automatically dissolved; or
 - (b) in any other case:
 - (i) it will stand adjourned to the same time and place seven (7) days after the meeting, or to another day, time and place determined by the Board; and
 - (ii) if at the adjourned general meeting a quorum is not present within thirty (30) minutes after the time appointed for the general meeting, the general meeting is automatically dissolved.

13. Chairperson

- 13.1 The Chairperson will be the chairperson at every meeting of Members.
- 13.2 If:
- (a) there is no Chairperson; or

- (b) the Chairperson is not present within fifteen (15) minutes after the time appointed for holding the general meeting; or
- (c) the Chairperson is unwilling to act as chairperson of the general meeting, the Directors present may elect one of their number as chairperson of the general meeting of the Members.

13.3 If no election is made under rule 13.2, then:

- (a) the Members may elect one of the Directors present as chairperson of the meeting; or
- (b) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson of the meeting.

13.4 If there is a dispute at a general meeting about a question of procedure, the Chairperson of the meeting may determine the question.

14. Adjournment

14.1 The Chairperson of a general meeting at which a quorum is present:

- (a) may adjourn the general meeting with the meeting's consent; and
- (b) must adjourn the general meeting if the meeting directs him or her to do so.

14.2 An adjourned general meeting may take place at a different venue to the initial general meeting.

14.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.

14.4 Notice of an adjourned general meeting must only be given in accordance with rule 11.1 if a general meeting has been adjourned for more than twenty-one (21) days.

15. Decision on questions

15.1 Subject to the Act in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

15.2 Unless a poll is demanded:

- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
- (b) an entry to that effect in the minutes of the meeting,
- (c) are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

15.3 The demand for a poll may be withdrawn.

15.4 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the general meeting was not entitled to do so.

16. Postal Ballots

16.1 Notwithstanding any other provision, to the extent permitted by law, a resolution of the Members decided by postal ballot conducted in accordance with this Constitution shall be as valid and effective as if it had been passed at a meeting of the Company duly called and constituted.

16.2 Without limiting the purposes for which the Board may conduct a postal ballot amongst the Members, a postal ballot shall be held for:

- (a) the elections of all Member Elected Directors (including the filling of casual vacancies as contemplated by clause 36); and
- (b) confirming the appointment of all Board Appointed Directors as required by law,

and the results shall be declared as appropriate at each annual general meeting.

16.3 A postal ballot may be held by electronic means.

16.4 In relation to a postal ballot for an election as contemplated by clause 16.2(a):

- (a) the postal ballot must be commenced by the Board calling for nominations no earlier than 6 months before the annual general meeting and must be completed no later than seven days before the annual general meeting; and
- (b) there shall not be a further vote on the relevant resolution (whether by show of hands or by poll) at the annual general meeting in respect of any such election.

16.5 In relation to a postal ballot other than one conducted for an election as contemplated by clause 16.2(a), the Board may declare that the results of the postal ballot will be added to votes to be taken on the resolution at a general meeting of Members provided that:

- (a) this is advised to the Members in writing prior to the conduct of the postal ballot; and
- (b) no Member is entitled to vote more than once on the same resolution.

16.6 All postal ballots shall be held in such a manner as to provide a reasonable opportunity for the Members to cast a vote and otherwise in the manner prescribed by the Board from time to time in by-laws promulgated by the Board.

16.7 All resolutions put to the vote of a general meeting of Members, which have not already been decided by postal ballot under this Constitution, must be decided on a show of hands unless a poll is demanded in accordance with clause 17.

16.8 On a show of hands, every Member present in person has one vote.

17. Taking a poll

17.1 A poll may be demanded in respect of a resolution at a general meeting by:

- (a) at least 5 voting Members entitled to vote on the resolution;
- (b) voting Members with at least 5% of the votes that may be cast on the resolution; or
- (c) the chairperson.

17.2 A poll may be demanded in respect of a resolution at a general meeting:

- (a) before the vote on that resolution is taken;
- (b) before the voting result on a show of hands is declared; or
- (c) immediately after the voting result on a show of hands is declared.

17.3 A poll may not be demanded on the election of a chairperson.

17.4 Every voting Member present in person or by proxy has:

- (a) the right to join in the demand for a poll; and
- (b) 1 vote in the poll.

17.5 The demand for a poll may be withdrawn.

17.6 If a poll is duly demanded, it must be:

- (a) secret;
- (b) taken in the manner directed by the chairperson;
- (c) on the election of the chairperson or on a question of adjournment, taken immediately;
- (d) on any other question, taken either at once or after an interval or adjournment or otherwise as directed by the chairperson and does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll is demanded.

17.7 In the case of any dispute as to the admission or rejection of a vote, the chairperson's determination in respect of the dispute is final.

17.8 The result of the poll is the resolution of the meeting at which the poll is demanded.

17.9 After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

18. Casting vote of chairperson

- 18.1 The Chairperson does not have a casting vote in addition to the Chairperson's votes as a Member, proxy or attorney.

19. Offensive material

- 19.1 A person may be refused admission to, or required to leave and not return to, a meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
 - (i) placard or banner; or
 - (ii) other article; or
- (c) is using a recording device,

which the Chairperson considers to be dangerous, offensive or liable to cause disruption.

VOTES OF MEMBERS

20. Objections

- 20.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.
- 20.2 An objection must be referred to the chairperson of the general meeting, whose decision is final.
- 20.3 A vote which the chairperson disallows following an objection is valid for all purposes.

21. Votes by proxy

- 21.1 If a Member appoints a proxy, proxies or an attorney, the proxy, proxies or attorney may vote on a show of hands.
- 21.2 A proxy need not be a Member.
- 21.3 A proxy may demand or join in demanding a poll.
- 21.4 A proxy or attorney may vote on a poll.
- 21.5 A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If a proxy votes at all, the proxy will be deemed to have voted all directed proxies in the manner directed.

22. Document appointing proxy

- 22.1 An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the information required by the Act. The Board may determine that an appointment of proxy is valid even if it only contains some of the information required by the Act.
- 22.2 A proxy's appointment is valid at an adjourned general meeting.
- 22.3 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.
- 22.4 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:
- (a) to vote on:
 - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
 - (ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting,
- 22.5 even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
- (a) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.
- 22.6 If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either cast as proxy or complete the appointment by inserting the name or names of one or more Directors or the Secretary.

23. Lodgment of proxy

- 23.1 The written appointment of a proxy or attorney must be received by the Company at least forty-eight (48) hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
- (a) the time for holding the general meeting or adjourned general meeting at which the appointee proposes to vote; or
 - (b) the taking of a poll on which the appointee proposes to vote.
- 23.2 The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at the Office.
- 23.3 Proxies, powers of attorney or other authority are not entitled to be lodged by facsimile or electronically unless the Board determine otherwise.

24. Validity

24.1 A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointer:

- (a) died;
- (b) became mentally incapacitated; or
- (c) revoked the proxy or power,

24.2 unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant general meeting or adjourned general meeting.

25. Representatives

25.1 Every Organisational Member must appoint an individual as Representative to exercise all or any of the powers of the Member under this Constitution or the Act or otherwise at law.

25.2 The appointment may be a standing one.

25.3 The appointment may set out restrictions on the Representative's powers. If the appointment is to be by reference to a position held, the appointment must identify the position.

25.4 A Member may appoint more than 1 Representative but only 1 Representative may exercise the body's powers at any one time.

25.5 Unless otherwise specified in the appointment, the Representative may exercise, on the Member's behalf, all of the powers that the Member could exercise at a meeting or in voting on a resolution.

APPOINTMENT AND REMOVAL OF DIRECTORS

26. Size and Composition of Board

26.1 The number of Directors of the Company must be a minimum of three (3) and a maximum of nine (9) persons, comprising:

- (a) at least two (2) and up to five (5) Member Elected Directors; and
- (b) at least one (1) and up to four (4) Board Appointed Directors.

26.2 The Member Elected Directors must consist of at least two (2) but no more than four (4) Directors who are General Practitioners.

26.3 The Company may by special resolution increase or reduce the number of Directors, (provided that the minimum must not fall below 3 as required by the Act) and may also determine in what rotation the Directors elected or appointed as the result of any such alteration are to go out of office.

27. Eligibility for appointment or election as a Director

27.1 This rule applies to all persons other than those appointed under rule 36.

27.2 A person is only eligible for election or appointment as a Director if:

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

28. Member Elected Directors

28.1 Each Member Elected Director will serve for a term of approximately 3 years commencing from the AGM at which the Member Elected Director was elected, but is eligible for re-election or re-appointment if not then disqualified by this Constitution or the Act from being re-elected or re-appointed.

28.2 There will be a staggered rotational system of election of Member Elected Directors such that at each AGM, approximately one-third of Member Elected Directors, each of whom has served a term of approximately 3 years, must retire from office.

29. Board Appointed Directors

29.1 The Board may appoint up to 4 Board Appointed Directors.

29.2 The Board may only appoint a person as a Board Appointed Director if that person has been determined by the Nominations Committee to be eligible for appointment in accordance with the Director Eligibility and Board Composition Requirements.

29.3 Each Board Appointed Director will serve for a term of 3 years, or such lesser period as the Board may determine, but (if not otherwise disqualified by this Constitution or the Act) is eligible for re-election or re-appointment.

30. Eligibility for Re-Election

30.1 A retiring Director is eligible for re-election or appointment (if not disqualified under this Constitution, the Act or the Director Eligibility Criteria).

31. Consent to Act as a Director

- 31.1 No person (other than a retiring Director) is eligible for election to the office of Director at any time unless the person has given a signed notice in writing of that person's consent to be a Director.

32. Retiring Directors to Remain in Office

- 32.1 If, at any AGM at which an election of one or more Member Elected Directors ought to occur, the places of the retiring Member Elected Directors (or any of them) are not filled, then the person retiring from that place or office is deemed to be re-elected and continues to hold office until the next AGM and so on from year to year until their places are filled unless:

- (a) it is determined at a general meeting to reduce the number of Member Elected Directors;
- (b) it is resolved at the AGM not to fill the vacated offices;
- (c) a resolution for re-election of the relevant Member Elected Director is put to the Members and lost; or
- (d) the Member Elected Director has given notice in writing to the Company that he or she does not wish to be re-elected or the Member Elected Director is removed from office under this constitution.

33. Alternate Directors

- 33.1 Each Director may with the consent of the Board appoint an alternate to attend and vote on his or her behalf at all meetings of the Board at which the Director is not present.
- 33.2 Any Director proposing to appoint an alternate must not do so without the prior approval of the Board.

34. Directors' Remuneration

- 34.1 Directors may be remunerated for their role as Directors provided that such fees are approved annually in advance by the Board.
- 34.2 In addition to remuneration approved by the Board, Directors may in the discretion of the Board be entitled to be paid all reasonable travelling, accommodation, and other expenses properly incurred by them in attending and returning from meetings of the Board or any of its committee or general meetings or otherwise in the execution of their duties as Directors provided that such expenses have first been approved by the Board.

35. Vacating of Office of Director

- 35.1 The office of a Director becomes vacant if the Director:
- (a) becomes bankrupt or makes any arrangement or composition with his creditors generally;

- (b) becomes prohibited from being a Director of a company by reason of any order made under the law;
- (c) becomes prohibited from being a Director by reason of the Act or of any order made under the Act;
- (d) becomes of unsound mind or a person whose person or estate is liable' to be dealt with in any way under the law relating to mental health; and
- (e) resigns his office by notice in writing to the Company.

36. Casual Vacancy

- 36.1 In the event of a vacancy in the office of a Board Appointed Director, the Board may appoint a person to fill the vacancy and the person so appointed shall hold office until the next AGM.
- 36.2 If a casual vacancy arises in relation to a Member Elected Director:
- (a) the Board may appoint a person to fill the casual vacancy until the next annual general meeting after their appointment provided that the person is not disqualified from being appointed by law or by this Constitution;
 - (b) prior to the next annual general meeting after the person's appointment to the casual vacancy, their appointment as a Member Elected Director shall be submitted to a vote of the Members conducted by postal ballot in accordance with this Constitution;
 - (c) the person's appointment to fill the casual vacancy shall be deemed to be confirmed at the next annual general meeting if supported by an ordinary resolution of the Members in the postal ballot;
 - (d) the person's appointment to the Board as a Member Elected Director shall then continue as and from the close of the annual general meeting only until the next annual general meeting at which the person who vacated the office of Member Elected Director early would have been required to retire pursuant to this Constitution if they had not vacated office early; and
 - (e) that person shall then be eligible for re-election or re-appointment at the next relevant annual general meeting provided that they are not otherwise disqualified by law or by this Constitution.

37. Removal of Director by Members

- 37.1 The Company may by ordinary resolution, of which special notice has been given in accordance with the Act, remove any office-bearer or other Director before the expiration of his period of office and may by an ordinary resolution appoint another person in his stead and the person so appointed shall hold office only until the next AGM.

38. Removal from Office Upon Cessation of Membership

- 38.1 If a Director is also a Member of the Company, the office of that Director becomes vacant if the director's Membership of the Company comes to an end under rule 8.1(b). The Director is however eligible for subsequent re-appointment.

POWERS AND DUTIES OF DIRECTORS

39. Powers and duties of Directors

- 39.1 The governance of the Company is the responsibility of the Board of Directors duly elected and appointed under and in accordance with this Constitution.
- 39.2 The business of the Company is managed by the Board which may exercise all powers of the Company that this Constitution and the Act do not require to be exercised by the Company in general meeting.

PROCEEDINGS OF DIRECTORS

40. Board meetings

- 40.1 The Secretary must on the request of three Directors, call a Board meeting.
- 40.2 Unless otherwise agreed, a Board meeting must be called on at least forty-eight (48) hours written notice of a meeting to each Director.
- 40.3 Subject to the Act, a Board meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- 40.4 The Directors need not all be physically present in the same place for a Board meeting to be held.
- 40.5 Subject to rule 44, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 40.6 The Directors may meet together, adjourn and regulate their meetings as they think fit.

41. Quorum

- 41.1 A quorum is half the number of current Directors (rounded down to the nearest whole number) plus one.
- 41.2 Where a quorum cannot be established for the consideration of a particular matter at a Board meeting, the Chairperson may call a general meeting of Members to deal with the matter.
- 41.3 Notice of a Board meeting may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

42. Decision on questions

- 42.1 Subject to this Constitution, questions arising at a Board meeting are to be decided by a majority of votes of the Directors present and voting and, subject to rule 44, each Director has one vote.
- 42.2 The Chairperson of a meeting does not have a casting vote in addition to his or her deliberative vote.

PAYMENTS TO DIRECTORS

43. Payments to Directors

- 43.1 No payment may be made by the Company to any Director of the Company other than payment:
- (a) of remuneration for performance of duties as a Director where such remuneration has been approved annually in advance by the Board of the Company (see rule 34);
 - (b) for reimbursement of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Board of the Company (see rule 34);
 - (c) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board of the Company (see rule 44);
 - (d) relating to an indemnity in favour of the Director and permitted by the Act .

44. Conflicts of Interest

- 44.1 The Board must, agree from time to time in writing on its policy for the regulation of conflicts of interest, which must include a requirement that Directors only be engaged to provide goods or services to or on behalf of the Company if:
- (a) that Director is for bona fide reasons considered by Board, agreed to be a suitable person to provide, such goods or services;
 - (b) bona fide attempts have been made to identify others who provide the goods or services and to compare rates and service levels of such others compared with the Director's rates and service levels;
 - (c) the goods or services are provided on arms-length terms;
 - (d) the provision of the goods and services is disclosed clearly and expressly to the Members in the annual report of the Company; and
 - (e) the Board agrees by ordinary resolution (excluding the interested Director) to the provision of the goods or services by the Director.

45. Falling Below Required Number of Directors

- 45.1 Subject to clause 45.2, the Board may act even if there are vacancies on the Board.
- 45.2 If the number of Directors falls below the minimum number required by clause 26.1, the Directors may act only to:
- (a) appoint a Director; or
 - (b) call a general meeting.

46. Chairperson

- 46.1 The Board must at its first meeting following each AGM, elect a Director as Chairperson.
- 46.2 The Chairperson's term of office as Chairperson expires at the conclusion of the first AGM after he or she was last elected as Chairperson.
- 46.3 A retiring Chairperson is eligible for re-election as Chairperson under rule 46.1.
- 46.4 The Chairperson is to chair meetings of Board.
- 46.5 If no chairperson is elected or if the chairperson is not present at any Board meeting within ten (10) minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.

47. Committees

- 47.1 The Board may establish:
- (a) a finance and audit committee; and
 - (b) any other committee or committees to provide advice to the Board and/or to exercise delegated powers pursuant to rule 48.
- 47.2 Committee members will be appointed by the Board.
- 47.3 At least one (1) member of each committee must be a Director.

48. Delegation to Committees

- 48.1 The Board may delegate any of their powers, except this power to delegate and any powers which by law must be dealt with by the Board, to a committee or committees.
- 48.2 The Board may at any time revoke any delegation of power to a committee.
- 48.3 At least one (1) member of each committee must be a Director.

- 48.4 A committee must exercise its powers in accordance with any directions of the Board and a power exercised in that way is taken to have been exercised by the Board.
- 48.5 Meetings of any Board committee will be governed by the provisions of this Constitution which deal with Board meetings so far as they are applicable and are not inconsistent with any directions of the Board. The provisions apply as if each member was a Director.

49. Branches

- 49.1 In addition to establishing committees, the Board may establish one or more branches of the Company in different locations within the Region (“**sub-region**”) such that each branch has day-to-day management of the activities of the Company in the relevant sub-region and is required to report regularly to the Board on its activities and, in the management of the sub-region, to implement the directives of the Board from time to time.

50. Written resolutions

- 50.1 The Board may pass a resolution without holding a Board meeting if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Unless the resolution provides otherwise, the resolution is passed when the last Director signs.
- 50.2 For the purposes of rule 50.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 50.3 Any document referred to in this rule may be in the form of a facsimile or electronic transmission.
- 50.4 The minutes of Board meetings must record that the resolution was passed in accordance with this rule.
- 50.5 This rule applies to meetings of Board committees as if all members of the committee were Directors.

51. Validity of acts of Directors

- 51.1 If it is discovered that:
- (a) there was a defect in the appointment of a person as a Director, alternate director or member of a Board committee; or
 - (b) a person appointed to one of those positions was disqualified,
- all acts of the Board or the Board committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

52. Minutes and Registers

52.1 The Directors must cause minutes to be made of:

- (a) the names of the Directors present at all Board meetings and meetings of Board committees;
- (b) all proceedings and resolutions of general meetings, Board meetings and meetings of Board committees;
- (c) all resolutions passed by Directors in accordance with rule 50;
- (d) all appointments of officers;
- (e) all orders made by the Directors and Board committees; and
- (f) all disclosures of interests made under rule 44.

52.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.

52.3 The Company must keep the Register and all other registers required by this Constitution and the Act.

NOMINATIONS COMMITTEE

53. Appointment of Nominations Committee

53.1 The Board must maintain a Nominations Committee.

53.2 The Nominations Committee must comprise:

- (a) not less than three (3) or more than five (5) persons; and
- (b) a majority of persons who are not Directors;

53.3 The Nominations Committee may be appointed and removed at any time by resolution of the Board.

53.4 The Nominations Committee shall review and assess the extent to which persons seeking election or who are being considered for appointment to the Board fulfil the Director Eligibility Criteria and the Board Composition Requirements.

53.5 The Nominations Committee must submit to the Board for inclusion with the notice of AGM, a list of suitable candidates for election as a Member Elected Director, along with confirmation that the person fulfils the Director Eligibility Criteria, the Board Composition Requirements and any other information required by the Board from time to time.

ATTORNEYS AND AGENTS

54. Appointment of attorneys and agents

54.1 The Board may from time to time by resolution or power of attorney executed in accordance with the Act appoint any person to be the attorney or agent of the Company:

- (a) for the purposes;
- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Board under this Constitution);
- (c) for the period; and
- (d) subject to the conditions,

determined by the Board.

54.2 An appointment by the Board of an attorney or agent of the Company may be made in favour of:

- (a) any Member of the Company;
- (b) any company;
- (c) the members, directors, nominees or managers of any company or firm; or
- (d) any fluctuating body of persons whether nominated directly or indirectly by the Board.

54.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Board thinks fit.

54.4 The Board may appoint attorneys or agents by facsimile transmission, telegraph or cable to act for and on behalf of the Company.

54.5 An attorney or agent appointed under this rule 54 may be authorised by the Board to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

CEO

55. CEO

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

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

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

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

SECRETARY

56. Secretary

56.1 If required by the Act, there must be at least one (1) secretary of the Company appointed by the Board for a term and at remuneration and on conditions determined by them.

56.2 The Secretary is entitled to attend and be heard on any matter at all Board and general meetings.

56.3 The Board may, despite anything to the contrary in the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

BY-LAWS

57. By-laws

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

SEALS

58. Common Seal

58.1 If the Company has a Seal:

- (a) the Board must provide for the safe custody of the Seal;
- (b) the Seal must not be used without the authority of the Board or a Board committee authorised to use the Seal;
- (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Board to countersign the document.

59. Duplicate Seal

59.1 If the Company has a Seal, the Company may have one (1) or more duplicate Seals of the Seal each of which:

- (a) must be a facsimile of the Seal with the addition on its face of the words "Duplicate Seal";

- (b) must not be used except with the authority of the Board.

INSPECTION OF RECORDS

60. Inspection of records

- 60.1 Except as otherwise required by the Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.

NOTICES

61. Service of notices

- 61.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution:

- (a) by serving it on the person; or
- (b) by sending it by post to the person at the person's Registered Address or the address supplied by the person to the Company for sending notices to the person; or
- (c) by sending it by facsimile or e-mail to the facsimile number or e-mail address of the addressee.

- 61.2 A notice given in accordance with this Constitution is deemed to be given, served and received at the following times:

- (a) if served on the person – at the time of service;
- (b) if sent by post to the person's Registered Address– on the next business day (or 5th business day if outside Australia) after posting; or
- (c) if sent by facsimile or e-mail – at the time transmission is completed.

- 61.3 If a Member has no Registered Address a notice will be taken to be served on that Member twenty-four (24) hours after it was posted on a notice board at the Office.

- 61.4 A Member whose Registered Address is not in Australia may specify in writing an address in Australia to be taken to be the Member's Registered Address within the meaning of this rule.

- 61.5 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.

- 61.6 Subject to the Act the signature to a written notice given by the Company may be written or printed.

- 61.7 All notices sent by post outside Australia must be sent by prepaid airmail post.

62. Persons entitled to notice

62.1 Notice of every general meeting must be given to:

- (a) every Member;
- (b) every Director and Alternate Director; and
- (c) any Auditor.

62.2 No other person is entitled to receive notice of a general meeting.

AUDIT AND ACCOUNTS

63. Audit and accounts

63.1 The Board must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the Act.

63.2 The Board must cause the financial records of the Company to be audited in accordance with the requirements of the Act.

WINDING UP

64. Winding up

64.1 If the Company is wound up:

- (a) each Member; and
- (b) each person who has ceased to be a Member in the preceding year, undertakes to contribute to the property of the Company for the:
 - (c) payment of debts and liabilities of the Company (in relation to rule 64.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
 - (d) adjustment of the rights of the contributories amongst themselves,

such amount as may be required, not exceeding \$10.

64.2 If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another corporation which, by its constitution, is:

- (a) required to pursue charitable purposes only;
- (b) required to apply its profits (if any) or other income in promoting its objects; and
- (c) prohibited from making any distribution to its members if the Company has deductible gift recipient endorsement under the *Income Tax Assessment Act 1997* (Cth), has the same endorsement, such body

corporate to be determined by resolution of Members at or before the winding up or, in default, by application to the Supreme Court for determination.

INDEMNITY

65. Indemnity

- 65.1 To the extent permitted by law and subject to the restrictions in the Act, the Company indemnifies every person who is or has been a Director or Secretary of the Company against any liability (other than for legal costs) incurred by that person as such an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).
- 65.2 To the extent permitted by law and subject to the restrictions in the Act, the Company indemnifies every person who is or has been a Director or Secretary of the Company against reasonable legal costs incurred in defending an action for a liability incurred by that person as such an officer of the Company (including such legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).
- 65.3 The amount of any indemnity payable under rules 65.1 or 65.2 will include an additional amount (GST Amount) equal to any GST payable by the officer being indemnified (Indemnified Officer) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.

THE NAPH GIFT FUND

66. The NAPH Gift Fund

66.1 Definitions

66.2 In this rule:

“**TAA**” means the *Income Tax Assessment Act 1997* (Cth) as amended from time to time or any other legislative provision enacted in substitution to it;

“**Gift Fund Account**” means the bank account opened under rule 66.4;

“**Health Purposes**” means to promote the prevention or the control of diseases in human beings;

“**NAPH Gift Fund**” means the Gift Fund established under rule 66.3.

66.3 Establishment of NAPH Gift Fund

- (a) The Northern Australia Primary Health Limited Gift Fund is established to receive all gifts of money and property for Health Purposes.
- (b) The **NAPH** Gift Fund must be used principally for Health Purposes.
- (c) The **NAPH** Gift Fund must comply with subdivision 30-BA of the TAA.

66.4 Operation of Gift Fund

- (a) The Company must:
 - (i) open a bank account for the **NAPH** Gift Fund; and
 - (ii) keep the money in the Gift Fund Account separate from the Company's other monies.
- (b) The Company may from time to time invite members of the public to make gifts of money and property to the **NAPH** Gift Fund to fund the Health Purposes.
- (c) When a donation is received under rule 66.4(b), the Company must issue a receipt for the donation in the name of the Townsville Division of General Practice Limited and the receipt must state: -
 - (i) the ABN of the Company; and
 - (ii) the fact that the receipt is for a gift.
- (d) The Company must deposit into the Gift Fund Account any:
 - (i) donations of money made to the Company;
 - (ii) interest earned on money in the Gift Fund Account;
 - (iii) income derived from property donated to the Company; and
 - (iv) money from the realisation of property donated to the Company.

66.5 Winding up

66.6 If the **NAPH** Gift Fund is wound up or if the endorsement (if any) of the organisation as a deductible gift recipient is revoked, any surplus assets of the **NAPH** Gift Fund remaining after the payment of liabilities attributable to it, shall be transferred to a charitable fund, authority or institution to which income tax deductible gifts can be made.