

BELLARINE COMMUNITY HEALTH LIMITED

5NJP: 20901284

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CORPORATIONS ACT 2001

PUBLIC COMPANY LIMITED BY GUARANTEE

1. NATURE OF COMPANY AND LIABILITY

1.1. Nature of company

The Company is a public company limited by guarantee.

1.2. Liability of Financial Members and Guarantee on winding up

1.2.1. The liability of the Members is limited.

1.2.2. Every Financial Member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up while he is a Member, or within one year after he ceases to be a Member, for 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 the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding two dollars.

2. OBJECTS OF THE COMPANY

2.1. The Company has the following objects:

2.1.1. To provide such community health centre and other service delivery premises as may be required to the Bellarine Peninsula;

2.1.2. To provide high quality and accessible curative, preventative, rehabilitative, community support and educative services to the Bellarine Peninsula;

2.1.3. To encourage individual and community initiative and autonomy in health care, and to apply this principle to the governance and management of the Service by encouraging community participation;

2.1.4. To ensure Bellarine Community Health Ltd's activities have a multidisciplinary approach towards service, including the five service model theme of improving health status, rehabilitation, maintenance of function, wellbeing and service sustainability;

2.1.5. To raise money to further the aims of the Company and to secure sufficient funds for the purposes of the Company;

2.1.6. To receive any funds and to distribute these funds in a manner that best attains the objects of the Company;

2.1.7. To do all such things as are incidental or conducive to the attainment of all or any of the objects of the Company.

3. DEFINITIONS AND INTERPRETATION

- 3.1. In this Constitution the following definitions apply:
- 3.1.1. **Area** means the area serviced by Bellarine Community Health Ltd being the Bellarine Peninsula;
 - 3.1.2. **Bellarine Peninsula** means the area in Victoria bounded by Bass Strait, Swan Bay, Port Phillip Bay and the Barwon River;
 - 3.1.3. **Board** means the Board of Directors;
 - 3.1.4. **Company** means Bellarine Community Health Limited;
 - 3.1.5. **Corporations Act** means the *Corporations Act (Cth) 2001*;
 - 3.1.6. **Directors** means the Board of Directors of the Company;
 - 3.1.7. **Deductible Gift Recipient** has the meaning given to it by section 30-227 of the *Income Tax Assessment Act (Cth) 1997*;
 - 3.1.8. **Eligible Charity** means a fund, authority or institution:
 - 3.1.8.1. which is charitable at law; and
 - 3.1.8.2. gifts to which are deductible under Item 1 of the table in section 30-15 of the *Income Tax Assessment Act (Cth) 1997*;
 - 3.1.9. **Financial Year** means the period of 12 calendar months commencing on the 1st July;
 - 3.1.10. **Funding and Service Agreement** means a formal agreement between the Secretary to the Department of Human Services and the Company;
 - 3.1.11. **General Meeting** includes an Annual General Meeting and Special Meeting, and means a meeting of members convened in accordance with the objects of the Company or this Constitution;
 - 3.1.12. **Life Governor** means a person who was a former Life Governor of Bellarine Community Health Incorporated or has been so appointed in accordance with clause 6;
 - 3.1.13. **Member** means a person whose name is entered in the Register as a Financial, Associate, or Life Member or Life Governor of the Company, and if a Financial Member, whose Membership has not lapsed;
 - 3.1.14. **Office** means the registered office of the Company;
 - 3.1.15. **Principal Purpose** means the purpose of the Company as reflected in the objects of the Company specified in Clause 2;
 - 3.1.16. **Register** means the Register of Members kept by the Company under the *Corporations Act 2001*;
 - 3.1.17. **Seal** means the common seal of the Company;
 - 3.1.18. **Secretary** means the person appointed to perform the duties of secretary of the Company;

- 3.1.19. **Service** means the community health care service provided by the Company within the Area;
- 3.1.20. **Termination Event** means the death or bankruptcy of a Member or a Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health.

3.2. Interpretation

- 3.2.1. In this Constitution the following apply:
 - 3.2.1.1. A reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision, in either case whether before, on or after the date of this Constitution.
 - 3.2.1.2. A reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time.
 - 3.2.1.3. A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Constitution.
 - 3.2.1.4. Where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
 - 3.2.1.5. A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes other genders.
 - 3.2.1.6. An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or public authority.
 - 3.2.1.7. A reference to dollars or \$ means Australian dollars.
 - 3.2.1.8. References to the word 'include' or 'including' are to be construed without limitation.
 - 3.2.1.9. A reference to a time of day means that time of day in the place where the office is located.
 - 3.2.1.10. A reference to a business day means a day other than Saturday or Sunday on which banks are open for business generally in the place where the Office is located.
 - 3.2.1.11. Where a period of time is specified and dates from a given day or the day of an act or event it must be calculated exclusively of that day.
 - 3.2.1.12. A term of this Constitution which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required to be done on or by the next business day.

3.3. Reference to this Constitution

- 3.3.1. A reference to this Constitution includes this Constitution as so amended.
- 3.3.2. Without limiting the provisions of the Corporations Act, no amendment shall be made to this Constitution which has not been approved by the Company.

3.4. Replaceable Rules

In so far as this Constitution does not cover a matter dealt with by the Replaceable Rules of the Corporations Act, the Replaceable Rules shall apply. In the event of any inconsistency between this Constitution and the Replaceable Rules, this Constitution shall prevail.

3.5. Exercise of powers

Except as specifically contemplated to the contrary in this Constitution, the Company may exercise any power, take any action, or engage in any conduct or procedure which under the Corporations Act a company limited by guarantee may exercise, take, or engage in.

4. MEMBERSHIP

- 4.1. The Membership of the Company will be divided into the following classes of Membership:

- 4.1.1. Financial Members;
- 4.1.2. Associate Members;
- 4.1.3. Life Members; and
- 4.1.4. Life Governors.

4.2. Financial Members and Associate Members

- 4.2.1. A Financial Member of the Company is:
 - 4.2.1.1. a Member who has paid the annual subscription fee prescribed by the Board from time to time.
- 4.2.2. An Associate Member of the Company is:
 - 4.2.2.1. a person who was formerly a member of Bellarine Community Health Incorporated, who has not paid the annual subscription fee prescribed by the Board of the Company from time to time, and whose name is entered in the Register.
 - 4.2.2.2. A person may make application to become an Associate Member in accordance with clause 4.7 of this Constitution.

4.3. The name and details of any Financial or Associate Member of the Company must be entered in the Register.

4.4. **Membership**

The Members of the Company are the initial Members as identified in the application for incorporation of the Company to the Australian Securities and Investments Commission and such other persons as the Company admits to Membership in accordance with this Constitution.

4.5. **Application for Membership**

4.5.1. Subject to clause 4.2 any individual who:

4.5.1.1. lives, works or is enrolled as a student at an educational institute in the Area served by Bellarine Community Health Limited; or

4.5.1.2. is a client of Bellarine Community Health Limited;

may apply to become a Financial Member of the Company in accordance with Clause 4.7.

4.6. **Members**

4.6.1. All Financial Members must pay the annual subscription fee determined in accordance with clause 5;

4.6.2. All Members must comply with this Constitution.

4.6.3. A Financial Member has the right to receive notices of and to attend and be heard at any General Meeting and has the right to vote at any General Meeting.

4.6.4. An Associate Member has the right to receive notices of and to attend and be heard at any General Meeting but does not have the right to vote at any General Meeting.

4.7. **Form of application**

4.7.1. A person wishing to apply for Membership to the Company must:

4.7.1.1. provide a signed application in a form approved by the Board;

4.7.1.2. provide documents or evidence as to their qualification for Membership; and

4.7.1.3. provide the subscription fee determined in accordance with clause 5;

to the Secretary of the Company.

4.8. Admission to Membership

- 4.8.1. The Directors must consider an application for Membership as soon as practicable after its receipt and determine in their discretion, the admission or rejection of the applicant.
- 4.8.2. The Directors may at their discretion determine the category of Membership suitable for an applicant.
- 4.8.3. The Directors do not have to give reasons for rejecting an application or granting a particular category of Membership.
- 4.8.4. If an application for Membership is rejected, any subscription fee accompanying the application must be refunded to the applicant.
- 4.8.5. If an applicant is accepted for Membership the Secretary must notify the applicant of the admission in the form of a receipt for the annual subscription fee or for in such other form as the Directors determine and the name and details of the applicant must be entered in the Register.

4.9. Register of Members

- 4.9.1. A Register of the Members of the Company must be kept in accordance with the Corporations Act.
- 4.9.2. The following details must be entered in the Register in respect of each Member:
 - 4.9.2.1. The full name of the Member;
 - 4.9.2.2. The address, telephone number, facsimile number, if any, and e-mail address, if any, of the Member;
 - 4.9.2.3. The category of Membership;
 - 4.9.2.4. The date of admission to and cessation of Membership;
 - 4.9.2.5. The date of last payment of the Member's annual subscription fee; and
 - 4.9.2.6. Such other information as the Directors require.
- 4.9.3. Each Member must notify the Secretary in writing of any change in that Member's name, address, telephone number, facsimile number or e-mail address within one month after that change.

5. ANNUAL SUBSCRIPTION FEE

- 5.1. The annual subscription fee payable by a Financial Member is such sum as the Board prescribes from time to time.
- 5.2. All annual subscription fees are due and payable in advance on 1st July in each year.

5.3. If a person applies for Membership after 31st March in any year, the Directors may reduce the annual subscription fee payable by the applicant in such manner as they think fit.

5.4. Associate Members, Life Members and Life Governors do not have to pay an annual subscription fee.

5.5. **Unpaid annual subscription fees**

A Financial Member ceases to be entitled to any of the rights or privileges of Membership if the annual subscription fee of that Member remains unpaid for two months after it became payable and a notice of default (**Notice of Default**) is given to that Member pursuant to a resolution of the Directors. However, the rights and privileges of Membership may be reinstated on payment of all arrears if the Directors think fit to do so.

6. LIFE GOVERNORS AND LIFE MEMBERS

6.1. The Board may recommend to an Annual General Meeting that a person, whom in the opinion of the Board:

6.1.1. has contributed significantly beyond the scope of normal duties, to the work of Bellarine Community Health Limited or to the implementation of its purposes; or

6.1.2. has made a contribution in money or kind to Bellarine Community Health Limited which the Board considers to be so significant that it warrants the honour of such an appointment;

be elected as a Life Governor/Life Member.

6.2. No more than two persons may be elected Life Governors/Life Members at an Annual General Meeting.

6.3. Life Governors and Life Members have the right to receive notices of and attend and be heard at any General Meeting but do not have the right to vote at any General Meeting.

6.4. Any Life Governors or Life Members who prior to the incorporation of Bellarine Community Health Limited were Life Governors and Life Members of the Company's predecessors shall be Life Governors and Life Members respectively of Bellarine Community Health Limited upon incorporation.

7. REMOVAL AND CESSATION OF MEMBERSHIP

7.1. Resignation

7.1.1. A Member may resign from Membership of the Company by giving written notice to the Secretary.

7.1.2. The resignation of a Member is deemed to take effect from the date of receipt of the notice of resignation or such later date as provided in the notice.

7.2. Failure to pay

- 7.2.1. If a Financial Member has not paid all arrears of annual subscription fees in accordance with Clause 5 or, if paid and that Member's rights and privileges are not reinstated in accordance with Clause 5.5, both of the following applies in respect of that Member:
- 7.2.1.1. the Member remains liable for all the obligations and liabilities of Membership for the period up to and including the date of service of a Notice of Default and for any period specified in the Notice of Default; and
 - 7.2.1.2. the Member will cease to be a Member and the Member's name will be removed from the Register at the end of notice period referred to in the Notice of Default.

7.3. Other cessation of Membership

A Member ceases to be a Member on any Termination Event occurring.

7.4. Removal from Membership

- 7.4.1. The Directors may, at their discretion convene a meeting of Members to consider the removal of a Member from the Register if a Member is no longer considered suitable for Membership of the Company by a majority of the Directors.
- 7.4.2. The Directors will be required to provide at least two months written notice to any Member of any intention to remove the Member from the Register so as to enable the Member to provide any written representations to the Company.
- 7.4.3. Where any written representations are made by the Member and the Member requests that the representations be notified to Members of the Company, the Company must do both of the following:
- 7.4.3.1. state, in any notice of the resolution given to Members of the Company, that the representations have been made; and
 - 7.4.3.2. send a copy of the representations to every Member of the Company to whom the notice of the meeting has been or is sent.
- 7.4.4. The requirements in clause 7.4.3 do not apply to the Company if the representations are received by it too late for it to satisfy those requirements.
- 7.4.5. If a copy of the representations is not so sent because they were received too late or because of the Company's default, the Member may, without affecting any right to be heard orally, require the representations to be read out at the meeting.
- 7.4.6. Copies of the representations need not be sent out and the representations need not be read out at the meeting if the Directors are satisfied on reasonable grounds that the rights conferred by clause 7.4.3 are being abused to secure needless publicity or defamatory matter.

7.4.7. The Directors must give written reasons for recommending the removal of any Member from the Register.

7.4.8. An ordinary resolution of Members is required to pass the necessary resolution to remove a Member under clause 7.4.1.

8. NO PROFITS FOR MEMBERS

8.1. The Company must not pay or transfer, directly or indirectly, income or property of the Company to Members of the Company except as reimbursement for out of pocket expenses incurred on behalf of the Company or proper remuneration for administrative services.

8.2. Payments, services and information

8.2.1. Nothing in Clause 8 prevents the payment in good faith of any of the following:

8.2.1.1. Remuneration to any officers or employees of the Company for services actually rendered to the Company.

8.2.1.2. An amount to any Member in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual course of business.

8.2.1.3. Reasonable and proper interest on money borrowed from any Member.

8.2.1.4. Reasonable and proper rent for premises let by any Member to the Company.

8.2.2. Nothing in Clause 8 prevents the distribution of government grant monies to Members where the grant is expressly on the basis that the monies be used for the benefit of persons including Members.

8.2.3. Nothing in Clause 8 prevents the Company from providing services or information to the Members on terms which are different from the terms on which services or information are provided to persons who are not Members.

9. GENERAL MEETINGS

9.1. Convening of meetings by Directors

9.1.1. Any Director may request a General Meeting.

9.1.2. The Directors must call and arrange to hold a General Meeting if required to do so under the Corporations Act.

9.2. Convening of meetings by Members

Members may call a General Meeting in accordance with and in the circumstances set out in sections 249E and 249F of the Corporations Act.

9.3. Notice of General Meeting

- 9.3.1. Written notice of a General Meeting must specify the place, the day and the hour of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate the meeting, the general nature of the business to be transacted and any other matters as are required by the Corporations Act.
- 9.3.2. A notice of a General Meeting may be given by any form of communication permitted by the Corporations Act.
- 9.3.3. The accidental omission to give notice of any General Meeting to, or the non receipt of a notice by, a person entitle to receive notice does not invalidate a resolution passed at the General Meeting.

9.4. Cancellation of General Meeting

- 9.4.1. The Directors may cancel a General Meeting, other than a General Meeting which they are required to convene and hold under the Corporations Act.
- 9.4.2. A meeting may only be cancelled in accordance with clause 9.4.1 if notice of the cancellation is given to all persons entitled to receive notice of the meeting at least two clear business days prior to the time of the meeting as specified in notice of meeting.

9.5. Quorum at General Meeting

- 9.5.1. Business may not be transacted at a General Meeting unless a quorum of Financial Members is present at the time when the meeting proceeds to business.
- 9.5.2. Except as otherwise set out in this Constitution, five (5) Financial Members in person or represented by proxy is a quorum.
- 9.5.3. If a quorum is not present within half an hour from the time appointed for the meeting, or a longer period allowed by the chairperson:
 - 9.5.3.1. Where the meeting was convened by or on the requisition of Members, it must be dissolved; or
 - 9.5.3.2. It must stand adjourned to another day and another time and place determined by the Directors.
- 9.5.4. If a meeting has been adjourned to another time and place determined by the Directors, not less than seven days' notice of the adjourned meeting must be given in the same manner as in the case of the original meeting.

9.6. Quorum at adjourned General Meetings

At the adjourned meeting five (5) Financial Members present is a quorum but if a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

9.7. Minutes

The chairperson must cause minutes of the resolutions and proceedings of each General Meeting to be made, such minutes to be signed by the chairperson of the meeting at which the proceedings were held or by the chairperson at any succeeding meeting.

9.8. Appointment of chairperson

9.8.1. If the Directors have elected one of their number as chairperson of their meetings, that person is entitled to preside as chairperson at every General Meeting.

9.8.2. The Directors present at a General Meeting must elect one of their number to chair the meeting if either of the following applies:

9.8.2.1. A Director has not been elected as the chairperson of Directors meetings.

9.8.2.2. The chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or he is unwilling to act.

9.8.3. The Financial Members present at a General Meeting must elect one of their number to chair the meeting if there are no Directors present within 15 minutes after the time appointed for the holding of the meeting or all Directors present decline to take the chair.

9.9. Chairperson's powers

9.9.1. Subject to the terms of this Constitution dealing with adjournment of meetings, the ruling of the chairperson on all matters relating to the order of business, procedure and conduct of the General Meeting is final and no motion of dissent from a ruling of the chairperson may be accepted.

9.9.2. The chairperson in his or her discretion may expel any Member or Director from a General Meeting if the chairperson reasonably considers that the Member's or Director's conduct is inappropriate behaviour. Any of the following conduct may be considered to be inappropriate in a General Meeting:

9.9.2.1. The use of offensive or abusive language which is directed to any person, object or thing.

9.9.2.2. Behaviour of a threatening or abusive manner which is directed to any person, object or thing.

9.9.2.3. Attendance at the meeting while under the influence of any kind of drug including but not limited to any alcoholic substance.

9.9.2.4. The use or consumption of any drug including but not limited to any alcoholic substance.

9.10. Adjournment of meetings

- 9.10.1. The chairperson may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to another time and to another place.
- 9.10.2. The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- 9.10.3. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.
- 9.10.4. Except when a meeting is adjourned for 30 days or more, it is not necessary to give a notice of adjournment or of the business to be transacted at an adjourned meeting.

9.11. Voting on a show of hands

- 9.11.1. At a General Meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is demanded before that vote is taken or before the result is declared or immediately after the result is declared.
- 9.11.2. If a poll is not duly demanded, a declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

9.12. Demand for a poll

- 9.12.1. A poll may be demanded by either:
 - 9.12.1.1. The chairperson.
 - 9.12.1.2. At least five (5) Financial Members entitled to vote on the resolution.
- 9.12.2. The demand for a poll may be withdrawn.
- 9.12.3. The demand for a poll does not prevent the continuance of a meeting for the transaction of business other than the question on which a poll is demanded.
- 9.12.4. If a poll is demanded, it must be taken in the manner and, except as to the election of a chairperson or on a question of adjournment, either at once or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll is the resolution of the meeting at which the poll is demanded.
- 9.12.5. A poll demanded on the election of a chairperson or on a question of adjournment, must be taken immediately.

9.13. Voting rights of Financial Members

- 9.13.1. On a show of hands every person present who is a Financial Member has one vote.
- 9.13.2. On a poll every Financial Member present in person or by proxy, attorney or representative has one vote.

9.14. Vote of the chairperson at General Meetings

The chairperson of a General Meeting is not entitled to a second or casting vote.

9.15. Objection to voter qualification

- 9.15.1. No objection may be made to the qualification of a voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 9.15.2. An objection to the qualification of a voter must be referred to the chairperson, whose decision is final.
- 9.15.3. A vote not disallowed according to an objection as provided in this Constitution is valid for all purposes.

9.16. Resolution in writing

A resolution in writing signed by all Members is to be treated as a determination of the Members passed at a meeting of the Members duly convened and held.

9.17. Form of resolution in writing

- 9.17.1. A resolution in writing may consist of several documents in like form, each signed by one or more Members and if so signed it takes effect on the latest date on which a Member signs one of the documents.
- 9.17.2. If a resolution in writing is signed by a proxy of a Member, it must not also be signed by the appointing Member and vice versa.
- 9.17.3. In relation to a resolution in writing a document generated by electronic means which purports to be a facsimile of a resolution of Members is to be treated as a resolution in writing and a document bearing a facsimile of a signature is to be treated as signed.

10. PROXIES AND REPRESENTATIVES

10.1. Proxies and representatives of Members

- 10.1.1. At meetings of Members each Financial Member entitled to vote may vote in person or by proxy or by attorney.
- 10.1.2. Subject to the terms of their appointment, a person attending as a proxy, or as the attorney of a Financial Member, has all the powers of a Financial Member, except where expressly stated to the contrary.

10.2. Appointment of proxies

10.2.1. A Financial Member may appoint another person as their proxy to attend and vote instead of the Financial Member.

10.2.2. A document appointing a proxy must be in writing, in a form permitted by the Corporations Act and signed by the Financial Member making the appointment.

10.3. Authority of proxies

10.3.1. A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.

10.3.2. Except as expressly provided by the document appointing a proxy, an appointment of a proxy confers authority to do all things that a Financial Member can do in respect of a General Meeting.

10.4. Verification of proxies

10.4.1. Subject to clause 10.4.2, before the meeting or adjourned meeting at which the proxy proposes to vote, both of the following documents must be deposited with the Company:

10.4.1.1. The document appointing the proxy.

10.4.1.2. If the appointment is signed by the appointor's attorney, the authority under which the appointment was signed or a certified copy of that authority.

10.4.2. The document appointing the proxy and the authority referred to at clause 10.4.1.2, must be received at the Office, or at the fax number at the Office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting, not less than 24 hours before the time for holding the meeting.

10.4.3. If a General Meeting has been adjourned, an appointment and any authority received by the Company at least 24 hours before the resumption of the meeting are effective for the resumed part of the meeting.

11. APPOINTMENT AND RETIREMENT OF DIRECTORS

11.1. Initial Directors

The initial Directors of the Company to be appointed on the day the Company is registered will be the individuals named in the application to register the Company.

11.2. Number of Directors

11.2.1. Unless otherwise determined in accordance with this Constitution the number of Directors must not be less than seven (7) or more than nine (9).

- 11.2.2. The Company may, by resolution, increase or reduce the number of Directors and may also determine in what rotation the increase or reduction is to go out of office.
- 11.2.3. Alternate Directors are not to be treated as Directors for the purpose of determining the minimum or maximum number of Directors holding office.

11.3. Qualifications of Directors

- 11.3.1. A person is only eligible for appointment as a Director of the Company if the person is a Financial Member and remains so throughout their term as a Director of the Company and meets the standards of a Director as set by the Company from time to time.
- 11.3.2. No employee of Bellarine Community Health Limited can become a Director, whilst so employed.

11.4. Re-election of Directors at first Annual General Meeting

- 11.4.1. At the first Annual General Meeting of the Company, three (3) Directors of the Company shall retire from office and the Members must elect up to a total of three (3) Directors from the nominations.
- 11.4.2. Nominations for the position of Director at the first Annual General Meeting may be submitted by a Member or a retiring Director.
- 11.4.3. Notice of the nominations for Director must be provided to all Members of the Company in accordance with this document at least 30 days prior to the date of the first Annual General Meeting.
- 11.4.4. Directors elected/appointed on the same day may agree amongst themselves or determine by lot which of them must retire at the first Annual General Meeting.

11.5. Retirement of Directors

- 11.5.1. At each Annual General Meeting of the Company following the first Annual General Meeting, one third of the Directors, or if their number is not a multiple of three, then the number nearest to but no more than one third of the Directors must retire from office:
 - 11.5.1.1. The Directors to retire by rotation at an Annual General Meeting are those Directors who have been longest in office since their election or appointment.
 - 11.5.1.2. Directors elected/appointed on the same day may agree amongst themselves or determine by lot which of them must retire.
- 11.5.2. A Director retiring at an Annual General Meeting who is not disqualified by law from being reappointed is eligible for re-election and may act as a Director throughout the meeting at which that Director retires.
- 11.5.3. A Director may retire from office by giving notice in writing to the Company of that Director's intention to retire. A notice of resignation takes effect at the time which is the later of the time of giving the notice to the Company and the expiration of the period, if any, specified in the notice.

11.6. Casual vacancies

- 11.6.1. The Directors or the surviving Director may at any time appoint a person to be a Director, either to fill a casual vacancy, or as an addition to the existing number of Directors. The total number of Directors may not exceed the number fixed in accordance with this Constitution.
- 11.6.2. A Director appointed under 11.6.1 holds office only until the next General Meeting after the appointment and is then eligible for re-election.
- 11.6.3. A Director appointed under clause 11.6.1 must not be taken into account in determining the Directors who are to retire by rotation at that General Meeting, unless that Director replaced a Director who was eligible for re-election.

11.7. Removal from office

- 11.7.1. The Company may by ordinary resolution remove a Director from office and may by ordinary resolution appoint another person as a replacement.
- 11.7.2. A person appointed to replace a Director removed from office must retire as a Director at the time ascertained as if the person became a Director on the day on which the Director removed from office was elected or last re-elected a Director.

11.8. Vacation of office

- 11.8.1. In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act or another provision of this Constitution, the office of Director becomes vacant if any of the following occurs:
 - 11.8.1.1. If the Director becomes bankrupt.
 - 11.8.1.2. If the Director 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.
 - 11.8.1.3. If the Director is absent without the consent of the Directors from the meetings of the Directors held during a continuous period of three months without being granted a leave of absence and the Board resolves that the office of that Director be vacated.
 - 11.8.1.4. If the Director becomes prohibited from being a Director by reason of an order made under the Corporations Act.
- 11.8.2. A Director can serve no more than three (3) consecutive three (3) year terms as a Director of the Company.
- 11.8.3. The Board of Directors must meet at least ten (10) times in each year at such place and time as the Board determines.

11.9. Leave of Absence

A Director may be granted a leave of absence for a period to be determined at the discretion of the Board or by a person to whom the Board delegates this function. An application for leave of absence shall be in writing, stipulating the requested period of leave and made to the Secretary.

12. ANNUAL GENERAL MEETING

12.1. The Annual General Meeting will be held on a day nominated by the Board between the 1st July and the 30th of November each year.

12.2. Unless otherwise provided for in this Constitution, the ordinary business of the Annual General Meeting shall be;

12.2.1. To confirm the minutes of the previous Annual General Meeting and any Special General Meetings held in the preceding year.

12.2.2. To receive the Report of Directors and audited statements of accounts for the preceding financial year in accordance with the provisions of the Corporations Act and any other relevant legislation as amended from time to time.

12.2.3. To consider any resolution of which 28 days written notice has been given by a Financial Member to the Secretary.

12.3. There must not be any discussion at an Annual General Meeting concerning the minutes referred to in Clause 12.2.1 except as to their accuracy.

13. DIRECTOR'S REMUNERATION

13.1. Payment for services

13.1.1. A Director who is called upon to perform extra services or to make a special exertion or to undertake executive or other work for the Company beyond or outside of the Director's ordinary duties or is engaged to provide any other service, may be paid a fee for those services, exertions or work.

13.1.2. The fee may be paid either by fixed sum or salary determined by the Directors.

13.2. Payment must be made in good faith

Any payment made to a Director by the Company under this clause 13 must be made in good faith.

14. POWERS OF DIRECTORS

The Directors may exercise all those powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Members in General Meeting or otherwise.

15. PROCEEDINGS OF DIRECTORS

15.1. Convening of Director's meetings

A Director may at any time, and a Secretary must on the requisition of a Director, convene a meeting of Directors.

15.2. Notice of Directors' meetings

15.2.1. Notice of each meeting of the Directors must be given to each Director at least 48 Hours before the meeting or at another time determined by resolution of the Directors.

15.2.2. Despite that requirement all Directors may waive in writing the required period of notice for a particular meeting and it is not necessary to give a notice of a meeting of Directors to a Director who is out of Australia or who has been given leave of absence.

15.3. Mode of meeting for Directors

A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting. The Directors may otherwise regulate their meetings as they think fit.

15.4. Quorum at Directors' meetings

15.4.1. At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is five (5) or such greater number as may be fixed by the Directors.

15.4.2. The continuing Directors may act notwithstanding any vacancy in the Directors, but if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of the Directors, the continuing Director or Directors may act for the purpose of increasing the number of the Directors to that number, or of summoning a General Meeting of the Company, but for no other purpose.

15.5. Voting at Directors' meetings

Questions arising at a meeting of Directors must be decided by a majority of votes of Directors present and voting. A decision of the majority is for all purposes a decision of the Directors.

15.6. Appointment of chairperson of Directors, Deputy Chairperson and Treasurer.

15.6.1. The Directors may elect:

15.6.1.1. a Director to chair their meetings;

15.6.1.2. a Director to be Deputy chairperson;

15.6.1.3. a Director to be Treasurer;

and determine the period for which the person elected is to hold office.

- 15.6.2. If a chairperson has not been elected, or if at any meeting the chairperson is not present within 10 minutes after the time appointed for holding the meeting or is unwilling to act, the Directors present may choose one of their number to chair the meeting.

15.7. Chairperson's vote at Directors meetings

The chairperson has a second or casting vote at meetings of Directors.

15.8. Participation where Director has indicated an interest

- 15.8.1. A Director may be present and may vote on a matter before the Board if and to the extent that they are permitted to do so under the Corporations Act.
- 15.8.2. If there are not enough Directors to form a quorum as a result of a Director having an interest which disqualifies them from voting then one or more of the Directors (including those who are disqualified) may adjourn the matter to the next meeting of the Directors or may call a General Meeting of the Company and the General Meeting may pass a resolution to deal with the matter.

15.9. Delegation of powers to committee

- 15.9.1. The Directors may delegate any of their powers to committees consisting of Directors or other persons as they think fit to act in Australia or elsewhere.
- 15.9.2. The exercise of a power by a committee in accordance with this Constitution is to be treated as the exercise of that power by the Directors.
- 15.9.3. In the exercise of any powers delegated to it, a committee formed by the Directors must conform to the directions of the Directors.

15.10. Proceedings of committees

Except as provided in a direction of the Directors, the meetings and proceedings of a committee formed by the Directors must be governed by the provisions of this Constitution, in so far as they are applicable, as if the meetings and proceedings of the committee are the meetings and proceedings of the Directors.

15.11. Validity of acts of Directors

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

16. MINUTES

- 16.1. The Directors shall cause minutes to be made of:
- 16.1.1. all appointments of officers;
 - 16.1.2. names of Directors present at all meetings of the Company and of the Directors and of any committee of the Directors; and
 - 16.1.3. all resolutions and proceedings at all meetings of the Company and of the Directors and of any committee of Directors.

Such minutes shall be signed by the chairperson of the meeting at which the proceedings were held or by the chairperson of any succeeding meeting.

16.2. Resolution in writing

A resolution in writing signed by all Directors, except Directors who have been given leave of absence, is to be treated as a determination of the Directors passed at a meeting of the Directors duly convened and held.

16.3. Form of resolution in writing

- 16.3.1. A resolution in writing may consist of several documents in like form, each signed by one or more Directors and if so signed it takes effect on the latest date on which a Director signs one of the documents.
- 16.3.2. If a resolution in writing is signed by an Alternative Director, it must not also be signed by the appointor of the Alternative Director and vice versa.
- 16.3.3. In relation to a resolution in writing a document generated by electronic means which purports to be a facsimile of a resolution of Directors is to be treated as a resolution in writing and a document bearing a facsimile of a signature is to be treated as signed.

17. ALTERNATE DIRECTORS

- 17.1. A Director may appoint a person to be an Alternate Director in a Director's place during the period that the Director thinks fit.
- 17.2. The appointment of an Alternative Director must be in writing, signed by the Director.
- 17.3. The appointment of an Alternative Director takes effect immediately on the signing of the notice of appointment by the Director.
- 17.4. The Alternate Director must be a Financial Member as defined in this Constitution.

17.5. Powers of Alternate Director

- 17.5.1. Except as expressly provided in this Constitution, an Alternate Director is subject in all respects to the terms and conditions applying to the other Directors except for the provisions of this Constitution which relate to the election of Directors, their fees and remuneration [if any] and the power to appoint an Alternate Director.
- 17.5.2. An Alternate Director has all of the following entitlements:
 - 17.5.2.1. to perform all the duties of a Director while the Director who appointed the Alternate Director is not exercising or performing them.
 - 17.5.2.2. to receive notice of meetings of the Directors.
 - 17.5.2.3. to attend and vote at meetings of the Directors if the Director who appointed the Alternate Director is not present.

17.6. Termination of appointment of alternate Directors

- 17.6.1. The appointment of an Alternate Director is immediately terminated if any of the following circumstances occurs:
 - 17.6.1.1. the Director who appointed the Alternate Director ceases for any reason to be a Director.
 - 17.6.1.2. the Director who appointed the Alternate Director gives notice of termination of the appointment to the Company.
 - 17.6.1.3. the Directors resolve to terminate the appointment after giving seven (7) days notice of intention to remove the Alternate Director to the Director who appointed the Alternate Director.

18. COMPANY SECRETARY

- 18.1. The Directors may appoint one or more Secretaries (hereinafter called Secretary) and may at any time terminate the appointment or appointments. The Directors may determine the terms and conditions of appointment of a Secretary, including remuneration. Any one of the Secretaries may carry out any act or deed required by this Constitution, the Corporations Act or by any other statute to be carried out by the Secretary of the Company.
- 18.2. The Chief Executive Officer of the Company may also be the Secretary of the Company for the purposes of the Act.
- 18.3. The Directors may delegate to the Company Secretary/ Chief Executive Officer the responsibility for:
 - 18.3.1. the overall day to day management of the Company and its finances;
 - 18.3.2. compliance with the Funding and Service Agreement;
 - 18.3.3. the supervision of the Company staff;
 - 18.3.4. dealing with the correspondence of the Company;
 - 18.3.5. the safe custody of all books, documents and securities of the Company;

18.3.6. ensuring the compliance of the Company's obligations under the Corporations Act and any other relevant legislation including legislation relating to taxation and privacy laws; and

18.3.7. ensuring the compliance of the Company with this Constitution.

19. INDEMNITY AND INSURANCE

19.1. Indemnity

Every officer and past officer of the Company will be indemnified by the Company, to the fullest extent permitted by law, against liability incurred by that person as an officer of the Company or a subsidiary of the Company, including without limitation for legal costs and expenses incurred in defending an action.

19.2. Insurance premiums

The Company may pay the premium on a contract insuring a person who is or has been an officer of the Company to the fullest extent permitted by law.

20. SEALS AND EXECUTION OF DOCUMENTS

20.1. Custody of seal

The Directors must provide for the safe custody of the Company Seal.

20.2. Execution of documents

20.2.1. The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by any of the following:

20.2.1.1. by two Directors; or

20.2.1.2. by a Director and a Secretary; or

20.2.1.3. by a Director and some other person appointed by the Directors for that purpose.

20.2.2. The Company may execute a document without the use of a Seal if the document is signed by either of the following:

20.2.2.1. by two Directors; or

20.2.2.2. by a Director and a Secretary.

20.3. Official seals

The Company may have for use in place of the Seal outside the jurisdiction where the Seal is kept, one or more official seals, to be used in accordance with procedures approved by the Directors.

20.4. The Secretary must keep a register of all instruments to which the Seal is attached.

21. GIFT FUND REQUIREMENTS

21.1. Company to maintain a Gift Fund

21.1.1. Maintaining Gift Fund

The Company must maintain for the Principal Purpose of the Company a fund (**Gift Fund**):

- 21.1.1.1. to which gifts of money or property for that purpose are to be made;
- 21.1.1.2. to which any money received by the Company because of those gifts is to be credited; and
- 21.1.1.3. that does not receive any other money or property.

All gifts made to the Gift Fund are to be held by the Company on trust to be used only for the Principal Purpose of the Company.

21.2. Limits on use of Gift Fund

21.2.1. The Members of the Company must use the following only for the Principal Purpose of the Company:

- 21.2.1.1. gifts made to the Gift Fund;
- 21.2.1.2. any money received because of those gifts.

21.3. Bank account

The Members of the Company must maintain a separate bank account for the Gift Fund.

21.4. Gift Fund forms part of the Company Fund

To avoid any doubt, it is declared that the Gift Fund forms part of the funds of the Company.

21.5. Specific purpose of donations

21.5.1. Money donated to Bellarine Community Health Limited by a person or group of persons for a specific purpose, must be used for that purpose, except where the donor(s) or their representative so far as possible agree it shall be used for an alternate purpose.

21.6. Winding up

21.6.1. At the first occurrence of:

- 21.6.1.1. the winding up of the Gift Fund; or

- 21.6.1.2. the Company ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of the *Income Tax Act 1997*,
- 21.6.2. any surplus assets of the Gift Fund must be transferred to one or more:
 - 21.6.2.1. Eligible Charities;
 - 21.6.2.2. funds charitable at law which comply with the requirements of item 2 of the table in section 30-15 of the *Income Tax Act 1997*;
 - 21.6.2.3. as the Members of the Company decide.
- 21.6.3. Where gifts to an Eligible Charity are deductible only if, among other things, the conditions set out in the relevant table item in Subdivision 30-B of the *Income Tax Act 1997* are satisfied, a transfer under this clause must be made in accordance with those conditions.

22. DISPOSAL OF SURPLUS ASSETS ON WINDING UP OR DISSOLUTION

- 22.1. Subject always to clause 21, upon the winding up or dissolution of the Company, any remaining property after satisfaction of all debts and liabilities, will not be paid to or distributed among Members, but will be given or transferred to some other institute or company which satisfies both of the following requirements:
 - 22.1.1. Its objects are similar to the objects of the Company; and
 - 22.1.2. Its constituent documents prohibit the distribution of its income and property among its Members on terms substantially to the effect of Clause 8.1 of this Constitution.
- 22.2. The institute or Company to receive the Company's property pursuant to Clause 22.1 is to be determined by Members at or before the time of winding up or dissolution of the Company and, in default of any determination, by the Supreme Court of Victoria.

23. ALLOCATIONS COMMITTEE

- 23.1. The Directors may at any time establish an allocations committee as a sub-committee (**Allocations Committee**) and appoint and remove, or make provision for the appointment and removal of, Members of the Allocations Committee.
- 23.2. The Allocations Committee shall consist of such number of individuals as the Company determines.
- 23.3. The functions of the Allocations Committee shall be determined by the Company from time to time and subject to any such determinations shall be to recommend to the Company how income and capital under the Gift Fund or monies raised through the activities of the Company should be made, paid or applied for the benefit of the community in relation to those objects detailed in Clause 2.
- 23.4. The Directors in consultation with the Allocations Committee shall ensure that such income and capital of the Company, which is in excess of operational requirements, shall be allocated annually in accordance with the objects of the Company.

24. ACCOUNTS, AUDIT AND RECORDS

24.1. Accounts

The Directors shall cause proper accounting and other records to be kept and shall distribute copies of every statement of financial performance and statement of financial position (including every document required by law to be attached thereto) accompanied by a copy of the Auditor's report thereon as required by the Corporations Act, provided, however, that the Directors shall cause to be made out and laid before each Annual General Meeting a statement of financial performance and statement of financial position made up to date not more than six months before the date of the meeting.

24.2. Audit

A registered company auditor must be appointed. The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Corporations Act.

24.3. Rights of inspection

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

25. NOTICES

25.1. Persons authorised to give notices

25.1.1. A notice by either the Company or a Member in connection with this Constitution may be given on behalf of the Company or Member by a solicitor, Director, the Secretary, or Member.

25.1.2. The signature of a person on a notice given by the Company may be written, printed or stamped.

25.2. Method of giving notices

25.2.1. In addition to the method for giving notices permitted by statute, a notice by the Company or a Member in connection with this Constitution may be given to the addressee by any of the following means:

25.2.1.1. By delivering it to the last known street address of the addressee;

25.2.1.2. By sending it by prepaid ordinary post (airmail if outside Australia) to the last known street or postal address of the addressee;

25.2.1.3. By sending it by facsimile or e-mail to the last known facsimile number or e-mail address of the addressee.

25.3. Addresses for giving notices to Members

- 25.3.1. The last known street or postal address of a Member is the street or postal address of the Member shown in the Register.
- 25.3.2. The last known facsimile number or e-mail address of a Member is the number which the Member has specified by written notice to the Company as the facsimile number or e-mail address to which notices may be sent to that Member and which is shown in the Register.

25.4. Address for giving notices to the Company

- 25.4.1. The street and postal address of the Company is the Office.
- 25.4.2. The facsimile number or e-mail address of the Company is the number which the Company may specify by written notice to the Members as the facsimile number or e-mail address to which notices may be sent to the Company.

25.5. Time notice of meeting is given

- 25.5.1. A notice of meeting given in accordance with this Constitution is to be taken to have been, served and received at the following times:
 - 25.5.1.1. If delivered in writing to the last known street address of the addressee; at the time of delivery.
 - 25.5.1.2. If it is sent by post to the last known street or postal address of the addressee; on the next business day after posting;
 - 25.5.1.3. If sent by facsimile or e-mail to the last known facsimile number or e-mail address of the addressee; at the time transmission is completed.

25.6. Time other notices are given

- 25.6.1. A notice given in accordance with this Constitution is taken as given, served and received at the following times:
 - 25.6.1.1. If delivered in writing to the last known street address of the addressee; at the time of delivery;
 - 25.6.1.2. If it is sent by post to the last known street or postal address of the addressee, on the second (or fifth if outside Australia) business day after posting;
 - 25.6.1.3. If sent by facsimile or e-mail to the last known facsimile number or e-mail address of the addressee; at the time transmission is completed.

25.7. Proof of giving notices

- 25.7.1. The sending of a notice by facsimile or e-mail and the time of completion of transmission may be proved conclusively by production of the relevant one of the following:

25.7.1.1. a transmission report from the facsimile machine from which the notice was transmitted which indicates that the facsimile of the notice was sent in its entirety, and the time the transmission was completed; or

25.7.1.2. a printout of an acknowledgement of receipt of the e-mail.

25.8. Persons entitled to notice of meeting

25.8.1. Notice of every General Meeting must be given by a method authorised by this Constitution to all the following persons:

25.8.1.1. every Member;

25.8.1.2. every Director; and

25.8.2. the auditor for the time being of the Company.

25.8.3. No other person is entitled to receive notices of General Meetings.

26. GRIEVANCE PROCEDURES

26.1. If the Secretary becomes aware of a dispute or grievance under this Constitution between Members or between a Member(s) and the Company, the Secretary must mediate and endeavour to resolve the dispute.

26.2. If the Secretary is unable to resolve the dispute, the procedure as set out in this Clause 26 may be implemented.

26.3. Notwithstanding Clause 26.1, if there is a dispute or grievance under this Constitution between Members, or between a Member(s) and the Company, then one or more of those Members may, by notice in writing to the chairperson of the Board declare that there is a dispute or grievance between Members, or a Member(s) and the Company (in this clause called **Disputant Members**) and set out in a written notice details of the dispute or grievance.

26.4. On receipt of a notice of dispute or grievance the chairperson of the Board must without delay:

26.4.1. convene a Special Meeting of the Board to hear the dispute or grievance at a time not earlier than seven (7) days or later than twenty-one (21) days after the notice convening the Special Meeting is given; and

26.4.2. give to each Disputant Member:

26.4.2.1. copies of the notice/s declaring the dispute or grievance and the notice convening the Special Meeting of the Board; and

26.4.2.2. a copy of this Clause 26 together with a statement that the procedures contained therein will be followed.

26.5. Each Disputant Member must give to the chairperson not later than three (3) days before the date of the Special Meeting of the Board, a written copy for each Member of the Board and the Secretary of the submission intended to be made to the Board.

- 26.6. Each Disputant Member may appear before the Special Meeting of the Board in person or may be represented by a person appointed by the Disputant Member to act on his or her behalf.
- 26.7. At the Special Meeting of the Board convened under this clause, each Disputant Member or their representative may confirm the written submission and may make other relevant representations of a reasonable length as may be appropriate.
- 26.8. The chairperson of the Board or the Member of the Board presiding at the Special Meeting and such other Members of the Board who are present at the Special Meeting may ask the Disputant Member questions regarding the submission and/or representations made. Otherwise there will be no other examination or cross examination of a Disputant Member or his or her representative.
- 26.9. In all other respects the person presiding at the Special Meeting determines the procedures to be followed at the Special Meeting of the Board, but must at all times ensure that the principles of natural justice are applied.
- 26.10. After the Board has heard from the Disputant Member(s), it may confer in camera and confer with other Members. The Board must then, in an open meeting, announce the Board's decision in resolution of the dispute or grievance.
- 26.11. The Board's decision is binding on the Disputant Member(s).

Date:

EXECUTION