



## **Constitution**

### **Cobaw Community Health Services Limited**

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**Corporations Act 2001**  
**Public company limited by guarantee**  
**Cobaw Community Health Services Limited**  
**ACN 35 823 252 867**

**1 Nature of Company and Liability**

**Nature of Company**

1.1 The Company is a company limited by guarantee.

**Liability of Members and guarantee on winding up**

1.2 The liability of the Members is limited. Every Member undertakes to contribute \$1.00 to the assets of the Company if it is wound up while he or she is a Member, or within one year afterwards.

**2 Objects of the Company**

**Objects**

2.1 The principal objects of the Company are to establish, promote and operate a Community Health Service:

2.1.1 for the direct relief of poverty, sickness, destitution and helplessness of members of the community located within its Local Community,

2.1.2 for the delivery of specific health programs to the sick, destitute and helpless outside its Local Community where it has been funded to do so,

2.1.3 to implement health promotion and community development strategies to develop the capacity of individuals, families and communities, to promote, improve and protect health and well being

2.1.4 to promote the prevention or control of diseases in human beings.

2.2 Subject always to its principal objects, the Company has the following additional objects:

2.2.1 to directly provide alcohol and drug addiction programmes, mental health programmes, nursing care, disability services, aged care, child, youth and families services and allied health and counselling;

2.2.2 to implement allied health, social welfare and preventive health interventions of all descriptions;

2.2.3 to raise money to further the aims of the Company and to secure sufficient funds for the purposes of the Company;

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

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

### **3 Fees policy**

#### **Company may reduce or waive fees**

- 3.1 The Company may charge fees for services delivered to those suffering from distress, misfortune, helplessness, sickness or poverty.
- 3.2 The Company may waive or reduce the payment of those fees where it believes it appropriate to do so.

### **4 Membership**

#### **Members**

- 4.1 The Members of the Company are the initial Members (see clause 4.7) and such other persons as the Company admits to membership in accordance with this document.
- 4.2 A Member of the Company is a natural person who has applied and been admitted as a Member of the Company, and who has undertaken in the application for membership form to contribute the amount specified in clause 1.2.
- 4.3 A 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.

#### **Life Members**

- 4.4 Each Annual General Meeting may on the recommendation of the Board elect up to 2 individuals who have made a significant contribution to the Company as Life Members.
- 4.5 The individual becomes a Life Member from the time of their election.
- 4.6 Life Members have the same rights, obligations and liabilities as other members of the Company, except for the requirement for renewal of membership and the payment of any annual fee.

#### **Initial members of the Company**

- 4.7 The initial Members of the Company are those persons who have consented to become Members and who are named in the application for incorporation of the Company to the Australian Securities and Investment Commission.

#### **Persons subsequently admitted to Membership**

- 4.8 After incorporation, a person is eligible to become a Member of the Company if he/she has attained age of 18 years and:
  - 4.8.1 is a Client, or carer for a Client;
  - 4.8.2 provides unpaid voluntary services for the Company;
  - 4.8.3 lives, works, or is enrolled as a student at an educational service, in the Local Community; or
  - 4.8.4 has a previous connection with the Company which the Board believes necessary or desirable to further its objectives.

#### **No limit**

- 4.9 Unless otherwise determined by the Members in General Meeting, the number of Members is not limited.

### **Application and admission to membership**

- 4.10 An application for membership of the Company must:
- 4.10.1 be in the form required by the Company from time to time, signed by the applicant;
  - 4.10.2 contain such particulars as the Directors determine; and
  - 4.10.3 be lodged with the Chief Executive Officer of the Company.
- 4.11 The Board may determine whether there will be an application fee from time to time.
- 4.12 On receipt of an application, the Chief Executive Officer must forward the application to the Board.
- 4.13 The Board must consider each application for membership as soon as practicable after its receipt. The Board has discretion to admit or reject the application. The Board need not give reasons for its decision.
- 4.14 If the Board accepts an application, the Chief Executive Officer must enter the applicant's name in the Register with as little delay as possible. The applicant becomes a Member of the Company when their name is entered in the Register.
- 4.15 A right, privilege or obligation of a person by reason of his or her membership of the Company:
- 4.15.1 is not capable of being transferred or transmitted to another person; and
  - 4.15.2 terminates upon the cessation of his or her membership, except for any accrued obligation pursuant to clause 1.2.

### **Renewal of membership and closure of Register**

- 4.16 Unless a person's name is removed from the Register in accordance with this document, a person is a Member of the Company from first entry of their name in the Register until 30 June next, and then from 1 July in any year until 30 June in the following year.
- 4.17 A Member is not required to renew his/her membership. However, if mail properly addressed to the Member is returned to the Company because that Member no longer resides at that address or the Member has had no contact with the Company or its services for 2 years, then in either case the Directors may remove the Member's name from the Register.
- 4.18 No person may be admitted as a Member in the period 1 July in any year until the day after the next Annual General Meeting.

### **Annual subscription**

- 4.19 The Board may determine whether there will be an annual subscription fee, and if so, the amount of it and when it will be paid by all classes of Members. A Member ceases to be entitled to any of the rights or privileges of membership if the annual subscription of a Member remains unpaid for two months after it becomes payable and a notice of default is given to the Member pursuant to a resolution of the Directors. However, the rights or privileges of membership may be reinstated on payment of all arrears if the Directors think fit to do so.

### **Register of Members**

- 4.20 The Secretary must keep the Register of Members in accordance with the Act.

- 4.21 The Register of Members must contain the full name, address and date of entry of each Member. It must identify the class of each Member. It may also contain such other information as the Directors may require within the law. The Register shall be available for inspection at the registered address of the Company.
- 4.22 The name of a Member who has died or resigned, and a Member to whom clause 4.17 applies, must be removed from the Register.

### **Resignation**

- 4.23 A Member may resign from membership of the Company by giving written notice to the Secretary.
- 4.24 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 is provided in the notice.

### **Removal from Membership**

- 4.25 The Directors may at their discretion remove a Member from the Register if a majority of them consider that the Member evidences behaviour which is inconsistent with the Objects of the Company as set out in clauses 2.1 and 2.2. The Directors are not required to give notice of their intention to consider the removal of a Member from the Register, they are not required to disclose their proceedings in relation to the removal of a Member and they are not required to give the Member a hearing before reaching a decision.
- 4.26 The principles of natural justice do not apply to a decision to remove a Member from the Register.

### **No assets or income to be distributed to members**

- 4.27 The assets and income of the Company may only be applied to further its objects and no portion may be distributed directly or indirectly to its Members except as bona fide compensation for services rendered or expenses incurred on behalf of the Company.

### **Exception for grants**

- 4.28 Nothing in this clause 4 prevents a Member from receiving government funded benefits where that funding is expressly on the basis that it be used for the benefit of persons including Members.

## **5 Directors**

### **Initial Directors**

- 5.1 The initial Directors of the Company are those seven persons who have consented to being a Director and are named as Directors in the application to register the Company.

### **Board of Directors**

- 5.2 Unless otherwise determined by the Members in General Meeting, the Board consists of not less than 5 nor more than 9 Directors.
- 5.3 The Company may, by resolution, increase or reduce the number of Directors and may also determine in what rotation the increased or reduced number is to go out of office.
- 5.4 An employee of the Company cannot be a Director.

### **Directors may also appoint Directors**

- 5.5 The Directors 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. However, the total number of Directors may not exceed the number fixed in accordance with this document.
- 5.6 A Director appointed under clause 5.5 holds office only until the next Annual General Meeting after the appointment and is then eligible for re-election.
- 5.7 A Director appointed under clause 5.5 must not be taken into account in determining the Directors who are to retire by rotation at that general meeting.
- 5.8 In appointing additional Directors, the Directors must have regard to the principles in clause 5.13.

### **Retirement of Directors**

- 5.9 At each Annual General Meeting of the Company after the first annual general meeting one third of the Directors for the time being, or, if their number is not three or a multiple of three then the number nearest one third, must retire from office.
- 5.10 The Directors to retire at an annual general meeting are those who have been longest in office since their last election. If two or more persons became Directors on the same day, those to retire must be determined by lot unless they otherwise agree amongst themselves.
- 5.11 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.
- 5.12 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.
- 5.13 Time spent as a member of the Board of the Predecessor (immediately before the registration of this Company) will be treated as time spent as a Director of this Company for the purpose of subclauses 5.9 and 5.10.

### **Principles regarding Directors**

- 5.14 The Board should try to obtain expertise in the areas of law, finance, health, IT, community engagement, marketing, media, public relations and governance amongst its Members.
- 5.15 The Board may create its own rules for the election of Directors; in the absence of any rules to the contrary, the voting system will be preferential and the process will be given over to an independent party.

### **Removal from office**

- 5.16 The Company may by ordinary resolution remove a Director from office and may by ordinary resolution appoint another person as a replacement.
- 5.17 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.



## **Vacation of office**

- 5.18 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 document, the office of Director becomes vacant if any of the following occurs:
- 5.18.1 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.
  - 5.18.2 the Director becomes prohibited from being a Director by reason of an order made under the Corporations Act.
  - 5.18.3 the Director Resigns his/her office by notice in writing to the Chief Executive Officer;
  - 5.18.4 for more than 3 months in any 6 month period the Director is absent without permission of the Board from meetings of the Board held during that period;  
or
  - 5.18.5 the Director dies.

## **6 Election of Officers**

- 6.1 The Board must elect from amongst its number, the following Officers:
- 6.1.1 Chairperson;
  - 6.1.2 Deputy Chairperson; and
  - 6.1.3 Treasurer.

Each Officer holds office for one year but is eligible, while a Director, to be re-elected.

- 6.2 If a vacancy occurs amongst the Officers, the Board must elect a person to fill that vacancy from its numbers. That person will hold office for the remainder of the term of the person he/she replaces, provided that he/she remains a Director.
- 6.3 The Board may revoke the appointment of an Officer at any time and elect another person to that office.

## **7 The Board**

### **The role of the Board**

- 7.1 Subject to the exercise by the Board of the powers contained in this Constitution, the Board manages the Company and directs the affairs of the Company. The Board may exercise all such powers and do all such acts as are not by this Constitution or the Act directed or required to be done by the Members in General Meeting or otherwise.
- 7.2 The Board has power, subject to the Act and this Constitution, to perform all such acts and things including the determination of policies and procedures as appear to the Board to be necessary for the proper management of the Company.
- 7.3 Subject to the provisions of the Act and this Constitution the Board may, by resolution, authorize any person as the Board thinks fit to exercise any powers of the Board which are delegable at law.

## **Proceedings of the Board**

- 7.4 The Board must meet at least 6 times in each year at such place and time as the Board may determine.
- 7.5 The Chief Executive Officer must convene a special meeting of the Board if requested to do so by the Chairperson or any 2 Directors.
- 7.6 Unless the Directors unanimously waive this requirement, the Company Secretary must give at least three days' notice to all Directors of any special meeting. The notice must specify the general nature of the business to be transacted at that meeting. No other business can be transacted at such a meeting.
- 7.7 The Company Secretary must ensure that notice of every meeting of the Board (other than a special meeting) is served on each Director by delivering it to or sending it by prepaid post addressed or by email to the Director at his or her usual or last known place of residence at least 5 days before the date of the meeting.
- 7.8 At all Board meetings other than as provided by clause 7.12
- 7.8.1 All questions are to be decided by a show of hands, unless the person chairing that meeting determines that a secret ballot be held. The decision of the majority of Directors is the decision of the meeting.
- 7.8.2 Each Director has one vote and, in the event of an equality of votes on any question, except as provided by clause 7.8.3, the person chairing the meeting has a casting vote.
- 7.8.3 In the event of an equality of votes in respect of the election of an Officer, the successful candidate shall be determined by lot.
- 7.8.4 Voting by proxy is not permitted.
- 7.9 The quorum for a meeting of the Board is one half (rounded up) of the number of Directors.
- 7.10 No business shall be transacted unless a quorum is present. If within half an hour of the time appointed for a meeting a quorum is not present the meeting shall stand adjourned and the person chairing the meeting must set a further date for the adjourned meeting, which must be within ten days.
- 7.11 At meetings of the Board the Chairperson shall preside but if the Chairperson is absent or unwilling to chair the meeting, then the Deputy Chairperson shall do so. If both the Chairperson and the Deputy Chairperson are absent or unwilling to preside, then the Directors must choose one of their number to preside at the Board meeting.

## **Meetings other than in person**

- 7.12 Without limiting the discretion of the Board to regulate its meetings, a meeting of the Board may be conducted by:
- 7.12.1 Directors conferring by telephone, close circuit television, or audio or audio visual communication at the same time ("the conference"), or
- 7.12.2 Directors assenting in writing (by hand or by electronic encryption) to a resolution circulated to all Directors, whether electronically or in hard copy (the "circulating resolution").
- 7.13 Notwithstanding that the Directors are not present together in one place at the time of the conference, a resolution passed at such a conference shall be deemed to have

been passed at a meeting of Directors on the day and time at which the conference was held. In the case of a circulating resolution, a resolution shall be deemed to have been passed at a meeting of the Board on the day and at the time when it is last signed by a Director thereby constituting a majority of the Board.

- 7.13.1 A Director present at the commencement of a conference will be conclusively presumed to have been present and to have formed part of the quorum throughout the conference.
- 7.13.2 Any minutes of a conference purporting to be signed by the person who presided at the conference will be sufficient evidence of the observance of all necessary formalities regarding convening and conduct of the conference. A circulating resolution confirmed by a majority of Directors will be conclusive evidence that the resolution was passed.
- 7.13.3 When under the Constitution a resolution is deemed to be passed at a conference of the Board, that meeting will be deemed to have been held at such place as is determined by the person who presided at the conference provided that at least one of the Directors who took part in the conference was at such place for the duration of the conference.

#### **Validity of acts of the Board**

- 7.14 An act or decision of the Board will not be invalid by reason only of a defect or irregularity in connection with the appointment or election of a Director or a vacancy in the membership of the Board.

#### **Pecuniary interests of Directors**

- 7.15 A Director who has a material personal interest that relates to the affairs of the Company must give other Directors notice of that interest unless the Act otherwise provides.
- 7.16 This notice must give details of the nature and extent of the interest, the relation of the interest to the affairs of the Company, and must be given at a meeting of the Board as soon as practicable after becoming aware of their interest in the matter. The details must be recorded in the minutes of the meeting.
- 7.17 Other than as permitted by the Act, a Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present and must not vote on the matter except in accordance with the Act.

#### **No fees to Directors**

- 7.18 Subject to clauses 7.19 the Directors are not entitled to any fees for their service as Directors.

#### **Payment to Directors for expenses**

- 7.19 The Directors may, subject to approval of the Board, be paid all reasonable travelling, accommodation and any other expenses claimed which are properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or General Meetings or otherwise in the execution of their duties as Directors.

## **8 Indemnity and insurance**

### **Indemnity**

- 8.1 Every Officer and past Officer of the Company must be indemnified by the Company, to the fullest extent permitted by the Act, against a liability incurred by that person as an Officer of the Company or a subsidiary of the Company, including without limitation, legal costs and expenses incurred in defending an action.

### **Insurance premiums**

- 8.2 The Company must ensure payment of 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.

## **9 Committees**

- 9.1 The Board must establish committees for the good governance of the Company including in the areas of finance, audit and risk management.
- 9.2 The Board may establish any other committee and set out its terms of reference.
- 9.3 The Board may delegate any powers to a committee which are delegable at law.

## **10 Company Secretary**

### **Who may be company secretary**

- 10.1 Unless the Board determines otherwise, the Chief Executive Officer of the Company will also be the Company Secretary for the purposes of the Act.

## **11 Chief Executive Officer**

### **Appointment**

- 11.1 The Board must appoint a Chief Executive Officer; and must ensure that the role is filled at all times.

### **General duties**

- 11.2 The Chief Executive Officer shall have such roles, powers, duties and responsibilities as the Board may grant and require. The Board must ensure that those roles, powers, duties and responsibilities are recorded in a contract with the Chief Executive Officer.

### **Delegations**

- 11.3 Without limiting clause 11.2, the Board must ensure that there is a clear statement of delegation, and the limits of that delegation, to the Chief Executive Officer at all times.

## **12 Execution of documents**

- 12.1 The Company may execute a document without the use of a seal if the document is signed by two Directors or one Director and the Chief Executive Officer.
- 12.2 The Company shall determine what documents require the affixing of the seal.
- 12.3 The common seal of the Company must be kept in the safe custody of the Chief Executive Officer.

- 12.4 The Chief Executive Officer must ensure that where a document requires the affixing of the common seal that it is only affixed after the Board has given that authority.
- 12.5 The Chief Executive Officer must ensure that the affixing of the common seal is attested to by the signatures of two Directors or one Director and the Chief Executive Officer.

## **13 Meetings**

### **Convening of meetings by Directors**

- 13.1 A majority of Directors may convene a General Meeting.

### **Convening of meetings by Members**

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

### **Notice of General Meeting**

- 13.3 Written notice of a General Meeting must specify the place, the day and the hour of 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.
- 13.4 A notice of a General Meeting may be given by any form of communication permitted by the Act.
- 13.5 The accidental omission to give notice of any General Meeting to, or the non-receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the General Meeting.

### **Cancellation of General Meetings**

- 13.6 The Directors may cancel a General Meeting, other than a General Meeting which they are required to convene and hold under the Corporations Act.
- 13.7 A meeting may only be cancelled in accordance with clause 13.6 if notice of the cancellation is given to all persons entitled to receive notice of the meeting at least two business days prior to the time of the meeting as specified in notice of meeting.

### **Quorum at General Meetings**

- 13.8 Business may not be transacted at a General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- 13.9 Except as otherwise set out in this document, 10 percent of the total number of members or 20 Members present whichever is the lesser in person or by representative is a quorum.
- 13.10 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:
- 13.10.1 if the meeting was convened by or on the requisition of Members, it must be dissolved;
  - 13.10.2 otherwise, it must stand adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Directors.

- 13.11 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.

#### **Quorum at adjourned General Meetings**

- 13.12 At the adjourned meeting 10% of 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.

#### **Appointment of Chairperson**

- 13.13 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. If the Chairperson is absent at a meeting, the Deputy Chair will preside over the meeting.
- 13.14 The Directors present at a General Meeting must elect one of their number to chair the meeting if either of the following applies:
- 13.14.1 there is no Chairperson or Deputy Chair, or
  - 13.14.2 neither the Chairperson nor Deputy Chair is present within 15 minutes after the time appointed for the holding of the meeting or they are unwilling to act.
- 13.15 The 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.

#### **Chairperson's powers**

- 13.16 Subject to the terms of this document 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 over a ruling of the Chairperson may be accepted.
- 13.17 The Chairperson, in their discretion may expel any Member or Director from a General Meeting if the Chairperson reasonably considers that the Member or Director's conduct is inappropriate behaviour. Any of the following conduct may be considered inappropriate in a General Meeting:
- 13.17.1 the use of offensive or abusive language which is directed to any person, object or thing.
  - 13.17.2 attendance at the meeting while under the influence of any kind of drug including but not limited to any alcoholic substance.
  - 13.17.3 the use or consumption of any drug of addiction by a person at the meeting.
- In these circumstances, no motion or dissent over the Chairperson's ruling may be accepted.

#### **Adjournment of meetings**

- 13.18 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.
- 13.19 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.

- 13.20 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- 13.21 Except when a meeting is adjourned for 30 days or more, it is not necessary to give a notice of an adjournment or of the business to be transacted at an adjourned meeting.

#### **Voting on show of hands**

- 13.22 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.
- 13.23 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.

#### **Demand for a poll**

- 13.24 A poll may be demanded by either:
- 13.24.1 the Chairperson.
  - 13.24.2 at least five Members entitled to vote on the resolution.
- 13.25 The demand for a poll may be withdrawn.
- 13.26 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.
- 13.27 If a poll is duly 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.
- 13.28 A poll demanded on the election of a Chairperson or on a question of adjournment must be taken immediately.

#### **Voting rights of Members**

- 13.29 On a show of hands every person present who is a Member or who represents a corporation who is a Member has one vote.
- 13.30 On a poll every Member present in person or by proxy, attorney or representative has one vote.
- 13.31 A Member may appoint a proxy in accordance with clause 14 to vote on his/her behalf.

#### **Vote of the Chairperson at general meetings**

- 13.32 The Chairperson of a General Meeting is entitled to a second or casting vote.

#### **Objections to voter qualification**

- 13.33 No objection may be raised to the qualification of a voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 13.34 An objection to the qualification of a voter must be referred to the Chairperson, whose decision is final.

- 13.35 A vote not disallowed according to an objection as provided in this document is valid for all purposes.

#### **Mode of meeting for Members**

- 13.36 A General Meeting may be called or held using any technology consented to by all the Members. The consent may be a standing one. A Member may only withdraw their consent within a reasonable period before the meeting. The Members may otherwise regulate their meetings as they think fit.

#### **Resolution in writing**

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

#### **Form of resolution in writing**

- 13.38 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.
- 13.39 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.
- 13.40 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.

### **14 Proxies and representatives**

#### **Proxies and representatives of Members**

- 14.1 Proxies and representatives of Members are permitted only to the extent permitted by and in accordance with Division 6 of Part 2G.2 of the Act. .

### **15 Alteration of constitution**

#### **How performed**

- 15.1 The name or Constitution of the Company shall not be altered, amended or added to except by Special Resolution in accordance with the Act.

### **16 Auditor**

#### **Appointment and removal**

- 16.1 An auditor who is a registered company auditor must be appointed and his or her remuneration fixed by the Members at the Annual General Meeting.
- 16.2 The auditor shall hold office until the next Annual General Meeting but may be removed by resolution of the Board which may determine a replacement.
- 16.3 Any auditor so appointed must not be
- 16.3.1 a Director;
  - 16.3.2 an employee or employer of a Director; or



- 16.3.3 a member of the same partnership as a Director; or
- 16.3.4 an employee of the Company.
- 16.4 The auditor must carry out such audit as is required by the Board and the Act.

## **17 Dissolution**

- 17.1 The Company may only be wound up and its assets disposed of by the Special Resolution of its Members in accordance with the Act.
- 17.2 Any asset or part of any asset of the Company that consists of property supplied by a government department or public authority without payment, including the unexpended portion of a grant, must be returned to the department or authority that supplied it or to a body nominated by that department or authority.
- 17.3 Subject to clause 17, if on the winding up and dissolution of the Company there remains after satisfaction of all debts and liabilities, any assets or property whatsoever other than the Gift Fund, the same will not be paid to or distributed to any Member of the Company but will be given or transferred to an organization which
  - 17.3.1 has objectives or purposes similar to those of the Company;
  - 17.3.2 is a fund, authority or institution approved by the Commissioner of Taxation as a public benevolent institution or health promotion charity under the Income Tax Assessment Act 1997; and
  - 17.3.3 prohibits the distribution of its income and property amongst its Members to an extent at least as great as the Company,but in no circumstances will any assets or property whatsoever be paid or distributed to any Member or Director of the Company.

## **18 Gift fund**

### **Establishment**

- 18.1 The Company may establish a Gift Fund called the Cobaw Community Health Services Gift Fund for the principal purpose of the Company:
  - 18.1.1 to which gifts of money or property for that purpose are to be made, and
  - 18.1.2 to which any money received by the Company because of such gifts is to be credited, and
  - 18.1.3 that does not receive any other money or property; and
  - 18.1.4 the Company must maintain sufficient documents to provide evidence of the Gift Fund's purpose and operations.

### **Application**

- 18.2 The Company must use the following only for the principal objects and purpose of the Company:
  - 18.2.1 gifts made to the Gift Fund, and
  - 18.2.2 any money received because of such gifts.
- 18.3 In the event of:

- 18.3.1 the winding up of the Gift Fund.
- 18.3.2 the revocation of the Company's endorsement as a deductible gift recipient under the Income Tax Assessment Act 1997.
- 18.4 the Company must transfer any surplus assets of the Gift Fund to a fund, authority or institution endorsed by the Commissioner of Taxation as a deductible gift recipient under the Income Tax Assessment Act 1997.
- 18.5 The Company must keep a separate Bank account for the Gift Fund.

## 19 Definitions and Interpretation

### Definitions

- 19.1 In this document the following definitions apply:
  - 19.1.1 **Act** means the Corporations Act 2001 and regulations.
  - 19.1.2 **Annual General Meeting** means the annual general meeting of the Company convened pursuant to clause 13.
  - 19.1.3 **Board** means the Board of Directors of the Company.
  - 19.1.4 **Casual Vacancy** means a vacancy in the office of a Director or an Officer.
  - 19.1.5 **Chairperson** means the person elected to that office
  - 19.1.6 **Chief Executive Officer** means the person appointed to that position.
  - 19.1.7 **Client** means a natural person who receives or has received a service from the Company or its Predecessor
  - 19.1.8 **Commissioner of Taxation** means the Commissioner of Taxation or a second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of the Income Tax Assessment Act 1997.
  - 19.1.9 **Company** means Cobaw Community Health Services Limited.
  - 19.1.10 **Company Secretary** means the person who is the Chief Executive Officer.
  - 19.1.11 **Community Health Service** means an institution which delivers holistic and integrated health services based on a social model of health, and on a not for profit basis.
  - 19.1.12 **Director** means a person elected or appointed to the initial, transitional or subsequent Board and includes a person who is chosen to fill a casual vacancy.
  - 19.1.13 **General Meeting** means the Annual General Meeting or a General Meeting.
  - 19.1.14 **Gift Fund** means the fund established pursuant to this document.
  - 19.1.15 **Local Community** means the area which is defined as the Macedon Ranges Shire.
  - 19.1.16 **Member** means a Member of the Company.
  - 19.1.17 **Officer** means the Chairperson, the Deputy Chairperson and Treasurer of the Board elected to office and, where the context permits, a person defined as an officer in the Act.

- 19.1.18 **Performance Standards** means the performance standards to be met by registered community health centres as determined by the Minister pursuant to Part 3 of the Health Services Act 1988 (Victoria)
- 19.1.19 **Predecessor** means the body registered under the Associations Incorporation Act 1981 which became the Company
- 19.1.20 **Poll** means a method of determining whether a resolution is carried or lost and may be conducted by way of show of hands or secret ballot or by division.
- 19.1.21 **Register** means the register of Members.
- 19.1.22 **Special Resolution** means a resolution in respect of which the Act imposes special requirements for notice and voting.
- 19.1.23 **Treasurer** means the treasurer of the Board.
- 19.1.24 **Deputy Chair** means the person elected to that office.

### **Interpretation**

- 19.2 In this Constitution, unless the context otherwise requires:
  - 19.2.1 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 document.
  - 19.2.2 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.
  - 19.2.3 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 the other genders.
  - 19.2.4 An expression importing a natural person includes any Company, trust, partnership, joint venture, association, body corporate or public authority.
  - 19.2.5 A reference to dollars or \$ means Australian dollars.
  - 19.2.6 References to the word 'include' or 'including' are to be construed without limitation.
  - 19.2.7 A reference to a time of day means that time of day in the place where the Office is located.
  - 19.2.8 A reference to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in the place where the Company's office is located.
  - 19.2.9 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 exclusive of that day.
  - 19.2.10 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 it to be done on or by the next business day.

### **References to the Constitution**

- 19.3 A reference to the Constitution, where amended, means this document as so amended.

### **Replaceable rules**

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

### **Application of Corporations Act**

- 19.5 The Act applies in relation to this document as if it was an instrument made under the Act as in force on the day when this document became the constitution of the Company.

### **Exercise of powers**

- 19.6 Except as specifically contemplated to the contrary in this Constitution, the Company may, in any manner permitted by the Act exercise any power, take any action or engage in any conduct or procedure which under the Act a Company limited by guarantee may exercise, take or engage in if authorised by this document.