

# CONSTITUTION

**As amended at General Meeting held on 30 July 2020**

## **Constitution**

**CORPORATIONS ACT 2001**

**COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL**

**Pharmaceutical Defence Limited**

**ACN 004 065 794**

# CONSTITUTION

## Table of Contents

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### Contents

As amended at General Meeting held on 30 July 2020 .....	1
1. INTERPRETATION.....	5
1.1. Definitions .....	5
1.2. Construction .....	6
1.3. Replaceable Rules Displaced.....	7
2. PURPOSES AND POWERS .....	7
2.1. Purposes .....	7
2.2. Powers .....	8
3. LIABILITY OF MEMBERS .....	8
4. APPLICATION OF INCOME.....	8
4.1. No payment or transfer to Members.....	8
4.2. Payments in good faith .....	8
5. MEMBERS OF THE COMPANY .....	8
6. MEMBERS .....	9
6.1. Categories of Members .....	9
6.2. Eligibility .....	9
7. ADMISSION OF MEMBERS .....	11
7.1. Application Procedure.....	11
7.2. Consideration of Application.....	12
7.3. Delegation of Approval .....	12
7.4. Annual Membership Subscription.....	12
7.5. Notification of Admission .....	12
8. CESSATION OF MEMBERSHIP .....	12
8.1. Unpaid Subscription.....	12
8.2. Resignation .....	13
8.3. Refusing or Neglecting to Comply with Constitution .....	13
9. LEVY .....	14
10. CONTRIBUTION TO DAMAGES AWARDED AGAINST MEMBER .....	14
11. DEFENCE OF MEMBERS .....	14
11.1. Defence Action.....	14
11.2. Declining to Act .....	14
12. OTHER ASSISTANCE TO MEMBERS.....	15
12.1. Assistance.....	15
12.2. Legal Advice .....	15
12.3. Matters of Principle or Mutual Interest.....	15
12.4. Prevention of Errors and Compliance with Laws .....	15
12.5. Appeals .....	15
12.6. Conditions .....	15
13. MEETINGS OF THE COMPANY .....	15
13.1. Annual General Meetings .....	15
13.2. General Meetings.....	16
13.3. Notice of Meetings .....	16
13.4. Contents of Notice .....	16
13.5. Failure to Receive Notice.....	16
14. PROCEEDINGS AT MEETINGS.....	17

## CONSTITUTION

14.1. Business of Meetings.....	17
14.2. Quorum .....	17
14.3. Lack of Quorum .....	17
14.4. Chair.....	17
14.5. Adjournment.....	17
14.6. Show of Hands.....	18
14.7. Decision of Questions.....	18
14.8. Minutes as Evidence of Result .....	18
14.9. Demand for Secret Ballot.....	18
14.10. Taking of Secret Ballot.....	18
14.11. Disputed Votes.....	19
14.12. Amendment to Constitution .....	19
14.13. Virtual or Hybrid Meetings .....	19
15. VOTES OF MEMBERS .....	20
15.1. Entitlement to Vote.....	20
15.2. Manner of Voting.....	20
15.3. Appointment of Proxies.....	20
15.4. Form of Proxy .....	20
15.5. Proxy to be Deposited at Office .....	20
15.6. Duration of Proxy .....	20
15.7. When Proxy Valid though Revoked.....	21
16. DIRECT VOTE .....	21
17. DIRECTORS .....	22
17.1. Eligibility .....	22
17.2. Number of Directors.....	22
17.3. Tenure.....	23
17.4. Election of Directors.....	23
17.5. Casual vacancies.....	25
17.6. Appointment of additional Directors .....	25
17.7. Limit on Directors' terms .....	25
17.8. Eligibility for additional term.....	26
18. ALTERNATE DIRECTORS AND DISQUALIFICATION .....	26
18.1. Alternate Directors .....	26
18.2. Disqualification of Directors .....	27
19. REMUNERATION OF DIRECTORS.....	28
20. POWERS OF THE BOARD.....	28
20.1. Powers of the Board .....	28
20.2. Borrowing Powers.....	28
20.3. Attorneys .....	28
21. CHAIR OF THE BOARD.....	29
21.1. Elected Chair.....	29
21.2. Re-election .....	29
21.3. Limit on Chair's term .....	29
21.4. Eligibility for additional term.....	29
22. DEPUTY CHAIR .....	30
22.1. Elected Deputy Chair.....	30
22.2. Re-election .....	30
23. PROCEEDINGS OF THE BOARD .....	30
23.1. Procedure Generally .....	30
23.2. Calling of Board Meetings.....	30

## CONSTITUTION

23.3. Chair of Meetings .....	30
23.4. Quorum .....	30
23.5. Decision of Questions .....	30
23.6. Directors' Proxies .....	30
23.7. Meetings by Electronic Means .....	31
23.8. Directors May Act Despite Vacancy .....	31
23.9. Delegation to Committees .....	32
23.10. Procedure of Committees .....	32
23.11. Validation of Irregular Acts .....	32
23.12. Written Resolution Effective Without Meeting .....	32
24. DECLARATION OF INTERESTS OF DIRECTORS AND DEALINGS BETWEEN DIRECTORS AND THE COMPANY .....	33
24.1. Directors May Contract with Company and Vote Thereon .....	33
24.2. Directors to Declare Interest in Contracts .....	33
24.3. Directors to Declare Conflicting Offices or Property .....	33
24.4. Secretary to Minute Declarations .....	33
24.5. Validation of Contracts if Interest Not Declared by Mistake .....	34
24.6. Exclusion for fraudulent misrepresentation .....	34
24.7. Directors Holding Office with Companies in which the Company is Interested .....	34
25. SEAL .....	34
25.1. Custody of Seal .....	34
25.2. Authority for and Attestation of Seal .....	35
26. CHEQUES, BILLS, ETC. ....	35
27. SECRETARY .....	35
28. MINUTES .....	35
28.1. Minutes .....	35
28.2. Chair to Sign Minutes .....	35
29. ACCOUNTS .....	36
29.1. Books to be Kept .....	36
29.2. Retention of Books .....	36
29.3. Inspection of Books .....	36
30. AUDIT .....	36
31. NOTICES .....	36
31.1. Notice to Members .....	36
31.2. Service on Estates of Deceased Members .....	37
31.3. Registered Address of Members .....	37
32. INDEMNITY TO OFFICERS .....	37
32.1. Definition of Liability and Officer .....	37
32.2. Indemnity of Officers .....	37
32.3. Indemnity for Proceedings .....	37
33. CONTRIBUTION ON WINDING-UP .....	38
34. WINDING UP .....	38
SCHEDULE 1 .....	39

# CONSTITUTION

## Constitution

**PHARMACEUTICAL DEFENCE LIMITED** ACN 004 065 794

A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

## 1. INTERPRETATION

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### 1.1. Definitions

In this Constitution:

**Act** means the Corporations Act 2001 (Commonwealth).

**Annual General Meeting** means the annual general meeting of the Company.

**Auditor** means the auditor or auditors of the Company.

**Authority** means the Pharmacy Board of Australia, or any successor statutory boards or authorities of the Commonwealth, the States or Territories.

**Board** means the board of Directors of the Company.

**Chair** means the Director elected and appointed as chair of the Board in accordance with clause 21.1.

**Company** means the company named Pharmaceutical Defence Limited ACN 004 065 974.

**Constitution** means this constitution as amended.

**Corporate Member** means a Member as described in clause 6.2.2.

**Corporate Representative** means a person as described in clause 6.2.2.3.

**Direct Vote** means a vote delivered to the Company by hand, email or other electronic means approved by the Board. The Board may specify the form, method and timing of giving a Direct Vote in order for the vote to be valid.

**Director** means a person occupying the position of a director of the Company.

**Deputy Chair** means the Director elected and appointed as deputy chair of the Board in accordance with clause 22.1.

**General Meeting** means a meeting of the Company other than an Annual General Meeting.

**Honorary Life Member** means a Member as described in clause 6.2.3.

## CONSTITUTION

**Member** means a person admitted to Membership in accordance with this Constitution.

**Membership** means membership of the Company.

**Meeting** means an Annual General Meeting or a General Meeting.

**Month** means calendar month.

**Office** means the registered office of the Company.

**Ordinary Member** means a Member as described in clause 6.2.1.

**Ordinary Resolution** means a resolution passed by a simple majority of the votes cast.

**Pharmacist** means a person qualified and entitled to practise as a pharmacist in accordance with the laws of the Commonwealth and/or the relevant State or Territory or as otherwise approved by the Company from time to time.

**Pharmacy** means a premises registered under the laws of the Commonwealth and/or the relevant State or Territory at or from which a person may carry on the business or profession of pharmacy.

**Pharmacy Intern Member** means a Member as described in clause 6.2.6.

**Pharmacy Student Member** means a Member as described in clause 6.2.7.

**Register of Members** means the register of Members kept in accordance with the Act.

**Registered Address** means the address of a Member as shown in the Register of Members.

**Retired Member** means a Member as described in clause 6.2.8.

**Seal** means the common seal of the Company.

**Secretary** means any person authorised by the Board to perform the duties of secretary of the Company and includes assistant secretary and deputy secretary.

**Special Resolution** has the same meaning as in the Act.

### 1.2. Construction

In this Constitution, unless the context otherwise requires:

1.2.1 a person includes a corporate body, association, firm, partnership or other unincorporated body;

1.2.2 a statute includes regulations under it and consolidations, amendments,

## CONSTITUTION

re-enactments or replacements of any of them;

- 1.2.3 this or any other document includes the document as varied or replaced regardless of any change in the identity of the parties;
- 1.2.4 a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Constitution;
- 1.2.5 a word or phrase that is defined has the corresponding meaning in its other grammatical forms;
- 1.2.6 writing includes all modes of representing or reproducing word in a legible, permanent and visible form;
- 1.2.7 the singular includes the plural and vice versa;
- 1.2.8 a gender includes all other genders; and
- 1.2.9 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Constitution.

### **1.3. Replaceable Rules Displaced**

Each of the provisions of the Act that would apply to the Company as a replaceable rule but for this clause is expressly displaced and does not apply to the Company.

## **2. PURPOSES AND POWERS**

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### **2.1. Purposes**

The purposes of the Company are:

- 2.1.1 to support and protect the character, status and interests and maintain the lawful rights and privileges of persons participating in the business or profession of Pharmacy;
- 2.1.2 to promote honourable, and discourage dishonourable, professional practice;
- 2.1.3 to promote the development of a high standard of professional practice through, among other things, the publication of professional journals, texts and other literature;
- 2.1.4 to consider, originate, promote and support or oppose (so far as is legal), legislative measures affecting those participating in the business or profession of pharmacy in their relations with the public, the Commonwealth, the States and Territories;

## CONSTITUTION

- 2.1.5 to co-operate with and assist:
  - 2.1.5.1 any statutory board or authority of the Commonwealth, the States or Territories concerned with the business or profession of pharmacy, including the Authority; and
  - 2.1.5.2 any association having similar purposes to the Company;
- 2.1.6 to advise, defend or assist in defending Members in cases arising out of the business or profession of pharmacy where proceedings involving questions of principle, mutual interest or otherwise are brought against them;
- 2.1.7 to procure the provision of legal advice to Members in relation to matters concerned with the business or profession of pharmacy; and
- 2.1.8 to provide a defence fund for dealing with applications by Members for financial and legal assistance in respect of proceedings at law arising out of the business or profession of pharmacy.

### **2.2. Powers**

The Company may exercise all powers, rights and privileges as a natural person may do or exercise, for the purpose of furthering the purposes set out above.

## **3. LIABILITY OF MEMBERS**

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The liability of each Member is limited to the amount specified in clause 33.

## **4. APPLICATION OF INCOME**

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### **4.1. No payment or transfer to Members**

All of the income and property of the Company must be applied solely towards the promotion of the purposes of the Company as set out in this Constitution. No portion of it may be paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to Members.

### **4.2. Payments in good faith**

Notwithstanding clause 4.1, the Company may make payments in good faith of remuneration to any Member, officer or employee of the Company in return for any services rendered to the Company or for goods supplied in the ordinary and usual course of business.

## **5. MEMBERS OF THE COMPANY**

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## CONSTITUTION

The following persons are Members:

- 5.1. the existing Members as at the date of adoption of this Constitution; and  
any other person admitted to Membership in accordance with this Constitution.

### 6. MEMBERS

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#### 6.1. Categories of Members

The Company is divided into the following categories of Members:

- 6.1.1 Ordinary Members;
- 6.1.2 Corporate Members;
- 6.1.3 Honorary Life Members;
- 6.1.4 Associate Members;
- 6.1.5 Honorary Members;
- 6.1.6 Intern Member; ~~and~~
- 6.1.7 Student Member; and
- ~~6.1.7~~ 6.1.8 Retired Member.

#### 6.2. Eligibility

The following persons are eligible to be admitted to Membership upon such terms and conditions and subject to such restrictions as the Board determines.

##### 6.2.1 Ordinary Members

An Ordinary Member is an individual who is admitted to Membership and who is engaged in the business or profession of a Pharmacist either:

- 6.2.1.1 a person eligible for registration as a pharmacist by the Authority; or
- 6.2.1.2 the legal personal representative of a deceased person eligible for registration as a pharmacist by the Authority; or
- 6.2.1.3 a person eligible for general registration as a pharmacist by the Authority.

An Ordinary Member is entitled to one vote at a Meeting, may nominate a person as a candidate for the office of Director and may hold office as

## CONSTITUTION

a Director.

### 6.2.2 Corporate Members

6.2.2.1 A Corporate Member is a corporation that is registered as the owner of a Pharmacy and that is admitted to Membership.

6.2.2.2 A Corporate Member is entitled to one vote at a Meeting and may nominate a person as a candidate for the office of Director but may not hold office as a Director.

6.2.2.3 By giving written notice to the Company in a form approved by the Board, a Corporate Member may appoint as its Corporate Representative an individual engaged in the business or profession of a Pharmacist who is also an employee, and/or director and/or shareholder of the Corporate Member.

6.2.2.4 By giving written notice to the Company in a form approved by the Board, the Corporate Member may remove and replace a Corporate Representative.

6.2.2.5 A Corporate Representative may hold office as a Director.

### 6.2.3 Honorary Life Members

An Honorary Life Member is an individual who:

6.2.3.1 has rendered distinguished services to the Company or to the profession of pharmacy; and

6.2.3.2 is elected by Ordinary Resolution as an Honorary Life Member at any Annual General Meeting following the recommendation of the Directors.

An Honorary Life Member is entitled to one vote at a Meeting, may nominate a person as a candidate for the office of Director and may hold office as a Director.

### 6.2.4 Associate Member

6.2.4.1 An Associate Member means an individual, not being a Pharmacist, who is employed in a Pharmacy as a dispensary technician or dispensary assistant, who is admitted to Membership.

6.2.4.2 An Associate Member is entitled to receive notice of and attend Meetings, but may not vote at a Meeting, nominate a person as a candidate for the office of Director or hold office as a Director.

### 6.2.5 Honorary Member

## CONSTITUTION

An Honorary Member will be for a person who may or may not be a pharmacist whom PDL wishes to honour because of their demonstrated interest in and/or contributions to PDL. Honorary Membership will be granted by a unanimous vote of the Board of Directors. Honorary Members will pay no dues and have all the privileges and obligations of active members except the right to vote or hold office.

### 6.2.6 Pharmacy Intern Member

6.2.6.1 A Pharmacy Intern Member means an individual who is eligible for provisional registration from the Authority in order to complete a period of supervised practice to be eligible for general registration as a Pharmacist.

6.2.6.2 A Pharmacy Intern Member is entitled to receive notice of and attend Meetings, but may not vote at a Meeting, nominate a person as a candidate for the office of Director or hold office as a Director.

### 6.2.7 Pharmacy Student Member

6.2.7.1 A Pharmacy Student Member means an individual who holds student registration from the Authority and is undertaking a program of study for pharmacy as approved by the Authority.

6.2.7.2 A Pharmacy Student Member is entitled to receive notice of and attend Meetings, but may not vote at a Meeting, nominate a person as a candidate for the office of Director or hold office as a Director.

### 6.2.8 Retired Member

6.2.8.1 A Retired Member means an individual who has given notification to PDL that they have permanently retired from pharmacy practice or permanently ceased to practise pharmacy and at the time of the notification they were an Ordinary Member or Intern Member.

6.2.8.2 A Retired Member is entitled to receive notice of and attend Meetings, but may not vote at a Meeting, nominate a person as a candidate for the office of Director or hold office as a Director.

4.1.1.1 —

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## 7. ADMISSION OF MEMBERS

### 7.1. Application Procedure

## CONSTITUTION

Each applicant for Membership must:

- 7.1.1 complete and sign an application in the form as prescribed by the Board from time to time;
- 7.1.2 forward such application form to the Secretary or the Secretary's nominee together with an amount sufficient to pay any applicable fees (including the annual Membership subscription).

### **7.2. Consideration of Application**

- 7.2.1 The Board in its absolute discretion may admit any applicant as an Ordinary Member, Corporate Member or Associate Member or without assigning any reason may refuse to admit any applicant as an Ordinary Member, Corporate Member or Associate Member.
- 7.2.2 If the Board does not approve an application for Membership, the Company will refund all moneys paid by the applicant.

### **7.3. Delegation of Approval**

The Board may in its absolute discretion delegate its power to approve admission to full Membership to individual Directors or Members or to committees consisting of such person or persons or both as the Board thinks fit.

### **7.4. Annual Membership Subscription**

- 7.4.1 Each Member other than an Honorary Life Member must pay an annual Membership subscription.
- 7.4.2 The Directors will determine the amount of the annual Membership subscription applicable to each category of Membership.
- 7.4.3 No person except an Honorary Life Member is entitled to any privileges of Membership until after payment of the annual subscription.

### **7.5. Notification of Admission**

When an applicant has been admitted to full Membership the Company will forthwith:

- 7.5.1 cause the Members details to be recorded in the Register of Members; and
- 7.5.2 notify the applicant in writing of that admission.

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## **8. CESSATON OF MEMBERSHIP**

### **8.1. Unpaid Subscription**

## CONSTITUTION

A Member whose subscription remains unpaid for a period of 2 Months after it becomes due may be debarred by resolution of the Board from all privileges of Membership, provided that the Member may be reinstated on payment of all arrears.

### **8.2. Resignation**

A Member may at any time by giving notice in writing to the Secretary resign as a Member but will continue liable for:

- 8.2.1 arrears of annual Membership subscriptions due and unpaid at the date of resignation and for all other moneys due to the Company; and
- 8.2.2 in the case of the Company being wound up within one year of the date on which the Member resigned from Membership, the relevant contribution under clause 33.

### **8.3. Refusing or Neglecting to Comply with Constitution**

8.3.1 Subject to clause 8.3.2, if any Member:

- 8.3.1.1 wilfully refuses or neglects to comply with the provisions of the Constitution; or
- 8.3.1.2 is guilty of any conduct which in the opinion of the Directors is unbecoming of a Member or prejudicial to the interests of the Company,

then the Board will have the power by Ordinary Resolution to censure, fine, suspend or expel the Member from the Company.

8.3.2 At least one month before the meeting of the Board at which a resolution referred to in clause 8.3.1 is considered, the Member must be:

- 8.3.2.1 served notice of such meeting including the particulars of the alleged act, omission or conduct complained of and the intended resolution; and
- 8.3.2.2 given the opportunity to present in writing or orally or both at the meeting and before passage of the resolution any explanation or defence as the Member thinks fit,

and the Board will take the explanation or defence into consideration.

8.3.3 The Board will serve the Member with notice of any Board resolution made at the above meeting. If the Board resolves to expel a Member, that Member will cease to be a Member on the service of such notice.

8.3.4 When a Member is expelled from the Company, that Member's name must be removed from the Register of Members.

## CONSTITUTION

- 8.3.5 Any person who ceases to be a Member will forfeit all rights and privileges of Membership and will have no rights in or claim upon the Company or the property or funds of the Company except as a creditor or as otherwise provided in this Constitution.

### 9. LEVY

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The Board may in its discretion impose a levy on Members from time to time not exceeding an amount equal to the annual subscription.

### 10. CONTRIBUTION TO DAMAGES AWARDED AGAINST MEMBER

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The Board will have power in its absolute discretion so far as the funds or reserves of the Company will permit, but not otherwise, to pay to any Member who has had an award for damages or costs made against the Member in respect of any claim arising from the Member's participation in the business or profession of pharmacy, such sum as the Board thinks fit towards reimbursing the Member against such damages, costs and expenses not covered by the Member's professional indemnity insurance.

### 11. DEFENCE OF MEMBERS

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#### 11.1. Defence Action

The Board in its absolute discretion may undertake the defence of a Member or assist or take advice and obtain assistance for any Member who requests its assistance in any case arising out of the Member's participation in the business or profession of pharmacy, where proceedings involving any question of principle or mutual interest or otherwise are brought against the Member, provided that:

- 11.1.1 the cause of action or proceedings has arisen during the period when the Member was entitled to the privileges of Membership;
- 11.1.2 the Member gives a written undertaking to abide absolutely by the decision of the Board as to the conduct or defence of the case; and
- 11.1.3 the cause of action or proceedings has arisen in respect of an act or default committed within the Commonwealth of Australia, any Australian Territory or such other locations as are approved by the Board.

#### 11.2. Declining to Act

Where both or more of the parties to a proceedings are Members, the Board may in its absolute discretion act or decline to act and no Member will have any claim against the Company or the Board in respect of any failure by the Company to provide assistance in such a case.

## **12. OTHER ASSISTANCE TO MEMBERS**

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### **12.1. Assistance**

The Board may in its absolute discretion grant to a Member such sum or sums of money as its think fit or may provide the Member with legal assistance relating to the Member's participation in the business or profession of pharmacy.

### **12.2. Legal Advice**

Subject to the approval of the Board, a Member is entitled to legal advice on any subject as the case may require in any matter pertaining to the Member's participation in the business or profession of pharmacy.

### **12.3. Matters of Principle or Mutual Interest**

The Board may in its absolute discretion assist a Member in any case or matter whatsoever which in the opinion of the Board involves a question of principle or mutual interest or where a Member has obtained at the Member's own expense a written opinion of legal counsel in any particular case as to a provision of an Act of Parliament or regulation thereunder which affects Members generally.

### **12.4. Prevention of Errors and Compliance with Laws**

Each Member must take all reasonable precautions to prevent errors in the Member's practice of the business or profession of pharmacy and must strictly comply with all applicable laws regulating the practice of pharmacy of the Commonwealth and of the State or Territory in which the Member participates in the business or profession of pharmacy.

### **12.5. Appeals**

The Company has the power to assist a Member to undertake an appeal against any conviction order or judgment given against a Member in any case involving any question of principle or mutual interest.

### **12.6. Conditions**

The Board has the power to determine the conditions on which assistance may be given and in accepting any assistance under this clause 12, a Member is bound to give the Company and any legal advisors retained by it on the Member's behalf all reasonable co-operation and assistance and must, if the Member does not give such cooperation and assistance, indemnify the Company for any costs or expenses incurred on the Member's behalf.

## **13. MEETINGS OF THE COMPANY**

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### **13.1. Annual General Meetings**

## CONSTITUTION

An Annual General Meeting must (unless otherwise permitted under the Act) be held:

13.1.1 at least once in every year; and

13.1.2 within the period of 5 months after the end of its financial year.

The Board will convene an Annual General Meeting by Ordinary Resolution of the Board.

### **13.2. General Meetings**

A General Meeting may be convened:

13.2.1 by Ordinary Resolution of the Board;

13.2.2 by order of the Chair; or

13.2.3 by the Members, but only in accordance with the Act.

### **13.3. Notice of Meetings**

Subject to the Act, not less than 21 days written notice (exclusive of the day on which the notice is given or deemed to be given but inclusive of the day for which the Meeting is convened) of any Meeting must be given to the Directors, all Members entitled to receive notices of Meetings and the Auditor.

### **13.4. Contents of Notice**

The notice referred to in clause 13.3 must specify the following information:

13.4.1 the place, day and hour of the meeting (and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);

13.4.2 the general nature of the Meeting's business;

13.4.3 the details of any Special Resolutions to be proposed at the Meeting; and

13.4.4 that a Member is entitled to appoint a proxy who need not be a Member.

### **13.5. Failure to Receive Notice**

The non-receipt of notice of a Meeting by, or the accidental omission to give such notice to, any Member does not invalidate any resolution passed at, or proceeding of, that Meeting.

### **13.6. Entitlement to Vote by Direct Vote**

The Board may determine that at any General Meeting, a Member who is entitled to attend and vote at that Meeting is entitled to give their vote by a Direct Vote.



## **14. PROCEEDINGS AT MEETINGS**

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### **14.1. Business of Meetings**

- 14.1.1 The ordinary business of an Annual General Meeting may include:
- 14.1.1.1 the consideration of the annual financial report, the directors' report and the Auditor's report;
  - 14.1.1.2 the appointment of Directors;
  - 14.1.1.3 the appointment of the Auditor and the fixing of the Auditor's remuneration.
- 14.1.2 All business that is transacted at an Annual General Meeting other than the ordinary business and all business transacted at a General Meeting, is deemed special business.

### **14.2. Quorum**

- 14.2.1 The quorum for a Meeting is 5 Members present personally or by proxy.
- 14.2.2 Except as is specifically provided in this Constitution, no item of business may be transacted at a Meeting, except the election of a Chair, unless the requisite quorum is present at the commencement of transaction of that item of business.

### **14.3. Lack of Quorum**

If within 30 minutes after the time appointed for a Meeting a quorum is not present, the Meeting will stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Board may determine. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Members present (being not less than 2) will be a quorum.

### **14.4. Chair**

The Chair is entitled to take the chair at every Meeting and Annual General Meeting, but if there is no Chair, or if at any meeting he or she is not present at the time appointed for holding the meeting, or being present declines to take the chair, the Members present may choose another Director as Chair of the Meeting.

### **14.5. Adjournment**

The Chair of a Meeting may (with the consent of any Meeting at which a quorum is present) adjourn the same from time to time and from place to place. No business may be transacted at any adjourned Meeting other than the business

## CONSTITUTION

which was left unfinished at the Meeting from which the adjournment took place. If any Meeting is adjourned for more than 30 days, then notice of such adjournment must be given to all the Members entitled to receive notices of Meetings, but otherwise it will not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned Meeting. If notice of adjournment is required, the period of notice will be of the same duration and given in the same manner as was required for the notice of the original Meeting.

### **14.6. Show of Hands**

Every question submitted to a Meeting will in the first instance be decided by a show of hands unless the Meeting is being conducted by electronic means ("A Virtual Meeting"), or is being conducted as a combination of Members attending in person and Members attending by electronic means ("A Hybrid Meeting"), in which case, each question will be decided by an electronic poll.

For the purposes of this Constitution an "electronic poll" will be any electronic method or technology approved by the Board, and advised in the Notice of Meeting.

### **14.7. Decision of Questions**

Questions will be decided by a majority of votes. In the case of an equality of votes, the Chair of the Meeting at which the show of hands or electronic poll as applicable takes place or at which a secret ballot is demanded will have a casting vote in addition to any other vote to which he or she may be entitled.

### **14.8. Minutes as Evidence of Result**

Unless a secret ballot is duly demanded before or upon the declaration of a show of hands or electronic poll as applicable, a declaration by the Chair of the Meeting to the effect that a resolution has been carried, or carried unanimously, or carried by a particular majority, or lost having regard to the majority required, and an entry to that effect in the minute book signed by the Chair of that or the next succeeding Meeting, will be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

### **14.9. Demand for Secret Ballot**

A secret ballot may be demanded only if, before or on the declaration of the show of hands or electronic poll as applicable, it is demanded by the Chair of the Meeting or by 5 members present in person or by proxy.

### **14.10. Taking of Secret Ballot**

14.10.1 A secret ballot demanded on the election of a Chair of a Meeting or on a question of adjournment must be taken forthwith. A secret ballot demanded on any other question must be taken in such manner and at

## CONSTITUTION

such time and place as the Chair of the Meeting directs, either at once or after an interval or adjournment or otherwise.

- 14.10.2 If a secret ballot is to be held after an adjournment, the Chair of the Meeting may direct that the time allowed for the lodgement of proxies be extended until such time as he or she directs for the purpose of allowing votes to be cast on the secret ballot.
- 14.10.3 The result of a secret ballot will be deemed to be a resolution passed on the date on which it was in fact passed.
- 14.10.4 The demand for a secret ballot may be withdrawn.
- 14.10.5 The demand for a secret ballot will not prevent the continuance of a meeting for the transaction of any business other than the question on which a secret ballot is demanded.

### **14.11. Disputed Votes**

No objection may be made as to the validity of any vote except at the Meeting at which the vote is tendered. Every vote not disallowed at such Meeting (whether given or purporting to be given personally or by proxy) will be deemed valid. In case of any dispute as to the admission or rejection of a vote, the Chair of the Meeting will determine the same and such determination made in good faith will be final and conclusive.

### **14.12. Amendment to Constitution**

Any amendment to this Constitution must be made by a Special Resolution passed by a Meeting of Members.

### **14.13. Virtual or Hybrid Meetings**

- 14.13.1 If, in respect of a Meeting:
  - 14.13.1.1 some or all of the Members confer by radio, telephone, closed circuit television or other electronic means of audio or audio-visual communications;
  - 14.13.1.2 all the Members who for the time being are entitled to receive notice of the Meeting or Annual General Meeting receive notice of the Meeting can attend the Meeting person, or have access to the electronic means by which the Meeting is to take place; and
  - 14.13.1.3 each Member taking part in the Meeting, whether in person or electronically, is able to hear each other person taking part in the Meeting,

then all the provisions of this Constitution relating to Meeting will apply to

## CONSTITUTION

the Meeting as if it were a Meeting and as if the Members taking part were physically present together at the Meeting. Any resolution passed at the Meeting will be deemed to have been passed at the Meeting held on the day on which and at the time at which the Meeting was held.

- 14.13.2 Until a Member makes it known that he or she is ceasing to take part in the Meeting, that Member will be deemed to continue to be present and to continue to form part of the quorum.

## 15. VOTES OF MEMBERS

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### 15.1. Entitlement to Vote

On a show of hands or in a secret ballot every Member present in person or by proxy and entitled to vote will have one vote.

### 15.2. Manner of Voting

Votes may be given either personally or by proxy.

### 15.3. Appointment of Proxies

A Member may appoint any person as the Member's proxy, whether a Member or not.

### 15.4. Form of Proxy

15.4.1 Every instrument of proxy must be in writing and must conform with the requirements of the Act or such other form as the Board may from time to time determine.

15.4.2 An instrument of proxy in which the name of the appointee is not filled in is deemed to be given in favour of the Chair of the Meeting.

### 15.5. Proxy to be Deposited at Office

The instrument appointing a proxy and the power of attorney (if any) under which it is signed, must be deposited at the Office not less than 72 hours before the time for holding the Meeting or adjourned Meeting or secret ballot at which the person named in such instrument proposes to vote, or at such later time as the Board may permit, but in any case must be so deposited before being acted upon. Proxy forms may be delivered by hand, sent by mail, facsimile or email.

### 15.6. Duration of Proxy

Notwithstanding any other provision contained in an instrument of proxy, no instrument of proxy will be valid after the expiration of 12 months from the date of its execution.

**15.7. When Proxy Valid though Revoked**

- 15.7.1 A vote given in accordance with the terms of an instrument of proxy will be valid notwithstanding the previous death of the principal or revocation of the proxy if no notice in writing of such death or revocation is received at the Office before the Meeting.
- 15.7.2 A proxy is not revoked by the principal attending and taking part in the Meeting but if the principal actually votes on a resolution, the proxy may not vote on that resolution.

**16. DIRECT VOTE**

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**16.1. Direct voting**

A Member is entitled to cast a Direct Vote prior to the relevant General Meeting.

**16.2. Direct voting instrument**

- 16.2.1 A Direct Vote must contain the following information:
- (a) the name of the Member and their address;
  - (b) the Member's voting intention on any or all resolutions to be put before the meeting.
- 16.2.2 The Direct Vote must be signed by the Member or, if the Member is a corporation, either under seal or by a duly authorised officer, attorney or representative.
- 16.2.3 The instrument casting the Direct Vote must be deposited at the Office not less than 72 hours before the time for holding the Meeting or adjourned Meeting or secret ballot at which the person named in such instrument proposes to vote, or such later time as the Board may permit, but in any case must be so deposited before being acted upon. The instrument may be delivered by hand, sent by mail, facsimile or email.

**16.3. When a Direct Vote is revoked**

- 16.3.1 A person who has cast a Direct Vote is entitled to attend the meeting. The Member's attendance cancels the Direct Vote, unless the Member instructs the Company otherwise.
- 16.3.2 A Direct Vote given in accordance with the terms of an instrument will be valid notwithstanding the death of the Member or revocation of the instrument if no notice in writing of such death or revocation is received at the Office before the Meeting.

#### **16.4. Counting a Direct Vote**

If a vote is taken at a Meeting on a resolution on which a Direct Vote is cast, the Chair of the Meeting must count the vote cast by each Member who has submitted a Direct Vote directly in favour or against the resolution.

### **17. DIRECTORS**

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#### **17.1. Eligibility**

Each Director must be:

- 17.1.1 a Member who is entitled to hold office as Director or a Corporate Representative and who is:
  - 17.1.1.1 elected in accordance with clause 17.4; or
  - 17.1.1.2 appointed by the Board in accordance with clauses 17.2.7 and 17.6.1; or
- 17.1.2 a person appointed by the Board in accordance with clauses 17.2.8 and 17.6.2.

#### **17.2. Number of Directors**

There will be a maximum of 9 Directors provided that:

- 17.2.1 one Director will be elected whose Registered Address is within the State of Victoria;
- 17.2.2 one Director will be elected whose Registered Address is within the State of New South Wales or the Australian Capital Territory;
- 17.2.3 one Director will be elected whose Registered Address is within State of South Australia or Northern Territory;
- 17.2.4 one Director will be elected whose Registered Address is within the State of Queensland;
- 17.2.5 one Director will be elected whose Registered Address is within the State of Western Australia;
- 17.2.6 one Director will be elected whose Registered Address is within the State of Tasmania; and
- 17.2.7 one Director will be appointed by the Board in accordance with clause 17.6.1;
- 17.2.8 two Directors may be appointed by the Board in accordance with clause 17.6.2.

## CONSTITUTION

### **17.3. Tenure**

- 17.3.1 Each Director elected pursuant to clause 17.1.1.1 will hold office from the end of the Annual General Meeting at which he or she was declared elected until the end of the fourth Annual General Meeting after the date of election and each Director is eligible for re-election, subject to clause 17.7.
- 17.3.2 Each Director appointed pursuant to clause 17.1.1.2 or 17.1.2 will hold office for a period determined by the Board of no more than 4 years, and each Director is eligible for re-appointment, subject to clause 17.7.

### **17.4. Election of Directors**

Members will be entitled to vote for the election of Directors as follows:

#### *Nominations*

- 17.4.1 Prior to each Annual General Meeting an election will be held for so many Directors as there are vacancies created in each year. All financial members shall be notified of any Board vacancy and of the nomination procedure in clause 17.4.4 by an advertisement in a national pharmacy publication and/or electronic media at least four weeks prior to the closure of nominations.
- 17.4.2 Each Member who is entitled to vote may only nominate a candidate for, or cast a vote for, the office of Director in the State or Territory in which the Registered Address of that Member is located.
- 17.4.3 Nominations for the positions of Director must be lodged at the Office by 4.00 pm, 60 days prior to the date of the Annual General Meeting.
- 17.4.4 Any eligible Member (being a financial Member in that they have no annual Membership subscription outstanding) who wishes to nominate any other eligible person as a candidate for the office of Director under clause 17.2 must complete a director nomination form in the form set out in Schedule 1. The director nomination form must be signed by not less than 10 eligible financial Members and also by the person named as a candidate (being a financial Member in that they have no annual Membership subscription outstanding, or the Corporate Representative of a financial Corporate Member) accepting such nomination.
- 17.4.5 Any candidate wishing to withdraw his or her nomination must do so before closing of nominations.
- 17.4.6 Candidates may prepare a personal candidate statement of no more than 250 words which must be provided to the secretary at least 30 days prior to the date of the Annual General Meeting.

#### *Voting*

## CONSTITUTION

- 17.4.7 If the number of persons nominated for each position is more than one, the Secretary will cause a voting paper to be printed for each position. The names of the candidates will be set out in alphabetical order, showing by an asterisk the name of any retiring Director. The Secretary will make the voting paper and candidate statements available to each Member entitled to vote in the relevant State or Territory by mail, fax, email or other electronic means approved by the Board at least 14 days before the date fixed for the Annual General Meeting.
- 17.4.8 A Member voting must put a tick or cross next to the name or names of the nominees for whom wishes to vote, place the voting paper in an envelope marked "Voting Paper" and place this envelope within an envelope addressed to the returning officer, and with their name and address and signature in the space provided on the back of the outer envelope. The Voting Paper must reach the Office not later than 5.00 pm on the day specified for the closing of the ballot.
- 17.4.9 The Secretary will examine the signature and Registered Address of each Member on the outer envelope to determine the Member's qualification to vote for the position for which the vote has been cast. Upon being satisfied as to a Member's qualification, the Secretary will place the Member's envelope marked Voting Paper in a ballot box.

### *Examination*

- 17.4.10 After the closing of the ballot, the Secretary and scrutineers will then proceed to the examination and counting of the Voting Papers and will report the result to the Chair of the Annual General Meeting. The Secretary may appoint a person not being a candidate to assist in this process.
- 17.4.11 The Chair, or in his or her absence the Deputy Chair, will appoint at or before the Annual General Meeting a person not being a candidate to act as scrutineer. In addition, each candidate may appoint a person not being the candidate to act as a scrutineer. The duty of a scrutineer is to oversee the vote counting. A scrutineer must not touch or handle any envelope or voting paper, but may request to view the contents. A scrutineer may ask for the votes to be re-counted.
- 17.4.12 The Chair of the Annual General Meeting will read the report of the Secretary and the scrutineers and will declare elected each of the candidates who has received the greatest number of votes for each respective vacancy.
- 17.4.13 Except as provided in clause 17.4.14, in the event of an equality of votes, the Chair of the Annual General Meeting will have a casting vote or votes so as to ensure the election of not more than one Director to fill each vacancy.
- 17.4.14 Where 2 candidates, one of whom is the Chair of the Annual General Meeting, receive an equal majority vote for a vacancy, the Chair of the



## CONSTITUTION

Annual General Meeting will not have a casting vote. Rather, the casting vote will be exercised by the Deputy Chair (if that person is present and is not the Chair of the Annual General Meeting). Otherwise, the Members present will choose another Director to exercise the casting vote.

### *One or less nominations*

- 17.4.15 When the Secretary receives only one nomination for a position, the Chair of the Annual General Meeting will, at the Annual General Meeting, declare that candidate duly elected.
- 17.4.16 In case there is not a sufficient number of candidates nominated to fill the number of vacancies, the Board will appoint, for each vacancy, a Member whose Registered Address is within the area in respect of which he or she is appointed Director.

### *Electronic voting process*

- 17.4.17 The Board may approve an electronic voting process as an alternative or substitute for the postal process set out in this clause 17 if satisfied that a reliable and secure system is available.

## **17.5. Casual vacancies**

The Board may fill any casual vacancy of the Board for such period as remains of the term for which the Director being replaced had been elected. The Registered Address of any Director appointed under this clause must be located in the same State/Territory as the Registered Address of the retiring Director.

## **17.6. Appointment of additional Directors**

- 17.6.1 Once the Chair takes up office pursuant to clause 21.1, the Board may appoint another Director as provided in clause 17.2.7 from the State recorded as the Registered Address of the Chair.
- 17.6.2 Acting in accordance with clause 17.2.8, the Board may appoint as a Director either one or two persons who have individual skills or abilities which would be of benefit to the Company.

## **17.7. Limit on Directors' terms**

- 17.7.1 Subject to clause 17.8, a person shall not be eligible for election or re-election as a Director pursuant to clause 17.4 (or for appointment or re-appointment as a Director pursuant to clause 17.6) where the person has held office as a Director for a period or periods totalling 12 years or more in the previous 15 years.
- 17.7.2 If clause 17.7.1 applies to the then-current Chair and the Chair has not served as Chair for a period or periods totalling 8 years or more, he or she will be eligible for re-election as a Director pursuant to clause 17.3.1

## CONSTITUTION

for one additional four year term.

- 17.7.3 For the avoidance of doubt, when determining the period in which a person has held office as a Director or as Chair, the time the person held in that office prior to any amendment of this Constitution to include clauses 17.7, 17.8 and 21.3 shall be included.

### **17.8. Eligibility for additional term**

- 17.8.1 Notwithstanding the limit on Directors' terms in clause 17.7.1, a maximum of up to two Directors at any one time shall be deemed to be eligible for re-election as a Director pursuant to clause 17.3.1 for one additional four year term, where, in the view of the Board, his or her expertise and knowledge may assist in maintaining stability and continuity in the Company.
- 17.8.2 Should any Director wish to extend the term of a Director or Directors in accordance with clause 17.8.1, that Director must propose a question to the Board in accordance with clause 23.5 at a meeting of Directors, held no later than the date pursuant to clause 17.4.1 upon which all eligible Members shall be notified of any Board vacancy and of the nomination procedure in clause 17.4.4 for election of Directors at that year's Annual General Meeting.
- 17.8.3 The eligibility of the Director to extend its term by a further four years shall be determined by Ordinary Resolution of the Board. The Director which has been nominated for extension shall not be entitled to cast a vote.
- 17.8.4 Except as provided in clause 17.8.5, in the event of an equality of votes, the chair of the meeting will have a casting vote.
- 17.8.5 Where two or more candidates, one of whom is the chair, receive an equal majority vote, the chair of the meeting will not have a casting vote. Rather, the casting vote will be exercised by the Deputy Chair (if they are present and not acting as the chair of the meeting). Otherwise, the other Directors will choose another Director to exercise the casting vote.

## **18. ALTERNATE DIRECTORS AND DISQUALIFICATION**

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### **18.1. Alternate Directors**

Subject to the provisions of the Act, each Director (Appointing Director) may appoint any person approved by a majority of his or her co-Directors to act as an alternate director in the Appointing Director's place, whether for a stated period or until the happening of a specified event, whenever by absence or illness or otherwise the Appointing Director is unable to attend to his or her duties as a Director. The Appointing Director must give a copy of any such appointment to the Secretary. Any such alternate director:

## CONSTITUTION

- 18.1.1 may be terminated as alternate Director by written notice from the Appointing Director;
- 18.1.2 is entitled to attend and vote at meetings of the Directors if the Appointing Director is not present;
- 18.1.3 is entitled to exercise all the powers (except the power to appoint an alternate director) and perform all the duties of a Director, insofar as the Appointing Director had not exercised or performed them;
- 18.1.4 must be an Ordinary Member;
- 18.1.5 is not (without prejudice to the right to reimbursement for expenses) entitled to receive from the Company any remuneration as a Director;
- 18.1.6 will vacate office if the Appointing Director vacates office;
- 18.1.7 is, while acting as a Director, responsible to the Company for his or her own acts and defaults and is not deemed to be the agent of the Appointing Director; and
- 18.1.8 must have his or her Registered Address in the same State/Territory as the Appointing Director.

### **18.2. Disqualification of Directors**

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Act, the office of a Director becomes vacant if the Director:

- 18.2.1 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;
- 18.2.2 resigns from office by notice in writing to the Company;
- 18.2.3 is absent without the consent of the Directors from meetings of the Board for a period of 6 months;
- 18.2.4 without the consent of the Company in General Meeting, holds any other office of profit under the Company;
- 18.2.5 ceases to be a Member or Corporate Representative who is eligible to hold office as Director;
- 18.2.6 is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of his or her interest as required by the Act or this Constitution; or
- 18.2.7 dies.

## 19. REMUNERATION OF DIRECTORS

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19.1. Each Director is entitled to be:

19.1.1 paid directors fees;

19.1.2 reimbursed such expenses, including the appointment of a locum tenens or assistant, as are necessary to enable a Director to attend any meeting; and

19.1.3 reimbursed any travelling, accommodation or other expenses incurred in the business of the Company, as the Board may from time to time authorise.

19.2. Subject to the requirements of the Act, each Director appointed on or before 1 January 2022, who has served a minimum of 3 consecutive years is entitled upon retirement to an ex gratia payment equivalent to 3 times the average sum received as annual directors fees by that Director during the 3 years immediately prior to his or her retirement. This clause shall not apply to any Directors appointed after 1 January 2022, and Directors appointed after this date will have no entitlement to any ex gratia payment on retirement.

## 20. POWERS OF THE BOARD

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### 20.1. Powers of the Board

The management and control of the business and affairs of the Company is vested in the Board. Subject to the Act and this Constitution, the Board may exercise all powers of the Company as are not required to be done by the Company in General Meeting, but:

20.1.1 no regulation made by the Company in General Meeting will invalidate any prior act of the Board which would have been valid if that regulation had not been made; and

20.1.2 any sale of the Company's main undertaking and any payment of remuneration to any Director for services in connection with such sale may only be made subject to the approval or ratification by the Company in General Meeting.

### 20.2. Borrowing Powers

The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking and assets.

### 20.3. Attorneys

The Directors may at any time and from time to time by power of attorney appoint any person or persons or body of persons, whether

## CONSTITUTION

nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as the Directors may from time to time think fit. Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with such attorney as the Directors think fit and may also authorise any such attorney to delegate all or any of the powers, authorities and discretions for the time being vested in the attorney.

### 21. CHAIR OF THE BOARD

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#### 21.1. Elected Chair

At the first meeting of the Board after the Annual General Meeting, the Board may elect a Director to the office of Chair for the period until the first meeting of the Board after the second Annual General Meeting after the date of election.

#### 21.2. Re-election

The Chair is entitled to stand for re-election, subject to clause 21.3.

#### 21.3. Limit on Chair's term

A person is not eligible for election or re-election as Chair if that person has held the office of Chair for a period or periods totalling 8 years or more.

#### 21.4. Eligibility for additional term

21.4.1 Notwithstanding the limit on a Chair's terms in clause 21.3, a Chair shall be deemed to be eligible for re-election as a Chair for one additional 4 year term, where, in the view of the Board, his or her expertise and knowledge may assist in maintaining stability and continuity in the Company.

21.4.2 Should any Director wish to extend the term of the Chair in accordance with clause 21.4.1, that Director must propose a question to the Board in accordance with clause 23.5 at the first meeting of the Board after the Annual General Meeting.

21.4.3 The eligibility of the Chair to extend his or her term by a further 4 years shall be determined by Ordinary Resolution of the Board. The Chair which has been nominated for extension shall not be entitled to cast a vote.

21.4.4 In the event of an equality of votes, the Deputy Chair will have a casting vote.

## **22. DEPUTY CHAIR**

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### **22.1. Elected Deputy Chair**

At the first meeting of the Board after the Annual General Meeting, the Board may elect a Director to the office of Deputy Chair to hold office for a period up to the first meeting of the Board after the next Annual General Meeting.

### **22.2. Re-election**

The Deputy Chair is entitled to stand for re-election.

## **23. PROCEEDINGS OF THE BOARD**

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### **23.1. Procedure Generally**

The Board may meet together for the dispatch of business, adjourn and, subject to this Constitution, otherwise regulate its meeting as it thinks fit.

### **23.2. Calling of Board Meetings**

The Chair may at any time, and the Secretary must at the request of 3 Directors, convene a meeting of the Board. Notice of such meeting will be given verbally or in writing to each Director.

### **23.3. Chair of Meetings**

The Chair is entitled to take the chair at every meeting of the Board. If there is no Chair, or if at any meeting he or she is not present within 10 minutes after the time appointed for holding the meeting or is unwilling to act as Chair of the meeting, the Directors present will choose a Director to be the Chair of such meeting.

### **23.4. Quorum**

The quorum for a meeting of the Board is 4 Directors. A meeting of the Board at which a quorum is present is competent to exercise all or any of the authorities, powers or discretions vested in or exercisable by the Board generally.

### **23.5. Decision of Questions**

Questions arising at any meeting of the Board will be decided by a majority of votes and in the case of an equality of votes, the Chair of the meeting will have a casting vote in addition to his or her primary vote.

### **23.6. Directors' Proxies**

## CONSTITUTION

A Director may in writing authorise another Director to act as his or her proxy at any meeting of the Board. The proxy will be entitled to cast a vote (in addition to the proxy's own vote) for each Director by whom the proxy is authorised, if the relevant Director is not present.

### **23.7. Meetings by Electronic Means**

23.7.1 If:

23.7.1.1 the Directors confer by radio, telephone, closed circuit television or other electronic means of audio or audio-visual communications;

23.7.1.2 all the Directors who for the time being are entitled to receive notice of a meeting of the Directors receive notice of the conference and have access to the means by which the conference is to take place; and

23.7.1.3 each of the Directors taking part in the conference is able to hear each of the other Directors taking part in the conference,

then all the provisions of this Constitution relating to meetings of the Board will apply to the conference as if it were a meeting of the Board and as if the Directors taking part were physically present together at a meeting. Any resolution passed by such conference will be deemed to have been passed at a meeting of the Board held on the day on which and at the time at which the conference was held.

23.7.2 The fact that a Director is taking part in the conference will be made known to all the other Directors taking part. Until a Director makes it known that he or she is ceasing to take part in the conference, that Director will be deemed to continue to be present and to continue to form part of the quorum.

### **23.8. Directors May Act Despite Vacancy**

The Directors may act notwithstanding any vacancy on the Board, but if their number is reduced below the quorum, the Directors or Director may act for the purpose of:

23.8.1 increasing the number of Directors to the number required for the quorum;

23.8.2 convening a General Meeting;

23.8.3 appointing a Secretary;

23.8.4 authorising or making any application to any statutory body; or

23.8.5 performing other functions as individual Directors,

but for no other purpose.

### **23.9. Delegation to Committees**

- 23.9.1 The Board may by resolution, by power of attorney or by writing under Seal, delegate any of its authorities, powers and duties to a committee or committees, consisting of one or more Directors or such other person or persons as Board thinks fit, to act either in Australia or elsewhere, and may from time to time revoke or vary such delegation. Any committee so formed or person or persons so appointed will, in the exercise of the delegated authorities, powers and duties, conform to any regulations that may from time to time be determined by the Board and will report to the Board as the Board directs.
- 23.9.2 Without limiting the generality of the power of the Board under clause 23.9.1, the Board may establish the following Local Advisory Committees:
- 23.9.2.1 the Victorian Local Advisory Committee;
  - 23.9.2.2 the New South Wales Local Advisory Committee;
  - 23.9.2.3 the South Australian Local Advisory Committee;
  - 23.9.2.4 the Queensland Local Advisory Committee.
  - 23.9.2.5 the Western Australian Local Advisory Committee;
  - 23.9.2.6 the Tasmanian Local Advisory Committee.

### **23.10. Procedure of Committees**

The meetings and proceedings of any committee which consists of more than one Member will be governed by the provisions for regulating the meetings and proceedings of the Board as far as they are capable of application and if they are not superseded by any regulation made by the Board under clause 23.9.1.

### **23.11. Validation of Irregular Acts**

All acts done at any meeting of the Board, or of a committee appointed by the Board, or by any person acting as a Director or committee member, are valid, notwithstanding that it is afterwards discovered that there was some defect in the appointment, election or qualification of them or any of them, or that they or any of them were disqualified or had vacated office or were not entitled to vote.

### **23.12. Written Resolution Effective Without Meeting**

- 23.12.1 A resolution of the Board in writing signed by a majority of the persons who are Directors or duly appointed alternate directors will have the same force and effect as a resolution passed at a meeting of the Board duly called and constituted.
- 23.12.2 Any such resolution may consist of several documents in like form each



## CONSTITUTION

signed by one or more persons.

23.12.3 A resolution will be deemed signed by a Director if it is signed on his or her behalf by a person duly authorised by the Director in writing to sign it.

23.12.4 A reference in this clause to all the Directors does not include any Director who at a meeting of the Board would not be entitled to vote on the resolution.

### **24. DECLARATION OF INTERESTS OF DIRECTORS AND DEALINGS BETWEEN DIRECTORS AND THE COMPANY**

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#### **24.1. Directors May Contract with Company and Vote Thereon**

Subject to the following provisions of this clause 24, the Act and to the fullest extent legally permissible, a Director and any company, firm or other body in which a Director is directly or indirectly interested, may:

24.1.1 contract with the Company;

24.1.2 be appointed to any office or place of profit under the Company; and

24.1.3 if permitted by law, act in a professional capacity for the Company

and will be entitled to remuneration and benefits as if he or she were not a Director and the Director concerned will:

24.1.4 be counted in a quorum and entitled to vote on any resolution relative to any of the foregoing matters; and

24.1.5 may sign or counter-sign any deed or document to them to which the Seal is affixed.

#### **24.2. Directors to Declare Interest in Contracts**

Every Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company must declare that interest if and so far as required by the Act.

#### **24.3. Directors to Declare Conflicting Offices or Property**

Every Director who holds any office or possesses any property which may create a direct or indirect conflict with his or her duties as Director, must declare the fact and the nature, character and extent of the conflict if and so far as required by the Act.

#### **24.4. Secretary to Minute Declarations**

## CONSTITUTION

The Secretary must record every declaration under this clause in the minutes of the meeting at which it was made.

### **24.5. Validation of Contracts if Interest Not Declared by Mistake**

Notwithstanding the foregoing provisions of this clause 24 and subject always to the provisions of the Act, if:

24.5.1 through mistake or inadvertence; or

24.5.2 because the Director's interest is apparent on the face of the transaction;  
or

24.5.3 for any reasonable other cause,

a Director fails to declare to the Board any matter which under this clause 24 is required to be declared, or fails so to do at the required time or in the required manner, or if the Secretary fails to record any such declaration, then:

24.5.4 such failure will not invalidate any resolution, contract, appointment or other matter referred to in clause 24.1; and

24.5.5 the Director or other person benefiting from any resolution, contract, appointment or other matter referred to in clause 24.1 will not be held accountable for any related remuneration, profit or other benefit arising.

### **24.6. Exclusion for fraudulent misrepresentation**

Subject to the Act, clause 24.5 does not apply in the case of a contract in which it is reasonably determined by a resolution of the Board that such contract or proposed contract was unfair to the Company or was induced by fraudulent misrepresentation on the part of the relevant Director.

### **24.7. Directors Holding Office with Companies in which the Company is Interested**

A Director may be or become a director or other officer of or otherwise interested in any company promoted by the Company, or in which the Company may be interested as a shareholder or otherwise. Subject to the Act, no such Director will be accountable to the Company for any remuneration or other benefit received by him or her as a director or other officer of, or from any interest in such other company, unless the Company otherwise directs at or before the appointment of the Director as a director or other officer of, or at or before any acquisition of interest in, such other company.

## **25. SEAL**

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### **25.1. Custody of Seal**

The Board will provide for the safe custody of the Seal.

## **25.2. Authority for and Attestation of Seal**

The Seal will only be used by authority of the Board and every instrument to which the Seal is affixed will be signed by a Director and countersigned by another Director, the Secretary or some other person authorised by the Board for the purpose.

## **26. CHEQUES, BILLS, ETC.**

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All cheques, bills of exchange and promissory notes will be signed, drawn, accepted, made or endorsed (as the case may be) for and on behalf of the Company in such manner as the Board may from time to time determine.

## **27. SECRETARY**

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The Board will appoint one or more Secretaries for such term and upon such conditions and at such remuneration as the Board thinks fit and may at any time terminate such appointment. The Secretary may at any time be removed by the Board. The Board may at any time appoint or remove one or more assistant or deputy Secretaries and may authorise any officers generally or specifically to perform duties of the Secretary. Such substitute assistant or deputy Secretary or such officers will for the purposes of the Act and this Constitution be deemed to be the Secretary.

## **28. MINUTES**

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### **28.1. Minutes**

The Secretary will cause minutes to be duly entered in books provided for the purpose containing:

- 28.1.1 the names of the Directors present at each meeting of the Board and the names of any other persons present at each meeting; and
- 28.1.2 all resolutions and proceedings of all meetings of the Company and of meetings of the Board.

### **28.2. Chair to Sign Minutes**

Unless the minutes of a meeting of the Board or of the Company are signed by the Chair of the meeting at which the proceedings took place, they must be signed by the Chair of the next succeeding meeting. Any minutes that are recorded and signed in accordance with this clause 28.2 are evidence of the proceeding to which they relate, unless the contrary is proved.

## 29. ACCOUNTS

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### 29.1. Books to be Kept

The Board will cause to be kept proper accounting and other records in accordance with the Act. The books of account will be kept at the Office or at such other place or places as the Board thinks fit.

### 29.2. Retention of Books

The Company must retain such records for 7 years at least after the completion of the transactions or operations to which they relate.

### 29.3. Inspection of Books

Such records must at all times be open to inspection by the Directors.

## 30. AUDIT

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The Auditor must be appointed and hold office in accordance with the Act.

## 31. NOTICES

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### 31.1. Notice to Members

31.1.1 The Company may serve notice on any Member:

31.1.1.1 personally;

31.1.1.2 by sending it through the ordinary post to the Member's Registered Address;

31.1.1.3 by leaving at the Registered Address in an envelope addressed to the Member; or

31.1.1.4 by sending it to the fax number or electronic address (if any) nominated by the Member.

31.1.2 A notice of meeting sent by fax or other electronic means is taken to be served on the business day after it is sent. Any notice sent by post is taken to be served one business day after the day it is posted. In proving such service, it is sufficient to prove that the envelope containing the notice was properly addressed and deposited as a prepaid letter at the post office or in some postal receptacle.

31.1.3 A certificate in writing signed by the Secretary or any officer of the Company that the envelope containing the notice was properly stamped,

## CONSTITUTION

addressed and posted will be conclusive evidence of the service of such notice.

### **31.2. Service on Estates of Deceased Members**

Any notice or document delivered or sent by post to or left at the Registered Address of any Member will, (notwithstanding that the Member is deceased and whether or not the Company has notice of the Member's death) be deemed to have been duly served in respect of the Member, until some other person is registered in the Member's stead. For all purposes, such service is deemed to be sufficient service of such notice or document on the Member's heirs, executors or administrators.

### **31.3. Registered Address of Members**

A Member residing overseas may from time to time give notice in writing to the Company of an address in Australia for the giving of notices to that Member and such address will be entered in the Register as the Member's Registered Address.

## **32. INDEMNITY TO OFFICERS**

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### **32.1. Definition of Liability and Officer**

In this clause 32:

32.1.1 **Liability** means costs, losses, liabilities and expenses.

32.1.2 **Officer** means a Director, Secretary or other officer of the Company or committee member of the Company.

32.1.3 A reference to Officer includes a reference to a former Officer.

### **32.2. Indemnity of Officers**

Every Officer must be indemnified out of the assets of the Company against any Liability incurred by that Officer in the person's capacity as an Officer by reason of any act or thing done or omitted to be done by that person in that capacity or in any way in the discharge of that person's status as an Officer, but excluding any Liability from or against which the Company is not permitted by the Act to exempt or indemnify the Officer.

### **32.3. Indemnity for Proceedings**

Without limiting clause 32.2, every Officer must be indemnified out of the assets of the Company against any liability incurred by that person in defending any proceedings, whether civil or criminal, in respect of any act or thing done by the Officer in that person's capacity as such Officer, but excluding any Liability from or against which the Company is not permitted by the Act to exempt or indemnify

## CONSTITUTION

the Officer.

### **33. CONTRIBUTION ON WINDING-UP**

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33.1. Every Member undertakes to contribute to the property of the Company if it is wound up:

33.1.1 while that person is a Member; or

33.1.2 within one year after that person ceases to be a Member; in respect of the debts and liabilities of the Company contracted before that person ceases to be a Member, in respect of the costs, charges and expenses of winding-up and for the adjustment of the rights of the contributories among themselves.

33.2. The amount to be contributed by any Member will not exceed ten dollars.

### **34. WINDING UP**

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If upon the winding up or dissolution of the Company there remains after satisfaction of all debts and liabilities any property whatsoever, any remaining property must be given or transferred to some institution or institutions having objects substantially similar to the objects of the Company and which prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under this Constitution. Such institution or institutions must be determined by a Special Resolution of the Members at or before the time of dissolution and if no such special resolution is passed by that time, by a Judge of the Supreme Court of Victoria or some other court of competent jurisdiction.

CONSTITUTION

SCHEDULE 1



**DIRECTOR NOMINATION FORM  
PHARMACEUTICAL DEFENCE LIMITED**

The \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

We the undersigned financial members of Pharmaceutical Defence Limited having their registered addresses in the State of.....do hereby nominate

.....  
whose registered address is .....  
as a candidate for the office of Director of the said Company for the State of .....

Financial members of the Pharmaceutical Defence Limited

Name:

Signature:

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***Candidates who wish to stand for election to the board of PDL will, if elected, be required to commit to completing an introductory course as approved by the PDL board with the Australian Institute of Company Directors within six months of being elected.***

CONSTITUTION

**Candidates must agree, if elected, to give peer support and guidance to PDL members in the state they represent when required.**

**Candidates must agree, if elected, to abide by the PDL board protocols and code of conduct.**

I, the above named, .....being a financial member of the Company and whose registered address is.....  
.....  
do hereby consent to such nomination.

Signature .....