

**Constitution**  
**Melbourne Primary Care Network Limited**

**A Public Company Limited by Guarantee**

**ABN 93 153 323 436**

## Table of contents

<b>1</b>	<b>Nature of Company and liability .....</b>	<b>1</b>
	Nature of Company .....	1
	Liability of Members and guarantee on winding up .....	1
<b>2</b>	<b>Objects and powers .....</b>	<b>1</b>
<b>3</b>	<b>Membership .....</b>	<b>2</b>
	Membership .....	2
	Membership not transferable .....	2
	Application for membership .....	2
	Members .....	2
	Form of application.....	2
	Admission to membership.....	2
	Register of Members.....	2
	Membership subscription .....	3
	Renewal of membership .....	3
	Suspension .....	3
<b>4</b>	<b>Removal and cessation of membership .....</b>	<b>3</b>
	Resignation .....	3
	Membership not renewed .....	3
	Other cessation of membership .....	4
	Removal from Membership.....	4
<b>5</b>	<b>No profits for members .....</b>	<b>4</b>
	Transfer of income or property.....	4
	Payments, services and information .....	4
<b>6</b>	<b>General meetings .....</b>	<b>5</b>
	Convening of meetings by Directors .....	5
	Convening of meetings by Members .....	5
	Notice of general meeting .....	5
	Cancellation of general meetings.....	5
	Quorum at general meetings .....	5
	Quorum at adjourned general meetings .....	6
	Appointment of chairperson at general meetings .....	6
	Chairperson's powers at general meetings.....	6
	Adjournment of meetings .....	7
	Voting on show of hands.....	7
	Demand for a poll.....	8
	Voting of Members .....	8
	Vote of the chairperson at general meetings .....	8
	Objections to voter qualification .....	8
	Mode of meeting for Members .....	8
	Resolution in writing .....	9
	Form of resolution in writing .....	9
	Ballot .....	9
<b>7</b>	<b>Proxies and representatives .....</b>	<b>9</b>
<b>8</b>	<b>Associates .....</b>	<b>9</b>
	Associates .....	9
	Admission as an Associate .....	10
	Removal .....	10
<b>9</b>	<b>Election, appointment and retirement of directors .....</b>	<b>10</b>
	Number of Directors .....	10
	Qualifications of Directors .....	11
	Retirement of Directors .....	11

	Casual vacancies .....	11
	Removal from office .....	11
	Vacation of office.....	11
	Appointment of GPs .....	12
	Election of Directors .....	12
	Post-Medicare Local Transition .....	12
<b>10</b>	<b>Directors' and Secretary's remuneration .....</b>	<b>12</b>
	Determination of fees .....	12
	Additional services rendered.....	13
	Payment for expenses .....	13
	Payments for insurance .....	13
<b>11</b>	<b>Powers of the Board .....</b>	<b>13</b>
<b>12</b>	<b>Proceedings of directors.....</b>	<b>13</b>
	Convening of Board meetings.....	13
	Notice of Board meetings.....	13
	Mode of meeting for Directors.....	13
	Quorum at Board meetings .....	14
	Voting at Board meetings.....	14
	Appointment of Chair .....	14
	Chairperson's vote at Board meetings .....	14
	Participation where Directors interested .....	14
	No disqualification .....	14
	Exercise of rights.....	15
	Delegation of powers .....	15
	Advisory or Standing Committees.....	15
	Proceedings of committees.....	16
	Validity of acts of Directors .....	16
	Minutes.....	16
	Resolution in writing .....	16
<b>13</b>	<b>Secretary .....</b>	<b>16</b>
<b>14</b>	<b>Indemnity and insurance.....</b>	<b>16</b>
	Indemnity.....	16
	Insurance premiums.....	16
<b>15</b>	<b>Seals and execution of documents.....</b>	<b>17</b>
	Custody of Seal.....	17
	Execution of documents.....	17
<b>16</b>	<b>Gift Fund requirements .....</b>	<b>17</b>
	Company to maintain a Gift Fund .....	17
	Rules applying to the Gift Fund.....	17
	Winding up of Gift Fund .....	17
	Definitions .....	18
<b>17</b>	<b>Surplus assets on winding up or dissolution .....</b>	<b>18</b>
<b>18</b>	<b>Accounts, audit and records .....</b>	<b>18</b>
	Accounts .....	18
	Reports.....	18
	Audit.....	18
	Rights of inspection.....	18
<b>19</b>	<b>Notices .....</b>	<b>19</b>
<b>20</b>	<b>Definitions and interpretation.....</b>	<b>19</b>
	Definitions .....	19
	Interpretation .....	20
	Replaceable rules .....	20

Application of the Corporations Act.....	20
Application of the ACNC Act.....	21
Enforcement.....	21

**Corporations Act 2001 (Cth)**  
**Public company limited by guarantee**  
**Melbourne Primary Care Network Limited**

**ABN 93 153 323 436**

**1 Nature of Company and liability**

**Nature of Company**

1.1 The Company is a public 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 not more than \$50.00 to the assets of the Company if it is wound up while that person is a Member, or within one year afterwards, for:

1.2.1 payment of the Company's debts and liabilities contracted before they ceased to be a Member; and

1.2.2 costs and expenses of winding up.

**2 Objects and powers**

2.1 The object of the Company is to improve the health of the local community and achieve measurable health outcomes through, amongst other things:

2.1.1 encouraging and supporting improvements in the delivery of primary health care services to patients and the community including initiatives aimed toward improving health, disease prevention and management, raising patient awareness and improving access to appropriate services;

2.1.2 improving the planning of primary health care services to identify health needs of the community, develop locally focussed and responsive health services and address service delivery gaps;

2.1.3 promoting primary health care and the centrality of general practice for the delivery of effective integrated health management for local communities;

2.1.4 providing support and education to clinicians and health service providers to improve their patient care;

2.1.5 establishing effective collaborations to deliver more coordinated, integrated, flexible and locally responsive health services; and

2.1.6 promoting a culture of efficiency, accountability and continuous improvement in the delivery of primary health care services.

2.2 The Company will have all the powers and functions necessary or desirable to the maximum extent permitted by law. Without limitation, the Company may seek to achieve its objects by:

2.2.1 Raising money to further the objects of the Company and to secure sufficient funds for the pursuit of the objects of the Company.

- 2.2.2 Receiving any funds and to distribute these funds in a manner that best attains the objects of the Company.
- 2.2.3 Doing all such things as are incidental, convenient or conducive to the attainment of all or any of the objects of the Company.

### **3 Membership**

#### **Membership**

- 3.1 The Members of the Company are the Members the Company admits to membership in accordance with this constitution until they cease to be Members pursuant to clause 4.

#### **Membership not transferable**

- 3.2 A Member's rights, privileges and benefits of membership are personal to the Member and membership of the Company is not transferable, other than by operation of law.

#### **Application for membership**

- 3.3 A person is eligible to become a Member if the person is a body corporate, partnership or unincorporated body other than a natural individual with a substantial interest or involvement (whether directly or indirectly) in the provision of primary health care.
- 3.4 A person eligible to become a Member may submit an application for membership to the Board.

#### **Members**

- 3.5 All Members must comply with the provisions of this constitution.

#### **Form of application**

- 3.6 An application for membership must be:
  - 3.6.1 In the form and accompanied by such documents or evidence as to qualification for membership applied for as the Board may determine from time to time.
  - 3.6.2 Accompanied by payment of the subscription for the Membership Period.

#### **Admission to membership**

- 3.7 The Board must consider an application for membership within 90 days after its receipt and determine, in its absolute discretion, the admission or rejection of the applicant.
- 3.8 The Board does not have to give reasons for rejecting an application.
- 3.9 If an applicant is accepted for membership the Secretary must notify the applicant of admission for an initial Membership Period within 14 days and the name and details of the applicant, for an initial Membership Period, must be entered in the Register. If the application is rejected, the Company must refund the Membership subscription.

#### **Register of Members**

- 3.10 A register of Members must be kept in accordance with the Corporations Act and the ACNC Act.
- 3.11 The following details must be entered in the Register in respect of each Member:
  - 3.11.1 The full name and address of the Member (including ACN/ABN if applicable).
  - 3.11.2 The date on which the entry of the Member's name in the Register is made.

- 3.11.3 The dates on which membership was last renewed and is due to expire.
- 3.12 The Company may also keep further registers recording other information about Members and former Members as the Board may require that is not required to be kept under the Corporations Act and the ACNC Act.
- 3.13 Each Member must notify the Secretary in writing of any change in that person's name, address and other addresses for receiving notices within one month after the change.

### **Membership subscription**

- 3.14 The Board may from time to time set the amount of any membership subscription payable under this constitution, and the dates on which they become due. The membership subscription will not be reduced pro rata where the Membership Period is less than 3 years, unless otherwise determined by the Board.

### **Renewal of membership**

- 3.15 A Member is entitled to apply to renew membership for a further Membership Period if the Member:
- 3.15.1 remains eligible to remain a Member;
  - 3.15.2 is not in breach of this constitution;
  - 3.15.3 submits an application for membership renewal and any supporting documents (both in a form determined by the Board from time to time) no later than 45 days before the current Membership Period ends; and
  - 3.15.4 pays the Membership subscription for the upcoming Membership Period.
- 3.16 The Board must consider an application for membership renewal, notify the Member of the outcome of the renewal application before the current Membership Period ends, and update the Register accordingly.

### **Suspension**

- 3.17 The rights and privileges of a Member (including the right to attend and vote at general meetings) are automatically suspended if:
- 3.17.1 the Member becomes either an insolvent under administration or an externally administered body corporate; or
  - 3.17.2 the Membership subscription remains unpaid for a period of 60 days from the date payment is due, rendering the Member not financial.

## **4 Removal and cessation of membership**

### **Resignation**

- 4.1 A Member may resign from membership of the Company by giving written notice to the Secretary.
- 4.2 The resignation of a Member is deemed to take effect from the date of receipt of the notice of resignation or such later date as is provided in the notice.

### **Membership not renewed**

- 4.3 A person ceases to be a Member when its Membership Period ends unless membership has been renewed in accordance with clauses 3.15 and 3.16.

### **Other cessation of membership**

- 4.4 A Member ceases to be a Member immediately upon any Termination Event occurring in respect of the Member.

### **Removal from Membership**

- 4.5 The Board may convene a meeting of the Board to consider the removal of a Member from the Register if:
- 4.5.1 The Member is in breach of a provision of this constitution.
  - 4.5.2 Any act or omission of the Member is, in the opinion of the Board, unbecoming of a Member, or prejudicial to the interests or reputation of the Company.
  - 4.5.3 The Member is, or any step is taken for that Member to become, either an insolvent under administration or an externally administered body corporate.
- 4.6 The Board must provide at least two month's written notice to any Member of any intention to remove the person from the Register, so as to enable the Member to provide any written representations to the Company. Subject to clause 4.7, the decision of the Board takes effect 30 days from the date the Board notifies the Member of the decision. The procedures relating to the removal of a Member by the Board under clause 4.5 may otherwise be set out in regulations.
- 4.7 A Member may appeal the decision of the Board under clause 4.5 by giving notice in writing to the Company within 30 days of being notified of the Board's decision. The Company must then convene an appeals committee to hear the appeal in accordance with regulations (and in the absence of regulations, the appeals committee shall be the Members in general meeting and the grounds of appeal shall be limited to errors in law or breaches of natural justice).
- 4.8 A Member is deemed automatically removed if their Membership subscription remains unpaid for a period of 60 days from the date payment is due. The Board may, in its absolute discretion, reinstate the Membership of such a person upon payment of the Membership subscription and any arrears.
- 4.9 If a person ceases to be a Member under this clause 4, the person will not be entitled any refund of the Membership subscription.

## **5 No profits for members**

### **Transfer of income or property**

- 5.1 The Company may not pay or transfer any income or property, directly or indirectly to any Member.
- 5.2 The Company must not pay a dividend to any Member.

### **Payments, services and information**

- 5.3 Nothing in this clause prevents the Company making a payment in good faith of any of the following:
- 5.3.1 An amount pursuant to clause 10 in the case of a Member who is also a Director and/or Secretary.
  - 5.3.2 Reasonable and proper remuneration to any Member in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual course of business of the Company.
  - 5.3.3 Interest on money borrowed from any Member at a rate not exceeding a rate approved by the Board on money borrowed by the Company.



- 5.3.4 Reasonable and proper rent for premises leased or licensed by any Member to the Company.
- 5.3.5 Reimbursement of out-of-pocket expenses reasonably and properly incurred by any Member on the Company's behalf where the amount does not exceed an amount previously approved by the Board.
- 5.3.6 An amount pursuant to clause 14 (Indemnity and insurance).

## **6 General meetings**

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

- 6.1 Any Director may convene a general meeting.

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

- 6.2 The Board must call and arrange to hold a general meeting if required to do so under the Corporations Act and the ACNC Act. The Board will call and arrange to hold an annual general meeting in accordance with the Corporations Act and the ACNC Act.

### **Notice of general meeting**

- 6.3 The Board may give notice of a general meeting by any form of communication permitted by the Corporations Act and the ACNC Act.
  - 6.3.1 The 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 and the ACNC Act.
  - 6.3.2 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.
- 6.4 A Director is entitled to receive notice of and attend a general meeting.

### **Cancellation of general meetings**

- 6.5 The Board may cancel a general meeting, other than a general meeting which the Board is required to convene and hold under the Corporations Act and the ACNC Act.
- 6.6 Subject to the Corporations Act and the ACNC Act, the Company may by resolution of the Board cancel or postpone a general meeting or change the place for the meeting, prior to the date of which the meeting is to be held.
- 6.7 If the Board cancels or postpones a general meeting under clauses 6.6 or 6.7, the Company must give notice of a cancellation or postponement or change of place of a general meeting as the Board resolves. Failure to give notice of a cancellation or postponement or change of place of a meeting of Members or the failure to receive any notice of the meeting does not invalidate the cancellation, postponement or change of place of a meeting or anything done (including the passing of a resolution) at a postponed meeting or the meeting at the new place.
- 6.8 The only business that may be transacted at a general meeting which had been postponed is the business specified in the original notice calling the meeting.

### **Quorum at general meetings**

- 6.9 The Members at a general meeting may not transact any business unless a quorum of Members is present by representative or proxy at the time when the meeting proceeds to business.

- 6.10 The lesser of one half of the number of Members (rounded up) or eleven Members entitled to vote by representative or proxy at the meeting at the time is a quorum (and, for the avoidance of doubt, where that number is not an even number, then the quorum is one half the next even number).
- 6.11 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:
- 6.11.1 If the meeting was convened by or on the requisition of Members, it must be dissolved.
- 6.11.2 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 Board.
- 6.12 If a meeting has been adjourned to another time and place determined by the Board, 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**

- 6.13 At the adjourned meeting one half the number of Members present by representative or proxy 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 (and, for the avoidance of doubt, where that number is not an even number, then the quorum is one half of the next even number).

#### **Appointment of chairperson at general meetings**

- 6.14 The chairperson of a general meeting will be determined as follows:
- 6.14.1 If the Board has elected a Director as Chair, that person is entitled to chair every general meeting.
- 6.14.2 The Directors present at a general meeting must elect one of their number to chair that meeting if either of the following applies:
- (a) No Chair has been elected in accordance with clause 12.8.
- (b) The Chair is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act.
- 6.14.3 The Members present by representative or proxy at a general meeting must elect one of the Members present by representative or proxy to chair that meeting if either of the following applies:
- (a) There are no Directors present within 15 minutes after the time appointed for the holding of the meeting.
- (b) All Directors present decline to chair the meeting.

#### **Chairperson's powers at general meetings**

- 6.15 The chairperson may temporarily vacate the chair at a general meeting in favour of another person present at any time nominated by him or her and for any reason they see fit.
- 6.16 The chairperson at a general meeting may determine the procedures to be adopted for proper and orderly discussion or debate at the meeting, and the casting or recording of votes at the meeting, subject to a resolution of the general meeting to the contrary.
- 6.17 The chairperson may make rulings without putting the question (or any question) to the vote if that action is required to ensure orderly conduct of the meeting.

- 6.18 The chairperson may, subject to the Corporations Act and the ACNC Act, at any time terminate discussion or debate on any meeting being considered at the meeting and require that matter to be put to a vote.
- 6.19 The chairperson may refuse to allow debate or discussion on any matter which is not business referred to in the notice of that meeting or is not business of the meeting permitted pursuant to the Corporations Act and the ACNC Act without being referred to in the notice of meeting.
- 6.20 Subject to the terms of this constitution regarding adjournment of meetings, the chairperson's ruling on all matters relating to the order of business, procedure and conduct of the general meeting is final and no motion of dissent from a ruling of the chairperson may be accepted.
- 6.21 The chairperson may, in his or her absolute discretion, refuse any person admission to a general meeting, or expel the person from the general meeting and not permit them to return, if the chairperson reasonably considers that the person's conduct is inappropriate. Inappropriate conduct in a general meeting includes:
- 6.21.1 The use of offensive or abusive language which is directed to any person, object or thing.
- 6.21.2 Attendance at the meeting while under the influence of any kind of drug, or using or consuming any drug at the meeting, including any alcoholic substance.
- 6.21.3 Possession of any article, including a recording device or other electronic device or a sign or banner, which the chairperson considers is dangerous, offensive or disruptive or likely to become so.
- 6.22 The chairperson may delegate any power conferred by clauses 6.15 - 6.21 to any person.
- 6.23 Nothing contained in clauses 6.15 - 6.21 limits the powers conferred by law on the chairperson.

### **Adjournment of meetings**

- 6.24 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 or any business, motion, question or resolution being considered or remaining to be considered at the meeting or any discussion or debate, either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by the chairperson.
- 6.24.1 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.
- 6.24.2 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.
- 6.24.3 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**

- 6.25 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.
- 6.26 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**

- 6.27 A poll may be demanded by either:
- 6.27.1 The chairperson.
  - 6.27.2 A Member only in accordance with the Corporations Act and the ACNC Act.
- 6.28 The demand for a poll may be withdrawn.
- 6.29 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.
- 6.30 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.
- 6.31 A poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.

### **Voting of Members**

- 6.32 Subject to this constitution, the Board may determine other means (including electronic) permitted by law for the casting and recording of votes by Members present by representative or proxy on any resolution to be put at a general meeting.
- 6.33 Subject to this constitution, on a show of hands every Member present by representative or proxy has one vote.
- 6.34 On a poll every Member present by representative or proxy has one vote.
- 6.35 If a proxy of a Member purports to vote in a way or circumstances that contravene the Corporations Act and the ACNC Act, on a show of hands the vote of that proxy is invalid and the Company must not count it. If a poll is demanded, votes which the Corporations Act and the ACNC Act require a proxy of a Member to cast in a given way must be treated as cast in that way.

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

- 6.36 The chairperson of a general meeting is entitled to a second or casting vote (in addition to any votes he or she may have as a representative or proxy of a Member).

### **Objections to voter qualification**

- 6.37 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.
- 6.38 An objection to the qualification of a voter must be referred to the chairperson, whose decision, made in good faith, is final.
- 6.39 A vote not disallowed according to an objection as provided in this constitution is valid for all purposes.

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

- 6.40 A general meeting may be called using any technology consented to by the relevant Members. The Board may provide the Members with the opportunity to participate in a general meeting by telephone, video-conferencing or any other technology, as long as each Member that takes part can hear the other Members. The Members may otherwise regulate their meetings as they think fit.

- 6.41 Directors and Members are entitled to speak at a general meeting.
- 6.42 A person requested by the Board to attend a general meeting is entitled to speak at that meeting.

### **Resolution in writing**

- 6.43 A resolution in writing signed on behalf of all Members 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**

- 6.44 A resolution in writing may consist of several documents in like form, each signed on behalf of one or more Members, and if so signed it takes effect on the latest date on which a Member signs one of the documents.

### **Ballot**

- 6.45 To the extent permitted by law, the Board may conduct a postal ballot, electronic ballot, or other lawful method ("**Ballot**"), as approved by the Board as follows:
- 6.45.1 The Ballot may consider business which may be validly considered at, and in lieu of, a general meeting pursuant to this Constitution.
- 6.45.2 At least thirty days prior to the closing date of the Ballot, the Company must send to all Members entitled to vote ballot papers, giving particulars of the business in relation to which the Ballot is conducted, an explanation of the method of voting and a voting form (all in a form and with such content as the Board may approve) and must give all Members notice of the closing date of the Ballot.
- 6.45.3 The Company must receive all voting forms received from Members in respect of a Ballot and must promptly advise the Board of the result of the Ballot. Any voting form received at the office after 5:00pm on the closing date of the Ballot is invalid and must not be counted.
- 6.45.4 In the event of an equal number of votes in respect of any business for which a Ballot is conducted, the Chair shall have a second or casting vote.
- 6.45.5 In all other respects (including the resolution of Member disputes regarding the conduct of a Ballot), subject to this Constitution, the Board shall determine any other procedures or matters in relation to the conduct of any Ballot and shall have power to make regulations for that purpose.

## **7 Proxies and representatives**

- 7.1 A Member may appoint a representative as if the Member was a body corporate in accordance with Part 2G.2 Division 6 of the Corporations Act.
- 7.2 A Member may appoint a proxy in accordance with Part 2G.2 Division 6 of the Corporations Act.

## **8 Associates**

### **Associates**

- 8.1 The Board may create a register of Associates.
- 8.2 An Associate of the Company is a person who:
- 8.2.1 is not a Member;

- 8.2.2 has applied to become an Associate in accordance with any procedures or policies applicable to Associates as may be determined by the Board from time to time; and
  - 8.2.3 who has been admitted by the Board as an Associate.
- 8.3 An Associate:
- 8.3.1 is not a Member;
  - 8.3.2 may be invited by the Board to attend but not speak or vote at any general meeting of the Company;
  - 8.3.3 may be invited by the Board to attend certain events hosted by the Company which are not open to the general public; and
  - 8.3.4 has such other rights not inconsistent with this clause 8 as the Board may determine from time to time.

#### **Admission as an Associate**

- 8.4 The Board must consider an application for admission as an Associate as soon as practicable after its receipt and determine, in its absolute discretion, the admission or rejection of the applicant as an Associate.
- 8.5 The Board does not have to give reasons for accepting or rejecting an application for admission as an Associate.
- 8.6 If an applicant is admitted as an Associate the Secretary must notify the applicant of admission and the name and details of the applicant must be entered in a register of Associates maintained for this purpose.

#### **Removal**

- 8.7 The Board may in its absolute discretion determine that a person ceases to be an Associate. The Board does not need to provide its reasons for doing so.

## **9 Election, appointment and retirement of directors**

#### **Number of Directors**

- 9.1 The number of Directors must be up to nine (but, subject to clause 9.11, up to eleven) consisting of up to:
  - 9.1.1 Up to 4 (or such lesser number determined by Members' resolution in general meeting) Directors elected pursuant to clauses 9.13 to 9.17 commencing immediately after the annual general meeting at which his or her election was declared, for three years (between annual general meetings) until the end of the third annual general meeting after his or her election was declared; and
  - 9.1.2 Up to 5 (or such lesser number determined by Members' resolution in general meeting) Directors appointed for a term commencing on a date determined by the Board ("**commencement date**") and ending at the conclusion of the annual general meeting immediately after the Director has served for the period of three years determined by the Board at the time of the Director's appointment; and
  - 9.1.3 up to 2 Directors appointed pursuant to clause 9.11 if required to meet the requirement that at least two GPs must be appointed or elected at all times,
 until otherwise determined in accordance with this constitution.

- 9.2 Subject to clause 9.3, the Board on the advice of a nominations committee of the Board may by ordinary resolution appoint any person as a Director.

### **Qualifications of Directors**

- 9.3 A person is only eligible for election or appointment as a Director of the Company if their election or appointment would serve to ensure that the Board has expertise in areas including knowledge of healthcare provision, community, business management, governance, accounting and legal issues.

### **Retirement of Directors**

- 9.4 A Director must retire from office no later than the ninth annual general meeting of the Company since that Director's first election or appointment excluding the period of service to fill a casual vacancy under clause 9.6.
- 9.5 A Director who retires pursuant to clause 9.4 holds office as a Director until the end of the general meeting at which the Director retires and is eligible for re-election or re-appointment no earlier than two years after ceasing to be a Director.

### **Casual vacancies**

- 9.6 The Board may at any time appoint a person to be a Director, either to fill a casual vacancy or as an addition to the existing number of Directors. The total number of Directors may not exceed the number fixed in accordance with this constitution.
- 9.7 A Director appointed under clause 9.6 holds office only until the end of the next general meeting after the appointment and is then eligible for re-election.

### **Removal from office**

- 9.8 The Company may by ordinary resolution remove a Director from office and may by ordinary resolution appoint another person as a replacement.
- 9.9 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 appointed or last re-elected or re-appointed as a Director.

### **Vacation of office**

- 9.10 In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act, the ACNC Act or another provision of this constitution, the office of Director immediately becomes vacant if any of the following occurs:
- 9.10.1 The Director dies or becomes an insolvent under administration.
  - 9.10.2 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.
  - 9.10.3 The Director is absent from Board meetings over a consecutive period of three months without the prior written consent of the Board.
  - 9.10.4 The Director becomes prohibited from being a director under the Corporations Act or the ACNC Act.
  - 9.10.5 The Director resigns by notice to the Company, the Chair or the Secretary.
  - 9.10.6 The Director retires pursuant to clause 9.4 and is not re-elected.



## **Appointment of GPs**

- 9.11 If there are less than two Directors who are GPs, the Board must appoint additional GPs as co-opted Directors so that this requirement is met.
- 9.12 A Director appointed under clause 9.11 will hold office until 30 days after the next opportunity arises for the Board to appoint a practising general practitioner pursuant to clause 9.3, and in any case, must not be appointed for more than three years.

## **Election of Directors**

- 9.13 Nominations by the Members or the Board of candidates for election as a Director must be in the form determined by the Board, and contain a consent to act as a Director, and must be received at least 21 days before the annual general meeting.
- 9.14 The Company must use its best endeavours to encourage and procure the nomination by the Members of candidates. If the number of nominations of candidates for election does not exceed the number of vacancies the candidates so nominated shall be declared duly elected at the annual general meeting.
- 9.15 If the number of nominations of candidates exceeds the vacancies, the Board will appoint an independent committee to assess the candidates nominated by the Members to assess them with reference to their mandatory and desirable skills, qualifications, knowledge, experience and commitment as determined by the Board. The Board will only put forward for election by the Members the candidates who have been determined suitable by the committee.
- 9.16 Balloting lists shall be printed containing, as determined by lot, the names of the candidates put forward under clause 9.15 and one such list shall be delivered at least 14 days before the annual general meeting to each Member. The ballots may otherwise be conducted in accordance with clause 6.45.
- 9.17 The result of the election shall be declared at the annual general meeting.

## **Post-Medicare Local Transition**

- 9.18 Despite clauses 9.1.2 and 9.4, the Directors on the adoption of this Constitution ("**First Post-ML Directors**"):
- 9.18.1 shall continue in office until the end of the annual general meeting in 2017 reporting on the year ended 30 June 2017; then
- 9.18.2 shall retire in equal proportions (or as near as possible) at the end of the annual general meetings held in 2017, 2018 and 2019 respectively.
- 9.19 For the purposes of clause 9.18.2, the First Post-ML Directors who will retire and the years in which they will retire must be set out in regulations by 30 June 2017 and in the absence of regulations will be determined by the Secretary drawing lots.

## **10 Directors' and Secretary's remuneration**

### **Determination of fees**

- 10.1 The Directors and/or Secretary may be paid by way of reasonable fees for their services the amounts, if any, determined from time to time by the Board; and, any salary or wage due to the Director or Secretary as an employee of the Company where the terms of employment have been approved by the Board.
- 10.2 Fees paid in accordance with clause 10.1 accrue from day to day.



### **Additional services rendered**

- 10.3 A Director and/or Secretary may be paid a fee in return for any extra services actually rendered to the Company in a professional or technical capacity (other than within his or her ordinary duties as a Director):
- 10.3.1 with the prior approval of the Board; and
  - 10.3.2 where the amount payable does not exceed a commercially reasonable amount.

### **Payment for expenses**

- 10.4 Each Director and/or Secretary must be reimbursed for out-of-pocket expenses reasonably and properly incurred by the Director or Secretary in connection with Company business (including travel and accommodation expenses) with the prior written approval of, or in accordance with the policies of the Board. Alternatively, the Company may pay such amounts on the Director or Secretary's behalf.

### **Payments for insurance**

- 10.5 An insurance premium in respect of a contract insuring a Director and/or Secretary for a liability incurred as an officer of the Company may be paid by the Company where the Board has approved the payment of the premium.

## **11 Powers of the Board**

- 11.1 The Board may exercise all those powers of the Company as are not, by the Corporations Act, the ACNC Act or by this constitution, required to be exercised by the Members in general meeting or otherwise.

## **12 Proceedings of directors**

### **Convening of Board meetings**

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

### **Notice of Board meetings**

- 12.2 The person convening a Board meeting must ensure that notice of the Board meeting is given to each Director at least 5 days before the meeting or at another time determined by Board resolution, except:
- 12.2.1 All Directors may waive in writing the required period of notice for a particular meeting.
  - 12.2.2 It is not necessary to give a notice of a meeting of Directors to a Director who is out of Australia or who has been given leave of absence by the Board.
  - 12.2.3 The Board may convene on shorter notice of at least 24 hours notice, by the Chair, if the Chair determines that the business of the meeting is urgent.

### **Mode of meeting for Directors**

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

### **Quorum at Board meetings**

- 12.4 At a Board meeting, the number of Directors whose presence is necessary to constitute a quorum is half (rounded down) the number of Directors, plus one.
- 12.5 If the number of Directors is reduced below three, the continuing Director or Directors may act only to:
- 12.5.1 appoint additional Directors to the number necessary for a quorum; or
  - 12.5.2 convene a general meeting of the Company.

### **Voting at Board meetings**

- 12.6 Subject to clause 12.11, the Board must determine any questions arising at a Board meeting by a majority of votes of Directors present and voting.
- 12.7 Subject to clause 12.13, each Director present in person has one vote on a matter arising at a Board meeting.

### **Appointment of Chair**

- 12.8 The Board may elect a Director as Chair to chair Board meetings, and may determine the period for which the Chair will hold office.
- 12.9 Subject to clause 12.10, the Chair must chair each Board meeting.
- 12.10 If no Chair is elected, or if at any meeting the Chair is not present within ten minutes after the time appointed for holding the meeting or is unwilling to act, the Directors present must choose one of their number to chair that meeting, or if the meeting cannot agree by a majority, a Director determined by lot shall chair that meeting.

### **Chairperson's vote at Board meetings**

- 12.11 Subject to the Corporations Act and the ACNC Act, in case of an equality of votes on a resolution at a Board meeting, the Chair of that meeting has a casting vote on that resolution in addition to any vote the Chair has in his or her capacity as a Director in respect of that resolution, provided that the Chair is entitled to vote on the resolution and more than two Directors are present and entitled to vote on the resolution.

### **Participation where Directors interested**

- 12.12 Each Director must comply with Corporations Act and the ACNC Act in relation to the disclosure of the Director's interests.
- 12.13 A Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present while the matter is being considered at the meeting nor vote on the matter, except where permitted by the Corporations Act or the ACNC Act.

### **No disqualification**

- 12.14 Subject to compliance with the Corporations Act and the ACNC Act, a Director or any entity in which the Director has a direct or indirect interest (as applicable) may:
- 12.14.1 Enter into a contract or arrangement with an Associated Party.
  - 12.14.2 Hold any office or place of profit (other than auditor) in an Associated Party.
  - 12.14.3 Act in a professional capacity (or be a member of a firm that so acts) other than as auditor of an Associated Party.

- 12.14.4 Be a member, creditor or otherwise be interested in (other than an auditor) of an Associated Party.
- 12.15 Despite the fiduciary nature of a Director's office and the Director's fiduciary obligations:
- 12.15.1 Any contract or arrangement entered into in accordance with clause 12.14.1 by the Director or any entity in which the Director has a direct or indirect interest is not invalid or voidable.
- 12.15.2 A Director may do any of the things specified in clause 12.14 without any liability to account to the Company or any other person for any direct or indirect benefit accruing to the Director or any entity in which the Director has a direct or indirect interest.

### **Exercise of rights**

- 12.16 If the Company holds or owns membership, shares or other interests in another body corporate, trust or other entity, the Board may exercise any and all voting rights conferred by the membership, shares or interests in any manner they consider fit.

### **Delegation of powers**

- 12.17 Subject to clause 12.23, the Board may delegate any of its powers to any person for any period and on any terms (including the power to further delegate) as the Board resolves. This includes delegating any of the Board's powers to an officer or employee of the Company or committees consisting of Directors or other persons (as the Board sees fit) to act in Australia or elsewhere.
- 12.18 The Board may revoke or vary any power so delegated.
- 12.19 A committee's exercise of a power in accordance with this constitution is to be treated as the exercise of that power by the Board.
- 12.20 A committee must conform to the directions of the Board in the exercise of any powers delegated to it.

### **Advisory or Standing Committees**

- 12.21 The Board may establish such other Advisory or Standing Committees to provide advice and recommendations to the Board on specified matters, including ensuring the proper governance of the Company and achieving the objectives and outcomes which the Company is funded to achieve by the Commonwealth, among any other functions determined by the Board.
- 12.22 The Board may, with respect to an Advisory or Standing Committee:
- 12.22.1 Specify in writing from time to time the terms of reference and functions of the Advisory or Standing Committee.
- 12.22.2 Appoint such persons as they consider appropriate to the Advisory or Standing Committee (including, if thought fit, one or more Directors), and remove any such person from the Advisory or Standing Committee at any time by written notice.
- 12.22.3 Specify the period and conditions (including as to remuneration, if any) of any such appointment to the Advisory or Standing Committee.
- 12.22.4 Terminate any Advisory or Standing Committee established under clause 12.21 at any time.
- 12.23 The Board must not delegate any of its powers to an Advisory or Standing Committee, and an Advisory or Standing Committee must not exercise any powers of a Director or the Board. However, the Board must consult with, and account for the advice of, an Advisory or Standing

Committee, as recorded in the minutes and where the Board is to consider a matter within the expertise of the Advisory or Standing Committee.

### **Proceedings of committees**

- 12.24 Except as provided in a direction of the Board, the meetings and proceedings of a committee formed by the Directors or an Advisory or Standing Committee must be governed by the provisions of this constitution, in so far as they are applicable, as if meetings and proceedings of the committee or Advisory or Standing Committee are meetings and proceedings of the Board.

### **Validity of acts of Directors**

- 12.25 All acts done by a Board meeting or of a committee of Directors or by a person acting as a Director are valid even if it is later discovered that there is a defect in the appointment of a person to be a Director or a member of the committee or that they or any of them were disqualified or were not entitled to vote if that circumstance was not known by the Board, committee or person (as the case may be) when the act was done.

### **Minutes**

- 12.26 The Board must cause minutes of all proceedings of general meetings, of Board meetings and of committees formed by the Directors to be entered, after the relevant meeting is held, in books kept for the purpose.
- 12.27 The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

### **Resolution in writing**

- 12.28 A resolution in writing signed by all Directors entitled to vote on the resolution (excluding Directors who have requested and been given leave of absence by the Board) is to be treated as a determination of the Board passed at a Board meeting duly convened and held.
- 12.28.1 A resolution in writing may consist of several documents in like form, each signed by one or more Directors and if so signed it takes effect on the latest date on which a Director signs one of the documents.

## **13 Secretary**

- 13.1 The Board may appoint a Secretary and may at any time terminate the appointment with or without cause, subject to any agreement between the Company and the Secretary.
- 13.2 The Board may determine the terms and conditions of appointment of a Secretary, including remuneration.

## **14 Indemnity and insurance**

### **Indemnity**

- 14.1 Every Director or Secretary and past Director or Secretary of the Company may be indemnified by the Company, to the fullest extent permitted by law, 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**

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

## **15 Seals and execution of documents**

### **Custody of Seal**

15.1 If the Company has one, the Board must provide for the safe custody of the Seal.

### **Execution of documents**

15.2 The Company may execute a document with or without a seal if the document is signed by either of the following:

15.2.1 By two Directors.

15.2.2 By a Director and a Secretary.

15.2.3 By a Director and some other person appointed by the Directors for the purpose.

15.3 The Board may determine the manner in which, and the persons by whom, cheques and other negotiable or transferable instruments in the name of or on behalf of the Company, and receipts for money paid to the Company, must be signed, drawn, accepted, endorsed or otherwise executed.

## **16 Gift Fund requirements**

### **Company to maintain a Gift Fund**

16.1 The Company must maintain a gift fund in accordance with this clause 16 for the objects specified in clause 2 ("Gift Fund") for so long as it seeks or has obtained endorsement as a DGR from the Australian Taxation Office.

### **Rules applying to the Gift Fund**

16.2 The following rules apply to any Gift Fund established and maintained by the Company:

16.2.1 The Gift Fund must have a name.

16.2.2 The Company must maintain proper accounting and other records to provide evidence of the Gift Fund's operations.

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

16.2.4 The following must be credited to the Gift Fund:

(a) All gifts of money or property to the Company for the objects specified in clause 2.

(b) All money or property received by the Company because of those gifts.

16.2.5 No other money or property may be credited to the Gift Fund.

16.2.6 The Company must use any gifts, money or property of the kind referred to in clause 16.2.4 only for the objects specified in clause 2.

### **Winding up of Gift Fund**

16.3 Despite clause 17, if the Gift Fund is wound up or the Company ceases to be a DGR for any reason, any surplus assets of the Gift Fund remaining after the payment of liabilities attributable to it must be transferred to a fund, authority or institution:

16.3.1 Which is endorsed as a DGR on the same basis as the Gift Fund was previously endorsed; and

- 16.3.2 Which is or is operated by a registered charity under the ACNC Act (if the Gift Fund or the Company had been so registered).

## **Definitions**

- 16.4 In this clause 16 the following definitions apply:

**DGR** means a 'deductible gift recipient' within the meaning of section 30-227 of ITAA 97.

**ITAA 97** means Income Tax Assessment Act 1997 (Cth).

## **17 Surplus assets on winding up or dissolution**

- 17.1 Subject always to clause 16.3, upon the winding up or dissolution of the Company, any remaining property after satisfaction of all debts and liabilities, will not be paid to or distributed among the Members, but will be given or transferred to some other institution or company which satisfies both of the following requirements:
- 17.1.1 It has charitable objects similar to the objects of the Company.
  - 17.1.2 It is a registered charity under the ACNC Act (if the Company had been so registered)
  - 17.1.3 Its constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of clause 5 and has been endorsed as income tax exempt (if the Company had been so endorsed, and on the same basis).
- 17.2 The institution or company in clause 17.1 is to be determined by the Members at or before the time of winding up or dissolution of the Company and, in default of any determination, by the Supreme Court of Victoria.

## **18 Accounts, audit and records**

### **Accounts**

- 18.1 The Board must cause proper accounting and other records to be kept in accordance with the Corporations Act and the ACNC Act.

### **Reports**

- 18.2 The Board must cause the Company to prepare, distribute and make available to the Members any reports to the extent required by the Corporations Act and the ACNC Act.

### **Audit**

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

### **Rights of inspection**

- 18.4 Subject to the Corporations Act and the ACNC Act:
- 18.4.1 The Board may (acting reasonably) determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them are open to the inspection of Members other than Directors, and a Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Board or by the Company in general meeting.

- 18.4.2 Despite clause 18.4.1, the Board may refuse access to a document where the Board (acting reasonably) considers that such access would or would be likely to cause the Company to lose the benefit of any form of evidentiary privilege, including legal professional privilege.

## 19 Notices

- 19.1 Notices must be in writing and may be given by the Company to any Member:
- 19.1.1 In person to the Member's representative or other authorised representative;
  - 19.1.2 by sending it by post to the Member at the Member's registered address;
  - 19.1.3 by sending it to the address, facsimile number, e-mail address or other address supplied for receiving notices.
- 19.2 A notice sent by post is deemed to have been given 2 business days after it was posted. A notice sent by fax, or by other electronic means, is deemed to have been given on the next business day after it was sent.

## 20 Definitions and interpretation

### Definitions

- 20.1 In this constitution the following definitions apply:

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

**Advisory or Standing Committee** means an advisory committee or standing committee established by the Board under clause 12.21.

**Associate** has the meaning given in clause 8.2.

**Associated Party** means each of the following:

- (a) The Company.
- (b) Any Related Body Corporate of the Company.
- (c) Any other body corporate, trust or entity promoted by the Company or in which the Company has an interest of any kind.

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

**Chair** means the Director elected under clause 12.8 to preside as chairperson at Board meetings for the time being.

**Commonwealth** means the Commonwealth of Australia.

**Company** means Melbourne Primary Care Network Limited ACN 153 323 436.

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

**Director** means a person who is, for the time being, occupying the position of a director of the Company.

**GP** means a medical practitioner registered by the Australian Health Practitioner Regulation Agency as a general practitioner, as may be defined in any regulation made for that purpose.

**Member** means a person who is entered on the Register as a Member of the Company.

**Membership Period** means the period of up to 3 years ending on a third anniversary of 30 June 2013.

**Register** means the register of Members kept by the Company under the Corporations Act.

**Related Body Corporate** has the meaning given in the Corporations Act.

**Seal** means, if the Company has one, the common seal of the Company.

**Secretary** means a person appointed to perform the duties of a secretary of the Company.

**Termination Event** means the death or bankruptcy of that Member or that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health, or the deregistration or other dissolution of that Member.

## Interpretation

20.2 In this constitution, unless the context otherwise requires:

20.2.1 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 constitution.

20.2.2 A reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time.

20.2.3 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this constitution.

20.2.4 Where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

20.2.5 A word which indicates the singular indicates the plural, a word which indicates the plural indicates the singular, and a reference to any gender indicates the other genders.

20.2.6 References to the word 'include' or 'including' are to be interpreted without limitation.

20.2.7 A reference to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Melbourne, Victoria.

20.2.8 Facsimile, electronic and Company notices are signed even if the signature is written, printed or stamped.

## Replaceable rules

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

## Application of the Corporations Act

20.4 Unless the context otherwise requires,

20.4.1 An expression used but not defined in this constitution has the same meaning given in the Corporations Act.

20.4.2 Where an expression referred to in clause 20.4.1 has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same



matter as the relevant clause of this constitution, the expression has the same meaning as in that provision.

#### **Application of the ACNC Act**

- 20.5 Unless the context otherwise requires,
- 20.5.1 An expression used but not defined in this constitution has the same meaning given in the ACNC Act.
  - 20.5.2 Where an expression referred to in clause 20.4.1 has more than one meaning in the ACNC Act and a provision of the ACNC Act deals with the same matter as the relevant clause of this constitution, the expression has the same meaning as in that provision.

#### **Enforcement**

- 20.6 Each Member submits to the non-exclusive jurisdiction of the courts of Victoria, the Federal Court of Australia and the courts competent to determine appeals from those courts with respect to any proceedings that may be brought at any time relating to this constitution.