

CORPORATIONS ACT 2001 CONSTITUTION

CYSTIC FIBROSIS AUSTRALIA
ABN 73 104 285 136

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CONSTITUTION

CYSTIC FIBROSIS AUSTRALIA ABN 73 104 285 136

1. DEFINED MEANINGS

Words used in this document and the rules of interpretation that apply are set out and explained in the definitions and interpretation clause at the back of this document.

2. OBJECTS

The objects for which the Company is established are to provide a national forum for and general support to member organisations and specifically:

- (a) to advance and improve the treatment, care and greater welfare of people with CF in Australia;
- (b) to administer the Australian Cystic Fibrosis Research Trust and promote research into Cystic Fibrosis (CF) generally;
- (c) to maintain liaison with international CF organisations and to distribute relevant information to member organisations;
- (d) to co-ordinate special projects on a national basis, develop national policies in relation to CF, support members in their lobbying of governments in Australia, and generally promote greater awareness of CF in Australia;
- (e) to establish and maintain a public fund. The Company must ensure that the Donation Gift Account complies with the requirements of Division 30 of the ITAA; and
- (f) solely for the above purposes, to do anything allowed by the operation of section 124 of the Act.

3. LIMITED LIABILITY

3.1 Members' Liability

The liability of the Members is limited.

3.2 Members' Contributions

Every Member of the Company undertakes to contribute to the assets of the Company if it is wound up while the Member is a Member, or within one year after the Member ceases to be a Member, for:

- (a) the payment of the debts and liabilities of the Company, contracted before the Member ceased to be a Member;
- (b) the expenses of winding up the Company; and
- (c) the adjustment of the rights of the contributories among themselves.

3.3 Amount of Members' Contributions

The amount of the contribution under clause 3.2 must not exceed \$100 per Member in any circumstances.

4. USE OF THE PROPERTY BY THE COMPANY

4.1 Conduit Policy

Any allocation of funds or property to other institutions, bodies, entities, organisations, government departments or persons must be made in accordance with the established objects of the Company and not be influenced by the expressed preference or interest of a particular donor to the Company.

4.2 Application of Company Property

All income and property of the Company must be applied for the Objects of the Company. No portion of the income or property may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit or return of capital to any Member.

4.3 Payments of Company Expenses

Nothing in clause 4.2 prevents the payment in good faith of reasonable and proper:

- (a) remuneration to any of the officers or employees of the Company or to any Member in return for any services actually rendered by them to the Company;
- (b) interest on money borrowed from any Member for any of the purposes of the Company (provided the interest rate does not exceed the rate charged by the Company's bank on similar borrowings);
- (c) rent for premises let by any Member to the Company; or
- (d) payment for any goods supplied to the Company by any Member.

4.4 Remuneration Payments

No remuneration or other benefit may be paid or given by the Company to any Director except for the following payments, which must first be approved by a resolution of the Directors:

- (a) expenses incurred by the Director in the course of the Director's duties as a Director;
- (b) interest on moneys lent by any Director or Directors to the Company at a rate not exceeding the Overdraft Rate; and
- (c) market rent on any premises let by any Director or Directors to the Company.
- (d) remuneration may be paid to a Director for services provided (in a capacity other than as an employee) to the Company in relation to specific projects approved of by the Board. The services may not include those provided to the Company in the performance of his or her ordinary duties as a Director.

4.5 Conflict of Interest Resolution

At any meeting of the Directors at which a resolution is put for approval of a payment to be made pursuant to clause 4.4 (**conflict of interest resolution**) or at any general meeting considering a conflict of interest resolution, the Director who is the object of the conflict of interest resolution and any other Director or Member who is related to that Director is not entitled to:

- (a) be heard in discussion on the conflict of interest resolution;
- (b) propose or second the conflict of interest resolution;
- (c) vote on the conflict of interest resolution;
- (d) be present at the meeting when the conflict of interest resolution is put to the vote.

4.6 Local or affiliated branch

Where any local or affiliated branch or section of the Company is unable to make any lawful appeal for support for that local or affiliated branch or section or for its objects, as distinct from an appeal for support for the central body or the objects of the central body, no money or property of any kind may be paid or transferred to the local or affiliated branch or section by the Company or by any other local or affiliated branch or section of the Company, as the case may be, or be used for the purposes of the local or affiliated branch or section first mentioned.

5. USE OF PROPERTY ON WINDING UP AND ON REVOCATION OF ENDORSEMENT

5.1 Company Surplus

If on the winding up or dissolution of the Company, after the satisfaction of all of its debts and liabilities, any property remains (**Company Surplus**), that surplus

must not be paid or distributed amongst any of the Members in their capacity as members.

5.2 Donation Gift Account Surplus

If on the:

- (a) winding up of the Donation Gift Account; or
- (b) the revocation of the Company's endorsement under Subdivision 30-BA of the ITAA,

after the satisfaction of the Donation Gift Account's debts and liabilities, any property remains (**Donation Gift Account Surplus**), that surplus must not be paid or distributed amongst any of the Members in their capacity as members.

5.3 Transfer of Surpluses

The Company Surplus and Donation Gift Account Surplus must be given or transferred to an institution, body, entity, or organisation (**Transferee Entity**) having objects similar to the Objects of the Company and which is endorsed as a deductible gift recipient under Subdivision 30-BA of the ITAA.

5.4 Choice of Transferee

The Transferee Entity must be chosen by the Directors (as the Directors were constituted at the commencement of the winding up). If the Directors do not choose a Transferee Entity within a reasonable time, any Member at the commencement of the winding up or the liquidator may apply to the Supreme Court of New South Wales to choose the Transferee Entity.

6. FUNDRAISING AUTHORITY

If the Company holds an authority to fundraise from the Chief Secretary's Department of New South Wales, no addition, alteration or amendment may be made to clauses 4 or 5 without the prior written approval of the Minister responsible for the administration of the *Charitable Fundraising Act 1991 (NSW)*.

7. REGISTRATION AS A CHARITY

7.1 Notification of changes

If the Company is at any time registered as a charity in any State or Territory of Australia any changes to:

- (a) the composition of the Board; or
- (b) this Constitution,

must be notified to the relevant statutory authority in each State or Territory within a reasonable time of such changes being made.

7.2 Compliance with charity laws

The Directors must comply with all relevant legislation that relate to charitable fundraising in all States and Territories of Australia.

8. MEMBERS

8.1 General

The Members consist of:

- (a) Members as at the date this Constitution is adopted as the Constitution of the Company; and
- (b) all other persons admitted to Membership in accordance with this Constitution.

8.2 Classes of Members

- (a) The Membership of Members is split up into the following 4 classes according to the amount of Annual Subscription they each pay:
 - (i) Full Subscription;
 - (ii) Non-voting Subscription;
 - (iii) Normal Subscription; or
 - (iv) Concessional Subscription.
- (b) The Board may from time to time establish new categories of Membership and may make appropriate provisions for the granting of such Membership and the conditions of such Membership.

8.3 Membership qualifications

A person cannot become a Member of the Company unless the person:

- (a) is a CF Organisation incorporated in Australia;
- (b) applies to become a Member in the form and manner prescribed by the Board from time to time; and
- (c) is approved by an Admittance Resolution of existing Members.

8.4 Admitting Members

No applicant may be admitted to Membership and have their name entered in the Register unless the applicant agrees in writing to be bound by this Constitution and has paid the Entrance Fee. No Entrance Fee is payable by the Members that are Members as at the date this Constitution is adopted as the Constitution of the Company.

8.5 Admittance Resolution

- (a) The Board must put the application for membership to vote by way of an Admittance Resolution at the next general meeting of the Company that is convened after the receipt of the application for membership.
- (b) The decision of the general meeting is final.

9. FEES TO BE PAID BY MEMBERS

9.1 Entrance Fee

The Entrance Fee payable by Members is such amount as determined by the Company in general meeting from time to time.

9.2 Annual Subscription

- (a) The Annual Subscription payable by each Member is determined with reference to the different classes of Membership outlined under clause 8.2(a) and is such amount as determined by the Company in general meeting from time to time.
- (b) All Annual Subscriptions must be paid in advance for the period beginning on 1 July in every year.
- (c) All Annual Subscriptions are calculated to meet the Company's operating costs and expenses and are not for profit.

9.3 Annual Subscription in arrears

If any Member fails to pay its Annual Subscription within 1 month of the date determined by the Directors, that Member is not entitled, while the subscription remains due and unpaid, to:

- (a) nominate any person as a candidate for election to the office of Director;
- (b) vote in any ballot;
- (c) receive notices of meetings of Members; or

- (d) attend, be counted in forming a quorum for, exercise any vote at, or be a proxy or Nominated Representative for any Member for, any general meeting.

10. RIGHTS OF MEMBERS

10.1 Members

Subject to the rights and restrictions in respect of particular classes of Members as specified in this Constitution, Members are entitled to all the rights of Members under this Constitution.

10.2 No joint Members

Joint Memberships of the Company are not permitted.

10.3 Nominated Representatives

- (a) Each Member is entitled to appoint one Nominated Representative to represent it at general meetings under the terms of this Constitution in accordance with the Schedule.
- (b) A Member's appointment of its Nominated Representative under clause 10.3(a) is subject to it giving written notice to the Company Secretary not less than 48 hours prior to the time notified for commencement of any general meeting.
- (c) A Nominated Representative need not be a member, employee or consultant of, or a person otherwise associated to, the Member that appointed it in accordance with clause 10.3(a).

11. CESSATION OF MEMBERSHIP

11.1 Cessation

A person ceases to be a Member of the Company if the person:

- (a) resigns that Membership;
- (b) fails to pay that person's Annual Subscription within six months from the date determined by the Directors pursuant to clause 9.3;
- (c) is expelled from the Company by an Admittance Resolution at a general meeting; or
- (d) is a person whose actions in the opinion of the Directors brings the Company into serious disrepute.

11.2 Appointment as Member not transferable

A right, privilege or obligation which a person has by reason of being a Member of the Company which includes, but is not limited to, nominating a person to act as their Nominee Director:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates upon cessation of the person's Membership.

11.3 Resignation

A Member of the Company may not resign that Membership except in accordance with this clause. A Member of the Company who has paid all amounts payable by the Member to the Company in respect of the Member's Membership may resign that Membership by first giving notice in writing of such resignation.

12. DISCIPLINE OF MEMBERS

12.1 Initial resolution of Directors

Where the Directors are of the opinion that a Member of the Company:

- (a) has refused or neglected to comply with a provision of the Constitution; or
- (b) has acted in a manner prejudicial to the reputation or interests of the Company,

the Directors may by resolution (**Initial Resolution**):

- (i) reprimand the Member;
- (ii) suspend the Member from Membership of the Company for a specified period; or
- (iii) expel the Member from the Company.

12.2 Suspended operation

An Initial Resolution is of no effect unless it is confirmed at a meeting of the Directors in accordance with the following clauses. For that purpose, the meeting of Directors must be held not earlier than 7 days and not later than 21 days after service on the Member of a notice under the clause 12.3.

12.3 Notice to Member

The Company Secretary must, as soon as practicable following the passing of the Initial Resolution, cause a notice in writing to be served on the Member. The notice must:

- (a) set out the Initial Resolution and the grounds on which it is based;
- (b) state that the Member may address the Directors in relation to the Initial Resolution at a meeting of the Directors to be held not earlier than 7 days and not later than 21 days after service of the notice;
- (c) state the date, place and time of that meeting of the Directors; and
- (d) inform the Member that the Member may submit to the Directors at or prior to the date of that meeting a written representation relating to that resolution and speak to the representation.

12.4 Confirming resolution of Directors

At a meeting of the Directors held as referred to in the preceding clause, the Directors must:

- (a) give to the Member an opportunity to speak to the written representation;
- (b) give due consideration to any written representation submitted to the Directors by the Member at or prior to the meeting; and
- (c) by resolution (**Confirming Resolution**) confirm, vary or revoke the Initial Resolution.

12.5 Immediate or suspended effect

The Confirming Resolution may take effect immediately, after any period of time or only on conditions specified in the Confirming Resolution.

12.6 Right of appeal

There is no right of appeal against the Confirming Resolution of the Directors.

12.7 Notice to a Member

The Company Secretary must, within 7 days of the passing of the Confirming Resolution, by notice in writing, inform the Member of the fact and that there is no right of appeal under the Constitution.

13. REGISTER OF MEMBERS

The Company Secretary must maintain at the Company's offices a Register of Members containing the following details of each Member:

- (a) full name;
- (b) business address;
- (c) Annual Subscription (if any); and

- (d) date on which the entry of the Member's name in the Register is made.

14. MEETINGS OF MEMBERS

14.1 Calling of meetings

- (a) The Directors may call a general meeting.
- (b) The President may call a general meeting upon written request from not less than one third of all Members.

14.2 Requisition of meetings

Subject to clause 14.1(b), and except as provided in the Act, no Member may call a general meeting.

14.3 Notice of meeting

Every notice of a general meeting must:

- (a) set out the place, date and time of meeting;
- (b) in the case of special business, state the general nature of the business;
- (c) if a Special Resolution is to be proposed, set out an intention to propose the Special Resolution and state the resolution;
- (d) in the case of an election of Directors, give the names of the candidates for election (if known at that point in time);
- (e) contain a statement setting out the following in relation to proxy voting:
 - (i) that the Member has a right to appoint a proxy;
 - (ii) that a proxy does not need to be a Member.

14.4 Entitlement to notice

Notice of a general meeting must be given to:

- (a) each Member who, under this Constitution or by the terms of issue of any Membership is entitled to receive such notice;
- (b) the auditor of the Company; and
- (c) each Director.

14.5 Notice period

Notice of a meeting of Members must be given in accordance with section 249H of the Act.

14.6 Proxy Voting by Members

A Member may appoint a proxy to attend and vote at any meeting at which the Member is entitled to attend and vote. To be valid, a proxy appointment must be in writing and delivered to the place nominated by the Directors in the notice of meeting (or, if no place is nominated, the Registered Office) at least 48 hours before the scheduled commencement of the meeting. A proxy appointment may be delivered by facsimile transmission.

14.7 Omission to give notice

The accidental omission to give notice of a general meeting to, or the non-receipt of any such notice by, a person entitled to receive it, or the accidental omission to advertise (if necessary) such meeting, does not invalidate the proceedings at, or any resolution passed at, any such meeting.

14.8 Consent to short notice

With the consent in writing of all the Members for the time being entitled to vote at a general meeting, any general meeting may be called on short notice and in any manner they think fit and all provisions of this Constitution are modified accordingly.

14.9 Cancellation or postponement of meeting

The Directors may cancel or postpone the holding of any general meeting. If the meeting was called by requisitioning Members or in response to a requisition by Members, the Directors may only cancel or postpone the holding of it with the consent of a majority of the requisitioning Members.

14.10 Notice of cancellation or postponement

The Directors may notify the Members of a cancellation or postponement of a meeting by such means as they see fit. If any meeting is postponed for 28 days or more, then no less than 5 days' notice must be sent to the Members of the postponed meeting. It is not necessary to specify in such notice the nature of the business to be transacted at the postponed meeting.

14.11 Venue

Despite any other rule, the Company may hold a general meeting of Members at two or more venues using technology that gives the Members as a whole a reasonable opportunity to participate in the meeting.

15. REPRESENTATION AT MEETINGS

15.1 Persons entitled to attend

The following persons only may attend a general meeting:

- (a) each Member who, under this Constitution or by the terms of issue of any Membership is entitled to attend;
- (b) each Director, Company Secretary and auditor of the Company;
- (c) each person, whether a Member or not, who is a proxy, Nominated Representative or attorney of a Member;
- (d) other persons only with leave of the meeting or its chairman and then only while the leave has not been revoked in accordance with the terms of the leave.

15.2 Powers of the chairman

The right of a person to attend is subject to the powers of the chairman of the meeting, both under the Act and under this Constitution.

16. PROCEEDINGS AT MEETINGS OF MEMBERS

16.1 Quorum

No business may be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Except as provided in clause 16.2, the quorum necessary shall be a majority of the total Members entitled to vote on a resolution at the meeting provided for in clause 17.1.

16.2 Failure of quorum

If a quorum is not present within 15 minutes from the time appointed for a general meeting:

- (a) where the meeting was called by, or in response to, the requisition of Members made under the Act, the meeting is dissolved; or
- (b) in any other case the meeting stands adjourned to such day, and at such time and place, as the Directors determine.

If no determination of an adjourned meeting is made by the Directors, the meeting stands adjourned to the same day in the second week following, at the same time and place. If at the adjourned meeting a quorum is not present within 15 minutes from the time appointed for the meeting 3 Members constitute a quorum, or where 3 Members are not present, the meeting is dissolved.

16.3 Business of annual general meeting

The business of an annual general meeting is:

- (a) confirmation of the minutes of the preceding annual general meeting and any subsequent general meetings;
- (b) to receive the Company's financial report, the directors' report and the auditors' report on the financial statements;
- (c) to elect Directors in place of those retiring, except where the Board resolves not to hold an election for a directorship of the type described in clause 18.2(a);
- (d) determination of the Annual Subscriptions for the next financial year; and
- (e) to transact any other business which under the Constitution or the Act ought to be transacted at an annual general meeting.

16.4 Report on Company's activities

The Board must at each general meeting in addition to the matters in clause 16.3, submit to the Members a report on the activities of the Company in the period since the previous general meeting.

16.5 Frequency of Annual General Meeting

The Company must hold an annual general meeting at least once every calendar year and within 5 months after the end of its financial year.

16.6 Special business

No special business may be transacted at any general meeting other than that stated in the notice calling the meeting unless it is a matter that is required by this Constitution or the Act to be transacted at the meeting.

16.7 Chair of meeting

The Chair, or in the Chair's absence the deputy chairman of the Directors (if any), is entitled to take the chair at each general meeting. If neither of those persons is present at any general meeting within 15 minutes after the time appointed for holding the meeting, or neither of them is willing to take the chair, the Members present, must elect a person, whether a Nominated Representative, proxy, attorney of a Member or not, to be chairman of the meeting.

16.8 Passing the chair

If the chairman of a general meeting is unwilling or unable to be the chairman for any part of the business of the meeting:

- (a) that chairman may withdraw as chairman for that part of the business and may nominate any person who would be entitled under the preceding clause to chair the meeting for that part of the business; and
- (b) after that part of the business is completed, the person so nominated must cease to chair the meeting upon the request of the prior chairman. The prior chairman is then entitled to resume as the chairman of the meeting.

16.9 Responsibilities of chairman

The chairman of a general meeting is responsible for the general conduct of the meeting and to ascertain the sense of the meeting concerning any item of business which is properly before the meeting. For these purposes the chairman of the meeting may, without limitation:

- (a) delay the commencement of the meeting if that person determines it is desirable for the better conduct of the meeting;
- (b) make, vary or rescind rulings;
- (c) prescribe, vary or revoke procedures;
- (d) in addition to other powers to adjourn, adjourn the meeting, or any item of business of the meeting, without the consent of the meeting if that person determines it is desirable for the orderly conduct of the meeting or the conduct of a poll; and
- (e) determine conclusively any dispute concerning the admission, validity or rejection of a vote.

16.10 Admission to meetings

The chairman of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:

- (a) in possession of a pictorial-recording or sound-recording device;
- (b) in possession of a placard or banner;
- (c) in possession of an article considered by the chairman to be dangerous, offensive or liable to cause disruption;
- (d) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
- (e) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or

- (f) who is not entitled under this Constitution to attend the meeting.

16.11 Adjournment of meeting

The chairman of a general meeting at which a quorum is present may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place as the chairman determines.

16.12 Business at adjourned meeting

No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of an adjournment, or of the business to be transacted at an adjourned meeting. However if any meeting is adjourned for 10 business days or more, notice of the adjourned meeting must be given.

17. VOTING AT MEETINGS OF MEMBERS

17.1 Entitlement to vote

Subject to this Constitution and the terms of issue of any Membership, each natural person who is present at a general meeting may vote according to the Schedule if he or she is a Member, or an attorney, proxy or Nominated Representative of a Member.

17.2 Number of votes

Each Member who is, under the preceding clause, entitled to vote has:

- (a) on a show of hands only one vote; and
- (b) on a poll the number of votes determined in accordance with the Schedule.

17.3 Voting restrictions

If permitted or contemplated by the Act or this Constitution, the Directors may direct that particular persons (whether specified by name or description) do not cast a vote on particular business of a meeting. In relation to that business, votes cast by the prohibited persons are to be disregarded.

17.4 Method of voting

Every resolution put to a vote at a general meeting (except where there is an election of Directors by ballot) must be determined by a show of hands unless a poll is properly demanded either before or on the declaration of the result of the show of hands.

17.5 Demand for poll

A demand for a poll under the preceding clause may be made by:

- (a) the chairman of the meeting; or
- (b) at least 3 persons present having the right to vote at the meeting.

17.6 Declaring result of vote on show of hands

In respect of any general meeting (unless a poll is so demanded):

- (a) a declaration by the chairman of the meeting that a resolution has been carried, or carried by a particular majority, or lost, or has not been carried by a particular majority; and
- (b) an entry made in the book containing the minutes of 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 such resolution.

17.7 Conduct of poll

The demand for a poll may be withdrawn. If a poll is duly demanded (and the demand not withdrawn) it must be taken in such manner and at such time (either at once or after an interval or adjournment or otherwise) as the chairman of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded. A poll demanded on the election of a chairman or on any question of adjournment must be taken at the meeting and without an adjournment. The demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded.

17.8 Casting vote of chairman

If, on a show of hands or on a poll, the votes are equal the chairman of the meeting has a casting vote in addition to the deliberative vote, if any, of the chairman.

17.9 Objections

No objection may be made to the validity of any vote except at the meeting or adjourned meeting or poll at which such vote is tendered. Every vote allowed at any such meeting or poll is treated as valid. In recording votes the latest copy of the Register held in the Registered Office must be adopted and acted on as the voting roll.

17.10 Ruling on votes

The chairman of the meeting is the sole judge of the validity of every vote tendered at the meeting and the determination of the chairman is final and conclusive.

18. APPOINTMENT AND REMOVAL OF BOARD OF DIRECTORS

18.1 Board of Directors

The Board shall at all times consist of a minimum of ten (10) persons and a maximum of twelve (12) persons, as determined by the Board in accordance with clause 18.2, with the minimum number consisting of:

- (a) one (1) person nominated by the Cystic Fibrosis Association of the ACT;
- (b) one (1) person nominated by Cystic Fibrosis New South Wales;
- (c) one (1) person nominated by Cystic Fibrosis Queensland;
- (d) one (1) person nominated by Cystic Fibrosis South Australia;
- (e) one (1) person nominated by Cystic Fibrosis Tasmania;
- (f) one (1) person nominated by Cystic Fibrosis Victoria;
- (g) one (1) person nominated by Cystic Fibrosis Western Australia;
- (h) one (1) person who represents a major sponsor of or donor to the Company, who has been recommended by the Nominations Committee; and
- (i) two (2) persons with special skills or experience, who have been recommended by the Nominations Committee.

18.2 Additional Directors

- (a) Where there is less than the maximum number of Directors permitted by clause 18.1, the Board may resolve to elect or appoint up to a further two (2) persons with special skills or experience who have been recommended by the Nominations Committee and are:
 - (i) elected by the Members; or
 - (ii) appointed by the Board subject to the person being elected by Members at the next annual general meeting of Members as contemplated by clause 18.5. Until that person is elected as a Director at the next annual general meeting, that Director is a “casual appointee”.

- (b) Notwithstanding anything to the contrary in this Constitution, the Board may resolve not to hold an election for any directorships of the type described in clause 18.2(a) at the next annual general meeting at which an election for those positions is required to be held. That resolution must be considered and, if thought fit, passed by a simple majority of the Board present and voting prior to the opening of nominations for the annual general meeting at which an election for a directorship of the type described in clause 18.2(a) is required to be held.

18.3 Directors qualification

A Director need not be a Member or be admitted as a member of a Member at any time after his or her election as a Director.

18.4 Casual appointment

- (a) In the case of a casual vacancy of a Nominee Director, the Directors must appoint the person:
- (i) nominated by the relevant Member if an election for that position will be held within 42 days of the date the casual vacancy arising; or
 - (ii) recommended by the Nominations Committee if an election for that position will not be held within 42 days of the date the casual vacancy arising,
- at the next Board meeting following the receipt of that nomination or recommendation.
- (b) In the case of a casual vacancy of a Director who is not a Nominee Director, the Directors after having regard to the recommendation made by the Nominations Committee:
- (i) must appoint at the earliest opportunity to do so a person who satisfies the requirements of clause 24.11(d)(i) to fill that casual vacancy if the number of Directors is less than the minimum number of Directors required by clause 18.1; or
 - (ii) may, but are not obliged to do so, appoint a person who satisfies the requirements of clause 24.11(d)(i) at any time to fill that casual vacancy if the minimum number of Directors required by clause 18.1 exists.
- (c) A person who has been appointed as a Director in accordance with clause 18.4 will be deemed to be a “casual appointee” until elected as a Director at the next annual general meeting.

18.5 Retirement of casual appointee

- (a) A casual appointee, following his or her appointment by the Directors under clauses 18.2(a)(ii) or 18.4, holds office only until the conclusion of the next annual general meeting if the person is not elected as a Director at that meeting by the Members passing a resolution.
- (b) Subject to clause 18.2(b), a casual appointee is eligible to stand for election as a Director at the expiration of the term of their office.

18.6 Term of office

- (a) Subject to clauses 18.2(b) and 18.6(b), Directors will be elected for a term of two (2) years.
- (b) A person who has been elected as a Director following their appointment by the Board as a casual appointee (a **Replacement Director**) will hold office for the remainder of the term that the person they replaced as a Director (the **Original Director**) would have been entitled to serve.
- (c) For the purpose of determining the remainder of the term of office that a Replacement Director will be entitled to serve in accordance with clause 18.6(b):
 - (i) the remainder of the term of office will be determined as at the date the Original Director resigned, was removed in accordance with this Constitution or the Act, or died; and
 - (ii) any limitation that has been imposed on the Original Director in accordance with clause 18.7(g) will be disregarded.

18.7 Rotating Board of Directors

- (a) At the first annual general meeting following the adoption of this Constitution (being the 2007 annual general meeting) and at every second annual general meeting thereafter, an election will be held for the following types of directorships:
 - (i) a Nominee Director for Cystic Fibrosis Tasmania;
 - (ii) a Nominee Director for Cystic Fibrosis Victoria;
 - (iii) a Nominee Director for Cystic Fibrosis Western Australia;
 - (iv) one (1) person of the type described in clause 18.1(h), being a person who represents a major sponsor of or donor to the Company whose candidacy is recommended by the Nominations Committee;
 - (v) one (1) person of the type described in clause 18.1(i), being a person with special skill or experience whose candidacy is recommended by the Nominations Committee; and

- (vi) up to two (2) persons with special skills or experience if the Board has resolved in accordance with clause 18.2 to hold an election for those positions at the annual general meeting referred to in clause 18.7(a).
- (b) At the second annual general meeting following the adoption of this Constitution (being the annual general meeting for 2008) and at every second annual general meeting thereafter, an election will be held for the following types of directorships:
 - (i) a Nominee Director for Cystic Fibrosis Association of ACT;
 - (ii) a Nominee Director for Cystic Fibrosis New South Wales;
 - (iii) a Nominee Director for Cystic Fibrosis Queensland;
 - (iv) a Nominee Director for Cystic Fibrosis South Australia;
 - (v) one (1) person of the type described in clause 18.1(i); and
 - (vi) up to two (2) persons with special skills or experience if the Board has resolved in accordance with clause 18.2 to hold an election for those positions at the annual general meeting referred to in clause 18.7(b).
 - (d) A person who has been appointed as a Director to fill a casual vacancy must be elected as a Director by Members at the next annual general meeting following their appointment as a casual appointee, in accordance with clause 18.5(a) above. If the casual appointee is not elected, then the directorship which they had held will be declared vacant with effect from the dissolution or adjournment of that annual general meeting and an election for that directorship will not be held during that annual general meeting. The foregoing provisions of clause 18.7(d) do not apply if the Board has resolved in accordance with clause 18.2(b)(ii) not to hold an election for a directorship of the type described in clause 18.2(a).
 - (e) A Director who is required to retire under clause 18.7(d) retains office until dissolution or adjournment of the meeting at which the retiring Director retires in accordance with this clause 18.7.
 - (f) Subject to clauses 18.2(b) and 18.7(g), a retiring Director is eligible for re-election.
 - (g) A retiring Director that served in the same position for 4 or more years may only be re-elected by the passing of an Admittance Resolution at the relevant annual general meeting.

18.8 Deemed re-appointment

- (a) If there are fewer persons standing for election or re-election than vacancies for the relevant type of directorship that is specified in clause 18.1 or 18.2, then all persons who are standing for that type of

directorship are deemed to be elected without the need for an actual election.

- (b) If there is only one candidate who is standing for election or re-election for a directorship of the type described in clause 18.1(a), 18.1(b), 18.1(c), 18.1(d), 18.1(e), 18.1(f) or 18.1(g), then that person will be declared by the person acting as the returning officer of the annual general meeting to be elected unopposed.

18.9 Candidates requiring nomination

No person is eligible for election to the office of Director at any general meeting unless duly nominated, except for:

- (a) a Director retiring at an annual general meeting;
- (b) a casual appointee;
- (c) a person recommended by the Directors for election; or
- (d) a person recommended by the decision of the Nominations Committee.

18.10 Valid nominations

- (a) Nominations for election to the office of Director must be made to the Company Secretary at the Registered Office.
- (b) Nominations for the Nominee Directors close at 5.00 pm local time on a date 42 days prior to an annual general meeting.
- (c) Nominations for those Directorships of the type described in clauses 18.1(h) and (i) close at 5.00pm local time on a date 14 days prior to an annual general meeting.
- (d) Nominations for those Directorships of the type described in clause 18.2(a) close 14 days prior to the annual general meeting and may only be made if the Board has resolved to hold an election for those additional Directors in accordance with clause 18.2(b).
- (e) For a nomination to be valid:
 - (i) in such form as the Nominations Committee may prescribe from time to time;
 - (ii) the nomination must name the candidate and be signed by at least one (1) Member or a member of the Nominations Committee;
 - (iii) the person nominated must consent to act if elected; and
 - (iv) the nomination and consent must be received before the close of nominations.

- (f) A consent is sufficient if the person signs a form of consent on the nomination paper. The Company Secretary may accept any other form of consent, whether or not accompanied by the nomination paper, that the Company Secretary deems satisfactory, and such acceptance is final.
- (g) Notwithstanding anything to the contrary in this Constitution, the Company Secretary is not entitled to accept more than one nomination from a Member for the position of a Nominee Director.

18.11 Resignation of Director

Any Director may retire from office by giving notice in writing to the Company of the Director's intention to do so. Such resignation takes effect immediately unless the resignation is stated in the notice to take effect at some future time. However the resignation must take effect within 3 months from the date of the giving of the notice.

18.12 Vacation of office

In addition to the circumstances in which the office of Director becomes vacant by virtue of the Act or other provisions of this Constitution, the office of Director is vacated automatically if the Director:

- (a) becomes mentally incapable or the Director's estate is liable to be dealt with in any way under the law relating to mental health;
- (b) is absent from more than 3 consecutive meetings of Directors without the prior leave of the Directors;
- (c) is declared, or is subject to proceedings which may result in that Director being declared, bankrupt; or
- (d) is a Nominee Director and its nominating Member ceases to hold its Membership in accordance with clause 11.1.

18.13 Less than minimum number of Directors

The continuing Directors may act despite any vacancy in their body. If the number falls below the minimum number fixed in accordance with this Constitution, the Directors may act only:

- (a) to appoint Directors up to that minimum number;
- (b) to call a general meeting; or
- (c) in emergencies.

18.14 Power to appoint alternate Director

Each Director may at any time appoint any Member approved for that purpose by a majority of his or her co-Directors to act as an alternate Director in the appointor's place.

18.15 Suspension of appointment

The appointor under clause 18.14 may vary, suspend, or terminate the appointment of any alternate Director.

18.16 Notice of appointment

Notice of each appointment under clause 18.14, suspension or termination under clause 18.14 must be made in writing to the alternate Director, signed by the appointor, and a copy served on the Company.

18.17 Termination of alternate Director's appointment

The appointment of an alternate Director is automatically terminated if:

- (a) the alternate Director resigns such appointment;
- (b) the appointment of the alternate Director is terminated by the appointor;
- (c) a majority of the co-Directors of the appointor withdraw the approval of the person to act as an alternate Director;
- (d) the appointment is to act as alternate Director for 1 or more Directors and all of those named Directors have vacated office as Directors; or
- (e) on the happening of any event which, if the alternate were a Director, would cause the alternate Director to vacate the office of Director.

19. APPOINTMENT AND REMOVAL OF OFFICE BEARERS

- (a) The Directors must elect from among their number a President, two Vice-Presidents, and a Treasurer and may determine the period of time for which each is entitled to hold office.
- (b) The President will be Chair and one of the Vice-Presidents, to be determined by the Board, will be Deputy Chair, of each of the Directors' meetings held under this Constitution.
- (c) Where a Directors' meeting is held and a chair has not been elected or the Chair or in his absence, the Deputy Chair is not present within 10 minutes after the time appointed for holding of the Directors' meeting or is unwilling to act, the Directors present must elect one of their number to be a chairman of the Directors' meeting.

- (d) The Directors may elect from among their number such other office bearers as determined by the Directors from time to time and may determine the period for which each is to hold office.
- (e) The Directors may appoint from among their number or from the employees of the Company a person to act as the Company Secretary and may determine the period of time for which that person is entitled to hold office.

20. PROCEEDINGS OF DIRECTORS

20.1 Number of Board meetings

At least 4 Board meetings must be held in each financial year.

20.2 Mode of meeting

The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they see fit. The Directors may conduct their meetings in person, by telephone, audio visual link or by using any other technology consented to by all Directors. A consent may be a standing one. A meeting conducted by telephone or other means of communications is considered to be held at the place agreed on by the Directors attending the meeting if at least one of the Directors present at the meeting was at that place for the duration of the meeting.

20.3 Quorum

A quorum of the Board comprises 6 Directors capable of holding a meeting in accordance with clause 20.2.

20.4 Chair calling a meeting

The Chair may at any time call a meeting of the Directors to be held at such time and place as the Chair chooses.

20.5 Company Secretary calling a meeting

The Company Secretary, upon the request of any 2 Directors, must call a meeting of the Directors to be held at such time and place as is convenient to the Directors.

20.6 Notice of meeting

Notice of each meeting of the Directors:

- (a) may be given by such means as is convenient, including by telephone or electronic transmission; and
- (b) must be given to all Eligible Directors.

20.7 Recipients of notice

For the purposes of the preceding clause:

- (a) **Eligible Directors** are all Directors and Eligible Alternate Directors for the time being and excluding those given leave of absence;
- (b) the accidental omission to give notice of any meeting of the Directors to, or the non-receipt of any such notice by, a person entitled to receive that notice does not invalidate the calling of the meeting or any resolution passed at any such meeting.

20.8 Appointment of chairman

If:

- (a) no Chair is elected; or
- (b) at any meeting of the Directors the Chair is not present within 15 minutes of the time appointed for holding the meeting,

the Directors present must choose one of their number to be chairman of such meeting.

20.9 Votes of Directors

Questions arising at any meeting of the Directors must be decided by a majority of votes cast. Each Director has one vote. A person who is an alternate Director is entitled (in addition to his or her own vote if a Director) to one vote on behalf of each Director whom the alternate Director represents (as an alternate Director at the meeting). The alternate Director may only vote if the Director is not personally present. If there is an equality of votes, provided more than three Directors present are competent to vote on the question at issue but not otherwise, the Chair has a second or casting vote.

20.10 Circular resolution of Directors

If a majority of Directors have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms is treated as having been passed at a meeting of the Directors held on the day on which the document was signed. If the Directors sign the documents on different days, then a resolution is treated as having been passed on the day on which the document was last signed by a Director thereby constituting a majority in number of the Eligible Directors. A resolution is not treated as passed on that day if the document, by its terms, is said to take effect from an earlier date.

20.11 Signing of circular resolution

For the purposes of the preceding clause:

- (a) the **Eligible Directors** are all Directors for the time being but excluding:
 - (i) all alternate Directors; and
 - (ii) those who, at a meeting of Directors, would not be entitled to vote on the resolution;
- (b) each Director, other than one not entitled to vote on the resolution, may sign the document;
- (c) if a person who is not entitled to vote on the resolution signs the document, it does not invalidate the resolution if it is otherwise valid;
- (d) each alternate Director may sign the document on behalf of each Director whom the alternate Director represents (appointor) if:
 - (i) the alternate Director reasonably believes that the appointor is unavailable to sign the document; and
 - (ii) the appointor has not suspended the appointment of the alternate Director.

An alternate Director may sign even if the available appointor could not have voted on the resolution. An alternate Director who represents more than 1 Director may sign as many times accordingly;

- (e) an electronic transmission purporting to be signed by a Director or alternate Director is treated as being in writing signed by such person; and
- (f) two or more separate documents containing statements in identical terms each of which is signed by one or more Directors are together treated as constituting one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

20.12 Deemed minute

The document or documents referred to in the two preceding clauses are treated as constituting a minute of that meeting and must be entered in books kept for that purpose.

20.13 Validity of acts of Directors

All acts done in respect of any meeting of:

- (a) the Directors; or

- (b) a committee of Directors; or
- (c) other persons or by any person acting as a Director; or
- (d) any person purporting to act as an attorney under power of the Company,

are, despite the fact that later it is discovered that there was some defect in the appointment or continuance in office of such Director, person or attorney so acting or that they or any of them were disqualified or were not entitled to vote, as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Director or attorney and was entitled to vote.

21. DIRECTOR'S CONTRACTS WITH COMPANY

21.1 Director's contracts and conflicts of interest

In relation to Director's contracts and conflicts of interest, but subject at all times to clause 4:

- (a) despite any rule of law or equity to the contrary, no Director is disqualified by that office from contracting with the Company provided they declare their interest to a Board meeting as soon as they become aware of such contracts or conflicts of interest;
- (b) no Director may be an employee of the Company;
- (c) any such contract, or any contract entered into by or on behalf of the Company in which any Director is in any way interested, is not avoided;
- (d) any Director so contracting or being so interested is not liable to account to the Company for any profit realised by any such contract by reason only of such Director holding that office or of the fiduciary relationship thereby established;
- (e) the nature of the Director's interests must be disclosed by that Director at the meeting of the Directors at which the contract is decided on if that interest then exists and has not previously been disclosed. In any other case at the first meeting of the Directors after the acquisition of those interests; and
- (f) a Director may not vote in that capacity in respect of any contract or arrangements in which the Director is interested if prohibited by the Act from doing so. However, such Director may, despite that interest, participate in the execution of any instrument by or on behalf of the Company, whether through signing or sealing it or otherwise.

21.2 Requirement to leave the meeting

Despite anything in the preceding clause, a Director's entitlement to vote, or be present, at a meeting of the Directors of any Director who has a material personal interest in a matter that is being considered at the meeting is restricted

in accordance with section 195 of the Act (and every other mandatory law) as it may apply from time to time to the Company.

21.3 Notice of interest

A general notice given to the Directors by any Director in accordance with section 192 of the Act and to the effect that he or she:

- (a) is an officer or a member of, or interested in, any specified firm or body corporate; and
- (b) is to be regarded as interested in all transactions with such firm or body,

is sufficient disclosure as required by the Act as regards such Director and those transactions. After such general notice it is not necessary for such Director to give any special notice relating to any transaction with such firm or body.

21.4 Office in another company

- (a) A Director of the Company may be, or become, a director or other officer of, or otherwise interested in, any body corporate promoted by the Company or in which the Company may be interested, or which holds any Membership in the Company.
- (b) No such Director is accountable to the Company for any remuneration or other benefits received by him or her as a Director or officer of, or from his or her interest in, such body corporate.
- (c) The Directors may exercise the voting power conferred by the shares or owned by the Company, or exercisable by them as Directors of such other body corporate in such manner in all respects as they think fit. This includes the exercise of that voting power in favour of any resolution appointing themselves, or any of them as Directors or other officers of such body corporate. Any Director may vote in favour of the exercise of such voting power in that manner despite the fact that he or she may be, or be about to be, appointed a Director or other officer of such corporation and as such is, or may become, interested in the exercise of such voting power in that manner.

21.5 Director of wholly owned subsidiary

If a Director is or becomes a director of a wholly owned subsidiary of the Company, and the constitution of that subsidiary expressly authorises the director to act in the best interests of the Company that Director is taken to be acting in the best interests of the wholly owned subsidiary when he acts in good faith in the best interests of the Company.

22. POWERS AND DUTIES OF DIRECTORS

22.1 Powers generally

Subject to the Act and to any other provisions of this Constitution, the management and control of the Company and of the business and affairs of the Company is vested in the Directors who may exercise all such powers of the Company and do all such acts or things not expressly required by this Constitution or by the Act to be exercised or done by a general meeting. No clause adopted or resolution passed by a general meeting invalidates any prior act of the Directors which would have been valid if that clause or resolution had not been adopted or passed.

22.2 Borrowing

The Directors have the power to raise or borrow any sum of money and to secure the payment or repayment of such money and any other obligation or liability of the Company in such manner and on such terms as they think fit. This includes:

- (a) upon the security of any mortgage;
- (b) by the issue of debentures or debenture stock of the Company charged upon all or any of the property of the Company (both present and future) including its goodwill and undertaking for the time being; or
- (c) upon bills of exchange, promissory notes or other obligations or otherwise.

22.3 Execution of negotiable instruments

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company may be signed, drawn, accepted, endorsed or otherwise executed as the case may be, in such manner as the Directors at any time determine.

22.4 Official Seal

The Directors may exercise all the powers of the Company in relation to any official Seal for use outside the State where the Seal is kept and in relation to branch Registers.

22.5 Appointment of attorney

The Directors may at any time, by power of attorney, appoint any person or persons 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 they may think fit. Any such powers of attorney may:

- (a) contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit; and
- (b) authorise any such attorney to delegate all or any of the powers authorities and discretions vested in the attorney.

22.6 Delegation

The Directors may at any time confer upon any Director, or such other person as they may select, such of the powers exercisable under the Constitution by the Directors for such time as they may think fit and to be exercised for such objects and purposes and upon such terms and with such restrictions as they think expedient. They may confer such powers whether collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the Directors in that respect. They may at any time revoke, withdraw, alter or vary all or any of such powers.

22.7 Validity of acts

Despite anything contained in this Constitution, if it is found that some formality required by this Constitution to be done has been inadvertently omitted or has not been carried out, such omission does not invalidate any resolution, act, matter or thing which but for such omission would have been valid.

23. PATRONS

The Board may from time to time appoint a patron or patrons to represent the Company and promote the Objects of the Company throughout the community.

24. NOMINATIONS COMMITTEE

24.1 Terms of reference

The function of the Nominations Committee is to assist the Board in fulfilling its corporate governance responsibilities in regard to:

- (a) Board appointments and performance;
- (b) committee membership;
- (c) terminations; and

- (d) such other matters referred to it by the Board.

24.2 Membership

- (a) The Nominations Committee will be constituted by:
 - (i) the Nominee Director for the Cystic Fibrosis Association of the ACT;
 - (ii) the Nominee Director for Cystic Fibrosis New South Wales;
 - (iii) the Nominee Director for Cystic Fibrosis Queensland;
 - (iv) the Nominee Director for Cystic Fibrosis South Australia;
 - (v) the Nominee Director for Cystic Fibrosis Tasmania;
 - (vi) the Nominee Director for Cystic Fibrosis Victoria; and
 - (vii) the Nominee Director for Cystic Fibrosis Western Australia.
- (b) The Company Secretary or its nominee must attend all Nominations Committee meetings to ensure that minutes are taken of the meeting.
- (c) The Chief Executive Officer is entitled to attend all Nominations Committee meetings as an ex officio observer.

24.3 Frequency of meetings

The Nominations Committee will meet:

- (a) at least 28 days prior to the annual general meeting; and
- (b) as and when requested by the President or Company Secretary upon giving at least 7 days prior written notice; or
- (c) at such other times as a majority of the members of the Nominations Committee agree in writing, provided that a reasonable amount of notice is given in respect of that meeting.

24.4 Notice of meeting

Notice of each meeting of the Nominations Committee:

- (a) may be given by such means as is convenient, including by telephone or electronic transmission; and
- (b) must be given to the Nominee Directors and all other persons entitled to attend those meetings.

24.5 Recipients of notice

For the purposes of clause 24.4 the accidental omission to give notice to any meeting of the Nominations Committee to, or the non-receipt of any such notice by, a person entitled to receive that notice does not invalidate the calling of the Nominations Committee meeting or any resolution passed at any such Nominations Committee meeting.

24.6 Quorum of meetings

Quorum for a Nominations Committee meeting is 4 members of the Nominations Committee.

24.7 Chairing of meetings

The Nominations Committee will be chaired by the President, and in that person's absence then the most senior Vice President with the longest period of service as a Director who is present at the meeting, and in those persons absence a member of the Nominations Committee elected by a simple majority of the members.

24.8 Decisions

Questions arising at any meeting of the Nominations Committee must be decided by a majority of votes cast. Each Nominations Committee member listed in clause 24.2(a) has one vote. A person who is an alternate Director for the Nominee Director is entitled (in addition to his or her own vote if a Nominations Committee Member) to one vote on behalf of each Nominee Director whom the alternate Director represents (as an alternate Director at the Nominations Committee meeting). The alternate Director may only vote if the Nominee Director who they represent at the Nominations Committee meeting is not personally present. If there is an equality of votes, provided more than three Nominations Committee members listed in clause 24.2(a) present are competent to vote on the question at issue but not otherwise, the Chair of the Nominations Committee has a second or casting vote.

24.9 Access to information and independent advice

- (a) The Nominations Committee has the authority to seek any information it requires from the Company and the Chief Executive Officer must comply with such requests.
- (b) The Nominations Committee may take such independent legal, recruitment or other advice as it reasonably considers necessary.

24.10 Reporting

The Nominations Committee is to report on its meeting to the next successive Board meeting.

24.11 Duties and responsibilities

- (a) In assisting the Board, the Nominations Committee will:
 - (i) assess the necessary and desirable competencies of Directors;
 - (ii) ensure the Directors have the appropriate mix of competencies to enable the Board to discharge its responsibilities effectively;
 - (iii) ensure that Directors have access to appropriate continuing education to update and enhance their skills and knowledge including, but not limited to, relevant issues concerning the treatment and provision of care to persons with Cystic Fibrosis;
 - (iv) develop Board succession plans to ensure an appropriate balance of skills, experience and expertise is maintained;
 - (v) make recommendations to the Board relating to the appointment and retirement of Directors including, but not limited to, those Directors who have special skills or experience;
 - (vi) review the time commitment required from Directors and whether the Directors are meeting that commitment; and
 - (vii) when it is considered appropriate, review the composition of committees established by the Board, and submit recommendations to the Board for changes to those committees.
- (b) In reviewing the composition and performance of the Board, the Nominations Committee will consider the term served by the Directors to ensure that, over time, new Directors are appointed to challenge existing approaches and to incorporate new ideas and energy.
- (c) In selecting and recommending the appointment of new Directors, the Nominations Committee must ensure that the candidate:
 - (i) has the appropriate range of skills, experience and expertise that will best complement Board effectiveness;
 - (ii) confirms that it has the necessary time to devote to their Board position. In support of this confirmation, the candidate must provide the Nominations Committee with details of their other commitments and an indication of the time involved; and
 - (iii) provides a written consent to act as a Director to the Company Secretary in a form that is reasonably acceptable to the Nominations Committee.
- (d) In the case of a casual vacancy of a Nominee Director that arises 42 days prior to an election for that position being held at an annual general meeting:

- (i) the Company Secretary must promptly after the date of resignation, death or the removal of that Nominee Director, issue a written notice to the relevant Member inviting that Member to nominate a person to fill the casual vacancy, provided that person:
 - (A) is not already a Director of the Company;
 - (B) is not disqualified from serving as a Director by the Act;
 - (C) has not already served as a Director of the Company for more than 8 years;
 - (D) is not the subject of a criminal charge which would disqualify them from serving as a Director by the Act or likely bring serious disrepute upon the Company;
 - (E) confirms in writing that it has the necessary time to devote to their proposed Board position; and
 - (F) provides a written consent to act as a Director to the Company Secretary in a form that is reasonably acceptable to the Nominations Committee;
- (ii) the relevant Member must promptly, but no later than four weeks after the receipt of the written notice from the Company Secretary, notify the Company Secretary in writing of their proposed casual appointee and provide:
 - (A) an original signed written consent from that person to act as a Director in a form that is reasonable acceptable to the Nominations Committee; and
 - (B) a brief curriculum vitae of their proposed casual appointee;
- (iii) the Company Secretary must promptly convene a Nominations Committee meeting to consider filling the casual vacancy:
 - (A) following the receipt of the written notice from the Member of its proposed casual appointee; or
 - (B) five weeks after the date of issuing the written notice to the Member in accordance with clause 24.11(d)(i),

whichever is the earlier; and
- (iv) at the Nominations Committee meeting convened in accordance with clauses 24.3 and 24.11(d)(iii), the Nominations Committee must consider filling the casual vacancy and must:
 - (A) approve the nomination of the Member if it complies with all of the requirements of clause 24.11(d)(i); or

- (B) reject the nomination of the Member if it fails to comply with any of the requirements of clause 24.11(d)(i); and
- (C) select and recommend to the Board in accordance with clause 24.11(c) the appointment of a person to fill the casual vacancy if:
 - (1) the nomination of the Member has been rejected in accordance with clause 24.11(d)(iv)(B); or
 - (2) the Member has failed to provide the Company Secretary with a written notice in accordance with clause 24.11(d)(ii).
- (e) In the case of a casual vacancy of a Nominee Director which arises within 42 days of an election being held for that position, that position will remain vacant unless the relevant Member nominates a person who satisfies the requirement of clause 24.11(d)(i).

24.12 Succession planning, appointments and terminations

The Nominations Committee will review and recommend to the Board:

- (a) succession planning; and
- (b) recommendations made by the Chief Executive Officer for appointments and terminations,

as and when it is considered appropriate to do so.

24.13 Other

The Nominations Committee will consider any other matters referred to it by the Board.

25. COMMITTEES

25.1 Delegation to committee

The Directors may:

- (a) delegate any of their powers to committees consisting of such one or more persons, whether Directors or not, as they think fit; and
- (b) establish advisory committees (or other committees not having delegated power of Directors) consisting of such person or persons as they think fit,

other than to a committee with substantially the same objects, duties and responsibilities as the Nominations Committee.

25.2 Committee powers

Any committee so formed or person or persons so appointed must, in the exercise of the powers so delegated, or functions entrusted, conform to any regulations that may at any time be imposed by the Directors.

25.3 Committee meetings

The meetings and proceedings of any committee, consisting of 2 or more persons are governed by the provisions in this Constitution for regulating the meetings and proceedings of the Directors so far as those provisions are applicable and not affected by any resolution or regulation made by the Directors under the preceding clause.

25.4 Committee Members as officers

Each person appointed to a committee under clause 25.1(a), if not otherwise an officer of the Company, is, when exercising the powers so delegated or functions entrusted, an officer of the Company.

26. MINUTES

If any minutes of a general meeting or of the Directors are signed by any person purporting to be either the chairman of such meeting, or the chairman of the next succeeding meeting, those minutes must be received in evidence without any further proof that the matters and things recorded by or appearing in such minutes actually took place or happened at a meeting duly called and held.

27. SEAL

27.1 Use of common seal

The Seal must not be affixed to any document unless it is done by the authority of Board or of a committee of the Directors.

27.2 Mode of execution by common seal

Every document to which the Seal is affixed must be signed, to attest the affixing of the Seal, by 2 persons. One must be a Director. The other must be the Company Secretary, another Director, or such other person as the Directors may appoint for that purpose. No person may sign in more than one capacity.

27.3 Custody

The Company Secretary must retain custody of the Seal at all times.

28. ACCOUNTS

- (a) The Company must keep proper books of account (which may include computer records) of the Company and the Donation Gift Account at its principal office and entries made of all such matters, transactions and things which are usually entered in books of accounts kept by entities engaged in concerns of a similar nature.
- (b) The Company must in accordance with the Act and any State or Territory legislation applicable to registration of charities, or charitable fundraising arrange for the accounts to be audited in accordance with the Act and the applicable State or Territory legislation.

29. NOTICES

29.1 Service of notices

Where this Constitution, the Act or other legislation require or permit a document to be served on, given, sent or dispatched to, any person, whether any such expression or any other expression is used (in this clause referred to as “**served**”), the document may be served on the person:

- (a) by delivering it to the person personally;
- (b) by dispatching it, whether by post, contractor, agent, electronic means or otherwise, to:
 - (i) the address of the place of residence;
 - (ii) business of the person last known to the person serving the document; or
 - (iii) in the case of a Member, to the address of the Member entered in the Register; or
- (c) subject to the Act, by publication in a newspaper circulating generally in the State in which the Registered Office is located.

29.2 Date of deemed service

A document served under clause 29.1 is treated as having been duly served, regardless of whether it is actually received:

- (a) where clause 29.1(b) applies, on the day following the day when dispatch occurred; and
- (b) where clause 29.1(c) applies, on the day the newspaper is first published.

29.3 Counting of days

Subject to the Act, where a specified number of days' notice or notice extending over any period is required to be given, both the day of service and the day upon which such notice will expire are included in such number of days or other period.

29.4 Service on Company or its officers

Every document required to be served upon the Company or upon any officer of the Company may be served by leaving it at the Registered Office.

29.5 Signature

The signature to any document to be given by the Company may be written, printed or stamped.

30. INDEMNITY

30.1 Indemnity for officers

To the extent permitted by law, each Officer of the Company and each Officer of a related body corporate of the Company, must be indemnified by the Company against any liability incurred by that person in that capacity.

30.2 Insurance premiums

The Company may at any time pay premiums in respect of a contract insuring a person (whether with others or not) who is an Officer of the Company against a liability incurred by the person as such an Officer, or as an officer of a related body corporate. The liability insured against may not include that which the Act prohibits. Any such premium in relation to a Director is in addition to, and not regarded as part of, the remuneration approved by Members under this Constitution.

31. TRANSITIONAL PROVISIONS

31.1 Resignation of Directors

All the Directors, including any casual appointees, must retire from office at the first annual general meeting following the adoption of this Constitution (being the 2007 annual general meeting).

31.2 Election of the Board

- (a) Notwithstanding clauses 18.6(a) and 18.7(b), at the first annual general meeting following the adoption of this Constitution (being the 2007 annual general meeting) an election will be held for the following types of directorships who will be elected for a term of one (1) year:

- (i) a Nominee Director for Cystic Fibrosis Association of ACT;
 - (ii) a Nominee Director for Cystic Fibrosis New South Wales;
 - (iii) a Nominee Director for Cystic Fibrosis Queensland;
 - (iv) a Nominee Director for Cystic Fibrosis South Australia; and
 - (v) one (1) person with special skills or experience.
- (b) Notwithstanding clauses 18.6(a) and 18.7(a), if the Board has decided to expand the Board at the first annual general meeting (being the 2007 annual general meeting) by appointing up to two (2) additional persons who have special skills or experience in accordance with clause 18.2, then an election will be held for:
- (i) one (1) person with special skills or experience who will have a one (1) year term of office, if the Board has resolved to only appoint one (1) additional person in accordance with clause 18.2; and
 - (ii) one (1) person with special skills or experience who will have a two (2) year term of office, if the Board has resolved to fully expand the Board by appointing a second person in accordance with clause 18.2.

31.3 Nominations

- (a) Notwithstanding clauses 18.10(b) and 18.10(e)(i), the Company Secretary may receive nominations for the Nominee Director positions at any time which is 28 days before the commencement of the first annual general meeting following the adoption of this Constitution (being the 2007 annual general meeting) in a form that is reasonably acceptable to the Company Secretary.
- (b) Notwithstanding clauses 18.1(h), 18.1(i), 18.2, 18.10, and 24:
- (i) the Board may select and recommend candidates for election to the directorships described in clauses 18.1(h), 18.1(i) and 18.2 at the first annual general meeting (being the 2007 annual general meeting); and
 - (ii) nomination forms in respect of those candidates may be lodged with the Company Secretary at any time before the commencement of the first annual general meeting (being the 2007 annual general meeting).

32. DEFINITIONS AND INTERPRETATION

32.1 Definitions

In the construction of this Constitution, unless the contrary intention appears:

Act means the Corporations Act 2001 (Cth) as amended from time to time;

Admittance Resolution means a resolution of a general meeting of Members where more than 2/3 of the total votes cast on the resolution are in favour of the resolution;

Annual Subscriptions means the four following levels of yearly subscription payable by each Member and determined by the Board from time to time:

- (a) Full Subscription;
- (b) Non-voting Subscription;
- (c) Normal Subscription; and
- (d) Concessional Subscription.

Board means the Board of Directors of the Company from time to time;

Casual appointee means a person appointed by the Board in accordance with clauses 18.2(a)(ii) or 18.4, whose appointment expires in accordance with clause 18.5.

CF Organisation means an organisation that is primarily concerned with supporting or servicing those persons with cystic fibrosis;

Chair means the chairman of the Board appointed at clause 19 from time to time;

Chief Executive Officer means the person who holds the position of Chief Executive Officer of the Company from time to time;

Company means Cystic Fibrosis Australia (ABN 73 104 285 136);

Company Secretary means any person appointed at clause 19 to perform the duties of secretary of the Company and includes an assistant secretary or any person appointed to act as the secretary or assistant secretary temporarily;

Concessional Subscription means an Annual Subscription payable by Members for Membership of an amount that is no more than 1/3 of the Full Subscription and confers on such Members the rights determined in accordance with this Constitution;

Constitution means this constitution;

Cystic Fibrosis Association of the ACT means the Cystic Fibrosis Association of the ACT, an organisation incorporated under the *Associations Incorporation Act*, 1991 (ACT), whose registration number is A01638;

Cystic Fibrosis New South Wales means Cystic Fibrosis New South Wales (ABN 53 002 522 241), a company limited by guarantee and having its registered office address at 51 Wicks Road, North Ryde, New South Wales 2113;

Cystic Fibrosis Queensland means Cystic Fibrosis Queensland Limited (formerly registered as the Cystic Fibrosis Association of Queensland Limited) (ABN 97 010 549 667), a company limited by guarantee and having its registered office address at 31 Kate Street, Kedron, Queensland 4031;

Cystic Fibrosis South Australia means Cystic Fibrosis S.A Incorporated, an organisation incorporated under the *Associations Incorporation Act*, 1985 (SA), whose registration number is A3627 and having its registered office address at 143 Sturt Street, Adelaide, South Australia 5000;

Cystic Fibrosis Tasmania means Cystic Fibrosis Tasmania Inc, an organisation incorporated under the *Associations Incorporation Act*, 1964 (Tas), whose registration number is 03355C;

Cystic Fibrosis Victoria means Cystic Fibrosis Victoria, an organisation incorporated under the *Associations Incorporation Act*, 1981 (Vic), (ABN 25 126 031 536) and having its registered office address at 80 Dodds Street, Southbank, Victoria 3006;

Cystic Fibrosis Western Australia means Cystic Fibrosis WA, an organisation incorporated under the *Associations Incorporation Act*, 1987 (WA), whose registration number is WA 0263635B and having its registered office address at The Niche, Suite C, 11 Aberdare Road, Nedlands, Western Australia 6909;

Deputy Chair means a deputy to the chair of the Board appointed at clause 19 from time to time;

Directors mean the Directors of the Company in office for the time being;

Donation Gift Account means the account referred to in clause 2(e);

Eligible Alternate Directors means only those alternate Directors who an appointor has notified the Company in writing must receive, either generally or in particular circumstances, notification of the meetings of Directors and/or the Members;

Entrance Fee means the amount (if any) determined by the Company in general meeting from time to time which is payable by a Member upon his election as such;

Full Subscription means an Annual Subscription payable by Members for Membership of an amount to be determined by the Board and that confers on such Members the rights determined in accordance with this Constitution;

general meeting means a meeting of Members duly called and constituted in accordance with this Constitution and any adjourned holding of it;

ITAA means the Income Tax Assessment Act 1997 (Cth) as amended from time to time;

Member means any person that has been entered in the Register as a member for the time being of the Company;

Membership means membership of the Company;

Nominated Representative means a natural person appointed by a Member to be its representative at specified general meetings;

Nominations Committee means the committee established in accordance with the terms of clause 24;

Nominee Director means a person who has been nominated by a Member to act as a Director of the type described in clause 18.1(a), 18.1(b), 18.1(c), 18.1(d), 18.1(e), 18.1(f), or 18.1(g);

Non-Voting Subscription means an Annual Subscription payable by Members for Membership of an amount to be determined by the Board and that confers on such Members the rights determined in accordance with this Constitution;

Normal Subscription means an Annual Subscription payable by Members for Membership of an amount that is no more than 2/3 of the Full Subscription and confers on such Members the rights determined in accordance with this Constitution;

Objects of the Company means the objects set out in clause 2;

Officer is defined in the Act;

Ordinary Resolution means a resolution of a general meeting where more than one half of the total votes cast on the resolution are in favour of the resolution;

Overdraft Rate means the interest rate charged by the Company's bankers on any overdraft taken out by the Company;

Patron means a person appointed as patron pursuant to clause 23;

President means the president of the Company appointed at clause 19 from time to time;

Register means the Register of Members kept under the Act and includes any branch Register;

Registered Office means the registered office for the time being of the Company;

remuneration includes, without limitation, salaries, wages, commissions, fees, rewards, allowances, bonuses, incentive schemes or profit sharing schemes;

Schedule means the schedule to this Constitution;

Seal means the common seal of the Company and includes any official seal of the Company;

Special Resolution means a resolution of a general meeting where at least 75% of the votes cast on the resolution are in favour of the resolution and which is passed in accordance with sections 249H and 249L of the Act;

State means a State of the Commonwealth of Australia;

Territory means a Territory of the Commonwealth of Australia;

Transferee Entity has the meaning given to that term in clause 5.3;

Treasurer means a treasurer of the Company appointed under clause 19 from time to time; and

Vice-President means a vice-president of the Company appointed at clause 19 from time to time.

32.2 Interpretation

In the construction of this Constitution:

- (a) headings are disregarded;
- (b) words importing persons include partnerships, associations, corporations, companies unincorporated and incorporated whether by Act of Parliament or otherwise, as well as individuals;
- (c) singular includes plural and vice versa and words importing any gender include all other genders;
- (d) except for the definitions in the preceding clause, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act; and
- (e) all references to statutory provisions are construed as references to any statutory modification or re-enactment for the time being in force.

32.3 Replaceable Rules

The operation of each of the sub-sections of the Act which are defined as replaceable rules are displaced by this Constitution and do not apply to the Company.

SCHEDULE

Type of Subscription paid by Member	No. of votes for each Member
Full Subscription	2
Non-Voting Subscription	0
Normal or Concessional Subscription	1