

**CORPORATIONS ACT 2001
PUBLIC COMPANY LIMITED BY GUARANTEE**

**CONSTITUTION OF
THE SARGOOD FOUNDATION
ACN 159 830 314**

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CONSTITUTION OF THE SARGOOD FOUNDATION

1. PREAMBLE

- (a) The beautiful site upon which the Sargood Centre stands is a testament to the philanthropic generosity of Frederick George Sargood. In 1918 he made his beach cottage and grounds available for the recuperation of injured servicemen returning from the Great War.
- (b) In the early 1920's Mr. Sargood donated the land to the Royal Alexandria Hospital for Children. He wanted the Annex, as it was known, to aid in the recovery of children with tuberculosis and polio. The Annex served in this role until the mid 1960's.
- (c) For many years, after the Annex was no longer needed by the Royal Alexandria Hospital for Children, the land provided a day care centre for people with severe mental disabilities.
- (d) Mr. Sargood's generosity has inspired generations of citizens of Collaroy, many of whom worked as volunteers in the Annex. The local Community remains determined that the site should be retained as a Centre assisting people with disabilities.
- (e) All the members of the Company agree that the land should be held in perpetuity as a centre for people with disabilities, particularly and preferentially those with a spinal injury.
- (f) The Company has adopted the "Return to Full Participation" philosophy, as a point of difference with other similar facilities. The objective is to assist participants in the Centre's programs to return to as full a role in life as possible in the shortest possible time frame.
- (g) The Company aims to achieve world's best practice for people with a spinal injury, with a worldwide focus. The Centre happens to be located in Collaroy but has a role throughout the Northern Beaches, NSW, Australia and indeed the World.
- (h) The Company is as concerned about the prevention of spinal injury, as it is about assisting people who are affected by one and the conduct of educational programs to further this objective.
- (i) The Centre welcomes participation by anyone with something to offer the facility including professional expertise, voluntary assistance, mentoring and donations.
- (j) The Company is a "good neighbour", minimizing its impact on the environment and its carbon footprint through recycling, energy saving and self-sufficiency measures.
- (k) The Centre has been designed and constructed to be sympathetic to the surrounding residential built environment and any further development of the site will conform to this objective.

- (l) In conjunction with Warringah Council, the Centre aims to make Collaroy a model of access for people with disabilities, which can be promoted around the world.
- (m) The Centre contributes positive energy and effort to the life of the Community and continually seeks opportunities to integrate the Community into its own endeavours.
- (n) Intentionally Deleted.
- (o) The Company is an Equal Opportunity employer and totally non-discriminatory facility. Discrimination against any person on the basis of their gender, race, colour, religion, creed, sexual orientation or disability is not tolerated.
- (p) Notwithstanding the above preamble, nothing stated in the preamble has the effect of, or shall be regarded as, amending or limiting the objects of the Company as specified in the following Constitution.

2. NATURE OF THE COMPANY

- (a) The Company is a not for profit public company limited by guarantee and the Company is prohibited from doing anything to change its not for profit status.
- (b) The liability of the Members is limited. Every Member undertakes to contribute \$20.00 to the assets of the Company if it is wound up while they are a Member, or within one year afterwards.

3. OBJECTS

- (a) The Company was formerly an association incorporated under *the Associations Incorporation Act 2009 (NSW)* and upon the adoption of this Constitution and relevant regulatory approvals, will be converted into a company limited by guarantee.
- (b) As at the date of the adoption of this Constitution, the Company is a member of The Sargood Centre (**Sargood Centre**).
- (c) The Sargood Centre intends to construct and operate or facilitate the operation of the Centre (**Centre**).
- (d) The dominant purpose of the Company are:
 - (i) To support people with disabilities in their endeavour to play an equal role in society, including promoting innovations and other projects which enhance the advancement of people with disabilities, encourage corresponding technological research and development, promote social integration and activity, and increase the participation of those people in the work force and the community's expectations of them.

- (ii) to raise funds for the Objects of the Company and The Sargood Centre and to assist The Sargood Centre to operate a life learning facility for people with traumatic spinal cord injury to be located in Collaroy, Australia;
 - (iii) to raise funds to enable the provision of medical and health related services for people in Australia with spinal cord injuries and similar conditions including but not limited to residential services, rehabilitation services, respite services, home services, counselling, employment and skills assistance, education in life skills and transport;
- (e) The following are incidental to the attainment of the dominant purpose in clause 3(d) including:
- (i) to promote the prevention of spinal cord injuries;
 - (ii) to raise money to further the aims of the Company and to secure sufficient funds for the objects of the Company;
 - (iii) to receive any funds and to distribute these funds in a manner that best attains the objects of the Company; and
 - (iv) to do all such things as are incidental or conducive to the operation of the Company and otherwise for the attainment of all or any of the objects of the Company.
- (f) The objects of the Company must be consistent with its requirements to maintain its tax concession charity and deductible gift recipient status and the Company is prohibited from doing anything to jeopardise this status or including an object or purpose which is inconsistent with either of the following:
- (i) its not for profit status; or
 - (ii) its tax concession charity and deductible gift recipient status.

4. MEMBERSHIP

4.1 Membership

The Members of the Company at any point in time which shall comprise:

- (a) initially the Members listed in Schedule 1; and
- (b) such others as the Board admits to membership in accordance with this Constitution (see clause 4.3(b)(ii)).

4.2 Categories Of Membership

The Members of the Company shall be:

- (a) Class A Members; and

- (b) Friends of Sargood.

4.3 Becoming A Member

- (a) The following provisions apply to applications for admission as a Member:
 - (i) Membership is open to organisations and individuals that are supportive of the objects of the Company and which are accepted to membership by the Board following the application procedure set out in this Constitution.
 - (ii) An application for Membership must be made by completing and signing the form approved for the purpose by the Board from time to time, and lodging it with the Secretary.
 - (iii) Upon lodging the application, the applicant must pay the relevant entrance fee (see clause 5), which will be held by the Company in its trust account pending determination of the application.
- (b) In respect of each application for Membership duly made in accordance with this Constitution:
 - (i) the Secretary shall provide the application;

to the Specified Members as soon as possible upon receipt; and

to the Board at the next meeting after receipt of the application;
 - (ii) the Board shall consider the application promptly and may, after considering it, determine in the Board's sole and absolute discretion to accept or reject the application. The Board may only accept the application if the application is approved by a resolution of the Specified Members passed in accordance with clause 14.2;
 - (iii) the Specified Members shall consider the application promptly and may, after considering it, determine in its sole and absolute discretion to accept or reject the application and notify the Board in writing of its decision;
 - (iv) if the application is accepted, the applicant shall be admitted forthwith as a Member and shall be notified accordingly;
 - (v) the Board and the Specified Members do not have to give reasons for rejecting an application; and
 - (vi) if the application is rejected, all amounts paid by the applicant on account of the application shall be refunded in full.

4.4 Becoming a Class A Member

- (a) Upon receipt of an application for membership, the Board may recommend to the Specified Members that the applicant be admitted as a Class A Member.

- (b) A Member (other than an Initial Member) can only be approved as a Class A Member by at least 75% of the existing Specified Members.
- (c) Class A Members are:
 - (i) the Initial Members; and
 - (ii) in the opinion of the Specified Members in their absolute discretion as having one or more of the following qualities:
 - are of good reputation and standing;
 - have contributed to the objects of the Company by way of fundraising or contribution of volunteer hours or similar; and/or
 - possesses professional or other qualifications and skills which will greatly contribute to the objects of the Company.
- (d) Upon approval as a Class A Member under clause 4.4, the Secretary must promptly notify the applicant. The applicant must promptly advise the Secretary if it wishes to be accepted as a Class A Member.

4.5 Notifying Member of Admission

Following admission of a new Member, the Secretary must promptly:

- (a) notify the Member in writing of the admission to membership by issuing a receipt for the entrance fee paid by the Member on account of the application for membership; and
- (b) cause the required details to be entered in the Register.

4.6 Ongoing Member Obligations and Rights

- (a) The Members of the Company agree to be bound by the provisions of this Constitution.
- (b) For so long as a Member abides by the provisions of this Constitution, the Member shall enjoy the rights and privileges of membership under this Constitution and the Act.
- (c) All Members have the right to receive notices of, and to attend and be heard at, and to vote (subject to the other provisions of this Constitution and relevant by-laws promulgated by the Board) at any general meeting.

4.7 Register of Members

- (a) A Register of the Members must be kept in accordance with the Act.
- (b) The following details must be entered and kept current in the Register in respect of each Member:

- (i) The full name and contact details of the Member.
 - (ii) The date of admission to and cessation of membership.
 - (iii) Such other information as the Board requires.
- (c) Each Member is responsible to notify the Secretary in writing of any change in that person's name, address, telephone or facsimile number within one month after the change.

5. APPLICATION FEE

5.1 Amount Of Entrance Fees

The entrance fee, payable by applicants for membership of the Company (if demanded), shall be \$1.00 or such other amount determined from time to time by resolution of the Board at a properly convened meeting.

5.2 Amount Of Annual Fees

The annual fee payable by members of the Company (if any be demanded), shall be such amount as may be determined from time to time by resolution of the Board at a properly convened meeting. The Board may, in its sole discretion, resolve that a class or classes of members of the Company be exempt from any annual fees determined pursuant to this provision.

6. REMOVAL AND CESSATION OF MEMBERSHIP

6.1 Resignation

A Member may resign from membership of the Company by giving written notice to the Secretary, and the resignation shall take effect from the date of receipt of the notice of resignation or such later date as may be stated in the notice.

6.2 Removal from Membership

- (a) Subject to clause 6.2(b), a Member other than the Initial Members may be removed by special resolution of the Specified Members at a general meeting.
- (b) The following provisions must be fulfilled before a Member can be removed by a resolution of the Members under clause 6.2(a):
 - (i) A majority of the Directors must agree that the Member has failed to comply with a provision of this Constitution or, in the opinion of each Class A Member, is otherwise no longer considered suitable to be a Member.
 - (ii) The Board must give at least two months' written notice to the Member of the intention to terminate their membership and the grounds of the intended termination.

- (iii) The Member must be invited, in the written notice, to provide to the Board any written representations, which the Member wishes the meeting of Members to consider.
- (iv) If the Member makes written representations, and requests that they be notified to the other Members, in sufficient time before the notices of meeting are sent to the Members, the Board must ensure that a copy of the representations is included in the notices calling the meeting.
- (v) If copies of the representations have not been included in the notices of meeting, for any reason, the Member may require the representations to be read out at the meeting.
- (vi) Whether or not representations have been circulated or read, the Member must be given a full and fair opportunity to address the meeting.

6.3 Other Cessation of Membership

A Member ceases to be a Member:

- (a) on the dissolution of the Member, or
- (b) on the insolvency of the Member; or
- (c) if the member, being a company, ceases carrying on a business; or
- (d) if the member dies.

7. NO PROFITS FOR MEMBERS

7.1 Transfer of Income or Property

Subject to clause 7.2, all of the assets and income of the Company shall be applied solely in the furtherance of the objects of the Company and no portion shall be distributed directly or indirectly to any Member.

7.2 Payments, Services and Information

Nothing in clause 7.1 prevents the payment, in good faith, of an amount, calculated on arms length terms, in respect of:

- (a) remuneration payable to an employee of the Company, who is also a Member's Representative under clause 10, for services actually rendered to the Company, or
- (b) goods or services actually supplied to the Company by a Member in the ordinary and usual course of the Member's business; or
- (c) expenses incurred by a Director as specified in clause 13.1(b); or

- (d) principal and interest at a rate not exceeding the rate for the time being charged by Australian banks for overdrawn accounts, upon money lent by any Member to the Company; or
- (e) reasonable and proper rent for premises let by any Member to the Company; or
- (f) reimbursement of reasonable travelling and other expenses incurred by a Member when engaged in the affairs or business of the Company as approved by the Board, the CEO or the Deputy CEO.

8. GENERAL MEETINGS

8.1 Convening of Meetings

The Chairperson or either Joint Chairperson or any two Directors may at any time request the Secretary to convene a general meeting of the Members and the Secretary must comply with all such requests.

8.2 Notice of General Meeting

- (a) Notice of a general meeting:
 - (i) may be given by any form of communication permitted by the Act; and
 - (ii) must specify the place, the day and the hour of meeting, the general nature of the business to be transacted and any other matters as are required by the Act.
- (b) 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.

8.3 Cancellation of General Meetings

- (a) The Directors may cancel a general meeting, other than a general meeting which they are required to convene and hold under the Corporations Act.
- (b) A meeting may only be cancelled in accordance with clause 8.3(a) if notice of the cancellation is given to all persons entitled to receive notice of the meeting at least two business days prior to the time of the meeting as specified in the notice of meeting.

8.4 Quorum at General Meetings

- (a) A quorum for the purposes of a general meeting of Specified Members shall be at least 75% of the Members, whether present personally, by their Representative or by proxy.
- (b) If a quorum is not present within half an hour from the time appointed for the meeting or a longer period allowed by the chair:

- (i) if the meeting was convened by or on the requisition of Members, it must be dissolved, or
 - (ii) in any other case 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.
- (c) If a meeting has been adjourned to another time and place determined by the Board, then notwithstanding any other provision, 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.
- (d) If, at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

8.5 Appointment of Chair and Powers of Chair

- (a) If the Directors have elected one of their number as chairperson or two of their number as joint chairpersons of their meetings, then one of those individuals is entitled to preside as chairperson at every general meeting.
- (b) The Directors present at a general meeting must elect one of their number to chair the meeting if either of the following applies:
 - (i) A Director has not been elected as the chairperson, joint chairperson or deputy chairperson of Directors meetings;
 - (ii) The chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or he/she is unwilling to act.
- (c) Either a Joint Chairperson, the Chairperson or, in his/her absence, the Deputy Chairperson, shall preside as chair at every general meeting of Members.
- (d) If for any reason there is not then either a Joint Chairperson, a Chairperson nor a Deputy Chairperson, or neither of them is present within 15 minutes of the time nominated for the meeting to start, the Members who are present and entitled to vote at the meeting shall select one of their number to chair the meeting.
- (e) The chair of a general meeting may, in his/her discretion, expel any person from a general meeting if the chair reasonably considers that the person's conduct is inappropriate.
- (f) Subject to the other terms of this document, the ruling of the chair 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 chair may be accepted.

8.6 Adjournment of Meetings

- (a) The chair may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to another time and to another place.
- (b) 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.
- (c) 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.
- (d) When a meeting is adjourned for less than 30 days, it is not necessary to give a further notice of the adjourned meeting.

8.7 Voting on Show of Hands

- (a) All resolutions put to the vote of a general meeting of Members must be decided on a show of hands unless a poll is demanded in accordance with clause 8.8.
- (b) On a show of hands, every Specified Member present in person has one vote.
- (c) On a show of hands, a declaration by the chair that a resolution has 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.

8.8 Vote an a Poll

- (a) A poll may be demanded in respect of a resolution at a general meeting:
 - (i) by the chair, or
 - (ii) by at least two Specified Members present and entitled to vote on the resolution:
 - before the vote on that resolution is taken
 - before the result is declared on a show of hands, or
 - immediately after the result is declared on a show of hands.
- (b) On a poll every Specified Member present in person or by proxy has one vote.
- (c) If a poll is duly demanded, it must be taken in the manner and, except as to the election of a chair or on a question of adjournment, either at once or after an interval or adjournment or otherwise as the chair directs. The result of the poll is the resolution of the meeting at which the poll is demanded.

- (d) A poll demanded on the election of a chair or on a question of adjournment must be taken immediately.

8.9 Objections to Voter Qualification

- (a) 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.
- (b) An objection to the qualification of a voter must be referred to the chair, whose decision is final.
- (c) A vote not disallowed according to an objection as provided in this document is valid for all purposes.

8.10 Mode of Meeting for Members

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

8.11 Written Resolutions

The Specified Members may pass a resolution in writing without holding a meeting if the following conditions are met:

- (a) The resolution is set out in a document or documents indicating that all of the Specified Members are in favour of it.
- (b) All Specified Members who are entitled to vote on the resolution (excluding Specified Members who have been given leave of absence) sign the document or documents or identical copies of it or them.

8.12 Form of Resolution in Writing

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

8.13 Annual General Meeting of Members

- (a) A meeting of Members will be held annually during the months of September or October for the purpose of presenting the annual report and the election of

Directors to the Board. Only Representatives of Specified Members of the Company are eligible to be elected as an Elected Director.

- (b) The ordinary business of the AGM is:
 - (i) to verify the minutes of:
the last AGM, and
any special general meetings since the last AGM;
 - (ii) to consider the annual report of the Board on the activities of the Company during its last financial year;
 - (iii) to consider the annual financial report, director's report and auditor's report;
 - (iv) to consider any special resolutions of which notice has been given in accordance with this Constitution and the Act; and
 - (v) any other business as required by the Act.
- (c) The AGM may only consider other business of which notice has been given in accordance with clause 8.2.

8.14 Special General Meetings

- (a) The Board may convene a special general meeting if.
 - (i) members entitled to vote at the meeting with at least 5% of the votes that may be cast on the resolution; or
 - (ii) at least 100 members who are entitled to vote at a general meeting,
gives to the Company a notice of a proposed resolution which complies with the Act and this constitution.
- (b) Special general meetings may only consider business of which notice has been given in accordance with clause 8.14(a).

8.15 Notwithstanding any other provision of this Constitution Friends of Sargood shall be entitled to attend at and observe General Meetings, the Annual General Meeting and Special General Meetings of the Company however shall not be entitled to propose motions for consideration at any such meetings, to call any such meetings or vote on any resolutions at any such meetings. Friends of Sargood may only speak at General Meetings, the Annual General Meeting or Special General Meetings of the Company if so invited at the sole discretion of the Chairperson from time to time of the meeting.

9. PROXIES

9.1 Proxies and Representatives of Members

- (a) At meetings of Members, each Member entitled to vote may vote in person by its Representative (see clause 10) or by proxy.
- (b) A person attending as a proxy shall be deemed to have all the powers of the relevant Member, except where expressly stated to the contrary in this Constitution or the Act.

9.2 Appointment of Proxies

- (a) A Specified Member may appoint another Specified Member's Representative as their proxy to attend and vote in their place at a general meeting.
- (b) The proxy must be appointed in writing, in the form from time to time required by the Board, and signed by the Specified Member appointing the proxy.
- (c) If the document appointing a proxy specifies the manner in which the proxy is to vote in respect of a particular resolution, the proxy is not entitled to vote on the resolution except in the manner specified in the document.

9.3 Verification of Proxies

- (a) Notwithstanding any other provision, a proxy shall be deemed to be invalid unless the following provisions are fulfilled:
 - (i) Each Specified Member appointing a proxy must send or deliver to the Company, for receipt by 5pm on the last business day before the time for holding the meeting or adjourned meeting at which the proxy proposes to vote, the following:

The document appointing the proxy.

If the appointment is signed by the Specified Member's attorney, the authority under which the appointment was signed or a certified copy of that authority.
 - (ii) The required documents must be either sent or delivered to the Company's office address, fax number or electronic address, and marked to the

attention of the relevant person, as specified for that purpose in the notice convening the meeting.

9.4 Revocation of Appointment of Proxy

A vote given in accordance with the terms of a proxy document or power of attorney is valid despite:

- (a) the death or unsoundness of mind of the appointer, or
- (b) the revocation of the instrument or of the authority under which the instrument was executed,

except where the Secretary has been notified in writing of such event before the commencement of the meeting or adjourned meeting at which the proxy is used, in which case the proxy shall be deemed to be invalid.

10. MEMBERS' REPRESENTATIVES

- (a) Any Member that is an organization shall appoint an individual (**Representative**) as a representative to exercise all or any of the powers of the Member under this Constitution or the Act or otherwise at law.
- (b) The appointment may be a standing one.
- (c) The appointment may set out restrictions on the Representative's powers. If the appointment is to be by reference to a position held, the appointment must identify the position.
- (d) A Member may appoint more than one Representative but only one Representative may exercise the body's powers at any one time.
- (e) Unless otherwise specified in the appointment, the Representative may exercise, on the Member's behalf, all of the powers that the Member could exercise at a meeting or in voting on a resolution.
- (f) The nomination of a Representative must be in writing and provided to the Company Secretary. Where a Member that is an incorporated or unincorporated organisation has not named a Representative, the Representative shall be deemed to be that Member's secretary.
- (g) A Representative will cease to hold their appointment:
 - (i) on the date of receipt by the Company Secretary of a written notice from the Member that it has withdrawn its nomination of the Representative; or
 - (ii) on the date of receipt by the Company Secretary of a written notice from the Representative resigning, refusing or remitting nomination.

11. BOARD OF DIRECTORS

11.1 Number of Directors

- (a) The number of Directors of the Company (together called the Board), shall be a minimum of four and a maximum of nine (consisting of a maximum of eight Elected Directors and a maximum of three Independent Directors).
- (b) The Initial Directors of the Company are the persons as nominated in Schedule 2, comprising five Elected Directors.
- (c) The Specified Members may, by ordinary resolution, increase or decrease the minimum or maximum number of Directors (provided that the minimum must not fall below three as required by the Act) and may also determine in what rotation the Directors appointed as the result of any such alteration are to go out of office.

11.2 Eligibility for Election as an Elected Director

A person is only eligible for election as an Elected Director if the person:

- (a) is a Specified Member of the Company; and
- (b) is a nominee of a Specified Member as an Elected Director, and there is no other person nominated by that Member to stand for election at the AGM in question; and
- (c) has not then already served for six continuous terms.

11.3 Rotation and Retirement of Elected Directors

- (a) Subject to clause 11.4(a), there shall be a rotational system of elections of Elected Directors so that at each AGM, one half of the Elected Directors (rounded up to the nearest whole number if necessary) must retire.
- (b) The Elected Directors to retire at each AGM are those who have been the longest in office since their last election. If 2 or more persons became Elected Directors on the same day those to retire must be determined by lot unless they otherwise agree among themselves.
- (c) An Elected Director retiring at an AGM, and who is not disqualified by law or by this Constitution (see clause 11.2) from being reappointed, is eligible for re-election.

11.4 Rotation of Directors

- (a) Despite clauses 11.3(a) and 11.3(b), and subject to the resignation of Directors in the ordinary course of business and the replacement of those Directors who have resigned, the Board elected to the Company shall hold office for 2 years. At the second AGM of the Company, one-half of the Elected Directors (rounded up to the nearest whole number if necessary) shall retire from office, having served only up to two years since they were elected, but shall be eligible to stand for re-election.

- (b) Which of the Elected Directors is to retire under clause 11.4(a) will be decided by lot unless the Board of Directors otherwise agree among themselves.

11.5 Appointment of Independent Directors

- (a) The Board may, in its discretion (however subject to obtaining an ordinary resolution of the Specified Members), and from time to time, appoint up to a maximum of three Directors (Independent Directors) to serve at any one time, on the basis that they are persons whose background, skills and/or experience may be thought prudent or necessary to enhance the ability of the Board to better discharge its role and the legal duties and responsibilities of the Directors.
- (b) Each Independent Director shall serve for a term for a period of two years from the date of their appointment, but shall be eligible for reappointment for up to a maximum of 6 years.

11.6 Ballot for Election of Elected Directors

- (a) The appointment of Elected Directors is by ordinary resolution of the Specified Members. For the avoidance of doubt, no other Class of Members is entitled to vote on the appointment of a Director.
- (b) The election of the Directors appointed by Specified Members at each AGM shall take place in the following manner:
 - (i) A postal ballot of the Members who are entitled to vote may in the Board's discretion be held prior to the AGM and if so, subject to this clause, the postal ballot shall be conducted in the manner determined from time to time by the Board.
 - (ii) All nominations for election as a Director must be in writing and signed by the Specified Members and also signed by the nominee consenting to such nomination and shall be delivered to and lodged with the Secretary not less than 21 days prior to the date fixed for the holding of the relevant AGM.
 - (iii) Only persons who are eligible for election as a Director under this Constitution (see clause 11.2) may be nominated to stand for election.
 - (iv) The Board must ensure that the postal ballot is conducted in such a fashion as to enable all Members who are entitled to vote sufficient opportunity to consider all nominations.
 - (v) The Board must ensure that a sufficient period is allowed to complete the postal ballot at least seven days prior to the holding of the relevant AGM.
 - (vi) At the relevant AGM, the postal votes duly received by the Secretary prior to the AGM shall be added to the votes cast at the AGM, whether by show of hands or on a poll, to determine the results of the election of Directors.

- (vii) To avoid doubt, under no circumstances shall a person who has cast a postal vote be entitled to a second vote at an election of Directors, whether on a show of hands or on a poll.

11.7 Filling Casual Vacancies of Directors

- (a) The Board may at any time appoint a person who would be eligible to stand for election as a Director, to be a Director to fill a casual vacancy:
 - (i) created by the early retirement of Elected Director
 - (ii) resulting from a vacant position for an Elected Director on the Board not having been filled at an AGM, or
 - (iii) in any other circumstances where the maximum number of Elected Directors on the Board will not be exceeded as a result of the appointment, as an addition to the existing Directors.
- (b) If a Director has been duly appointed to fill a casual vacancy:
 - (i) that Director shall, notwithstanding any other provision, be required to retire, but be eligible for election, at the next AGM following their appointment.
 - (ii) if a Director appointed to fill a casual vacancy has been elected at an AGM following their initial appointment, that Director shall be regarded thereafter as an Elected Director entitled to serve for two years from the AGM at which they were first put up for election and thereafter subject to clauses 11.2, 11.3(a), 11.3(b) and 11.3(c) in respect of their eligibility for, and nomination for, re election at future AGMs.

11.8 Retirement and Removal from Office

- (a) A Director may retire from office by giving notice in writing to the Company of that Director's intention to retire. A notice of resignation takes effect at the time of giving the notice to the Company or, if another time is specified in the notice, at that time.
- (b) The Specified Members may by ordinary resolution remove a Director from office and may by ordinary resolution appoint another person as a replacement.
- (c) A person appointed to replace a Director under clause 11.8(b) removed from office must retire as a Director at the next AGM at which the Director they are replacing would have been required to retire if they had not been removed.

11.9 Vacation of Office

- (a) Without limiting any other provision, the office of a Director becomes vacant if required by the Act or if the Director:
 - (i) becomes an insolvent under administration;

- (ii) 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;
- (iii) is absent without the consent of the Directors from three consecutive meetings of the Directors and the Board resolves that the office of that Director be vacated,
- (iv) no longer holds the eligibility required under clause 11.2; or
- (v) becomes prohibited from being a Director by reason of an order made under the Act.

(b) The Board may continue to act despite any vacancy in its Membership.

12. CHAIRPERSON AND DEPUTY CHAIRPERSON OR JOINT CHAIRPERSON(S)

12.1 Chairperson and Deputy Chairperson or Joint Chairperson(s)

- (a) At the first meeting of the Board after each annual general meeting, the Board shall elect from amongst the then current Directors:
 - (i) a Chairperson; and
 - (ii) a Deputy Chairperson.or
 - (iii) Joint Chairperson(s)
- (b) A Director shall not serve more than six consecutive years as Chairperson or Joint Chairperson.
- (c) The Chairperson or, in his/her absence, the Deputy Chairperson, or either Joint Chairperson shall preside as chair at every meeting of the Board.
- (d) If for any reason there is not then either a Joint Chairperson or Chairperson nor a Deputy Chairperson, or neither of them is present within 15 minutes of the time nominated for the Board meeting to start, the Directors who are present and entitled to vote at the meeting shall select one of their number to chair the meeting.

12.2 Audit Committees

- (a) The Board must at its first meeting after the annual general meeting each year appoint an Audit Committee consisting of at least 3 Members, who:
 - (i) may or may not be Directors or Members of the Company; but
 - (ii) must not be employees of the Company.
- (b) The Audit Committee must:
 - (i) ensure that accurate and up-to-date financial statements are presented to each meeting of the Board;

- (ii) report to each Board meeting on the financial position of the Company; and
 - (iii) ensure that the Board complies with its statutory financial and legal obligations.
- (c) Nothing in clause 12.2(a) limits the duties and liability of each Director of the Board.
- (d) The Board may by resolution establish other standing or ad hoc committees with such membership and terms of reference as it thinks appropriate.
- (e) Board committees may include members who are not Board Directors or Members of the Company.
- (f) The quorum for committee meetings is the presence in person of a majority of committee members at the time, unless the Board resolves otherwise.
- (g) The meeting procedures of the Board contained in clause 14 apply to committee meetings (including the Audit Committee) with such modifications as are necessary.

13. DIRECTORS' REMUNERATION

13.1 Director's Remuneration and Payment for Expenses

- (a) The Company may not pay any Director any amount except as expressly provided for in this Constitution.
- (b) Directors shall be entitled, on an equitable basis, to be paid all reasonable travelling, accommodation, and other expenses properly incurred by them in attending and returning from meetings of the Board or any of its committee or general meetings or otherwise in the execution of their duties as Directors provided that such expenses have first been approved by the Board.

13.2 Payment in Good Faith

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

14. POWERS OF DIRECTORS

14.1 Powers of Directors

- (a) The Directors may exercise all of the powers of the Company which are not, by the Act or by this Constitution, required to be exercised by the Members in general meeting or otherwise.
- (b) No delegation by the Board under this clause limits the duties and liability of each Director of the Board.

14.2 Decisions Requiring the Prior Written Agreement of Specified Members

- (a) The matters set out in Schedule 3 can only be done by the Company or the Board with the prior written approval of each Specified Member:
- (b) The matters set out in Item 1 of Schedule 4 can only be done by the Company or the Board with the prior approval (by Special Resolution) of the Specified Members.
- (c) The matters set out in Item 2 of Schedule 4 can only be done by the Company or the Board or a person who is nominated by the Company as a director of The Sargood Centre with the prior approval (by Special Resolution) of the Specified Members.

14.3 Decisions in relation to the Company's nomination of a director to the Sargood Centre

- (a) As at the Adoption Date, it is acknowledged that the Company may nominate a director to the Sargood Centre.
- (b) Subject to clause 14.3(c), the Board has agreed to appoint Gregor Maxwell Millson as a director of the Sargood Centre on and from 24 October 2011.
- (c) The continuation of the nomination and the nomination of the director to the Sargood Centre shall be at the discretion of the Board. The Board may require the person nominated as a director of the Sargood Centre on behalf of the Company to resign and that person must do so.

14.4 Public Statements

- (a) The Board may by resolution authorise the Chair, CEO or another person to make public statements on behalf of the Company.
- (b) No person may make any public statement on behalf of the Company unless authorised by the Board.

14.5 Duties

The Directors must comply with their duties under common law and under the Act.

14.6 Convening of Directors' Meetings

- (a) A Director may at any time, and a Secretary must on the requisition of a Director, convene a meeting of the Directors.
- (b) The Board shall meet not less than four times per year, but otherwise as necessary to discharge their duties and functions.
- (c) Either Joint Chairperson, the Chairperson or the Deputy Chairperson or any other two Directors or the CEO may request the Secretary to convene a meeting of the Board at any time and the Secretary must comply with such request.

- (d) Notice of each meeting of the Directors must be given to each Director at least 48 hours before the meeting, or otherwise as determined by resolution of the Board, except in the case of a Director who is out of Australia or who has been given leave of absence from the Board.
- (e) A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting. The Directors may otherwise regulate their meetings as they think fit.

14.7 Quorum and Voting at Directors' Meetings

- (a) At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is 75% of the Board as then constituted.
- (b) Each Director has one vote.
- (c) Questions arising at a meeting of the Board must be decided in the manner from time to time determined by the Board, and in the absence of any such agreement, by a majority of votes of Directors present and voting.

14.8 Chairperson and Deputy Chairperson or Joint Chairperson(s)

If for any reason, within 15 minutes of the time nominated for a Board meeting to start, neither the either Joint Chairperson, Chairperson nor the Deputy Chairperson is present, but a quorum is present, the Directors who are present at the meeting shall select one of their number to chair the meeting until such time as either Joint Chairperson the Chairperson or the Deputy Chairperson arrives, upon which they shall assume the chair.

14.9 Delegation of Powers to Committee

- (a) The Board may delegate any of their powers, except this power to delegate, to committees consisting of such Directors and such other persons as they think fit.
- (b) In the exercise of any powers delegated to it, a committee formed by the Board:
 - (i) must conform to the directions of the Board
 - (ii) otherwise shall conduct its meetings and proceedings in accordance with the provisions of this Constitution, as far as practicable, as if they were meetings and proceedings of the Board.

14.10 Validity of Acts of Directors

All acts done by a meeting of the Board or of a committee appointed by the Board 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.

14.11 Minutes

- (a) The Board must cause minutes of all proceedings of general meetings, of meetings of the Board and of committees formed by the Board to be entered, within one month after the relevant meeting is held, in books kept for the purpose.
- (b) The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed by the chair of the meeting at which the proceedings took place or by the chair of the next succeeding meeting.

14.12 Resolution in Writing

- (a) The Board may pass a resolution in writing without holding a meeting if the following conditions are met:
 - (i) The resolution is set out in a document or documents indicating that all of the Directors are in favour of it.
 - (ii) All Directors who are entitled to vote on the resolution (excluding Directors who have been given leave of absence) sign the document or documents or identical copies of it or them.
- (b) 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.
- (c) If a resolution in writing is signed by an alternate Director, it must not also be signed by the appointer of the alternate Director and vice versa.
- (d) In relation to a resolution in writing:
 - (i) a document generated by electronic means which purports to be a facsimile of a resolution of Directors is to be treated as a resolution in writing; and
 - (ii) a document bearing a facsimile of a signature is to be treated as signed.

14.13 Conflict of Interest

Directors who have any direct or indirect financial interest in a contract or proposed contract with the Company must:

- (a) disclose the nature and extent of their interest:
 - (i) to the Board as soon as they become aware of the interest; and
 - (ii) not take part in any decision of the Board with respect to that contract, but may take part in any deliberations with respect to that contract.

15. ALTERNATE DIRECTORS

15.1 Appointment of Alternate Directors

- (a) A Director may appoint a person to be an alternate Director in the Director's place, during the period up to three months.
- (b) The appointment of an alternate Director must be in writing, signed by the Director.
- (c) The appointment of an alternate Director takes effect immediately on the signing of the notice of appointment by the Director.
- (d) The alternate Director must be a Representative of a Voting Member as defined in this document.

15.2 Powers of Alternate Director

- (a) Except as expressly provided in this document, an alternate Director is subject in all respects to the terms and conditions applying to the other Directors except for the provisions of this document which relate to the election of Directors, their fees and remuneration and the power to appoint an alternate Director.
- (b) An alternate Director has all of the following entitlements:
 - (i) To perform all the duties of a Director while the Director who appointed the alternate Director is not exercising or performing them.
 - (ii) To receive notice of meetings of the Directors.
 - (iii) To attend and vote at meetings of the Directors if the Director who appointed the alternate Director is not present.

15.3 Termination of Appointment of Alternate Directors

The appointment of an alternate Director is immediately terminated if any of the following circumstances occurs:

- (a) The Director who appointed the alternate Director ceases for any reason to be a Director.
- (b) The Director who appointed the alternate Director gives notice of termination of the appointment to the Company.
- (c) The Directors resolve to terminate the appointment after giving seven days notice of intention to remove the alternate Director to the Director who appointed the alternate Director.

16. CHIEF EXECUTIVE OFFICER (CEO)

- (a) The Board may (but is not required to) appoint any person, to the position of CEO, to act as chief executive officer of the Company for the period and on the terms (including as to remuneration) the Board see fit.
- (b) The Board may, upon terms and conditions and with any restrictions they see fit, confer on the CEO any of the powers that the Board can exercise.
- (c) The Board may at any time revoke or vary an appointment of; or any of the powers conferred on, the CEO.
- (d) If the CEO becomes incapable of acting in that capacity the Directors may appoint any other person, not being a Director, to act temporarily as CEO until such time as the position can be permanently filled.
- (e) The CEO is not a Member or Director of the Company by virtue only of being appointed to the office of CEO but shall have the right to attend and speak at meetings of the Board.
- (f) The Board may delegate any of the powers of the Board to the CEO:
 - (i) on the terms and subject to any restrictions the Board decides; and
 - (ii) so as to be concurrent with the powers of the Board, and may revoke the delegation at any time.
- (g) Without affecting the generality of clause 16(f) the Chief Executive Officer will:
 - (i) be the executive officer of the Company;
 - (ii) act consistently with the Objects of the Company;
 - (iii) use his or her best endeavours at all times to enhance the good name of the Company;
 - (iv) insofar as the resources available permit, implement the policies of the Board;
 - (v) prepare an annual report for the Board on the work and activities of the Company during the preceding 12 months ending on 30 June in each year; and
 - (vi) exercise such other functions duties and responsibilities as may be determined from time to time by the Board.
- (h) The appointment of the CEO terminates:
 - (i) at the expiration of a fixed term if so defined in a written contract; or

- (ii) if the Board removes the CEO from that office (which, subject to any contract between the Company and the CEO, the Board has power to do), whether or not the appointment was expressed to be for a specified term.

17. SECRETARY

- (a) The Directors may:
 - (i) appoint, and terminate the appointment of, one or more Secretaries; and
 - (ii) determine their terms and conditions of appointment.
- (b) A Secretary shall be responsible to carry out all acts and deeds required by this Constitution, the Act or by law to be carried out by the secretary of the Company.

18. BY-LAWS AND STRATEGIC PLAN

- (a) The Board may, by resolution of the Board, make or adopt by-laws with respect to any matter or thing for the purposes of giving effect to any provision of this Constitution or generally for the purposes of carrying out the objects of the Company, which by-laws shall be binding on the Members, provided that to the extent of any inconsistency, this Constitution shall prevail over all such by-laws.
- (b) The Board may, by resolution of the Board, make or adopt the Strategic Plan for the Company, provided that to the extent of any inconsistency, this Constitution shall prevail over all such Strategic Plan. The Board shall ensure that the Company is operated in accordance with the Strategic Plan.

19. SEALS AND EXECUTION OF DOCUMENTS

- (a) If the Company has one, the Board must provide for the safe custody of the Seal.
- (b) The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by:
 - (i) two Directors
 - (ii) a Director and the Secretary, or
 - (iii) a Director and some other person appointed by the Directors for the purpose.
- (c) The Company may execute a document without the use of a seal if the document is signed by:
 - (i) two Directors, or
 - (ii) a Director and a Secretary.

20. SURPLUS ASSETS ON WINDING UP OR DISSOLUTION

Upon the winding up or dissolution of the Company or the Company losing its deductible gift recipient status, 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 organisations which satisfies both of the following requirements:

- (a) has objects similar to the objects of the Company; and
- (b) whose constituent documents have rules prohibiting the distribution of its assets and income to its members and is an endorsed deductible gift recipient as 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 New South Wales.

21. INDEMNITY

21.1 Costs and Expenses

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

- (a) in defending any proceedings, whether civil or criminal, in which judgement is given in favour of the person or in which the person is acquitted, or
- (b) in connection with any application in relation to those proceedings in which the Court grants relief to the person under the Act.

21.2 Liabilities to Third Parties

To the extent permitted by the Act, every officer and past officer of the Company is indemnified against a liability incurred by that person as an officer to a person other than the Company or a related body corporate, except a liability which arises from conduct that involves a lack of good faith.

21.3 Insurance Premiums

The Company may pay the premium on a contract insuring a person who is or has been an officer of the Company against:

- (a) a liability for costs and expenses incurred by the person in defending proceedings arising out of the person's conduct as an officer, whether civil or criminal and whatever their outcome
- (b) other liability incurred by the person as an officer of the Company except a liability which arises from conduct that involves a wilful breach of duty in relation to the Company or a contravention of sections 182, 183 or 184(2) or (3) of the Act.

22. ACCOUNTS, AUDIT AND RECORDS

22.1 Accounts

The Board must cause proper accounting and other records to be kept in accordance with the Act and must comply with the requirements of the Act in respect of reporting and the provision of accounts to Members.

22.2 Audit

- (a) A registered Company auditor must be appointed.
- (b) The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.
- (c) The Board must arrange for the accounts for the last financial year to be audited in accordance with requirements of the Act before being submitted to the annual general meeting in accordance with clause 8.13(b)(iii).

22.3 Rights of Inspection

Subject to the Act, the Board shall 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 resolution of the Board.

23. GIFT FUND REQUIREMENTS

23.1 Company to Maintain a Gift Fund

The Company must maintain a Gift Fund in accordance with this clause 23 for so long as it seeks or has obtained endorsement as a DGR from the Australian Taxation Office, or the Company is named as a DGR in ITAA 97.

23.2 Rules Applying to the Gift Fund

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

- (a) The Gift Fund must have a name.
- (b) The Company must maintain sufficient documents to provide evidence of the Gift Fund's purpose and operations.
- (c) The Company must maintain a separate bank account for the Gift Fund.
- (d) The following must be credited to the Gift Fund:
 - (i) All gifts of money or property to the Company for the Principal Purpose.

- (ii) All money or property received by the Company because of those gifts.
- (e) No other money or property may be credited to the Gift Fund.
- (f) The Company must use any gifts, money or property of the kind referred to in clause 23.2(d) only for the Principal Purpose.
- (g) The public will be invited to contribute to the Gift Fund.
- (h) The Gift Fund is managed by the Board of Directors, a majority of whom have a degree of responsibility to the general community, unless delegated pursuant to the provisions contained in this Constitution.
- (i) The Gift Fund is controlled and administered by the Board of Directors which only include persons or institutions which have a degree of responsibility to the community as a whole, unless delegated pursuant to the provisions contained in this Constitution.

23.3 Winding Up of Gift Fund

Despite clause 23.2 if the Gift Fund or the Company is wound up or 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 to which income tax deductible gifts can be made. For the avoidance of doubt, if a Gift Fund operated by the Company is wound up but the Company remains a DGR and operates any other gift fund in accordance with this clause 23, any surplus assets of the Gift Fund that is being wound up may be transferred to any other gift fund operated by the Company.

23.4 Definitions

In this clause 23 the following definitions apply:

- (a) **DGR** means a 'deductible gift recipient' within the meaning of section 30-227 of ITAA 97.
- (b) **Gift Fund** means a fund that is maintained for the Principal Purpose.
- (c) **ITAA 97** means Income Tax Assessment Act 1997 (Cth).
- (d) **Principal Purpose** means the purposes of the Company as reflected in the objects of the Company specified in clause 3 or any of those purposes.

23.5 Financial Year

The financial year of the Company is from 1 July to 30 June.

23.6 Payments

- (a) All payments by the Company must be:
 - (i) specifically authorised by the signatories approved by the Board, and

- (ii) in the case of cheques – signed by, at least 2 persons nominated by the Board in writing.
- (b) The Board may nominate a list of individuals or positions to be signatories for the purpose of clause 23.6(a).

23.7 Records

- (a) The Board must provide for the safe keeping of the records of the Company.
- (b) Members may inspect records of the Company permitted by the Act.
- (c) Members may not inspect the records of the Company that relate to confidential personal, employment, commercial and legal matters.
- (d) Copies of the constitution and Members resolutions must be freely available to Members.

24. NOTICES

24.1 Persons Authorised to Give Notices

- (a) A notice given by either the Company or a Member in connection with this Constitution may be given on behalf of the Company or Member by a solicitor, or, in the case of the Company, by the Secretary or a Director.
- (b) The signature of a person on a notice given by the Company may be written, printed or stamped.

24.2 Method and Time of Giving Notices

In addition to the method for giving notices permitted by statute, a notice by the Company or a Member in connection with this Constitution may be given by:

- (a) delivering it to the street address of the addressee and shall be taken to have been received at the time of delivery;
- (b) sending it by prepaid ordinary post (airmail if outside Australia) to a street or postal address of the addressee and shall be taken to have been received on the next business day (or fifth business day if sent outside Australia) after posting;
- (c) sending it by facsimile or e-mail to the facsimile number or e-mail address of the addressee and shall be taken to have been received when the transmission is complete, or
- (d) sending it by means of any other technology which the Members in general meeting agree to be permissible for the purpose of giving notices.

24.3 Addresses for Giving Notices to Members and to the Company

For the purposes of clause 24.1:

- (a) the address, facsimile, email or other contact details of a Member are the last details formally notified by the Member to the Company with a request that they be recorded in the Register or the other records of the Company;
- (b) the street and postal address of the Company is the registered office of the Company and the facsimile, e-mail or other contact details are as the Company may specify from time to time by written notice to the Members as the contact details for the Company.

24.4 Proof of Giving Notices

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

- (a) a transmission report by the facsimile machine from which the notice was transmitted which indicates that a facsimile of the notice was sent in its entirety to the facsimile number of the addressee, or
- (b) a print out of an acknowledgement of receipt of the e-mail.

24.5 Persons Entitled to Notice of Meeting

Notice of every general meeting must be given by a method authorised by this Constitution to every Member, Director and the auditor for the time being of the Company, if any. No other person is entitled to receive notices of general meetings.

24.6 Registered Address

The registered address of the Company for the service of documents is the address of the principal office of the Company, unless the Board by resolution nominates a different address.

25. INTERPRETATION

25.1 References to Law and the Constitution

A reference to:

- (a) any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation, or
- (b) this Constitution, where amended, means this Constitution as so amended.

25.2 Replaceable Rules

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

25.3 Amendment of Constitution

Subject to clause 14.2, this Constitution can only be amended as permitted by the Act.

25.4 Presumptions of Interpretation

- (a) Unless the context otherwise requires a word which denotes:
 - (i) the singular denotes the plural and vice versa;
 - (ii) any gender denotes the other genders; and
 - (iii) a person denotes an individual and a body corporate.
- (b) Where a word or phrase is given a defined meaning any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (c) Headings and any table of contents must be ignored in the interpretation of this Constitution.
- (d) Unless the context otherwise requires a reference to a time of day means that time of day in the state or territory in which the registered office of the Company is situated.
- (e) For the purposes of determining the length of a period (but not its commencement) a reference to:
 - (i) a day means a period of time commencing at midnight and ending 24 hours later
 - (ii) a month means a calendar month which is a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of that next month.
- (f) Where a period of time is specified and is to be calculated before or after a given day, act or event it must be calculated without counting that day or the day of that act or event.
- (g) A provision of this Constitution, except that specifying the time for deposit of proxies with the Company, which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.
- (h) A reference to a business day means a day during which banks are open for general banking business in New South Wales.
- (i) A reference to an Act of Parliament, whether State or Federal, includes a reference to that Act of Parliament as amended from time to time, and a reference to a

specific provision of an Act of Parliament means, unless the context demands otherwise, a reference to the equivalent provision in any later amended version of that Act of Parliament, or if the original Act of Parliament has been repealed in any Act of Parliament substituted in its place.

- (j) This Constitution shall be construed according to the laws of New South Wales.

26. FURTHER OBLIGATIONS UNDER AUSTRALIAN CHARITIES AND NOT FOR PROFITS COMMISSION ACT LEGISLATION

The Company must comply and the Board must procure that the Company complies with all requirements (whether financial or otherwise) that apply to the Company under the *Australian Charities and Not for Profits Commission Act* and all related legislation as commenced and amended from time to time.

27. DEFINITIONS

In this Constitution, except where the context requires otherwise:

- (a) **Act** means the Corporations Act 2001.
- (b) **Adoption Date** means the date that this Constitution was first adopted by the Members of the Company by special resolution.
- (c) **AGM** means an annual general meeting of the Members of the Company and, where the content requires, means the specific annual general meeting in the context.
- (d) **Board** means the board of Directors of the Company, unless the context demands otherwise.
- (e) **Centre** means all facilities owned or leased by the Sargood Centre and operated by the Sargood Centre to provide services to the Participants.
- (f) **CEO** means the chief executive, referred to in clause 16.
- (g) **Chairperson** means the chairperson of the Board, elected from time to time in accordance with this Constitution.
- (h) **Class A Member** means an Initial Member and other persons approved as a Class A Member by the Board and the Specified Members.
- (i) **Friends of Sargood** means members who are not Specified Members.
- (j) **Company** means The Sargood Foundation.
- (k) **Director** means a person elected or appointed in accordance with this Constitution to perform the duties of a director of the Company.
- (l) **Elected Directors** means the Directors elected by and from amongst the Members, in accordance with this Constitution (see clauses 11.1(b) and 11.6).

- (m) **Joint Chairpersons** means any two persons elected from the Directors to share the duties as Chair, elected from time to time in accordance with this Constitution.
- (n) **Independent Directors** means the Directors appointed to the Board, rather than being elected by and from amongst the Members, in accordance with this Constitution (see clause 11.5(a)).
- (o) **Initial Members** (also known as Foundation Members) means the persons/organisations listed in Schedule 1.
- (p) **Initial Period** means the period from the Adoption Date and ending on the 5th anniversary of the Adoption Date.
- (q) **Land** means the land the subject to the Lease, namely Folio Identifier 202/1100018.
- (r) **Lease** means the Lease AG602171 granted by Lifetime Care and Support Authority of New South Wales (ABN 85 084 267 228) in favour of The Sargood Centre on or about 25 October 2011.
- (s) **Member** means the individuals and organisations that, at the relevant time, are Members of the Company admitted in accordance with this Constitution.
- (t) **Participants** means people with spinal cord injuries and similar conditions.
- (u) **Register** means the register of Members kept by the Company under the Corporations Act 2001.
- (v) **Representative** means, in relation to a Member, the representative of the Member appointed under clause 10.
- (w) **The Sargood Centre** means The Sargood Centre ACN 153 885 968.
- (x) **Seal** means, if the Company has one, the common seal of the Company, if any.
- (y) **Secretary** means a person appointed to perform the duties of a secretary of the Company.
- (z) **Services** means the health and other services provided by or on behalf of the Company to the Participants pursuant to the Strategic Plan.
- (aa) **Specified Member** means:
 - (i) during the Initial Period, an Initial Member; and
 - (ii) after the Initial Period, a Class A Member.
- (bb) **Strategic Plan** means the Strategic Plan approved by the Board from time to time, in relation to the operation of the Company.

Schedule 1 – Initial Members

1. INITIAL MEMBERS (also known as Foundation Members)

- (a) Robert Loader
- (b) Gregor Millson
- (c) Elizabeth Macqueen
- (d) Roderick Macqueen
- (e) Kevin Hitchcock
- (f) Annette Merryl Jamieson

Schedule 2 – Initial Board

1. INITIAL DIRECTORS

- (a) I Elected Director appointed by each Initial Member (except Annette Jamieson).

Schedule 3 – Matters Requiring Prior Approval of Specified Members

The Board or the Company must not do any of the things listed in this Schedule without the prior written approval of each Specified Member in accordance with clause 14.2(a).

1. Admit a new Member.
2. Vary or agree to vary the objects of the Company, as set out in clause 3.
3. approval, or approval of a change to, the policy of the Company which deals with delegations made by the Company or the Board.

Schedule 4– Matters requiring Special Resolution of Specified Members

Item 1: The Board or the Company must not do any of the things listed in Item 1 of this Schedule without a Special Resolution of the Specified Members in accordance with clause 14.2 (b).

- Amend the Constitution of the Company

For the avoidance of doubt, this requirement is in addition to any requirement under the Act.

Item 2: To the extent permitted by law, and subject to their duties as directors of the Sargood Centre, each person who is nominated by the Company as a director of The Sargood Centre must not do any of the things listed in Item 2 of this Schedule without a Special Resolution of the Specified Members in accordance with clause 14.2 (c):

- Voting or abstaining to vote as a director of The Sargood Centre to deal with (including but not limited to amend, surrender or assign) the Lease or any other matter affecting the Land or the use of, or disposal of, the Land.