

CONSTITUTION
OF
MATER HOSPITALS APPEAL LIMITED

**Corporations Law
A Company Limited by Guarantee
Not Having a Share Capital**

CONSTITUTION

OF

MATER HOSPITALS APPEAL LIMITED

1. The name of the Company is MATER HOSPITALS APPEAL LIMITED.
2. The following expressions have the meanings assigned to them below:

"Board" means the Board of Directors from time to time of the Company.

"Church Law" means the Code of Canon Law being the Official Law of the Roman Catholic Church as promulgated in 1983, and any amendments or changes in the said Code from time to time.

"Company" means the Company limited by guarantee and called Mater Hospitals Appeal Limited.

"Corporations Law" means the Corporations Law including the Corporations Act 2001 (Cth) of the Commonwealth of Australia and any other statute from time to time regulating the conduct of the Company, as in force from time to time.

"health care" means an endeavour which is directed to the service and care of the sick and the needy as well as the promotion of the well-being of the human person, the maintenance and improvement of good health practices and research into the promotion of health and the causes and healing of illness in any of its forms.

"Mater Hospitals" means all hospitals, health care and research facilities owned and/or operated by Mater Misericordiae Health Services Brisbane Ltd A.C.N. 096 708 922.

"Sisters of Mercy" means the Brisbane Congregation of the Sisters of Mercy.

"Stable Patrimony" means all property, real or personal, moveable or immoveable, tangible or intangible, that, either by its nature or by explicit designation, is destined to remain in the possession of its owner for a long or indefinite period of time to afford financial security for the future.

Words or expressions contained in this Constitution shall be interpreted in accordance with the provisions of the Corporations Law.

OBJECTS

3. The objects for which the Company is established are:
 - a) to act as trustee of the Mater Foundation;

- b) those objects referred to as “purposes of the Trust” in the Deeds of Trust establishing and governing the Mater Foundation (formerly known as the Mater Hospitals’ Trust);
 - c) to do all such other things as may be deemed incidental or conducive to the attainment of the objects of the Company or any of them.
4. The Company shall have all powers given to it by the Corporations Law including all powers necessary to enable the Company to carry out its objects.

INCOME AND PROPERTY

5. All of the income and property of the Company must be applied solely towards the promotion of the objects of the Company and no portion shall be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to the Members provided that this restriction does not prevent the payment in good faith of:
- a) remuneration to any officers or employees of the Company or to any Member or any other person in return for services actually rendered to the Company;
 - b) interest on money lent to the Company by a Member at a rate not exceeding the rate for the time being charged by the Company's bankers for overdrawn accounts;
 - c) reasonable and proper rent, remuneration or return for any premises of a Member occupied by the Company;
 - d) a financial benefit to a Director to which subsection 211 of the Corporations Act refers or payment of an insurance premium in respect of a contract insuring a Director to which subsection 212 of the Corporation Act refers.
 - e) money, or the provision of other support, to any Company health care facility or other public benevolent institution (or deductible gift recipient) provided that facility or institution is a fund approved by the Commissioner of Taxation as a fund, authority or institution referred to in Division 30 of the Income Tax Assessment Act 1997 or its replacement.

DISSOLUTION

6. If upon the winding up or dissolution (other than for the purposes of reconstruction or amalgamation) of the Company there remains after the satisfaction of all its debts and liabilities any property whatsoever the same shall not be paid to or distributed among the Member of the Company but shall be given or transferred to such Institute or Institutions in Australia having similar objects to the Company and nominated by the Member provided that any such Institute or Institution shall be a Fund approved by the Commissioner of Taxation as a fund authority or institution referred to in Division 30 of the Income Tax Assessment Act 1997 or its replacement. Any dissolution of the Company shall be in accordance with Church Law.

WINDING UP OF GIFT FUND

7. If the Company is registered as a Deductible Gift Recipient under Division 30 of the Income Tax Assessment Act 1997 or its replacement and it maintains a Gift Fund in accordance with the Act then upon:
- a) the winding up of the Gift Fund; or
 - b) the Company ceasing to be endorsed as a Deductible Gift Recipient under Subdivision 30-BA of the Act

any surplus assets of the Gift Fund must be transferred to a fund, authority or institution which is charitable at law and gifts to which can be deducted under Division 30 of the Income Tax Assessment Act 1997. The fund, authority or institution shall be nominated in the same manner as prescribed in clause 6 of this Constitution.

LIABILITY

8. The liability of the Member of the Company is limited.

CONTRIBUTION OF MEMBERS

9. Every Member of the Company undertakes to contribute to the property of the Company in the event of the same being wound up while a member or within one year after ceasing to be a Member for payment of the debts and liabilities of the Company (contracted before ceasing to be a Member) and of the costs charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves such amount as may be required not exceeding \$100.

MEMBERSHIP

10. The Member of the Company shall be Mater Misericordiae Health Services Brisbane Limited A.C.N. 096 708 922.

POWERS OF MEMBERS

11. The following powers are reserved to the Member of the Company:
- a) To adopt or change the mission, philosophy, and core values of the Company;
 - b) To review the effectiveness of the Company in fulfilling the mission, philosophy and values of the Company;
 - c) To receive and review the Annual Report;
 - d) To fix the number of Directors of this Company (subject to clause 22), appoint the Board of Directors of this Company, appoint the Chair and Deputy Chair from time to time and remove such Directors at any time with or without cause;

- e) To approve any arrangement pursuant to which a third party obtains the right or obligation to manage all or substantially all of the operations of the Company or approve any agreement pursuant to which the Company manages any entity or institution not sponsored by the Member;
- f) To approve:
- the dissolution and/or liquidation of this Company or any corporation of which this Company is the controlling shareholder or member
 - the consolidation or merger of this Company with another corporation or entity
 - the establishment of any new subsidiary or affiliate of the Company or the establishment of any joint venture or other corporate affiliation unrelated to the fundraising activities of the Company
 - the incurrence of any indebtedness outside of the limits set from time to time by the Member
 - the acquisition of land or buildings for any amounts exceeding the limits set from time to time by the Member
 - the sale, transfer, lease, sub-lease, license, assignment or encumbrance of the Stable Patrimony of the Company or any corporation of which the Company is the controlling shareholder or member provided however this shall only refer to leases, sub-leases or licenses for a greater consideration or longer term than the limits set from time to time by the Member.
- g) To set the amounts, if any, payable to Directors by way of Director's fees.
- h) To appoint and remove, with or without cause, the Executive Director of the Mater Foundation. The Member shall seek the advice of the Board and consider any reports from the Board with respect to the exercise of this reserved power;
- i) To approve the appointment, engagement and removal of the Auditors of the Company;
- j) To adopt or change the brand presentation or brand management to ensure alignment with the Member's brand strategy;
- k) To require the Company to report to the Member as often and in the manner required by the Member from time to time;
- l) To amend or repeal any clauses of this Constitution.

COMMUNICATION BY MEMBERS TO BOARD

12. The Member shall communicate its' actions by executing and delivering to the Chairperson of the Board of Directors a written instrument or instruments signed by the Member setting forth the action taken and the applicable authorisations or directions from the Member. The action of the Member shall be deemed to have been taken on the date the written instruments are so delivered unless the instruments prove otherwise.

GENERAL MEETINGS

13. An Annual General Meeting of Member of the Company shall be held in accordance with the provisions of the Corporations Act. All general meetings other than Annual General Meetings shall be called general meetings.
14. A general meeting shall be convened on such requisition or otherwise as provided for in the Corporations Act.
15. Subject to the provisions of the Corporations Act relating to special resolutions and agreements for shorter notice, twenty one days' notice at the least (exclusive of the day on which the notice is served or deemed to be served and exclusive of the day for which notice is given) shall be given to such persons as are entitled to receive such notices from the Company specifying in case of special business the general nature of that business.
16. For the purposes of clause 15 all business shall be special that is transacted at a general meeting and also all that is transacted at an annual general meeting, with the exception of the consideration of the accounts, balance sheets and the reports to the Board of the Auditors, the election of officers and other members of the Board and the appointment of the Auditors if necessary.

PROCEEDINGS AT GENERAL MEETINGS

17. The Member may by written notice to the Secretary:
 - a) Appoint a natural person to act as the Representative of the Member in all matters connected with the Company as permitted by the Corporations Act;
 - b) Remove a Representative.

A Representative is entitled to exercise at a general meeting all the powers which the organization appointing him or her could exercise if the Member were a natural person.

The appointment of a Representative may set out limitations on the Representative's powers.
18. A quorum consists of the Representative of the Member appointed under this Constitution. No business shall be transacted at a general meeting unless the Representative is present.
19. The Chairperson of each general meeting will be the Representative appointed under this Constitution.
20. Any general meeting may be adjourned at the discretion of the Chairperson who is the Representative. If the Annual General Meeting is adjourned for more than 21 days, those entitled to notice must receive notice of the time and place of the meeting. An adjourned general meeting may take place at a different venue to the initial general meeting. The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.
21. The Member shall be entitled to one vote.

BOARD OF DIRECTORS

22. The Board shall consist of between 7 and 15 persons appointed by the Member as follows:
- a) The Board shall establish a Nominations Committee which shall provide advice to the Member in relation to Board appointments. The Nominations Committee shall comprise of not fewer than 3 Directors whose term of appointment does not finish at the following annual general meeting.
 - b) The Nominations Committee will:
 - i) Develop a list of competencies required for the Board from time to time;
 - ii) Provide that list to the Member and any candidates for Board positions;
 - iii) Review the collective competencies of those Directors who are continuing following the next annual general meeting;
 - iv) Should a retiring Director be eligible for re-appointment assess the person against both their fit with the required competencies and their performance on the Board;
 - v) Identify the required competencies to be filled in any vacancies that occur or are to occur;
 - vi) Organise a suitable process for sourcing candidates for vacant Board positions and carry out an appropriate interview and due diligence process;
 - vii) Recommend to the Member any suitable candidates for appointment or re-appointment to the Board.
 - viii) Take into account the rights accorded to any external party in relation to Board appointments.
 - c) The Member shall endeavour to ensure that the Company shall have at all times a Board that collectively possess the competencies necessary to allow the Board to undertake its duties in an effective and efficient manner. These competencies may change from time to time given the circumstances of the Company, the environment in which it operates and the strategy of the Company.
23. A member of the Board (a Director) shall be appointed for terms not exceeding three (3) years and subject to the Corporations Act shall be eligible for reappointment. The first Board shall serve a term of three (3) years. Thereafter, one third of the members of the first Board (as nominated by the Members upon appointment) shall retire after one (1) year. A further one third of the members of the first Board (as nominated by the Members upon appointment) shall retire after a further (2) years. The balance of the first Board shall retire after a further three (3) years. All Board members are eligible for reappointment as prescribed in this clause.
24. In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act the office of a Director becomes vacant if the Director -
- a) acts in a manner inconsistent with the mission and philosophy of the Company as adjudged by the remaining Directors;
 - b) is absent without the consent of the Chairperson from three successive meetings of the Board;
 - c) resigns by notice in writing to the Member and to the Board;

- d) is found by an appropriate guardianship tribunal, board or court to be incapable of performing the duties and responsibilities of a director or of managing his or her estate;
 - e) is adjudicated bankrupt or enters into a deed of arrangement or assigns his or her estate for the benefit of his or her creditors;
 - f) is convicted of an indictable offence;
 - g) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the interest as required by the Corporations Act;
 - h) is removed by notice in writing by the Member, such notice to be given to the Director and to the balance of the Board;
 - i) is on the recommendation of the Board declared by resolution of the Board passed by a majority of Directors present and voting to be no longer a Director and such recommendation is confirmed in writing to the Member.
25. a) The Chairperson and Deputy Chairperson of the Board shall be nominated by the Board and ratified by the Member.
- b) Whenever a casual vacancy occurs in the office of Director the balance of the Board may appoint a person to fill the vacancy and in the case of a casual vacancy in the office of Chairman or Deputy Chairman the Board shall appoint a person to fill the vacancy provided that such appointment is ratified by the Member.
- c) With the approval of the remaining Directors, a Director may appoint an alternate to exercise all or some of the Director's powers during any specified period.

POWERS AND DUTIES OF THE BOARD

26. Subject to the Corporations Law and this Constitution:
- a) The Board shall oversee the management of the Company and may pay all expenses incurred in promoting and forming the Company and may exercise all such powers of the Company as are not by the Corporations Law or by this Constitution required to be exercised by the Member.
 - b) Without limiting the generality of subclause 32(a) but subject to the provisions of clause 11 the Board may exercise all powers of the Company to borrow money, to charge any property or business of the Company or give any other security for a debt liability or obligation of the Company or of any person.
27. As part of its duties, the Board will:
- a) ensure that the Company acts in consistency with the objects of the Company.
 - b) ensure effective articulation, promotion and integration of the mission of the Sisters of Mercy throughout the Company and the business and undertakings of the Company.

- c) establish goals and monitor achievement of strategies and plans for the Company and the business and undertakings of the company.
- d) provide overall strategic direction of the Company and the business and undertakings of the Company by monitoring trends at national, regional and functional levels.
- e) oversee development of strategic plans for the Company and the business and undertakings of the Company.
- f) identify, develop and maintain collaborative relationships and alliances within the Company and the business and undertakings of the Company.
- g) maintain effective communication within, and external to, the Company and the business and undertakings of the Company.
- h) direct and monitor operational performance of the Company and the business and undertakings of the Company.
- i) monitor and evaluate the performance of the Executive Director of the Mater Foundation at least on a yearly basis. The Executive Director shall be directly accountable to the Board. The Board may also appoint an Acting Executive Director for any periods during which the Executive Director is absent or is incapable of carrying out the duties of the Executive Director.
- j) delegate any powers to the Executive Director at its discretion the Board considers appropriate.
- k) commission an external review of the performance of the Company in reference to its objectives to be delivered to the Board by September in the fifth year of its operation and every five years thereafter.
- l) direct and monitor financial performance of the Company and the business and undertakings of the Company
- m) to do all such things as are incidental and conducive to the attainment of the objects and the exercise of the powers of the Company.

28. The Board will promptly:

- a) send to the Member Minutes of Board meetings
- b) ensure that all information, documentation, analysis and recommendations relating to any matter upon which the Member are required to or are capable of exercising the reserved powers are forwarded to the Member in adequate time to allow the Member to properly consider such matter or matters.

29. a) The Board may by power of attorney appoint any person or persons to be the attorney or attorneys of the Company for such purposes with such powers authorities and discretions (being powers authorities and discretions vested in or exercisable by the Board) for such period and subject to such conditions as the Board thinks fit.

- b) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board thinks fit.
30. All cheques promissory notes bankers drafts bills of exchange and other negotiable instruments and all receipts for money paid to the Company shall be signed drawn accepted endorsed or otherwise executed as the case may be by any two Directors or in such other manner as the Board determines.
31. The Company is a wholly owned subsidiary of the Member. Section 187 of the Corporations Act applies to the Company and by virtue of this Constitution a Director is expressly authorised to act in the best interests of the Member. A Director is then taken to be acting in the best interests of the Company if:
- a) the Director acts in good faith in the best interests of the Member; and
 - b) the Company is not insolvent at the time the Director acts and does not become insolvent because of the Director's acts.

PROCEEDINGS OF THE BOARD

32. a) The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as the Board thinks fit.
- b) The Chairperson may convene a meeting of the Board or any two Directors may at any time requisition the Secretary to convene a meeting of the Board. Except where all directors resolve to shorten the period, seven (7) days' notice in writing must be given of any meeting of the Board.
- c) A Board meeting may be held with one or more of the Directors taking part by electronic communication as provided for in clause 50.
33. Subject to this Constitution questions arising at a meeting of the Board shall be decided by a majority of votes of Directors present and voting and any such decision shall for the purposes be deemed a decision of the Board. In the case of an equality of votes the Chairperson of the meeting shall not have a second or casting vote.
34. A Director who has a material personal interest in any matter that is being considered at a meeting of the Board must not vote on the matter and must not be present while the matter is being considered at the meeting, unless the Board has passed a resolution (on which the interested Director has not voted and in respect of which the interested Director has not been present when it was passed) that specifies the interested Director, the interest and the matter and states that the Directors voting on the resolution are satisfied that the interest should not disqualify the interested Director from considering or voting on the matter. The question of whether a Director has a material personal interest shall be considered by reference to any Code of Conduct document adopted by the Board from time to time.
35. At a meeting of the Board one half of the number of Directors plus one shall constitute a quorum. No business shall be transacted at any such meeting unless a quorum is present at the time the meeting proceeds to business.

36. In, the event of a vacancy or vacancies in the office of a Director or offices of Directors the remaining Directors may act but if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board they may act only for the purpose of convening a general meeting of the Company.
37. If all the Directors have signed a document containing a statement that they are in favour of a resolution of the Board in terms set out in the document a resolution in those terms shall be deemed to have been passed at a meeting of the Board held on the day on which the document was signed and at the time at which the document was last signed by a Director or if the Directors signed the document on different days on the day on which and at the time at which the document was last signed by a Director.
38. The Chairperson or a majority of the Directors may request the attendance at any meeting of the Board of any person who in their opinion may be able to assist the Board in any matter under consideration.
39. Subject to this Constitution the procedure to be followed at a meeting of the Board shall be as the Board decides.

ESTABLISHMENT OF COMMITTEES

40. The Board may at any time appoint Committees from amongst its members or persons co-opted by the Board and may prescribe the functions of any Committee and the Constitution of each such Committee shall be as approved by the Board.
41. Subject to the obligations and responsibilities of the Board, the Board may delegate any of its powers to a Committee.

NOTICE TO DIRECTORS

42. Without prejudice to any other method of giving notice it shall be sufficient compliance with any provision of this Constitution requiring notice to be given to Directors if with the observance of the required time notice is given –
- a) in a document delivered to the Director in person or
 - b) in a pre-paid letter or other document addressed and posted to the Director's last known address two days prior to the date by which notice must be given or
 - c) in a resolution of the Board made at a duly held meeting of the Board and which sufficiently specifies that which is required to be notified if the terms of that resolution as recorded in the confirmed proceedings of that meeting are delivered or posted to the Director in accordance with this Constitution.
43. Any notice may be given in any manner of representing or reproducing words in visible and legible form and may give notice of more than one matter or event.

BY-LAWS

44. The Board has power to make vary and repeal by-laws from time to time for the proper conduct and management of the Company, provided they do not conflict with this Constitution.

COMPANY SECRETARY

45. The Board shall appoint the Company Secretary on such terms and conditions as the Board determines. The Company Secretary shall unless otherwise directed by the Board attend all meetings of the Board.

SEAL

46. a) The Board shall provide for safe custody of the Seal.
- b) The Seal shall be used only by the authority of the Board and every document to which the seal is affixed shall be signed by a Director and countersigned by a Director or Secretary or another person appointed by the Board for that purpose
- c) The Board shall establish a policy regarding use of the Seal.

ACCOUNTS AND RECORDS

47. a) The Board shall ensure that there are kept proper accounts and records of the transactions and affairs of the Company and such other records as sufficiently explain its financial operations and financial position.
- b) The Board shall do all things reasonably open to it to:
- i) ensure that all money payable to the Company is properly collected;
 - ii) ensure that all money expended by the Company is properly expended and properly authorised;
 - iii) ensure that adequate control is maintained over assets owned by or in the custody of the Company;
 - iv) ensure that all liabilities incurred by the Company are properly authorised;
 - v) ensure efficiency and economy of operations and avoidance of waste and extravagance;
 - vi) develop and maintain an adequate budgeting and accounting system;
 - vii) develop and maintain an adequate internal audit system.

ANNUAL REPORT

48. The Board will in respect of each financial year prepare an Annual Report for the Member.

AUDIT

49. The Board shall ensure compliance with all statutory audit requirements.

ELECTRONIC COMMUNICATION

50. a) For the purpose of this Constitution, the contemporaneous linking together by telephone, radio, closed circuit television or other electronic means of audio or audio-visual communication or other means of communication of a number of Directors or Member (as the case may be) not less than the quorum together with the Secretary (for a meeting of the Board) or the Chairperson of the Member (for a meeting of the Member) whether or not any one or more of the Directors or Member (as the case may be) is out of Australia, shall be deemed to constitute a meeting and all the provisions in this Constitution as to meetings shall apply to such meetings as long as the following conditions are met:
- i) all the Directors or Member (as the case may be) for the time being entitled to receive notice of such meetings may receive notice of such a meeting by telephone or other means of communication and be linked by telephone or such other means for the purposes of such meeting;
 - ii) each of the Directors or Member (as the case may be) taking part in the meeting by telephone or other means of communication and the Secretary or Chairperson (as the case may be) must be able to hear each of the other Directors or Member taking part at the commencement of the meeting;
 - iii) at the commencement of the meeting each Director or Member (as the case may be) must acknowledge his or her presence for the purpose of the meeting to all the other persons taking part.
- b) A Director or Member (as the case may be) may not leave the meeting by disconnecting his or her telephone or other means of communication unless he or she has previously obtained the express consent of the chairperson of the meeting and a Director or Member shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone or other means of communication unless he or she has previously obtained the express consent of the chairperson of the meeting to leave the meeting as aforesaid.
- c) A minute of the proceedings at such meeting by telephone or other means of communication shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairperson of the meeting.

INDEMNITY AND INSURANCE

51. a) The Board may on behalf of the Company and, subject to the terms of this clause and to the maximum extent permitted by law, grant an indemnity to any person who is or has been an officer or employee of the Company or a subsidiary of the Company or a permitted person against liabilities incurred by that person in such capacity.
- b) The indemnity granted by clause 51(a) may only be relied on by the person in whose favour it has been granted if that person:
- upon becoming aware of a claim or potential claim immediately notifies the Company and provides to the Company all information, records, statements and assistance that the Company may reasonably require in relation to the claim or potential claim.
 - does not admit liability for, or settle or attempt to settle any such claim or incur any costs or expenses in connection with such claim without the prior written consent of the Company; and

- co-operates with the Company in the defence of the claim and in respect of any action taken to recover contribution or an indemnity in respect of the claim.
- c) The Company at its expense shall be entitled to conduct the defence or settlement of any such claim except in circumstances where an insurer insures the person or the Company in respect of the claim and has exercised its rights under a policy of insurance to conduct the defence or settlement of the claim.
- d) The Company may enter into a contract of insurance, or pay the premium in respect of a contract of insurance, which insures a person referred to in clause 59(a) against any liability incurred by the person in such capacity.
- e) The benefits of each indemnity given by or pursuant to this clause continue, notwithstanding that:
- a person who is conferred a benefit by this clause ceases to hold office with the Company for any reason whatsoever; or
 - the terms of this clause are modified or deleted;
- but only in respect of any liability arising from any act or omission occurring prior to the cessation, modification or deletion as the case may be.
- f) In this clause "officer", in relation to a Company means:
- a director, secretary or principal executive officer;
 - a receiver, or receiver and manager, of property of the Company;
 - an administrator of the Company;
 - an administrator of a deed of company arrangement executed by the Company;
 - a liquidator of the Company; and
 - a trustee or other person administering a compromise or arrangement made between the Company and another person or other persons.
- g) In this clause "permitted person" means:
- an agent or auditor of the Company or an agent or auditor of, a subsidiary of this Company;
 - a person appointed as trustee by the Company or a subsidiary of this Company; or
 - a person acting as trustee at the express request of the Company or a subsidiary of the Company.

REPEAL VARIATION AND AMENDMENT OF THIS CONSTITUTION

52. This Constitution may be varied or amended from time to time in accordance with this Constitution and the Corporations Act.