



**CONSTITUTION OF NATIONAL AGEING
RESEARCH INSTITUTE LIMITED**

A public company limited by guarantee under the
Corporations Act 2001 (Cth)

Level 12
469 La Trobe Street
Melbourne Victoria 3000 Australia

PO Box 5146AA
Melbourne Victoria 3001
DX 494 Melbourne

Tel 61 3 9609 1555
Fax 61 3 9609 1600

www.rk.com.au

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SYDNEY · BRISBANE · ADELAIDE · PERTH

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NATIONAL AGEING RESEARCH INSTITUTE LIMITED**

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PART 1 THE COMPANY

1 NAME

The Institute's name is National Ageing Research Institute Limited.

2 OBJECTS

The objects for which the Institute is established are to:

- 2.1 conduct research into all aspects of ageing including, but not limited to, the cause, prevention and cure of disease, and the relief of sickness and suffering, associated with ageing;
- 2.2 conduct and promote research and inquiry into the provision and effectiveness of health services (including public and preventative health services), clinical care and biomedical and other technologies provided to the aged;
- 2.3 conduct and promote research into the health status and health needs of the aged;
- 2.4 develop the highest academic standards of study and practice in medicine and allied health as it relates to the aged;
- 2.5 participate in the provision of clinical services and preventive health for the aged;
- 2.6 provide and promote education throughout the community concerning ageing by the expansion, advancement and dissemination of knowledge concerning all aspects of ageing; and
- 2.7 take over the assets, liabilities, rights and obligations of the Former Institute.

3 COMPANY POWERS

Solely for the purpose of carrying out the objects in clause 2, the Institute may, in any manner permitted by the Corporations Act:

- 3.1 exercise any power;
- 3.2 take any action; and
- 3.3 engage in any conduct or procedure,

which, under the Corporations Act a company limited by guarantee may exercise, take or engage in if authorised by its constitution.

4 LIMITED LIABILITY

The liability of Members is limited.

5 LIMIT OF CONTRIBUTION BY MEMBERS IN WINDING UP

- 5.1 Each Member undertakes to contribute an amount not exceeding twenty dollars (\$20.00) if the Institute is wound up:
 - 5.1.1 while the Member's membership is current; or
 - 5.1.2 within one year after the Member ceases to be a Member.

- 5.2 The contribution referred to in clause 5.1 is for the:
- 5.2.1 payment of the debts and liabilities of the Institute contracted before the Member ceases to be a Member; and
 - 5.2.2 the costs, charges and expenses of winding up.

PART 2 NON-PROFIT AND TAX

6 USE OF INCOME AND PROPERTY

6.1 Distributions to Members prohibited

The income and property of the Institute, however derived:

- 6.1.1 must be applied solely towards the promotion of the objects of the Institute set out in this Constitution; and
- 6.1.2 must not be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to any Member.

6.2 Payment for services rendered

Subject to clause 6.3, nothing in clause 6.1 prevents:

- 6.2.1 payment of remuneration in good faith to any officer or servant of the Institute; and
- 6.2.2 payment in good faith to any Member in the ordinary and usual course of business between the Member and the Institute:
 - (a) in return for any services actually rendered to the Institute;
 - (b) in return for any goods actually supplied to the Institute;
 - (c) being reasonable rent for premises let to the Institute; and
 - (d) being interest at a commercial rate on money borrowed from a Member.

6.3 Payment to directors

The directors must not be paid by way of remuneration for their services in their capacity as directors provided that:

- 6.3.1 reimbursement for out-of-pocket expenses incurred in carrying out the duties of a director may be paid where payment does not exceed any amount previously approved by the Board;
- 6.3.2 payment for any service rendered to the Institute in a professional or technical capacity may be made where the provision of that service has the prior approval of the Board and the amount payable is approved by a resolution of the Board and is on reasonable commercial terms; and
- 6.3.3 payment of a salary to the Executive Director may be made on reasonable commercial terms previously approved by resolution of the Board.

7 DISTRIBUTION OF SURPLUS ASSETS ON WINDING UP

If the Institute is wound up or dissolved and there remains after satisfaction of all its debts and liabilities any property whatsoever (“**surplus assets**”):

- 7.1 the surplus assets must not be paid to or distributed among the Members;
- 7.2 the surplus assets must be given or transferred to an Approved Research Institute which:
 - 7.2.1 has similar objects to the Institute; and
 - 7.2.2 prohibits the distribution of income and property to its members to at least as great an extent as this Constitution; and
- 7.3 the Approved Research Institute referred to in clause 7.2 must be determined as follows:
 - 7.3.1 an Approved Research Institute selected by resolution of the Members; or
 - 7.3.2 if clause 7.3.1 does not apply, by application to the Supreme Court of Victoria.

8 TAX EXEMPTION AND DEDUCTIBILITY

8.1 Income tax exemption notification

If the Institute has been notified by the Australian Taxation Office that its income is exempt from income tax:

- 8.1.1 the Institute must promptly notify the Australian Taxation Office of all amendments to this Constitution; and
- 8.1.2 on winding up the surplus assets of the Institute may only be given or transferred to an entity that is also exempt from income tax.

8.2 Deductible gift recipient notification

If the Institute has been notified by the Australian Taxation Office that gifts and contributions to the Institute will be an allowable deduction:

- 8.2.1 the Institute must promptly notify the Australian Taxation Office of all amendments to this Constitution; and
- 8.2.2 the Board must maintain a Gift Fund for the principal purpose of furthering the objects of the Institute:
 - (a) to which gifts of money or property for that purpose are to be made;
 - (b) to which any money received by the Institute because of such gifts is to be credited; and
 - (c) that does not receive any other money or property; and

- (d) to the extent that the Institute is not required to maintain a Gift Fund, on winding up of the Institute or revocation of the Institute's deductible gift recipient endorsement, any surplus gifts, fundraising contributions or money received because of them as set out in section 30-125(6)(b) of the ITAA 1997 must be transferred to an Approved Research Institute which is endorsed as a deductible gift recipient on the same basis as the Institute was endorsed under the ITAA 1997.

9 GIFT FUND

9.1 Management of Gift Fund

Any Gift Fund under this Constitution:

- 9.1.1 must be kept in a bank account separate from the other accounts of the Institute; and
- 9.1.2 will, unless the Board determines otherwise, be governed by this Constitution.

9.2 Winding up of Gift Fund

If any Gift Fund is wound up or has its endorsement (if any) as a deductible gift recipient revoked, any surplus assets of the Gift Fund remaining after the payment of liabilities attributable to it, will be transferred to the gift fund of an entity:

- 9.2.1 that has similar objects to the Institute;
- 9.2.2 that also prohibits the distribution of income and property to its members to at least as great an extent as this Constitution; and
- 9.2.3 whose relevant gift fund is endorsed as a deductible gift recipient on the same basis as the Gift Fund was endorsed under the ITAA 1997.

10 SPECIFIC PURPOSE FUNDS

All gifts, donations and bequests to the Institute which are expressed by the donor to be given for a specific purpose or project of the Institute, or otherwise subject to conditions, will, so far as possible, be used or applied only for the designated purpose or project, or in accordance with the relevant conditions, in such a manner as the Board determines.

PART 3 MEMBERS

11 MEMBERSHIP

11.1 Members

The following persons are Members:

- 11.1.1 the members of the Former Institute, who will be the initial Members of the Institute; and
- 11.1.2 this clause 11

until such time as they cease to be a Member in accordance with clause 14.

11.2 Classes and rights

The membership of the Institute consists of:

- 11.2.1 “Ordinary Members”, who have may attend, speak and vote at general meetings; and
- 11.2.2 “Life Members”, who may attend and speak at, but not vote at, general meetings,

together with such other classes and sub-classes of membership set out in the By-Laws, and with such rights and benefits, duties and obligations, and status as set out in the By-Laws.

11.3 Admission to membership

Membership is open to those persons who:

- 11.3.1 agree in writing to become a Member;
- 11.3.2 are nominated as provided in clause 11.4; and
- 11.3.3 have their nomination approved for membership by the Board and pay fees (if any) in accordance with clause 12.

11.4 Application for membership

The Board may determine the form of application (including any nomination requirements), the manner for lodgement and any other procedural matter relating to membership applications.

11.5 Board to consider and approve applications for membership

- 11.5.1 The Board must promptly consider applications for membership, approve or reject them by resolution, and promptly notify the applicant of the outcome of the application.
- 11.5.2 The decision of the Board on an application for membership is final, conclusive and binding on the applicant. In making its decision, the Board is not bound to:
 - (a) acknowledge or take into account comments received from existing Members; or
 - (b) give any reason for the rejection of any application for membership.

11.6 Life membership

- 11.6.1 Clauses 11.3 to 11.5 (inclusive) do not apply to Life Membership.
- 11.6.2 The Board may in its sole discretion elect as Life Members such persons who meet the prescribed criteria for Life Membership determined by the Board.
- 11.6.3 A Life Member shall have the same powers, privileges and liabilities as an Ordinary Member, except that a Life Member shall not be required to pay Annual Subscriptions, Entrance Fees or other fees.

- 11.6.4 A Life Member shall be entitled to attend and speak at but not vote at the general meetings.

11.7 Register

The Institute must keep a Register in accordance with the Corporations Act to record the following information about each Member at a minimum:

- 11.7.1 the Member's name and address;
- 11.7.2 the date on which the entry of the Member's name in the Register is made;
- 11.7.3 if relevant, the date the Member ceased being a Member; and
- 11.7.4 the class of membership.

11.8 Membership not transferrable

The rights of Members are not transferable, and end when the Member ceases to be a Member in accordance with clauses 13 and 14.

11.9 Transitional

The Board may make by-laws approved by the Former Institute regarding the deemed transfer of memberships from the Former Institute to membership of the Institute. Such memberships will take effect when the Institute takes over the assets, liabilities, rights and obligations of the Former Institute.

12 ENTRANCE FEE AND ANNUAL SUBSCRIPTIONS

- 12.1 The Board may by resolution set:
- 12.1.1 an Entrance Fee (if any) payable by Members upon being admitted to membership; and
- 12.1.2 an Annual Subscription (if any), payable by Members in respect of each financial year.
- 12.2 The amount (if any) of the Entrance Fee and Annual Subscription and the date for payment for either may vary according to criteria set by a resolution of the Board.
- 12.3 The voting and other rights of Members who have not paid the Annual Subscription (if any) by the date for payment are suspended until the Annual Subscription is paid.
- 12.4 Life Members will not be required to pay Entrance Fees or Annual Subscriptions.

13 RESIGNATION AND EXPULSION OF MEMBERS

13.1 Resignation

- 13.1.1 A Member may at any time, by giving notice in writing to the Board at least 14 days' written notice, resign their membership of the Company.
- 13.1.2 A Member is taken to resign with effect from the date of resignation referred to in the letter of resignation, or if later, the date of expiration of the notice period referred to in clause 13.1.1.

13.2 Discipline

- 13.2.1 The Board may, by resolution passed by an Absolute Majority, suspend or expel a Member for:
- (a) failing to comply with this Constitution; or
 - (b) conduct prejudicial to the interests of the Institute; or
 - (c) conduct unbecoming of a Member.
- 13.2.2 Before suspending or expelling any Member the Board must:
- (a) give notice in writing to that Member of the Board's intention to do together with the Board's reason for the proposed suspension or expulsion;
 - (b) give the Member an opportunity to appear before the Board to explain why they should not be suspended or expelled; and
 - (c) notify the Member of its decision to suspend or expel the Member, in accordance with the disciplinary procedure set out in the by-laws.
- 13.2.3 While a Member is suspended by a decision of the Board under clause 13.2.1, the Member:
- (a) loses their entitlement to attend and vote at general meetings;
 - (b) is not eligible to be elected to the Board; and
 - (c) if a Member is a director, is suspended from the duties of director, and may not vote nor attend meetings of the Board.

14 CESSATION OF MEMBERSHIP

- 14.1 Members cease to be members:
- 14.1.1 on resignation in accordance with clause 13.1, expulsion, death or ceasing to have legal capacity;
 - 14.1.2 on becoming insolvent, under administration or upon making any arrangement or composition with their creditors generally;
 - 14.1.3 in the case of expulsion, on the date that the Member received notice of the Board's decision to expel the Member; or
 - 14.1.4 in the case of a Member who is also a director, on ceasing to be a director for any reason other than retirement or resignation.
- 14.2 The date that a person ceases to be a Member must be entered in the Register.

PART 4 GENERAL MEETINGS

15 MEETINGS OF MEMBERS

15.1 Annual general meeting

15.1.1 The Institute must hold annual general meetings as required by the Corporations Act at such times and places as the Board may determine.

15.1.2 The ordinary business of the annual general meeting is to:

- (a) confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting;
- (b) receive and consider the accounts, financial reports, directors' reports and auditor's reports and of any other documents required by law to be laid before the meeting;
- (c) elect directors in place of those retiring or ceasing to hold office; and
- (d) transact any other business which under this Constitution or the Corporations Act ought to be transacted at an annual general meeting.

15.1.3 Only the following business may be transacted at an annual general meeting:

- (a) the ordinary business referred to in clause 15.1.2; and
- (b) any special business set out in the notice of meeting.

15.1.4 In accordance with the Corporations Act, Members may, by notice in writing to the Institute, elect to receive a hard copy or an electronic copy of the following reports (where they have been or are to be prepared by or obtained for the Institute):

- (a) the financial reports;
- (b) the directors' reports; and
- (c) the auditor's reports.

15.2 Special general meetings

15.2.1 A general meeting of Members other than the annual general meeting is called a special general meeting.

15.2.2 The Board may, whenever it thinks fit, convene a general meeting.

15.2.3 The Board must convene a general meeting on a requisition of Members as provided for by the Corporations Act.

15.2.4 A requisition for a special general meeting must:

- (a) state the objects of the meeting;
- (b) be signed by the Members making the requisition; and

(c) be sent to the office of the Institute.

A requisition may consist of several documents in a like form, each signed by one or more of the Members making the requisition.

15.2.5 Only the special business set out in the notice of meeting may be considered at a special general meeting.

15.3 Notice of general meetings

15.3.1 Subject to the Corporations Act and this Constitution, not less than 21 clear days' notice of a general meeting must be given in the manner provided in clause 35 to the Members, directors and auditors of the Institute, specifying the place, day and hour of the meeting and in the case of special business the general nature of that business.

15.3.2 A resolution passed at a general meeting is not invalidated by:

- (a) the accidental omission to give notice of a general meeting to; or
- (b) the non-receipt of any such notice by a Member.

15.3.3 A Member desiring to bring any business before a meeting may give notice of that business in writing to the Board. The Board must consider whether to include any legitimate business in the notice calling the next general meeting after the receipt of the notice.

15.4 Postal Ballots

15.4.1 Subject to the Corporations Act, the Board may submit a question or resolution to the Members entitled to a vote at a general meeting of the Institute by postal ballot.

15.4.2 The Board may determine the form and manner of return for the postal ballot except that notice of any postal ballot must be given to each Member in accordance with clause 15.3.

15.4.3 A resolution approved by a majority or specific majority of the Members voting by postal ballot has the same force and effect as such a resolution carried by the same majority or specific majority at a duly constituted general meeting of the Institute competent to pass that resolution.

16 REPRESENTATIVES

16.1 Members who are incorporated bodies may appoint representatives to represent them at general meetings pursuant to section 250D of the Corporations Act.

16.2 Appointments of representatives must be:

16.2.1 in writing, naming the individual to represent the Member;

16.2.2 signed on behalf of, the Member; and

16.2.3 sent to the Institute at least 24 hours before the meeting or given to the meeting chair before or at the commencement of the meeting.

- 16.3 Representatives may exercise all the rights of Members at general meeting under this Constitution.

17 PROCEEDINGS AT GENERAL MEETINGS

17.1 Quorum

- 17.1.1 Business must not be transacted unless a quorum is present at the commencement of business.
- 17.1.2 The quorum for a general meeting is 5 Members entitled to vote and present in person, by representative or by proxy.

17.2 Chair

The President, or in the President's absence the Vice-President, is entitled to chair general meetings, but if:

- 17.2.1 no President or Vice-President has been appointed; or
- 17.2.2 at any meeting the President or Vice-President is not present within 10 minutes after the time appointed for holding the meeting; or
- 17.2.3 the President and Vice-President are unable or unwilling to act,

the directors present may choose one of their number to chair the meeting. If no directors are present, the Members present and entitled to vote may choose one of their number to chair the meeting.

17.3 Absence of quorum

If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, is dissolved. In any other case the meeting stands adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine. If at the adjourned meeting a quorum is not present, the meeting is dissolved.

17.4 Adjournment of meeting

- 17.4.1 The chair of a general meeting may, with the consent of the meeting at which a quorum is present (and must if so directed by the meeting), adjourn the meeting to another time or place, but only the unfinished business of the meeting being adjourned may be transacted at the adjourned meeting.
- 17.4.2 If a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given as in the case of a general meeting.
- 17.4.3 Except as required by clauses 17.4.1 and 17.4.2, it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 17.4.4 A resolution passed at any meeting adjourned pursuant to this clause 17.4 is considered to have been passed on that day, and must not be passed on any earlier day.

17.5 Poll

- 17.5.1 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by 3 or more Members entitled to vote. The demand for a poll may be withdrawn.
- 17.5.2 Unless a poll is demanded under clause 17.5.1, a declaration by the chair that a resolution has, on a show of hands, been carried unanimously, carried by a particular majority or lost, and an entry to that effect in the Institute's minutes of the meeting is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

17.6 Manner of taking poll

If a poll is demanded under clause 17.5.1:

- 17.6.1 a poll on the election of a chair or on a question of adjournment must be taken immediately;
- 17.6.2 any other poll must be taken in such a manner and either at once or after an interval or adjournment or otherwise as the chair directs; and
- 17.6.3 the result of the poll is the resolution of the meeting at which the poll was demanded.

17.7 Casting vote by chair

In the case of an equality of votes whether on a show of hands or on a poll, the chair of the general meeting is entitled to a second or casting vote.

17.8 Voting

- 17.8.1 Subject to this Constitution, each Member who is entitled to vote has one vote.
- 17.8.2 Each Member who has the right to vote may vote:
- (a) in person, or by representative if the Member is a body corporate;
 - (b) by the appointment of a single proxy, who is entitled to vote on a show of hands as well as on a poll; or
 - (c) by attorney.
- 17.8.3 A proxy, attorney or representative need not be a Member and may be appointed for all, any number of, or for a particular meeting.
- 17.8.4 The decision of the chair of a meeting as to the validity of a proxy or power of attorney is final and conclusive.
- 17.8.5 If a person present at a general meeting represents personally or by proxy, attorney or representative of more than one Member who is entitled to vote, then on a show of hands:
- (a) the person is entitled to one vote only despite the number of Members entitled to vote that the person represents; and

- (b) the person's vote will be taken as having been cast for all the Members entitled to vote that the person represents.

17.8.6 A Member is not entitled to vote at a general meeting unless all moneys due and payable by the Member to the Institute have been paid, including the amount of any Annual Subscription currently payable (if any).

17.9 Use of Technology

General meetings may be held at more than one place, provided that the technology that is used enables each Member present at all places the meeting is held to clearly and simultaneously communicate with every other such Member.

17.10 Qualification of voters

An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered. Any such objection must be referred to the chair of the meeting, whose decision is final. A vote not disallowed pursuant to such an objection is valid for all purposes.

17.11 Proxies

- 17.11.1 An appointment of a proxy is valid if it meets the requirements of the Corporations Act and this Constitution.
- 17.11.2 The instrument appointing a proxy must be in writing signed by the appointer or their representative or their duly authorised attorney.
- 17.11.3 The instrument appointing a proxy must be lodged at the registered office of the Institute or such other place as is specified for that purpose in the notice convening the meeting not less than 48 hours before the proxy purports to vote at any general meeting of the Institute.
- 17.11.4 The instrument appointing a proxy is deemed to confer authority to demand or join in demanding a poll.
- 17.11.5 A Member with voting rights is entitled to instruct their proxy to vote in favour of or against any proposed resolutions. Unless otherwise instructed the proxy may vote as they think fit.
- 17.11.6 The instrument appointing a proxy shall be in the following form or in a common or usual form:

“To: National Ageing Research Institute Limited (“**Institute**”)

I of

 being a member of the Institute appoint
 of
 or
 failing them of
 as
 my proxy to vote on my behalf at the general meeting of the
 Institute to be held on the day of and at any
 adjournment of that meeting.

The proxy is authorised to vote *in favour of/*against the following
 resolutions:

Signed this day of

*Note: If the member desires to vote for or against any resolution
 they may instruct their proxy accordingly. Unless otherwise
 instructed, the proxy may vote as they think fit.*

*Strike out whichever is not desired.”

17.11.7 Unless the Institute has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:

- (a) the appointing Member dies;
- (b) the Member is mentally incapacitated;
- (c) the Member revokes the proxy’s appointment; or
- (d) the Member revokes the authority under which the proxy was appointed by a third party.

17.11.8 The appointment of a proxy or attorney is not revoked by the appointer attending the general meeting, but:

- (a) if the appointer votes on a resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer’s proxy or attorney on that resolution; and
- (b) if the appointer otherwise takes part in the meeting in relation to a resolution the proxy or attorney must not take part in the meeting in relation to that resolution.

PART 5 BOARD OF DIRECTORS

18 STRUCTURE OF BOARD

18.1 The affairs of the Institute shall be managed and governed by a Board of Directors constituted as follows.

- 18.1.1 the Dean of the Faculty of Medicine, Dentistry and Health Sciences of The University of Melbourne (or its successor), or his or her nominee;
 - 18.1.2 the Chief Executive Officer of Melbourne Health (or its successor), or his or her nominee;
 - 18.1.3 the Executive Director of the Institute appointed under clause 23;
 - 18.1.4 three elected directors, who shall be Members, elected pursuant to clauses 19.2 and 19.3;
 - 18.1.5 up to three appointed directors who shall be Members, appointed by the Board; and
 - 18.1.6 up to two appointed directors which the Board may at any time co-opt for a purpose and period.
- 18.2 A director who takes office pursuant to clauses 18.1.1 to 18.1.3 (inclusive) is not required to be a Member while he or she holds office.
- 18.3 Each director who takes office pursuant to clauses 18.1.1 to 18.1.3 (inclusive) may, but only in his or her absence, appoint an alternate to attend and vote at any meeting of the Board in his or her place.
- 18.4 A director who takes office pursuant to clauses 18.1.4 or 18.1.5 (inclusive) must be a Member at all times during the time he or she holds office.
- 18.5 Subject to the Corporations Act and the consent of relevant persons, despite any other provision to the contrary:
- 18.5.1 on incorporation of the Institute, the initial directors will be those named in the ASIC form ; and
 - 18.5.2 the initial directors may make by-laws approved by the Former Institute regarding the deemed transfer of the committee members of the Former Institute to directorship. Such directorships will take effect on the taking over of the assets, liabilities, rights and obligations of the Former Institute.

19 ELECTION AND APPOINTMENT TO THE BOARD

19.1 Qualification of Directors

A person is not eligible to be a Director if that person:

- 19.1.1 is less than 18 years old; or
- 19.1.2 is prohibited or disqualified or otherwise prevented from acting as a director of a company under the Corporations Act.

19.2 Election of Directors

- 19.2.1 Nominations for candidates for election as a director under clause 18.1.4:
 - (a) must be in writing, signed by 2 Members and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and

- (b) must be delivered to the registered office of the Institute or such other address as notified to the Members, not less than 7 days before the date fixed for an annual general meeting.

19.2.2 The candidates nominated will be put to the Members for election as required under clause 19.3.3 and if insufficient nominations are received to fill all vacancies on the Board, further nominations shall be received at the annual general meeting to fill those vacancies.

19.2.3 A retiring director, if offering himself or herself for re-election and not being prevented by this Constitution from holding office as a director unless at the meeting it is expressly resolved not to fill the vacated office.

19.3 Voting for Election of Directors

19.3.1 If only one nomination is received for each vacancy or new position, the candidate nominated is deemed elected.

19.3.2 If the number of nominations exceeds the number of vacancies to be filled, a vote will be held as required under clause 19.3.3.

19.3.3 Subject to the By-Laws, on any vote to elect a director at an annual general meeting:

- (a) the chair presides over the collection of votes;
- (b) all votes must be in the form prescribed by the Board from time to time;
- (c) votes must be tallied in simple form, without taking into account second or subsequent preferences. The candidate with the most votes will be declared elected; and
- (d) if votes are tied, the chair must ask the Members to revote on the tied candidates, and may exercise a casting vote.

19.4 Term of office held by elected or appointed directors

19.4.1 Each director elected pursuant to clause 18.1.4 shall, subject to this Constitution, hold office until the first Board meeting after the annual general meeting 3 years after the date of his or her election and is eligible for re-election.

19.4.2 Each director appointed pursuant to clause 18.1.5 shall hold office for a term not exceeding 3 years, but shall be eligible for re-appointment.

19.5 Removal of Directors and vacation of office

19.5.1 The Members may remove any director from office by resolution in general meeting.

19.5.2 The office of a director will become vacant if the director:

- (a) dies;
- (b) ceases to be a director or is disqualified from being a director pursuant to the Corporations Act;

- (c) 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;
- (d) resigns his or her office by notice in writing to the Institute;
- (e) for more than 6 months is absent without permission of the Board from meetings of the Board held during that period;
- (f) becomes a bankrupt or makes any arrangement or composition with personal creditors generally; or
- (g) ceases to be a Member where membership is a qualification for directorship.

19.6 Power of Board to fill casual vacancies, etc.

- 19.6.1 The Board may appoint a qualified person as a director to fill a casual vacancy. Any director so appointed holds office only until the end of the next following annual general meeting of the Institute but, subject to this Constitution, is eligible for re-election at such meeting.
- 19.6.2 The Board may continue to act notwithstanding a vacancy on the Board, but so that if the number of directors falls below three, then the Board must not, except in the case of emergencies, or for the purpose of filling up vacancies, or convening a general meeting of the Institute, act so long as the number is below the minimum.

19.7 Rotation

The Board must, as far as possible, manage any vacancies on the Board and co-opted appointments under clause 18.1.6 so that in each year:

- 19.7.1 at least one director is elected or re-elected for the purposes of clause 18.1.4; and
- 19.7.2 at least one director is appointed or re-appointed for the purposes of clause 18.1.5.

20 POWERS AND DUTIES OF THE BOARD

20.1 General powers

Subject to this Constitution and the Corporations Act, the Board:

- 20.1.1 may exercise all such powers and functions as may be exercised by the Institute other than those powers and functions that are required by this Constitution to be exercised by general meetings of the Members of the Institute; and
- 20.1.2 has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Institute.

20.2 General duties

Subject to this Constitution and the Corporations Act, each director has an obligation to attend Board meetings regularly and is expected to prepare adequately and participate meaningfully.

20.3 Control and investment of Institute's funds

20.3.1 The Board controls the Institute's funds and manages its financial affairs.

20.3.2 All cheques and other negotiable instruments, and all receipts for money paid to the Institute must be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by any 2 directors or in such other manner as the Board may from time to time determine.

20.4 Borrowing and security

The Board may, at its discretion, exercise all the powers of the Institute to raise or borrow money and to secure its repayment in such manner and on such terms and conditions as it thinks fit, including the issue of bonds, debentures, or other securities charged on all or any part of the undertaking assets or rights of the Institute, including its unpaid subscriptions.

20.5 Liability

Subject to the Corporations Act, directors are not liable by reason only of their directorship to contribute towards the payment of the debts and liabilities of the Institute or the costs, charges and expenses of the winding up of the Institute.

21 OFFICE BEARERS

21.1 The office bearers of the Institute, who shall be Members and directors, shall be:

21.1.1 the President;

21.1.2 the Vice-President;

21.1.3 the Treasurer; and

21.1.4 the Secretary.

21.2 Where there is a vacancy office bearers shall be elected by the Board at the first Board meeting after an annual general meeting.

21.3 Nomination of candidates for election by the Board as office bearer of the Institute must be:

21.3.1 in writing, signed by at least one Member and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and

21.3.2 delivered to the company secretary on or before the date fixed for the first Board meeting after the annual general meeting.

21.4 A nomination of a candidate for election under this clause is not valid if that candidate has been elected to another office for election at the same election.

- 21.5 Each office bearer shall hold office until the first Board meeting after the annual general meeting 3 years after the date of that office bearer's election as an office bearer. At such time, that office bearer is eligible for re-election.
- 21.6 Despite clauses 21.1 to 21.5, the President, Vice-President, Treasurer and Secretary of the Former Institute ("**Former Office Bearers**"), if they become directors of the Institute pursuant to clause 18.5:
- 21.6.1 are deemed to be the office bearers appointed under clauses 21.1.1 to 21.1.4 respectively; and
- 21.6.2 will hold office for a term equal to the balance of the term of office they would have served if clause 20 of the rules of the Former Institute were to apply to the Institute.

22 COMPANY SECRETARY

- 22.1 The Board must appoint one or more company secretaries in accordance with the Corporations Act for such term and on such conditions as the Board determines. The Secretary or the Executive Director may be appointed as the company secretary.
- 22.2 Any company secretary may be removed by the Board at its discretion.
- 22.3 The Board may appoint a person as an acting company secretary or as a temporary substitute for a company secretary, who for the purpose of this Constitution will be deemed to be a company secretary.

23 EXECUTIVE DIRECTOR

- 23.1 The Board may appoint an Executive Director in consultation with The University of Melbourne and Melbourne Health (or their successors).
- 23.2 The Executive Director must, unless the Board otherwise approves, be a Professor or Professor/Director (with the title of "Professor") of The University of Melbourne (or its successor), appointed to that position through the processes of The University of Melbourne.
- 23.3 The Executive Director is responsible to the Board for the day-to-day management of the Institute and the conduct of its research.

24 COMMITTEES

24.1 Committees

- 24.1.1 The Board may delegate any of its powers and/or functions (not being duties imposed on the Board as the directors of the Institute by the Corporations Act or the general law), to one or more committees consisting of such Members of the Institute and/or other persons (at least one of whom must be a member of the Board) as the Board thinks fit.
- 24.1.2 Any committee formed under clause 24.1.1 must conform to any By-Laws or directions that may from time to time be made or given by the Board in relation to such committee. Subject to those By-laws or directions:
- (a) the committee has power to co-opt any Member; and

(b) all members of such committees have one vote.

24.1.3 The President is ex officio a member of each committee formed under clause 24.1.1.

24.2 Regulation of committees

Subject to this Constitution and any By-Laws and directions pursuant to clause 24.1.2, every committee may meet and adjourn as it thinks proper. Questions arising at any meeting must be determined by a majority of votes of the members present, and in the case of an equality of votes the chair has a second or casting vote.

24.3 Executive committee

24.3.1 There shall be an Executive Committee of the Board comprising:

- (a) the office bearers under clause 21; and
- (b) up to two (2) additional directors appointed by the Board on such terms and for such a period as the Board may determine.

24.3.2 The Executive Committee shall exercise such powers and functions as may be delegated to it from time to time by the Board, and shall otherwise act in accordance with and be subject to all directions of the Board.

24.3.3 Unless otherwise resolved by the Board, the Executive Committee shall be entitled to exercise all powers of the Board in respect of the ongoing management and administration of the Institute between the meetings of the Board.

24.3.4 The Board may at any time or from time to time remove any member of the Executive Committee from the Executive Committee (other than the President) and may fill any vacancy (including the President) which occurs among the members of the Executive Committee, from the Board.

24.3.5 A person shall cease to be a member of the Executive Committee if he or she ceases to be a member of the Board, for any reason.

24.3.6 The provisions of clause 26 of this Constitution in respect of proceedings of the Board shall apply as much as is practicable to all proceedings of the Executive Committee (unless the context otherwise requires).

25 BY-LAWS

25.1 The Board may from time to time make, amend and repeal all such By-Laws as it deems necessary or desirable for the proper conduct and management of the Institute, the regulation of its affairs and the furtherance of its objects.

25.2 Without in any way limiting the power of the Board under clause 25.1, the Board may make, amend and repeal By-Laws in relation to:

- (a) procedural matters in relation to application for all classes of membership of the Institute;

- (b) entrance fees, annual subscriptions and other fees payable by all classes of membership of the Institute;
 - (c) rights and privileges to be accorded to all classes of membership of the Institute;
 - (d) the nomination and election of directors of the Institute;
 - (e) the conduct of postal ballots of Members of the Institute; and
 - (f) the membership, purpose and proceedings of sub-committees of the Institute.
- 25.3 A By-Law must not be inconsistent with, nor may it affect the repeal or modification of, anything contained in this Constitution.
- 25.4 All By-Laws are binding upon all Members. A record of all By-Laws must be kept in such place as the Board appoints for that purpose.

PART 6 BOARD MEETINGS

26 PROCEEDINGS OF THE BOARD

26.1 Regulating meetings

Subject to this clause 26, the Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit:

26.2 Scheduled meetings

The Board must meet at least 3 times in each year at such place and such times as determined by the Board.

26.3 Convening a meeting

26.3.1 The Board must convene at the request of the President or any 4 directors.

26.3.2 Written notice of each Board meeting must be given to each director by delivering it, or by sending it by post, facsimile or email (if requested by the director) addressed to his or her usual or last known postal address or facsimile or email contact at least 2 business days before the date of the meeting.

26.3.3 If a director cannot attend a Board meeting he or she shall advise the Board in advance of the meeting and give a reason for non-attendance.

26.4 Urgent meetings

In cases of urgency a meeting may be held without the notice required under clause 26.3, provided that:

26.4.1 as much notice as practicable is given by whatever means will reach each director as soon as possible; and

26.4.2 no resolution may be passed at the meeting except by an Absolute Majority.

The business transacted at the Board meeting must be only that listed on the notice, however the chair of the meeting may allow other business deemed urgent to be transacted.

26.5 Quorum

26.5.1 The quorum for a Board meeting is 5 directors. Business must not be transacted unless a quorum is present at a Board meeting.

26.5.2 If a quorum is not present within half an hour of the time appointed for the meeting the Board meeting shall stand adjourned to the same place and at the same hour of the same day in the following week. However, a special meeting or urgent meeting lapses.

26.6 Chair

The President, or in the President's absence the Vice-President, is entitled to chair Board meetings, but if:

26.6.1 no President or Vice-President has been appointed; or

26.6.2 at any meeting the President or Vice-President is not present within 10 minutes after the time appointed for holding the meeting; or

26.6.3 the President and Vice-President are unable or unwilling to act,

26.6.4 the directors present may choose one of their number to chair the Board meeting.

26.7 Conflicts

Any director who is in any way, directly or indirectly, interested in any contract or arrangement or proposed contract or arrangement with the Institute must declare the nature of such interest prior to the consideration of such matter and:

26.7.1 must not be present while the matter is being considered; or

26.7.2 vote on the matter.

If the director becomes interested in a contract or arrangement after it is made or entered into, he or she shall disclose his or her interest at the first meeting of the Board after he or she becomes so interested.

26.8 Acts of Board or committees valid notwithstanding defective appointment etc.

All acts done at any Board meeting or any meeting of a committee of directors or by any person acting as a director is notwithstanding that it is afterwards discovered that there was some defect in the appointment of any director or person acting as director, or that they or any of them were disqualified, as valid as if every such person had been duly appointed and was qualified to be a director.

27 VOTING AT BOARD MEETINGS

27.1 Subject to this Constitution questions arising at any meeting of the Board must be decided by a majority of votes and a determination by a majority of the directors present for all purposes is deemed a determination of the directors.

- 27.2 Where something is to be determined or voted on by the Board each director has one vote.
- 27.3 Questions arising at a meeting of the Board must be determined on a show of hands or, if demanded by a director, by a poll taken in such manner as the person presiding at the meeting determines.
- 27.4 Unless otherwise expressly provided in this Constitution, there is no voting by proxy or by post at Board meetings.
- 27.5 In case of an equality of votes the chair of the meeting (as determined in accordance with this clause 27) has a second or casting vote.

28 CIRCULATORY RESOLUTIONS AND TELEPHONE MEETINGS

- 28.1 A resolution in writing signed by all of the directors for the time being entitled to receive notice of meetings of the Board is as valid and effectual as if it had been passed at a meeting of the directors duly convened and held provided that:
- 28.1.1 the directors signing the resolution would constitute a quorum; and
- 28.1.2 the directors would have power to pass such resolution at a meeting of the Board.
- 28.2 For the purposes of clause 28.1:
- 28.2.1 a resolution may consist of several documents in similar form each signed by one or more directors; and
- 28.2.2 any such document sent by a director by facsimile transmission, or other means of communication approved by the directors, is deemed to have been signed by such director.
- 28.3 Meetings of the Board may be held at more than one place provided that the technology that is used enables each member present at all places the meeting is held to clearly and simultaneously communicate with every other such member.
- 28.4 For the purposes of this Constitution, the contemporaneous linking together by telephone of a number of the directors not less than a quorum is deemed to constitute a meeting of the directors. The provisions in this Constitution relating to meetings of the Board apply to such a meeting while the following conditions are met:
- 28.4.1 all the directors for the time being entitled to receive notice of a meeting of the directors are entitled to notice of a meeting by telephone and to be linked by telephone for the purposes of such meeting;
- 28.4.2 notice of any such meeting may be given by telephone;
- 28.4.3 each of the directors taking part in the meeting by telephone must be able to hear each of the other directors taking part in the meeting; and
- 28.4.4 at the commencement of the meeting each director must acknowledge his or her presence for the purpose of a meeting of the directors of the Institute to all the other directors taking part.
- 28.5 A Board meeting held using a form of technology in accordance with clause 28.4 is deemed to have been held at the place determined by the chair of that meeting,

provided that at least one of the directors who took part in the meeting was at that place for the duration of the meeting.

PART 7 FINANCIAL AND LEGAL

29 AMENDMENT

No modification or repeal of this Constitution or any provision of this Constitution will be effective unless it is passed as a special resolution in accordance with the Corporations Act.

30 ACCOUNTS AND AUDIT

30.1 The Board must, in accordance with the requirements of the Corporations Act:

30.1.1 cause proper accounting and other records to be kept, and

30.1.2 cause to be made out and laid before each annual general meeting of the Institute a balance sheet and profit and loss account made up to a date not more than five months before the date of the meeting, or such other date as may from time to time be prescribed by the Corporations Act.

30.2 Subject to any reasonable restrictions as to time and manner of inspection, the accounts of the Institute may be inspected by the Members (on such conditions as the Institute may impose).

30.3 A properly qualified auditor or auditors must be appointed and his or their duties regulated in accordance with the requirements of the Corporations Act.

30.4 Unless otherwise determined by the Board, the Institute's financial year is from 1 July to 30 June.

31 MINUTES OF PROCEEDINGS

31.1 The Board must cause minutes of the resolutions and proceedings of each general meeting, and Board meeting and each committee meeting to be kept in books provided for that purpose and must be signed by the chair of the meeting at which the proceedings took place, or the chair of the next succeeding meeting.

31.2 Where minutes have been so entered and signed then, unless the contrary is proved:

31.2.1 the meeting are deemed to have been duly convened and held;

31.2.2 all proceedings that are recorded in the minutes as having taken place at the meeting is deemed to have duly taken place; and

31.2.3 all appointments of officers or auditors that are recorded in the minutes as having been made at the meeting is deemed to have been validly made.

32 COMMON SEAL

32.1 The Board will determine whether or not the Institute is to have a common seal and, if so, will provide for the safe custody of such seal.

- 32.2 The common seal, if any, of Institute must not be affixed to any instrument except by the authority of the Board and the affixing of the common seal must be attested by the signatures of two members of the Board.

33 OFFICERS INDEMNITY

- 33.1 To the Relevant Extent and subject to the Corporations Act, the Institute indemnifies every person who is or has been an Officer out of the assets of the Institute against:
- 33.1.1 any Liability incurred by the Officer in or arising out of the conduct of the affairs or business of the Institute, or in or arising out of the discharge of the duties of the Officer, unless such Liability arises out of conduct involving a lack of good faith; and
- 33.1.2 for costs and expenses incurred by the person:
- (a) in defending Proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (b) in connection with an application, in relation to such Proceedings, in which the Court grants relief to the person under the Act or the Corporations Act.
- 33.2 Without limiting the effect of the foregoing, the Institute may execute and deliver any deed, agreement or other document in favour of any Officer or former Officer to whom this clause 33 applies, confirming the indemnities contained in this clause 33, in relation to that person. (Clause 33.1 applies whether or not any such deed, agreement or other document is given.)

34 INSURANCE

To the extent permitted by law, the Institute must enter into and maintain (including, without limitation, by paying all premiums) a contract with a reputable insurance company insuring a person who is or has been an Officer against a Liability:

- 34.1 incurred by the person in his or her capacity as an Officer, or in the course of acting in connection with the affairs of the Institute, or otherwise arising out of the Officer's holding such office, which does not arise out of conduct involving a wilful breach of duty in relation to the Institute or a contravention of the Act or sections 182 or 183 of the Corporations Act; and
- 34.2 for costs and expenses incurred by that person in defending proceedings, whatever their outcome.

35 NOTICES

- 35.1 A notice may be given by the Institute to any Member personally, by post to the Member's address as set out in the Register, or to such facsimile number or e-mail or other electronic address as the Member may have supplied the Institute for the giving of notices. The fact that a Member has supplied a fax number or e-mail or other electronic address for the giving of notices does not require the Institute to give any notice to that Member by that electronic means.
- 35.2 In the case of a Member who has not supplied the Institute with a postal address within the Commonwealth of Australia, the Institute may give notice to that Member by sending it by air mail to the address outside Australia (if any) advised by the Member.

- 35.3 A notice or other document given by the Institute will be deemed to have been served on a Member:
- 35.3.1 in the case of a notice sent by post (including by air mail pursuant to clause 35.2), at the expiration of 24 hours after the envelope or wrapper containing the same is posted. In proving such service it is sufficient to prove that the envelope or wrapper containing the notice or document was addressed and put in the post office or a post office letter box;
- 35.3.2 in the case of a notice sent by fax, e-mail or other electronic means, on the business day next following the day on which it is sent.
- 35.4 Notice of every general meeting of the Institute must be given in the manner set out in this clause 35 to:
- 35.4.1 every Member except those Members who (having no registered address within the Commonwealth of Australia) have not provided to the Institute an address outside Australia for the giving of notices; and
- 35.4.2 the auditor for the time being of the Institute.

PART 8 GENERAL

36 INTERPRETATION

36.1 Interpretation rules

Unless the contrary intention appears in this Constitution:

- 36.1.1 words importing the singular include the plural, and words importing the plural include the singular;
- 36.1.2 words importing a gender include every other gender;
- 36.1.3 words used to denote persons generally or importing a natural person include any company, corporation, body corporate or other body, group or organisation (whether or not the body is incorporated),
- 36.1.4 a reference to a person includes that person's successors, legal personal representatives and permitted transferees;
- 36.1.5 a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- 36.1.6 where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- 36.1.7 headings and boldings are for convenience only and do not affect its interpretation;
- 36.1.8 a Member is to be taken to be present at a general meeting if the Member is present in person or by proxy, attorney or representative; and

- 36.1.9 a reference to an authority, institution, association or body (“**original entity**”) that has ceased to exist, been reconstituted, renamed or replaced or whose powers or functions have been transferred to another entity, is a reference to the entity that most closely serves the purposes or objects of the original entity.

36.2 Application of the Corporations Act

- 36.2.1 This Constitution is to be interpreted subject to the Corporations Act. However, the rules that apply as replaceable rules to companies under the Corporations Act do not apply to the Institute.
- 36.2.2 Unless the contrary intention appears, a word or expression in a clause that is defined in section 9 of the Corporations Act has the same meaning in this Constitution as in that section.

37 DEFINITIONS

In this Constitution:

- 37.1 “**Absolute Majority**” means a majority of the votes of all members of the Board entitled to vote at the time, whether or not those directors are present, and whether or not they vote.
- 37.2 “**Annual Subscription**” means the annual amount determined by the Board in accordance with clause 12.1 (if any).
- 37.3 “**Approved Research Institute**” means a fund, authority or institution which is which is an approved research institute for the purposes of the table to section 30-40(1) of the ITAA 1997 and section 73A of the ITAA 1936.
- 37.4 “**Australian Taxation Office**” means the office by that name on behalf of a Commissioner of Taxation or delegate under the ITAA 1997.
- 37.5 “**Board**” means the board of directors of the Institute for the purposes of the Corporations Act being the whole or any number (not being less than a quorum) of the board of the Institute for the time being acting as such in accordance with this Constitution.
- 37.6 “**By-Law**” means a by-law made under clause 25.
- 37.7 “**Constitution**” means this constitution as for the time being in force, and where the context permits, includes any By-Laws made under this Constitution and in force from time to time.
- 37.8 “**Corporations Act**” means the *Corporations Act 2001* (Cth).
- 37.9 “**Entrance Fee**” means the amount determined by the Board in accordance with clause 12.1 (if any).
- 37.10 “**Former Institute**” means the National Ageing Research Institute Incorporated (a Victorian incorporated association under the *Associations Incorporation Act 1981* (Vic)).
- 37.11 “**Gift Fund**” means a fund created in accordance with clause 8.2.2.
- 37.12 “**Institute**” means the company established or continued in existence under this Constitution.

- 37.13 “**ITAA 1936**” means the *Income Tax Assessment Act 1936* (Cth).
- 37.14 “**ITAA 1997**” means the *Income Tax Assessment Act 1997* (Cth).
- 37.15 “**Liability**” includes costs, charges, losses, damages, expenses and penalties.
- 37.16 “**Life Member**” means a Member who has been elected pursuant to clause 11.6.2.
- 37.17 “**Member**” means a member for the time being of the Institute appearing as such in the Register of members.
- 37.18 “**Officer**” means:
- 37.18.1 a member of the Board;
 - 37.18.2 a person appointed to a committee established by the Board in accordance with this Constitution; or
 - 37.18.3 a person appointed a trustee by, or acting as trustee at the express request of the Institute.
- 37.19 “**Proceedings**” means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act, matter or thing in his or her capacity as such an Officer, or in the course of acting in connection with the affairs of the Institute, or otherwise arising out of the Officer’s holding such office (including proceedings alleging that he or she was guilty of negligence, default, breach of trust, or breach of duty in relation to the Institute).
- 37.20 “**Register**” means the register of Members of the Institute.
- 37.21 “**To the Relevant Extent**” means:
- 37.21.1 to the extent the Institute is not precluded by law from doing so; and
 - 37.21.2 to the extent, and for the amount that the Officer is not otherwise entitled, to be indemnified and is not otherwise actually indemnified.