

**CONSTITUTION**

**OF**

**AUSTRALASIAN INSTITUTE FOR  
RESTORATIVE REPRODUCTIVE MEDICINE  
(AIRRM )**

**Australian Business Number 61624321240**

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# **Constitution of Australasian Institute for Restorative Reproductive Medicine (AIRRM)**

**ABN [61624321240]**

## **1. Name of the Company**

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The name of the company is Australasian Institute for Restorative Reproductive Medicine

## **2. Type of company**

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The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity and the liability of Members is limited as provided in this document.

## **3. Objects of the Company**

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The Company is established to be a charity whose purpose is to promote health, and to advance health and education by pursuing the following Objects of the Company:-

- Assist women and men to understand their fertility, and to investigate where necessary, and restore where possible, their health, fertility and reproductive capacity
- Provide education and training for doctors, allied health professionals and Members, in fertility awareness, infertility and restorative reproductive medicine
- Be a source of information and education to the public regarding fertility awareness, infertility and restorative reproductive medicine
- In conformity with The Code of Ethics, participate in, support, and encourage research in the area of reproductive health, and disseminate results of such research

## **4. Not for profit nature**

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### **4.1 Company income and assets not to be distributed to Members**

The assets and income of the Company shall be applied solely to further its Objects and no portion shall be distributed directly or indirectly to the Members or Directors or other office bearers of the Company except as reimbursement of out-of-pocket expenses incurred on behalf of the Company or proper remuneration for administrative services, or except as provided in Clause 4.2 (b) or (d).

### **4.2 No payment of fees to Directors**

- (a) Subject to paragraphs (b) and (d), the Company must not pay fees to a Director for acting as a Director.
- (b) With the approval of the Board the Company may pay to a Director:
  - i. reasonable expenses (including travelling and accommodation) properly incurred in carrying out duties as a Director; and

- ii. reasonable remuneration for any service rendered by the Director, other than as a Director, if the amount paid is no more than a reasonable fee for the work done.
- (c) For the purposes of paragraph (b) a payment is reasonable if it is no more favourable to the payee than terms achievable by the Company if it had been dealing at arm's length with a party of no greater bargaining power than itself.
- (d) The Company may pay premiums for insurance indemnifying directors and officers, as allowed for by law (including the Corporations Act) and this Constitution.

## **5. Code of Ethics**

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- (a) The Code of Ethics is a code that all Directors and all Members will subscribe and adhere to.

## **6. Policies**

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Policies in keeping with the Code of Ethics may be formulated by the directors from time to time. All Directors and all Members will subscribe and adhere to these policies.

## **7. Amendment of this Constitution or to the Code of Ethics**

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- (a) Subject to paragraph (b) and (c), the Members may amend this Constitution or Code of Ethics by passing a Special Resolution.
- (b) The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to no longer be a charity.
- (c) The Constitution must not be amended if it has the effect of being inconsistent with the Objects.
- (d) Any Special Resolution to amend the Constitution or Code of Ethics is to be done at the next AGM, or at a Special General Meeting.
- (e) There needs to be at least a 30 day notice for a Special Resolution to change the Constitution or the Code of Ethics.
- (f) There needs to be a 2/3 majority vote of the current membership to change the Constitution or the Code of Ethics.

## **8. Liability of Members**

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- (a) The liability of Members is limited.
- (b) If the Company is wound up, each Member of the Company undertakes to contribute to the assets of the Company up to an amount not exceeding ten dollars for payment of the debts and liabilities of the Company including the costs of winding up. This undertaking continues for one year after a person ceases to be a Member.

## **9. Membership**

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## **9.1 Members of the Company**

The Company will comprise the following Members:

- (a) The Directors;
- (b) Members appointed by AIRRM BOD in accordance with Clause 9.2
- (c) Members admitted by the AIRRM in accordance with Clause 9.3; and
- (d) Associates approved in accordance with Clause 9.4

## **9.2 Members appointed by AIRRM**

- (a) The AIRRM Board of Directors may from time to time appoint any person to be a Member of the Company by sending:

- i. notice of such appointment; and
- ii. the written consent of that person to be bound by this Constitution and Code of Ethics to the Secretary of AIRRM.

A person appointed to be a Member under this Clause 9.2 becomes a Member on the date of receipt by the Secretary of the documents described in paragraph (a).

- (b) On receipt of the documents described in paragraph (a) the Secretary must enter the appointed person's name on the register of members of the Company and write to the new Member to inform them of the date that their membership started.

## **9.3 Persons who apply to be Members**

- (a) A person can apply to become a Member of AIRRM if the person applies to be a Member in the form prescribed by the Directors from time to time and also consents in writing to be bound by this Constitution, and the Code of Ethics of AIRRM, and pays the relevant membership fee if applicable.
- (b) The Directors can approve the applicant as an Associate prior to ratification or otherwise at the next general meeting.
- (c) The Directors may refuse to approve any applicant as a Member who applies to be a Member under paragraph (a). If the Directors refuse to admit a person as a Member, the Directors are not obliged to give reasons for so refusing.
- (d) The Members must consider an application for Membership under paragraph (a) at the commencement of the next general meeting of the AIRRM after the receipt of the application for Membership.
- (e) An applicant who is admitted to Membership under this Clause 9.3 must be given written notice of his or her date of acceptance as a Member by the Secretary.

#### **9.4 Persons or entities who apply to be Associates**

- (a) A person or entity can apply to become an Associate of AIRRM if the applicant applies to be in the form prescribed by the Directors from time to time and also consents in writing to be bound by this Constitution, and pay the relevant membership fee if applicable, but is not bound by the Code of Ethics of AIRRM.
- (b) The Directors must consider an application for Associateship under paragraph (a) at the next Directors' meeting of the AIRRM after the receipt of the application for Associateship.
- (c) The Directors may refuse to approve any applicant as an Associate who applies to be an Associate under paragraph (a). If the Directors refuse to approve an applicant as an Associate, the Directors are not obliged to give reasons for so refusing.
- (d) An applicant who is admitted to Associateship under this Clause 9.4 must be given written notice of his or her date of acceptance as an Associate by the Secretary.
- (e) An Associate has no voting rights.

### **10. Cessation of Membership**

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#### **10.1 Cessation**

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

- (a) becomes bankrupt or makes any arrangement with his or her creditors generally;
- (b) becomes mentally incapable or the Member's estate is liable to be dealt with in any way under the law relating to mental health;
- (c) resigns that Membership;
- (d) dies;
- (e) is convicted of a criminal offence; or
- (f) is removed from the Company under this Constitution.

#### **10.2 Resignation**

A Member may resign that Membership by first giving notice in writing of such resignation to the Secretary.

#### **10.3 Removal**

- (a) A Member:
  - i. who is appointed in accordance with Clause 9.2 may be removed by AIRRM by notice in writing by the Secretary; and
  - ii. who is accepted in accordance with clause 9.3 may be removed by a Special Resolution of the Members.

- (b) An Associate who is accepted in accordance with clause 9.4 may be removed by a Special Resolution of the Members

## **11. Appointment of Expert Advisors**

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### **11.1 The Directors may appoint any number of persons with expertise in specialised areas at the Directors' discretion to be known as 'Expert Advisor'.**

- (a) An Expert Advisor need not be a Member of AIRRM;
- (b) The Directors should appoint at least one Ethicist as an Expert Advisor/s;
- (c) Each Expert Advisor appointment will be reviewed after a maximum of a three (3) year period, but their appointment may be terminated at any time at the discretion of the Board of Directors.

## **12. Meetings of Members**

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### **12.1 Annual general meetings**

The Company must hold an annual general meeting in accordance with the provisions of the Corporations Act. All meetings other than an annual general meeting shall be called general meetings.

### **12.2 Requisition of meetings**

Any Members (at least 25%) acting in concert may whenever they think fit requisition a general meeting, and a general meeting will be convened by the Directors on such requisition, or in default may be convened by the requisitionists in the manner provided in the Corporations Act.

### **12.3 Notice of meeting**

Every notice of a general meeting must:

- (a) be sent out to members 30 days in advance of meeting date, and set out the place, date and time of meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this); and
- (b) in the case of special business, state the general nature of the business.
- (c) if a Special Resolution is to be proposed, set out an intention to propose the Special Resolution and state the resolution; and
- (d) contain a statement setting out the following in relation to proxy voting:
  - i. that the Member has a right to appoint a proxy; and

- ii. that a proxy does not need to be a Member, but requires the prior approval of the Board of Directors.

#### **12.4 Entitlement to notice**

Notice of a general meeting must be given to:

- (a) each Member who is entitled to receive notice under this Constitution;
- (b) the auditor or auditors (if any) for the time being of the Company; and
- (c) each Director.
- (d) observers invited at the discretion of the Board for that particular meeting
- (e) No other person is entitled to receive a notice of general meeting.

#### **12.5 Notice period**

Notice of a general meeting must be given in accordance with the Act. Any general meeting may be called on short notice in accordance with the Act and all provisions of this Constitution are modified accordingly.

#### **12.6 Proxy voting by Members**

- (a) A Member may appoint a proxy to attend and vote at any meeting at which the Member is entitled to attend and vote. Any person may be appointed as a proxy. To be valid, a proxy appointment must be in writing, signed by the Member and delivered to the Registered Office or such other place specified in the notice convening the meeting, at least 48 hours before the scheduled commencement of the meeting or adjourned meeting or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll. A proxy appointment may be delivered by facsimile or email communication.
- (b) A proxy appointment confers authority on the proxy to demand or join in demanding a poll and to vote as the proxy thinks fit on the election of the chair of the meeting, an adjournment of the meeting and similar procedural matters. An instrument of proxy does not confer authority on the proxy to vote on any resolution not listed for consideration in the notice calling the meeting. Unless a Member instructs the proxy to vote in favour of or against a proposed resolution, the proxy shall not be entitled to vote on the resolution. A Member may instruct the proxy to abstain from voting on any resolution.
- (c) The instrument appointing a proxy may be in the following form or in a common or usual form:



“I \_\_\_\_\_ of \_\_\_\_\_, a Member of AIRRM LIMITED hereby appoint \_\_\_\_\_ of \_\_\_\_\_ as my proxy to vote for me on my behalf at the (annual or general, as the case may be) meeting of the Company, to be held on ..... and at any adjournment thereof. My proxy is hereby authorised to vote \*in favour of/ \*against the following resolutions:

.....  
.....

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

\* Strike out whichever is not desired

*Note: A Member must instruct the proxy to vote in favour of or against any resolution listed for consideration in the notice calling the meeting. Unless so instructed, the proxy will not be entitled to vote. A Member may instruct the proxy to abstain from voting on any proposed resolution. “*

**12.7 Validity of proxy**

A vote given in accordance with a proxy appointment is valid despite revocation of the proxy appointment, or the death or unsoundness of mind of the Member who appointed the proxy, provided that the Company did not receive notice in writing at the Registered Office of such revocation, death or unsoundness of mind prior to the commencement of the meeting or adjourned meeting at which the proxy appointment is used.

**12.8 Omission to give notice**

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

**12.9 Cancellation or postponement of meeting**

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

**12.10 Notice of cancellation or postponement**

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

**13. Proceedings at Meetings of Members**

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**13.1 Quorum**

No business may be transacted at any meeting of Members unless a quorum of Members is present at the time when the meeting proceeds to and concludes business. Except as otherwise provided in this Constitution, a quorum is constituted by a majority of the Directors in office from time to time, and 25% of the membership including Proxy Votes.

**13.2 Failure of quorum**

If a quorum is not present within 30 minutes from the time appointed for a general meeting:

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

If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Members present constitute a quorum.

### **13.3 Annual general meeting**

- (a) A general meeting, called the annual general meeting, must be held:
  - i. within 18 months after registration of the Company, and
  - ii. after the first annual general meeting, at least once in every calendar year.
- (b) Even if these items are not set out in the notice of meeting, the business of an annual general meeting may include:
  - i. a review of the Company's activities;
  - ii. a review of the Company's finances;
  - iii. any auditor's report; and
  - iv. the appointment and payment of auditors, if any.
- (c) Before or at the annual general meeting, the Directors must give information to the Members on the Company's activities and finances during the period since the last annual general meeting.
- (d) The chair of the annual general meeting must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

### **13.4 Chair of meeting**

The Chair is entitled to take the chair at each meeting. If the Chair is not present at any general meeting within 30 minutes after the time appointed for holding the meeting, or is not willing to take the chair, the Members present must elect a person who is a Member to be chair of the meeting.

### **13.5 Adjournment of meeting**

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

### **13.6 Business at adjourned meeting**

No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of an adjournment, or of the business to be transacted at an adjourned meeting. However if any meeting is adjourned for 30 business days or more, notice of the adjourned meeting must be given.

### **13.7 Using technology to hold meetings**

- (a) The Company may hold a general meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate, including to hear and be heard.
- (b) Anyone using this technology is taken to be present in person at the meeting.

### **13.8 Circular resolution of Members**

If a majority of Members (or, in the case of a Special Resolution, 75% of the Members) have signed a document containing a statement that they are in favour of a resolution of the Members in terms set out in the document, a resolution in those terms is treated as having been passed at a meeting of the Members held on the day on which the document was signed. If the Members sign the documents on different days, then a resolution is treated as having been passed on the day on which the document was last signed by a Member thereby constituting a majority in number (or 75% in the case of a Special Resolution) of the Members. A resolution is not treated as passed on that day if the document, by its terms, is said to take effect from an earlier date.

### **13.9 Signing of circular resolution**

For the purposes of the preceding clause:

- (a) each Member, other than one not entitled to vote on the resolution, may sign the document; and
- (b) 2 or more separate documents containing statements in identical terms, each of which is signed by one or more Members, are together treated as constituting one document containing a statement in those terms signed by those Members on the respective days on which they signed the separate documents.

### **13.10 Deemed minute**

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

## **14. Voting at meetings of Members**

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### **14.1 Entitlement to vote**

Subject to this Constitution, each natural person who is present at a meeting may vote if he or she is a Member or a proxy of a Member.

### **14.2 Number of votes**

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

- (a) on a show of hands only one vote; and
- (b) on a poll, one vote for each proxy held in addition to the Member's entitlement to one vote.

### **14.3 Method of voting**

Every resolution put to a vote at a meeting must be determined by a show of hands (as determined by the chair of the meeting) unless a poll is properly demanded either before or on the declaration of the result of the show of hands.

#### **14.4 Demand for poll**

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

- (a) the chair of the meeting; or
- (b) at least 3 Members present in person or by proxy.

#### **14.5 Declaring result of vote on show of hands**

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

- (a) a declaration by the chair of the meeting that a resolution has been carried, or carried unanimously, or carried by a particular majority, or lost, or has not been carried by a particular majority; and
- (b) an entry made in the book containing the minutes of proceedings of the Company,
- (c) is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

#### **14.6 Conduct of poll**

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

## **15. Board**

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### **15.1 Composition of the Board**

- (a) Subject to paragraph (b), the Board comprises:
  - i. the General President for the time being of AIRRM; and
  - ii. up to eight other Directors.
- (b) The Initial Directors are the nine people who have agreed to act as Directors and were nominated by the National Fertility Conference Committee of 2017, and who are named as proposed Directors in the application for registration of the Company (who include the General President AIRRM at the date of registration of the Company).
- (c) The Directors will comprise at least one practicing educator from each FABM (Billings Ovulation, Creighton, and Sympto - Thermal Methods) where possible, such that:
  - (i) Members from one single method will not exceed 50% of the total board number.

AIRRM will ask the Board from each of the above methods to nominate 2-3 of their members to be considered for a position on the Board of AIRRM at the necessary time.

And;

- (d) will include at least one primary care medical practitioner who is actively practicing in restorative reproductive medicine.

And;

- (e) will include at least one specialist obstetrician and gynaecologist who is actively practicing in restorative reproductive medicine.
- (f) Apart from the Initial Directors and Directors appointed under paragraphs (j) and (k), the Members may elect a Director by a resolution passed in a general meeting but so that there are not more than a total of nine Directors at any time.
- (g) In electing a Director pursuant to paragraph (f), Members must have regard to the requirements of the Department and the Australian Taxation Office about the qualifications and standing of the majority of the directors or administrators of any institutions and public funds registered on the Register of Charitable Organisations.
- (h) Each Director elected under paragraph (f) must be elected by a separate resolution, unless:
  - i. the Members present have first passed a resolution that the appointments may be voted on together; and
  - ii. no votes were cast against that resolution.
- (i) A person is eligible for election as a Director under paragraph (f) if they
  - i. are a Member
  - ii. are nominated by two Members or representatives of Members entitled to vote;
  - iii. give the Company their signed consent to act as a Director; and
  - iv. are not ineligible to be a director under the Corporations Act or the ACNC Act.
- (j) The Directors may appoint a person as a Director to fill a casual vacancy or as an additional Director if that person:
  - i. gives the Company their signed consent to act as a Director, and
  - ii. is not ineligible to be a director under the Corporations Act or the ACNC Act.
- (k) If the number of Directors is reduced to fewer than three or is less than the number required for a quorum, the continuing Directors may act for the purpose of increasing the number of Directors to three (or higher if required for a quorum) or calling a general meeting, but for no other purpose.
- (l) In appointing any person as a Director under paragraph (j) or (k), Directors must have regard to the requirements of the Department and the Australian Taxation Office about the qualifications and standing of the majority of the directors or administrators of any institutions and public funds registered on the Register of Charitable Organisations.

## **15.2 Chair of the Board**

The Chair of the Board shall be the General President for the time being of AIRRM or another Director nominated by her or him.

## **15.3 Term of office of Directors**

- (a) The term of the person who is Director under Clause 15.1(a)(i) – The General President (including such a Director who is an Initial Director) shall retire at or before the third annual general meeting that takes place after the date of registration of the Company as General President. The General President may serve as a Director for a total of six(6) years including his maximal term of three (3) years of General President.
- (b) Each Director (other than the General President of AIRRM) shall retire at or before the sixth annual general meeting that takes place after the date of their appointment.
- (c) Beginning with the sixth annual general meeting after the date of registration of the Company, a Director elected under Clause 15.1(c) and (d) and (e) must retire from office at the conclusion of every sixth annual general meeting after their election.
- (d) At each annual general meeting, any Director appointed by the Directors under Clause 15.1(j) or (k) must retire.
- (e) Other than Directors who are ex-officio Directors or appointed under Clause 15.1(j) or (k), a Director's term of office ends at the end of the annual general meeting at which they retire (unless they are re-elected at that annual general meeting) and (except for Initial Directors) starts at the end of the annual general meeting at which they are elected.
- (f) A Director who retires under paragraph (a), (b) or (c) may nominate for election or re-election at that, or any subsequent, annual general meeting, subject to paragraph (g) and the other provisions of this Constitution and the Corporations Act.
- (g) A Director who has held office for a continuous period of twelve years or more may only be re-appointed or re-elected by a Special Resolution

## **15.4 When a Director stops being a Director**

A Director stops being a Director if they:

- (a) give written notice of resignation as a Director to the Company;
- (b) die;
- (c) are removed as a Director by a resolution of the Members; or
- (d) become ineligible to be a director of the Company under the Corporations Act or the ACNC Act.

## **16. Powers and Duties of the Board**

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## **16.1 Powers of directors**

- (a) The Directors are responsible for managing and directing the activities of the Company to achieve the Objects.
- (b) The Directors may use all the powers of the Company except for powers that, under the Company or this Constitution, may only be used by Members.
- (c) The Directors must decide on the responsible financial management of the Company , including:
  - i. any suitable written delegations of power under Clause 16.2 , and
  - ii. how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- (d) The Directors cannot remove a Director or auditor. Directors and auditors may only be removed by a Members' resolution at a general meeting.

## **16.2 Delegation of Directors' powers**

- (a) The Directors may delegate any of their powers and functions to a committee, a Director, an employee of the Company (such as a chief executive officer) or any other person, as they consider appropriate.
- (b) The delegation must be recorded in the Company's minute book.

## **16.3 Execution of documents**

The Company may execute a document if the document is signed by:

- (a) two Directors; or
- (b) a Director and the Secretary.

## **16.4 Duties of Directors**

The Directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the Company
- (b) to act in good faith in the best interests of the Company and to further the charitable Objects of the Company set out in Clause 3;
- (c) not to misuse their position as a Director;
- (d) not to misuse information they gain in their role as a Director;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in Clause 16.5;
- (f) to ensure that the financial affairs of the Company are managed responsibly, and

- (g) not to allow the Company to operate while it is insolvent.

## **16.5 Conflicts of interest**

- (a) A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):
  - i. to the other Directors, or
  - ii. if all of the Directors have the same conflict of interest, to the Members at the next general meeting, or at an earlier time if reasonable to do so.
- (b) The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.
- (c) Each Director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under paragraph (d):
  - i. be present at the meeting while the matter is being discussed; or
  - ii. vote on the matter.
- (d) A Director may still be present and vote if:
  - i. their interest arises because they are a Member, and the other Members have the same interest;
  - ii. their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a director of the Company (see Clause 24.2);
  - iii. their interest relates to a payment by the Company under Clause 24.1 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act;
  - iv. the Australian Securities and Investments Commission (ASIC) makes an order allowing the Director to vote on the matter, or
  - v. the Directors who do not have a material personal interest in the matter pass a resolution that:
    - (A) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company; and
    - (B) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

## **17. Board meetings**

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### **17.1 When the Board meets**

The Directors may decide how often, where and when they meet.



## **17.2 Calling Board meetings**

- (a) A Director may call a Board meeting by giving reasonable notice to all of the other Directors.
- (b) A Director may give notice in writing or by any other means of communication that has previously been agreed to by all of the Directors.

## **17.3 Chair for Board meetings**

- (a) The Chair of the Board is entitled to chair Board meetings.
- (b) The Directors at a Board meeting may choose another Director to be the chair for that meeting if:
  - i. the Chair is not present within 30 minutes after the starting time set for the meeting, or
  - ii. is present but does not want to act as chair of the meeting.

## **17.4 Quorum at Board meetings**

- (a) Unless the Directors determine otherwise, the quorum for a Board meeting is a majority (more than 50%) of Directors.
- (b) A quorum must be present for the whole Board meeting.

## **17.5 Using technology to hold Board meetings**

- (a) The Directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the Directors.
- (b) The Directors' agreement may be a standing (ongoing) one.
- (c) A Director may only withdraw their consent within a reasonable period before the meeting.

## **17.6 Passing directors' resolutions**

A Directors' resolution must be passed by a majority of the votes cast by Directors present and entitled to vote on the resolution.

## **17.7 Circular resolutions of directors**

- (a) The Directors may pass a circular resolution without a Directors' meeting being held.
- (b) A circular resolution is passed if all the Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in paragraph (c) or (d).
- (c) Each Director may sign:
  - i. a single document setting out the resolution and containing a statement that they agree to the resolution; or
  - ii. separate copies of that document, as long as the wording of the resolution is the same in each copy.

- (d) The Company may send a circular resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- (e) A circular resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in paragraph (c) or (d).

## **18. Committees**

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### **18.1 Delegation to committee**

The Board may constitute and appoint such committees (consisting of at least one Director) and may delegate any of their powers (other than this power of delegation and the power to make by-laws under Clause 25) to such committees as it thinks fit. The Board may at any time revoke, withdraw, alter or vary all or any of such powers. No delegation will prevent the exercise of any power by the Board.

### **18.2 Committee powers**

Subject to any by-laws made under Clause 25, any committee so formed must, in the exercise of the powers so delegated, or functions entrusted, conform to any regulations or directions that may at any time be imposed by the Board. Any power exercised by a committee will be deemed to have been exercised by the Board.

### **18.3 Committee meetings**

Any committee consisting of 2 or more persons may:

- (a) meet and adjourn as it thinks fit;
- (b) elect one of its number as chair of its meetings; and
- (c) co-opt to its membership such persons as it sees fit. Co-opted persons must first be approved by the Board of Directors and notified of such in writing.

### **18.4 Voting**

Questions arising at any meeting of a committee must be decided by a majority of votes cast by the members present. Each committee member has one vote. If there is an equality of votes, the chair has a casting and deliberative vote.

## **19. Secretary**

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- (a) The Company must have at least one secretary, who may also be a Director.
- (b) A Secretary must be appointed by the Directors (after giving the Company their signed consent to act as secretary of the Company) and may be removed by the Directors.
- (c) The Directors must decide the terms and conditions under which the Secretary is appointed, including any remuneration.
- (d) The role of the Secretary includes:
  - i. maintaining a register of the Members, and

- ii. maintaining the minutes and other records of general meetings (including notices of meetings), Directors' meetings and circular resolutions.

## **20. Establishment and operation of Public Fund**

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### **20.1 Establishment of a public fund for listing on the Register of Charitable Organisations**

If the Company is on the Register of Charitable Organisations, it must establish and maintain a public fund to be called the AIRRM Public Fund (or any other name nominated by the Directors and notified to the Department) to be listed as needed on any Register of Charitable Organisations.

### **20.2 Donations to the Public Fund**

- (a) Donations to the Public Fund will be invited from the public and will be deposited into the Public Fund.
- (b) A separate bank account is to be established and maintained and into which all donations to the Public Fund will be paid.
- (c) These monies will be kept separate from other funds of the Company and will only be used to further the Objects of the Company.
- (d) Investment of monies in the Public Fund will be made in accordance with any guidelines for such public funds as specified by the Australian Taxation Office.

### **20.3 Administration of the Public Fund**

The Public Fund will be administered by the Directors, the majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the charitable objectives of the Company

### **20.4 No distribution to Members or office bearers**

No monies/assets in the Public Fund will be distributed directly or indirectly to Members or office bearers of the Company, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.

### **20.5 Notification to Department**

The Department must be notified of any proposed amendments or alterations to provisions for the Public Fund, to assess the effect of any amendments on the Public Fund's continuing deductible gift recipient status.

### **20.6 Receipts for gifts to the Public Fund**

Receipts for gifts to the public fund must state:

- (a) the name of the Public Fund and that the receipt is for a gift made to the Public Fund;
- (b) the Australian Business Number of the Company;
- (c) the fact that the receipt is for a gift; and
- (d) any other matter to be included on the receipt pursuant to the requirements of the Australian Tax Office.

## **20.7 Winding up or dissolution of the Company**

If upon the winding-up or dissolution of the Company, there remains after satisfaction of all its debts and liabilities, any property or funds, the property or funds shall not be paid to or distributed among its Members, but shall be given or transferred to some other fund, authority or institution having objects similar to the objects of this Public Fund, which is charitable at law, to which income tax deductible gifts can be made;

- (a) Gifts of money or property for the principle purpose of the company;
- (b) Contributions made in relation to an eligible fundraising event held for the principle purpose of the company; and
- (c) Money received by the company because of such gifts and contributions.

## **21. Records and accounts**

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- (a) The Board must cause true and proper accounting and other records to be kept, including without limitation as to the following:
  - i. moneys received and expended by the Company;
  - ii. the matter in respect of which such receipts and expenditure take place; and
  - iii. the property, credits and liabilities of the Company.
- (b) The accounts and other records of the Company will be open to inspection by the Members upon such terms and conditions as the Members from time to time determine.

## **22. Notice**

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### **22.1 Service of notices**

Where this Constitution, or any law of Australia requires or permits a document to be served on, given, sent or dispatched to, any person, whether any such expression or any other expression is used (in this Clause 23 referred to as “**served**”), the document may be served on the person:

- (a) by delivering it to the person personally; or
- (b) by dispatching it, whether by post or facsimile, to the registered address of the person or, if there is no registered address within Australia, to the address (if any) supplied by the person to the Company for the giving of notices.

### **22.2 Date of deemed service**

A document served under Clause 23.1 is treated as having been duly served, regardless of whether it is actually received:

- (a) where Clause 23.1(a) applies – on the day it is delivered;
- (b) where Clause 23.1(b) applies –

- i. where the document is served by post – service of the document is deemed to be effected by properly addressing, prepaying and posting a letter containing the document, and to have been effected:
  - (A) in the case of a notice of meeting - on the day following the day when dispatch occurred; and
  - (B) in any other case - at the time at which the document would be delivered in the ordinary course of post; and
- ii. where the document is served by facsimile – upon transmission of the facsimile prior to 4pm on a day on which business is generally carried on in the place to which such communication is sent, or otherwise on the next business day.

### **22.3 Service on Company or its Officers**

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

## **23. Indemnity**

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### **23.1 Indemnity**

- (a) The Company indemnifies each officer of the Company out of the assets of the Company, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Company.
- (b) In this Clause 24.1, ‘officer’ means a Director or Secretary and includes a director or secretary after they have ceased to hold that office.
- (c) In this clause, ‘to the relevant extent’ means:
  - i. to the extent that the Company is not precluded by law (including the Corporations Act) from doing so, and
  - ii. for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- (d) The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Company

### **23.2 Insurance**

To the extent permitted by law (including the Corporations Act), and if the Directors consider it appropriate, the Company may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the Company against any liability incurred by the person as an officer of the company.

### **23.3 Directors’ access to documents**

- (a) A Director has a right of access to the financial records of the Company at all reasonable times.
- (b) If the Directors agree, the Company must give a director or former director access to:

- i. particular documents, including documents provided for or available to the Directors; and
- ii. any other documents referred to in those documents.

## **24. Use of Property on winding up or revocation of DGR endorsement**

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### **24.1 Transfer of Surplus on winding up**

Subject to Clauses 20 and 25.2, if on the winding up or dissolution of the Company, after the satisfaction of all its debts and liabilities, and after compliance with Clause 20, any property or funds whatsoever remains (**Surplus**), the Surplus must not be paid or distributed among the Members, but must be given or transferred to any fund, authority or institution, as determined by the Directors:

- (a) which has charitable objects similar to the Objects of the Company; and
- (b) whose governing documents prohibit the distribution of its income and property among its members and officers to an extent at least as great as is imposed on the Company under this Constitution.

### **24.2 Transfer of gifts and contributions on ceasing to have deductible gift recipient status**

If the Company is endorsed as a deductible gift recipient (other than by being listed on the Register of Charitable Organisations in connection with the Public Fund) then upon winding up of the Company or revocation of its endorsement as a deductible gift recipient (whichever is earlier), the assets remaining after satisfaction of all the Company's debts and liabilities shall be transferred to a fund, authority or institution to which income tax deductible gifts can be made, as determined by the Directors:

- (a) which has charitable objects similar to the Objects; and
- (b) whose governing documents prohibit the distribution of its income and property among its members and to an extent at least as great as is imposed on the Company under this Constitution.

## **25. By-laws**

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- (a) The Directors may pass a resolution to make by-laws to give effect to this Constitution.
- (b) Members and Directors must comply with by-laws as if they were part of this Constitution.

## **26. Governing Law**

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The law applicable to this Constitution is the laws of Australia.

## **27. Definitions and interpretations**

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### **27.1 General definitions**

In this document, unless the context otherwise requires:

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

**Board** means the Board of Directors of the Company constituted in accordance with Clause 15;

**Chair** means the Chair of the Board under Clause 15.2;

**Company** means Australasian Institute for Restorative Reproductive Medicine;

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

**Director** means a Director of the Company appointed in accordance with Clause 15.1;

**Department** means the Department responsible for the administration of the Register of Charitable Organisations;

**General meeting** means a meeting of members and includes the annual general meeting, under Clause 13.3 ;

**Initial Member** means a person who is named in the application for registration of the Company, with their consent, as a proposed Member of the Company;

**Initial Director** means a person who is named in the application for registration of the Company, with their consent, as a proposed Director of the Company;

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

**Member** means a person who becomes a Member of the Company under the terms of this Constitution;

**Member present** means, in connection with a general meeting, a member present in person, by representative or by proxy at the venue or venues for the meeting;

**Objects of the Company** means the objects of the Company described in Clause 3;

**Officer** means any of the officers of the Company elected or appointed under this Constitution and includes any employee of the Company;

**Public Fund** means the public fund to be established by the Company under Clause 20 ;

**Register of Charitable Organisations** means the Register of Charities and Not for Profit Organisations established under the ACNC Act;

**Registered charity** means a charity that is registered under the ACNC Act;

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

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

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

## **27.2 Reading this Constitution with the Corporations Act**

- (a) The replaceable rules set out in the Corporations Act do not apply to the Company.

- (b) While the company is a registered charity, the ACNC Act and the Corporations Act override any Clauses in this Constitution which are inconsistent with those Acts.
- (c) If the Company is not a registered charity (even if it remains a charity), the Corporations Act overrides any Clause in this Constitution which is inconsistent with that Act.

### 27.3 Interpretation

In this document unless the context otherwise requires:

- (a) Clause and sub-Clause headings are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes any other entity recognised by law and vice versa;
- (e) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (f) any reference to a party to this document includes its successors and permitted assigns;
- (g) any reference to any agreement or document includes that agreement or document as amended at any time;
- (h) the use of the word **includes** or **including** is not to be taken as limiting the meaning of the words preceding it;
- (i) the expression **at any time** includes reference to past, present and future time and the performance of any action from time to time;
- (j) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;
- (k) an agreement, representation or warranty on the part of two or more persons is for the benefit of them jointly and severally; and

a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument legislation issued under it.



