CONSTITUTION

OF

Mental Health for the Young and their Families Ltd

A company limited by guarantee

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Preliminary

1. Name of the company

The name of the **company** is Mental Health for the Young and their Families Ltd (the **company**).

2. Type of company

The **company** is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.

3. Liability of members limited to the guarantee

3.1 Each member must contribute an amount not more than $10 (the guarantee) to the property of the **company** if the **company** is wound up:

(a) while the member is a member, or within 12 months after they stop being a member, and

(b) at the time of winding up, the debts and liabilities of the **company**, including the costs of winding up, incurred before the member stopped being a member exceed the company's assets.

3.2 The liability of each member is limited to the amount of the guarantee.

Charitable purposes and powers

4. Object

The **company** was established to promote the prevention or control of mental health disease(s) affecting infants, children, adolescents and their families and carers from an individual development, family life cycle and community perspective.

The **company's** object is to pursue the following charitable purpose(s):

(a) To maintain a publicly available, up-to-date database of mental health service best practice in prevention, early intervention, standard treatment and health promotion, based upon best available research evidence.

(b) To provide educational programs such as workshops, seminars and lectures concerning child, adolescent and family mental health, for health professionals and people of lived experience, in keeping with the best practice recommendations.

(c) To disseminate information on appropriate programs through newsletters, bulletins and website presentations.

(d) To promote collaborative partnerships throughout Australia, between other organisations and all professional groups working in the mental health field with infants, children, adolescents and their families and carers and consumers of mental health services of all ages.

(e) To advocate with government and non-government agencies for effective intervention programs, health promotion and preventive measures and that this

is pursued in a context of human rights and wider community networks enhancement.

(f) To facilitate provision of scientifically-informed contributions to commissions of enquiry and other policy development forums.

(g) To do such other things as are incidental, ancillary or conducive to advancing the above.

5. Powers

Subject to clause 6, the **company** has all the powers of a company limited by guarantee under the **Corporations Act** which may only be used to carry out its purpose(s) set out in clause 4.

6. Not-for-profit

6.1 The **company** must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 6.2 and 68.

6.2 Clause 6.1 does not stop the **company** from doing the following things, provided they are done in good faith:

(a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**, or

(b) making a payment to a member in carrying out the **company**'s charitable purpose(s).

7. Amending the constitution

7.1 Subject to clause 7.3, the members may amend this constitution by passing a **special resolution**.

7.2 Any amendment to this constitution will take effect from the date of the **special resolution**, or from any later date specified in the resolution.

7.3 The members must not pass a **special resolution** that amends this constitution if passing it would mean the **company** would no longer be a charity.

Members

8. Membership and register of members

8.1 The members of the **company** are those:

(a) included as such on the application for incorporation of the company with their consent, and

(b) any other person that the directors allow to be a member, in accordance with this constitution,

and have not since ceased to be a member.

8.2 The **company** must establish and maintain a register of members. The register of members must be kept by the secretary and must contain:

(a) for each current member:

i. name
ii. address
iii. any alternative address nominated by the member for the service of notices, and
iv. date the member was entered on to the register

(b) for each person who stopped being a member in the last 7 years:

i. name
ii. address
iii. any alternative address nominated by the member for the service of notices, and
iv. dates the membership started and ended

8.3 The **company** must allow members to inspect the register of members.

8.4 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

9. Who can be a member

9.1 A person who supports the purposes of the **company** is eligible to apply to be a member of the **company** under clause 10.

9.2 In this clause, 'person' means an individual or incorporated body.

10. How to apply to become a member

A person (as defined in clause 9.2) may apply to become a member of the **company** by writing to the secretary stating that they:

(a) want to become a member
(b) support the purpose(s) of the **company**, and
(c) agree to comply with the **company**'s constitution, including paying the guarantee under clause 3 if required.

11. Directors decide whether to approve membership

11.1 The directors must consider an application for membership within a reasonable time after the secretary receives the application.

11.2 If the directors approve an application, the secretary must as soon as possible:

(a) enter the new member on the register of members, and

(b) write to the applicant to tell them that their application was approved, and the date that their membership started (see clause 12).

11.3 If the directors reject an application:

(a) the secretary must write to the applicant as soon as possible to tell them that their application has been rejected; and

(b) the directors do not have to give reasons.

11.4 For the avoidance of doubt, the directors may approve an application even if the application does not state the matters listed in clauses 10(a), 10(b) or 10(c). In that case, by applying to be a member, the applicant agrees to those three matters.

12. When a person becomes a member

An applicant will become a member when they are entered on the register of members.

13. Membership fees

13.1 Each member must pay an annual membership fee, unless the directors decide otherwise.

13.2 Unless the directors decide otherwise, the annual membership fee is $50 and must be paid by 30 June each year.

13.3 A member that has not paid the required membership fee in accordance with this clause may not exercise any of the rights associated with that member's membership, including the right to exercise any vote the member may have at a meeting of members.

14. Transfer of membership

14.1 Membership of the company and the associated rights cannot be transferred or sold.

15. When a person stops being a member

15.1 A person (as defined in clause 9.2) immediately stops being a member if they:

(a) die

(b) fails to pay any required membership fee in accordance with cl 13 within one month after the date on which that membership fee becomes due or such later time as the directors may determine

(c) are wound up or otherwise dissolved or deregistered (for an incorporated member)

(d) resign, by writing to the secretary

(e) is expelled under clause 17, or

(f) have not responded within three months to a written request from the secretary that they confirm in writing that they want to remain a member.

Dispute resolution and disciplinary procedures

16. Dispute resolution

16.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or director and:

(a) one or more members

(b) one or more directors, or

(c) the **company**.

16.2 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 17 until the disciplinary procedure is completed.

16.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it, or within a timeframe agreed by those involved.

16.4 If those involved in the dispute do not resolve it under clause 16.3, they must within 10 days (or within a timeframe agreed by those involved):

(a) tell the directors about the dispute in writing

(b) agree or request that a mediator be appointed, and

(c) attempt in good faith to settle the dispute by mediation.

16.5 The mediator must:

(a) be chosen by agreement of those involved, or

(b) where those involved do not agree:

i. for disputes between members, a person chosen by the directors, or

ii. for other disputes, a person chosen by the president of the law institute or society in the state or territory in which the **company** has its registered office.

16.6 A mediator chosen by the directors under clause 16.5(b)(i):

(a) may be a member or former member of the **company**

(b) must not have a personal interest in the dispute, and

(c) must not be biased towards or against anyone involved in the dispute.

16.7 When conducting the mediation, the mediator must:

(a) allow those involved a reasonable chance to be heard

(b) allow those involved a reasonable chance to review any written statements

(c) ensure that the mediation is conducted in a manner free from bias, and

(d) not make a decision on the dispute.

17. Disciplining members

17.1 In accordance with this clause, the directors may resolve to warn, suspend, or expel a member from the **company** if the directors consider that:

(a) the member has breached this constitution, or

(b) the member's behaviour is causing, has caused, or is likely to cause harm to the **company**.

17.2 At least 14 days before the directors' meeting at which a resolution under clause 17.1 will be considered, the secretary must notify the member in writing:

(a) that the directors are considering a resolution to warn, suspend or expel the member

(b) that this resolution will be considered at a directors' meeting and the date of that meeting

(c) what the member is said to have done or not done

(d) the nature of the resolution that has been proposed, and

(e) that the member may provide an explanation to the directors, and details of how to do so.

17.3 Before the directors pass any resolution under clause 17.1, the member must be given a chance to explain or defend themselves by:

(a) sending the directors a written explanation before that directors' meeting, and/or

(b) speaking at the meeting.

17.4 After considering any explanation under clause 17.3, the directors may:

(a) take no further action

(b) warn the member

(c) suspend the member's rights as a member for a period of no more than 12 months

(d) expel the member

(e) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause), or

(f) require the matter to be determined at a **general meeting**.

17.5 The directors cannot fine a member.

17.6 The secretary must give written notice to the member of the decision under clause 17.4 as soon as possible.

17.7 Disciplinary procedures must be completed as soon as reasonably practical.

17.8 There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

General meetings of members

18. Calling a general meetings

18.1 The directors may call a **general meeting**, including an annual **general meeting**.

18.2 If members with at least 5% of the votes that may be cast at a **general meeting** make a written request to the **company** for a **general meeting** to be held for a proper purpose, the directors must:

(a) within 21 days of the members' request, give all members notice of a **general meeting**, and

(b) hold the **general meeting** within 2 months of the members' request.

18.3 The percentage of votes that members have (in clause 18.2) is to be worked out as at midnight before the members request the meeting.

18.4 The members who make the request for a **general meeting** must:

(a) state in the request any resolution to be proposed at the meeting

(b) sign the request, and

(c) give the request to the **company.**

18.5 The members making the request may sign the request by signing a physical form of the document by hand or by signing an electronic form of the document using electronic means, which identifies the person and indicates the person's intention.

18.6 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

18.7 If the directors do not call the meeting within 21 days of being requested under clause 18.2, 50% or more of the members who made the request may call and arrange to hold a **general meeting**.

18.8 To call and hold a meeting under clause 18.7 the members must:

(a) as far as possible, follow the procedures for **general meeting**s set out in this constitution,

(b) call the meeting using the list of members on the **company**'s member register, which the **company** must provide to the members making the request at no cost, and

(c) hold the **general meeting** within three months after the request was given to the **company**.

18.9 The **company** must pay the members who request the **general meeting** any reasonable expenses they incur because the directors did not call and hold the meeting.

19. Using technology to hold meetings

19.1 The **company** may hold a **general meeting** at two or more venues using any **virtual meeting platform** or using a **virtual meeting platform** only, where the platform gives members a reasonable opportunity to participate, including to hear and be heard.

19.2 Anyone using this platform is taken to be present in person at the meeting.

19.3 If the general meeting is held using a **virtual meeting platform** only, then

(a) the place of the meeting is taken to be the registered office of the company, and

(b) the time of the meeting is taken to be the time at the registered office of the company.

19.4 If the **general meeting** is held at more than one physical venue (whether or not it is also held using a **virtual meeting platform**), then:

(a) the place of the meeting is taken to be the main physical venue of the meeting as set out in the notice of the meeting, and

(b) the time of the meeting is taken to be the time at the main physical venue of the meeting as set out in the notice of the meeting.

20. Notice of general meetings

20.1 Notice of a **general meeting** must be given to:

(a) each member entitled to vote at the meeting

(b) each director, and

(c) the auditor (if any).

20.2 Notice of a **general meeting** must be provided in writing at least 21 days before the meeting.

20.3 Subject to clause 20.4, notice of a **general meeting** may be provided less than 21 days before the meeting if members with at least 95% of the votes that may be cast at the meeting agree beforehand.

20.4 Notice of a **general meeting** cannot be provided less than 21 days before the meeting if a resolution will be moved to:

(a) remove a director

(b) appoint a director in order to replace a director who was removed, or

(c) remove an auditor.

20.5 Notice of a **general meeting** must include:

(a) the place, date and time for the meeting (and if the meeting is to be held in two or more places or virtually, the **virtual meeting platform** that will be used to facilitate this)

(b) a statement regarding the member's right to request documents be sent in electronic or physical form

(c) the general nature of the meeting's business

(d) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution, and

(e) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:

i. the proxy does not need to be a member of the **company**

ii. the proxy form must be delivered to the **company** at its registered address or the address (including an electronic address) specified in the notice of the meeting, and

iii. the proxy form must be delivered to the **company** at least 48 hours before the meeting.

20.6 If a **general meeting** is adjourned for one month or more, the members must be given new notice of the resumed meeting.

21. Quorum at general meetings

21.1 For a **general meeting** to be held, at least 5 members, two of whom must also be directors, (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may

only be counted once (even if that person is a representative or proxy of more than one member).

21.2 No business may be conducted at a **general meeting** if a quorum is not present.

21.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the **chairperson** specifies. If the **chairperson** does not specify one or more of those things, the meeting is adjourned to:

(a) if the date is not specified – the same day in the next week

(b) if the time is not specified – the same time, and

(c) if the place is not specified – the same place.

21.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

22. Right of non-members to attend meetings

22.1 The **chairperson** of a **general meeting** may invite any person to attend and address a meeting.

22.2 Any auditor and any director of the **company** is entitled to attend and address a general meeting.

22.3 The **company** must give the auditor (if any) any communications relating to the **general meeting** that a member of the **company** is entitled to receive.

23. Representatives of members

23.1 An incorporated member may appoint as a representative:

(a) one individual to represent the member at meetings and to sign resolutions under clause 29, and

(b) the same individual or another individual for the purpose of being appointed or elected as a director.

23.2 The appointment of a representative by a member must:

(a) be in writing

(b) include the name of the representative

(c) be signed on behalf of the member, and

(d) be given to the **company** or, for representation at a meeting, be given to the **chairperson** before the meeting starts.

23.3 A representative has all the rights of a member relevant to the purposes of the appointment as a representative.

23.4 The appointment may be standing.

24. Chairperson for general meetings

24.1 The chairperson is entitled to chair general meetings.

24.2 The members present and entitled to vote at a general meeting may choose a director or member to be the chairperson for that meeting if:

(a) there is no **chairperson**, or

(b) the **chairperson** is not present within 30 minutes after the starting time set for the meeting, or

(c) the **chairperson** is present but says they do not wish to act as chairperson of the meeting.

25. Role of the chairperson

25.1 The **chairperson** is responsible for the conduct of the **general meeting**.

25.2 The **chairperson** must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).

25.3 The **chairperson** does not have a casting vote.

26. Adjournment of meetings

26.1 If a quorum is present, a **general meeting** must be adjourned if a majority of members present direct the chairperson to adjourn it.

26.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

27. Members' resolutions and statements

27.1 Members with at least 5% of the votes that may be cast on a resolution may give:

(a) written notice to the **company** of a resolution they propose to move for a proper purpose at a **general meeting** (**members' resolution**), and/or

(b) a written request to the **company** that the **company** give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (**members' statement**).

27.2 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.

27.3 A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.

27.4 Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.

27.5 The percentage of votes that members have (as described in clause 27.1) is to be worked out as at midnight before the request or notice is given to the **company**.

27.6 If the **company** has been given notice of a members' resolution for a proper purpose under clause 27.1(a), the resolution must be considered at the next **general meeting** held more than two months after the notice is given.

27.7 This clause does not limit any other right that a member has to propose a resolution at a **general meeting**.

28. Company must give notice of proposed resolution or distribute statement

28.1 If the **company** has been given a notice or request under clause 27.

(a) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the **company**'s cost, or

(b) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the **company** in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a **general meeting**, the members may pass a resolution that the **company** will pay these expenses.

28.2 The **company** does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:

(a) it is more than 1 000 words long

(b) the directors consider it may be defamatory

(c) clause 28.1(b) applies, and the members who proposed the resolution or made the request have not paid the **company** enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members, or

(d) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the members.

29. Resolutions without meetings

29.1 Subject to clause 29.3, the directors may put a resolution to the members to pass a resolution without a **general meeting** being held.

29.2 The directors must notify the auditor (if any) as soon as possible that a resolution has or will be put to members, and set out the wording of the resolution.

29.3 The **company** cannot pass resolutions for the below without holding a meeting:

(a) for a resolution to remove an auditor or remove a director

(b) for passing a **special resolution**, or

(c) where the **Corporations Act** or this constitution requires a meeting to be held.

29.4 A resolution is passed if all the members entitled to vote on the resolution sign or agree to the resolution, in the manner set out in clause 29.5 or clause 29.6.

29.5 Members may sign:

(a) a single document setting out the resolution and containing a statement that they agree to the resolution, or

(b) separate copies of that document, as long as the wording is the same in each copy.

29.6 The **company** may send a resolution by email to members and members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

Voting at general meetings

30. How many votes a member has

Each member has one vote.

31. Challenge to member's right to vote

31.1 A member or the **chairperson** may only challenge a person's right to vote at a **general meeting** at that meeting.

31.2 If a challenge is made under clause 31.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

32. How voting is carried out

32.1 Voting must be conducted and decided by:

(a) a show of hands

(b) a vote in writing, or

(c) another method chosen by the **chairperson** that is fair and reasonable in the circumstances.

32.2 Before a vote is taken, the **chairperson** must note whether any proxy votes have been received and, if so, how the proxy votes will be cast.

32.3 On a show of hands, the **chairperson's** decision is conclusive evidence of the result of the vote.

32.4 The **chairperson** and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

33. When and how a vote in writing must be held

33.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:

(a) at least five **members present** who are entitled to vote on the relevant resolution,

(b) **Members present** with at least 5% of the votes that may be passed on the relevant resolution (worked out as at the midnight before the vote in writing is demanded), or

(c) The **chairperson** of the meeting.

33.2 A vote in writing must be taken when and how the chairperson directs, unless clause 33.3 applies.

33.3 A vote in writing must be held immediately if it is demanded under clause 33.1:

(a) for the election of a **chairperson** under clause 24.2, or

(b) to decide whether to adjourn the meeting.

33.4 A demand for a vote in writing may be withdrawn.

34. Appointment of proxy

34.1 A member may appoint a proxy to attend and vote at a **general meeting** on their behalf.

34.2 A proxy does not need to be a member.

34.3 A proxy appointed to attend and vote for a member has the same rights as the member to:

(a) speak at the meeting

(b) vote in a vote in writing (but only to the extent allowed by the appointment), and

(c) join in to demand a vote in writing under clause 33.1.

34.4 An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:

(a) the member's name and address

(b) the **company**'s name

(c) the proxy's name or the name of the office held by the proxy, and

(d) the meeting(s) at which the appointment may be used.

34.5 A proxy appointment may be standing (ongoing).

34.6 Proxy forms must be received by the **company** at the address stated in the notice under clause 20.5(e) or at the **company**'s registered address at least 48 hours before a meeting.

34.7 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.

34.8 Unless the **company** receives written notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:

(a) dies

(b) is mentally incapacitated

(c) revokes the proxy's appointment, or

(d) revokes the authority of a representative or agent who appointed the proxy.

34.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.

35. Voting by proxy

35.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).

35.2 When a vote in writing is held, a proxy:

(a) does not need to vote, unless the proxy appointment specifies the way they must vote

(b) if the way they must vote is specified on the proxy form, must vote that way, and

(c) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

Directors

36. Number of directors

36.1 The **company** must have at least three and no more than nine directors.

37. Election and appointment of directors

37.1 The initial directors are the people who have agreed to act as directors and who are named as proposed directors in the application for registration of the **company**.

37.2 The members may elect a director by a resolution passed in a **general meeting**.

37.3 Each of the directors must be appointed by a separate resolution, unless:

(a) the members present have first passed a resolution that the appointments may be voted on together, and

(b) no votes were cast against that resolution.

37.4 A person is eligible for election as a director of the **company** if they:

(a) are a member of the **company**, or a representative of a member of the **company** (appointed under clause 23),

(b) are 18 years of age or older

(c) are nominated by two members or representatives of members entitled to vote (unless the person was previously elected as a director at a **general meeting** and has been a director since that meeting),

(d) give the **company** their signed consent to act as a director of the **company**, and

(e) are not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.

37.5 Subject to cl 36, the directors may appoint a person as a director to fill a casual vacancy or as an additional director if that person:

(a) is a member of the **company**, or a representative of a member of the **company** (appointed under clause 23)

(b) is 18 years of age or older

(c) gives the **company** their signed consent to act as a director of the **company**, and

(d) is not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.

37.6 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 but only:

(a) in an emergency

(b) for the purpose of increasing the number of directors to three (or higher if required for a quorum), or

(c) to call a **general meeting**.

38. Election of chairperson

The directors must elect a director as the **company**'s **chairperson**.

39. Term of office

39.1 Other than a director appointed under clause 37.5, a director will hold office from the end of the **general meeting** at which they are appointed until the end of the third **annual general meeting** following that appointment when they must retire (3 year term).

39.2 A retiring Director is eligible for re-election for a maximum of 3 consecutive terms.

39.3 Clause 39.2 does not prevent a person from serving as a director for more than 3 non-consecutive terms.

40. When a director stops being a director

40.1 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

(d) stop being a member of the **company**

(e) are a representative of a member, and that member stops being a member

(f) are a representative of a member, and the member notifies the **company** that the representative is no longer a representative, or

(g) become ineligible to be a director of the **company** under the **Corporations Act** or the **ACNC Act**.

Powers of directors

41. Powers of directors

41.1 The directors are responsible for managing and directing the activities of the **company** to carry out the purpose(s) set out in clause 4.

41.2 The directors may use all the powers of the **company** except for powers that, under the **Corporations Act** or this constitution, may only be used by members.

41.3 The directors must decide on the responsible financial management of the **company** including:

(a) any suitable written delegations of power under clause 42, and

(b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

41.4 The directors cannot remove a director or auditor. Directors and auditors may only be removed by a members' resolution at a **general meeting**.

42. Delegation of directors' powers

42.1 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.

42.2 The **company** must keep appropriate records of any delegations.

43. Payments to directors

43.1 The **company** must not pay directors' fees.

43.2 The **company** may:

(a) pay a director for work they do for the **company**, other than as a director, if the amount is no more than a reasonable fee for the work done, or

(b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the **company.**

43.3 Any payment made under clause 43.2 must be approved by the directors.

44. Execution of documents

44.1 The **company** may execute a document without using a common seal if the document is signed by:

(a) two directors of the **company**

(b) a director and the secretary, or

(c) or some other person or combination of persons appointed by the board for that purpose,

whether by signing a physical form of the document by hand or by signing an electronic form of the document using electronic means, which identifies the person and indicates the person's intention.

45. Validity

45.1 An act done by a director or by a meeting of the directors or a committee attended by a director is not invalid just because:

(a) of a defect in the appointment of the director

(b) the person is disqualified from being a director or has vacated office, or

(c) the person is not entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, when the act was done.

Duties of directors

46. Duties of directors

46.1 The directors must comply with their duties:

(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 purpose(s) of the **company** set out in clause 4.

(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 47

(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.

47. Conflicts of interest

47.1 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 resolution to be passed under cl 54):

(a) to the other directors, or

(b) 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.

47.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.

47.3 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 resolution to be passed under cl 54) must not:

(a) be present at the meeting while the matter is being discussed, or

(b) vote on the matter,

except as provided under clauses 47.4.

47.4 A director may still be present and vote if:

(a) their interest arises because they are a member of the **company**, and the other members have the same interest

(b) 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 64)

(c) their interest relates to a payment by the **company** under clause 63 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**

(d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or

(e) the directors who do not have a material personal interest in the matter pass a resolution that:

i. 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

ii. says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

48. When the directors meet

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

49. Calling directors' meetings

49.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors.

49.2 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.

50. Chairperson for directors' meetings

50.1 The **chairperson** is entitled to chair directors' meetings.

50.2 The directors at a directors' meeting may choose a director to chair that meeting if the **chairperson** is:

(a) not present within 30 minutes after the starting time set for the meeting, or

(b) present but does not want to act as **chairperson** of the meeting.

51. Quorum at directors' meetings

51.1 Unless the directors determine otherwise, the quorum for a directors' meeting is a majority (more than 50%) of directors.

51.2 A quorum must be present for the whole directors' meeting.

52. Using technology to hold directors' meetings

52.1 The directors may hold their meetings by using any **virtual meeting platform** that is agreed to by all of the directors.

52.2 The directors' agreement may be a standing (ongoing) one.

52.3 A director may only withdraw their consent within a reasonable period before the meeting.

53. 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.

54. Resolutions of directors without a meeting

54.1 The directors may pass a resolution without a directors' meeting being held.

54.2 A 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 clause 54.3 or clause 54.4.

54.3 Each director may sign:

(a) a single document setting out the resolution and containing a statement that they agree to the resolution, or

(b) separate copies of that document, as long as the wording of the resolution is the same in each copy.

54.4 The **company** may send a 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.

54.5 The resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 54.3 or clause 54.4.

Secretary

55. Appointment and role of secretary

55.1 The **company** must have at least one secretary, who may also be a director.

55.2 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.

55.3 The directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.

55.4 The secretary must ensure that the following are maintained:

(a) a register of the **company**'s members, and

(b) the minutes and other records of **general meeting**s (including notices of meetings), directors' meetings and resolutions.

Minutes and records

56. Minutes and records

56.1 The **company** must, within one month, make and keep the following records:

(a) minutes of proceedings and resolutions of **general meetings**

(b) minutes of any other resolutions of members

(c) a copy of a notice of each **general meeting**, and

(d) a copy of a members' statement distributed to members under clause 28.

56.2 The **company** must, within one month, make and keep the following records:

(a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and

(b) minutes of any other resolutions of directors.

56.3 To allow members to inspect the **company**'s records:

(a) the **company** must give a member access to the records set out in clause 56.1, and

(b) the directors may authorise a member to inspect other records of the **company**, including records referred to in clause 56.2 and clause 57.1.

56.4 The directors must ensure that minutes of a **general meeting** or a directors' meeting are signed within a reasonable time after the meeting by:

(a) the chairperson of the meeting, or

(b) the chairperson of the next meeting.

56.5 The directors must ensure that minutes of the passing of a resolution passed without a meeting (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

57. Financial and related records

57.1 The **company** must make and keep written financial records that:

(a) correctly record and explain its transactions and financial position and performance, and

(b) enable true and fair financial statements to be prepared and to be audited.

57.2 The **company** must also keep written records that correctly record its operations.

57.3 The **company** must retain its records for at least 7 years.

57.4 The directors must take reasonable steps to ensure that the **company**'s records are kept safe.

Notice

58. What is notice

58.1 Anything written to or from the **company** under any clause in this constitution is written notice and is subject to clauses 59 to 61, unless specified otherwise.

58.2 Clauses 59 to 61 do not apply to a notice of proxy under clause 34.6.

59. Notice to the company

Written notice or any communication under this constitution may be given to the **company,** the directors or the secretary by:

(a) delivering it to the **company**'s registered office

(b) posting it to the **company**'s registered office or to another address chosen by the **company** for notice to be provided

(c) sending it to an email address or other electronic address notified by the **company** to the members as the **company**'s email address or other electronic address, or

(d) sending it to the fax number notified by the **company** to the members as the **company**'s fax number.

60. Notice to members

60.1 Written notice or any communication under this constitution may be given to a member:

(a) in person

(b) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices

(c) sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any)

(d) sending it to the fax number nominated by the member as an alternative address for service of notices (if any), or

(e) if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).

60.2 If a member elects to receive documents in physical form or electronic form, the company must take reasonable steps to send documents in a manner that complies with the election.

60.3 If the **company** does not have an address for the member, the **company** is not required to give notice in person.

61. When notice is taken to be given

61.1 A notice:

(a) delivered in person, or left at the recipient's address: is taken to be given on the day it is delivered

(b) sent by post: is taken to be given on the third **business day** after it is posted to the address notified by the recipient and payment of postage costs

(c) sent by email, fax or other electronic method: is taken to be given when it is sent, unless the sender receives an automated message that the notice has not been delivered, and

(d) given under clause 60.1(e): is taken to be given on the **business day** after the notification that the notice is available is sent.

61.2 If the delivery or receipt of a notice is on a day which is not a **business day** or is after 5.00pm on a **business day**, it is deemed to be received at 9.00am on the following **business day**.

Financial matters

62. Company's financial year

The **company**'s financial year is from 1 July to 30 June, unless the directors pass a resolution to change the financial year.

Indemnity, insurance and access

63. Indemnity

63.1 The **company** indemnifies each officer of the **company** out of the assets of the **company**, to the extent permitted by law (including the Corporations Act), against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **company**.

63.2 In this clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office.

63.3 The indemnity is a continuing obligation and is enforceable by an officer:

(a) even though that person is no longer an officer of the **company, and**

(b) is enforceable without that person having first to incur any expense or make any payment.

64. 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**.

65. Directors' access to documents

65.1 A director has a right of access to the financial records of the **company** at all reasonable times.

65.2 The directors may resolve to give a director or former director access to other records, including documents provided for or available to the directors.

Winding up

66. Winding up voluntarily

66.1 If permitted by law, the **company** may be wound up voluntarily by **special resolution**.

67. Surplus assets not to be distributed to members

If the **company** is wound up, any **surplus assets** must not be distributed to a member or a former member of the **company**, unless that member or former member is a charity described in clause 68.1.

68. Distribution of surplus assets

68.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** (including 'gift funds' defined in clause 69.4) that remain after the **company** is wound up must be distributed to one or more charities:

(a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 4, and

(b) which also prohibit the distribution of any **surplus assets** to its members to at least the same extent as the **company**, and

(c) that is or are deductible gift recipients within the meaning of the *Income Tax Assessment Act 1997* (Cth).

68.2 The decision as to the charity or charities to be given the **surplus assets** must be made by a **special resolution** of members at or before the time of winding up. If the members do not make this decision, the **company** may apply to the Supreme Court to make this decision.

68.3 If the company's deductible gift recipient endorsement is revoked (whether or not the **company** is to be wound up), any surplus gift funds must be transferred to one or more charities that meet the requirements of 68.1(a), (b) and (c), as decided by the directors.

68.4 For the purposes of this clause:

(a) 'gift fund' means:

i. gifts of money or property for the principal purpose of the **company**

ii. contributions made in relation to a fund-raising event held for the principal purpose of the company, and

iii. money received by the company because of such gifts and contributions.

(b) 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the *Income Tax Assessment Act 1997* (Cth).

Definitions and interpretation

69. Definitions

In this constitution:

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

business day means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in the place where the **company's** registered office is located.

company means the **company** referred to in clause 1.

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

chairperson means a person elected by the directors to be the **company**'s chairperson under clause 38.

general meeting means a meeting of members.

member present means, in connection with a **general meeting**, a **member present** in person, by representative or by proxy at the meeting. ***registered charity*** means a charity that is registered under the **ACNC Act**.

special resolution means a resolution:

i. of which notice has been given under clause 20.5(d), and

ii. that has been passed by at least 75% of the votes cast by **members present** and entitled to vote on the resolution.

surplus assets means any assets of the **company** that remain after paying all debts and other liabilities of the **company**, including the costs of winding up.

virtual meeting platform means any technology that allows members to participate in a meeting, including by asking questions orally and in writing, without being physically present at the meeting.

70. Reading this constitution with the Corporations Act

70.1 The replaceable rules set out in the **Corporations Act** do not apply to the **company**.

70.2 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, as they apply to a **registered charity**.

70.3 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.

70.4 A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

71. Interpretation

In this constitution:

(a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and

(b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).