



Constitution of Australian Association for Infant Mental Health Limited

Australian Company Number (ACN) 625 753 522
Australian Business Number (ABN) 88 625 753 522

A company limited by guarantee

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Preliminary

1. Name of the company

The name of the **company** is:
Australian Association for Infant Mental Health 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. Limited liability of members

The liability of members is limited to the amount of the guarantee in clause 4.

4. The guarantee

Each member must contribute an amount not more than \$2 (the guarantee) to the property of the **company** if the **company** is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:

- (a) debts and liabilities of the **company** incurred before the member stopped being a member; or
- (b) costs of winding up.

5. Definitions

In this constitution, words and phrases have the meaning set out in clauses 79 and 81.

Charitable purposes and powers

6. Objects

The **company's** objects are to pursue the following charitable purposes:

- (a) to improve professional and public recognition that infancy is a critical period in psycho-social development;
- (b) to establish and maintain discussion and exchange of information on both national and international levels;
- (c) to provide a forum for multi-disciplinary interaction and cooperation;
- (d) to provide members with access to the latest research findings and observations on development in infancy;
- (e) to facilitate the integration of such findings into clinical practice and community life;
- (f) to work for the improvement of the mental health and development of all infants and families by provision of educational programmes and otherwise;
- (g) to provide, where possible, reports and submissions to governments, other authorities, organisations and individuals on matters relating to infant and family health and welfare;
- (h) such other objects as the **company** shall approve by special resolution at a general meeting.

7. Powers

Subject to clause 8, the **company** has the following powers, which may only be used to carry out its purpose(s) set out in clause 6:

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- (a) the powers of an individual; and
- (b) all the powers of a **company** limited by guarantee under the **Corporations Act**.

8. Not-for-profit

- 8.1 The **company** must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 8.2 and 72.
- 8.2 Clause 8.1 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).

9. Amending the constitution

- 9.1 Subject to clause 9.2, the members may amend this constitution by passing a **special resolution**.
- 9.2 The members must not pass a **special resolution** that amends this constitution if passing it causes the **company** to no longer be a charity.

Members

10. Membership and register of members

- 10.1 The members of the **company** are:
- (a) **initial members**;
 - (b) **honorary members**; and
 - (c) any other person that the directors allow to be a member, in accordance with this constitution.
- 10.2 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.
- 10.3 The **company** must give current members access to the register of members.
- 10.4 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

11. Who can be a member

- 11.1 A person is eligible to apply to be a member of the **company** under clause 12 if they support the objects of the **company** and are:
- (a) a professional working with infants, young children and their families from pregnancy to early childhood or is involved in research or developing policies in the field of infant mental health or a related field of work as determined by the **company**;
 - (b) a student who is studying a field related to infant mental health, as determined by the **company**.
- 11.2 In this clause, 'person' means an individual or incorporated body.

12. How to apply to become a member

- 12.1 A person (as defined in clause 11.2) may apply to become a member of the **company** by submitting an **application form** to the secretary.
- 12.2 In the application, the person (as defined in clause 11.2) must:
- (a) provide contact details and information about their work or present studies;
 - (b) provide reasoning as to why they wish to join the **company**;
 - (c) provide the name and contact details of a referee;
 - (d) state that they support the objects of the **company**;
 - (e) nominate the **branch** they wish to join;
 - (f) pay the **application fee**;
 - (g) agree to comply with the **company's** constitution, including paying the guarantee under clause 4 if required.

13. Branch committee decide whether to approve membership

- 13.1 The secretary will forward a membership application to the nominated **branch committee**, who must consider an application for membership within a reasonable time after the secretary of that **branch committee** receives the application.
- 13.2 If the **branch committee** approve an application, they must notify the secretary that an application has been approved.
- 13.3 Following notification that a **branch committee** has approved 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 by email to tell them that their application was approved, and the date that their membership started (see clause 14.1).
- 13.4 If the **branch committee** rejects an application, the **branch committee** must:
- (a) write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons; and
 - (b) refund the **application fee** to the applicant.
- 13.5 For the avoidance of doubt, the **branch committee** may approve an application even if the application does not state the matters listed in Clause 12.2. In that case, by applying to be a member, the applicant agrees to support the objects of the **company** and comply with the **company's** constitution.

14. When a person becomes a member

- 14.1 Other than **initial members**, an applicant will become a member when they are entered on the register of members.

- 14.2 The directors may confer honorary membership to a person at any time or by special resolution at a **general meeting** of the company, in recognition of meritorious work in any field relating to the objects of the **company**. Thereafter **honorary members** shall be related in all respects as members except they shall not be required to pay an application fee or a subscription.
- 14.3 The directors may annul any honorary membership at any time.

15. When a person stops being a member

A person immediately stops being a member if they:

- (a) die;
- (b) are wound up or otherwise dissolved or deregistered (for an incorporated member);
- (c) resign, by writing to the secretary;
- (d) are expelled under clause 17;
- (e) 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; or
- (f) do not pay their **subscription** within 12 months.

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.
- 16.4 If those involved in the dispute do not resolve it under clause 16.3, they must within 10 days:
- (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 either the Commissioner of the Australian Charities and Not-for-profits Commission or 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:

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- (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 those involved are given natural justice; 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, but no later than 28 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.

18. Suspension from voting and other benefits

If a member, other than an **honorary member**, fails to pay the **subscription** for a period of more than three months from due date of payment, that member will not be entitled to vote at any meeting of members, including by circular resolution, or obtain other

membership benefits as determined by the directors, until such time as the outstanding **subscription** has been paid in full.

General meetings of members

19. General meetings called by directors

- 19.1 The directors may call a **general meeting**.
- 19.2 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, 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.
- 19.3 The percentage of votes that members have (in clause 19.2) is to be worked out as at midnight before the members request the meeting.
- 19.4 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**.
- 19.5 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.

20. General meetings called by members

- 20.1 If the directors do not call the meeting within 21 days of being requested under clause 19.2, 50% or more of the members who made the request may call and arrange to hold a **general meeting**.
- 20.2 To call and hold a meeting under clause 20.1 the members must:
- (a) as far as possible, follow the procedures for **general meetings** 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**.
- 20.3 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.

21. Annual general meeting

- 21.1 A **general meeting**, called the annual **general meeting**, must be held:
- (a) within 18 months after registration of the **company**; and
 - (b) after the first annual **general meeting**, at least once in every calendar year.
- 21.2 Even if these items are not set out in the notice of meeting, the business of an annual **general meeting** may include:
- (a) a review of the **company's** activities;
 - (b) a review of the **company's** finances;
 - (c) any auditor's report;

- (d) the appointment of directors; and
- (e) the appointment and payment of auditors, if any.

21.3 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**.

21.4 The chairperson 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**.

22. Notice of general meetings

22.1 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).

22.2 Notice of a **general meeting** must be provided in writing, either by post or electronic mail, at least 21 days before the meeting.

22.3 Subject to clause 22.4, notice of a meeting may be provided less than 21 days before the meeting if:

- (a) for an annual **general meeting**, all the members entitled to attend and vote at the annual **general meeting** agree beforehand; or
- (b) for any other **general meeting**, members with at least 95% of the votes that may be cast at the meeting agree beforehand.

22.4 Notice of a 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.

22.5 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, the technology that will be used to facilitate this)
- (b) the general nature of the meeting's business
- (c) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution
- (d) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
 - i. the proxy must 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.

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

23. Quorum at general meetings

23.1 For a **general meeting** of the **company** to be held, at least ten members (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).

- 23.2 For a **general meeting** of a **branch** to be held, at least five members 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).
- 23.3 No business may be conducted at a **general meeting** if a quorum is not present.
- 23.4 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.
- 23.5 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

24. Auditor's right to attend meetings

- 24.1 The auditor (if any) is entitled to attend any **general meeting** and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 24.2 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.

25. Representatives of members

- 25.1 An incorporated member may appoint as a representative:
- (a) one individual to represent the member at meetings and to sign circular resolutions under clause 31.
- 25.2 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.
- 25.3 A representative has all the rights of a member relevant to the purposes of the appointment as a representative.
- 25.4 The appointment may be standing (ongoing).

26. Using technology to hold meetings

- 26.1 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.
- 26.2 Anyone using this technology is taken to be present in person at the meeting.

27. Chairperson for general meetings

- 27.1 The **chairperson** is entitled to chair **general meetings**.
- 27.2 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.

28. Role of the chairperson

- 28.1 The chairperson is responsible for the conduct of the **general meeting**, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 28.2 The chairperson does not have a casting vote.

29. Adjournment of meetings

- 29.1 If a quorum is present, a **general meeting** must be adjourned if a majority of **members present** direct the chairperson to adjourn it.
- 29.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

30. Members' resolutions and statements

- 30.1 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 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).
- 30.2 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- 30.3 A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.
- 30.4 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.
- 30.5 The percentage of votes that members have (as described in clause 30.1) is to be worked out as at midnight before the request or notice is given to the **company**.
- 30.6 If the **company** has been given notice of a members' resolution under clause 30.1(a), the resolution must be considered at the next **general meeting** held more than two months after the notice is given.
- 30.7 This clause does not limit any other right that a member has to propose a resolution at a **general meeting**.

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

- 31.1 If the **company** has been given a notice or request under clause 30:
 - (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.

- 31.2 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 31.1(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.

32. Circular resolutions of members

- 32.1 Subject to clause 32.3, the directors may put a resolution to the members to pass a resolution without a **general meeting** being held (a circular resolution).
- 32.2 The directors must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to members, and set out the wording of the resolution.
- 32.3 Circular resolutions cannot be used:
- (a) for a resolution to remove an auditor, appoint a director 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.
- 32.4 A circular resolution is passed if all the members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 32.5 or clause 31.6.
- 32.5 Members may sign:
- (a) a single document setting out the circular 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.
- 32.6 The **company** may send a circular 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

33. How many votes a member has

Each member has one vote.

34. Challenge to member's right to vote

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

- 34.2 If a challenge is made under clause 34.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

35. How voting is carried out

- 35.1 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.
- 35.2 Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 35.3 On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- 35.4 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.

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

- 36.1 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**
 - (b) **members present** with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
 - (c) the chairperson.
- 36.2 A vote in writing must be taken when and how the chairperson directs, unless clause 36.3 applies.
- 36.3 A vote in writing must be held immediately if it is demanded under clause 36.1:
- (a) for the election of a chairperson under clause 27.2; or
 - (b) to decide whether to adjourn the meeting.
- 36.4 A demand for a vote in writing may be withdrawn.

37. Appointment of proxy

- 37.1 A member may appoint a proxy to attend and vote at a **general meeting** on their behalf.
- 37.2 A proxy must be a member.
- 37.3 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 36.1.
- 37.4 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.
- 37.5 A proxy appointment may be standing (ongoing).

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- 37.6 Proxy forms must be received by the **company** at the address stated in the notice under clause 22.5(d) or at the **company's** registered address at least 48 hours before a meeting.
- 37.7 For the avoidance of doubt, a proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- 37.8 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.
- 37.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.

38. Voting by proxy

- 38.1 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).
- 38.2 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

39. Number of directors

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

40. Election and appointment of directors

- 40.1 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**.
- 40.2 Following the retirement of the initial directors at the first annual **general meeting**, each **branch committee** will nominate one member as a **branch nominee** to represent that **branch** as a director of the **company**.
- 40.3 A person is eligible for appointment 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 24);
 - (b) are a **branch nominee** or the **chairperson**;
 - (c) give the **company** their signed consent to act as a director of the **company**; and
 - (d) are not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.
- 40.4 If a **branch nominee** ceases to be a director (or a **branch committee** does not otherwise have a **branch nominee** on the board of the **company**), the **branch**

committee that appointed that **branch nominee** shall nominate another director who satisfies the requirements of clause 40.3.

- 40.5 If the number of directors is reduced to fewer than six 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.

41. Election of chairperson

- 41.1 The **branch nominees** must appoint an additional director to act as **chairperson**.
- 41.2 The **chairperson** must not be an office-bearer of a **branch committee**.
- 41.3 A member must not act as **chairperson** for more than three consecutive years.

42. Term of office

- 42.1 All directors must retire at each annual **general meeting**.
- 42.2 Other than a director appointed under clause 40.4, a director's term of office starts at the end of the annual **general meeting** at which they are elected and ends at the end of the annual **general meeting** at which they retire.
- 42.3 A director who retires under clause 42.1 may be nominated by his/her **branch committee** for election or re-election, subject to clause 42.4.
- 42.4 A director who has held office for a continuous period of five years or more may only be re-elected by a **special resolution**.

43. 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;
- (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;
- (g) are absent for 3 consecutive directors' meetings without approval from the directors; or
- (h) become ineligible to be a director of the **company** under the **Corporations Act** or the **ACNC Act**.

Powers of directors

44. Powers of directors

- 44.1 The directors are responsible for managing and directing the activities of the **company** to achieve the objects set out in clause 6.
- 44.2 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.
- 44.3 The directors must decide on the responsible financial management of the **company** including:

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- (a) any suitable written delegations of power under clause 45; and
- (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

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

45. Delegation of directors' powers

45.1 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.

45.2 The delegation must be recorded in the **company's** minute book.

46. Payments to directors

46.1 The **company** must not pay fees to a director for acting as a director.

46.2 The **company** may 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.

46.3 Any payment to a director under clause 46.2 must be approved by a majority of the directors, not including the director to whom the payment is to be made.

46.4 The **company** may reimburse a director for expenses properly incurred by the director in connection with the affairs of the **company**.

46.5 The **company** may pay premiums for insurance indemnifying directors, as allowed for by law (including the **Corporations Act**) and this constitution.

47. Execution of documents

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

- (a) two directors of the **company**, or
- (b) a director and the secretary.

Duties of directors

48. 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 purpose(s) of the **company** set out in clause 6;
- (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 49;

- (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.

49. Conflicts of interest

- 49.1 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 circular resolution):
- (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.
- 49.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- 49.3 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 circular resolution) must not, except as provided under clauses 49.4:
- (a) be present at the meeting while the matter is being discussed; or
 - (b) vote on the matter.
- 49.4 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 68);
 - (c) their interest relates to a payment by the **company** under clause 67 (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

50. When the directors meet

The directors must meet at least once annually.

51. Calling directors' meetings

- 51.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors, the secretary and the treasurer.

- 51.2 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.

52. Chairperson for directors' meetings

- 52.1 The **chairperson** is entitled to chair directors' meetings.
- 52.2 The directors at a directors' meeting may choose a director to be the chairperson for 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.

53. Quorum at directors' meetings

- 53.1 Unless the directors determine otherwise, the quorum for a directors' meeting is at least one director, or their nominated proxies, from each **branch committee**.
- 53.2 A quorum must be present for the whole directors' meeting, unless clause 49.3 applies.

54. Using technology to hold directors' meetings

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

55. 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.

56. Circular resolutions of directors

- 56.1 The directors may pass a circular resolution without a directors' meeting being held.
- 56.2 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 clause 56.3 or clause 56.4.
- 56.3 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.
- 56.4 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.
- 56.5 A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 56.3 or clause 56.4.

Secretary

57. Appointment and role of secretary

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

- 57.2 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.
- 57.3 The directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.
- 57.4 The role of the secretary includes:
- (a) maintaining a register of the **company's** members;
 - (b) conducting all correspondence of the **company** and keep copies of the same
 - (c) maintaining such other records as the directors determine from time to time; and
 - (d) maintaining the minutes and other records of **general meetings** (including notices of meetings), directors' meetings and circular resolutions.

Treasurer

58. Appointment and role of national treasurer

- 58.1 The **company** must have a national treasurer, who may also be a director.
- 58.2 The national treasurer must be appointed by the directors and may be removed by the directors.
- 58.3 The directors must decide the terms and conditions under which the national treasurer is appointed, including any remuneration.
- 58.4 The role of the national treasurer includes ensuring that:
- (a) all money due to the company is collected and received and that all payments authorised by the company are made;
 - (b) correct books and accounts are kept showing the financial affairs of the company including full details of all receipts and expenditure connected with the activities of the company;
 - (c) an annual statement of income and expenditure is presented at the annual general meeting in the following year; and
 - (d) the directors are given a statement of income and expenditure and all other relevant documents required to be lodged on behalf of the **company** with the relevant government authorities including ASIC and ACNC.

Minutes and records

59. Minutes and records

- 59.1 The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of **general meetings**;
 - (b) minutes of circular 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 31.
- 59.2 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 circular resolutions of directors.
- 59.3 To allow members to inspect the **company's** records:
- (a) the **company** must give a member access to the records set out in clause 59.1; and

- (b) the directors may authorise a member to inspect other records of the **company**, including records referred to in clause 59.2 and clause 60.1.
- 59.4 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.
- 59.5 The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

60. Financial and related records

- 60.1 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.
- 60.2 The **company** must also keep written records that correctly record its operations.
- 60.3 The **company** must retain its records for at least 7 years.
- 60.4 The directors must take reasonable steps to ensure that the **company's** records are kept safe.

By-laws

61. By-laws

- 61.1 The directors may pass a resolution to make by-laws to give effect to this constitution.
- 61.2 Members and directors must comply with by-laws as if they were part of this constitution.

Notice

62. What is notice

- 62.1 Anything written to or from the **company** under any clause in this constitution is written notice and is subject to clauses 63 to 65, unless specified otherwise.
- 62.2 Clauses 63 to 65 do not apply to a notice of proxy under clause 37.6.

63. 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.

64. Notice to members

- 64.1 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).
- 64.2 If the **company** does not have an address for the member, the **company** is not required to give notice in person.

65. When notice is taken to be given

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 day after it is posted with the correct payment of postage costs;
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent; and
- (d) given under clause 64.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

66. 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

67. Indemnity

- 67.1 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**.
- 67.2 In this clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office.
- 67.3 In this clause, 'to the relevant extent' means:
- (a) to the extent that the **company** is not precluded by law (including the **Corporations Act**) from doing so; and
 - (b) 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).

67.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **company**.

68. 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**.

69. Directors' access to documents

- 69.1 A director has a right of access to the financial records of the **company** at all reasonable times.
- 69.2 If the directors agree, the **company** must give a director or former director access to:
- (a) certain documents, including documents provided for or available to the directors; and
 - (b) any other documents referred to in those documents.

Winding up

70. Votes required to wind up

The **company** shall not be wound up except by a special resolution passed at a **general meeting** of the company.

71. 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 72.1.

72. Distribution of surplus assets

- 72.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** (including 'gift funds' defined in clause 72.4) 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 objects in clause 6;
 - (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).
- 72.2 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.
- 72.3 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 72.1(a), (b) and (c), as decided by the directors.
- 72.4 For the purpose of this clause:
- (a) 'gift funds' 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 principle 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 if the *Income Tax Assessment Act 1997* (Cth).

Use of company funds

73. Source of funds

- 73.1 The funds of the **company** shall be derived from the annual **subscription** of members, donations, conferences, training events, grants and, subject to any resolution passed by the company in **general meeting**, such other sources as the directors or any **branch committee** determine.
- 73.2 All money received by the **company** shall be deposited as soon as practicable and without deduction to the credit of one of the **company's** bank accounts.
- 73.3 The **company** shall, as soon as practicable after receiving any money, issue an appropriate receipt.
- 73.4 The treasurer of each **branch committee** shall keep a record of the financial records of that **branch committee**, and shall forward to the Treasurer of the company an annual statement of these transactions 28 days prior to the annual **general meeting** of the **company**.

74. Management of company funds

- 74.1 Subject to any resolution passed by the company in general meeting, the funds of the company shall be used in the pursuance of the objects outlined in clause 6, in such manner as the directors or a **branch committee** determines.
- 74.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed or approved by any two of the directors.
- 74.3 The treasurer and secretary can process payment with approval as obtained in 74.2.
- 74.4 The income and property of the **company** whencesoever derived shall be applied solely towards the promotion of the objects of the **company** and no portion thereof shall be paid or transferred directly or indirectly by way of dividend bonus or otherwise howsoever by way of a profit to the members, provided that nothing herein shall prevent the:
- (a) payment of remuneration to any officer or servant of the company;
 - (b) payment to any member in return for any services actually rendered to the company
 - (c) payment of reasonable and proper rent for premises let by any member to the company;
 - (d) making available of a grant of scholarship to members for funding of special infant mental health initiatives proposed by members.

Branch committees

75. Membership of branch committees

- 75.1 **Branch committees** shall consist of up to 14 **members** of the State or Territory in which that **branch committee** functions, including the office-bearers of each **branch committee**.
- 75.2 The office-bearers of each **branch committee** shall be appointed by their respective **branch committees**, shall be voting members and shall consist of the:
- (a) president;
 - (b) vice-president;
 - (c) treasurer; and
 - (d) secretary.
- 75.3 The office of president of a **branch committee** shall not be held by the same member for more than two consecutive years, unless the **branch committee** decides otherwise.

76. Election to a branch committee

- 76.1 Nominations of candidates for election to a **branch committee** must be:
- (a) made in writing, signed by two members of the State or Territory in which the **branch committee** functions and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and
 - (b) delivered to the secretary of the **branch committee** of not less than seven days before the date fixed for the holding of the **branch's** annual **general meeting** at which the election is to take place.
- 76.2 If insufficient nominations are received to fill all vacancies on a **branch committee**, the candidates' nominations shall be deemed to be elected and further nominations shall be received at the **branch's** annual **general meeting**.
- 76.3 If insufficient further nominations are received, any vacant positions remaining on a **branch committee** shall be deemed to be casual vacancies.
- 76.4 In the event of a casual vacancy occurring in a **branch committee**, the **branch committee** may appoint a member of that **branch** to fill the vacancy and the member so appointed shall, subject to this constitution, hold office until the conclusion of the next annual **general meeting** of the **branch**.
- 76.5 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be elected.
- 76.6 If the number of nominations received exceeds the number of vacancies to be filled, a ballot shall be held.
- 76.7 The ballot for the election of members of the **branch committee** shall be conducted at the **branch's** annual general meeting in such usual and proper manner as the **branch committee** may direct.
- 76.8 A nomination for election under this clause 76 is not valid if that candidate has been nominated for election to another office at the same election.

77. Branch committee meetings

- 77.1 A **branch committee** shall meet at least three times in each period of 12 months at such time and place as the relevant **branch committee** may determine.
- 77.2 Additional meetings of **branch committees** may be convened by any member of that **branch committee**.

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- 77.3 Oral or written notice of a meeting of a **branch committee** shall be given by the secretary of that **branch committee** to each member of the **branch committee** at least 48 hours (or such other period as may be unanimously agreed upon by the **branch committee**) before the time appointed for the holding of the meeting.
- 77.4 Notice of a meeting given under clause 77.3 shall specify the general nature of the business to be transacted at the meeting and no other business other than that business shall be transacted at the meeting, except business which the member of the **branch committee** present unanimously agree to treat as urgent business.
- 77.5 Three members of a **branch committee** constitute a quorum for the transaction of business of a **branch committee**.

78. Branch bank accounts

- 78.1 Each **branch** will establish a bank account, to be controlled by the relevant **branch committee**.
- 78.2 The **branch committee** must ensure that the use of funds contained in the **branch's** bank account accords with clause 74.1.
- 78.3 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed or approved by any two **branch committee** members, being members or employees authorised to do so by a **branch committee**.
- 78.4 A **branch committee** shall not, without first obtaining the approval of a majority of the directors, expend or enter into ventures which may result in expenditure of funds of the **company** over and above funds held by the **branch** on behalf of the **company**.

Definitions and interpretation

79. Definitions

In this constitution:

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

application fee means the fee payable on joining the **company**, as determined by the directors

application form means the form for application for membership of the **company**, to be in such form determined by the directors, including online

branch means the branch of the **company** established in a state or territory to represent the members in that location

branch committee means a committee of management of the **company** in a State or Territory of the Commonwealth of Australia exercising powers delegated to it by the directors and this constitution

branch nominee means the member of a **branch committee** who has been nominated by the **branch committee** to represent the **branch committee** on the board of directors of the **company**

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 41

general meeting means a meeting of members and includes the annual **general meeting**, under clause 21.1

honorary member means a person who has been admitted to membership pursuant to clause 14.2

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**

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

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

subscription means the fee payable for annual membership of the **company** as determined by the directors

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.

80. Reading this constitution with the Corporations Act

- 80.1 The replaceable rules set out in the **Corporations Act** do not apply to the **company**.
- 80.2 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.
- 80.3 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.
- 80.4 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.

81. 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).