Mental Health Australia

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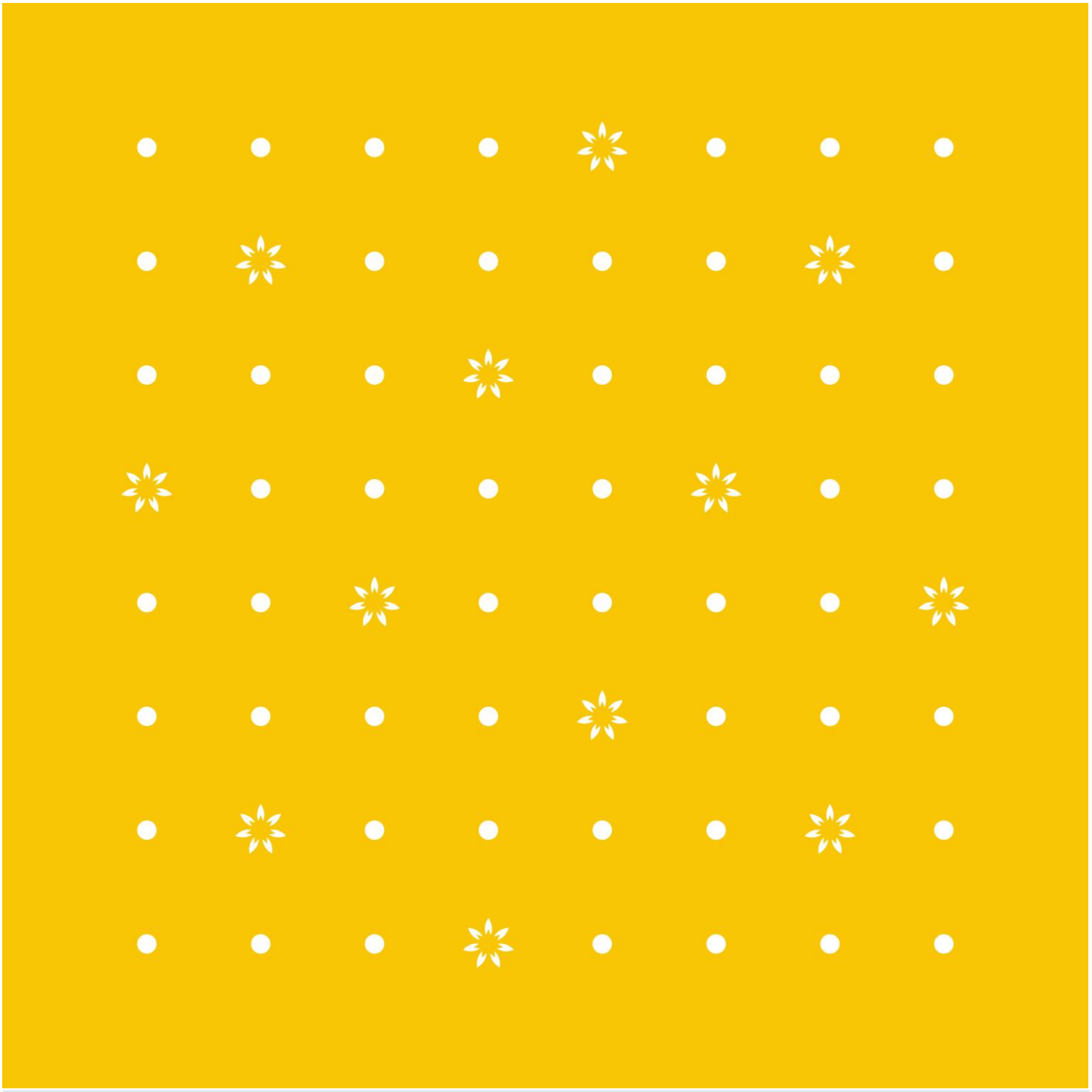

Constitution of Mental Health Australia Ltd

A PUBLIC COMPANY LIMITED BY GUARANTEE
CORPORATIONS ACT 2001

This Constitution was adopted by the members of Mental Health Australia Ltd at the 9 October 2014 Annual General Meeting.

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1. Nature of Company

1.1 The Company is a public company limited by guarantee.

1.2 The liability of the Members is limited. Every Member undertakes to contribute $2 to the assets of the Company if it is wound up while the Entity is a Member, or within 1 year after the Entity ceases to be a Member.

1.3 The funds, assets and liabilities of the incorporated association known as Mental Health Council of Australia Inc shall be the funds, assets and liabilities of the Company upon the resolution of Voting Members (referred to as "Full Members" in the constitution of the Mental Health Council of Australia Inc) to voluntarily transfer the incorporation of the Mental Health Council of Australia Inc to a company limited by guarantee under the Act.

2. Objects

2.1 The primary objects for which the Company is established are to:

(a) promote and facilitate improvements in the mental health and quality of life of Consumers, their Carers and families;

(b) increase the effectiveness and enhance the long term viability of charities, not-for-profit and other private and public organisations in the mental health sector by promoting partnerships and service coordination to improve the identification, management, treatment and support of Consumers and Carers; and

(c) promote awareness of and improve the mental health and wellbeing of Consumers, Carers and all Australians.

2.2 The Company may achieve the primary objects through (without limitation):

(a) promoting mentally healthy communities and where possible supporting, whether directly or indirectly, recovery for Consumers and Carers;

(b) providing a strong and coherent voice for mental health reform and the highest standards of mental health policy and services for all persons with or at risk of a mental illness including those parts of the community which are identified as not receiving equitable access, attention or focus in this regard;

(c) providing strategic leadership to influence policy and funding decisions, especially at the federal level, that impact on the quality of mental health programs and services in Australia;

(d) influencing and contributing to mental health research to assist charities or other organisations within the mental health sector achieve better or longer term outcomes for Consumers and Carers;

(e) creating partnerships and liaising with various sectors which impact on mental health including employment, education, housing, legal, business, disability and government; and

(f) fostering a culture of education, learning and development through targeted programs seeking to inform, educate and/or change behaviours to ultimately

benefit Consumers and/or Carers or the charities and not-for-profit and other organisations that work with Consumers and/or Carers either directly or indirectly.

2.3 The Company may do all such other things as are incidental or conducive to the operation of the Company and otherwise for the attainment of all or any of the above objects of the Company.

3. Not for profit

No profits for Members

3.1 Subject to clause 3.2, all of the assets and income of the Company must be applied solely in the furtherance of the objects of the Company and no portion may be distributed directly or indirectly to any Member.

3.2 Nothing in clause 3.1 prevents the payment, in good faith, of an amount, calculated on arms length terms, in respect of:

(a) remuneration payable to an employee of the Company who is also a Member, for services actually rendered to the Company; or

(b) goods or services actually supplied by a Member to the Company in the ordinary and usual course of the Member's business;

(c) interest (at a rate not exceeding interest at the rate for the time being charged by the Company's bankers for overdrawn accounts) on money borrowed from a Member;

(d) rent for premises demised or let by a Member to the Company; or

(e) payment to a Member in his or her capacity as a Director, under clause 8.28.

Winding up

3.3 Upon the dissolution of the Company, any remaining property after satisfaction of all debts and liabilities must not be paid to or distributed among the Members, but must be given or transferred to some other charitable institution or organisation:

(a) which has objects similar to the objects of the Company; and

(b) whose constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of clause 3.1,

as determined by the Voting Members at or before the time of winding up or dissolution of the Company and, in default of any such determination, by the Supreme Court of the Australian Capital Territory.

3.4 If the Company is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another charitable institution or organisation to which income tax deductible gifts can be made:

(a) gifts of money or property for the principal purpose of the organisation;

(b) contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation; and

(c) money received by the organisation because of such gifts and contributions.

4. Members

Membership

4.1 There are two classes of membership of the Company:

(a) Voting Members; and

(b) Non-Voting Members.

4.2 Subject to clauses 4.9 and 4.10, the Voting Members of the Company comprise:

(a) the Entities that were members of the Company immediately prior to the end of the general meeting at which this Constitution was adopted, who at that time were entitled to vote at general meetings of the Company; and

(b) such other Entities as the Board admits as Voting Members in accordance with this Constitution.

4.3 Subject to clauses 4.9 and 4.10, the Non-Voting Members of the Company comprise:

(a) the Entities that were members of the Company immediately prior to the end of the general meeting at which this Constitution was adopted, who at that time were not entitled to vote at general meetings of the Company; and

(b) such other Entities as the Board admits as Non-Voting Members in accordance with this Constitution.

4.4 For the purpose of transition of membership under subclauses 4.2(a) or 4.3(a), an organisation which was a "Full Member" or "Associate Member" of the Mental Health Council of Australia Inc prior to the adoption of this Constitution shall become a Voting Member or Non-Voting Member respectively, in its place.

4.5 The Voting Members and Non-Voting Members may be further classified by the Board to recognise the diverse membership of the Company, to encourage tailored and focussed engagement of the Members and to differentiate the Consumer Member and Carer Member categories for the purposes of clause 8.6.

Application for membership

4.6 Voting Membership is open to any Entity who:

(a) demonstrates to the satisfaction of the Board that the Entity is supportive of or has a bona fide interest in the achievement of the objects of the Company; and

(b) demonstrates to the satisfaction of the Board that it is an Entity which:

(i) has a stated mission or objective primarily concerned with mental health and:

(A) operates Nationally; or

(B) is a State/Territory Mental Health Peak Body; and

(ii) can contribute to the purpose and objectives of the Company; and

(c) completes and lodges an application for membership:

(i) in the form and manner, and providing such supporting information, as may be from time to time prescribed by the Board; and

(ii) signed by the applicant and each proposer;

(d) pays the entrance fee and annual membership fee for Voting Members, if any, from time to time prescribed by the Board when lodging the application for membership; and

(e) is accepted to membership by the Board.

4.7 Non-Voting Membership is open to any Entity who:

(a) demonstrates to the satisfaction of the Board that the Entity is supportive of or has a bona fide interest in the achievement of the objects of the Company;

(b) completes and lodges an application for membership:

(i) in the form and manner, and providing such supporting information, as may be from time to time prescribed by the Board; and

(ii) signed by the applicant;

(c) pays the entrance fee and annual membership fee for Non-Voting Members, if any, from time to time prescribed by the Board when lodging the application for membership; and

(d) is accepted to membership by the Board.

4.8 In respect of each application for membership duly made in accordance with this Constitution:

(a) the Secretary must provide the application to the Board or its duly authorised delegate promptly after receipt of the application;

(b) the Board or its duly authorised delegate must consider the application promptly and, after considering it, determine in the Board's sole and absolute discretion whether to:

(i) accept the application, which requires a simple majority of the Board; or

(ii) reject the application,

(c) if the application is accepted, the applicant must be admitted forthwith as a Member and the Secretary must:

(i) notify the applicant in writing of the admission to membership and the class and category, if any, of that membership;

(ii) issue a receipt for the membership fee paid by the Member; and

(iii) cause the required details to be entered in the Register;

(d) if the application is rejected:

(i) the Secretary must notify the applicant in writing of the rejection of the application;

(ii) the Secretary must refund in full the membership fee paid with the application; and

(e) the Board is not required to give reasons for accepting or rejecting any application.

Members' obligations and rights

4.9 The Members agree to be bound by the provisions of this Constitution.

4.10 For so long as a Member abides by the provisions of this Constitution and the By-Laws, the Member will enjoy the rights and privileges of membership under the Act, this Constitution and the By-Laws.

4.11 Voting Members have the rights to:

(a) receive notices of, attend and be heard at any general meeting;

(b) cast 1 vote in person or by proxy at any properly convened general meeting of Members;

(c) cast 1 vote in any properly held postal ballot; and

(d) attend the Members Policy Forum.

4.12 Non-Voting Members have the rights to receive notices of and attend any general meeting but do not have any right to vote at any general meeting or in a postal ballot.

Membership fees

4.13 The entrance fees and annual membership fees for Members, if any, and the time and manner of payment of such fees are as determined by the Board from time to time.

4.14 If a Member's membership fee or any part of it remains unpaid for 2 months after it becomes payable, the Member may be given a notice of default:

(a) requesting the Member to pay the unpaid membership fee within the time determined by the Board and specified in the notice; and

(b) informing the Member that their rights as a Member (under this Constitution or otherwise) have been suspended and that the Member may be removed from the Register pursuant to clause 4.26 if the membership fee remains unpaid within the time specified in the notice.

4.15 If a Member's membership fee or any part of it remains unpaid after the time specified in a notice given to the Member under clause 4.13, the Member's rights as a Member (under this Constitution or otherwise) shall be suspended until such time as:

(a) the Member has paid all arrears of membership fees, at which point in time the Members rights shall be reinstated, or

(b) the Member has been removed from the Register.

4.16 A Member who resigns or is removed from the Register pursuant to clause 4.23 or is removed from Membership pursuant to clause 4.26 or otherwise ceases to be a Member is not entitled to any refund of any entrance fee or annual membership fees.

Membership categories

4.17 The Board may make and adopt By-Laws setting out, for each class of membership, different categories of membership within that class and:

(a) the eligibility criteria for each category;

(b) the entrance fee and membership fees payable by Members in each category; and

(c) the various rights, if any, of Members in each category in addition to the rights set out in clauses 4.11 or 4.12.

4.18 For the avoidance of doubt, nothing in clause 4.17 affects the rights and obligations of Members as set out in clauses 4.11 or 4.12 of this Constitution.

Register of Members

4.19 A Register of Members must be kept in accordance with the Act.

4.20 The following details must be entered and kept current in the Register in respect of each Member:

(a) the Member's full name, business address, postal address, telephone number and e-mail address;

(b) the date of admission to and cessation of membership;

(c) the class of membership;

(d) the category, if any, of membership; and

(e) such other information as the Board requires.

4.21 The Register must be open for inspection by Members in accordance with the Act.

4.22 Each Member must notify the Secretary in writing of any change in that Member's name, business address, postal address, telephone number or e-mail address within 1 month after the change.

Resignation from membership

4.23 A Member may resign from membership by giving written notice to the Secretary.

4.24 A Member's resignation takes effect at the time the notice is given to the Secretary or such later date as may be specified in the notice.

4.25 A Member's liability for any fees, subscriptions or other moneys in arrears at the date of resignation continues until discharged by payment.

Removal from Register

4.26 If a Member:

(a) fails to pay outstanding fees within the time specified in a notice of default given to that Member under clause 4.14; or

(b) fails or declines to complete and lodge with the company secretary or Chief Executive Officer an annual membership renewal in the form and manner from time to time required by the Board;

the Member may be removed from membership by resolution of the Board.

Removal from membership

4.27 If a Member:

(a) fails to comply with any provisions of the Constitution or By-Laws; or

(b) conducts itself in a manner considered to be injurious or prejudicial to the character or interests of the Company;

the Member may be removed from membership by resolution of the Board.

4.28 A Member may only be removed from membership pursuant to clause 4.27 if:

(a) the Board has first given at least 2 months' written notice to the Member stating the intention to terminate the Member's membership, setting out the grounds of the intended termination, inviting the Member to provide to the Board any written representations which the Member wishes to be put to the meeting and specifying the time by which such representations must be received;

(b) the Board has included in the notice of the meeting a copy of the Member's written representations (unless the written representations were not provided by the Member in time to be included in the notice, in which case the written representations have, if required by the Member, been read out at the meeting); and

(c) the Member has been given a full and fair opportunity to address the meeting, irrespective whether or not the Member has provided written representations to the Board; and

(d) the Member has not shown cause why the Member should not be removed from membership.

Other cessation of membership

4.29 A Member otherwise ceases to be a Member if the Member:

(a) becomes insolvent;

(b) becomes the subject of a winding up petition;

(c) enters into an arrangement for the benefit of its creditors;

(d) resolves to go into voluntary liquidation;

(e) has a receiver appointed to its assets or some of its assets;

(f) has a mortgagee go into possession of some or all of its assets;

(g) becomes the subject of a writ of execution applicable to some or all of its assets;

(h) is wound up or is otherwise dissolved or deregistered or otherwise ceases to exist;

(i) no longer complies with the eligibility requirements for membership under this Constitution; or

(j) is expelled from membership or removed from the Register under this Constitution.

5. General meetings

Calling of general meetings

5.1 General meetings of the Company may be called and held at the times and places and in the manner determined by the Board.

5.2 At least 5% of the Voting Members of the Company may call, or requisition the Board to call, a general meeting of the Company.

Notice of general meetings

5.3 Notice of every general meeting must be given to every Member, Director and the auditor, if any, for the time being of the Company. No other person is entitled to receive notices of general meetings.

5.4 Notice of a general meeting:

(a) must be given not less than 21 days prior to the meeting, unless:

(i) the meeting is an annual general meeting at which a resolution will not be moved to remove or appoint a Director or remove an auditor, and all the Voting Members agree beforehand to a shorter notice period; or

(ii) the meeting is a general meeting at which a resolution will not be moved to remove or appoint a Director or remove an auditor other than an annual general meeting, and at least 95% of the Voting Members agree beforehand to a shorter notice period.

(b) may be given in accordance with clauses 20.3 and 20.4;

(c) must specify:

(i) the place, the date and the time of the meeting;

(ii) if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this;

(iii) the general nature of the business to be transacted;

(iv) if it is proposed to move a special resolution at the meeting, the intention to propose the special resolution and the resolution; and

(v) if a Member is entitled to appoint a proxy – contain a statement setting out the following information:

(A) that the Member has a right to appoint a proxy; and

(B) whether or not the proxy needs to be a Member of the Company.

5.5 The accidental omission to give notice of any general meeting to, or the non receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the general meeting.

Business at general meetings

5.6 No person may move at any general meeting any business of which notice has not been given under clause 5.4, other than the following at an annual general meeting:

(a) the receipt and consideration of the accounts and reports of the Board and the auditors;

(b) the election of Directors;

(c) the appointment of an auditor;

(d) the fixing of the auditor's remuneration.

Adjournment of general meetings

5.7 The chairperson of any general meeting at which a quorum is present may, with the consent of the meeting, and must if so directed by the meeting, adjourn the meeting to another time and to another place.

5.8 The only business that may be transacted at any adjourned general meeting is the business left unfinished at the meeting from which the adjournment took place.

5.9 When a general meeting is adjourned under clause 5.7 for 30 days or more notice of the adjourned meeting must be given in the same manner as in the case of an original meeting.

5.10 When a general meeting is adjourned under clause 5.7 for less than 30 days, it is not necessary to give a further notice of the adjourned meeting.

Cancellation of general meetings

5.11 The Board may cancel or postpone any general meeting (other than a meeting which has been called or requisitioned by Members) at any time prior to the date on which it is to be held.

5.12 If a general meeting has been cancelled or postponed, notice of the cancellation or postponement must be given in the same manner as in the case of the original meeting.

Attendance at general meetings

5.13 Subject to clause 5.22, a person, whether or not a Member, who is invited or requested by the Board to attend a general meeting is entitled to attend that general meeting.

Quorum at general meetings

5.14 No business may be transacted at a general meeting unless a quorum of Voting Members is present when the meeting proceeds to business.

5.15 A quorum for the purposes of a general meeting is a minimum of thirty five percent of the Voting Members or at least 20 Voting Members whichever is the lesser.

5.16 For the purpose of calculation of a quorum, Voting Members must be regarded as present whether present personally or by proxy.

5.17 If a quorum is not present within 30 minutes from the time appointed for the meeting or a longer period allowed by the chairperson:

(a) if the meeting was called or requisitioned by Members, it must be dissolved; or

(b) in any other case, it must be adjourned to the same day in the next week at the same time and place, or to another day, time and place determined by the Board.

5.18 Notwithstanding any other provision of this Constitution, if a general meeting is adjourned under sub-clause 5.17(b):

(a) not less than 5 days' notice of the adjourned meeting must be given in the same manner as in the case of the original meeting;

(b) a quorum for the purpose of the adjourned meeting is the number of Voting Members as required by clause 5.15; and

(c) if a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting must be dissolved.

Chairperson of general meetings

5.19 The Chair or, in his or her absence, the Deputy Chair, if any, is entitled to chair every general meeting.

5.20 The Directors present at a general meeting must elect 1 of the Directors present to chair the meeting if any of the following apply:

(a) there is not then a Chair or Deputy Chair;

(b) neither the Chair nor the Deputy Chair is present within 15 minutes after the time appointed for the holding of the meeting; or

(c) neither the Chair nor the Deputy Chair is willing to act.

5.21 The Voting Members present at a general meeting must elect 1 of the Voting Members present to chair the meeting if either of the following applies:

(a) there are no Directors present within 15 minutes after the time appointed for the holding of the meeting; or

(b) all Directors present decline to chair the meeting.

5.22 Except as provided by the Act, the general conduct of each general meeting and the procedures to be adopted at the meeting are as determined by the chairperson.

5.23 The chairperson of a general meeting may, in his or her discretion, refuse admission to, or expel from, the meeting any person:

(a) using a recording device;

(b) in possession of a placard or banner;

(c) in possession of an object considered by the chairperson to be dangerous, offensive or liable to cause disruption;

(d) who refuses to produce or to permit examination of any object, or the contents of any object or container, in the person's possession;

(e) who behaves or threatens to behave in a dangerous, offensive or disruptive manner;

(f) whose conduct, in the reasonable opinion of the chairperson, is inappropriate; or

(g) who is not a Member, Director or auditor of the Company or has not been invited or requested by the Board to attend the meeting pursuant to clause 5.13.

6. Voting at general meetings

6.1 At a general meeting, a resolution put to the vote of the meeting must be decided by a majority vote of the Voting Members present or represented and entitled to vote at the meeting. If the votes are equal, the question is decided in the negative.

6.2 The chairperson has a deliberative and a casting vote at general meetings.

6.3 A Voting Member whose membership fees are in arrears at the date of a general meeting is not entitled to vote at that meeting.

Show of hands

6.4 At a general meeting, a resolution put to the vote of the meeting, must be decided on a show of hands unless a poll is demanded in accordance with clause 6.8.

6.5 On a show of hands, every Voting Member present in person and entitled to vote on the resolution has 1 vote.

6.6 For the avoidance of doubt, on a show of hands a Voting Member may not vote by proxy.

6.7 If a poll is not duly demanded, a declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

Poll

6.8 A poll may be demanded in respect of a resolution at a general meeting by:

(a) at least 3 Voting Members entitled to vote on the resolution;

(b) Voting Members with at least 5% of the votes that may be cast on the resolution; or

(c) the chairperson.

6.9 A poll may be demanded in respect of a resolution at a general meeting:

(a) before the vote on that resolution is taken;

(b) before the voting result on a show of hands is declared; or

(c) immediately after the voting result on a show of hands is declared.

6.10 A poll may not be demanded on the election of a chairperson.

6.11 Every Voting Member present in person or by proxy has:

(a) the right to join in the demand for a poll; and

(b) 1 vote in the poll.

6.12 The demand for a poll may be withdrawn.

6.13 If a poll is duly demanded, it must be:

(a) secret;

(b) taken in the manner directed by the chairperson;

(c) on a question of adjournment, taken immediately;

(d) on any other question, taken either at once or after an interval or adjournment or otherwise as directed by the chairperson and does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll is demanded.

6.14 In the case of any dispute as to the admission or rejection of a vote, the chairperson's determination in respect of the dispute is final.

6.15 The result of the poll must be communicated to the meeting by the poll chairperson.

Postal ballot

6.16 A postal ballot may be held by electronic means.

6.17 Notwithstanding any other provision of this Constitution, to the extent permitted by law, a resolution of the Voting Members decided by postal ballot conducted in accordance with this Constitution is as valid and effective as if it had been passed at a general meeting duly called and constituted.

6.18 Without limiting the purposes for which the Board may conduct a postal ballot amongst the Voting Members, a postal ballot must be held for the election of Elected Directors under clause 8.10(e) and the results must be declared at the relevant annual general meeting.

6.19 All postal ballots must be held in such a manner as to provide a reasonable opportunity for the Voting Members to cast a vote and otherwise in the manner prescribed from time to time by the Board.

Proxies

6.20 A Voting Member entitled to vote at a general meeting may appoint 1 Voting Member as its proxy, to attend and vote in his or her place at a general meeting.

6.21 The proxy must be appointed in writing, in the form from time to time required by the Board, and signed by the Voting Member appointing the proxy.

6.22 A person attending a general meeting as proxy has all the rights and powers of the relevant Voting Member, except where expressly stated to the contrary in:

(a) the document appointing the proxy;

(b) this Constitution; or

(c) the Act.

6.23 If the document appointing a proxy specifies the manner in which the proxy is to vote in respect of a particular resolution, the proxy is not entitled to vote on the resolution except in the manner specified in the document.

6.24 A document appointing a proxy is valid at any adjournment of a meeting to which the proxy relates, unless otherwise specified in the document.

6.25 A document appointing a proxy may appoint the proxy for a period of up to 1 year, for all or stipulated general meetings during that period.

6.26 A document appointing a proxy is invalid unless the document appointing the proxy is received by the Company:

(a) at the Company's registered office (or other address, facsimile number or electronic address specified for that purpose in the notice convening the meeting); and

(b) at least 48 hours (or lesser period specified in the notice convening the meeting) before the time for holding the meeting or adjourned meeting at which the proxy is proposed to vote.

6.27 A vote made under a proxy is valid despite any of the following facts, unless the Company receives written notice of the fact before the commencement of the meeting at which the vote is cast:

(a) the Voting Member has died;

(b) the Voting Member no longer has Legal Capacity;

(c) the proxy or authority under which the proxy was signed has been revoked.

6.28 A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes at the meeting on the resolution for which the proxy is proposed to be used.

7. Members' Representatives

7.1 Member Entities shall appoint an individual as a Representative to exercise all or any of the powers of the Member under this Constitution or the Act or otherwise at law.

7.2 The Board shall have the right to prescribe the form of appointment of a Representative of an Entity and to demand evidence of the appointment prior to admission to any general meeting.

7.3 If the appointment is to be by reference to a position held, the appointment must identify the position.

7.4 The appointment may be a standing one.

7.5 The appointment may set out restrictions on the Representative's powers.

7.6 A Member may appoint more than 1 Representative but only 1 Representative may exercise the Member's powers at any one time.

7.7 Unless otherwise specified in the appointment, the Representative may exercise, on the Member's behalf, all of the powers that the Member could exercise at a meeting or in voting on a resolution.

7.8 Where the Board forms the opinion that a Representative has:

(a) persistently refused or neglected to comply with his or her duties as a Representative; or

(b) wilfully acted in a manner prejudicial to the interests of the Representative's appointing Member and the Company;

the Board may notify the Member in writing of the matters in clause 7.8(a) and/or 7.8(b) and require the Member to appoint another Representative.

8. Board of Directors

Number of Directors

8.1 The number of Directors must be not less than 5 and not more than 10.

8.2 If the number of Directors is reduced below the minimum number prescribed by this Constitution, the continuing Director or Directors may act only to:

(a) appoint additional Directors to the minimum number prescribed by this Constitution; or

(b) convene a general meeting.

8.3 The Board must consist of:

(a) at least 3 and up to 8 Elected Directors; and

(b) up to 2 Board Appointed Directors.

8.4 The Company may, by ordinary resolution, increase the maximum number of Directors and may determine in what rotation the Directors appointed as the result of any such alteration are to go out of office.

Director Eligibility and Board Composition Policy

8.5 The Board must agree from time to time in writing its policy regarding Director eligibility and Board composition.

8.6 The Director Eligibility and Board Composition Policy referred to in clause 8.5 must include:

(a) a requirement that the Elected Directors include at least:

(i) 1 person nominated by a Consumer Member; and

(ii) 1 person nominated by a Carer Member;

and

(b) a requirement that candidates for the Board comply with the following Director eligibility criteria:

(i) for Elected Directors, the person is an employee or representative of a Voting Member;

(ii) the person is not an employee of the Company or any related entity employing staff of the Company; and

(iii) subject to clause 8.9 one of the following applies:

(A) the person must not have served the Maximum Number of Consecutive Terms as a Director; or

(B) in the case of a person who has already served the Maximum Number of Consecutive Terms as a Director, at least 3 years has elapsed since the person's last term of office; and

(iv) the person is not ineligible under the Act, under this Constitution or otherwise at law for appointment to the Board.

8.7 For the purpose of 8.6(a):

(a) if the election of both the Consumer Member and Carer Member are to be held in the one calendar year, a Member which would be entitled to nominate a person under both clauses 8.6(a)(i) and 8.6(a)(ii) must elect to nominate a person either as a Consumer Member under clause 8.6(a)(i) or a Carer Member under clause 8.6(a)(ii), but not both; and

(b) if the election of only the Consumer Member or Carer Member (but not both) are to be held in a calendar year, a Member which would be entitled to nominate a person under both clauses 8.6(a)(i) and 8.6(a)(ii) may nominate a person as a Consumer Member or Carer Member, whichever is applicable for that particular year, provided that the current Consumer Member or Carer Member continuing on the Board (whichever position is not up for election) is not a nominee of that Consumer Member or Carer Member.

8.8 For the purposes of sub-clause 8.6(b)(iii) a Director who was already on the Board at the close of the general meeting at which this Constitution was adopted is deemed to have served no terms prior to that Director's re-appointment under this Constitution.

8.9 The Board may in its discretion and by unanimous vote waive the Maximum Number of Consecutive Terms for the re-election or re-appointment of a Director in clause 8.6(b)(iii) (called a "Continuing Director" for the purpose of this clause) only if, having regard to the Director Eligibility and Board Composition Policy, the Continuing Director has skills and other competencies which will assist the Board in discharging its role and functions in view of the skills and other competencies brought to the Board by the Directors then already on the Board.

Elected Directors

8.10 An Elected Director is appointed at an annual general meeting as follows:

(a) the Board must call for nominations no earlier than 3 months before the meeting;

(b) any Voting Member may nominate a person to be a candidate for the position of an Elected Director;

(c) the nomination must be:

(i) in the form prescribed by the Board;

(ii) signed by the Voting Member proposing the candidate and the candidate; and

(iii) given to the Board in the manner and within the time prescribed by the Board;

(d) if the number of candidates who are eligible for appointment in accordance with the Director Eligibility and Board Composition Policy is less than or equal to

the number of vacancies, the candidates are automatically appointed as Elected Directors from the close of the meeting;

(e) if the number of candidates who are eligible for appointment in accordance with the Director Eligibility and Board Composition Policy is more than the number of vacancies:

(i) a list of the names of all candidates who are eligible for appointment in accordance with the Director Eligibility and Board Composition Policy, including the name of the Voting Members who nominated the candidate, must be provided to all Voting Members at least 21 days before the meeting;

(ii) the Board may hold one of the following to determine the election of the Elected Directors:

(A) a postal ballot or electronic ballot for the election of Elected Directors which may be completed at least 4 days before the meeting in which each Voting Member who is eligible to vote may vote for such number of candidates as there are vacant positions of Directors; or

(B) for a contested election held at a general meeting of Members, a secret ballot.

(C) the voting system for the election of Elected Directors will be as set out in By-Laws made by the Board for that purpose.

Rotation of Elected Directors

8.11 Each Elected Director will serve for a term of approximately 2 years commencing from the annual general meeting at which the Elected Director was appointed, but is eligible for re-appointment as a Director if not then disqualified by this Constitution, the Act or otherwise at law from being re-appointed.

8.12 There will be a staggered rotational system of appointment of Elected Directors such that at each annual general meeting, approximately one-half of Elected Directors, each of whom has served a term of approximately 2 years, must retire from office.

8.13 The Directors in office at the close of the general meeting at which this Constitution is adopted must retire on a staggered basis over the next 2 annual general meetings, in the order determined by the Board.

Board Appointed Directors

8.14 The Board may appoint up to 2 Board Appointed Directors.

8.15 The Board may only appoint a person as a Board Appointed Director if that person is eligible for appointment in accordance with the Director Eligibility and Board Composition Policy.

8.16 Each Board Appointed Director will serve for a term of 2 years, or such lesser period as the Board may determine, but is eligible for re-appointment as a Director if not then disqualified by this Constitution, the Act or otherwise at law from being re-appointed.

Resignation from office

8.17 A Director may resign from office by giving written notice to the Secretary.

8.18 A Director's resignation takes effect at the time the notice is given to the Secretary or such later date as may be specified in the notice.

Removal from office

8.19 The Company may, by ordinary resolution, remove any Director from office.

8.20 At any general meeting at which it is proposed to remove a Director under clause 8.19, the Director must be given the opportunity to present his or her case, orally or in writing or by both of those means.

8.21 A Director who is removed under clause 8.19 retains office until the dissolution or adjournment of the general meeting at which the Director is removed.

8.22 If a Director removed under clause 8.19 was an Elected Director, the Company may, by ordinary resolution, appoint a person to take that Director's place.

8.23 The term of appointment of a Director appointed under clause 8.22 continues until the annual general meeting at which the person who was removed from office would have been required to retire pursuant to this Constitution if he or she had not been removed.

Vacation of office

8.24 The office of a Director becomes vacant if the Director:

(a) becomes prohibited from being a director of a company by reason of the Act, any order made under the Act or otherwise at law;

(b) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;

(c) no longer has Legal Capacity;

(d) ceases to be an employee or representative of a Voting Member;

(e) becomes an employee of the Company or any related entity employing staff of the Company;

(f) the Director is absent without the consent of the Board from all meetings of the Board during a continuous period of 6 months; or

(g) the Company resolves that the office of that Director be vacated.

Casual vacancies

8.25 If a casual vacancy arises in relation to an Elected Director, the Board may appoint a person who is eligible for appointment in accordance with the Director Eligibility and Board Composition Policy as Director to fill the casual vacancy until the next annual general meeting.

8.26 The appointment of Elected Directors for the next annual general meeting must include the appointment of a person to fill the vacancy (but such vacancy is not to be taken into account in determining the number of directors who must retire by rotation at the

annual general meeting). Any person appointed under clause 8.25 is eligible as a candidate in that election if not then disqualified by this Constitution or the Act.

8.27 The term of appointment of a Director appointed under clause 8.26 continues until the annual general meeting at which the person who vacated office early would have been required to retire pursuant to this Constitution if he or she had not vacated office early.

Directors' expenses

8.28 Directors may be paid all reasonable travelling, accommodation, and other expenses properly incurred by them in attending and returning from meetings of the Board or any of its committee or general meetings or otherwise in the execution of their duties as Directors, provided that such expenses have first been approved by the Board in its discretion.

8.29 The Chair and the Directors nominated by the Consumer Members and Carer Members may receive an annual honorarium. The amount of any honorarium is to be determined by the Board every year.

9. Chair and Deputy Chair

9.1 At the first Board meeting held after the vacation of office of the Chair under clause 9.4, the Board must elect a Director as Chair.

9.2 If there is no Deputy Chair, the Board may elect a Director as Deputy Chair at any time.

9.3 The election of the Chair and Deputy Chair (if any) may be held by any means determined by the Board, but in the event of an equality of votes, the matter must be determined by the drawing of lots.

9.4 A Director elected by the Board as Chair or Deputy Chair holds that office until:

(a) the next annual general meeting of the Company;

(b) the Director ceases to be a Director in accordance with this Constitution;

(c) the Director resigns from the office of Chair or Deputy Chair (as the case may be) by written notice to the Secretary; or

(d) the Board, by ordinary resolution excluding the relevant Director, removes the Director from the office of Chair or Deputy Chair (as the case may be).

9.5 A Director is eligible for re-election as Chair, provided that the Director has not then already served 5 consecutive full terms as Chair.

9.6 The Chair or, in his or her absence, the Deputy Chair (if any) is entitled to preside as chairperson at every Board meeting.

9.7 The Directors present at a Board meeting must elect 1 of the Directors present to chair the meeting if any of the following apply:

(a) there is not then a Chair or Deputy Chair;

(b) neither the Chair nor the Deputy Chair is present within 15 minutes after the time appointed for the holding of the meeting; or

(c) neither the Chair nor the Deputy Chair is willing to act.

10. Powers of the Board

10.1 The governance of the Company is the responsibility of the Board of Directors duly appointed under and in accordance with this Constitution.

10.2 The Board may exercise all the powers of the Company which are not, by the Act or by this Constitution, required to be exercised by the Company in a general meeting.

10.3 If the Company holds or owns membership, shares or other interests in another body corporate, trust or other entity, the Board may exercise any and all voting rights conferred by the membership, shares or interests in any manner it considers fit.

11. Board meetings

Convening of Board meetings

11.1 Subject to the provisions of the Act and this Constitution, the Board may meet for the dispatch of business and regulate its meetings as it thinks fit.

11.2 The Board must meet at least 3 times in each financial year.

11.3 Any 3 Directors may request the Secretary to convene a Board meeting at any time and the Secretary must comply with such request.

Notice of Board meetings

11.4 Notice of each Board meeting must be given to each Director at least 24 hours before the meeting or otherwise as determined by the Board, except all Directors may waive in writing the required period of notice for a particular meeting.

11.5 Notice of Board meeting may be given to a Director by:

(a) mail or delivery to the usual place of residence of the Director; or

(b) mail, delivery, facsimile transmission or e-mail to any other address, facsimile number or e-mail address given by the Director to the Secretary for that purpose (unless and until the Director informs the Secretary that he or she may not be contacted at that other address, facsimile number or e-mail address).

Mode of Board meetings

11.6 A Board meeting may be called or held using any technology consented to by all Directors.

11.7 The consent to hold a Board meeting using any technology may be a standing one. A Director may only withdraw the consent within a reasonable period before the meeting.

11.8 If a Board meeting is held using any technology the Directors taking part in the meeting, are taken to have consented to the use of the technology for that meeting.

11.9 The following provisions apply to a Board meeting held using any technology:

(a) each of the Directors taking part in the meeting must be able to hear and be heard by each of the other Directors taking part in the meeting; and

(b) at the commencement of the meeting each Director must announce his or her presence to all the other Directors taking part in the meeting.

11.10 A Director may not leave a meeting held using technology by disconnecting his or her link to the meeting unless that Director has previously notified the chairperson of the meeting.

11.11 A Director is conclusively presumed to have been present and to have formed part of a quorum at all times during a meeting held using technology unless that Director has previously obtained the express consent of the chairperson to leave the meeting.

Quorum at Board meetings

11.12 A quorum for the purposes of a Board meeting is half the number of Directors then on the Board present (either in person or by use of technology), rounded up to the nearest whole number if the case requires.

11.13 If a quorum is not present:

(a) within 15 minutes from the time appointed for a Board meeting being held by use of technology; or

(b) within 30 minutes from the time appointed for a Board meeting being held in person; or

(c) a longer period allowed by the chairperson;

the meeting must be adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the chairperson may determine; and if at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting whether being held by technology or in person, the meeting lapses.

Voting at Board meetings

11.14 Questions arising at a Board meeting must be decided by a majority vote of Directors present (either in person or by use of technology) and voting. If the votes are equal, the question is decided in the negative.

11.15 The chairperson has a deliberative and a casting vote at Board meetings.

Resolution in writing

11.16 A resolution in writing signed by all Directors is as valid and effectual as if it had been passed at a Board meeting duly convened and held.

11.17 A resolution in writing may consist of several documents in like form, each signed by 1 or more Directors and if so signed it takes effect on the latest date on which a Director signs 1 of the documents.

11.18 For the purpose of clause 11.177, a resolution bearing an electronic copy of a signature is deemed to be signed.

Validity of acts

11.19 All acts done by the Board or a Committee or by a person acting as a Director are valid even if it is later discovered that there is a defect in the appointment of a person as a Director or a member of the committee or that they or any of them were disqualified or were not entitled to vote.

Conflicts of Interest

11.20 The Board must agree from time to time in writing on its policy for the regulation of conflicts of interest.

11.21 If there are not enough Directors to form a quorum as a result of 1 or more Directors having an interest which disqualifies them from voting, then 1 or more of the Directors (including those who have the disqualifying interest in the matter) may call a general meeting and the Company in general meeting may pass a resolution to deal with the matter.

11.22 A Director may only be engaged to provide goods or services to or on behalf of the Company if:

(a) that Director is for bona fide reasons considered by the Board, agreed to be a suitable person to provide, such goods or services;

(b) bona fide attempts have been made to identify others who provide the goods or services and to compare rates and service levels of such others compared with the Director's rates and service levels;

(c) the goods or services are provided on arms-length terms;

(d) the provision of the goods and services is disclosed clearly and expressly to the Members in the Company's annual report; and

(e) the Board agrees, by ordinary resolution excluding the interested Director, to the provision of the goods or services by the Director.

12. Committees of the Board

12.1 The Board may appoint one or more committees of the Board consisting of such Directors, other Voting Members or appropriately qualified and experienced people as the Board thinks fit.

12.2 The Board may appoint any member of a Committee as chairperson of that Committee.

12.3 In the exercise of any powers delegated to it, a Committee must:

(a) conform to the directions of the Board;

(b) report to the Board; and

(c) otherwise conduct its meetings and proceedings in accordance with the provisions of this Constitution, as far as practicable, as if they were meetings and proceedings of the Board.

12.4 The Board may delegate any of its powers, except this power to delegate, to a Committee.

13. Members Policy Forum

13.1 The Members Policy Forum shall be established and convened in accordance with the provisions of this clause 13.

13.2 The Members Policy Forum shall:

(a) comprise:

(i) up to two people from each Voting Member provided that at least one quarter of the Voting Members are represented at the Members Policy Forum;

(ii) the Chair or a nominee of the Chair;

(iii) the Board Appointed Directors; and

(iv) such other persons (whether or not they are Members) as the Board shall from time to time determine to be suitable, in view of the purposes of the Members Policy Forum as set out in clause 13.3 of this Constitution, to attend at a meeting of the Members' Policy Forum convened under this Constitution; and

(b) be presided over by the Chair or in his or her absence, the Deputy Chair or other Director nominated by the Board;

(c) on all matters requiring a vote, allow only one vote from each of the following attending the Members Policy Forum:

(i) each Voting Member (whether represented by one or two persons); and

(ii) the Chair or a nominee of the Chair; and

(d) otherwise operate in accordance with By-Laws from time to time approved by the Board.

13.3 The purpose of the Members Policy Forum shall be to:

(a) provide an arena for ongoing review and involvement of stakeholders in the shaping and development of the Company's strategic direction and priorities;

(b) discuss and make recommendations to the Board on issues relating to such matters;

(c) provide a Member's forum for discussion of key issues and challenges facing the Company and the mental health sector more widely;

(d) educate, inform and provide feedback to stakeholders;

(e) advance the Company's public image; and

(f) consider such other issues as the Members in general meeting may from time to time request to be considered by the Members' Policy Forum.

14. Advisory committees

14.1 The Board may appoint advisory committees as standing or ad-hoc committees to advise or make recommendations to the Board.

14.2 Any advisory committee created under this clause 14 must be chaired by the Chair and in his or her absence a Director elected by the committee to chair that particular meeting.

14.3 The Directors may appoint appropriately qualified and experienced people to serve on all advisory committees established.

15. Secretary

15.1 The Board may appoint (on the terms and conditions it sees fit) and terminate the appointment of the secretary of the Company.

15.2 The Secretary is responsible for carrying out all acts and deeds required by this Constitution or the Act to be carried out by the secretary of the Company.

16. Chief Executive Officer

16.1 The Board may appoint any person to the position of chief executive officer for the period and on the terms and conditions (including as to remuneration) the Board sees fit.

16.2 The Board may, upon terms and conditions and with any restrictions it sees fit, confer on the CEO any of the powers that the Board can exercise.

16.3 The Board may at any time revoke or vary an appointment of, or any of the powers conferred on, the CEO.

16.4 If the CEO becomes incapable of acting in that capacity, the Directors may appoint any other person other than a Director to act temporarily as CEO until such time as the position can be filled permanently.

17. By-Laws

17.1 The Board may make, adopt, amend and repeal By-Laws with respect to any matter or thing for the purposes of giving effect to any provision of this Constitution or generally for the purposes of carrying out the objects of the Company, which By-Laws are binding on the Members.

17.2 To the extent of any inconsistency, this Constitution prevails over the By-Laws.

18. Indemnities and insurance

Officers' liabilities to third parties

18.1 Every officer and past officer of the Company is indemnified against a liability incurred by that person as an officer, other than a liability:

(a) to the Company or a related body corporate;

(b) for a pecuniary penalty under section 1317G of the Act or for compensation under section 1317H of the Act; or

(c) which arises from conduct that involves a lack of good faith.

Officers' costs and expenses

18.2 Every officer and past officer of the Company is indemnified by the Company against a liability for costs and expenses incurred by that person as an officer, other than legal costs incurred:

(a) in defending or resisting proceedings in which the person is found to have a liability for which the person could not be indemnified under clause 18.1;

(b) in defending or resisting proceedings in which judgement is made against the person or the person is found guilty;

(c) in defending or resisting proceedings brought by a Regulator or a liquidator for a court order if the grounds for making the order are found by the court to have been established (but this sub-clause does not apply to costs incurred in responding to actions taken by the Regulator or a liquidator as part of an investigation before commencing proceedings for the court order); or

(d) in connection with any application in relation to those proceedings in which the Court denies relief to the person.

Insurance premiums

18.3 The Company may pay the premium on a contract insuring a person who is or has been an officer of the Company against:

(a) a liability for costs and expenses incurred by the person in defending proceedings arising out of the person's conduct as an officer, whether civil or criminal and whatever their outcome; and

(b) any other liability incurred by the person as an officer of the Company, except a liability which arises from conduct that involves a wilful breach of duty in relation to the Company or a contravention of sections 182, 183 or 184(2) or (3) of the Act.

19. Accounts, audit and records

Financial year

19.1 The financial year of the Company commences on the 1st day of July and ends on the 30th day of June in the following calendar year.

Banking of moneys

19.2 All moneys of the Company must be banked in a bank account in the name of the Company at such bank as the Board may from time to time direct.

Accounts, records and reports

19.3 The Board must cause proper accounting and other records to be kept in accordance with the Act and must comply with the requirements of the Act in respect of reporting and providing accounts to Members.

19.4 The Board must provide for the safe custody of the books, records, documents, instruments of title and securities of the Company.

Audit

19.5 A registered company auditor must be appointed to the Company.

19.6 The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.

19.7 The auditor or his or her representative is entitled to attend any general meeting and be heard on any part of the business of the meeting which concerns the auditor. The auditor or his or her representative, if present at the meeting, may be questioned by the Members about the audit.

Rights of inspection

19.8 Subject to the Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them are open to the inspection of Members. A Member does not have the right to inspect any document of the Company except as provided by the Act or authorised by the Board.

20. Notices

Persons authorised to give notices

20.1 A notice given under this Constitution may be given:

(a) on behalf of the Company by a solicitor for the Company, the Secretary or a Director; or

(b) on behalf of a Member by a solicitor, secretary or director of the Member.

20.2 The signature of a person on a notice given by the Company or a Member may be written, printed or stamped.

Method of giving notices

20.3 A notice by the Company or a Member may be given under this Constitution by any of the following means:

(a) by delivering it to the street address of the addressee;

(b) by sending it by prepaid ordinary post (or by airmail if outside Australia) to the street or postal address of the addressee;

(c) by sending it by facsimile or e-mail to the facsimile number or e-mail address of the addressee; or

(d) for a notice of meeting, by notifying the Member in accordance with clause 20.4(d).

Address for notices

20.4 For the purposes of:

(a) clauses 20.3(a) and 20.3(b), the street and postal address of the Company is the registered office of the Company, or such other address as was last formally notified by the Company to the Member;

(b) clause 20.3(c) the facsimile number and e-mail address of the Company are the details last formally notified by the Company to the Member;

(c) clauses 20.3(a)-(c), the street and postal addresses, facsimile number and e-mail address of a Member are the details last formally notified by the Member to the Secretary; and

(d) clause 20.3(d), if the Member nominates by such process as provided for by the Company:

(i) an electronic means by which the Member may be notified that notices of meeting are available; and

(ii) an electronic means the Member may use to access notices of meeting;

the Company may give the Member notice of the meeting by notifying the Member (using the nominated notification means):

(iii) that the notice of meeting is available; and

(iv) how the Member may use the nominated access means to access the notice of meeting.

Time notice is given

20.5 A notice given in accordance with this Constitution is deemed to be given, served and received at the following times:

(a) if delivered to the street address of the addressee, at the time of delivery;

(b) if sent by post to the street or postal address of the addressee, on the next business day (or 5th business day if outside Australia) after posting; or

(c) if sent by facsimile or e-mail, at the time transmission is completed.

20.6 For the purpose of clause 20.4(d), the notice is taken to be given on the business day after the day on which the Member is notified that the notice of meeting is available.

Proof of giving notices

20.7 The sending of a notice by facsimile or e-mail and the time of completion of transmission may be proved conclusively by production of:

(a) a transmission report by the facsimile machine from which the notice was transmitted which indicates that a facsimile of the notice was sent in its entirety to the facsimile number of the addressee; or

(b) a print out of an acknowledgement of receipt of the e-mail or equivalent proof that the email was successfully transmitted;

(c) a certificate signed by an officer that the notice was given in accordance with clause 20.4(d).

21. Interpretation

21.1 In this Constitution, unless the context requires otherwise:

(a) a reference to any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation and a reference to a specific provision of such legislation is a reference to the equivalent provision in any later amended, re-enacted or replacement legislation;

(b) a reference to this Constitution, where amended, means this Constitution as so amended;

(c) a reference to a clause, sub-clause or schedule is a reference to a clause, sub-clause or schedule of this Constitution;

(d) a word which denotes:

(i) the singular denotes the plural and vice versa;

(ii) any gender denotes the other genders; and

(iii) a person denotes an individual and a body corporate;

(e) where a word or phrase is given a defined meaning any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;

(f) an expression used but not defined in this Constitution has the same meaning as given in the Act;

(g) writing includes any mode of representing or reproducing words in a visible form; and

(h) a reference to 'dollars' or '$' means Australian dollars.

21.2 Headings and any table of contents must be ignored in the interpretation of this Constitution.

Calculation of time

21.3 In this Constitution, unless the context requires otherwise:

(a) a reference to a time of day means that time of day in the state or territory in which the Company's registered office is located;

(b) a reference to a business day means a day during which banks are open for general banking business in the state or territory in which the Company's registered office is located;

(c) for the purposes of determining the length of a period (but not its commencement) a reference to:

(i) a day means a period of time commencing at midnight and ending 24 hours later; and

(ii) a month means a calendar month which is a period commencing at the beginning of a day of 1 of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of that next month;

(d) where a period of time is specified and is to be calculated before or after a given day, act or event it must be calculated without counting that day or the day of that act or event; and

(e) a provision of this Constitution, except that specifying the time for deposit of proxies with the Company, which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.

22. Amendment

22.1 Subject to the Act, this Constitution may be repealed, amended or added to by a special resolution carried at a general meeting of Voting Members.

23. Replaceable rules

23.1 Each of the provisions of the Act which would but for this clause apply to the Company as a replaceable rule within the meaning of the Act are displaced and do not apply to the Company.

24. Definitions

24.1 In this Constitution, unless the context requires otherwise:

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

(b) **Board** means the Board of Directors of the Company;

(c) **Board Appointed Director** means a Director appointed to the Board in accordance with clause 8.14;

(d) **By-Laws** means by-laws made or adopted under clause 17;

(e) **Carer** means a person whose life is affected by virtue of providing or having provided care and support to a Consumer who is experiencing psychological, emotional or mental health issues;

(f) **Carer Member** means a Member whose objects and/or purpose is to predominantly assist and enhance the lives of Carers;

(g) **CEO** means the chief executive officer of the Company, appointed under clause 16.1;

(h) **Chair** means the chair of the Board, elected from time to time under clause 9.1;

(i) **chairperson** means the person entitled to preside as chair at a particular:

(i) Board meeting, as determined under clauses 9.6 and 9.7; or

(ii) general meeting, as determined under clauses 5.19 to 5.21;

(j) **Committee** means a committee appointed by the Board under clause 12.1;

(k) **Company** means Mental Health Australia Ltd, ABN 57 600 066 635;

(l) **Consumer** means a person who identifies as having a current or past lived experience of psychological, emotional or mental health issues, distress or problems, irrespective of whether that person has a diagnosed mental illness and/or have received treatment;

(m) **Consumer Member** means a Member whose objects and/or purpose is to predominantly assist and enhance the lives of Consumers;

(n) **Director** means a person appointed in accordance with this Constitution to perform the duties of a director of the Company;

(o) **Director Eligibility and Board Composition Policy** means the policy made from time to time under clause 8.5;

(p) **Deputy Chair** means the deputy chair of the Board, if any, elected from time to time under clause 9.1;

(q) **Elected Director** means a Director appointed to the Board in accordance with clause 8.10;

(r) **Entity** means a corporation, as that expression is defined in the Act, and any other form of entity, whether or not incorporated, which the Board determines may be treated as a body corporate;

(s) **Legal Capacity** means, in relation to a person, that the person has attained the age of 18 years of age and that:

(i) they are capable of understanding the nature and effect of his or her participation in the Company's affairs without the need of special assistance or explanation; or

(ii) they are able to receive and understand communications and express his or her will in relation to the Company's affairs; or

(iii) their person or estate is not liable to be dealt with under the laws relating to mental health:

(A) on a permanent or ongoing basis;

(B) in an involuntary manner; or

(C) on a court ordered basis.

(t) **Maximum Number of Consecutive Terms** means 6 consecutive terms of 2 years;

(u) **Member** means an Entity who, at the relevant time, is a member of the Company in accordance with this Constitution (whether a Voting Member or a Non-Voting Member, unless otherwise specified);

(v) **Members' Policy Forum** means the forum established under clause 13;

(w) **National** means operating in at least 4 States or Territories or performs work that is deemed by the Board to have significant impact throughout Australia;

(x) **Non-Voting Member** means an Entity which, at the relevant time, is a Non-Voting Member of the Company in accordance with clause 4.3;

(y) **Register** means the register of Members kept by the Company under the Act;

(z) **Regulator** means a government authority, statutory body or other instrumentality or agency.

(aa) **Representative** means, in relation to a Member, the representative of the Member appointed under clause 7;

(bb) **Seal** means the common seal of the Company (if any);

(cc) **Secretary** means the person appointed as secretary of the Company under clause 15.1;

(dd) **State/Territory Mental Health Peak Body** means the one Entity per State or Territory with an organisational membership representing consumers of mental health services and/or/carers of people with a mental illness and/or service providers within the mental health sector which is recognised by the relevant State or Territory health minister as the peak for that State or Territory; and

(ee) **Voting Member** means an Entity who, at the relevant time, is a Voting Member of the Company in accordance with clause 4.2.

Mental Health Australia

Mentally healthy people,
mentally healthy communities

Mental Health Australia is the peak independent, national representative body of the mental health sector in Australia.

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