

**Woodleigh**  
Loxton District Children's Centre



# ***Constitution of the Loxton District Children's Centre Incorporated***

SA A11551 / ABN 13 216 839 961

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# Table of Contents

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1.	NAME	4
2.	DEFINITIONS	4
3.	OBJECTIVES AND POWERS	6
4.	NOT FOR PROFIT NATURE OF THE ASSOCIATION	6
5.	FINANCIAL RECORDS AND ACCOUNTS	7
6.	MEMBERSHIP OF THE ASSOCIATION	7
7.	APPLICATION FOR MEMBERSHIP	8
8.	PRINCIPLES GOVERNING MEMBERS	8
9.	MATTERS RESERVED TO MEMBERS	8
10.	REGISTER OF MEMBERS	9
11.	FEEES	9
12.	SUSPENSION OR EXPULSION OF A MEMBER	9
13.	CESSATION OF MEMBERSHIP	9
14.	CALLING AND NOTICE OF GENERAL MEETINGS	10
15.	APPOINTMENT OF PROXY	10
16.	PROCEEDINGS AT GENERAL MEETINGS	10
17.	VOTING RULES	12
18.	THE MANAGEMENT COMMITTEE	12
19.	EXECUTIVE MANAGEMENT COMMITTEE MEMBERS	13
20.	NON-EXECUTIVE MANAGEMENT COMMITTEE MEMBERS	13
21.	ELECTION PROCESS OF EXECUTIVE MANAGEMENT COMMITTEE MEMBERS	13
22.	PRINCIPLES APPLYING TO EXECUTIVE MANAGEMENT COMMITTEE MEMBERS	14
23.	PRINCIPLES APPLYING TO NON-EXECUTIVE MANAGEMENT COMMITTEE MEMBERS	14
24.	CONFLICT OF INTEREST	15
25.	POWERS AND RESPONSIBILITIES OF THE COMMITTEE	15
26.	REVIEW BY THE COMMITTEE	16
27.	ELECTED OFFICERS OF THE COMMITTEE AND OTHER APPOINTMENTS	16
28.	TENURE OF OFFICE OF EXECUTIVE COMMITTEE MEMBERS	16
29.	VACATION OF OFFICE	16
30.	CASUAL VACANCIES	17
31.	SUB COMMITTEES	17
32.	VALIDITY OF ACTS	17
33.	MANAGEMENT COMMITTEE MEETINGS	18

34.	VOTING AND DECISION MAKING AT MANAGEMENT COMMITTEE MEETINGS	18
35.	PROCEDURE AND ORDER OF BUSINESS AT MANAGEMENT COMMITTEE MEETINGS	18
36.	CHAIRPERSON	18
37.	VICE CHAIRPERSON	19
38.	SECRETARY	19
39.	TREASURER	20
40.	PUBLIC OFFICER	21
41.	EFFECT OF CONSTITUTION	21
42.	AMENDMENT OF CONSTITUTION AND RULES	21
43.	THE SEAL	21
44.	RELATIONSHIP OF THE ASSOCIATION AND THE MEMBERS	21
45.	NO REPRESENTATION OR RELIANCE	22
46.	INSURANCE AND INDEMNITY	22
47.	NOTICES	23
48.	GOVERNING LAW AND JURISDICTION	23
49.	INTERPRETATION	24

# Constitution

of

## The Loxton District Children's Centre Incorporated

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### 1. Name

The name of the Association is Loxton District Children's Centre Incorporated.

### 2. Definitions

In this Constitution and in the Regulations the following words and phrases mean as follows:

**Accounts** of the Association means:

- a) a combination of:
  - i. an account of receipts and payments recording the total receipts and payments of the Association based on the cash method of accounting; and
  - ii. a statement of assets and liabilities of the Association; or
- b) a combination of:
  - i. an account of income and expenditure recording the total income and expenditure of the Association based on the accrual method of accounting; and
  - ii. a balance sheet of the Association,

together with such statements, reports and notes, other than auditors' reports, as are attached to and intended to be read with the account, statement or balance sheet, as the case may be.

**Act** means the *Associations Incorporation Act 1985* (SA).

**Association** means Loxton District Children's Centre Incorporated (SA A11551 / ARBN 13 216 839 961), being an Association incorporated under the Act.

**Executive** means the Executive Members of the Management Committee of the Association.

**Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made.

**Chairperson** means the person appointed in accordance with these rules to chair a Management Committee Meeting or a General Meeting.

**Committee** means the Management Committee of the Loxton District Children's Centre Incorporated.

**Committee Meeting** means a duly convened meeting of the Management Committee in accordance with **Rule 33.1**.

**Election Process** means the process for nominating and electing an Executive Management Committee Member as set out in **Rule 21**.

**Executive** means the persons appointed to the Management Committee under **Rule 21** to conduct the executive management of the Association.

**Fees** means any membership fees and other prescribed payments determined by the Management Committee and set out in the Regulations.

**Financial Year** means the 12 month period beginning on 1 July and ending on 30 June in the next calendar year.

**General Meeting** means a duly convened meeting of the Membership in accordance with **Rule 14.1** and includes an Annual General Meeting (**AGM**) and a Special General Meeting (**SGM**).

**Insolvency Event** means the happening of any of the following events:

- a) where the person is a body corporate:
  - i. the person becomes an externally-administered body corporate under the Corporations Act 2001;
  - ii. steps are taken by a third person towards making the person an externally-administered body corporate (but not where the steps taken consist of making an application to a court and the application is withdrawn or dismissed within 14 days);

- iii. a controller (as defined in section 9 of the Corporations Act 2001) is appointed of any of the property of the person or any steps are taken for the appointment of such a person (but not where the steps taken are reversed or abandoned within 14 days); or
  - iv. the person is taken to have failed to comply with a statutory demand within the meaning of section 459F of the Corporations Act 2001; or
- b) where the person is a natural person:
- i. the person authorises a registered trustee or solicitor to call a meeting of his or her creditors or proposes or enters into a deed of assignment or deed of arrangement or a composition with any of his or her creditors;
  - ii. a person holding a security interest in assets of the person enters into possession of or takes control of any of those assets or takes any steps to enter into possession of or take control of any of those assets; or
  - iii. the person commits an act of bankruptcy or is 'insolvent under administration' as defined in the Act.

**Management Committee** means the Executive and Non Executive Members of the Committee of the Association as defined in **Rules 19 and 20**.

**Member** means any person who becomes a Member of the Association in accordance with this Constitution.

**Members Present** means Members present at a General Meeting in person or, if applicable, by its duly appointed Representative.

**Office** means the registered office from time to time of the Association.

**Officer** has the meaning defined in the Act and includes the Public Officer and the Executive Members of the Management Committee.

**Ordinary Resolution:**

- a) in the case of a vote of the Members, means a resolution passed by a majority of not less than fifty-one per cent (51%) of the Members voting in favour of a proposed resolution at a duly convened General Meeting; or
- b) in the case of a vote of the Executive Members of the Management Committee, means a simple majority of not less than fifty-one per cent (51%), being entitled to do so, voting in favour of a proposed resolution at a duly convened Committee Meeting.

**Public Officer** means a person appointed as the public officer of the Association and includes any person appointed to perform the duties of the public officer.

**Recorded** means by digital or written means.

**Register** means the register of Members of the Association.

**Registered Address** means the address of a Member specified in the Register or any other address of which the Member notifies the Association as a place at which the Member will accept service of notices.

**Regulations** means the regulations promulgated and published by the Management Committee from time-to-time pursuant to its powers under **Rule 18**.

**Representative** means a natural person appointed by the Member under **Rule 15** who is a partner, Member of the Management Committee, employee, officer or principal of the Member.

**Rules** means the rules of the Association as set out in this Constitution and as further particularised or supplemented in the Regulations.

**Seal** means the seal, if any, from time to time of the Association.

**Special Resolution:**

- a) in the case of a vote of the Members, means a resolution passed by a majority of not less than sixty-six per cent (66%) of the Members voting in favour of a proposed resolution at a duly convened General Meeting; or
- b) in the case of a vote of the Executive Members of the Management Committee, means a majority of not less than sixty-six per cent (66%) of the Executive Members, being entitled to do so, voting in favour of a proposed resolution at a duly convened Management Committee Meeting.

**Voting Rules** means the provisions set out in **Rule 17** relating to the passing of resolutions by the Members in General Meeting.

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## Constitution and Powers of Association

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### 3. Objectives and Powers

- 3.1. The objectives of the Association shall be:
  - 3.1.1. To provide quality, best practice child care facilities and related services for children, parents and caregivers in accordance with the philosophy of the Association;
  - 3.1.2. To promote a discrimination free child care service;
  - 3.1.3. To act as a family centre and encourage participation and involvement from members;
  - 3.1.4. To cooperate with other community based groups and related services as may further the attainment of these objectives; and
  - 3.1.5. to do all other lawful things as are incidental or conducive to the attainment of these objectives of the Association.
- 3.2. Each of the above objectives constitutes a separate objective of the Association, and no such objective may be construed by reference to any other such objective.
- 3.3. For the purpose of carrying out its objectives, the Association has the powers contained in the Associations Incorporation Act, and without limiting these powers the Association shall be entitled to:
  - 3.3.1. acquire, hold, deal with, and dispose of any real or personal property;
  - 3.3.2. administer any property on trust;
  - 3.3.3. open and operate accounts with financial institutions;
  - 3.3.4. invest monies in any security in which trust monies may be invested;
  - 3.3.5. borrow money upon such terms and conditions as the Association deems appropriate;
  - 3.3.6. appoint agents to transact any business of the Association on its behalf;
  - 3.3.7. enter into any contract it considers necessary or desirable.

### 4. Not for Profit Nature of the Association

- 4.1. The income, property, profits and financial surplus of the Association, whenever derived, must be applied solely towards the objectives of the Association as set out in this Constitution.
- 4.2. The Association is a non-profit organisation and shall not carry on business for the purpose of profit and no portion of its income, property, profits and financial surplus may be paid, distributed to or transferred, directly, indirectly, by way of dividend, property, bonus or otherwise by way of profit, to the Members, the Committee, or their relatives, except as provided by this Constitution.
- 4.3. Where property or assets remain after the winding-up or dissolution of the Association and satisfaction of all its debts and liabilities, any remaining assets shall not be paid or distributed to any member of the Association but must be given to or transferred to another fund, authority or institution having objects similar to the objects of the Association, and whose constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Association under or by virtue of this Constitution, which fund, authority or institution is to be determined by the members of the Association at or before the time of the winding up or dissolution.
- 4.4. Each Member of the Association shall have no liability in respect of nor any obligation to contribute to:
  - 4.4.1. the assets of the Association; or
  - 4.4.2. the debts and liabilities of the Association; or

4.4.3. the costs, charges and expenses of winding up or the dissolution of the Association, except only to pay its Fees in accordance with **Rule 8** and in respect of any other debts or liabilities that it incurs to the Association.

## 5. Financial Records and Accounts

- 5.1. The financial year of the Association is 1 July to 30 June.
- 5.2. Proper books and financial records, including the Accounts, shall be kept and maintained by the Management Committee showing correctly the financial affairs of the Association. The Management Committee shall ensure that the relevant accounting and auditing requirements of the Act and other applicable legislation are duly complied with, including:
  - 5.2.1. preparing, keeping, maintaining and causing the Association's Accounts to be audited in accordance with the requirements of the Act; and
  - 5.2.2. causing to be attached to the Accounts after the end of each Financial Year, before the auditor reports on the accounts, the prescribed statement and particulars required under the Act and made in accordance with a resolution of the Executive Members of the Management Committee and signed by two or more Executive Members of the Committee.
- 5.3. All the monies of the Association shall be banked in the name of the Association in a bank account at such bank as the Management Committee may from time to time direct.
- 5.4. For health and safety reasons, the Association will not receive payment for childcare services by general members in cash. Minimal cash is to be retained at the Association at any time.
- 5.5. With the exception of fundraising monies, receipts shall be issued for every deposited amount.
- 5.6. With the approval of the Committee, the Association may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.
- 5.7. Subject to any restrictions imposed by the Association at a General meeting, the Committee may approve expenditure on behalf of the Association within the limits of the budget
- 5.8. All payments must be made by cheque, electronic funds transfer, or periodic debit and payment shall only be made within the authority payment policy of the centre set by the Committee.
- 5.9. In consultation with the Association's Director and Finance Officer the elected Treasurer oversees the financial statements and ensures that a minimal profit is made at the end of each financial year. If profits of greater than this amount are recorded, excess funds must be reinvested directly into the Association prior to 30 June.
- 5.10. In accordance with the Association's Delegation of Financial Authorities (DFA), written consent must be given prior to purchase, from the Management Committee for all purchases above the specified threshold amount.

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## Membership of the Association

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## 6. Membership of the Association

- 6.1. Membership of the Association is open to a natural person who is eighteen (18) years or older who is:
  - 6.1.1. Any parent, care giver or guardians of children currently enrolled to use the services provided by the Association provided they are in good financial standing with the Association as set out in **Rule 11.2** and **Rule 13.1**;
  - 6.1.2. an employee of the Association; or
  - 6.1.3. a person who has applied in writing for membership and who is accepted as a Member by a majority vote of the Management Committee at a Committee Meeting or by a majority vote at a General Meeting.



## 7. Application for Membership

- 7.1. A person must apply for membership of the Association as set out in **Rule 6.1**
- 7.2. A person who applies for membership of the Association is taken to be a member if membership is not refused by the Association within two months after the person applies for membership.
- 7.3. The Association must vote (as per the process established in **Rule 34.3**) to decide whether an applicant will be refused membership.
- 7.4. A person is refused membership of the Association if the Association gives the person notice of the refusal and the reasons for the refusal within two months after the person applies for membership.
- 7.5. However, membership is not refused if the person receives notice of the Association's refusal of the application but does not receive notice of the reasons for the refusal within two months after the application is made.
- 7.6. The Association may refuse an application for membership if it passes a resolution in favour of refusing the membership application at a duly convened meeting. For example, it may be a ground for refusal of membership of a person if the person has, at the time of application for membership, committed any act or done anything that, if the person was already a member of the Association, would be grounds for removal under **Rule 12.3**

## 8. Principles Governing Members

- 8.1. Members shall be entitled to receive notice of, attend and speak at General Meetings and to receive annual reports of the Association.
- 8.2. Each Member shall have one (1) vote, regardless of how many children are enrolled to use the services provided by the Association.
- 8.3. Each Member shall be treated equally with no special rights or privileges.
- 8.4. Subject to and in accordance with **Rule 21**, Members may nominate other Members as Executive Committee Members on the Management Committee.
- 8.5. Members do not have day-to-day management or control of the Association, which is the responsibility of the Management Committee and as further delegated to the Executive Committee Members, provided that the matters set out in **Rule 9** are expressly reserved to the Members and require the approval of the Members in General Meeting.

## 9. Matters reserved to Members

- 9.1. The following matters, powers and functions may only be undertaken by the Association, the Management Committee pursuant to and in accordance with either an Ordinary or Special Resolution (as specified in these **Rules**) passed by the Members:
  - 9.1.1. any amendment to this Constitution as set out in Rule 42;
  - 9.1.2. the appointment or removal of a Management Committee Member;
  - 9.1.3. the suspension or expulsion of a Member under Rule 12;
  - 9.1.4. the appointment of the Association's auditor under Rule 9.2;
  - 9.1.5. a material change to the nature of the Association's objectives; or
  - 9.1.6. the winding up, dissolution or liquidation of the Association.
- 9.2. The Members must appoint and retain a properly qualified, independent auditor whose duties are determined in accordance with the Act. No Member or Committee Member may act as auditor of the Association.



## 10. Register of Members

- 10.1. Each Member's name, the name of its Representative, address, shall be recorded and maintained by the Public Officer on the Register.

## 11. Fees

- 11.1. The Fees for all Members shall be:
  - 11.1.1. considered and fixed by the Management Committee each year; and
  - 11.1.2. payable as determined by the Management Committee.
- 11.2. Any Member whose Fees are outstanding for more than sixty (60) Business Days after the due date for payment shall cease to be a Member of the Association.

## 12. Suspension or Expulsion of a Member

- 12.1. Subject to giving a Member an opportunity to be heard or to make a written submission, the Management Committee may resolve to suspend or expel a Member upon a charge of conduct detrimental to the interests of the Association.
- 12.2. Suspension or expulsion may only occur where the resolution is carried by not less than two-thirds majority vote at a Management Committee meeting or General meeting.
- 12.3. If the Committee considers that a Member should be suspended or expelled because his or her conduct is detrimental to the interests of the Association, the Management Committee must give notice of the proposed suspension to the Member.
  - 12.3.1. The notice must be in writing and include:
    - 12.3.1.1. The time, date and place of the Management Committee meeting at which the question of that suspension will be decided; and
    - 12.3.1.2. the particulars of the conduct; and
    - 12.3.1.3. be given to the member not less than 30 days before the date of the Management Committee meeting referred to in **Rule 12.2**
- 12.4. Any Member suspended or expelled may, by written notice to the Committee within two (2) weeks of the suspension or expulsion, require that the decision of the Committee be reconsidered at on subsequent General Meeting.
- 12.5. The Association shall not be required to accept the renewal of Membership of a suspended or expelled member when renewal next falls due.

## 13. Cessation of Membership

- 13.1. Membership of the Association shall cease when a member:
  - 13.1.1. Resigns in writing, and a signed dated letter addressed to the Public Officer or Chairperson of the Committee is delivered the Associations registered address;
  - 13.1.2. Dies;
  - 13.1.3. Ceases to be employed;
  - 13.1.4. Termination of employment by the Association.;
  - 13.1.5. Non renewal of membership within two months of last use of the services provided by the Association.

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## General Meetings

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### 14. Calling and Notice of General Meetings

- 14.1. Annual General Meeting (**AGM**) of Members:
  - 14.1.1. shall be called and convened to be held within five (5) months of the end of each Financial Year; and
  - 14.1.2. written notice of not less than seven (7) Business Days and not more than twenty eight (28) days of an AGM must be displayed at the premises of the Association and distributed to all members of the Association.
- 14.2. Special General Meeting (**SGM**):
  - 14.2.1. may be called at any time by the Executive Committee upon giving not less than fifteen (15) Business Days notice to Members specifying business to be conducted at the meeting; and
  - 14.2.2. shall be held within twenty (20) Business Days of a requisition by not less than three (3) Members of the Association.
- 14.3. Notice of every General Meeting is to be given to:
  - 14.3.1. each Member;
  - 14.3.2. the auditor for the time being of the Association; and
  - 14.3.3. to such persons as are entitled under these **Rules** or the Act to receive notice.
  - 14.3.4. No other person is entitled to receive notices of General Meetings.
- 14.4. The non-receipt of a notice of any General Meeting by, or the accidental omission to give notice to, any person entitled to receive a notice does not invalidate any resolution passed at that meeting.
- 14.5. Members are entitled to attend, speak and vote at General Meetings, provided that:
  - 14.5.1. the Member is entitled to vote (whether by its Representative or proxy), and all fees due and payable by that Member in respect of their Membership have been paid.
- 14.6. The auditors and their representative are entitled to attend and be heard on any part of the business of a General Meeting which concerns the auditors.

### 15. Appointment of Proxy

- 15.1. A Member shall be entitled to appoint either:
  - 15.1.1. another Member (who is entitled in their own right to vote at a General Meeting); or
  - 15.1.2. a named Executive Committee Member as their proxy to attend and vote on its behalf at any General Meeting.
- 15.2. The provisions governing the appointment of a proxy and other matters concerning proxies shall be determined by the Executive Committee and set out in the Regulations.

### 16. Proceedings at General Meetings

- 16.1. Quorum
  - 16.1.1. A quorum for a General Meeting is ten (10) Members or two thirds of the Members entitled to vote attending at the place designated in the notice of the meeting.
  - 16.1.2. No business may be transacted at any General Meeting except the election of a Chair of the meeting (when **Rule 16.2.2** applies) and the adjournment of the meeting unless the

requisite quorum is present at, or within 15 minutes of, the time specified in the notice for the commencement of the meeting.

- 16.1.3. If 15 minutes after the time specified for a General Meeting a quorum is not present, the meeting, if convened upon a requisition of Members under **Rule 14.2.2**, shall be dissolved, and in any other case it shall be adjourned to the same day in the next week (or, where that day is not a Business Day, the Business Day next following that day) at the same time and place. The quorum for such adjourned meeting shall be reduced to five (5) Members and if at the adjourned meeting, a quorum is not present 30 minutes after the time specified for commencement of the meeting, the meeting is to be dissolved altogether.
- 16.2. Chairperson of the Meeting
    - 16.2.1. The Chairperson of the Management Committee shall be entitled to chair every General Meeting.
    - 16.2.2. The provisions governing the election of a person to chair a General Meeting (in the absence of the Chairperson) shall be determined by the Management Committee and set out in the Regulations.
    - 16.2.3. In the case of an equality of votes, the Chairperson shall not have, either on a show of hands or on a poll, a casting vote.
  - 16.3. Business and Special Business of a General Meeting
    - 16.3.1. The ordinary business of an AGM is to:
      - 16.3.1.1. confirm the minutes of the preceding AGM;
      - 16.3.1.2. receive the Treasurer's report including the audited financial statements of the Association for the preceding Financial Year;
      - 16.3.1.3. receive and consider the Management Committee reports including the Chairperson's report, Director's report and any Sub-Committee reports on the affairs of the Association for the preceding Financial Year;
      - 16.3.1.4. to declare the results of re-election or the election of Executive Management Committee Members in the place of those retiring under these **Rules**;
      - 16.3.1.5. when relevant, to appoint the Association's auditor;
      - 16.3.1.6. consider and deal with any other matters required under the Act; and
      - 16.3.1.7. consider and deal with such other matters as presented in the agenda for the AGM.
    - 16.3.2. All other business transacted at an AGM and all business transacted at other General Meetings is deemed to be Special.
    - 16.3.3. Except with the approval of the Management Committee, with the permission of the Chairperson or pursuant to the Act, no person may move at any General Meeting either:
      - 16.3.3.1. in regard to any special business, any resolution or any amendment of a resolution; or
      - 16.3.3.2. any other resolution which does not constitute part of ordinary business.
    - 16.3.4. The auditors or their representative, if present at the General Meeting, may be questioned by the Members, as a whole, about the audit.

#### 16.4. Conduct and Procedures at General Meetings

- 16.4.1. Except as provided by the Act or in these **Rules**, the general conduct of each General Meeting and the procedures to be adopted at the meeting are as set out in the Regulations.

### 17. Voting Rules

- 17.1. Members shall be entitled to one (1) vote at any General Meeting at which they may be present.
- 17.2. The Voting Rules at a General Meeting depend on the nature of the resolution that is being proposed and will be set by the Executive of the Management Committee prior to the meeting.
- 17.3. A Special Resolution of Members entitled to vote is required to:
- 17.3.1. amend or replace this Constitution or
  - 17.3.2. expel a Member under Rule 12; or
  - 17.3.3. remove a Committee Member under Rule 29.
- 17.4. A resolution of Members to elect an Executive Management Committee Member where there is a Contested Ballot (under **Rule 21.3.2**) shall be decided and deemed to be passed in favour of the Nominee who receives the highest aggregate percentage of votes cast. If the aggregated total of the percentages is equal as between two (or more) Nominees then the Contested Ballot shall be decided and deemed to be passed in favour of the Nominee who receives the highest number of actual votes cast by all Members entitled to vote.
- 17.5. All other resolutions in relation to matters requiring the approval of the Members as set out in **Rule 9** or otherwise the subject of a proposed resolution of the Members requires an Ordinary Resolution of the Members entitled to vote.
- 17.6. The general principles applying to all proposed resolutions are:
- 17.6.1. Members must be given at least fifteen (15) Business Days' notice of any proposed resolution together with material particulars of the issues and circumstances relating to the resolution (as well as any further information specified in the Regulations); and
  - 17.6.2. only Members that have paid all respective outstanding Fees may vote as set out in **Rule 11.2**.

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## The Management Committee

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### 18. The Management Committee

- 18.1. The business of the Association shall be managed and controlled exclusively by the Management Committee.
- 18.2. Members of the Management Committee have collective responsibility of the Association and must as soon as practicable after being elected to the Committee become familiar with the Constitution of the Association, the Act and any regulations made under the Act
- 18.3. The Management Committee may exercise all the powers of the Association except those matters that the Act or this Constitution requires the Association to determine through a General Meeting of Members.
- 18.4. The Management Committee will oversee all expenditure by the Association.
- 18.5. The Management Committee shall be comprised of not less than five (5) members and not more than fifteen (15) members of the Association, with not less than five (5) members elected at the Annual General Meeting.
- 18.6. The Committee may function validly notwithstanding any vacancies, so long as its number is not reduced below eight (8) members in total including five (5) parent or guardian representatives.

- 18.7. The spouse of a Management Committee member excluding office bearer positions may act on behalf of an absent spouse at any meeting of the Management Committee. In the event of both being present only one of the couple may vote if entitled to do so under the **Rules** defined in this Constitution, unless they each hold an elected position.
- 18.8. The Management Committee will appoint and remove staff where appropriate and in full consultation with the Nominated Supervisor/Directors and/or Assistant Director/s and in accordance with the Association's grievance and performance counselling processes.
- 18.9. Resource persons with special interests or knowledge relevant to the Association may be invited to attend any meeting and to speak at the discretion of the Management Committee but such persons may not vote.

## **19. Executive Management Committee Members**

- 19.1. The Executive of the Management Committee shall consist of the following:
  - 19.1.1. Chairperson;
  - 19.1.2. Vice Chairperson;
  - 19.1.3. Secretary;
  - 19.1.4. Treasurer; and
  - 19.1.5. up to four (4) general Committee members who are each nominated and elected to the Executive of the Management Committee by the Members of the Association in accordance with **Rule 17.4** and **Rule 21**; and
  - 19.1.6. one (1) other independent natural person who may be appointed as Chairperson of the Committee by the Executive Members of the Committee pursuant to a Special Resolution (**Chairperson**).
- 19.2. Each Executive Member of the Management Committee (other than the Chairperson appointed under **Rule 19.1.6**) must be a financial Member of the Association.

## **20. Non-Executive Management Committee Members**

- 20.1. The Management Committee shall also be guided by the following Non-Executive Committee Members that report to the Executive at Meetings of the Association:
  - 20.1.1. Nominated Supervisor/Director of Loxton District Children's Centre 'Woodleigh';
  - 20.1.2. Assistant Director/s of Loxton District Children's Centre 'Woodleigh';
  - 20.1.3. Nominated Supervisor/Director of Loxton District Out of School Hours Care (OSHC);
  - 20.1.4. Assistant Director/s of Loxton District Out of School Hours Care (OSHC);
  - 20.1.5. a nominated Staff Representative who is to be nominated by the Association's staff members and to be separate from the Association's Nominated Supervisor/Director/s and Assistant Director/s; and
  - 20.1.6. a Staff Support Officer who may be appointed by the Management Committee pursuant to a Special Resolution (**Staff Support Officer**).

## **21. Election Process of Executive Management Committee Members**

- 21.1. Executive Committee Members (other than a Chairperson appointed under **Rule 19.1.6**) shall be elected by vote to be declared at each AGM.
- 21.2. The Public Officer of the Association shall call for nominations for Executive Committee Members not less than twenty eight (28) Business Days prior to each AGM.

- 21.3. If, on the close of the nomination period, the number of Nominees for any vacant Executive Committee position:
- 21.3.1. is less than or equal to the number of vacant Executive Committee positions:
    - 21.3.1.1. the Nominees shall be deemed to be elected unopposed and shall be appointed to the Executive Committee with effect on and from the close of the relevant AGM, without the need to count votes; and
    - 21.3.1.2. the Committee may fill any remaining vacant position or positions in accordance with **Rule 30**; or
  - 21.3.2. exceeds the number of vacant Executive Committee positions (a **Contested Ballot**), then:
    - 21.3.2.1. voting papers shall be sent to the Members in accordance with **Rule 21.4**; and
    - 21.3.2.2. the Contested Ballot provisions set out in **Rule 17.4** shall apply
- 21.4. Voting papers in respect of Nominees shall be:
- 21.4.1. prepared listing in alphabetical order the Nominees' names;
  - 21.4.2. contain a brief personal background statement including capacity of each Nominee; and be
  - 21.4.3. forwarded to all Members at least fifteen (15) Business Days prior to the date set by the Executive Committee for holding the AGM.
- 21.5. Completed voting papers must be returned to the Association's registered business address not later than two (2) Business Days prior to the date set by the Committee for holding the AGM.

## 22. Principles applying to Executive Management Committee Members

- 22.1. Each Executive Member of the Committee shall have a single and equal voting right on the Committee and the Chairperson shall not have a casting vote.
- 22.2. The tenure of Executive Members of the Committee is specified in and governed by **Rule 28**.
- 22.3. Neither the holding of office as an Executive Member of the Committee nor the duties and obligations resulting from holding that office shall (subject to compliance with the following provisions of this **Rule 22**) of itself:
  - 22.3.1. disqualify any Executive Member of the Committee from entering into any arrangement, contract or dealing with the Association in any capacity;
  - 22.3.2. avoid or vitiate any arrangement, contract or dealing entered into by or on behalf of the Association in which an Executive Member of the Committee has an interest; or
  - 22.3.3. render any Executive Committee Member or any corporation of which they are an officer or member or in any way interested or any partnership of which they are a Member or in any way interested liable to account for any profit arising out of the holding of any such office or place of profit or any such arrangement, contract or dealing.

## 23. Principles applying to Non-Executive Management Committee Members

- 23.1. Non-Executive Management Members of the Committee may be elected by the Committee to hold an Office Bearer position as deemed appropriate subject to **Rule 27.3**.
- 23.2. Non-Executive Committee Members shall not be entitled to vote at Committee meetings.
- 23.3. Neither the holding of office as a Non-Executive Management Committee Member nor the duties and obligations resulting from holding that office shall (subject to compliance with the following provisions of this **Rule 23**) of itself:
  - 23.3.1. disqualify any Non-Executive Management Committee Members from entering into any arrangement, contract or dealing with the Association in any capacity;
  - 23.3.2. avoid or vitiate any arrangement, contract or dealing entered into by or on behalf of the Association in which a Non-Executive Management Committee Member has an interest; or

- 23.3.3. render any Non-Executive Management Committee Member or any corporation of which they are an officer or Member or in any way interested or any partnership of which they are a member or in any way interested liable to account for any profit arising out of the holding of any such office or place of profit or any such arrangement, contract or dealing.

## 24. Conflict of Interest

- 24.1. Any Committee Member who has a direct or indirect pecuniary interest in a matter that relates to the business or affairs of the Association must give the Committee notice of the interest. A notice required by this **Rule 24**:
  - 24.1.1. must give details of the interest, and the relation of the interest to the business or affairs of the Association;
  - 24.1.2. must be given at a Committee Meeting as soon as practicable after the Director becomes aware of his or her interest in the matter; and
  - 24.1.3. may be given either orally or in writing;
- 24.2. Details provided by a Committee Member under **Rule 24** must be recorded in the minutes of the Committee Meeting.
- 24.3. Any Committee Member who has a direct or indirect pecuniary interest in a matter that is being considered at a Committee Meeting must not:
  - 24.3.1. be present while the matter is being considered at the meeting; or
  - 24.3.2. vote on the matter; unless:
  - 24.3.3. Rule 24.4 applies; or
  - 24.3.4. the interest does not need to be disclosed under the Act.
- 24.4. The Committee Member may be present and vote if the Committee Members who do not have a direct or indirect pecuniary interest in the matter pass a resolution that:
  - 24.4.1. identifies the Committee Member, the nature and extent of the interest in the matter and its relation to the business or affairs of the Association; and
  - 24.4.2. states that the remainder of the Committee is satisfied the interest should not disqualify the Committee Member from voting or being present.
- 24.5. Provided the provisions set out in **Rule 24** are complied with, a Committee Member who has a direct or indirect pecuniary interest in a matter may participate in the signing of any instrument by or on behalf of the Association and whether by signing or by affixing or witnessing the affixing of the seal or otherwise.

## 25. Powers and responsibilities of the Committee

- 25.1. Except only in respect of matters requiring the approval of the Members as set out in **Rule 9**, and subject to this **Rule 25**, a Committee Meeting or any adjournment of a meeting at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Committee.
- 25.2. Without limiting the generality of **Rule 25.1**, the powers and responsibilities of the Committee include:
  - 25.2.1. establishing, publishing and amending the Regulations in relation to all matters delegated to it under these **Rules**;
  - 25.2.2. considering and amending each year the Fees payable by the Members;
  - 25.2.3. specifying in writing, amending and revoking from time-to-time the specific powers and responsibilities of the Committee;
  - 25.2.4. requesting respective Chairpersons or representatives from the Association or its Sub-Committees to attend Committee Meetings in an ex-officio capacity.



## 26. Review by the Committee

- 26.1. The Committee shall monitor and review; relevant information concerning, developments and changes in and to the Membership (**Review**) and, having regard to such matters, shall at least every four (4) years and at least 3 months prior to the AGM in that year consider and recommend to Members:
  - 26.1.1. whether to add to, reduce, sub-divide, merge or amalgamate, re-define or otherwise amend the definition and qualifying criteria of Membership; and
  - 26.1.2. whether to amend the number of Executive or Non-Executive Members to be appointed to the Committee.
- 26.2. The provisions governing the process for conducting the Review are set out in the Regulations.
- 26.3. The Committee shall notify all Members of the results of the Review.

## 27. Elected Officers of the Committee and other Appointments

- 27.1. Subject to **Rule 27.2**, the Chairperson (unless already appointed under **Rule 19.1.6**), Vice Chairperson, Secretary, Treasurer, Public Officer and other persons holding a designated office, function or responsibility on the Committee (**Officer of the Committee**) shall be chosen by the Committee from amongst the Executive Members of the Committee at the first meeting of the Committee after each AGM.
- 27.2. The Officers of the Committee continue to hold office until the earlier of:
  - 27.2.1. their resignation from that office, including by virtue of the operation of **Rule 29**;
  - 27.2.2. their removal from that office under Rule 27.3;
  - 27.2.3. their office as Committee Member becomes vacant in accordance with this Constitution; or
  - 27.2.4. the date of the first meeting of the Committee after the first anniversary of their appointment to that office.
- 27.3. The Committee has the sole power at any time and from time to time to appoint any Committee Member as an Officer of the Committee and to remove any Committee Member appointed under this **Rule 27** from any of those offices but not from the office of Committee Member.
- 27.4. The Committee may also appoint at any time:
  - 27.4.1. other Members to the Committee as it deems appropriate, whose respective responsibilities and terms of engagement shall be set out in a letter from the Chairperson.
- 27.5. The Executive Committee may remove any appointee referred to in **Rule 27.4** and may appoint a replacement.

## 28. Tenure of Office of Executive Committee Members

- 28.1. Subject to **Rule 28.2**, each Executive Committee Member shall have a maximum tenure of office of 2 years from the date of their respective appointment. At the end of their tenure, an Executive Committee Member may be nominated and re-elected to the Committee by the Members of the Association in accordance with **Rules 17.4** and **Rule 21**.
- 28.2. The Chairperson shall hold office until the end of the next Annual General Meeting after his / her appointment (unless expressly appointed for some other period in accordance with **Rule 19.1.6**).
- 28.3. In order to ensure a level of consistency of membership in the first instance, it is a requirement that only half of the Executive Committee depart the Committee at any one time (meaning that only half of the Executive Committee departs at any one time).

## 29. Vacation of Office

- 29.1. An Executive Member of the Committee shall cease to hold office and shall be deemed to have resigned if:
  - 29.1.1. the Executive Member of the Committee is disqualified by the Act;
  - 29.1.2. the Executive Member of the Committee dies;

- 29.1.3. the Executive Member of the Committee becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - 29.1.4. the Executive Member of the Committee is removed from office under **Rule 29.3**;
  - 29.1.5. the Executive Member of the Committee does not attend three consecutive Committee Meetings without leave of absence;
  - 29.1.6. the Executive Member of the Committee is not, or is no longer a validly appointed Member; or
  - 29.1.7. the Executive Member of the Committee becomes subject to an Insolvency Event.
- 29.2. Any Executive Member of the Committee may resign at any time by notice in writing delivered to the Public Officer but such resignation only takes effect at the time when such notice is received by the Public Officer unless some later date is specified in the notice when it shall take effect on the later date.
- 29.3. An Executive Member of the Committee may be removed from office by Special Resolution of the Members at a General Meeting. At any such General Meeting the Executive Member of the Committee must be given the opportunity fully to present his / her case either orally or in writing or by both of these means.
- 29.4. An Executive Member of the Committee who is removed from office under **Rule 29.3** is deemed to cease to be a Director and his / her position shall be declared to be vacant immediately upon the declaration of the result of a Special Resolution passed under **Rule 29.3**.

### 30. Casual Vacancies

- 30.1. The Committee has the power at any time and from time to time to appoint a qualified person to the Committee to fill a casual vacancy but so that the total number of Committee Members does not at any time exceed the maximum number specified in **Rule 18.1**.
- 30.2. In relation to a casual vacancy resulting from the resignation, retirement, removal or death of a Committee Member (**Outgoing Director**), the Committee may appoint a Member to the Committee.
- 30.3. Any person appointed under **Rule 30** holds office until the next AGM when an election will be held to fill the vacancy but such person is not to be taken into account in determining the number of Committee Members who are to retire by rotation at the meeting. Any person appointed under **Rule 30** is eligible for election at that AGM.

### 31. Sub Committees

- 31.1. The Committee may appoint or form Sub-Committees, whose membership shall be drawn from members of the Committee, members of the Association, staff members of the Association or other interested persons. Sub-Committees may be appointed for staff selection, fund raising, social and other similar purposes. Members of such sub-committees shall have voting rights only within the Sub-Committees to which they have been appointed or elected.
- 31.2. The Executive Members of the Committee may, subject to the constraints imposed by law, delegate any of its power to Sub-Committees as set out in the Regulations.
- 31.3. The nominated Chairperson or delegated representative of any such Sub-Committee must present a verbal or written report to the Committee on any activities conducted by the Sub-Committee at the next scheduled Meeting of the Committee.

### 32. Validity of Acts

- 32.1. All acts executed at any Committee Meeting, by a Sub-Committee or by any person acting as a Committee Member are, notwithstanding that there was some defect in the appointment of any of the Committee Members or the Committee or the person acting as a Committee Member or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a Committee Member (as the case may be).
- 32.2. A resolution or Regulation made by the Committee may be disallowed by the Members in a later General Meeting, provided that a resolution by the Members in General Meeting cannot invalidate prior acts of the Committee which would have been valid if the resolution of the Members had not been passed or made.

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## Management Committee Meetings

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### 33. Management Committee Meetings

- 33.1. Frequency and Calling of Meetings
  - 33.1.1. The Management Committee shall meet as often as may be required to conduct business of the Association and not less than ten (10) times per Calendar year.
  - 33.1.2. The Chairperson or two other Executive Members of the of the Committee shall have the power to call a meeting of the Committee.
  - 33.1.3. Notice of meetings shall be given at the previous meeting or by 7 days written notice distributed to all Management Committee members or in an emergency by such other notice as shall be ratified by the Executive Members of the Committee.
- 33.2. Quorum
  - 33.2.1. One half plus one of the Management Committee shall constitute a quorum for a Committee Meeting, with not less than three (3) parent or guardian representatives being present at all times during the Committee Meeting.
  - 33.2.2. A Management Committee Member may not appoint an alternate member, proxy or representative. The quorum must be present at all times during the Committee Meeting.

### 34. Voting and Decision Making at Management Committee Meetings

- 34.1. Management Committee Members who are also employees shall not take part in discussions relating to their employment and at the request of the of the Executive Members of the Committee shall remain absent from discussions or deliberations relating to any employee.
- 34.2. Management Committee Members with voting rights must not vote in any decision in which they are a close associate, have a financial interest and must not use their position to obtain any financial or other advantage for themselves or for a close associate as stated in **Rule 24**.
- 34.3. A motion or decision arising at a Management Committee meeting must be decided by a majority of votes.

### 35. Procedure and Order of Business at Management Committee Meetings

- 35.1. The procedure to be followed at a Committee meeting will be determined from time to time by the Executive of the Management Committee.
- 35.2. The order of business may be determined by the Management Committee Members present at the meeting.

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## Role of Office Bearers

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### 36. Chairperson

- 36.1. The Chairperson is required to:
  - 36.1.1. Convene and chair all Committee meetings, the Annual General meeting (once yearly) and Special General Meetings (if and when required);
  - 36.1.2. Prepare and present the Executive Committee Annual General Meeting report;
  - 36.1.3. In consultation with the Secretary, prepare all meeting agendas;
  - 36.1.4. In consultation with the Secretary, ensure that accurate meeting minutes are recorded and that correct procedures for storing and actioning items are followed;

- 36.1.5. In consultation with the Public Officer and the Nominated Supervisor/Director, act as an advocate for the Association and effectively liaise with all external regulatory bodies and other stakeholders;
- 36.1.6. In consultation with the Treasurer and the Nominated Supervisor/Director, ensure that the Association is being suitably financially managed and that the Nominated Supervisor/Director is managing the day-to-day operation of the Association in accordance with the financial delegation policy of the Association;
- 36.1.7. Act as the principal support person for the Nominated Supervisor/Director and ensure that adequate resources, support and guidance is made available (by all office bearing committee members) to the Nominated Supervisor/Director at all times;
- 36.1.8. Delegate tasks to Executive Committee Members and Members of Sub-Committee's;
- 36.1.9. Communicate with and act on behalf of Executive Committee members at all times. In the event of emergencies, the Chairperson should make decisions of behalf of the Executive Committee and the Authorised Supervisor/Director;
- 36.1.10. Act as lead in the event of all complaints and disputes between general Members, office bearing Committee Members and the Nominated Supervisor/Director. In the event that a decision around complaints and disputes is 'locked', the vote/decision of the Chairperson is to be the final and casting vote;
- 36.1.11. To assist with the functions of all other office bearing committee members;
- 36.1.12. To attend staff meetings if and when required;
- 36.1.13. To develop and monitor the Association's Business Plan;
- 36.1.14. On behalf of and in consultation with the Executive Committee, to perform all Association recruitment functions with the Nominated Supervisor/Director;
- 36.1.15. In consultation with the Nominated Supervisor/Director and on behalf of the Executive Committee, to develop and send letters to new staff and to existing staff as required (e.g.: following performance reviews and the like);
- 36.1.16. To be familiar with and ensure adherence to the requirements of the Association's Policy and Procedures manual and all relevant childcare and regulatory compliance requirements at all times.
- 36.1.17. Perform any other duties imposed by this Constitution.

### **37. Vice Chairperson**

- 37.1. The Vice Chairperson will fulfil the roles and responsibilities of the Chairperson in their absence.
- 37.2. If the Chairperson and the Vice Chairperson are both absent, the presiding member for that meeting must be:
  - 37.2.1. An Executive Member of the Committee elected by the Committee Members present if it is a general meeting; or
  - 37.2.2. An Executive Member of the Committee elected by the other Committee Members present if it is a Committee meeting.

### **38. Secretary**

- 38.1. The Secretary will:
  - 38.1.1. In consultation with the Chairperson, prepare all meeting agendas;
  - 38.1.2. In consultation with the Chairperson, ensure that meeting minutes are recorded, that all meeting minutes and correspondence is suitably stored (soft and hard copy) and that results of meetings are suitably distributed;

- 38.1.3. In consultation with the Chairperson, ensure that actioned items are followed;
- 38.1.4. In consultation with the Nominated Supervisor/Director, oversee all relevant correspondence and report on relevant correspondence at Committee meetings;
- 38.1.5. In consultation with the Public Officer, to notify all relevant external stakeholders of the names and contact details of Committee members;
- 38.1.6. In consultation with the Chairperson, ensure the smooth running of meetings and make arrangements for all meetings as required (including but not limited to sending out notices, organising reports of office bearing Committee Members and arranging guest speakers etc).
- 38.1.7. In the absence of, or at the request of the Secretary or of a majority of the Executive Committee, another Member may be elected as Secretary for the purpose of taking minutes.
- 38.1.8. The Secretary must perform any other duties imposed by this Constitution.

### **39. Treasurer**

- 39.1. The Treasurer must work closely with the Chairperson, Nominated Supervisor/Director, Finance Officer and Finance Sub-committee, and:
  - 39.1.1. In consultation with the Nominated Supervisor/Director, oversee the regular and accurate payment of staff and contractors,
  - 39.1.2. In consultation with the Nominated Supervisor/Director, ensure the activities of the Association's Finance Officer are not fraudulent at any time;
  - 39.1.3. In consultation with the Nominated Supervisor/Director, organise all required financial and financially related audits with competent and experienced audit teams;
  - 39.1.4. Be responsible for ensuring that the Nominated Supervisor/Director is provided with adequate financial resources and is acting in accordance with their financial delegation at all times;
  - 39.1.5. In consultation with the Nominated Supervisor/Director, Finance Officer and Finance Sub-Committee prepare and present the Audited Annual Financial Statements and Financial Reports at the Annual General Meeting;
  - 39.1.6. Ensure that all requested and required accurate Association financial statements and reports are distributed to external stakeholders on a quarterly basis or as otherwise required by their due date;
  - 39.1.7. In consultation with the Nominated Supervisor/Director and Finance Committee, prepare and distribute the annual budget for approval by the Executive Committee;
  - 39.1.8. On behalf of the Executive Committee, act as the principal support person to the Association's Finance Officer.
  - 39.1.9. In consultation with the Nominated Supervisor/Director, ensure that all monies due to the Association are collected and received and that all payments are made;
  - 39.1.10. In consultation with the Nominated Supervisor/Director, ensure that correct books and accounts are kept showing the financial affairs of the Association (including full details of all receipts and expenditure connected with activities);
  - 39.1.11. Ensure the accounting records of the Association are kept in accordance with section 35 of the Act.
  - 39.1.12. Submit a financial report including a monthly profit and loss statement and quarterly balance sheet to the Executive Committee at each Committee meeting.

39.1.13. The Treasurer must perform any other duties imposed by this Constitution.

## **40. Public Officer**

- 40.1. The Nominated Supervisor/Director shall hold the position as Public Officer for the term of their employment and must:
- 40.1.1. In consultation with the Chairperson, act as an advocate for the Association and effectively liaise with all external regulatory bodies and other stakeholders;
  - 40.1.2. Maintain the list of all Executive Committee Members and general Committee Members and notify all relevant external stakeholders of the names and contact details of Executive Committee Members as required;
  - 40.1.3. Work with the Chairperson to ensure that the Association conforms to all federal and state based regulatory requirements (e.g.: Department of Fair Trading etc) and that all necessary documentation to these agencies is current at all times;
  - 40.1.4. Act as the custodian of the Association's Constitution, ensure that it remains current and accurate at all times and ensure that it is appropriately distributed and communicated amongst all internal and external stakeholders;
  - 40.1.5. Ensure that books containing the minutes of General Meetings are made available for inspection by any Member.

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## **Constitution and Rules**

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### **41. Effect of Constitution**

- 41.1. This Constitution binds every Member and the Association to the same extent as if every Member and the Association had signed and sealed this Constitution and agreed to be bound by it.

### **42. Amendment of Constitution and Rules**

- 42.1. This Constitution may only be repealed, altered or amended by resolution of three quarters of those Members who are present and voting at a General Meeting, of which not less than 14 day's written notice has been given including notice of the proposed repeal, alteration or amendment.
- 42.2. Rules for the proper administration of the Association and business may be made, repealed or amended by a General Meeting or by a Committee Meeting subject to subsequent disallowance at a General Meeting, provided not less than 7 days written notice of the proposed new rule, repeal or amendment has been distributed to all Members.

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## **General**

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### **43. The Seal**

- 43.1. The Association may have a Seal.
- 43.2. If the Association has a Seal, the Management Committee is to provide for its safe custody and it should only be used by the authority of the Management Committee.

### **44. Relationship of the Association and the Members**

- 44.1. Nothing in this Constitution shall be construed to constitute the Association and the Members as the principal, agent, employee, partner or legal representative of the other for any purpose other than as expressly set out in this Constitution or in the Regulations.
- 44.2. Except as expressly provided in this Constitution, neither the Association nor any Member has any actual or implied authority or permission to:

- 44.2.1. create, assume or incur obligations, debt, encumbrances or other liability; or
- 44.2.2. make representations, for or on behalf of the other in any manner whatsoever.

## 45. No Representation or Reliance

- 45.1. Each Member acknowledges and agrees that no person has made any representation or other inducement to it to become a Member (either on the terms of this Constitution or otherwise), except for representations or inducements expressly set out in this Constitution.
- 45.2. Each Member further acknowledges and agrees that it has not become a Member in reliance on any representation or other inducement by or on behalf of any other person, except for representations or inducements expressly set out in this Constitution.

## 46. Insurance and Indemnity

- 46.1. The Association must endeavour to arrange and maintain insurance against each of the following risks with a reputable insurer authorised under the Insurance Act 1973:
  - 46.1.1. reasonable loss of or damage to its assets, as determined by the Management Committee;
  - 46.1.2. liability for personal injury, death, loss or damage resulting from anything done or not done by the Association, or by a Management Committee Member, Officer or employee of the Association, in relation to the business of the Association; and
  - 46.1.3. Directors' and Officers' liability, as determined by the Management Committee.
- 46.2. Subject to the law, the Association may arrange and maintain additional insurance for the benefit of every person who is or has been a Member of the Management Committee or Officer acting in that capacity against:
  - 46.2.1. costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
  - 46.2.2. a liability arising from negligence or other conduct.
- 46.3. Subject to the law, the Association shall indemnify every person who is or has been a Member of the Management Committee or Officer of the Association against a liability incurred by the person acting in their capacity a Member of the Management Committee or Officer to a person other than the Association for the costs and expenses incurred by the person:
  - 46.3.1. in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
  - 46.3.2. in connection with an application, in relation to such proceedings, in which the court grants relief to the person under the law.
- 46.4. Every employee of the Association who is not a Member of the Management Committee or Officer of the Association may be indemnified out of the property of the Association against a liability incurred by the employee acting in that capacity to a person other than the Association for the costs and expenses incurred by an employee:
  - 46.4.1. in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which the employee is acquitted; or
  - 46.4.2. in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under the law.
- 46.5. Provided that nothing in this **Rule 46** shall require the Association to procure insurance or provide an indemnity to any person in respect of a liability incurred by the person and arising out of his or her acts or omissions involving:
  - 46.5.1. a lack of good faith;
  - 46.5.2. a wilful breach of duty in relation to the Association;
  - 46.5.3. a breach of the provisions of the Act;



- 46.5.4. the improper use of information; or
  - 46.5.5. the improper use of his or her position.
- 46.6. If the Management Committee or any Officer of the Association becomes personally liable for the payment of any sum primarily due from the Association, the Management Committee may execute or cause to be executed any charge or security over or affecting the whole or any part of the assets of the Association by way of indemnity to secure the persons or person so becoming liable as aforesaid from any loss in respect of such liability.

## 47. Notices

- 47.1. All communications between the Association and its Members (including notices, consents, approvals, requests and demands) under or in connection with this Constitution:
- 47.1.1. must be in writing in English;
  - 47.1.2. must be addressed to the applicable address provided by each Member or to the Office of the Association (as the case may be);
  - 47.1.3. must be signed by an Executive Member of the Management Committee of the Association or by the Member (as the case may be) making the communication or (on its behalf) by the solicitor for, or any Representative, Attorney, Director, Secretary or Authorised Agent of, the Association or the Member; and
  - 47.1.4. must be delivered by hand; sent by email or facsimile transmission; or posted by prepaid post, to the address of the addressee in accordance with **Rule 47.1.2** and in each case the communication is deemed for all purposes to be received by the addressee on the second Business Day after the date on which it is delivered, emailed, faxed or posted.
- 47.2. Every Member must notify the Public Officer of any change of its, his or her address and any such new address must be entered in the Register and upon being so entered becomes the Member's registered address.
- 47.3. Where a Member does not have a registered address or where the Association has bona fide reason to believe that a Member is not known at the Member's registered address, all future notices are deemed to be given to the Member if the notice is exhibited in the Office for a period of 48 hours (and is deemed to be duly served at the commencement of that period) unless and until the Member informs the Association of a registered place of address.
- 47.4. The signature to any notice to be given by the Association may be written or printed.
- 47.5. Where a given number of days' notice or notice extending over any other period is required to be given, the day of service is not to be reckoned in the number of days or other period.
- 47.6. A notice delivered or sent by post to the registered address of a Member pursuant to this **Rule 47** is (notwithstanding that the Member is then dead and whether or not the Association has notice of the Member's death) deemed to have been duly served and the service is for all purposes deemed to be sufficient service of the notice or document on the Member's heirs, executors or administrators.

## 48. Governing Law and Jurisdiction

- 48.1. This Constitution is governed by and must be construed according to the Act and generally the law applying in South Australia.
- 48.2. If any Rule or any part of any Rule of this Constitution (or any regulation or any part of any regulation in the Regulations) is prohibited, void, invalid or inconsistent with the Act, the Rule or regulation, or the relevant part of the Rule or regulation, shall be deemed to be read subject to the Act and severed to the extent that it is prohibited, void, invalid or inconsistent with the Act, but the remainder (if any) of that Rule or regulation shall remain in full force and effect.
- 48.3. The Association, each Member and Management Committee Member irrevocably:
- 48.3.1. submits to the non-exclusive jurisdiction of the courts of South Australia and the courts competent to determine appeals from those courts, with respect to any legal proceedings that may be brought at any time relating to the subject matter of this Constitution; and

- 48.3.2. waives any objection it, he or she may now or in the future have to the venue of any proceedings, and any claim it, he or she may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within **Rule 48.3.1.**

## 49. Interpretation

In this Constitution and in the Regulations:

- 49.1. Headings are for convenience only and do not affect its interpretation or construction;
- 49.2. An expression defined in, or given a meaning for the purposes of the Act (except where defined, or given a meaning, in this Constitution) has the same definition or meaning in this Constitution where it relates to the same matters as the matters for which it is defined or given a meaning in the Act;
- 49.3. A reference to a Member, the Members or the Membership means each Member, severally and not jointly;
- 49.4. A **person** includes an individual, a corporation, an authority, an Association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- 49.5. An obligation imposed on a Member that is a corporation shall be deemed to include an obligation on it to procure compliance with that obligation by its directors and employees, and the corporation shall be deemed to be liable for all acts and omissions of such persons as though they were its own acts or omissions;
- 49.6. A reference to any document (including this Constitution) is to that document as amended, varied, novated, ratified or replaced from time to time;
- 49.7. A reference to a Member is a reference only to the person that is the Member and does not include that Member's executors, administrators, successors and assigns, nor persons purporting to take by way of novation;
- 49.8. A reference to a rule, schedule, exhibit, attachment or annexure is a reference to a rule, schedule, exhibit, attachment or annexure to or of this Constitution, and a reference to this Constitution includes all schedules, exhibits, attachments and annexures to it;
- 49.9. A reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it;
- 49.10. Words importing the singular include the plural (and vice versa), and words indicating a gender include every other gender;
- 49.11. Where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has corresponding meaning;
- 49.12. Where the day on or by which any sum is payable hereunder or any act, matter or thing is to be done is a day other than a Business Day, that sum will be paid or the act, matter or thing must be done on the next succeeding Business Day; and
- 49.13. The words **includes** and **including** in any form are not words of limitation.