



CONSTITUTION

AUSTRALIAN BPD FOUNDATION LIMITED

A handwritten signature in black ink that reads 'J. A. McDonald'.

CHAIR
AUSTRALIAN BORDERLINE PERSONALITY FOUNDATION INC

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Corporations Act 2001 (Cth)

Public company limited by guarantee

Australian BPD Foundation Limited

ACN 163 173 439

1 NATURE OF COMPANY AND LIABILITY

Nature of Company

1.1 The Company is a public company limited by guarantee.

Liability of Members and guarantee on winding up

1.2 The liability of the Members is limited. Every Member undertakes to contribute \$10 to the assets of the Company if it is wound up while that person is a Member, or within one year afterwards, for:

1.2.1 payment of the Company's debts and liabilities contracted before they ceased to be a Member; and

1.2.2 costs and expenses of winding up.

2 OBJECTS

2.1 The object of the Company is to promote the prevention of the mental illness known as "Borderline Personality Disorder" (**BPD**) by promoting access to appropriate treatment and adequate service provision for people with BPD and their families/carers.

2.2 In order to carry out its object the Company will support and promote services which:

2.2.1 provide high quality accessible, timely, responsive and appropriate services, treatment and care for people with BPD and their families/carers.

2.2.2 provide high quality and accessible education and support for families/carers of people with BPD

2.2.3 provide high quality appropriate education for clinicians and frontline workers providing treatment and care for people with BPD and their carers /families.

2.2.4 promote a positive culture for those with BPD and to advocate for accessible and appropriate services provided by highly skilled professionals offering choice within an environment of hope and optimism

2.2.5 improve the well-being of people with BPD and their families/carers and clinicians and others in the community who assist them.

- 2.2.6 Provide high quality scientific research about all aspects of BPD

3 MEMBERSHIP

Membership

- 3.1 The Members of the Company are the initial Members as identified in the application for incorporation of the Company to the Australian Securities and Investments Commission and such other persons as the Company admits to membership in accordance with this constitution.

Membership not transferable

- 3.2 A Member's rights, privileges and benefits of membership are personal to the Member and membership of the Company is not transferable.

Application for membership

- 3.3 Any individual who is at least 18 years old at the date of application, and any entity that is incorporated, may apply to be a Member of the Company.

Members

- 3.4 All Members must do all of the following:
- 3.4.1 Pay the application fee determined in accordance with clause 4.1.
 - 3.4.2 In order to maintain membership, pay the annual subscription in accordance with clause 4.2.
 - 3.4.3 Otherwise comply with the provisions of this constitution.
- 3.5 A Member has the right to receive notices of and to attend and be heard at any general meeting and has the right to vote at any general meeting.

Form of application

- 3.6 An application for membership must comply with the following requirements:
- 3.6.1 It must be signed by the applicant.
 - 3.6.2 It must be accompanied by such documents or evidence as to qualification for the category of membership applied for as the Board may determine from time to time.
 - 3.6.3 It must be accompanied by an application fee determined in accordance with clause 4.1.

Admission to membership

- 3.7 The Board must consider an application for membership as soon as practicable after its receipt and determine, in its absolute discretion, the admission or rejection of the applicant.
- 3.8 The Board may in its absolute discretion determine the category of membership suitable for an applicant.
- 3.9 The Board does not have to give reasons for accepting or rejecting an application or granting a particular category of membership.
- 3.10 If an application for membership is rejected, any application fee and any annual subscription paid by the applicant must be refunded to the applicant.
- 3.11 If an applicant is accepted for membership the Secretary must notify the applicant of admission in the form of a receipt for the application fee, if any, and annual subscription or in such other form as the Board may determine from time to time and the name and details of the applicant must be entered in the Register.
- 3.12 An applicant that is accepted for membership becomes a Member when the applicant's name is entered in the Register.

Register of Members

- 3.13 A register of the Members of the Company must be kept in accordance with the Corporations Act.
- 3.14 The following details must be entered in the Register in respect of each Member:
- 3.14.1 The full name of the Member including the ACN or ABN of a Member that is a body corporate.
- 3.14.2 The address of the Member (being the registered address in the case of a corporate Member).
- 3.14.3 The date on which the entry of the Member's name in the Register is made.
- 3.15 The Register must also show the following information, which may be kept separately from the rest of the Register:
- 3.15.1 The name and details of each person who stopped being a Member within the last 7 years.
- 3.15.2 The date on which each such person stopped being a Member.
- 3.16 The Company may also keep further registers recording other information about Members that is not required to be kept under the Corporations Act.
- 3.17 The following details may be entered in a register referred to in clause 3.16:

- 3.17.1 The telephone number, facsimile number and email address (as applicable) of the Member.
 - 3.17.2 The date of last payment of the Member's annual subscription (if applicable).
 - 3.17.3 In the case of a Member other than an individual the full name, address, telephone number, facsimile number and email address (as applicable) of its representative.
 - 3.17.4 Such other information as the Board may require.
- 3.18 Each Member must notify the Secretary in writing of any change in that person's name, address, telephone or facsimile number or email address within one month after the change.

4 APPLICATION FEE AND ANNUAL SUBSCRIPTION

Application fee

- 4.1 The application fee payable by each applicant for membership is such sum as the Board may prescribe from time to time and the Board may prescribe different fees for different categories of individuals and for different categories of incorporated entities. For the avoidance of doubt the fee may be nil.

Annual subscription

- 4.2 The annual subscription payable by a Member is such sum as the Board may prescribe from time to time in respect of each category of membership, and for the avoidance of doubt may be nil.
- 4.3 All annual subscriptions are due and payable in advance on 1 July in each year.
- 4.4 If a person applies for membership after 1 July in any year, the Board may reduce the annual subscription payable by the applicant in such manner as they think fit.

Unpaid annual subscriptions

- 4.5 A Member ceases to be entitled to any of the rights or privileges of membership if any annual subscription payable by the Member in accordance with this clause 4 remains unpaid for two months after it becomes payable and a notice of default is given to the Member pursuant to a resolution of the Board. However, the rights or privileges of membership may be reinstated on payment of all arrears if the Board (in its absolute discretion) so resolves.

5 REMOVAL AND CESSATION OF MEMBERSHIP

Resignation

- 5.1 A Member may resign from membership of the Company by giving written notice to the Secretary.
- 5.2 The resignation of a Member is deemed to take effect from the date of receipt of the notice of resignation or such later date as is provided in the notice. The resignation does not limit the Member's liability under this constitution.

Failure to pay

- 5.3 If a Member has not paid all arrears of annual subscriptions in accordance with clause 4.3 or, if paid, the Member's rights and privileges are not reinstated by the Board in accordance with clause 4.5, each of the following applies in respect of that Member:
- 5.3.1 The Member remains liable for all the obligations and liabilities of membership for six months after the date of notification under clause 4.5.
- 5.3.2 The Member ceases to be a Member and the Member's name must be removed from the Register at the end of the six month period.

Other cessation of membership

- 5.4 A Member ceases to be a Member immediately upon any Termination Event occurring in respect of the Member.

Removal from membership

- 5.5 The Board may convene a meeting of Members to consider the removal of a Member from the Register if the Board in its absolute discretion resolves that the person is no longer considered suitable for membership of the Company.
- 5.6 The Board must provide at least two month's written notice to any Member of any intention to remove the person from the Register, so as to enable the Member to provide any written representations to the Company.
- 5.7 Where a Member makes any written representations and the Member requests that the representations be notified to Members of the Company, the Company must do both of the following:
- 5.7.1 State that the representations have been made in any notice of the resolution given to Members of the Company.
- 5.7.2 Send a copy of the representations to every Member of the Company to whom the notice of the meeting has been or is sent.
- 5.7.3 The requirements in clause 5.7 do not apply to the Company if the representations are received by it too late for it to satisfy those requirements.

- 5.7.4 If a copy of the representations is not so sent because they were received too late or because of the Company's default, the Member may, without affecting any right to be heard orally, require the representations be read out at the meeting.
- 5.7.5 Copies of the representations need not be sent out and the representations need not be read out at the meeting if the Board is satisfied on reasonable grounds that the rights conferred by clause 5.7 are being abused, including to secure needless publicity for a defamatory matter.
- 5.8 The Board does not have to give reasons for recommending the removal of any Member from the Register.
- 5.9 An ordinary resolution of Members is required to pass the necessary resolution to remove a Member under clause 5.5.

6 NO PROFITS FOR MEMBERS

Transfer of income or property

- 6.1 The Company may not pay or transfer any income or property, directly or indirectly to any Member.

Payments, services and information

- 6.2 Nothing in this clause 6 prevents the Company making a payment in good faith of any of the following:
- 6.2.1 Remuneration to any officers or employees of the Company for services actually rendered to the Company.
- 6.2.2 An amount to any Member in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual course of business.
- 6.2.3 Reasonable and proper interest on money borrowed from any Member.
- 6.2.4 Reasonable and proper rent for premises let by any Member to the Company.
- 6.2.5 Reimbursement of expenses reasonably and properly incurred by any Member on the Company's behalf with the consent of the Board.
- 6.3 Nothing in this clause 6 prevents the Company from providing services or information to the Members on terms which are different from the terms on which services or information are provided to persons who are not Members.

7 GENERAL MEETINGS

Convening of meetings by Directors

7.1 Any Director may convene a general meeting.

Convening of meetings by Members

7.2 The Board must call and arrange to hold a general meeting if required to do so under the Corporations Act.

Notice of general meeting

7.3 The Board may give notice of a general meeting by any form of communication permitted by the Corporations Act.

7.3.1 The notice of a general meeting must specify the place, the day and the hour of meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate the meeting, the general nature of the business to be transacted and any other matters as are required by the Corporations Act.

7.3.2 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.

Cancellation of general meetings

7.4 The Board may cancel a general meeting, other than a general meeting which the Board is required to convene and hold under the Corporations Act.

7.5 The Board may cancel a general meeting if notice of the cancellation is given to all persons entitled to receive notice of the meeting at least two business days prior to the time of the meeting as specified in notice of meeting.

Quorum at general meetings

7.6 The Members in general meeting may not transact any business unless a quorum of Members is present at the time when the meeting proceeds to business.

7.7 Except as otherwise set out in this constitution, a quorum for the purposes of a general meeting is the lesser of the following number of Members present in person or by representative, proxy or attorney:

7.7.1 20% of the total number of Members entitled to vote at the meeting at the time; and

7.7.2 10 Members entitled to vote at the meeting at the time.

7.8 If a quorum is not present within half an hour from the time appointed for the meeting or a longer period allowed by the chairperson:

7.8.1 If the meeting was convened by or on the requisition of Members, it must be dissolved.

7.8.2 Otherwise, it must stand adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Board.

7.9 If a meeting has been adjourned to another time and place determined by the Board, not less than five business days' notice of the adjourned meeting must be given in the same manner as in the case of the original meeting.

Quorum at adjourned general meetings

7.10 At the adjourned meeting, the quorum requirements in clause 7.7 apply, but if a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

Appointment of chairperson

7.11 Every general meeting must be chaired by a chairperson. The chairperson will be determined as follows:

7.11.1 If the Board has elected a Director as Chair in accordance with clause 12.7, that person is entitled to chair every general meeting.

7.11.2 Secondly, if the Board has elected a Director as Deputy Chair in accordance with clause 12.8, that person is entitled to chair the meeting if either of the following applies:

- (a) No Chair has been elected in accordance with clause 12.7.
- (b) The Chair is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act.

7.11.3 Thirdly, the Directors present at the meeting must elect one of their number to chair that meeting if either of the following applies:

- (a) No Chair has been elected in accordance with clause 12.7 and no Deputy Chair has been elected in accordance with clause 12.8.
- (b) Neither the Chair nor the Deputy Chair is not present within 15 minutes after the time appointed for the holding of the meeting or if present neither is willing to act.

7.11.4 Fourthly, the Members entitled to vote at the meeting present in person or by representative, proxy or attorney at the meeting must elect one of those Members to chair that 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.

- (b) All Directors present decline to chair the meeting.

Chairperson's powers

- 7.12 The chairperson may temporarily vacate the chair at a general meeting in favour of another person present at any time and for any reason they see fit, and must do so if the Members are voting on the chairperson's election or re-election as a Director (if applicable).
- 7.13 Subject to the terms of this constitution regarding adjournment of meetings, the chairperson's ruling on all matters relating to the order of business, procedure and conduct of the general meeting is final and no motion of dissent from a ruling of the chairperson may be accepted.
- 7.14 The chairperson may, in his or her absolute discretion, refuse any person admission to a general meeting, or expel the person from the general meeting and not permit them to return, if the chairperson reasonably considers that the person's conduct is inappropriate. Inappropriate conduct in a general meeting includes:
- 7.14.1 The use of offensive or abusive language which is directed to any person, object or thing.
- 7.14.2 Attendance at the meeting while under the influence of any kind of drug, or using or consuming any drug at the meeting, including any alcoholic substance.
- 7.14.3 Possession of any article, including a recording device or other electronic device or a sign or banner, which the chairperson considers is dangerous, offensive or disruptive or likely to become so.

Adjournment of meetings

- 7.15 The chairperson may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to another time and to another place.
- 7.15.1 The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- 7.15.2 When a meeting is adjourned for 20 business days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- 7.15.3 Except when a meeting is adjourned for 20 business days or more, it is not necessary to give a notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting on show of hands

- 7.16 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 before that vote is taken or before the result is declared or immediately after the result is declared.

- 7.17 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.

Demand for a poll

- 7.18 A poll may be demanded by either:
- 7.18.1 The chairperson.
 - 7.18.2 At least five Members entitled to vote on the resolution.
 - 7.18.3 Any Member or Members with at least 5% of the votes that may be cast on the resolution on a poll.
- 7.19 The demand for a poll may be withdrawn.
- 7.20 The demand for a poll does not prevent the continuance of a meeting for the transaction of business other than the question on which a poll is demanded.
- 7.21 If a poll is duly demanded, it must be taken in the manner and, except as to the election of a chairperson or on a question of adjournment, either at once or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll is the resolution of the meeting at which the poll is demanded.
- 7.22 A poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.

Voting rights of Members

- 7.23 On a show of hands every person present who is a Member or who represents a corporation who is a Member has one vote.
- 7.24 On a poll every Member present in person or by proxy, attorney or representative has one vote.

Vote of the chairperson at general meetings

- 7.25 The chairperson of a general meeting is entitled to a second or casting vote (in addition to any votes he or she may have as a proxy or attorney).

Objections to voter qualification

- 7.26 No objection may be raised to the qualification of a voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 7.27 An objection to the qualification of a voter must be referred to the chairperson, whose decision is final.

- 7.28 A vote not disallowed according to an objection as provided in this constitution is valid for all purposes.

Mode of meeting for Members

- 7.29 A general meeting may be called or held (including at more than one venue) using any technology that gives the Members as a whole a reasonable opportunity to participate in the meeting. The Members may otherwise regulate their meetings as they think fit.

Resolution in writing

- 7.30 A resolution in writing signed by all Members entitled to vote on the resolution is to be treated as a determination of the Members passed at a meeting of the Members duly convened and held.

Form of resolution in writing

- 7.31 A resolution in writing may consist of several documents in like form, each signed by one or more Members and if so signed it takes effect on the latest date on which a Member signs one of the documents.
- 7.32 If a resolution in writing is signed by a proxy of a Member, it must not also be signed by the appointing Member and vice versa.
- 7.33 In relation to a resolution in writing a document generated by electronic means which purports to be a facsimile of a resolution of Members is to be treated as a resolution in writing and a document bearing a facsimile of a signature is to be treated as signed.

8 REPRESENTATIVES, PROXIES AND ATTORNEYS

Representatives, proxies and attorneys of Members

- 8.1 At meetings of Members each Member entitled to vote may vote in person or by representative, proxy or by attorney in accordance with clauses 7.23 and 7.24.
- 8.2 Subject to the terms of their appointment, a person attending as a proxy, or as the attorney of a Member, or as representing a corporation which is a Member has all the powers of a Member, except where expressly stated to the contrary.

Appointment and removal of representatives

- 8.3 A Member which is a corporation may from time to time appoint a natural person as its sole representative in any matters connected with the Company, including as permitted by the Corporations Act.
- 8.3.1 A Member may appoint, and remove, its representative for the time being by written notice to the Secretary in such form as the Board may prescribe from time to time.

8.3.2 A document executed by a Member in accordance with section 127 of the Corporations Act (where applicable to the Member) is rebuttable evidence of the appointment, or removal, of the named representative.

8.3.3 For the avoidance of doubt, a representative is entitled to exercise the powers of the Member which appointed him or her (in accordance with clause 8.2) and a representative present must be counted towards a quorum on the basis that the Member is to be considered personally present at the general meeting by its representative.

Appointment of attorneys

8.4 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership of the Company, the Member must promptly provide the Company with any or all of the following upon written request from the Company:

8.4.1 The original executed instrument appointing the attorney, for notation.

8.4.2 A certified copy of the original executed instrument appointment the attorney, for the Company to retain.

8.4.3 Any other evidence the Company may request from time to time regarding the power of attorney, including evidence that the power of attorney is effective and remains in force.

Appointment of proxies

8.5 A Member may appoint another person as their proxy to attend and vote instead of the Member. A proxy need not be a Member.

8.5.1 A document appointing a proxy must be in writing, in any form permitted by the Corporations Act and signed by the Member making the appointment.

8.5.2 A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.

8.5.3 Except as expressly provided by the document appointing a proxy, an appointment of a proxy confers authority to do all things that the Member can do in respect of a general meeting, except that the proxy is not entitled to vote on a show of hands.

Verification of proxies

8.6 Before the time for holding the meeting or adjourned meeting at which a proxy proposes to vote, both of the following documents must be deposited with the Company:

8.6.1 The document appointing the proxy.

8.6.2 If the appointment is signed by the appointor's attorney, the authority under which the appointment was signed or a certified copy of that authority (even if previously provided to the Company in accordance with clause 8.4).

8.7 Those documents must either be:

8.7.1 received at the Office, at a fax number at the Office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting not less than 24 hours before the time for holding the meeting; or

8.7.2 produced to the chairperson of the meeting before the proxy votes.

8.8 If a general meeting has been adjourned, an appointment and any authority received by the Company at least 24 hours before the resumption of the meeting are effective for the resumed part of the meeting.

Validity of proxies

8.9 A proxy document is invalid if it is not deposited or produced prior to a meeting or a vote being taken as required by this document.

Revocation of appointment of proxy

8.10 A vote given in accordance with the terms of a proxy document or power of attorney is valid despite the occurrence of any one or more of the following events if no intimation in writing of any of those events has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the document is used:

8.10.1 The previous death or unsoundness of mind of the principal.

8.10.2 The revocation of the instrument or of the authority under which the instrument was executed.

9 APPOINTMENT AND RETIREMENT OF DIRECTORS

Initial Directors

9.1 The initial Directors of the Company to be appointed on the day the Company is registered will be those individuals named in the application to register the Company who have consented to act as Directors.

Number of Directors

9.2 The number of Directors must not be less than 3 nor more than 12, until otherwise determined in accordance with this constitution.

9.3 The Company may, by resolution, increase or reduce the number of Directors and may also determine in what rotation the increased or reduced number is to go out of office.

- 9.4 Alternate Directors are not to be treated as Directors for the purpose of determining the minimum or maximum number of Directors holding office.

Qualifications of Directors

- 9.5 A Director need not be a Member of the Company.

Re-election of Directors at first AGM

- 9.6 At the first annual general meeting of the Company, all the Directors of the Company must retire from office and the Members must elect up to a total of 12 Directors from the nominations.
- 9.7 Nominations for the position of Director at the first annual general meeting may be submitted by a Member or a retiring Director.
- 9.8 Notice of the nominations for Director must be provided to all Members of the Company in accordance with this constitution at least 20 business days prior to the date of the first annual general meeting.

Retirement of Directors

- 9.9 At each annual general meeting of the Company following the first annual general meeting the following Directors must retire from office:
- 9.9.1 One third of the Directors for the time being, or, if their number is not three or a multiple of three, then the number nearest one third.
- 9.9.2 Any other Director, except a managing Director, who has been in office for three years or more since that Director's election or appointment, or last re-election or re-appointment as a Director.
- 9.10 The Directors to retire at an annual general meeting are those who have been longest in office since their last election. If two or more persons became Directors on the same day, those to retire must be determined by lot unless they otherwise agree among themselves.
- 9.11 A Director retiring at an annual general meeting may act as a director until the conclusion of that meeting and is eligible for re-election or re-appointment to the extent permitted by law and this constitution.
- 9.12 A Director may retire from office by giving notice in writing to the Company of that Director's intention to retire. A notice of resignation takes effect at the time which is the later of the time of giving the notice to the Company and the expiration of the period, if any, specified in the notice.

Casual vacancies

- 9.13 The Board, or if there is only one Director, that Director, may at any time appoint a person to be a Director, either to fill a casual vacancy or as an addition to the existing number of Directors. The total number of Directors may not exceed the number fixed in accordance with this constitution.

- 9.14 A Director appointed under clause 9.13 holds office only until the next general meeting after the appointment and is then eligible for re-election or re-appointment.
- 9.15 A Director appointed under clause 9.13 must not be taken into account in determining the Directors who are to retire by rotation at that general meeting.

Removal from office

- 9.16 The Company may by ordinary resolution remove a Director from office and may by ordinary resolution appoint another person as a replacement.
- 9.17 A person appointed to replace a Director removed from office must retire as a Director at the time ascertained as if the person became a Director on the day on which the Director removed from office was elected or appointed or last re-elected or re-appointed as a Director.

Vacation of office

- 9.18 In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act or another provision of this constitution, the office of Director immediately becomes vacant if any of the following occurs:
- 9.18.1 The Director becomes an insolvent under administration.
- 9.18.2 The Director is medically unfit to carry out his or her duties as a Director, as determined by a qualified medical practitioner.
- 9.18.3 The Director is absent from at least three consecutive Board meetings or at least four Board meetings over a consecutive period of 12 months without the consent of the Board.
- 9.18.4 The Director becomes prohibited from being a director by reason of an order made under the Corporations Act.

10 DIRECTORS' REMUNERATION

Remuneration of Directors

- 10.1 The Company will not pay or give any remuneration or other benefit in money or money's worth to any Director except, with the prior approval of the Board:
- 10.1.1 Reimbursement of out-of-pocket expenses reasonably and properly incurred by the Director in connection with Company business (including travel and accommodation expenses), or payment of such amounts by the Company on the Director's behalf.
- 10.1.2 Payment of or towards insurance premiums for any director to the extent permitted by law and this constitution.

- 10.1.3 A fee in return for any extra services actually rendered to the Company in a professional or technical capacity (other than within his or her ordinary duties as a Director) where the amount payable does not exceed a commercially reasonable amount. The fee may be paid either by fixed sum or salary determined by the Board.

Payments to former Directors

- 10.2 Subject to the Corporations Act, the Board may determine that the Company pay a gratuity, pension or allowance, at the time of or following retirement or other vacation of office to a Director or to a relative of a Director and make contributions to any fund and pay any premiums for the purchase or provision of that gratuity, pension or allowance.

11 POWERS OF THE BOARD

- 11.1 The Board may exercise all those powers of the Company as are not, by the Corporations Act or by this constitution, required to be exercised by the Members in general meeting or otherwise.

12 PROCEEDINGS OF DIRECTORS

Convening of Board meetings

- 12.1 A Director may at any time, and a Secretary must on the requisition of a Director, convene a Board meeting.

Notice of Board meetings

- 12.2 The person convening a Board meeting must ensure that notice of the Board meeting is given to each Director at least 24 hours before the meeting or at another time determined by Board resolution, except:

12.2.1 All Directors may waive in writing the required period of notice for a particular meeting.

12.2.2 It is not necessary to give a notice of a meeting of Directors to a Director who is out of Australia or who has been given leave of absence by the Board.

Mode of meeting for Directors

- 12.3 A Board meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting. The Board may otherwise regulate its meetings as they think fit.

Quorum at Board meetings

- 12.4 At a Board meeting, the number of Directors whose presence is necessary to constitute a quorum is the number equal to half the number of Directors in office plus one, rounded up to the nearest whole number.
- 12.5 If the number of Directors is reduced below the number necessary for a quorum of Directors, the continuing Director or Directors may act only to:
- 12.5.1 appoint additional Directors to the number necessary for a quorum in accordance with clause 9.13; or
 - 12.5.2 convene a general meeting of the Company.

Voting at Board meetings

- 12.6 The Board must determine any questions arising at a Board meeting by a majority of votes of Directors present and voting.

Appointment of Chair and Deputy Chair

- 12.7 The Board may elect a Director as Chair to chair Board meetings, and may determine the period for which the Chair will hold office.
- 12.8 The Board may elect a Director as Deputy Chair, and may determine the period for which the Deputy Chair will hold office.
- 12.9 If no Chair is elected, or if at any meeting the Chair is not present within ten minutes after the time appointed for holding the meeting or is unwilling to act, the Deputy Chair may act as chair of that meeting.
- 12.10 If no Chair or Deputy Chair is elected, or if at any meeting the Chair and the Deputy Chair are not present within ten minutes after the time appointed for holding the meeting or is unwilling to act, the Directors present must choose one of their number to chair that meeting.

Chairperson's vote at Board meetings

- 12.11 The Chair (or other Director chairing the meeting in accordance with clause 12.9 or 12.10) has a second or casting vote at Board meetings.

Participation where Directors interested

- 12.12 A Director may be present and may vote on a matter before the Board if and to the extent that they are permitted to do so under the Corporations Act.
- 12.13 If there are not enough Directors to form a quorum as a result of a Director having an interest which disqualifies them from voting then one or more of the Directors (including those who have the disqualifying interest in the matter) may call a general meeting of the Company and the general meeting may pass a resolution to deal with the matter.

- 12.14 Subject to compliance with the Corporations Act, a Director may execute or participate in the execution of a document by or on behalf of the Company.

No disqualification

- 12.15 Subject to compliance with the Corporations Act, a Director or any entity in which the Director has a direct or indirect interest (as applicable) may:
- 12.15.1 Enter into a contract or arrangement with an Associated Party.
 - 12.15.2 Hold any office or place of profit (other than auditor) in an Associated Party.
 - 12.15.3 Act in a professional capacity (or be a member of a firm that so acts) other than as auditor of an Associated Party.
- 12.16 Despite the fiduciary nature of a Director's office and the Director's fiduciary obligations:
- 12.16.1 Any contract or arrangement entered into in accordance with clause 12.15.1 by the Director or any entity in which the Director has a direct or indirect interest is not invalid or voidable
 - 12.16.2 A Director may do any of the things specified in clause 12.15 without any liability to account to the Company or any other person for any direct or indirect benefit accruing to the Director or any entity in which the Director has a direct or indirect interest.

Exercise of rights

- 12.17 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 the Board considers fit.

Delegation of powers

- 12.18 Subject to clause 12.23, the Board may delegate any of its powers to any person, as the Board sees fit. This includes delegating any of the Board's powers to committees consisting of Directors or other persons (as the Board sees fit) to act in Australia or elsewhere.
- 12.19 A committee's exercise of a power in accordance with this constitution is to be treated as the exercise of that power by the Board.
- 12.20 A committee must conform to the directions of the Board in the exercise of any powers delegated to it.

Advisory Committees

- 12.21 The Board may establish one or more advisory committees to provide advice and recommendations to the Board on specified matters (among any other functions determined by the Board).

- 12.22 The Board may, with respect to an Advisory Committee:
- 12.22.1 Specify in writing from time to time the terms of reference and functions of the Advisory Committee.
 - 12.22.2 Appoint such persons as the Board considers appropriate to the Advisory Committee (including, if thought fit, one or more Directors), and remove any such person from the Advisory Committee at any time by written notice.
 - 12.22.3 Specify the period and conditions (including as to remuneration, if any) of any such appointment to the Advisory Committee.
 - 12.22.4 Terminate the Advisory Committee at any time.
- 12.23 The Board must not delegate any of its powers to an Advisory Committee, and an Advisory Committee must not exercise any powers of a Director or the Board.

Proceedings of committees

- 12.24 Except as provided in a direction of the Board, the meetings and proceedings of a committee formed by the Directors or an Advisory Committee must be governed by the provisions of this constitution, in so far as they are applicable, as if meetings and proceedings of the committee or Advisory Committee are meetings and proceedings of the Board.

Validity of acts of Directors

- 12.25 All acts done by a Board meeting or of a committee of Directors 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 to be a Director or a member of the committee or that they or any of them were disqualified or were not entitled to vote.

Minutes

- 12.26 The Board must cause minutes of all proceedings of general meetings, of Board meetings and of committees formed by the Directors to be entered, within one month after the relevant meeting is held, in books kept for the purpose.
- 12.27 The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

Resolution in writing

- 12.28 A resolution in writing signed by all Directors entitled to vote on the resolution is to be treated as a determination of the Board passed at a Board meeting duly convened and held.
- 12.28.1 A resolution in writing may consist of several documents in like form, each signed by one or more Directors and if so signed it takes effect on the latest date on which a Director signs one of the documents.

- 12.28.2 If a resolution in writing is signed by an alternate Director, it must not also be signed by the appointor of the alternate Director and vice versa.
- 12.28.3 In relation to a resolution in writing a document generated by electronic means which purports to be a facsimile of a resolution of Directors is to be treated as a resolution in writing and a document bearing a facsimile of a signature is to be treated as signed.

13 ALTERNATE DIRECTORS

Appointment of alternate Directors

- 13.1 A Director may appoint a person to be an alternate Director in the Director's place, during the period that the Director thinks fit.
 - 13.1.1 The appointment of an alternate Director must be in writing, signed by the Director.
 - 13.1.2 The appointment of an alternate Director takes effect immediately on the signing of the notice of appointment by the Director.
- 13.2 The alternate Director must be a Member as defined in this constitution.

Powers of alternate Director

- 13.3 Except as expressly provided in this constitution, an alternate Director is subject in all respects to the terms and conditions applying to the other Directors except for the provisions of this constitution which relate to the election of Directors, their fees and remuneration and the power to appoint an alternate Director.
- 13.4 An alternate Director has all of the following entitlements:
 - 13.4.1 To perform all the duties of a Director while the Director who appointed the alternate Director is not exercising or performing them.
 - 13.4.2 To receive notice of meetings of the Directors.
 - 13.4.3 To attend and vote at meetings of the Board if the Director who appointed the alternate Director is not present.

Termination of appointment of alternate Directors

- 13.5 The appointment of an alternate Director is immediately terminated if any of the following circumstances occurs:
 - 13.5.1 The Director who appointed the alternate Director ceases for any reason to be a Director.
 - 13.5.2 The Director who appointed the alternate Director gives notice of termination of the appointment to the Company.

- 13.5.3 The Board resolves to terminate the appointment after giving five business days notice of intention to remove the alternate Director to the Director who appointed the alternate Director.

14 SECRETARY

- 14.1 The Board may appoint one or more Secretaries and may at any time terminate the appointment or appointments.
- 14.2 The Board may determine the terms and conditions of appointment of a Secretary, including remuneration. Any one of the Secretaries may carry out any act or deed required by this constitution, the Corporations Act or by any other statute to be carried out by the secretary of the Company.

15 INDEMNITY AND INSURANCE

Indemnity

- 15.1 Every officer and past officer of the Company may be indemnified by the Company, to the fullest extent permitted by law, against a liability incurred by that person as an officer of the Company or a subsidiary of the Company, including without limitation legal costs and expenses incurred in defending an action.

Insurance premiums

- 15.2 The Company may pay the premium on a contract insuring a person who is or has been an officer of the Company to the fullest extent permitted by law.

16 SEALS AND EXECUTION OF DOCUMENTS

Custody of Seal

- 16.1 If the Company has one, the Board must provide for the safe custody of the Seal.

Execution of documents

- 16.2 The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by any of the following:
- 16.2.1 By two Directors.
- 16.2.2 By a Director and the Secretary.
- 16.2.3 By a Director and some other person appointed by the Directors for the purpose.
- 16.3 Nothing in this clause 16 limits the manner in which the Company may execute a document without the use of a Seal.

Official seals

- 16.4 The Company may have for use in place of the Seal outside the jurisdiction where the Seal is kept one or more official seals, to be used in accordance with procedures approved by the Board.

17 GIFT FUND REQUIREMENTS**Company to maintain a Gift Fund**

- 17.1 The Company must maintain a Gift Fund in accordance with this clause 17 for so long as it seeks or has obtained endorsement as a DGR from the Australian Taxation Office, or the Company is named as a DGR in ITAA 97.

Rules applying to the Gift Fund

- 17.2 The following rules apply to any Gift Fund established and maintained by the Company:

17.2.1 The Gift Fund must have a name.

17.2.2 The Company must maintain sufficient documents to provide evidence of the Gift Fund's purpose and operations.

17.2.3 The Company must maintain a separate bank account for the Gift Fund.

17.2.4 The following must be credited to the Gift Fund:

- (a) All gifts of money or property to the Company for the Principal Purpose.
- (b) All money or property received by the Company because of those gifts.

17.2.5 No other money or property may be credited to the Gift Fund.

17.2.6 The Company must use any gifts, money or property of the kind referred to in clause 17.2.4 only for the Principal Purpose.

Winding up of Gift Fund

- 17.3 Despite clause 18, if the Gift Fund is wound up or the Company ceases to be a DGR for any reason, any surplus assets of the Gift Fund remaining after the payment of liabilities attributable to it must be transferred to a fund, authority or institution to which income tax deductible gifts can be made. For the avoidance of doubt, if a Gift Fund operated by the Company is wound up but the Company remains a DGR and operates any other gift fund in accordance with this clause 17, any surplus assets of the Gift Fund that is being wound up may be transferred to any other gift fund operated by the Company.

Definitions

- 17.4 In this clause 17 the following definitions apply:

DGR means a 'deductible gift recipient' within the meaning of section 30-227 of ITAA 97.

Gift Fund means a fund that is maintained for the Principal Purpose.

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

Principal Purpose means the purposes of the Company as reflected in the objects of the Company specified in clause 2, or any of those purposes.

18 SURPLUS ASSETS ON WINDING UP OR DISSOLUTION

18.1 Subject always to clause 17.3, upon the winding up or dissolution of the Company, any remaining property after satisfaction of all debts and liabilities, will not be paid to or distributed among the Members, but will be given or transferred to some other institution or company which satisfies both of the following requirements:

18.1.1 It has objects similar to the objects of the Company.

18.1.2 Its constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of clause 6.

18.2 This is to be determined by ordinary resolution of the Company 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 State or Territory in which the Office is located.

19 ACCOUNTS, AUDIT AND RECORDS

Accounts

19.1 The Board must cause proper accounting and other records to be kept in accordance with the Corporations Act.

Reports

19.2 To the extent required by the Corporations Act, the Board must cause the company to:

19.2.1 Prepare financial reports in accordance with the Corporations Act.

19.2.2 Prepare directors' reports in accordance with the Corporations Act.

19.2.3 Notify each Member of the Member's right to receive reports from the Company.

19.2.4 Provide members with reports, in a form and within such timeframe as may be required by the Corporations Act.

Audit

- 19.3 A registered company auditor must be appointed. The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Corporations Act.

Rights of inspection

- 19.4 Subject to the Corporations Act:

19.4.1 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, and a Member does not have the right to inspect any document of the Company except as provided by law or authorised by the Board or by the Company in general meeting.

19.4.2 Despite clause 19.4.1, the Board may refuse access to a document where the Board (acting reasonably) considers that such access would or would be likely to cause the Company to lose the benefit of any form of evidentiary privilege, including legal professional privilege.

20 NOTICES**Persons authorised to give notices**

- 20.1 A notice by either the Company or a Member in connection with this constitution may be given on behalf of the Company or Member by a solicitor, director, company secretary or other authorised officer of the Company or Member.

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

Method of giving notices

- 20.3 In addition to the method for giving notices permitted by statute, a notice by the Company or a Member in connection with this constitution may be given to the addressee by any of the following means:

20.3.1 By delivering it to a street address of the addressee.

20.3.2 By sending it by prepaid ordinary post (airmail if outside Australia) to a street or postal address of the addressee.

20.3.3 By sending it by facsimile or email to the facsimile number or email address of the addressee.

Addresses for giving notices to Members

- 20.4 The street address or postal address of a Member is the street or postal address of the Member shown in the Register.

- 20.5 The facsimile number or email address of a Member is the number which the Member may specify by written notice to the Company as the facsimile number or email address to which notices may be sent to the Member.

Address for giving notices to the Company

- 20.6 The street and postal address of the Company is the Office.
- 20.7 The facsimile number or email address of the Company is the number which the Company may specify by written notice to the Members as the facsimile number or email address to which notices may be sent to the Company.

Time notice of meeting is given

- 20.8 A notice of meeting given in accordance with this constitution is to be taken as given, served and received at the following times:

- 20.8.1 If delivered in writing to the street address of the addressee, at the time of delivery.
- 20.8.2 If it is sent by post to the street or postal address of the addressee, on the business day after posting.
- 20.8.3 If sent by facsimile or email to the facsimile number or email address of the addressee, at the time transmission is completed.

Time other notices are given

- 20.9 A notice given in accordance with this constitution is to be taken as given, served and received at the following times:

- 20.9.1 If delivered in writing to the street address of the addressee, at the time of delivery.
- 20.9.2 If it is sent by post to the street or postal address of the addressee, on the 2nd (5th if outside Australia) business day after posting.
- 20.9.3 If sent by facsimile or email to the facsimile number or email address of the addressee, at the time transmission is completed.

Proof of giving notices

- 20.10 The sending of a notice by facsimile or email and the time of completion of transmission may be proved conclusively by production of the relevant one of the following:

- 20.10.1 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.
- 20.10.2 A print out of an acknowledgment of receipt of the email or equivalent proof that the email was successfully transmitted.

Persons entitled to notice of meeting

- 20.11 Notice of every general meeting must be given by a method authorised by this constitution to all of the following persons:
- 20.11.1 Every Member.
 - 20.11.2 Every Director.
 - 20.11.3 Every person (if any) entitled to a membership in consequence of the death or bankruptcy of a Member who, but for the Member's death or bankruptcy, would be entitled to receive notice of the meeting.
 - 20.11.4 The auditor for the time being of the Company, if any.
- 20.12 No other person is entitled to receive notices of general meetings.

21 DEFINITIONS AND INTERPRETATION**Definitions**

- 21.1 In this constitution the following definitions apply:

Advisory Committee means an advisory committee established by the Board under clause 12.21.

Associated Party means each of the following:

- (a) The Company;
- (b) Any Related Body Corporate of the Company.
- (c) Any other body corporate, trust or entity promoted by the Company or in which the Company has an interest of any kind.

Board means Directors acting as the board of the Company.

Chair means the Director elected under clause 12.7 to preside as chairperson at Board meetings for the time being.

Company means Australian BPD Foundation Limited ACN 163 173 439.

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

Director means a person occupying the position of a director of the Company.

Insolvency Event means, in relation to a Member, anything that reasonably indicates that there is a significant risk that the Member is or will become unable to pay its debts as they fall due. This includes any of the following (as applicable) :

- (a) A meeting of the Member's creditors being called or held.
- (b) A step being taken to make the Member bankrupt.
- (c) An application is presented or an order is made for the sequestration of the Member's estate.
- (d) A step being taken to wind the Member up.
- (e) A step being taken to have a receiver, receiver and manager, administrator, liquidator or provisional liquidator appointed to the Member or any of its assets or such an appointment taking place.
- (f) The Member entering into any type of agreement, composition or arrangement with, or assignment for, the benefit of all or any of its creditors.
- (g) The Member ceases or threatens to cease to carry on its main business.

Member means a person whose name is entered in the Register as a member of the Company.

Office means the registered office of the Company.

Register means the register of Members kept by the Company under the Corporations Act.

Related Body Corporate has the meaning given in the Corporations Act.

Seal means, if the Company has one, the common seal of the Company.

Secretary means a person appointed to perform the duties of a secretary of the Company.

Termination Event means:

- (a) An Insolvency Event occurs in respect of the Member.
- (b) If a Member is an individual, the death of that Member or that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health.
- (c) If a Member is a body corporate, the deregistration or other dissolution of that Member.

Interpretation

21.2 In this constitution, unless the context otherwise requires:

- 21.2.1 A reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate

legislation or regulations issued under that legislation or legislative provision, in either case whether before, on or after the date of this constitution.

- 21.2.2 A reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time.
- 21.2.3 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this constitution.
- 21.2.4 Where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 21.2.5 A word which indicates the singular indicates the plural, a word which indicates the plural indicates the singular, and a reference to any gender indicates the other genders.
- 21.2.6 An expression importing a person includes any company, trust, partnership, joint venture, association, body corporate or public authority.
- 21.2.7 A reference to 'dollars' or '\$' means Australian dollars.
- 21.2.8 References to the word 'include' or 'including', or to the word 'exclude' or 'excluding', are to be interpreted without limitation.
- 21.2.9 A reference to a time of day means that time of day in the place where the Office is located.
- 21.2.10 A reference to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in the place where the Office is located.
- 21.2.11 Where a period of time is specified and dates from a given day or the day of an act or event it must be calculated exclusive of that day.
- 21.2.12 A term of this constitution 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.

References to this constitution

- 21.3 A reference to this constitution, where amended, means this constitution as so amended.

Replaceable rules

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

Application of Corporations Act

- 21.5 Unless the context otherwise requires,
- 21.5.1 An expression used but not defined in this constitution has the same meaning given in the Corporations Act.
 - 21.5.2 Where an expression referred to in clause 21.5.1 has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same matter as the relevant clause of this constitution, the expression has the same meaning as in that provision.