

# Constitution

Australia and New Zealand Chapter of the  
Association for Contextual Behavioral  
Science Limited  
ACN 164 220 286

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## **1. NAME**

The name of the Company is Australia and New Zealand Chapter of the Association for Contextual Behavioral Science Limited (ANZACBS).

## **2. PURPOSE**

### **2.1 Principal Purpose and powers**

- (a) The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.
- (b) ANZACBS is dedicated to the alleviation of human suffering and the advancement of human well-being through research and practice grounded in contextual behavioural science. In achieving this purpose, ANZACBS's principle activity is to promote the prevention or alleviation of mental health challenges.
- (c) Solely for the purpose of furthering the Principal Purpose, the Company:
  - (i) may do all things incidental or conducive to furthering the Principal Purpose; and
  - (ii) has the capacity and powers of a company under the Act subject to the provisions of this Constitution.

### **2.2 Application of income and property**

- (a) The income and property of the Company must be applied solely towards the Principal Purpose.
- (b) No portion of the profits, income or property of the Company may be paid or transferred directly or indirectly to Members or Directors by way of dividend, bonus or otherwise in their capacity as Members.
- (c) Sub-clause 2.2(b) does not stop the Company from doing the following things, provided they are done in good faith:
  - (i) paying a Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Company, or
  - (ii) making a payment to a Member in carrying out the Company's charitable purpose(s).
- (d) The Company must not pay fees to a Director for acting as a Director.
- (e) The Company may:
  - (i) pay a Director for work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done, or

- (ii) reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Company.
- (f) Any payment made under sub-clause 2.2(e) must be approved by the Board.
- (g) The Company may pay premiums for insurance indemnifying Directors, as allowed for by law (including the Act) and this Constitution.

### **2.3 Distribution of assets on revocation of endorsement or winding up**

- (a) If the Company is a Deductible Gift Recipient and is wound up, or its endorsement as a Deductible Gift Recipient is revoked by the Commissioner of Taxation, the following assets that remain after satisfying the Company's liabilities and expenses must be transferred to one or more charities that is a Deductible Gift Recipient:
  - (i) gifts of money or property for the Principal Purpose received during any time that the Company is endorsed as a Deductible Gift Recipient;
  - (ii) contributions described in item 7 or 8 of the table in section 30-15 of the ITAA 97 in relation to a fundraising event (as defined by section 995-1 of the ITAA 97) held for that purpose during any time that the Company is endorsed as a Deductible Gift Recipient; and
  - (iii) money received by the Company because of such gifts or contributions during any time that the Company is endorsed as a Deductible Gift Recipient.
- (b) Upon the winding up of the Company, any assets remaining after complying with clause 2.3(a):
  - (i) must not be paid or distributed to the Members in their capacity as Members, and
  - (ii) will be given or transferred to one or more other charities which:
    - (A) have a similar purpose to the Principal Purpose; and
    - (B) prohibit the distribution of income, profit or assets to its Members in their capacity as Members.
- (c) The Members must decide which entity or entities receive a distribution under this clause by ordinary resolution on or before the time of winding up or, in the case of revocation as soon as possible following that revocation. In the case of winding up, if the Members fail to decide, the entity or entities must be determined by application to the Supreme Court in the State of incorporation.

### **3. MEMBERSHIP**

#### **3.1 General**

- (a) The minimum number of Members is one.
- (b) The rights of any Member are not transferable.

#### **3.2 Eligibility**

To be eligible for Membership, a person must be committed to the Principal Purpose of the Company and be a current member of the Association for Contextual Behavioural Science.

#### **3.3 Membership classes**

The Company has four Membership classes.

- (a) Professional Member
- (b) Student Member

An applicant seeking Membership as a Student Member must provide evidence of enrolment in university study (undergraduate or graduate) in an area of relevance to the Principal Purpose of the Company.

- (c) Affiliate Member
- (d) Fellow Member

The Board will consider applications for admission as a Fellow Member in light of the fellowship standards as determined by the Board from time to time.

#### **3.4 Application**

- (a) An application for Membership must be made in writing, in the form and manner (if any) approved by the Board.
- (b) An applicant must pay the Membership fee determined by the Board (if any).
- (c) An applicant must agree in writing to contribute the Guaranteed Amount to the property of the Company if the Company is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:
  - (i) debts and liabilities of the Company incurred before the member stopped being a member, or
  - (ii) costs of winding up.

#### **3.5 Admission**

- (a) The Board must consider and resolve whether to accept or reject each application for Membership within a reasonable time.

- (b) The Board may accept or reject any application for Membership in its discretion, using such criteria as the Board alone may determine. The Board is not bound to give reasons for the acceptance or rejection of any application.
- (c) The Board may delegate the functions outlined in clauses 3.5(a) and 3.5(b).
- (d) If the Board accepts an application, the Secretary must:
  - (i) enter the applicant's details into the Register as soon as practicable, subject to the payment of the Membership fee (if any); and
  - (ii) send written notice of the acceptance to the Member.
- (e) A person is admitted as a Member of the Company when the person's application has been accepted by the Board and the person's name is entered into the Register.
- (f) If the Board rejects an application, the Secretary must send written notice of the rejection as soon as practicable to the applicant.

### **3.6 Register**

- (a) The Secretary must maintain the Register.
- (b) The Register must contain:
  - (i) the name, address, Membership Class, and date of admission to Membership – for each Member;
  - (ii) the name, date of admission to Membership and date on which a person ceased to be a Member – for each former Member.
  - (iii) information about the eligibility of the Member to belong to a certain category of Membership.
- (c) The Secretary may keep the entries regarding former Members separately from the rest of the Register.
- (d) The address of a Member in the Register may serve as the address of the Member for the purpose of service of any notices to the Member.
- (e) The Company must give current Members access to the Register.
- (f) Information that is accessed from the Register must only be used in a manner relevant to the interests or rights of Members.

### **3.7 Expulsion and suspension of Members**

- (a) The Board may suspend or expel a Member from the Company if it decides it is not in the interests of the Company for the person to continue or remain as a Member. The Board has absolute discretion.

- (b) The Board may not pass a resolution to suspend or expel a Member outside of a Board meeting.
- (c) If the Board intends to consider a resolution to suspend or expel a Member, it must give the Member written notice:
  - (i) stating the date, place and time of the meeting where the resolution will be considered;
  - (ii) setting out the intended resolution and the grounds on which it is based; and
  - (iii) informing the Member that he or she may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.
  - (iv) The notice must be given at least one week before the meeting at which the resolution is to be considered.
- (d) After considering any oral or written explanation or submission under sub-clause 3.7(c)(iii), the Board may subject to clause 3.7(e) resolve at a Board meeting to:
  - (i) take no further action;
  - (ii) warn the Member;
  - (iii) suspend the Member's rights as a Member for a period of no more than 12 months;
  - (iv) expel the Member;
  - (v) refer the decision to an unbiased, independent person on conditions that the Board consider appropriate (however, the person can only make a decision that the Board could have made under this clause); or
  - (vi) require the matter to be determined at a general meeting.
- (e) A member who is also a Director must have the matter determined at a general meeting.
- (f) Any Member expelled from the Company may at any time apply to the Board to be readmitted as a Member.
- (g) No person may be a Director while their membership is suspended.

### **3.8 Cessation of Membership**

- (a) A person ceases to be a Member on:
  - (i) resignation;
  - (ii) termination of the person's Membership in accordance with this Constitution;
  - (iii) deemed resignation in accordance with clause 3.9(e) below.

- (iv) the Board deeming, in their sole discretion, the Member to be an untraceable Member because the person has not responded to correspondence sent to the contact details entered in the Register for that Member;
- (v) failing to satisfy the relevant eligibility requirements for the Member's Membership and the Membership not being transferred to another category of Membership;
- (vi) in the case of a natural person:
  - (A) death;
  - (B) becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally; or
- (vii) in the case of a body corporate:
  - (A) being dissolved or otherwise ceasing to exist;
  - (B) having a liquidator or provisional liquidator appointed to it; or
  - (C) being insolvent.
- (b) A Member whose Membership is terminated will be liable for all moneys due by that Member to the Company in addition to any sum not exceeding the Guaranteed Amount for which the Member is liable under this Constitution.
- (c) Where a Membership is terminated after payment of the Membership fee but during the period of the paid Membership, the Board may consider an application in writing from the Member (the affected member), for refund of the Membership fee, either on a pro rata basis or otherwise. The Board will have absolute discretion in making this decision and does not have to provide reasons.
- (d) There will be no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under this clause.
- (e) Any person who for any reason stops being a Member must not represent themselves as being a Member.

### **3.9 Annual Membership Fee and Joining Fee**

- (a) The Board may determine the amount of the Annual Membership Fee from time to time.
- (b) The Board may determine that any new Member who joins after the start of a Financial Year (see clause 8.4) must, for that Financial Year, pay a Joining Fee equal to:
  - (i) the full Annual Membership Fee; or
  - (ii) a pro rata Annual Membership Fee based on the remaining part of the Financial Year; or

- (iii) a fixed amount determined from time to time by the Board.
- (c) The Annual Membership Fee is due and payable on 1 July each year.
- (d) The rights of a Member (including the right to vote) who has not paid the Annual Membership Fee by the due date are suspended until it is paid.
- (e) If a Member does not pay their Annual Membership Fee by 31 July, the Board may issue a notice of payment requiring the Member to pay the Annual Membership Fee. If the payment is not made within 60 days of receiving the notice of payment, the member is deemed to have resigned their membership.

#### **4. MEETINGS AND RESOLUTIONS OF MEMBERS**

##### **4.1 Meetings of Members**

A meeting of the Members is a general meeting.

##### **4.2 Annual General Meeting**

- (a) The Board may call and arrange to hold an Annual General Meeting.
- (b) The business of an Annual General Meeting may include any of the following, even if not referred to on the notice of meeting:
  - (i) the consideration of the annual financial statements, Directors' declaration, Boards report and any auditor's report;
  - (ii) the appointment of Directors;
  - (iii) the appointment of any auditor; and
  - (iv) the fixing of any auditor's remuneration.

##### **4.3 Convening general meetings**

- (a) A general meeting may be called by a majority of directors:
- (b) If Members with at least 5% of the votes that may be cast at a general meeting make a written request to the Company for a general meeting to be held, the Board must:
  - (i) within 21 days of the Members' request, give all Members notice of a general meeting; and
  - (ii) hold the general meeting within 2 months of the Members' request.
- (c) If the Board does not call the meeting within 21 days of being requested under sub-clause 4.3(b), 50% or more of the Members who made the request may call and arrange to hold a general meeting.

- (d) To call and hold a meeting under sub-clause 4.3(c) the Members must:
  - (i) as far as possible, follow the procedures for general meetings set out in this Constitution;
  - (ii) call the meeting using the list of Members on the Register, which the Company must provide to the Members making the request at no cost; and
  - (iii) hold the general meeting within three months after the request was given to the Company.
- (e) The Company must pay the Members who request the general meeting any reasonable expenses they incur because the Board did not call and hold the meeting.

#### **4.4 Changes to general meeting arrangements**

- (a) The Board may change the venue for, postpone or cancel a general meeting, subject to this clause.
- (b) If a general meeting was convened under clause 4.4(b), then it may not be postponed or cancelled without the prior written consent of the Members who called or requisitioned the meeting.
- (c) If the venue of a general meeting is changed, or if the general meeting is cancelled or postponed under this clause:
  - (i) notice of the change, cancellation or postponement must be given to all persons entitled to receive notices of a general meeting under this Constitution;
  - (ii) a notice of postponement must specify the date, time and place to which the general meeting has been postponed;
  - (iii) the provisions of the clause in this Constitution under clause 4.7 do not apply to a notice of postponement or change of venue;
  - (iv) in the case of a general meeting called under sub-clause 4.3(c) the general meeting may not be postponed beyond three months after the request was given to the Company.
- (d) The only business that may be transacted at a general meeting which is postponed is the business specified in the notice convening the meeting.

#### **4.5 Entitlement to receive notice**

Notice of a general meeting must be given to every Member, every Director and any auditor appointed for the Company and in office at the time.

#### **4.6 Notice of general meetings**

A notice of general meeting must:

- (a) be in writing;
- (b) specify the place, the day and the time of the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
- (c) state the general nature of the business to be transacted at the meeting;
- (d) if a Special Resolution is to be proposed at the meeting – set out the wording of the resolution and state that it is proposed as a Special Resolution;
- (e) include the information under clause 4.16;
- (f) include any form for the appointment of a proxy which has been approved by the Board for the purpose; and
- (g) specify that notice of a proxy must be given to the Company at least 24 hours prior to the commencement of the meeting, by delivery to the Company at its registered address or at another address (including an electronic address) specified in the notice of the meeting.

#### **4.7 Timing of notice**

- (a) In the case of a general meeting, at least 21 days' notice must be given unless:
  - (i) for an Annual General Meeting, all the Members entitled to attend and vote agree beforehand; and
  - (ii) for any other general meeting, if Members with at least 95 per cent of the votes that may be cast at the meeting agree beforehand.
- (b) A general meeting cannot be called with fewer than 21 days' notice if it is of a kind where a resolution will be moved to remove a Director or auditor, notwithstanding the preceding sub-clause.

#### **4.8 Chairperson of general meetings**

- (a) The Chair shall preside as chairperson at every general meeting.
- (b) If there is no Chair or the Chair is not present within 15 minutes after the time appointed for the holding of the general meeting or the Chair is unwilling to act as chairperson for all or part of the meeting, the following, in order of precedence, may preside unless unable or unwilling to do so:
  - (i) a Deputy Chair (if any);
  - (ii) a Director chosen by a majority of the Directors present;
  - (iii) the only Director present; or
  - (iv) a Member chosen by a majority of the Members present.

#### **4.9 Role of chairperson of general meeting**

The chairperson of a general meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting; and
- (b) must give the Members as a whole reasonable opportunity to make comments and ask questions.

#### **4.10 Quorum for general meetings**

- (a) No business may be transacted at any general meeting, other than the election of a chairperson or adjournment of a meeting, unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) A quorum of Members for a general meeting is 15 Members entitled to vote.
- (c) If a quorum is not present within 15 minutes from the time appointed for a general meeting, then:
  - (i) in the case of a meeting called by, or at the request of Members, the meeting will dissolve;
  - (ii) in any other case:
    - (A) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and
    - (B) if at the resumption of the meeting a quorum is not present within 15 minutes from the time appointed for the meeting, then the meeting will dissolve.
- (d) A person attending as a proxy, or Representative, is deemed to be a Member present for the purpose of determining quorum.
- (e) A Member that is suspended is not counted as a Member for the purpose of determining a quorum.

#### **4.11 Adjournment of general meetings**

- (a) The chairperson of a general meeting may at any time, and must if so directed by the meeting, adjourn the meeting or any business, motion, or discussion being considered or remaining to be considered by the meeting.
- (b) Only unfinished business is to be transacted at a general meeting resumed after an adjournment.
- (c) It is not necessary to give any notice of an adjournment, or of the business to be transacted at any adjourned meeting, unless a meeting is adjourned for one month or more.

- (d) A meeting adjourned under this clause stands adjourned to:
  - (i) such day, and at such time and place, as the Directors present decide; and
  - (ii) if no determination is made by the Directors, to the same day in the next week at the same time and place.

#### **4.12 Method of Voting**

- (a) At a general meeting, voting will occur by show of hands or voices or such other method as the chairperson determines, unless a poll is demanded.
- (b) A poll can be demanded by three Members at any time prior to a vote being taken, or immediately after the declaration of a result of a vote conducted by means other than a poll. A person attending as a proxy, or Representative, is deemed to be a Member for the purposes of this clause.
- (c) A demand for a poll may be withdrawn.
- (d) If a poll is duly demanded, it shall be taken in such a manner as the chairperson directs.
- (e) A poll demanded on the election of the chairperson of the meeting or on a question of adjournment of a meeting must be taken immediately.
- (f) A Member may vote in person or by proxy or by Representative.

#### **4.13 Voting rights**

- (a) On a vote conducted at a general meeting under clause 4.12(a), each Member or Representative has one vote. For the avoidance of doubt, a proxy cannot vote in this circumstance.
- (b) On a vote conducted at a general meeting by poll, each Member, or proxy for a Member, or Representative, has one vote.
- (c) In the case of a resolution passed without a meeting, in the manner provided under clause 4.18, each Member has one vote.
- (d) However, a Member that is suspended is not entitled to vote during the period of suspension.

#### **4.14 Decisions of the Members**

- (a) Questions arising for determination by the Members will be decided by a majority of votes cast, unless otherwise provided in this Constitution.
- (b) In a case of an equality of votes cast on a motion, the chairperson of the general meeting has a casting vote.
- (c) A declaration by the chairperson of the meeting that a resolution has been carried or lost, and an entry to that effect in the minutes is

conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution – unless a poll is demanded.

- (d) An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered. Any such objection shall be referred to the chairperson of the meeting whose decision is final. A vote that is not disallowed pursuant to such an objection is valid for all purposes.

#### **4.15 Seconding**

It is not necessary for a motion to be seconded in order to be put to a vote.

#### **4.16 Proxies**

- (a) A Member may appoint a proxy to act on behalf of the Member at one or more general meetings.
- (b) Notice of a proxy must be given to the Company at least 24 hours prior to the commencement of the meeting, by delivery to the Company at its registered address or at another address (including an electronic address) specified in the notice of the meeting.
- (c) Subject to clause 4.13(a), a proxy may exercise any and all of the rights of the Member who appointed it at a general meeting, subject to the following:
  - (i) a proxy is subject to any directions or limitations specified in the proxy appointment;
  - (ii) a proxy does not have the authority to speak and vote for a Member at a meeting while the Member is at the meeting.
- (d) A proxy does not need to be a Member of the Company.
- (e) The appointment of a proxy must be in writing and signed by the Member making the appointment and in a form as similar as possible to that in Schedule 1.
- (f) A vote given by proxy is valid even if the Member who appointed the proxy revokes the appointment, or stops being to be a Member, provided that the chairperson was not aware of the revocation or cessation of Membership at the time the proxy cast the vote.

#### **4.17 Body corporate representative**

- (a) A Member that is a body corporate may appoint an individual as its Representative. The appointment may be a standing one.
- (b) The appointment may set out restrictions on the Representative's powers.
- (c) The appointment may be made by reference to a position held.
- (d) A body corporate may appoint more than one Representative but only one Representative:

- (i) may exercise the body's powers as Member at any one time; and
  - (ii) may be counted for the purposes of determining quorum at a general meeting.
- (e) A Representative appointed under this clause may exercise, on the body corporate's behalf, any and all of the powers that the body could exercise as a Member, unless the appointment specifies otherwise.

#### **4.18 Use of technology in meetings**

- (a) The Company may hold a general meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.
- (b) A person participating through the use of technology will be deemed to be present at the meeting in person.

#### **4.19 Resolutions without meetings**

- (a) This clause does not apply to a Special Resolution, a resolution to remove a Director from office, or a resolution by the Members to appoint or remove an auditor.
- (b) A resolution may be passed without a meeting in the following circumstances if:
  - (i) notice has been given of the resolution to all of the Members entitled to vote;
  - (ii) notice has been given to any auditor; and
  - (iii) a majority of the Members entitled to vote give their approval in writing.
- (c) For the purpose of this clause:
  - (i) the notice must include the wording of the resolution;
  - (ii) approval in writing includes approval given by email and any other means of electronic communication; and
  - (iii) a resolution will be deemed to have passed if after a minimum of 48 hours after notice was given it achieves the requisite majority.
- (d) The resolution is passed at the time when approval is given to the Secretary of the last person necessary to constitute a majority.

## **5. DIRECTORS**

### **5.1 Number of Directors**

- (a) The minimum number of Directors is three.

- (b) The maximum number of Directors is 12.

## **5.2 Eligibility**

- (a) Any natural person committed to the Principal Purpose is eligible to be appointed or elected as a Director provided:
  - (i) the person is a Member or Representative;
  - (ii) is not an employee of the Company;
  - (iii) the person has given written, signed consent to act as a Director;
  - (iv) the person has suitable qualifications, skills and experience to discharge the functions of a Director, as determined by the Board from time to time; and
  - (v) the person is not disqualified by:
    - (A) the Act; or
    - (B) the ACNC Legislation;from being a Director, to the extent that either applies.
- (b) Sub-rule 5.2(a)(v)(B) will not apply to disqualify a person if an exemption is obtained from the ACNC Commissioner.

## **5.3 Appointment of Directors**

- (a) The Members may from time to time by resolution appoint a person to be a Director of the Company.
- (b) The Board shall have power to:
  - (i) appoint a new Director to fill any casual vacancy; and
  - (ii) appoint additional Directors.

## **5.4 Additional Directors**

The Board can at any time, and from time to time, appoint any person to the Board who is eligible for appointment under clause 5.2, provided that the total number of officers or other members of the Board does not exceed the number set out in this Constitution.

## **5.5 Board Composition**

The Board shall comprise of Directors holding the following positions:

- (i) one President;
- (ii) one Immediate Past President;
- (iii) one President-Elect (otherwise known as Vice President);
- (iv) one Secretary;

- (v) one Treasurer;
- (vi) one Student representative;
- (vii) three general Board members; and
- (viii) two New Zealand Board representatives.

## **5.6 President**

- (a) Subject to sub-clause 5.6(b), the President-Elect whose term expires at the Annual General Meeting will automatically become the President, unless they do not accept the role or are otherwise ineligible to hold it.
- (b) If the President-Elect has served as a Director for more than eight year, they will only be reappointed as President under sub-clause (b) if the Members pass a Special Resolutions confirming the appointment.
- (c) If no President is appointed in accordance with this clause, the Members can, at the Annual General Meeting, appoint another person as President.

## **5.7 Immediate Past President**

If the President in the proceeding electoral term declines the invitation to the hold the position of Immediate Past President, the Board may invite any previous President (including a President from the pre incorporation association period) to hold the position. If no previous President accepts the role, or the Board determined not to make the invitation, the position will not be filled.

## **5.8 Student Representative**

Any Student Member may nominate for the position of Student representative.

## **5.9 New Zealand Board representative**

Only a person currently residing in New Zealand may nominate for the position of New Zealand Board representative.

## **5.10 Term of office**

- (a) The term of office of the President, the President-Elect and the Immediate Past President is one year. The term starts on the date of appointment and finishes at the end of the next Annual General Meeting following the appointment.
- (b) The term of office of the Secretary, Treasurer, Student representative, general Board member and New Zealand Board representative is two years. The term starts on the date of appointment and finishes at the end of the second Annual General Meeting following the appointment.

- (c) A person may be appointed for more than one term of office, subject to a maximum tenure of nine years, unless the Members pass a Special Resolution to permit the re-appointment of a Director beyond that point.

#### **5.11 Board nominations**

- (a) A Member may nominate for any one of more of the following positions (subject to clause 5.2):
  - (A) President-Elect
  - (B) Secretary
  - (C) Treasurer
  - (D) Student representative (subject to clause 5.8)
  - (E) General Board member
  - (F) New Zealand Board representative (subject to clause 5.9)
- (b) Every Member nomination must be proposed by a Member of the Company who is not the Member nominee and must be personally known by the Member nominee.
- (c) Nominations must be in writing and lodged with the Secretary at least 21 days before the Annual General Meeting at which the election is to take place.
- (d) The Secretary must send a list of the candidates' names to the email address provided by the member at least 7 days before the Annual General Meeting.
- (e) The Secretary must prepare Ballot Lists containing the names of the candidates in alphabetical order. Where the number of nominations for a position is more than the number of positions available, the Ballot List will also include a description of the candidate and a photo.
- (f) After the Secretary requests that the candidate provide a description and photo (in a suitable format), the candidate will be given at least 4 days to provide these, after which time, the Secretary may only include the name of the candidate on the Ballot List.
- (g) The Secretary must send the Ballot List to the email address provided by each Member, with instructions on how to vote, at least 14 days before an Annual General Meeting.
- (h) Each Member present (and entitled to vote, whether in person, by Representative or by proxy) at the Annual General Meeting can vote for any number of candidates not exceeding the number of vacancies.

- (i) The same person can hold both the positions of Secretary and Treasurer in any election year where they have received the highest number of votes for each of the positions.
- (j) Any new Board members will be announced at the Annual General Meeting at which they were elected and a statement about their election will be made available on the Company's website (in any). In other circumstances (for example, where a Board member is appointed to fill a casual vacancy), Members will be updated via the Company's website (if any) and by email sent to the email address provided by the Member.
- (k) If there are not enough candidates nominated, the Board must fill any remaining vacancies.

### **5.12 Ceasing to be a Director**

- (a) A person stops being a Director, and a casual vacancy is created, if they:
  - (i) resign;
  - (ii) die;
  - (iii) stop being a Member;
  - (iv) are a Representative of a Member, and the Member notifies the Company that the Director is no longer a Representative;
  - (v) are removed by the Members under the Act;
  - (vi) became an employee of the Company;
  - (vii) are absent without the consent of the Board and without leave of absence, from:
    - (A) three consecutive Board meetings; or
    - (B) at least four Board meetings over 12 months;
  - (viii) become subject to a Court order to receive treatment or have their finances managed by another person due to the Director being of unsound mind or having a mental illness;
  - (ix) become ineligible to be a Director by:
    - (A) the Act; or
    - (B) ACNC Legislation.

### **5.13 Effect of casual vacancy**

- (a) Subject to sub-clause (b), the Board can appoint a person to fill a casual vacancy, provided that they are eligible for appointment under clause 5.2.

- (b) In the event of a casual vacancy in the office of President, the Immediate Past President, or failing that, the President Elect will fulfil the duties of the President while that office is vacant.
- (c) In the event of a casual vacancy in the office of a Director, the remaining Directors may act, subject to this clause.
- (d) If the number of Directors in office at any time is not sufficient to constitute a quorum at a meeting of the Directors, or is less than the minimum number of Directors fixed under this constitution, the remaining Directors must act as soon as possible to:
  - (i) increase the number of Directors to a number sufficient to constitute a quorum and to satisfy the minimum number of Directors required under this constitution; or
  - (ii) convene a general meeting of the Company for that purpose.
- (e) Until the remaining Directors have acted in accordance with the preceding sub-clause, the Board may only act if and to the extent that there is an emergency requiring them to Act.

#### **5.14 Defects in appointment of Directors**

Each resolution passed or thing done by, or with the participation of, a person acting as a Director or Member of a committee is valid, even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.

#### **5.15 Chair**

- (a) From time to time as required, the Board must appoint the Chair from among the Board and determine the period for which the Chair is to hold office.
- (b) The Board may remove or suspend a person from holding the office of Chair by resolution passed at a Board meeting provided:
  - (i) the resolution is passed by not less than two-thirds of the Directors present;
  - (ii) at least 21 days' notice in writing of the resolution has been given to the Secretary and to the person that is the subject of the resolution.

#### **5.16 Chief Executive Officer**

- (a) The Board may appoint a chief executive officer (who is not a Director) designated by whatever title the Board thinks fit.
- (b) The chief executive officer will be responsible for, among other things, the management of the daily activities of the Company and may be an employee or a volunteer.

- (c) The appointment may be for the period, at the remuneration and on the conditions that the Board thinks fit.
- (d) The Board may remove the chief executive officer at any time, with or without cause, subject to any contract between the Company and the chief executive officer.

### **5.17 Directors' Remuneration**

A Director may not be paid any remuneration for services as a Director but is to be reimbursed out of the funds of the Company for reasonable expenses in accordance with clause 2.2(e).

### **5.18 Secretary**

- (a) There must be at least one Secretary who ordinarily resides in Australia.
- (b) A person must not be appointed Secretary unless the person has given the Company a signed consent to act as Secretary.
- (c) An act done by a person acting as a Secretary is not invalidated by reason only of:
  - (i) a defect in the person's appointment as a secretary; or
  - (ii) the person being disqualified to be a secretary,if that circumstance was not known by the person when the act was done.
- (d) The Secretary must identify whether a person is ineligible to be appointed as a Director under this Constitution as a result of disqualification by the Act or the ACNC Legislation. The Secretary must:
  - (i) perform a search of the publicly available registers as soon as practicable after becoming aware that a person has been, or may be, appointed as a Director; and
  - (ii) must obtain a declaration from each Director to the effect that he or she is not disqualified by the Act or the ACNC Legislation, and that he or she will notify the Secretary as soon as possible in the event that he or she becomes disqualified.

### **5.19 Treasurer**

- (a) There must be at least one Treasurer.
- (b) The Treasurer must:
  - (i) arrange for the collection and receipt of all moneys due to the Company and arrange for all payments authorised by the Company to be made; and

- (ii) ensure that the financial records of the Company are kept in accordance with the requirements of the Act and the ACNC Legislation; and
  - (iii) coordinate the preparation of the financial statements of the Company and their certification by the Board prior to their submission to the annual general meeting of the Company.
- (c) The Treasurer must ensure that at least one other Board member has access to the accounts and financial records of the Company.

## **6. PROCEEDINGS OF THE BOARD**

### **6.1 Confidentiality**

Any person by virtue of holding a position of office is to maintain complete confidentiality and must not communicate or divulge in any way the name and personal details of any Member, without the prior written consent of that Member.

### **6.2 Powers of the Board**

- (a) The Board is responsible for the management of the business of the Company and may exercise all the powers of the Company (in accordance with the provisions of this Constitution) that are not, by the Act or by this Constitution, required to be exercised by the Members.
- (b) The Board may (without limiting the previous paragraph):
  - (i) borrow money;
  - (ii) charge any property or business of the Company;
  - (iii) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
  - (iv) decide how negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the Company.
- (c) The Board cannot remove a Director or auditor.
- (d) The Board can determine the additional roles and responsibilities associated with the roles of President, Secretary, Vice-President, Immediate-Past President, Treasurer, Student Representative and New Zealand Representative.

### **6.3 By-laws**

- (a) The Board has power to make regulations or by-laws for the general conduct and management of the Company and the business of the Board.
- (b) The Board may revoke and alter such by-laws or regulations as it sees fit.

#### **6.4 Appointment of attorney**

- (a) The Board may, by power of attorney, appoint any person or persons (either by name or by reference to position or office held) to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Board), for such period and subject to such conditions as it thinks fit.
- (b) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board thinks fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her.

#### **6.5 Meetings of the Board**

The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as it thinks fit.

#### **6.6 Convening Board meetings**

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

#### **6.7 Entitlement to receive notice of Board meetings**

In the case of a Board meeting, notice must be given to each Director entitled to vote at the meeting. A Director may waive the requirement to receive notice of a Board meeting.

#### **6.8 Content of notice of Board meetings**

A notice of a Board meeting:

- (a) must specify the place, the day and the time of the meeting; and
- (b) if the meeting is to be held in two or more places, it must specify the technology that will be used to facilitate this; but
- (c) it does not need to specify the nature of the business to be transacted at the meeting.

#### **6.9 Timing of notice of Board meetings**

- (a) Subject to clause 6.9(b), at least 48 hours' written notice must be given of Board meetings to all Directors.
- (b) The Board may unanimously waive the requirement to give 48 hours' notice of Board meetings.

#### **6.10 Chairperson of Board meetings**

- (a) The Chair shall preside as chairperson at every Board meeting.
- (b) Where a meeting of the Board is held and the Chair is not present within 15 minutes after the time appointed for the holding of the

Board meeting or is unwilling to act as chair for all or part of the meeting then:

- (i) if there is a Deputy Chair, the Deputy Chair will be the chairperson of the Board meeting; and
- (ii) if there is not a Deputy Chair present, willing and able to be the chairperson during all or part of the meeting, the Directors present may elect a Director to be chairperson of such meeting or part of it.

#### **6.11 Quorum for Board meetings**

- (a) No business may be transacted at any Board meeting unless a quorum is present.
- (b) A quorum consists of three Directors entitled to vote at the meeting or such greater number as may be fixed by the Board.
- (c) A Director on a leave of absence approved by the Directors should not be included when calculating the total number of Directors for the purposes of this clause.

#### **6.12 Voting at Board meetings**

- (a) A Board meeting at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Board under this Constitution.
- (b) A question arising at a Board meeting is to be decided by a majority of votes of Directors present and entitled to vote, unless otherwise provided in this Constitution. Such a decision is for all purposes a decision of the Board.
- (c) Where the votes cast on a motion are equal, the chairperson of the meeting has a casting vote.

#### **6.13 Establishment of committees**

- (a) The Board may establish one or more committees comprised of such persons as it thinks fit for such purposes as it sees fit. A committee may include, or be comprised of, non-Directors.
- (b) The meetings and proceedings of committees are:
  - (i) subject to any directions of the Board; and
  - (ii) otherwise governed by the provisions of this Constitution which regulate the proceedings of the Board, to the greatest extent practical.

#### **6.14 Delegation of powers**

- (a) The Board may delegate any of its powers to one or more Directors, a committee, an employee or any other person.
- (b) A delegation must be recorded in the Company's minute book.

- (c) The Board may revoke a delegation.
- (d) The Board may specify terms (including the power to further delegate).

#### **6.15 Use of technology in Board meetings**

- (a) The Board may hold their meetings by using any technology that is agreed to by the Board.
- (b) The Board's agreement may be a standing one.
- (c) A Director may only withdraw his or her consent within a reasonable period before the meeting.
- (d) A Director that is present at a Board meeting through the use of technology is be deemed to be present at the meeting.

#### **6.16 Resolutions without meetings**

- (a) A resolution of the Board may be passed without a meeting if all of the Directors entitled to vote on the resolution sign a notice stating that they are in favour of the resolution.
- (b) The resolution is passed at the time when the last Director signs.
- (c) For the purpose of this clause:
  - (i) the notice must include the wording of the resolution;
  - (ii) the notice may be distributed by any means, including electronic communication;
  - (iii) separate copies of the notice may be signed; and
  - (iv) a resolution will be deemed to have failed to have been passed if it has not achieved unanimous consent within 48 hours after the notice was given.

### **7. DIRECTORS' DUTIES AND INTERESTS**

#### **7.1 Duties of Directors**

Directors must comply with any duties imposed on them by the Act, which may include duties under the Act and the ACNC Legislation.

#### **7.2 Disclosure of interests**

- (a) A Director must disclose any perceived or actual material conflict of interest to the other Directors.
- (b) A Director must disclose any material personal interests in the manner and extent required by the Act.

### 7.3 Participation in decisions

- (a) A Director who has a material personal interest in a matter that is being considered by the Board:
- (i) must not be present while the matter is being considered at a Board meeting; or
  - (ii) vote on the matter;
- unless permitted by the following sub-clause.
- (b) A Director may be present or vote if:
- (i) the interest arises because the Director is a Member of the Company, and the interest is held in common with other Members of the Company;
  - (ii) the interest arises in relation to the Director's remuneration as a Director of the Company;
  - (iii) the interest relates to a contract the Company is proposing to enter into that:
    - (A) is subject to approval by the Members; and
    - (B) will not impose any obligation on the Company if it is not approved by the Members;
  - (iv) the interest arises merely because the Director is a guarantor or has given an indemnity or security for all or part of a loan (or proposed loan) to the Company;
  - (v) the interest arises merely because the Director has a right of subrogation in relation to a guarantee or indemnity referred to in paragraph 7.3(b)(iv);
  - (vi) the interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as an officer of the Company (but only if the contract does not make the Company or a Related Body Corporate the insurer);
  - (vii) the interest relates to any payment by the Company or a Related Body Corporate in respect of an indemnity permitted under section 199A of the Act or any contract relating to such an indemnity; or
  - (viii) the interest is in a contract, or proposed contract, with, or for the benefit of, or on behalf of, a Related Body Corporate and arises merely because the Director is a director of the Related Body Corporate; or
  - (ix) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter; or

- (x) the Directors who do not have a material personal interest in the matter pass a resolution that:
  - (A) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company, and
  - (B) states that those Directors are satisfied that the interest should not stop the Director from voting or being present.

#### **7.4 Directors' interests**

A Director may:

- (a) enter into a contract or arrangement with the Company;
- (b) participate in any association, institution, fund, trust or scheme for past or present employees or Directors of the Company or persons dependent on or connected with them;
- (c) act in a professional capacity (or be a Member of a firm which acts in a professional capacity) for the Company, except as auditor;
- (d) sign or participate in the execution of a document by or on behalf of the Company; and
- (e) do any of the above despite the fiduciary relationship of the Director's office:
  - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
  - (ii) without affecting the validity of any contract or arrangement

provided the Director complies with the clauses 7.2 and 7.3.

### **8. ADMINISTRATION**

#### **8.1 Minutes**

- (a) The Board shall cause minutes of
  - (i) all proceedings and resolutions of meetings of Members;
  - (ii) resolutions passed by Members without a meeting;
  - (iii) all proceedings and resolutions of meetings of the Board, including meetings of a committee established by the Board; and
  - (iv) resolutions passed by the Board without a meeting,
 to be duly entered into the books kept for that purpose, within one month.
- (b) The Company must ensure that:

- (i) minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
  - (A) the chairperson of the meeting; or
  - (B) the chairperson of the next meeting; and
- (ii) minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.
- (c) A minute recorded and signed as required by this clause is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.
- (d) The Company must keep its minute books at its registered office or its principal place of business in Australia.
- (e) For the avoidance of doubt, the minutes and minute books referred to in this clause may be stored electronically.

## **8.2 Accounts and other records of the Company**

- (a) The Company must make and keep written financial records that:
  - (i) correctly record and explain its transactions and financial position and performance;
  - (ii) enable true and fair financial statements to be prepared and to be audited; and
  - (iii) are prepared in accordance with ACNC requirements.
- (b) The accounts will be held at the registered office or any other place as the Board thinks fit.
- (c) A Director has a right of access to the financial records at all reasonable times.
- (d) The Company must retain its financial records for at least seven years.
- (e) The Board must take reasonable steps to ensure that the Company's records are kept safe.

## **8.3 Members' access of Company records**

To allow Members to access and inspect the Company's records:

- (a) the Company must give a Member access to the records set out in sub-clauses 8.1(a)(i) and 8.1(a)(ii); and
- (b) the Company may authorise a Member to inspect other records of the Company.

#### **8.4 Financial Year**

The financial year will begin on the first day of July and end on the 30th day of June, unless the Board passes a resolution to change the financial year.

#### **8.5 Audit**

- (a) If required by law, the Company must appoint and remunerate an auditor.
- (b) Any auditor is entitled to attend any general meeting and to be heard by the Members on any part of the business of the meeting that concerns the auditor in their capacity as auditor.
- (c) The Company must give any auditor all communications relating to the general meeting that a Member of the Company is entitled to receive.

#### **8.6 Common seal**

The Company does not have a common seal.

#### **8.7 Execution of documents without a seal**

The Company may execute a document by the signature of:

- (a) two Directors; or
- (b) one Director and one Secretary; or
- (c) one Director and another person appointed by the Board for that purpose.

#### **8.8 Alteration of Constitution**

- (a) The Company may only alter this Constitution by Special Resolution in accordance with the Act.
- (b) The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to no longer be a charity.

#### **8.9 Notices**

- (a) Notices can be served on Members or the Board personally, by post, electronic mail, or such other means as may be generally accepted in business from time to time.
- (b) Notices directed to the last known address (including any virtual or electronic address) of a Member or Director are to be treated as duly served in such time as it would usually take for such notice to be delivered.
- (c) The non-receipt of notice of a general meeting or Board meeting, including notice of postponement or change of venue, does not invalidate anything done or any resolution passed at the meeting if the non-receipt of notice occurred by accident or inadvertent error.

- (d) A person who attends a general meeting or Board meeting waives any objection that person may have to non-receipt of notice of the meeting.
- (e) In calculating a period of notice to be given under this Constitution, both the days on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

#### **8.10 Officers: indemnities and insurance**

- (a) The Company indemnifies every person that is or has been an Officer of the Company, or of a wholly-owned subsidiary, against any liability (including without limitation liability for legal costs) incurred as a result of their position as Officer (other than to the Company or a Related Body Corporate) to the full extent permitted by law.
- (b) The Company may pay, or agree to pay, a premium in respect of a contract insuring its Officers, to the extent permitted by law.

#### **8.11 Winding up**

Subject to clause 2.3, the Company may be dissolved by a Special Resolution of Members.

#### **8.12 Liability of Members**

The liability of the Members is limited to the Guaranteed Amount, being \$1.00.

#### **8.13 Contribution of Members on winding up**

Every Member undertakes to contribute to the assets of the Company in the event of the Company being wound up while he or she is a Member, or within one year of ceasing to be a Member such amount as may be required not exceeding the Guaranteed Amount, for:

- (a) the payment of the debts and liabilities of the Company contracted whilst the Member or past Member as the case may be was a Member;
- (b) the costs charges and expenses of winding up.

### **9. INTERPRETATION**

#### **9.1 Exclusion of replaceable rules**

The replaceable rules contained in the Act do not apply to the Company.

#### **9.2 Definitions**

In this Constitution:

“**ACNC**” means the Australian Charities and Not-for-profits Commission.

“**ACNC Legislation**” means the *Australian Charities and Not-for-profits Commission Act 2012* and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012*.

“**Act**” means the *Corporations Act 2001*.

“**Affiliate Member**” means a Member described in the Register as an Affiliate Member”.

“**Annual General Meeting**” means a meeting held once in every calendar year at such time and place as may be determined by the Board, for the purposes of carrying out the business of the Company described in clause 4.2(b) or such of it as is thought necessary by the Board.

“**Annual Membership Fee**” means the amount determined by the Board under clause 3.9(a).

“**auditor**” may mean a reviewer, if permitted by the Act or ACNC Legislation.

“**Board**” means the board of Directors of the Company.

“**Company**” means Australia and New Zealand Chapter of the Association for Contextual Behavioral Science Limited.

“**Deductible Gift Recipient**” means an entity to which tax deductible gifts may be made pursuant to Division 30 of the ITAA 97.

“**Directors**” means the Directors of the Company and “**Director**” has a corresponding meaning.

“**chairperson**” means the person chairing a meeting.

“**Chair**” means the person appointed to the position of Chair of the Company under the clause 4.8.

“**charity**” means charitable within the meaning of the *Charities Act 2013* (Cth).

“**Fellow Member**” means a Member described in the Register as a Fellow Member.

“**Guaranteed Amount**” means the amount set out in clause 8.12.

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

“**Joining Fee**” means the amount determined by the Board under clause 3.9(b).

“**Member**” means a person whose name is entered in the Register as a Member of the Company in accordance with clause 3.6 and

“**Membership**” has the corresponding meaning.

“**Principal Purpose**” means the purpose set out in clause 2.1.

“**Officer**” has the meaning given under the Act.

“**person**” includes a natural person and a body corporate and a corporation within the meaning of s 57 of the Act.

“**poll**” means a method of voting where votes are cast in writing. It includes (but is not limited to) a vote conducted by secret ballot.

“**Professional Member**” means a member described in the Register as a Professional Member.

“**Register**” means the register of Members of the Company under the Act.

“**Representative**” means a person appointed as representative by a Member that is a body corporate in accordance with clause 4.17.

“**Related Body Corporate**” means a body corporate that is a Holding Company, a subsidiary of the Company, or a subsidiary of a Holding Company.

“**Secretary**” means the secretary of the Company and if there are joint secretaries, any one or more of such joint secretaries.

“**Special Resolution**” means a resolution passed at a general meeting:

- (i) of which notice has been given in accordance with clause 4.6(d); and
- (ii) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

“**Student Member**” means a Member described in the Register as a Student Member.

“**Treasurer**” means the Treasurer appointed from time to time by the Board in accordance with rule 5.19.

### 9.3 Interpretation

In this Constitution:

- (a) If an expression in the Constitution has a meaning in the Act, the meaning from the Act shall apply to the expression - except where a contrary intention appears in this Constitution.
- (b) Words importing any one gender are deemed and taken to include all genders and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided.
- (c) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

## 10. TRANSITIONAL PROVISIONS

The clauses in this Part apply notwithstanding anything to the contrary in this Constitution.

**10.1 Members**

The Members immediately following the adoption of this Constitution will be those Members listed on the Register at the time of adoption.

**10.2 Directors**

- (a) The Directors immediately following the adoption of this Constitution will be those in office at the time of adoption.
- (b) Directors appointed prior to the adoption of this Constitution may complete their term of office under the previous Constitution. Time served prior to the adoption of this Constitution will be taken into account for the purposes of clause 5.10(c).

**SCHEDULE 1**

**APPOINTMENT OF PROXY**

Votes may be given personally or by proxy and every proxy shall be appointed in writing under the hand of the appointor in the form or to the effect following:

Australia and New Zealand Chapter of the Association for Contextual Behavioral Science Limited:

I ..... of..... [Insert address] a Member of Australia and New Zealand Chapter of the Association for Contextual Behavioral Science Limited hereby appoint ..... to vote on all matters on my behalf at the:

Annual General Meeting of Australia and New Zealand Chapter of the Association for Contextual Behavioral Science Limited to be held on the .....day of.....20..... and at any adjournment.

OR

The Special General Meeting of Australia and New Zealand Chapter of the Association for Contextual Behavioral Science Limited to be held on the .....day of.....20..... and at any adjournment.

Optional: This form is to be used as follows for the resolutions listed below:

in favour of / against	detail of proposed resolution

Dated this ..... day of .....20

Witness..... (Signature)

Appointor..... (Signature)