

Constitution

Collective Shout Limited

ACN 162 159 097

A Company Limited by Guarantee

Date	Amended by Special Resolution of the Board of Directors 22 March 2016
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1 Definitions and interpretation

1.1 Definitions

In this Constitution unless a contrary intention appears:

- (a) **Alternate Director** means a person appointed as an alternate Director under clause 17.1.
- (b) **Auditor** means the auditor for the time being of the Company.
- (c) **Board** means all or some of the Directors acting as a board.
- (d) **Chair** means the Chair appointed under clause 16.4(a).
- (e) **Committee** means a Directors' Committee constituted under clause 15.15.
- (f) **Company** means Collective Shout Limited being an Australian Public Company Limited by Guarantee established under the *Corporations Act* 2001 (Cth) which bears the ACN 162 159 097.
- (g) **Constitution** means this Constitution as amended from time to time and a reference to a clause is a reference to a clause of this Constitution.
- (h) **Corporations Act** means the *Corporations Act* 2001 (Cth).

- (i) **Deductible Contribution** means a contribution that is deductible under Items 7 or 8 of the table in subsection 30-15(2) of the *Income Tax Assessment Act 1997*.
- (j) **Director** means a person holding office as Director of the Company.
- (k) **Directors** mean all or some of the persons holding office as Directors of the Company.
- (l) **Deputy Chair** means the Deputy Chair appointed under clause 16.4(a).
- (m) **General Meeting** means a meeting of the Members of the Company.
- (n) **Member** means a person entered on the Register of the Company as a Member.
- (o) **Register** means the register of Members under the Corporations Act and if appropriate includes a branch register.
- (p) **Registered Office** means the registered office for the time being of the Company.
- (q) **Related Body Corporate** has the same meaning it has in the Corporations Act.
- (r) **Representative** means a person appointed to represent a corporate Member at a General Meeting of the Company in accordance with the Corporations Act.
- (s) **Rule** means a rule made by the Board in accordance with clause 15.13.
- (t) **Schedule** means a schedule to this Constitution.
- (u) **Seal** means the common seal (if any) of the Company.
- (v) **Secretary** means a person appointed as a secretary of the Company and includes an honorary Secretary and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

1.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) Words importing any gender include all other genders,
- (b) The singular includes the plural and vice versa,
- (c) A reference to a law includes regulations and instruments made under the law,

- (d) A reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise,
- (e) A reference to a meeting includes a meeting by technology where all attendees have reasonable opportunity to participate,
- (f) A power, an authority or a discretion reposed in a Director, the Directors, the company in General Meeting or a Member may be exercised at any time and from time to time,
- (g) **Writing** and **written** includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise, and
- (h) Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia.

1.3 **Signing**

Where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions, or in any other manner approved by the Directors.

1.4 **Corporations Act**

In this Constitution unless the contrary intention appears:

- (a) An expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act, and
- (b) **Section** means a section of the Corporations Act.

1.5 **Headings**

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

1.6 **Replaceable rules do not apply**

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

2 Objects of Company

- (a) The objects of the Company (**Objects**) are the prevention or control of any human behaviour that is harmful or abusive to human beings, specifically sexist behaviours, emotional abuse, sexual abuse and physical abuse arising directly or indirectly because of the sexual objectification of girls and women, such as:
 - (i) the improper use by the media of bodily images of girls and women;
 - (ii) the pornographic depiction of girls and young women in various media;
 - (iii) the prostitution of girls and young women; and
 - (iv) the sexual trafficking of girls and young women.
- (b) The Objects will be furthered by the Company by means and activities including:
 - (i) providing evidence-based information to the public on the impact of the practices set out in clause 2(a);
 - (ii) educating young people to develop critical media literacy skills in relation to the impact of practices set out in clause 2(a);
 - (iii) encouraging corporations, incorporated associations, other forms of associations, advertisers and media of all kinds to withdraw from supporting any of practices set out in clause 2(a);
 - (iv) developing and promoting public policy initiatives aimed at discouraging practices set out in clause 2(a);
 - (v) acting as trustee and performing and discharging the duties and functions incidental thereto where this is incidental or conducive to the attainment of these Objects; and
 - (vi) doing such other things as are incidental or conducive to the attainment of these Objects.

3 Charitable Institution

- 3.1 The Company has been endorsed as an Income Tax Charitable Institution under subdivision 50-B of

the *Income Tax Assessment Act 1997* (Cth).

- 3.2 The Company is established as a charitable company, pursues charitable purposes only and applies its income in promoting these purposes.

4 Powers

The Company has the legal capacity and powers of an individual and also has all the powers of a body corporate under the Corporations Act.

5 Application of income for Objects only

5.1 Profits

The profits (if any) or other income and the property of the Company, however derived:

- (a) Must be used and applied solely towards the promotion of the Objects of the Company as set out in clause 2, and
- (b) May not be distributed, paid or transferred to the Members, Directors, or Trustees in whole or in part, either directly or indirectly by way of dividend, bonus, profit or otherwise.

5.2 Payment in good faith

The above clause does not prevent payment in good faith to a Member, Director or Trustee or to a firm of which a Member is a partner:

- (a) Of remuneration for services to the Company,
- (b) For goods supplied in the ordinary course of business,
- (c) Of interest on money borrowed from a Member, Director or Trustee at a rate not exceeding that fixed for the purposes of this clause by the Company in a General Meeting, or
- (d) Of a reasonable rent for premises let by a Member, Director or Trustee.

6 Agreement to abide by Ministerial Rules

The Company agrees to comply with any rules that the Minister and the Treasurer may make to ensure that gifts made to the fund are only used for its Objects.

7 Statistical Information

The Public Fund will provide the following information requested by the Department of Social Services within four months of the end of the financial year:

- (a) an annual statistical return with information on donations for the financial year; and
- (b) an audited financial statement of the Company and of the Public Fund. This statement will provide information on the expenditure of the Public Fund monies and the management of the Public Fund assets.

8 Informing the Department

The Company must inform the Department of Social Services as soon as possible if:

- (a) the Company changes its Objects;
- (b) the Company changes its name or the name of its Public Fund;
- (c) there is any change to the membership of the management committee of the Public Fund;
- (d) there has been any departure from the model rules for Public Funds located in the Guidelines to the Register of Harm Prevention; or
- (e) the Company or its Public Fund suffers any financial difficulties.

9 Conduit Policy

The Company will not act as a mere conduit for the donation of money or property to other organisations, bodies or persons.

10 Winding-up

10.1 Contributions by Members

- (a) Each Member undertakes to contribute to the Company's property if the Company is wound-up while they are a Member, or within one (1) year after they cease to be a Member.
- (b) This contribution is for:
 - (i) payment of the Company's debts and liabilities contracted before they ceased to be a Member,
 - (ii) the costs of winding-up, and
 - (iii) adjustment of the rights of the contributories among themselves.
- (c) The amount is not to exceed \$1.

10.2 Application of property

- (a) If any property remains on the winding-up or dissolution of the Company and after satisfaction of all its debts and liabilities, that property may not be paid to or distributed among the Members but must be given or transferred to one or more institutions that is on the Register of Harm Prevention Charities:
 - (i) having objects similar to the Objects of the Company, and
 - (ii) whose constitution prohibits the distribution of its income and property among its Members to an extent at least as great as imposed on the Company under this Constitution.
- (b) The institution will be determined by the Members at or before the time of dissolution.

10.3 Revocation of Australian Tax Office endorsement

- (a) Where the Company has been endorsed as a deductible gift recipient as an organisation or in relation to a public fund under Subdivision 30-BA of the *Income Tax Assessment Act 1997* (Cth), then where:
 - (i) the Company is wound-up, or
 - (ii) the fund is wound-up, or

- (iii) the endorsement under Subdivision 30-BA of the *Income Tax Assessment Act 1997* (Cth) is revoked,

then any surplus assets of the Company or fund remaining after payment of all liabilities must be transferred to an institution or fund that complies with clause 11.2 and is an endorsed deductible gift recipient.

- (b) Where the Company operates more than one fund for which it is a deductible gift recipient and its endorsement under Subdivision 30-BA of the *Income Tax Assessment Act 1997* (Cth) is revoked only in relation to one of those funds then it may transfer any surplus assets of the fund after payment of all liabilities to any other fund for which it is endorsed as a deductible gift recipient

11 Members

11.1 Number

- (a) The minimum number of Members of the Company will be three (3) or such greater number as the Directors determine from time to time, subject to that number complying with the Corporations Act.
- (b) The Members at the date of adoption of this Constitution and any person the Directors admit to Membership under clause 11.2 are the Members of the Company.
- (c) The Directors may from time to time increase or decrease the maximum number of Members.

11.2 Admission

The Directors may admit any person as a Member if the person is eligible under clause 11.3 and agrees to be bound by this Constitution in any manner the Directors determine.

11.3 Criteria

To be eligible to be a Member of the Company, a person must:

- (a) Be proposed and seconded by an existing Member, and
- (b) Consent in writing to become a Member.

11.4 **Process**

- (a) The application for Membership must be made:
 - (i) in writing, signed by the applicant, and
 - (ii) in such form as the Directors from time to time prescribe.
- (b) Each application for Membership must be considered by the Directors at the meeting of Directors first occurring after the application is made. At that meeting the Directors must determine whether to admit the applicant to Membership of the Company or whether to reject the application.
- (c) When an applicant has been accepted or rejected for Membership the Secretary must immediately notify the applicant of the decision of the Directors.

11.5 **Directors' discretion to admit or refuse Membership**

The Directors have the discretion to refuse any person or corporation admission as a Member without giving any reason for refusing.

11.6 **Terms**

- (a) From the date of adoption of this Constitution, all Membership of the Company will be renewable every three (3) years.
- (b) At the end of each three (3) year period, each Member must reapply for Membership.

12 **Cessation and termination of Membership**

12.1 **Cessation**

A Member ceases to be a Member on:

- (a) Death,
- (b) Resignation by written notice to the Company having immediate effect or with effect from a specified date occurring not more than seven (7) days after the service of the notice,
- (c) Failing to pay any subscription that may be prescribed by the Directors from time to time for a period of twelve (12) months after the subscription was due and payable,

- (d) Becoming of unsound mind or a person whose personal estate is liable to be dealt with in any way under a law related to mental health,
- (e) Becoming bankrupt or insolvent or making an arrangement or composition with creditors of a person's joint or separate estate generally,
- (f) The passing of a resolution by the Directors or Members in General Meeting pursuant to clause 12.2,
- (g) The expiry of the three (3) year term of Membership, unless the Member had applied for and been admitted as a Member for the following term,
- (h) That Member ceasing to be a Director (in such circumstances the Member is able to make a new application for membership pursuant to clause 11.2 and 11.4), or
- (i) Termination of his or her appointment as a Director pursuant to clause 15.11.

12.2 Termination

- (a) Subject to this Constitution the Directors or Members in General Meeting may at any time terminate the membership of a Member if the Member:
 - (i) refuses or neglects to comply with this Constitution or any applicable rules or regulations made by the Directors,
 - (ii) engages in conduct which in the opinion of the Directors is unbecoming of the Member or prejudicial to the interests of the Company, or
 - (iii) fails to pay any debt due to the Company for a period of three (3) months after the date for payment (such debt not including a subscription referred to in clause 13.1(c)).
- (b) For a decision of the Directors or the Members in General Meeting under clause 12.2 to be effective, the dispute resolution procedure contained in clause 23 must be followed. The general nature of the allegations made against the Member must be notified to the Member and for the purposes of clause 23.1(a) this notification will be the notice of the Dispute.

12.3 Limited liability

The Members have no liability as Members except as set out in clause 10.1.

13 General Meetings

13.1 Annual General Meetings

Annual General Meetings of the Company are to be held in accordance with the Corporations Act.

13.2 Convening

The Directors may convene and arrange to hold a General Meeting of the Company when they think fit and must do so if required to do so under the Corporations Act.

13.3 Notice

- (a) Notice of a General Meeting of Members must be given in accordance with clause 28 and the Corporations Act.
- (b) In computing the period of notice under subclause 13.3(a), both the day on which the notice is given or taken to be given and the day of the General Meeting convened by it are to be disregarded.

13.4 Cancellation or postponement

- (a) Where a General Meeting of Members (including an Annual General Meeting) is convened by the Directors they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them.
- (b) This clause 13.4 does not apply to a General Meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members or to a meeting convened by a Court.

13.5 Notice of cancellation or postponement

- (a) Notice of cancellation, postponement or change of place of a General Meeting must state the reason for cancellation or postponement and be given:
 - (i) to each Member individually, and
 - (ii) to each other person entitled to be given notice of a meeting of the Company's Members under the Corporations Act.
- (b) A notice of postponement of a General Meeting must specify:
 - (i) the postponed date and time for the holding of the meeting,

- (ii) a place for the holding of the meeting which may be either the same as or different from the place specified in the notice convening the General Meeting, and
 - (iii) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the General Meeting in that manner.
- (c) The number of clear days from the giving of a notice postponing the holding of a General Meeting to the date specified in that notice for the holding of the postponed General Meeting must not be less than the number of clear days' notice of the General Meeting required to be given by this Constitution or the Corporations Act.

13.6 **Postponed General Meeting**

(a) Business

The only business that may be transacted at a General Meeting the holding of which is postponed is the business specified in the original notice convening the General Meeting.

(b) Proxy

Where by the terms of an instrument appointing a proxy:

- (i) the proxy is authorised to attend and vote at a General Meeting or General Meetings to be held on or before a specified date, and
- (ii) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy,

then, by force of this subclause 13.6(b), that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, unless the Member appointing the proxy gives to the Company at its Registered Office notice in writing to the contrary not less than forty-eight (48) hours before the time to which the holding of the General Meeting has been postponed.

13.7 **Non-receipt of notice**

The non-receipt of notice of a General Meeting or cancellation or postponement of a General Meeting by, or the accidental omission to give notice of a General Meeting or cancellation or postponement of a General Meeting to, a person entitled to receive notice does not invalidate any resolution passed at the General Meeting or at a postponed meeting or the cancellation or postponement of a General Meeting.

13.8 Director entitled to notice

A Director is entitled to receive notice of and to attend all General Meetings and is entitled to speak at a General Meeting.

14 General Meetings proceedings

14.1 Quorum - number

- (a) One half of the current number of Members (or in case of an uneven number rounded up to the nearest whole number) present in person or by proxy are a quorum at a General Meeting.
- (b) In determining whether a quorum is present, each individual attending as a proxy is to be counted, except that:
 - (i) where a Member has appointed more than one (1) proxy, only one (1) is to be counted, and
 - (ii) where an individual is attending both as a Member and as a proxy, that individual is to be counted only once.

14.2 Quorum - conditions

- (a) An item of business may not be transacted at a General Meeting unless a quorum is present when the meeting proceeds to consider it.
- (b) If a quorum is present at the time the first item of business is transacted, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the Chair of the meeting (on the Chair's own motion or at the request of a Member or proxy who is present) declares otherwise.

14.3 Quorum - not present

If within fifteen (15) minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) If convened by a Director or at the request of Members, is dissolved, and
- (b) In any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

14.4 **Adjournment**

- (a) At a General Meeting adjourned under subclause 14.3(b), two (2) persons each being a Member or proxy present at the General Meeting are a quorum.
- (b) If a quorum is not present within fifteen (15) minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

14.5 **Appointment and powers of Chair**

If the Directors have elected one (1) of their number as Chair of their General Meetings, that person is entitled to preside as chair at a General Meeting.

14.6 **Absence of Chair at General Meeting**

If a General Meeting is held and:

- (a) A Chair has not been elected by the Directors, or
- (b) The elected Chair is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

then the following may preside as chair of the General Meeting (in order of precedence):

- (c) The Deputy Chair if a Director has been so elected by the Directors, or
- (d) A Director or Member elected by the Members present to preside as chair of the meeting.

14.7 **Conduct of General Meetings**

- (a) The chair of a General Meeting:
 - (i) has charge of the general conduct of the General Meeting and of the procedures to be adopted at the meeting,
 - (ii) may require the adoption of any procedure which is, in the Chair's opinion, necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the General Meeting, and
 - (iii) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the Chair considers it necessary or desirable for the proper conduct of the General Meeting.
- (b) A decision by the Chair under this clause is final.

14.8 Adjournment of General Meeting

- (a) The Chair of a General Meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place, but:
 - (i) in exercising the discretion to do so, the Chair may, but need not, seek the approval of the Members present in person or by proxy, and
 - (ii) only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (b) Unless required by the Chair, a vote may not be taken or demanded by the Members present in person or by proxy in respect of any adjournment.

14.9 Notice of adjourned General Meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned General Meeting unless a General Meeting is adjourned for one (1) month or more. In that case, notice of the adjourned General Meeting must be given as in the case of an original General Meeting.

14.10 Questions decided by majority

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

14.11 Equality of votes – no casting vote for Chair

If there is an equality of votes, either on a show of hands or on a poll, then the chair of the General Meeting is not entitled to a casting vote in addition to any votes to which the chair is entitled as a Member or proxy or attorney or Representative, and consequently the resolution fails.

14.12 Voting on show of hands

- (a) At any General Meeting a resolution put to the vote of the General Meeting must be decided on a show of hands unless a poll is properly demanded and the demand is not withdrawn.
- (b) A declaration by the chair 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.

- (c) Neither the chair nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

14.13 Poll

If a poll is demanded:

- (a) It must be taken in the manner and at the date and time directed by the chair and the result of the poll is the resolution of the meeting at which the poll was demanded,
- (b) On the election of a chair or on a question of adjournment, it must be taken immediately,
- (c) The demand may be withdrawn, and
- (d) The demand does not prevent the continuance of the General Meeting for the transaction of any business other than the question on which the poll has been demanded.

14.14 Votes of Members

- (a) Every Member has one (1) vote.
- (b) Subject to this Constitution:
 - (i) on a show of hands, each Member present in person and each other person present as a proxy of a Member has one (1) vote, and
 - (ii) on a poll, each Member present in person has one (1) vote and each person present as proxy of a Member has one (1) vote for each Member that the person represents.

14.15 Right to appoint proxy

- (a) Subject to the Corporations Act, a Member entitled to attend a General Meeting of the Company is entitled to appoint another person (whether a Member or not) as proxy to attend in the Member's place at the General Meeting.
- (b) A proxy has the same right as the Member to speak and vote at the General Meeting and may be appointed in respect of more than one (1) General Meeting.
- (c) The instrument appointing a proxy must be in writing under the hand of the appointor or of his attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised.

- (d) The instrument appointing a proxy will be deemed to confer authority to demand or join in demanding a poll.
- (e) A Member will be entitled to instruct his/her proxy to vote in favour of or against any proposed resolutions.
- (f) The proxy may vote as he/she thinks fit unless otherwise instructed.
- (g) No Member, and no other person, may hold and vote in accordance with more than three (3) proxies.
- (h) The instrument appointing a proxy may be in the form set out in Schedule 1 to this Constitution.
- (i) The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority will be deposited at the registered office of the Company, or at such other place within the State as is specified for that purpose in the notice convening the meeting, not less than forty-eight (48) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty-four (24) hours before the time appointed for the taking of the poll, and in default the instrument of proxy will not be treated as valid.
- (j) A vote given in accordance with the terms of an instrument of proxy will be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, if no notice in writing of such death or unsoundness of mind or revocation as aforesaid has been received by the Company at the registered office by 5pm on the day before the commencement of the General Meeting or adjourned General Meeting at which the instrument is used.

14.16 Validity of vote in certain circumstances

Unless the Company has received written notice of the matter before the start or resumption of the General Meeting at which a person votes as a proxy, attorney or Representative, a vote cast by that person is valid even if, before the person votes:

- (a) The appointing Member dies, or
- (b) The Member revokes the appointment or authority.

14.17 Objection to voting qualification

- (a) An objection to the right of a person to attend or vote at the General Meeting or adjourned General Meeting:
 - (i) may not be raised except at that meeting or adjourned meeting, and
 - (ii) must be referred to the chair of the General Meeting, whose decision is final.
- (b) A vote not disallowed under the objection is valid for all purposes.

15 Directors

15.1 Number of Directors

The number of Directors shall be such number between three (3) and ten (10) as the Directors shall determine from time to time, subject to clause 15.2, and that number complying with the Corporations Act.

15.2 Change of number of Directors

The Company in General Meeting may by resolution increase or reduce the number of Directors and may also determine the rotation in which the increased or reduced number of Directors is to retire from office.

15.3 Directors elected at General Meeting

The Company may, at a General Meeting at which a Director retires or otherwise vacates office, by resolution fill the vacated office by electing a person to that office.

15.4 Qualification of Directors

To be eligible for the office of Director a person must:

- (a) Be a Member of the Company, and
- (b) Consent in writing to act as a Director.

15.5 Election of officers

- (a) At the next Directors' Meeting held following the Company's adoption of this Constitution, the Directors shall elect the officers of the Company.

- (b) Thereafter, the Directors shall elect those officers with such frequency as the Directors from time to time determine.

15.6 Retirement of Directors

- (a) Directors are elected for terms of three (3) years.
- (b) At each Annual General Meeting, any Director who has held office for three (3) years or more since last being elected, must retire from office but is eligible for reappointment.
- (c) The Members may by Ordinary resolution remove any Director before the expiration of that Director's period of office, and may by an Ordinary Resolution appoint another person in the place of that Director.

15.7 Office held until conclusion of meeting

A retiring Director holds office until the conclusion of the meeting at which that Director retires but is eligible for reappointment.

15.8 Casual vacancy or additional Director

- (a) The Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided the total number of Directors does not exceed the maximum number determined in accordance with clause 15.1.
- (b) A Director appointed under this clause holds office until the conclusion of the next Annual General Meeting of the Company but is eligible for election at that meeting.

15.9 Remuneration

The Directors may not be paid any remuneration for their services as Directors.

15.10 Expenses

- (a) A Director is entitled to be reimbursed out of the funds of the Company for such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the business of the Company.
- (b) Any payment to a Director must be approved by the Directors.

15.11 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) Becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health,
- (b) Resigns from the office by notice in writing to the Company,
- (c) Becomes insolvent or bankrupt, compounds with his creditors, or assigns his estate for the benefit of his creditor,
- (d) Is absent personally or by proxy or Alternate Director at three (3) successive Directors' Meetings without leave of absence from the Directors, or
- (e) Becomes prohibited for being a Director by reason of any order of any court of competent jurisdiction.

15.12 Powers and duties

- (a) Directors to manage the Company

The Directors are to manage the business of the Company and may exercise all the powers of the Company that are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in General Meeting.

- (b) Specific powers

Without limiting the generality of clause (a), and subject to any trusts relating to the assets of the Company, the Directors may exercise all the powers of the Company to:

- (i) borrow or raise money,
- (ii) charge any property or business of the Company, and
- (iii) give any security for a debt, liability or obligation of the Company or of any other person.

15.13 Rules

Subject to this Constitution, the Directors may from time to time by resolution make and rescind or alter rules which are binding on Members for the management and conduct of the business of the Company.

15.14 Appointment of attorney

- (a) The Directors may, by power of attorney, appoint any person to be the attorney of the Company for the purposes and with the powers, authorities and discretions held by the Directors for the period and subject to the conditions that they think fit.
- (b) A power of attorney granted under this clause 15.14 may contain any provisions for the protection and convenience of persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

15.15 Directors' Committees

- (a) The Directors may delegate any of their powers, other than powers required by law to be dealt with by Directors as a board, to a Committee or Committees consisting of such one (1) or more of their number as they think fit.
- (b) A Committee to which any powers have been delegated under this clause 15.15 must exercise those powers in accordance with any directions of the Directors. A power so exercised is taken to have been exercised by the Directors.

15.16 Powers of delegation

The powers of delegation expressly or impliedly conferred by this Constitution on the Directors are conferred in substitution for, and to the exclusion of, the power conferred by Section 198D of the Corporations Act.

16 Directors' Meetings

16.1 Purpose

- (a) The Directors may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.
- (b) A Director may at any time, and the Secretary must on the written request of a Director, convene a Directors' Meeting.

16.2 Questions decided by majority

A question arising at a Directors' Meeting is to be decided by a majority of votes of Directors present and entitled to vote, and that decision is for all purposes a decision of the Directors.

16.3 Alternate Director or proxy and voting

- (a) A person who is present at a Directors' Meeting as an Alternate Director or as a proxy for another Director has one (1) vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or a proxy.
- (b) If that person is also a Director, then that person also has one (1) vote as a Director in that capacity.

16.4 Chair and Deputy Chair of Directors

- (a) Election of Chair

The Directors may elect from their number a Chair and a Deputy Chair of their meetings and may also determine the period for which the persons elected as Chair and Deputy Chair are to hold office.

- (b) Absence of Chair

If a Directors' Meeting is held and:

- (i) a Chair has not been elected under clause (a), or
- (ii) the Chair is not present within ten (10) minutes after the time appointed for the holding of the Directors' Meeting or is unable or unwilling to act,

then the Deputy Chair, if elected under clause 16.4(a), must be the chair of the meeting or, if the Deputy Chair is not present, the Directors present must elect one of their number to be a chair of the Directors' Meeting.

- (c) No casting vote for Chair

In the event of an equality of votes cast for and against a question, the chair of a Directors' Meeting does not have a second or casting vote, and consequently the question is decided in the negative.

17 Alternate Directors

17.1 Appointment

- (a) Subject to the Corporations Act, a Director may appoint a person, with the approval of the Directors, to be an Alternate Director in the Director's place during such period as the Director thinks fit.
- (b) Subject to the Corporations Act, an appointment of an Alternate Director must be effected by a notice in writing signed by the Director who makes or made the appointment, and delivered to the Company.

17.2 Notice

An Alternate Director is entitled to notice of all meetings of the Directors and, if the appointor does not participate in a meeting, the Alternate Director is entitled to participate and vote in the appointor's place.

17.3 Powers

An Alternate Director may exercise all the powers of the appointor except the power to appoint an Alternate Director and, subject to the Corporations Act, may perform all the duties of the appointor except to the extent that the appointor has exercised or performed them.

17.4 Responsible for own acts and defaults

Whilst acting as a Director, an Alternate Director:

- (a) Is an officer of the Company and not the agent of the appointor, and
- (b) Is responsible to the exclusion of the appointor for the Alternate Director's own acts and defaults.

17.5 Remuneration

An Alternate Director is not entitled to receive from the Company any remuneration or benefit.

17.6 Termination of appointment

- (a) The appointment of an Alternate Director may be terminated at any time by the appointor even if the period, if any, of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to be a Director.

- (b) The termination of an appointment of an Alternate Director must be effected by a notice in writing signed by the Director who made the appointment and delivered to the Company.

17.7 Number of Directors

An Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors.

18 Quorum for Directors' Meeting

- (a) At a Directors' Meeting, the number of Directors whose presence in person is necessary to constitute a quorum is as determined by the Directors, and, unless so determined, is one half of the Directors holding office, or if there is an odd number of Directors, then the majority of Directors holding office.
- (b) The continuing Directors may act despite a vacancy in their number. If their number is reduced below the minimum fixed by clause 15.1, the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or to convene a General Meeting.

19 Directors' Committees

19.1 Meeting and adjourning

A Directors' Committee may meet and adjourn as it thinks proper.

19.2 Determination of questions

- (a) Questions arising at a Directors' Committee meeting are to be determined by a majority of votes of the Members present and voting.
- (b) In the event of an equality of votes, the chair of the Directors' Committee meeting does not have a casting vote.

19.3 Chair

- (a) The Members of a Directors' Committee may elect one (1) of their number as chair of their Directors' Committee meetings.
- (b) If a Directors' Committee meeting is held and:

- (i) a chair has not been elected, or
- (ii) the chair is not present within ten (10) minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

then the members of the Directors' Committee involved may elect one (1) of their number to be chair of the a Directors' Committee meeting.

20 Circulating resolutions

- (a) The Directors may pass a resolution without a Directors' Meeting being held if all of the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last Director signs.

21 Validity of Directors' acts

All acts done at a Directors' Meeting or at a Directors' Committee meeting, or by a person acting as a Director, are taken as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote, even if it is afterwards discovered that:

- (a) There was a defect in the appointment or continuance in office of a person as a Director or of the person so acting, or
- (b) A person acting as a Director was disqualified or was not entitled to vote.

22 Secretary

22.1 Appointment

There must be at least one (1) Secretary who is to be appointed by the Directors.

22.2 Suspension and removal

The Directors may suspend or remove a Secretary from that office.

22.3 Powers, duties and authorities

- (a) A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors.
- (b) The exercise of those powers and authorities and the performance of those duties by a Secretary are subject at all times to the control of the Directors.

23 Dispute resolution

23.1 Handling

Where there is a dispute, grievance or other disagreement between a Member and the Company, whether arising out of the application of these rules or otherwise (**Dispute**), then either must, prior to the commencement of any proceedings in a Court or Tribunal or before any authority or board, notify the other in writing of the nature of the Dispute, and the following must occur:

- (a) The Member and the Company must in the period fourteen (14) days from the service of the notice of the Dispute (**Initial Period**) use their best endeavours to resolve the Dispute.
- (b) If the Company and the Member are unable to resolve the Dispute within the Initial Period, then the Dispute must be referred for mediation to a mediator agreed by the Member and the Company.
- (c) If the disputants are unable to agree on a mediator within seven days of the Initial Period, the Member or the Company may request the President of LEADR¹ to nominate a mediator to whom the dispute will be referred.
- (d) The costs of the mediation will be shared equally between the Member and the Company.
- (e) Where:
 - (i) the party receiving the notice of the Dispute fails to attend the mediation required by clause 23.1(b), or

¹ LEADR is a not-for-profit organisation facilitating dispute resolution – further information can be found at www.leadr.com.au.

(ii) the mediation has not occurred within six (6) weeks of the date of the notice of the Dispute, or

(iii) the mediation fails to resolve the Dispute,

then the party serving the notice of Dispute will be entitled to commence any proceedings in a Court or Tribunal or before any authority or board in respect of the Dispute.

(f) The procedure in this clause will not apply in respect of proceedings for urgent or interlocutory relief.

24 Documents

Documents executed for and on behalf of the Company must be executed by:

(a) Two (2) Directors,

(b) One (1) Director and the Secretary, or

(c) Such other persons as the Directors by resolution appoint from time to time.

25 Accounts

(a) The Directors must cause proper financial records to be kept and if required by the Corporations Act or otherwise considered by the Directors to be appropriate, cause the accounts of the Company to be audited in accordance with the requirements of the Corporations Act.

(b) The Directors must distribute to the members copies of the annual financial reports of the Company accompanied by a copy of the Auditor's report and Directors' report in accordance with the requirements of the Corporations Act.

26 Seals

26.1 Safe custody

The Directors must provide for the safe custody of any seal of the Company.

26.2 Use

If the Company has a common seal or duplicate common seal:

- (a) It may be used only by the authority of the Directors, or of a Committee authorised by the Directors to authorise its use, and
- (b) Every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

27 Inspection of records

27.1 By Members

Subject to the Corporations Act, the Directors 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 will be open to inspection by the Members (other than Directors).

27.2 Right of Members

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in General Meeting.

28 Service of documents

28.1 Document includes notice

In this clause 28, a reference to a document includes a notice.

28.2 Methods of service

- (a) The Company may give a document to a Member:
 - (i) personally,
 - (ii) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member, or
 - (iii) by sending it to a fax number or electronic address nominated by the Member.

- (b) A document sent by post:
 - (i) if sent to an address in Australia, may be sent by ordinary post and is taken to have been received on the day after the date of its posting, and
 - (ii) if sent to an address outside Australia, must be sent by airmail and is taken to have been received on the third day after the date of its posting.
- (c) If a document is sent by fax or electronic transmission, delivery of the document is taken:
 - (i) to be effected by properly addressing and transmitting the fax or electronic transmission, and
 - (ii) to have been delivered on the day following its transmission.

28.3 Evidence of service

A certificate in writing signed by a Director or a Secretary stating that a document was sent to a Member by post or by fax or electronic transmission on a particular date is prima facie evidence that the document was so sent on that date.

29 Indemnity

The Company may indemnify any current or former Director, Secretary or executive officer of the Company or of a Related Body Corporate of the Company out of the property of the Company against:

- (a) Every liability incurred by the person in that capacity, and
- (b) All legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

except to the extent that:

- (c) The Company is forbidden by statute to indemnify the person against the liability or legal costs, or
- (d) An indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

30 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director or Secretary or executive officer of the Company or of a Related Body Corporate of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) The Company is forbidden by statute to pay or agree to pay the premium, or
- (b) The contract would, if the Company paid the premium, be made void by statute.

31 Contract

The Company may enter into an agreement with a person referred to in clauses 29 and 30 with respect to the matters covered by these clauses. An agreement entered into pursuant to this clause may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

32 The Collective Shout Fund

- 32.1 The Company must establish and maintain a public fund for the sole objective to promote the prevention or the control of behaviour that is harmful and abusive to human beings, furthered by activities:
- (a) to which gifts of money or property, or Deductible Contributions, for that purpose are to be made;
 - (b) to which money received by the Company because of those gifts, or Deductible Contributions, is to be credited; and
 - (c) that does not receive any other money or property (the **Public Fund**).
- 32.2 The name of the Public Fund shall be The Collective Shout Fund.
- 32.3 The Public Fund will be operated on a not-for-profit basis.
- 32.4 The Company intends that the Public Fund be established and maintained as a trust.
- 32.5 The Company must establish and maintain a separate bank account for the Public Fund into which all

money in the Public Fund will be paid.

- 32.6 Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the Public Fund.
- 32.7 The Public Fund must comply with Subdivision 30-EA of *Income Tax Assessment Act 1997* (Cth).
- 32.8 Members of the public are to be invited to make gifts of money or property to the Public Fund for the promotion of the prevention of or the control of behaviour that is harmful or abusive to human beings.
- 32.9 The Public Fund must use the following only for the Objects set out in clause 2, which are also the Public Fund's Objects:
- (a) gifts, or Deductible Contributions, made to the Public Fund; and
 - (b) any money received because of those gifts or Deductible Contributions.
- 32.10 Receipts for gifts must state:
- (a) the name of the Public Fund as stated in clause 32.2;
 - (b) the ABN of the Company;
 - (c) the fact that the receipt is for a gift.
- 32.11 Receipts for Deductible Contributions must state:
- (a) the name of the Public Fund as stated in clause 32.2;
 - (b) the ABN of the Company;
 - (c) the fact that the Deductible Contribution was made in return for either or both;
 - (i) a right to attend or participate in a specific fund-raising event;
 - (ii) the purchase of goods and services at a fund-raising event;
 - (d) the amount of the Deductible Contribution if the Deductible Contribution is money; and
 - (e) the GST inclusive market value of the minor benefit provided in return for the Deductible Contribution.

32.12 Proper accounting records and procedures are to be kept and used for the Public Fund.

32.13 At the first instance of:

- (a) the winding-up of the Public Fund; or
- (b) the Public Fund ceasing to have deductible gift recipient status under the *Income Tax Assessment Act 1997* (Cth);

any surplus assets of the Fund remaining after the payment of liabilities attributable to the Public Fund shall not be paid to or distributed to the Members, but shall be given or transferred to some other fund, authority or institution listed on the Register of Harm Prevention Charities having objects similar to the Objects of the Public Fund as set out in clause 2, and whose rules shall prohibit the distribution of its or their income among its or their members, directors or trustees, such fund, authority or institution is to be eligible for tax deductibility of donations under the *Income Tax Assessment Act 1997* (Cth).

32.14 The assets and income of the Public Fund shall be applied solely in the furtherance of the Objects of the Public Fund as set out in clause 2 and no portion shall be distributed directly or indirectly to any individual except as bona fide compensation for services rendered or expenses incurred on behalf of the Public Fund.

32.15 The Company must open a separate bank account to deposit money donated to the Public Fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the institution.

32.16 The Public Fund must be administered by a committee of management of at least three persons.

32.17 The committee must authorise the release of money from the Public Fund, manage the investment of the Public Fund, and authorise the sale of its assets.

32.18 The Company may appoint the members of the committee and remove members.

32.19 The Company shall ensure that a majority of members of the committee are 'responsible persons' as defined by the Guidelines to the Register of Harm Prevention.

32.20 The Australian Taxation Office, Australian Charities and Not-for-profits Commission and any other relevant Authority must be notified of any alterations made to this clause 32 of the Constitution.

Schedule 1

Appointment of Proxy

Collective Shout Limited

ACN 162 159 097

I/We _____ [name]

of _____ [address]

being a member/members of the above named Company hereby appoint

_____ [name]

of _____ [address]

or, in his or her absence _____ [name]

of _____ [address]

as my/our proxy to vote for me/us on my/our behalf at the meeting of the members of the Company to be held on the _____ day of _____ 20__ and at any adjournment of that meeting.

[To be inserted if desired] This form is to be used in favour of / against the resolution (Strike out whichever is not desired)

[Insert details of specific resolutions if desired]

SIGNED _____

NAME _____

DATED _____

This notice must be returned to Collective Shout Limited at [address] by [time] on [date] [insert specific details ensuring that the time is 48 hours before the time for the meeting]