

CONSTITUTION

OF

2BMe FOUNDATION LTD

A COMPANY LIMITED BY GUARANTEE

Suite 403  
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Melbourne VIC 3004

## 2BMe FOUNDATION LTD CONSTITUTION

This document is the Constitution of 2BMe Foundation Ltd.

The company is a company limited by guarantee. The liability of its members is limited to the amount they have agreed to pay in the guarantee. The Company must always have at least one member and three directors.

The Constitution sets out the basis on which the company is to be managed. Nothing in the Constitution is intended to derogate from the Act. That Act imposes many obligations on the Company which are not reproduced in this Constitution and overrules anything in this Constitution to the extent that they are inconsistent.

This Constitution replaces the replaceable rules in the Act. Words used in the Constitution that have a meaning in the Act have the same meaning in this Constitution (unless expressly stated otherwise).

Despite amendment to the Constitution at any time, the officeholders under the previous Constitution continue as office holders under the new amended Constitution.

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## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Constitution:

- a. "ACNC" means the Australian Charities and Not-for-profits Commission and includes any replacement government body which exercises a similar regulatory role in respect of charities or not-for-profits;
- b. "Act" means the Corporations Act 2001 (Cth);
- c. "Board" means some or all of the Directors of the Company acting as a board;
- d. "Company" means 2BMe Foundation Ltd;
- e. "Corporations Act" means the Corporations Act 2001 (Cth);
- f. "DGR" means deductible gift recipient;
- g. "Director" means an individual member of the Board of the Company;
- h. "Member" means a person accepted into membership of the Company under the provisions of this Constitution; and
- i. "Term" is the period of office of a Director.

### 1.2 Interpretation

In this Constitution:

- a. a reference to a function includes a reference to a power, authority and duty;
- b. a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty;
- c. a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provisions substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- d. a word denoting the singular number includes the plural number and vice versa;
- e. a word denoting an individual or person includes a corporation, firm, authority, government or governmental authority and vice versa;
- f. a word denoting a gender includes all genders;
- g. a reference to a recital, clause, schedule or annexure is to be a recital, clause, schedule or annexure of or to this constitution;
- h. a reference to any agreement or document is to that agreement or document (and, where applicable any of its provisions) as amended, novated, supplemented or replaced from time to time;
- i. a reference to "dollars" or "\$" is to an amount in Australian currency; and
- j. if an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

### 1.3 Headings and Parts of Speech

In this Constitution:

- a. headings are for convenience of reference only and do not affect interpretation; and
- b. where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning.

## 2 NAME AND RULES

### 2.1 Name

The name of the Company is 2BMe Foundation Ltd.

### 2.2 Exclusion of replaceable rules

Subject to those rules which are mandatory for public companies, the replaceable rules under the Act shall not apply to the Company.

## 3 CHARITABLE PURPOSE AND OBJECTIVES

### 3.1 Company's purpose

The sole purpose of the company is to pursue its charitable purpose. The company's charitable purpose is to provide welfare to women and children in need by arranging or funding education and/or support with the view to enabling and empowering people to make informed choices, recognise their options and inspire others.

### 3.2 The Company – its nature and pursuit of objects

The Company:

- a. is a Company limited by guarantee;
- b. operates for the promotion, development and attainment of its objects;
- c. will apply its profits (if any) or other income in promoting its objects;
- d. is not carried on for the purpose of profit or gain to its individual Members; and
- e. may only pursue charitable objects.

### 3.3 Principal objects

- a. The company shall take all measures deemed necessary to achieve its purpose, including:
  - i. raising funds through fundraising activities, sponsorship donations, online donations, government and private grants and any other means considered appropriate;
  - ii. conducting all fundraising in accordance with the Fundraising Act 1998 (Vic) and by following the guidelines as outlined in the company's Authority to Fundraise;
  - iii. using funds raised to fully or partially subsidise training or education programs to assist women and children in need;
  - iv. engaging volunteers to assist with fundraising activities and utilising skilled volunteers to assist with facilitating education or support programs;
  - v. organising education or experiences for women or children through payment of grants to attend relevant experiences;
  - vi. offering grants to women and children in need through an annual grant giving program determining successful grant applications by decision of the Board;
  - vii. maintaining database of women and children in need who may benefit from the Company's assistance at a future point.

- viii. maintaining public liability insurance and volunteer protection insurance at all times. Additional insurance requirements will be reviewed and policies established as need arises.
- b. The Company may pursue any other charitable objects which the Company considers support its principal objects. The Company may engage in any other activity that the Board considers is in support or furtherance of the Company's objects, or is incidental or conducive to the attainment of the Company's objects.

## 4. POWERS

### 4.1 Company's powers

- a. Subject to the Act and this Constitution, the Company shall have the legal capacity and all the powers of a natural person, to do all things necessary or convenient to be done for or in connection with the attainment of its objects. The powers set forth in subsection 124(1) of the Act shall apply to the Company except insofar as they are inconsistent with the objects of the Company.
- b. In addition to any powers the Company has at law, the Company may, in furtherance of the objects:
  - i. subscribe to, become a member of and co-operate with any other company, club, association or organisation, whether incorporated or not, whose objects are altogether or in part similar to those of the Company, provided that the Company shall not subscribe to or support with its funds any club, association or organisation which allows the distribution of its income and property among its members;
  - ii. purchase, take on lease or in exchange, hire and otherwise acquire any lands, buildings, easements or property, real and personal; and any rights or privileges which may be requisite for the purposes of, or capable of being conveniently used in connection with, any of the objects of the Company. Provided that in case the Company shall take or hold any property which may be subject to any trusts the Company shall only deal with the same in such manner as is allowed by the law having regard to such trusts;
  - iii. enter into any arrangements with any Government or authority, supreme, municipal, local or otherwise, that may seem conducive to the Company's objects or any of them; and to obtain from any such Government or authority any rights, privileges and concessions which the Company may think it desirable to obtain; and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
  - iv. appoint, employ, remove or suspend such managers, clerks, secretaries, servants, workers and other persons as may be necessary or convenient for the purposes of the Company;
  - v. establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees of the Company or the dependants or connections of any such persons; and to grant pensions and allowances; and to make payments towards insurance; and to subscribe or guarantee money for charitable objects;
  - vi. construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which may seem calculated directly or indirectly to advance the Company's interest, and to contribute to, subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control thereof;
  - vii. invest and deal with the money of the Company not immediately required;

- viii. borrow or raise or secure the payment of money in such manner as the Company may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred to be entered into by the Company in any way and in particular by the issue of debentures, perpetual or otherwise, charged upon all or any of the Company's property (both present and future), and to purchase, redeem or pay off any such securities;
- ix. make, draw, accept, endorse, discount, execute and issue promissory notes, bills of lading and other negotiable or transferable instruments;
- x. sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Company;
- xi. take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price, of any part of the Company's property of whatsoever kind sold by the Company, or any money due to the Company from purchasers and others;
- xii. take any gift of property whether subject to any special trust or not, for any one or more of the objects of the Company but subject always to the proviso in para (ii) of this clause;
- xiii. take such steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Company, in the shape of donations, annual subscriptions or otherwise;
- xiv. print and publish any newspapers, periodicals, books or leaflets that the Company may think desirable for the promotion of its object;
- xv. amalgamate with any companies, institutions, societies or associations having objects altogether or in part similar to those of the Company and which shall prohibit the distribution of its or their income and property among its or their members;
- xvi. purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any or more of the companies, institutions, societies or associations with which the Company is authorised to amalgamate;
- xvii. transfer all or any part of the property, assets, liabilities and engagements of the Company to any one or more of the companies, institutions, societies or associations with which the Company is authorised to amalgamate; and/or
- xviii. make donations and/or grants for charitable purposes.

## 5. NOT FOR PROFIT STATUS

### 5.1 Application of Income

- a. The assets and income of the Company shall be applied solely in furtherance of the objects of the Company.
- b. No part of the assets or income shall be distributed, whether directly or indirectly, by way of dividend, bonus or otherwise to any Member.
- c. No remuneration or other benefit in money or money's worth shall be paid or given by the Company to any Member who holds any office of the Company.
- d. Nothing contained in this clause prevents the payment in good faith of or to any Member for;
  - i. any services rendered to the Company, whether or not as an employee;
  - ii. goods supplied to the Company in the ordinary and usual course of operation;

- iii. interest on money borrowed from any Member;
- iv. rent for premises demised or let by any Member to the Company; and/or
- v. any out-of-pocket expenses incurred by the Member on behalf of the Company;

provided that the payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

- e. A Director may not be paid directors' fees for serving as a Director but payments may be made to Directors in the following circumstances;
  - i. for the payment of out-of-pocket expenses incurred by the Director in carrying out the duties of a Director whether the payments do not exceed an amount previously approved by the Board;
  - ii. for any service rendered to the Company in a professional or technical capacity where the provision of that service has the prior approval of the Board and is on reasonable commercial terms; or
  - iii. as an employee of the Company where the terms of employment have been approved by a resolution of the Board.

#### 5.2 Distribution of assets on revocation of DGR endorsement

- a. This clause 5.2 applies if the Company is endorsed as a DGR or operates a DGR endorsed fund and the Commissioner of Taxation revokes the Company's DGR endorsement or the DGR fund is wound up.
- b. The following surplus assets of the Company or the DGR fund (as applicable) remaining after satisfying the Company's liabilities and expenses must be transferred to such other organisation(s) to which income deductible gifts may be made:
  - i. gifts of money or property for the objects;
  - ii. contributions made to an eligible fundraising event for the objects; and
  - iii. money received by the Company as a consequence of those gifts or contributions.
- c. The organisation(s) are to be determined by the Members as near as practicable following the receipt of a notice of revocation from the Commissioner of taxation.

#### 5.3 Distribution of property on winding-up

- a. If the Company is to be wound up, application for voluntary deregistration may be if the Company meets the requirements for voluntary deregistration under the Act. Otherwise, if the Company is wound up, it will be done in accordance with section 491 of the Act.
- b. If the Company is deregistered or wound up, any property or money remaining after its debts:
  - i. must not be given or paid to the Members; and
  - ii. must be given or transferred to one or more non-profit organisations to which income tax deductible gifts may be made which have similar objects to the Company.
- c. The organisation(s) are to be determined by the Members as or before the time of dissolution.

## 6. LIABILITY OF MEMBERS

### 6.1 Liability of Members

The liability of the Members is limited.

### 6.2 Members Guarantee

Every Member of the Company undertakes to contribute an amount not exceeding twenty dollars (\$20) to the property of the Company in the event of it being wound up while that person is a Member or within one year thereafter for:

- a. payment of the debts and liabilities of the Company contracted before the time the membership ceased;
- b. the costs, charges and expenses of winding up; and
- c. for an adjustment of the rights of contributories among themselves.

## 7. MEMBERS

### 7.1 Class(es) of membership

The Board may determine different categories of membership from time to time, but any such determination cannot affect the rights of existing Members.

### 7.2 Member's contributions/fees

The cost of membership of the Company, if any, shall be determined from time to time by the Board.

### 7.3 Eligibility of Members

- a. To be eligible for membership of the Company, Members or applicants for membership must:
  - i. if they are a natural person, be eighteen years or over;
  - ii. in the opinion of the Board, have a strong commitment to the Company's objects and values;  
and
  - iii. sign a commitment of intent and values document.
- b. For the avoidance of doubt, there shall be no limit on the number of Members that the Company may accept.
- c. A person is taken to be a Member of the Company if the person was one of the persons on whose behalf an application for registration of the Company under the Act was made.

### 7.4 Application for membership

An application for membership must be in the form approved by the Board from time to time.

#### 7.5 Determination of application by the Board

- a. An applicant for membership is taken to be admitted as a Member upon the latter of:
  - i. the Board approving the application; or
  - ii. payment by the applicant of the applicable cost of membership, as determined by the Board under clause 7.2.

#### 7.6 Register of Members

- a. A register of Members will be maintained in accordance with the requirements of the Act.
- b. The register of Members shall be kept safe and private, and shall be used solely for the objects of the Company unless explicit permission is given to release personal information by the Member concerned.

#### 7.7 Rights and duties of Members

- a. Each Member has the right to attend and vote at general meetings of Members and special meetings of Members.
- b. Each Member must act in accordance with the values of the Company and consider himself or herself an ambassador of the Company.
- c. Each member must sign the intent and values document referred to in Clause 7.3(a)(iii).

#### 7.8 Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a Member:

- a. is not capable of being transferred or transmitted to another person, and
- b. terminates on cessation of the person's membership.

#### 7.9 Cessation of membership

- a. A person ceases to be a Member of the Company if the person:
  - i. being a natural person, dies or becomes a mentally incapacitated person;
  - ii. being an incorporated entity, cease to exist in an incorporated form;
  - iii. resigns membership;
  - iv. has their membership cancelled by the Board under clause 7.9(b); or
  - v. fails to pay any cost of membership determined by the Board under clause 7.2 within 3 months after the amount is due.
- b. The Board has the right, subject to the rules of natural justice and by a two-thirds majority decision, to cancel the membership of a Member for actions deemed to be detrimental to the objects of the Company.

- c. The Board shall remove from the membership record the name and particulars of any Member who ceases to be a Member, and shall maintain a file or files of ceased Members.
- d. A person who has ceased to be a Member may be readmitted to membership in accordance with the normal requirements for membership.

## 8 BOARD OF DIRECTORS

### 8.1 Composition of Board

- a. The Company shall have between three and nine Directors.
- b. The Company Secretary must be a member of the Board.
- c. The Board shall elect, by a simple majority, a member of the Board to act as chairperson of the Board.

### 8.2 Eligibility of Directors

- a. To be eligible for the office of Director a person must:
  - i. be a Member of the Company;
  - ii. be a Responsible Person;
  - iii. not be a Disqualified Person;
  - iv. meet any additional requirements determined by the Board from time to time; and
  - v. if required by the Board, deliver to the Board written confirmation of the above in a form and manner approved by the Board.
- b. "Responsible Person" means a person who is, in the opinion of the Board, of sufficient good standing and suitability to fulfil the role of Director of the Company.
- c. "Disqualified Person" means a person:
  - i. disqualified from managing a corporation under the Act;
  - ii. disqualified from being a responsible person by the ACNC Commissioner, within the previous 12 months; or
  - iii. subject to any other similar legal impediment to acting as Director.
- d. A person is taken to be a Director of the Company if the person was identified as a Director in the application of registration of the company

### 8.3 Director's duties

- a. The duties of the Directors include:
  - i. performing any and all duties imposed on them collectively or individually by law or as set out in this Constitution;
  - ii. supervising all officers, agents and employees of the Company to ensure that their duties are performed properly;
  - iii. developing and maintaining an up to date philosophy and purpose of the Company;
  - iv. meeting at such times and places as required by this Constitution;

- v. ensuring compliance with all applicable laws, including applicable state legislation affecting fundraising.
- b. In acting as Director, and in addition to any other obligation which may be imposed on a Director by law, each Director must:
- i. act with reasonable care and diligence;
  - ii. act honestly and in the best interest of the Company in pursuit of the Company's purposes;
  - iii. not misuse his or her position as a Director;
  - iv. disclose any conflict of interest;
  - v. ensure the financial affairs of the Company are managed responsibly and
  - vi. not allow the Company to operate whilst insolvent.

#### 8.4 Appointment of Directors and term of office

- a. When the Board determines that a new Director is needed, either as a replacement for an existing Director or as an additional Director, the Board may (subject to that person's consent) appoint a person to act as that Director.
- b. If a person is appointed as a Director under sub clause (a), the Company must confirm the appointment by resolution at the company's next AGM. If the appointment is not confirmed, the person ceases to be a Director of the Company at the end of the AGM.
- c. A Director will cease to be a director if he or she:
- i. dies;
  - ii. becomes a mentally incapacitated person;
  - iii. becomes a Disqualified Person (within the meaning of clause 8.2)
  - iv. resigns; or
  - v. is removed under clause 8.5
- d. A Director may resign by giving written notice to the chairperson of the Board, the Company secretary, or the Board of Directors. Such resignation will be effective from the time the notice is given, unless the notice specifies another time for the effectiveness of such resignation. No Director may resign if the Company would then remain without a duly elected Director or Directors in charge of its affairs.
- e. There is no limit to the number of terms a Director can hold, provided that the Director is nominated and elected in accordance with this clause at the end of each of their terms.

#### 8.5 Removal of Directors

The Members of the Company may remove a Director in accordance with section 203D of the Act.

## 9 PROCEEDINGS OF BOARD MEETINGS

### 9.1 Regular Meetings

The Board must meet at least four times each calendar year to discuss issues relating to strategy, direction and performance of the Company.

## 9.2 Special Meetings

Special meetings of the Board may be called by the secretary or by any two Directors.

## 9.3 Manner of meeting

A director can participate in a meeting by telephone (or by any other similar technology which enables the Director to participate in the meeting) and his or her presence and vote will be counted as valid if the other Directors present at the meeting so approve or if the meeting has been specifically designated to include such communication by technology.

## 9.4 Notice of meetings

The Secretary must give written notice of a Board meeting to each Director at least 48 hours (or such other period as may be unanimously agreed on by the Directors) before the time appointed for the holding of the meeting. Such notice must state the place, date and time of the meeting and the agenda of the meeting.

## 9.5 Quorum for meetings

- a. A quorum (which will not reduce to less than three) will consist of 75% of the duly elected members of the Board.
- b. Except as otherwise provided under this Constitution, no business shall be considered by the Board at any meeting at which the required quorum is not present, and the only motion which the chair shall entertain at such meeting is a motion to adjourn.

## 9.6 Majority action as board action

- a. A director has one vote.
- b. Every act or decision done or made by a majority of the Directors entitled to vote and present at a meeting duly held at which a quorum is present is the act of the Board, unless this Constitution states that a greater percentage or different voting rules for approval of a matter by the Board is required.
- c. If a Director cannot attend a regular or special meeting, that Director can give his or her proxy by written request to another Director to vote on certain or all matters that may come before the Board at a meeting.

## 9.7 Conduct of meetings

- a. The Directors may elect a director to chair their meetings. The directors may determine the period for which the director is to be the chairperson.
- b. The chairperson of the Board shall preside at all meetings of the Board. In the chairperson's absence, an acting chairperson shall be chosen by a majority of the Directors present at the meeting and fulfil

the duties of the chairperson.

- c. The Company Secretary shall act as secretary of all meetings of the Board, provided that, in his or her absence, the presiding officer shall appoint another person to act as secretary of the meeting.
- d. The Company Secretary shall cause to be kept and recorded minutes of all meetings of the Board.

#### 9.8 Restrictions on voting

- a. A Director must, as soon as reasonably practicable, notify the Board of any position, property or financial interest the Director holds (directly or indirectly) which could lead to a conflict of interest between the Director and the Company.
- b. A notification under this clause is to be recorded in a register of pecuniary interests, to be maintained by a delegated person elected by the Board. This register is to be confidential to the Board.
- c. A Director who has an interest under sub clause (a) must not be present whilst a matter affected by the interest is being considered at a Board or Member meeting, and must not vote on the matter.

#### 9.9 Resolutions without meetings

- a. The Directors may pass a resolution without a Board meeting being held if all 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 is identical in each copy, and the resolution is passed when the last Director signs.

## 10 MEETINGS OF MEMBERS

### 10.1 Annual General Meeting

- a. The Company must hold:
  - i. its first annual general meeting ("AGM") within 18 months after its registration under the Act; and
  - ii. subsequent AGMs within 5 months after the close of the Company's financial year.
- b. The Board is to determine the date, time, location, agenda and the procedures of the AGM.
- c. In addition to any other business which may be transacted at an AGM, the business of an AGM is to include the following, even if not referred to in the notice of meeting:
  - i. the consideration of the annual financial report, directors' report and auditor's report (if audit report is required);
  - ii. the election of Directors;
  - iii. the appointment of the auditor;
  - iv. the fixing of the auditor's remuneration if audit is required for the relevant financial year.

## 10.2 Special General Meetings

- a. The Board may, whenever it thinks fit, call a special general meeting of the Company.
- b. The Members may call a special general meeting in accordance with the Act.

## 10.3 Quorum for general meetings of Members

- a. A quorum at all general and special meetings of Members shall consist of a minimum of 3 Members or 20% of Members whichever is greater.
- b. The presence of a quorum is to be determined, and the adjournment of the meeting if no quorum is present is to occur, in accordance with sub sections 249T(2) and (3) of the Act.

## 10.4 Presiding Member

The chairperson of the Board is to preside as chairperson of the general meeting, except in relation to any election for which the chairperson is a nominee, or where a conflict of interest exists. If the chairperson of the Board is not present, or is unwilling or unable to preside, any Director present may preside at that general meeting only.

## 10.5 Voting procedure

- a. A question arising at a general meeting is to be decided on a show of hands (or if via teleconference by a call of "yes" or "no") unless a poll is demanded:
  - i. by the chairperson; or
  - ii. a simple majority of Members present at the meeting and entitled to vote on the resolution.
- b. If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Company, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- c. If the question is to be determined by a poll, the poll is to be conducted in accordance with the directions of the chairperson.
- d. Each Member who is unable to attend a general meeting is entitled to appoint a proxy in accordance with the Act.
- e. An objection may only be raised to the qualification of a voter at the meeting at which the vote objected to is given or tendered. Any such objection is to be referred to the chairperson of the meeting, whose decision will be final. If the chairperson does not disallow the vote pursuant to such an objection, the vote is valid for all purposes.

- f. A resolution, other than a special resolution, signed by all Members entitled to vote on the resolution at the time is as valid and effectual as if it had been passed at a meeting of the Members duly called and constituted. The Members may sign separate copies of the resolution circulated for that purpose, and the resolution is passed when the last member signs.

#### 10.6 Entitlement to vote

- a. Each Member has one vote, both on a show of hands and a poll.
- b. A Member is not entitled to vote at any general meeting of the Company unless all money due and payable by the Member to the Company has been paid.
- c. Where voting at meetings is equal the chairperson may exercise a casting vote.

#### 10.7 Altering the Constitution

This Constitution shall not be altered except by special resolution in accordance with the Corporations Act.

## 11 DISPUTES

- a. If the Members are unable to make a decision on an issue or there is a dispute between a Member and another Member (in their capacity as Members) or the Company ("Dispute") then either party to the Dispute may issue a notice to the other party to the Dispute identifying the Dispute.
- b. If the parties to the Dispute are unable to resolve the Dispute or agree on a course of action to resolve the Dispute within 14 days of the delivery of the notice, then either party may refer the Dispute for private and independent mediation by a mutually acceptable suitably qualified mediator in accordance with such rules or processes as the parties may agree. The company will not be liable for the expense of the mediation.
- c. If the parties are unable to agree on the mediator or the rules or process of the mediation, the then current rules of the Institute of Arbitrators & Mediators Australia for mediation will apply, and the mediator will be appointed in accordance with those rules.
- d. A party must not start arbitration or court proceedings (except proceedings seeking interlocutory relief) in respect of a Dispute unless it has complied with this clause, or is only prevented from complying with this clause because the other party is not ready willing or able to comply with this clause in relation to the Dispute.

## 12 GENERAL

### 12.1 Maintenance of books of account and record

- a. The Board will ensure that the appropriate books of account and records are maintained, including where applicable, those required to be maintained under the Fundraising Act 1998 (Vic) or other applicable state fundraising legislation.

- b. Auditors shall be appointed by the Board and their duties regulated in accordance with S327 of the Act.

#### 12.2 Indemnity

- a. Each officer and former officer of the company (and, if the company approves it in general meeting, an employee, authorised agent, auditor or general adviser of the company) is entitled to an indemnity from the company against any liability, loss or expense incurred as an officer of the company (or in the other relevant capacity). However, this indemnity only applies if one of the following conditions is satisfied:
  - i. the liability, loss or expense is to another person (except the company or a related body corporate) and does not arise out of conduct involving a lack of good faith; or
  - ii. the liability is for costs and expenses incurred either:
    - a) in defending civil or criminal proceedings in which judgment is given in favour of the person or the person is acquitted; or
    - b) in connection with an application in relation to those proceedings in which the court grants relief to the person under the Act.

#### 12.3 Payment for an insurance policy

- a. To the extent permitted by the Act, the company may, at the directors' discretion, enter into and pay for a policy of insurance insuring an officer or former officer against any liability incurred as an officer or employee of the company. However, this does not apply in relation to either of the following liabilities:
  - i. a liability arising out of conduct involving a wilful breach of duty in relation to the company
  - ii. a contravention of S182 or S183 of the Act.

#### 12.4 Interrelationship between indemnity and policy

An officer or former officer who is entitled to an indemnity under the insurance policy entered into by the company is not entitled to an indemnity from the company, except to the extent that the policy does not fully indemnify him or her.

#### 12.5 Indemnity continues

An indemnity given by the company under clause 12.2 continues to apply after any change to or deletion of that clause, but only in relation to acts and omissions before the change or deletion.

#### 12.6 Service of notices

- a. For the purpose of this constitution, a notice may be served on or given to a person:
  - i. by delivering it to the person personally, or
  - ii. by sending it by pre-paid post to the address of the person, or

- iii. by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- b. For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:
  - i. in the case of a notice given or served personally, on the date on which it is received by the addressee, and
  - ii. in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
  - iii. in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

## Schedule 1

Names and usual residential addresses of initial directors

Name of director	Usual residential address of director
HELEN TRELOAR	REMOVED FOR CONFIDENTIALITY
CAROL CAMPBELL	REMOVED FOR CONFIDENTIALITY
REBECCA WHITE	REMOVED FOR CONFIDENTIALITY
TRACEY GOTTLIEBSEN	REMOVED FOR CONFIDENTIALITY

## Schedule 2

Statement by persons who have consented to be members of the company.

We consent to becoming members of the company. We agree to the form of this Constitution of the company.

Name of member	Usual residential address
HELEN TRELOAR	REMOVED FOR CONFIDENTIALITY
CAROL CAMPBELL	REMOVED FOR CONFIDENTIALITY
REBECCA WHITE	REMOVED FOR CONFIDENTIALITY
TRACEY GOTTLIEBSEN	REMOVED FOR CONFIDENTIALITY

## Schedule 3

### Proxy Form

2BMe FOUNDATION LTD

Meeting

Place	
Date	
Time	

I/We, [insert name and address of member/members], am/are a member/members of [insert company name and A.C.N.]. I appoint the following person/persons as my proxy/proxies to vote on my/our behalf at the specified meeting and any adjournment.

Name or office of proxy	Address

I/We appoint the following alternate person/persons to vote on my/our behalf at that meeting and any adjournment if a person I/we have appointed proxy is/are unable to act.

Name of proxy	Name of alternate	Address of alternate

[include any instructions concerning voting in favour of or against particular resolutions]

Signature/signatures of member/members

[Insert name of member/members appointing proxy]

## Execution

Dated this 29<sup>th</sup> day of January 2015

Signature of Member: \_\_\_\_\_  
HELEN TRELOAR

Signature of witness: \_\_\_\_\_

Name of witness: \_\_\_\_\_

Signature of Member: \_\_\_\_\_  
CAROL CAMPBELL

Signature of witness: \_\_\_\_\_

Name of witness: \_\_\_\_\_

Signature of Member: \_\_\_\_\_  
REBECCA WHITE

Signature of witness: \_\_\_\_\_

Name of witness: \_\_\_\_\_

Signature of Member: \_\_\_\_\_  
TRACEY GOTTLIEBSEN

Signature of witness: \_\_\_\_\_

Name of witness: \_\_\_\_\_