

**CONSTITUTION  
OF  
NEWHOPE MEDICAL LTD**

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# CONSTITUTION OF NEWHOPE MEDICAL LTD

A company limited by guarantee

## PRELIMINARY:

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### 1. Name of company

The name of the Company is NewHope Medical Ltd.

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### 2. Type of company

The Company is a company limited by guarantee.

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### 3. Limited liability of Members

The liability of the Members is limited to the amount of the Guarantee in clause 4.

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### 4. The Guarantee

Each Member must contribute an amount not more than \$10 to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after the Member ceases to be a Member, and this contribution is required to pay for the:

- 4.1 debts and liabilities of the Company incurred before the Member ceased to be a Member; or
  - 4.2 costs of winding up.
- 

### 5. Definitions

In this Constitution, words and phrases have the meaning set out in clauses 65 and 67.

## CHARITABLE PURPOSES AND POWERS:

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### 6. Principal Purpose

- 6.1 The Company is established for public charitable purposes in Australia, and may without limitation:
  - 6.1.1 Carry out and support the ministries of NewHope Baptist Church and any other entities pursuing the promotion of the Christian faith.
  - 6.1.2 Provide best practice medicine in a holistic context that offers patients opportunities to connect into a supportive and loving Christian community, and to grow spiritually in that community.

- 6.1.3 Provide benevolent relief of such sickness, disability, destitution, suffering, misfortune or helplessness, poverty and distress of those in need as arouses compassion in the community.
- 6.1.4 Provide support, including of a financial nature, to NewHope Baptist Church and other Christian ministries.

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## **7. Powers**

The Company:

- 7.1 has all the powers of a company limited by guarantee under the Corporations Act; and
- 7.2 may do anything incidental or conducive to the attainment of the Principal Purpose.

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## **8. Not for Profit**

- 8.1 The Company's income and assets must be applied solely towards the Principal Purpose.
- 8.2 No part of the income or assets may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or other profit distribution, to any Member.
- 8.3 Clause 8.2 does not prohibit the Company from doing the following things, provided they are done in good faith:
  - 8.3.1 paying a Member for goods or services the Member has provided or premises a Member has let or expenses a Member has properly incurred at fair and reasonable rates or rates more favourable to the Company; or
  - 8.3.2 making a payment to a Member in carrying out the Principal Purpose.

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## **9. Membership**

The sole Member of the Company shall be NewHope Services Ltd.

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## **10. Amending the Constitution**

- 10.1 The Company may only alter this Constitution by Special Resolution in accordance with the Corporations Act, subject to clause 10.2.
- 10.2 The sole Member must not pass a Special Resolution that amends any of the following provisions:
  - 10.2.1 Clause 6 (Principal Purpose);

- 10.2.2 Clause 9 (Membership);
- 10.2.3 Clause 10 (Amending the Constitution);
- 10.2.4 Clause 12 (Membership not transferable);
- 10.2.5 Clause 23 (Composition of the Board);
- 10.2.6 Clause 24 (Eligibility);
- 10.2.7 Clause 25 (Appointment of Directors);
- 10.2.8 Clause 26 (Election of chairperson and other office bearers);
- 10.2.9 Clause 49 (Circular resolutions of Directors);

unless the wording of such resolution has first been approved by vote passed by a simple majority of the members of NewHope Baptist Church at a General Meeting convened and held in accordance with the NewHope Baptist Church Constitution.

## **MEMBERS:**

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### **11. Register of Members**

The Company must establish and maintain a Register of Members. The Register of Members must be kept by the Secretary at the Company's registered address or principal place of business in Australia and must contain:

- 11.1 for each current Member:
  - 11.1.1 name;
  - 11.1.2 address;
  - 11.1.3 any alternative address nominated by the Member for the service of notices; and
  - 11.1.4 the date the Member was entered on to the Register of Members.
- 11.2 for each person who ceased to be a Member in the last seven years:
  - 11.2.1 name;
  - 11.2.2 address last listed on the Register of Members;
  - 11.2.3 any alternative address nominated by the Member for the service of notices; and
  - 11.2.4 the dates the Membership started and ended.

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### **12. Membership not transferable**

Membership, and its associated rights, is not transferable.

## **PROCEEDINGS OF MEMBERS:**

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### **13. Resolutions of sole Member**

- 13.1 Notwithstanding any other provision of this Constitution, but subject to the Corporations Act, the sole Member of the Company may pass a resolution by the Member recording it and signing the record.
- 13.2 If the Corporations Act requires information or a document relating to the resolution to be lodged with ASIC, that requirement is satisfied by lodging the information or document with the resolution that is passed.

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### **14. Calling of General Meetings**

A General Meeting may be called by the Board, by a Director, or by the sole Member.

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### **15. Annual General Meeting**

- 15.1 If required by law, a General Meeting, called the Annual General Meeting, must be held:
  - 15.1.1 within 18 months after registration of the Company; and
  - 15.1.2 after the first Annual General Meeting, at least once in every calendar year.
- 15.2 Even if these items are not set out in the notice of meeting, the business of an Annual General Meeting may include:
  - 15.2.1 a review of the Company's activities;
  - 15.2.2 a review of the Company's finances;
  - 15.2.3 any auditor's report;
  - 15.2.4 the appointment of Directors; and
  - 15.2.5 the appointment and payment of auditors, if any.
- 15.3 Before or at any Annual General Meeting, the Board must give information to the sole Member on the Company's activities and finances during the period since the last Annual General Meeting. This does not limit the circumstances in which the Board must give information to the sole Member on the Company's activities and finances.

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### **16. Notice of General Meetings**

- 16.1 Notice of a General Meeting must be given to the sole Member, each Director and the auditor (if any).



- 16.2 Notice of a General Meeting must be provided in writing at least 21 days before the meeting, unless the sole Member consents to the meeting being held on shorter notice and the Corporations Act permits it.
- 16.3 Notice of a General Meeting must include:
- 16.3.1 the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
  - 16.3.2 the general nature of the meeting's business; and
  - 16.3.3 if applicable, that a Special Resolution is to be proposed and the wording of the proposed resolution.

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## **17. Changes to General Meeting arrangements**

- 17.1 The Board may change the venue for, postpone or cancel a General Meeting, subject to this clause 17.
- 17.2 If a General Meeting was called by or at the request of the sole Member, then it may not be postponed, cancelled or have the venue changed without the prior written consent of the sole Member.
- 17.3 If the venue of a General Meeting is changed, or if the General Meeting is cancelled or postponed under this clause 17:
- 17.3.1 Notice of the change, cancellation or postponement must be given to everyone entitled to receive notices of a General Meeting under this Constitution.
  - 17.3.2 A notice of postponement must specify the date, time and place to which the General Meeting has been postponed.
  - 17.3.3 The requirement to give 21 days' notice in clause 16.2 does not apply to notice given under this clause 17.3.
- 17.4 The only business that may be transacted at a General Meeting that is postponed is the business specified in the notice convening the meeting at first instance.

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## **18. Quorum at General Meetings**

- 18.1 No business may be conducted at a General Meeting, other than the election of a chairperson or adjournment of a meeting, unless a quorum is present at the time the meeting proceeds to business.
- 18.2 A quorum is the attendance of at least one authorised representative of the sole Member.

- 18.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of General Meeting, the General Meeting is adjourned to the date, time and place that the chairperson specifies.

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## **19. Auditor's right to attend General Meetings**

- 19.1 The auditor (if any) is entitled to attend any General Meeting and to be heard by the sole Member on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 19.2 The Company must give the auditor (if any) any communications relating to the General Meeting that a Member of the Company is entitled to receive.

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## **20. Using technology to hold meetings**

- 20.1 The Company may hold a General Meeting at two or more venues using any technology that gives the representatives of the sole Member and any other persons entitled under this Constitution to participate a reasonable opportunity to participate, including to hear and be heard.
- 20.2 Anyone using this technology is taken to be present in person at the meeting.

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## **21. Chairperson for General Meetings**

- 21.1 The Chair is entitled to be the chairperson of General Meetings.
- 21.2 If the Chair is absent, or is unwilling or unable to preside, the chairperson of the meeting must be:
- 21.2.1 a Director elected by the other Directors present; or
  - 21.2.2 where there is no Director present, willing and able to preside - a person appointed by the sole Member.

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## **22. Adjournment**

A General Meeting must be adjourned if the sole Member directs the chairperson to adjourn it.

## **DIRECTORS:**

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### **23. Composition of the Board**

- 23.1 The Company must have at least five Directors.
- 23.2 At least half of the Directors must be NewHope Baptist Church Members in good standing at NewHope Baptist Church.

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### **24. Eligibility**

A person is eligible for appointment as a Director of the Company if the person:

- 24.1 supports the Principal Purpose of the Company;
- 24.2 has appropriate skills, experience or qualifications, in the opinion of the Board of NewHope Services Ltd;
- 24.3 is personally committed to God's mission and actively involved in a Christian community that is aligned with NewHope Baptist Church, as determined by the Board of NewHope Services Ltd;
- 24.4 gives the Company a signed consent to act as a Director of the Company; and
- 24.5 is not disqualified from being a Director under the Corporations Act or the ACNC Act.

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### **25. Appointment of Directors**

- 25.1 The initial Directors are the people who have agreed to act as Directors and who are named as Directors in the application for registration of the Company.
- 25.2 The sole Member may by resolution appoint a person as a Director.
- 25.3 A person may not be appointed as a Director under this clause:
  - 25.3.1 Unless the person is eligible to be appointed as a Director under clause 24.
  - 25.3.2 If the appointment of the person would result in a breach of the requirement that at least 50 per cent of the Directors be persons who are NewHope Baptist Church Members in good standing at NewHope Baptist Church.

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## **26. Election of chairperson and other office bearers**

- 26.1 The sole Member shall appoint a Director as the Company's Chair, for such period and on such terms and conditions as the sole Member sees fit.
- 26.2 Office bearers of the Company other than the Chair may be elected by the Board from among the Board for such period and on such terms and conditions as the Board sees fit.
- 26.3 The description, number and duties of the office bearers other than the Chair (if any) shall be determined by the Board from time to time.
- 26.4 An office bearer may be elected for more than one successive term.
- 26.5 The Board may remove or suspend a person from any of the above offices, other than Chair, provided that not less than 14 days' notice in writing of an intention to move for such removal or suspension is given to the Secretary and the office bearer concerned by the person intending to move that motion.

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## **27. Term of office**

- 27.1 The term of office of a Director appointed by resolution of the sole Member is three years.
- 27.2 The term of office of an initial Director is three years.

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## **28. Tenure**

- 28.1 A person may be re-appointed as a Director at the expiry of his or her term of office (or any time after), subject to clause 28.2.
- 28.2 A Director who has held office for a continuous period of nine years or more may only be re-appointed by a Special Resolution.

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## **29. When a Director ceases to be a Director**

A Director ceases to be a Director if he or she:

- 29.1 gives notice of resignation as a Director to the Company;
- 29.2 dies;
- 29.3 is removed as a Director by a resolution of the sole Member in accordance with the requirements of the Corporations Act;
- 29.4 is absent for three consecutive Board meetings without approval from the Board; or

- 29.5 becomes disqualified from being a Director of the Company under the Corporations Act or the ACNC Act.

## **POWERS OF DIRECTORS:**

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### **30. Powers of Directors**

- 30.1 The Board is responsible for managing and directing the activities of the Company to achieve the Principal Purpose.
- 30.2 The Board may use all the powers of the Company except for powers that, under the Corporations Act or this Constitution, may only be exercised by the sole Member or NewHope Baptist Church. The Board must comply with any relevant by-laws of NewHope Services Ltd, to the greatest extent permitted at law.
- 30.3 The Board may exercise its powers to the exclusion of the Company in General Meeting.
- 30.4 The Board cannot remove a Director or auditor. Directors and auditors may only be removed by a resolution of the sole Member in accordance with the Corporations Act, and other provisions of this Constitution.

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### **31. Specific powers**

- 31.1 The Board may, without limitation, borrow money, charge any property or business of the Company, issue debentures or give security for a debt, liability or obligation of the Company or any other person.
- 31.2 The Board may, without limitation save as expressly provided in this Constitution or by law:
- 31.2.1 appoint a person (by name or by reference to position or office held) to be an attorney for the Company on the terms the Board decides;
  - 31.2.2 confer on such attorney any powers and discretions vested in or exercisable by the Board on the terms the Board decides;
  - 31.2.3 include in such an appointment any provisions for the protection and convenience of persons dealing with the attorney that the Board decides;
  - 31.2.4 authorise an attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney;
  - 31.2.5 remove an attorney, subject to any contract between the Company and the attorney.

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## **32. Defects in appointment**

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

- 32.1 there was a defect in the appointment of the person; or
- 32.2 the person was disqualified from continuing in office, voting on the resolution or doing the thing.<sup>1</sup>

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## **33. Delegation of Board powers**

- 33.1 The Board may delegate any of their powers and functions to a committee, a Director, an employee of the Company or any other person, as they consider appropriate.
- 33.2 The delegation must be recorded in the Company's minute book.
- 33.3 The Board may revoke a delegation.
- 33.4 The Board may specify terms, including the power to further delegate.

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## **34. Establishment of committees**

- 34.1 The Board may establish one or more committees comprised of such people that the Board thinks fit.
- 34.2 Subject to the directions of the Board, the meetings and proceedings of committees established by the Board are, to the greatest extent practical, governed by the provisions of this Constitution that regulate the proceedings of the Board.

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## **35. By-laws**

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

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## **36. Execution of documents**

The Company may execute a document in accordance with the Corporations Act, including without using a common seal if the document is signed by:

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<sup>1</sup> Sections 128 – 130 of the Corporations Act contain specific provisions which deal with assumptions people are entitled to make when dealing with the Company and its officers.

36.1 two Directors of the Company, or

36.2 a Director and the Secretary.

## **DUTIES OF DIRECTORS:**

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### **37. Duties of Directors**

The Directors must comply with any duties imposed on them by law, which may include duties under the Corporations Act as well as duties under the ACNC Act.

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### **38. Disclosure of conflicts of interest**

38.1 A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered by the Board:

38.1.1 to the other Directors; or

38.1.2 if all of the Directors have the same conflict of interest, to the sole Member.

38.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.

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### **39. Voting where there is a material personal interest**

39.1 Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed as a resolution without a meeting) must not, except as provided under clauses 39.2:

39.1.1 be present at the meeting while the matter is being discussed; or

39.1.2 vote on the matter.

39.2 A Director may still be present and vote if:

39.2.1 their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company;

39.2.2 their interest relates to a payment by the Company under clause 61 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act;

39.2.3 the Australian Securities and Investments Commission makes a declaration or class order allowing the Director to vote on the matter;

39.2.4 the Directors who do not have a material personal interest in the matter pass a resolution that:

39.2.4.1 identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company; and

- 39.2.4.2 says that those Directors are satisfied that the interest should not stop the Director from voting and/or being present (as the case requires); or
- 39.2.5 the Director is otherwise permitted to be present and vote under the provisions of the Corporations Act.

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## 40. Subsidiaries

- 40.1 If:
  - 40.1.1 the Company is a wholly-owned subsidiary; and
  - 40.1.2 the holding company is a charity; and
  - 40.1.3 the holding company exists for purposes similar to the Principal Purpose;

the Directors may act in good faith in the best interests of the holding company and in doing so are taken to be acting in good faith in the best interests of the Company provided that:

  - 40.1.4 the Company is not insolvent at the time the Directors so act; and
  - 40.1.5 the Company does not become insolvent because of those actions.
- 40.2 The Board may exercise the voting rights conferred by shares in a body corporate held or owned by the Company in the manner it thinks fit.

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## 41. Contracting with the Company and holding other offices

Subject to the Corporations Act and this Constitution, a Director may:

- 41.1 hold any paid office or place of profit in the Company (except auditor), and may be appointed to that office or position on terms (including remuneration and tenure) that the Board decides;
- 41.2 hold any office or position, or become interested in, any entity assisted by the Company or in which the Company has an interest of any kind, with the consent of the Board;
- 41.3 enter into a contract or arrangement with the Company or related body corporate as vendor, purchaser or in any other capacity;
- 41.4 participate in any association, institution, fund, trust or scheme for past or present employees or Directors of the Company or persons dependent on or connected with them;
- 41.5 act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;



- 41.6 sign or participate in the execution of a document by or on behalf of the Company in which he or she is interested;
- 41.7 do any of the above despite the fiduciary relationship of the Director's office:
  - 41.7.1 without liability to account to the Company for any direct or indirect benefit accruing to the Director; and
  - 41.7.2 without affecting the validity of any contract or arrangement.

## **BOARD MEETINGS:**

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### **42. Regulation of proceedings**

The Board may regulate its meetings and other procedures as it thinks fit, subject to this Constitution.

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### **43. Calling Board meetings**

A Director may call a Board meeting by giving notice to all of the other Directors.

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### **44. Notice of Board meetings**

- 44.1 Notice of a Board meeting:
    - 44.1.1 must specify the time and place of the meeting;
    - 44.1.2 need not state the nature of the business to be transacted at the meeting;
    - 44.1.3 must be given a reasonable period before the meeting, having regard to all the relevant circumstances;
    - 44.1.4 may be given in writing or by any other means of communication that has previously been agreed to by all of the Directors.
  - 44.2 A Director may waive notice of a Board meeting by notifying the Company to that effect.
- 

### **45. Chairperson for Board meetings**

- 45.1 The Chair is entitled to be the chairperson at Board meetings.
- 45.2 The Directors at a Board meeting may choose a Director to be the chairperson for that meeting if the Chair is:
  - 45.2.1 not present within 15 minutes after the starting time set for the meeting; or
  - 45.2.2 present but does not want to act as chairperson of the meeting.

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## **46. Quorum at Board meetings**

- 46.1 No business may be transacted any meeting unless a quorum is present at the meeting.
- 46.2 The quorum for a Board meeting will be present when both of the following are present:
  - 46.2.1 a majority of Directors entitled to vote are present; and
  - 46.2.2 a majority of the persons present and entitled to vote are Directors who are NewHope Baptist Church Members in good standing at NewHope Baptist Church.
- 46.3 If the number of Directors is reduced to fewer than three or is less than the number required for a quorum, the continuing Directors may act for the purpose of calling a General Meeting, but for no other purpose.

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## **47. Using technology to hold Board meetings**

- 47.1 The Board may hold its meetings by using any technology that is agreed to by all of the Directors. This agreement may be a standing one.
- 47.2 A Director may only withdraw his or her agreement within a reasonable period before the meeting.

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## **48. Passing Board resolutions**

- 48.1 A meeting of the Board at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Board under this Constitution.
- 48.2 A Board resolution will be passed at a Board meeting if a majority of the votes cast by Directors present and entitled to vote on the resolution are cast in favour of the resolution. A resolution passed in this manner is for all purposes a decision of the Board.
- 48.3 In a case where the votes cast on a motion are equal, the chairperson does not have a casting vote and the motion is taken as lost.

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## **49. Circular resolutions of Directors**

- 49.1 The Board may pass a resolution without a Board meeting being held.
- 49.2 A Board resolution is passed without a meeting if all the Directors entitled to vote on the resolution cast a vote in favour of it by agreeing to it in the manner set out in clause 49.3 or clause 49.4.

- 49.3 Each Director may sign:
- 49.3.1 a single document setting out the resolution and containing a statement that the Director agrees to the resolution; or
  - 49.3.2 separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 49.4 The Company may send a resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 49.5 A resolution without a meeting is passed when the last Director entitled to vote on the resolution votes in favour of it by signing or otherwise agreeing to the resolution in the manner set out in clause 49.3 or clause 49.4.
- 49.6 It is not necessary to obtain the vote of a Director on a leave of absence approved by the Directors to a resolution in order to pass the resolution under this clause 49.

## **SECRETARY:**

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### **50. Appointment and role of Secretary**

- 50.1 The Company must have at least one Secretary, who may also be a Director.
- 50.2 A Secretary must be appointed by the Board (after giving the Company his or her signed consent to act as Secretary of the Company) and may be removed by the Board.
- 50.3 The Board may decide the terms and conditions under which a Secretary is appointed, including remuneration (if any).

## **MINUTES AND RECORDS:**

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### **51. Minutes and records**

- 51.1 The Company must, within one month, make and keep the following records:
- 51.1.1 minutes of proceedings and resolutions of the sole Member, whether at a General Meeting or passed without a General Meeting;
  - 51.1.2 minutes of proceedings and resolutions of Board meetings (including meetings of any committees); and
  - 51.1.3 minutes of resolutions of the Board passed without a meeting.
- 51.2 The Board must ensure that minutes of a General Meeting or a Board meeting are signed within a reasonable time after the meeting by:
- 51.2.1 the chairperson of the meeting; or

- 51.2.2 the chairperson of the next meeting.
- 51.3 The Board must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

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## **52. Financial and related records**

- 52.1 The Company must make and keep written financial records that:
  - 52.1.1 correctly record and explain its transactions and financial position and performance; and
  - 52.1.2 enable true and fair financial statements to be prepared and to be audited.
- 52.2 The Company must also keep written records that correctly record its operations.
- 52.3 The Company must retain its records for at least seven years.
- 52.4 The Directors must take reasonable steps to ensure that the Company's records are kept safe.

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## **53. Member access to documents**

The sole Member shall have the right to inspect and copy any books, records or documents of the Company free of charge, subject only to any restrictions that may exist at law.

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## **54. Directors' access to documents**

A Director has a right of access to the financial records of the Company at all reasonable times.

## **NOTICE:**

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## **55. What is notice**

Anything written to or from the Company under any clause in this Constitution is written notice and is subject to clauses 56 to 58, unless specified otherwise.

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## **56. Notice to the Company**

Written notice or any communication under this Constitution may be given to the Company, the Board or the Secretary by:

- 56.1.1 delivering it to the Company's registered office;
- 56.1.2 posting it to the Company's registered office or to another address chosen by the Company for notice to be provided;
- 56.1.3 sending it to an email address or other electronic address notified by the Company to the sole Member as the Company's email address or other electronic address; or
- 56.1.4 sending it to the fax number notified by the Company to the sole Member as the Company's fax number.

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## **57. Notice to Member**

57.1 Written notice or any communication under this Constitution may be given to a Member:

- 57.1.1 in person;
- 57.1.2 by posting it to, or leaving it at the address of the Member in the Register of Members or an alternative address (if any) nominated by the Member for service of notices;
- 57.1.3 sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any); or
- 57.1.4 if agreed to by the Member, by notifying the Member at an email or other electronic address nominated by the Member, that the notice is available at a specified place or address (including an electronic address).

57.2 If the Company does not have an address for the Member, the Company is not required to give notice in person.

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## **58. Calculation of notice period**

58.1 A notice:

- 58.1.1 delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered;
- 58.1.2 sent by post, is taken to be given on the date on which it would be delivered in the ordinary course of post;
- 58.1.3 sent by email or other electronic method, is taken to be given on the day it is sent; and
- 58.1.4 given under clause 57.1.4 is taken to be given on the day the notification that the notice is available is sent.

- 58.2 In calculating the period of notice to be given under this Constitution, both the days on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

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## **59. Non-receipt of notice**

- 59.1 The non-receipt of notice of a General Meeting or Board meeting does not invalidate anything done or any resolution passed at the meeting if the non-receipt of notice occurred by accident or inadvertent error.
- 59.2 A person who attends a meeting waives any objection that person may have to non-receipt of notice of the meeting.

## **FINANCIAL YEAR:**

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### **60. Company's financial year**

The Company's financial year is from 1 January to 31 December, unless the Board passes a resolution to change the financial year.

## **INDEMNITY AND INSURANCE:**

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### **61. Indemnity**

- 61.1 The Company indemnifies:
- 61.1.1 every person who is or has been an officer of the Company; and
  - 61.1.2 where the Board considers it appropriate to do so, any person who is or has been an officer of a related body corporate of the Company;
- against any liability (including without limitation liability for legal costs) incurred as a result of the person's position as an officer (other than to the Company or a related body corporate) to the full extent permitted by law.
- 61.2 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Company.

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## 62. Insurance

To the extent permitted by law (including the Corporations Act), and if the Board considers it appropriate, the Company may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the Company or a related body corporate against any liability incurred by the person as an officer of the Company or related body corporate.

## WINDING UP:

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## 63. Surplus Assets not to be distributed to Member

If the Company is wound up, any Surplus Assets must not be distributed to a Member or a former Member of the Company in his or her capacity as a Member.

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## 64. Distribution of Surplus Assets

- 64.1 Any Surplus Assets that remain after the Company is wound up must be distributed to NewHope Baptist Church or any successor entity to it, subject to clause 64.2, the Corporations Act and any other applicable law, and any court order.
- 64.2 If there is no such entity that is NewHope Baptist Church or a successor to it, or if NewHope Baptist Church or its successor entity is not a charity, then any Surplus Assets that remain after the Company is wound up must be distributed to one or more charities:
- 64.2.1 with charitable purpose(s) similar to, or inclusive of, the Principal Purpose; and
  - 64.2.2 which also prohibit the distribution of any Surplus Assets to its Members to at least the same extent as the Company.
- 64.3 The decision as to the charity or charities to be given the Surplus Assets must be made by a resolution of the sole Member. If the sole Member does not make this decision, the Company may apply to the Supreme Court in the state of registration to make this decision.

## DEFINITIONS AND INTERPRETATION:

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## 65. Definitions

In this Constitution:

‘**ACNC Act**’ means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).

‘**audit**’ may include a review if permitted by the ACNC Act.

‘**auditor**’ may include a reviewer if permitted by the ACNC Act.

‘**Board**’ means the board of Directors for the time being of the Company.

‘**Chair**’ means a person appointed to the position of Chair under clause 26.

‘**chairperson**’ means the chairperson of a meeting.

‘**charity**’ means an entity that is a charity at law. For these purposes, law includes common law, equity and statute, to the extent that each applies in the relevant jurisdiction be it Commonwealth, Victorian or otherwise.

‘**Company**’ means the Company referred to in clause 1.

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

‘**Director**’ means a Director for the time being of the Company.

‘**General Meeting**’ means a meeting of the Members and includes the Annual General Meeting.

‘**Guarantee**’ means the amount specified in clause 4.

‘**Member**’ means a person whose name is entered on the Register of Members and Membership has a corresponding meaning.

‘**NewHope Baptist Church**’ means the unincorporated association in the State of Victoria that is a constituent Church of the Baptist Union of Victoria, known as NewHope Baptist Church ABN 76994595338.

‘**NewHope Baptist Church Member**’ means a person who is a member of NewHope Baptist Church in accordance with its Constitution.

‘**NewHope Services Ltd**’ means NewHope Services Ltd ACN 620 954 083, a company that is established and controlled by NewHope Baptist Church.

‘**Person**’ includes an individual and an incorporated body, as context requires.

‘**Principal Purpose**’ means the charitable purpose(s) for which the Company is established, set out in clause 6.

‘**Register of Members**’ means a register of Members established and maintained under clause 11.

‘**Secretary**’ means the Secretary for the time being of the Company and if there are joint secretaries, any one or more of such joint secretaries.

‘**Special Resolution**’ means a resolution:

- of which notice has been given under clause 16.3.3; and
- that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

‘**Surplus Assets**’ means any assets of the Company that remain after paying all debts and other liabilities of the Company, including the costs of winding up.



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## **66. Replaceable rules**

The replaceable rules set out in the Corporations Act do not apply to the Company.

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## **67. Interpretation**

In this Constitution:

- 67.1 If an expression in this Constitution has a meaning in the Corporations Act, the meaning from the Corporations Act will apply to the expression, except where a contrary intention appears.
  - 67.2 Words importing the singular include the plural and vice-versa and words importing any gender include all genders, unless the contrary is expressly provided.
  - 67.3 Reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act.
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