



Constitution

Canteen – The Australian
Organisation for Young People Living
with Cancer

ABN 77 052 040 516

Adopted by Members on August 2016

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Constitution

Canteen – The Australian Organisation for Young People Living with Cancer

A company limited by guarantee and not having any share capital

1 Company's name

The name of the company is Canteen – The Australian Organisation for Young People Living with Cancer ABN 77 052 040 516 (**Canteen**).

2 Company's purposes

Canteen's principal purposes are to:

- (a) enable active and effective youth leadership at every level of Canteen;
- (b) research the unique needs of young people living with cancer in order to develop interventions that improve their health and wellbeing;
- (c) facilitate the unique support provided by young people living with cancer connecting with others going through a similar experience;
- (d) provide high quality professional treatment and support options for all young people living with cancer;
- (e) advance the interests and improve the wellbeing of young people living with cancer; and
- (f) advocate for the needs of young people living with cancer.

3 Canteen's powers

Solely for carrying out Canteen's purposes, Canteen may:

- (a) raise funds or encourage contributions by way of gifts (by will or otherwise), grants, sponsorships, personal or public appeals or in any other manner;
- (b) promote any campaign or advocacy strategy in relation to Canteen's purposes as set out in rule 2;
- (c) provide funds, facilities or other material benefits;
- (d) accept and hold funds or property of any kind for any charitable objects or purposes specified or to be specified by any person or to be selected by the directors from a class of trusts, objects or purposes specified by any person;

- (e) engage or dismiss any employee, agent, contractor or professional person;
- (f) accept and undertake trusteeships, administration and management of trusts and funds, whether as trustee or as agent for the trustee or otherwise, and charge and accept fees, commission or other remuneration for doing so;
- (g) purchase, take on lease or in exchange, hire or otherwise acquire real or personal property, and any rights or privileges;
- (h) control, manage, lease, exchange, mortgage, charge, sell, transfer, surrender, dispose of, develop, carry on business or otherwise deal with any real or personal property of any kind or any estate or interest in that property;
- (i) invest, deal with and lend money and otherwise provide financial accommodation to, and guarantee or otherwise secure loans to, charitable objects or purposes;
- (j) construct, improve, maintain, develop, work, manage and control real or personal property;
- (k) enter into contracts and deeds;
- (l) appoint an attorney or agent with powers (including the power to sub-delegate) and on terms Canteen thinks fit, and procure registration or recognition of Canteen in any other country or place;
- (m) enter into arrangements with any government or authority;
- (n) borrow, raise or secure the payment of money and secure the repayment or performance of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge or overdraft or by the issue of debentures or debenture stock (perpetual or otherwise) charged on all or any of Canteen's property (both present and future) and purchase, redeem or pay off those securities;
- (o) make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments;
- (p) print and publish information in hard copy or by electronic means;
- (q) accept any gift of real or personal property, whether subject to any special trust or not and decline to accept any gift;
- (r) appoint patrons of Canteen;
- (s) make donations for charitable purposes;
- (t) arrange conferences, meetings and other forums;
- (u) subscribe to, become a member of and co-operate with or amalgamate with any other association or organisation, whether incorporated or not, whose objects are similar to those of Canteen;
- (v) establish and resource Canteen in all Australian States and Territories and any other locations;
- (w) develop sources of funding to further the work of Canteen; and

- (x) do all other things that are incidental or conducive to carrying out Canteen's purposes.

4 Not for profit

4.1 Application of Canteen's income and property

- (a) Canteen's income and property must be applied solely towards promoting Canteen's purposes.
- (b) No part of the income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, or other profit distribution, to any member or director.
- (c) This rule 4 does not prohibit indemnification of, or payment of premiums on contracts of insurance for, any director to the extent permitted by law and this constitution.

4.2 Payments of directors fees

No directors fees may be paid to the directors.

4.3 Other payments to directors

All other payments to directors must be approved by the directors including, but not limited to:

- (a) out-of-pocket expenses incurred by a director in performing a duty as a director of Canteen; or
- (b) a service rendered to Canteen by a director in a professional or technical capacity or as an employee, other than in the capacity as a director of Canteen, where:
 - (1) the provision of the service has the prior approval of the directors; and
 - (2) the amount payable is not more than an amount that commercially would be reasonable payment for the service.

5 Members and Friends

5.1 Application to be member

- (a) The members are:
 - (1) Full Members;
 - (2) any other persons the directors admit to membership in accordance with this constitution and on such terms as the

directors decide (including as to voting rights in accordance with rule 12.10).

- (b) An application for membership of Canteen must be via the format prescribed by the directors from time to time, and may be required to be accompanied by such medical evidence as the directors require.
- (c) After receipt of an application for membership, the directors (or a delegate approved by the directors) must consider the application and decide whether to admit or reject the applicant as a member.
- (d) A person who is refused Full Membership of Canteen may appeal that decision in accordance with any process determined by the Board from time to time. If the Board has not determined any such process, that person may appeal at the next scheduled Annual General Meeting of Canteen and will be admitted as a member of Canteen if confirmed by a majority of votes cast at that Annual General Meeting by members.
- (e) Every member agrees to comply with this constitution and support the purposes of Canteen set out in rule 2.

5.2 Subscription fee

- (a) An annual subscription fee or variation to that fee may be decided by the directors and will be effective only if approved by members at a general meeting.
- (b) If an annual subscription fee is approved by the members in accordance with rule 5.2(a), the directors must notify all members of the amount and time for payment of any new or varied annual subscription fee. The amount of the new or varied fee will be available to the members in a notice or a membership policy.
- (c) If an annual subscription fee approved by members is not received:
 - (1) after one month of the due date, the directors may issue a written reminder notice to the member; and
 - (2) after one month of the written reminder notice, the member's rights and privileges associated with that membership will be suspended, including the right to receive notices of general meetings and the right to attend and vote at general meetings.
- (d) If a member who was suspended pursuant to rule 5.2(c) has not paid any annual subscription fee for more than 2 months after the written reminder notice, the person ceases to be a member, unless the person is also a director, in which case the suspension under rule 5.2(c) will continue.

5.3 Register

Canteen must maintain a register of members setting out the name, address, alternate electronic or other address (if any) for receipt of notices and date membership starts and ceases.

5.4 Application to be a Friend

- (a) The directors may invite persons to apply to be a Friend of Canteen from time to time.
- (b) The directors may invite Friends of Canteen to attend meetings of members and otherwise contribute to Canteen as the directors consider appropriate.
- (c) Friends of Canteen do not have a right to vote at any meeting of members.
- (d) An application to be a Friend of Canteen must be made in writing in the form prescribed by the directors.
- (e) An annual subscription fee may be decided by the directors, and notified to Friends. If the directors decide that an annual subscription applies, rule 5.2(c) applies as if a reference to member in that rule were read as a reference to Friend.

6 When membership ceases

6.1 Death, resignation and other events

A person immediately ceases to be a member if the person:

- (a) dies;
- (b) resigns as a member by giving written notice to Canteen;
- (c) is expelled under rule 6.2;
- (d) becomes, if the directors so decide in their absolute discretion, an untraceable member because the person has ceased to respond or otherwise communicate with his or her Registered Address; or
- (e) ceases to be a member under rule 5.2(d).

6.2 Expulsion

- (a) The directors may by resolution expel a member who is not a director from Canteen if, in their absolute discretion, they decide it is not in the interests of Canteen for the person to remain a member.
- (a) If the directors intend to consider a resolution under this rule, at least one week before the meeting at which the resolution is to be considered, they must give the member written notice:
 - (1) stating the date, place and time of the meeting;
 - (2) setting out the intended resolution and the grounds on which it is based; and
 - (3) informing the member that he or she may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.

7 Liability of member

The liability of the members is limited to the amount of the guarantee given in rule 8.

8 Guarantee by member

Every member must contribute an amount not more than \$20 to the property of Canteen if it is wound up while the person is a member or within one year after the person ceases to be a member, for:

- (a) payment of Canteen 's debts and liabilities contracted before the time he or she ceased to be a member; and
- (b) costs, charges and expenses of winding up.

9 Winding up

- (a) If, on the winding up or dissolution of Canteen , any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to an institution:
 - (1) that is charitable at law;
 - (2) whose constitution prohibits distributions and payments to its members and directors to an extent at least as great as in rule 4; and
 - (3) gifts to which can be deducted under Division 30 of the ITAA 97 due to it being characterised as a public benevolent institution under item 4.1.1 of the table in section 30-45.
- (b) The identity of the institution referred to in rule 9(a) must be decided by the directors, or if the directors do not wish to decide or do not decide, it must be decided by the members by ordinary resolution at or before the time of winding up of Canteen and, if the members do not decide, by the Supreme Court of the state or territory in which Canteen is registered.

10 Deductible Gift Recipient status

10.1 **Application of this rule**

This rule only applies if Canteen is a deductible gift recipient under ITAA97.

10.2 **Maintaining a Gift Account**

Canteen must maintain a management account (**Gift Account**):

- (a) to identify and record Gifts and Deductible Contributions;
- (b) to identify and record any money received by Canteen because of those Gifts and Deductible Contributions; and
- (c) that does not record any other money or property.

10.3 **Limits on use of Gift Account**

Canteen must use the Gift Account only for its principal purposes.

10.4 **Winding up or revocation of deductible gift recipient**

- (a) Upon:
 - (1) the winding up of Canteen; or
 - (2) Canteen ceasing to be deductible gift recipient under the ITAA 97,
 whichever is earlier, any surplus Gifts and Deductible Contributions and money received by Canteen because of those Gifts and Deductible Contributions must be transferred to a fund, authority or institution:
 - (3) which is charitable at law;
 - (4) whose constitution prohibits distributions or payments to its members to an extent at least as great as is outlined in rule 4; and
 - (5) gifts to which are deductible under the ITAA 97 on the basis that it is characterised as a public benevolent institution as described in item 4.1.1 of the table in section 30-45.
- (b) The identity of the institution referred to in rule 10.4(a) must be decided by the directors, or if the directors do not wish to decide or do not decide, it must be decided by the members by ordinary resolution at or before the time of winding up of Canteen and, if the members do not decide, by the Supreme Court of the state or territory in which Canteen is registered.

10.5 **Receipts**

Receipts for Gifts or Deductible Contributions must state the;

- (a) name and ABN of Canteen;
- (b) the date and amount (or value, if property) of the Gift or Deductible Contribution;
- (c) the name of the donor or contributors;

the fact that it was a Gift or Deductible Contribution (and if it was a Deductible Contribution, the relevant fundraising event and GST inclusive market value of the event or goods or services purchased).

11 Altering this constitution

Members may alter the constitution in accordance with the Corporations Act. However, members must not alter the constitution in a way that would result in Canteen ceasing to be a charity.

12 Accountability to members

12.1 Accountability to members

- (a) Canteen must be accountable to the members within the terms of the law, including, as applicable, the Corporations Act, the ACNC Act and this constitution.
- (b) The directors may decide the manner in which Canteen will be accountable to the members and the manner in which they will provide an adequate opportunity for members to raise any concerns about the governance, activities and finances of Canteen.

12.2 Calling general meetings

A general meeting may only be called:

- (a) by a directors' resolution;
- (b) at the request of at least three directors;
- (c) at the request of at least 40 members entitled to vote at an Annual General Meeting, who must provide a notice in writing to Canteen that:
 - (1) is signed by each of the relevant members; and
 - (2) sets out the reason for the requisition of the meeting; and
- (d) as provided or required under any applicable law or under any policy adopted by the directors.

12.3 Notice of general meetings

- (a) Subject to the provisions of the Corporations Act relating to special resolutions and agreements for shorter notice, at least 21 days' notice of every general meeting must be given in any manner authorised by rule 16 to each person who is at the date of the notice:
 - (1) a member;
 - (2) a director;
 - (3) the auditor of Canteen, if applicable.
- (b) A notice of a general meeting must:
 - (1) specify the date, time and place of the meeting;

- (2) state the general nature of the business to be transacted at the meeting and if a special resolution is proposed, state the full terms of the special resolution; and
 - (3) specify any details of voting such as proxies, direct voting or other methods, if any, as decided by the directors.
- (c) A person may waive notice of a general meeting or consent to shorter notice by written notice to Canteen .
- (d) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting does not invalidate anything done or resolution passed at the general meeting if:
- (1) the non-receipt or failure occurred by accident or error; or
 - (2) before or after the meeting, the person has notified or notifies Canteen of that person's agreement to that thing or resolution.
- (e) A person's attendance at a general meeting waives any objection that person may have to:
- (1) a failure to give notice, or the giving of a defective notice, of the meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and
 - (2) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

12.4 Changing or postponing general meetings

The directors may change the venue for, postpone, adjourn or cancel a general meeting if:

- (a) they reasonably consider that the meeting has become unnecessary;
- (b) the venue would be unreasonable or impractical;
- (c) a change is necessary in the interests of conducting the meeting efficiently;
- (d) a quorum is not present under rule 12.5; or
- (e) the members resolve to adjourn the member under rule 12.8.

12.5 Quorum at general meetings

- (a) No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum consists of at least 20 members entitled to vote and be present at the meeting, whether present in person or by proxy, attorney or representative. A person may only be counted once even if a person is a representative or proxy of more than one member.

- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting the meeting stands adjourned to the day, and at the time and place, that the directors decide or, if the directors do not make a decision, to the same day in the next week at the same time and place.
- (d) If at the adjourned meeting under rule 12.5(c), a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

12.6 General meetings by technology

- (a) The simultaneous linking together by telephone or other electronic means of a sufficient number of the members in person, to constitute a quorum constitutes a meeting of the members, provided each member has a reasonable opportunity to participate at the meeting.
- (b) All the provisions in this constitution relating to meetings of the members apply, as far as they can, with any necessary changes, to meetings of the members by telephone or other electronic means.
- (c) A member who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the members involved was at that place for the duration of the meeting.

12.7 Chairperson of general meetings

- (a) The chairperson of directors must preside as chairperson at a general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.
- (b) If there is no chairperson of directors or both the conditions in rule 12.7(a) have not been met, the members present must elect another chairperson of the meeting.
- (c) A chairperson elected under rule 12.7(b) must be:
 - (1) another Member Director who is present and willing to act; or
 - (2) if no other Member Director present at the meeting is willing to act, a member who is present and willing to act.

12.8 Conducting and adjourning general meetings

- (a) A question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.
- (b) The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting

except the business left unfinished at the meeting from which the adjournment took place.

- (c) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.
- (d) Except as provided by rule 12.8(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

12.9 Decisions of the members

- (a) The directors may decide the manner voting is held at a meeting or, where a meeting is not required, by postal, electronic or any other means of voting.
- (b) Except where by law a resolution requires a special majority, resolutions must be decided by a majority of the votes cast by the members. Such a decision is for all purposes a decision of the members.
- (c) Where the votes on a proposed resolution are equal:
 - (1) the chairperson does not have a second or casting vote; and
 - (2) the proposed resolution is taken as lost.
- (d) A resolution put to the vote of a general meeting must be decided on a show of hands unless, before the vote is taken or before or immediately after the declaration of the result of the show of hands, a poll is demanded by:
 - (1) the chairperson of the meeting;
 - (2) at least 2 members present and with the right to vote on the resolution.
- (e) A demand for a poll does not prevent a general meeting continuing to transact any business except the question on which the poll has been demanded.
- (f) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has on a show of hands been:
 - (1) carried;
 - (2) carried unanimously;
 - (3) carried by a particular majority; or
 - (4) lost,and an entry to that effect in the book containing the minutes of Canteen's proceedings, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (g) If a poll is duly demanded at a general meeting, it must be taken in such manner, and either at once or after an interval or adjournment or otherwise, as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded.

- (h) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.
- (i) The demand for a poll may be withdrawn at any time before the poll is taken.
- (j) If Canteen has only one member, Canteen may pass a resolution by the member recording it and signing the record.
- (k) A members' resolution may be passed without a meeting (unless a meeting is required under this constitution or the Corporations Act). Such a resolution is passed if all the members entitled to vote sign or agree in writing to the resolution. The resolution is taken to be passed on the date the last member signs or agrees to the resolution.

12.10 Voting rights

- (a) Subject to this constitution and to any rights or restrictions attached to any class of membership, Full Members each have one vote at a meeting of members.
- (b) Subject to this constitution, each member entitled to vote at a meeting of members may vote as decided by the directors:
 - (1) in person or, where a member is a body corporate, by its representatives;
 - (2) by one proxy (if permitted); or
 - (3) by direct vote (if permitted).
- (c) A proxy (if any) or representative is entitled to a separate vote for each member the person represents, in addition to any vote the person may have as a member in his or her own right.
- (d) If the directors decide, direct voting may be permitted in addition to or instead of proxy voting. The directors must decide the manner direct votes are to be given.
- (e) An objection to the qualification of a person to vote must be:
 - (1) raised before the vote objected to is counted; and
 - (2) referred to the chairperson, whose decision is final.
- (f) A vote not disallowed by the chairperson under rule 12.10(e) is valid for all purposes.

12.11 Appointment of a proxy or representative

- (a) A member may appoint a proxy, and an incorporated member (a body corporate) may appoint a proxy or a representative, to attend meetings and vote on behalf of the member. The proxy does not need to be a member of Canteen.
- (b) Unless the directors otherwise agree, the appointment of a proxy or representative must be in writing and state:
 - (1) the name of the member; and

- (2) the name of the proxy or representative,
and be signed by the member.
- (c) An appointment of a representative may be for one or more meetings and includes any written resolutions.
- (d) Unless otherwise provided in the written appointment, the appointment of a representative will give the proxy or representative the power:
 - (1) to agree to a meeting being convened by shorter notice than is required by law or by this constitution;
 - (2) to vote on any amendment to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (3) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
 - (4) to ask questions and other customary actions at a meeting.
- (e) The written appointment of a proxy or representative may direct the proxy or representative how to vote in respect of a particular resolution and, where this is provided, the proxy or representative is not entitled to vote on the proposed resolution except as directed in the appointment.
- (f) Unless the directors otherwise agree, a proxy or representative may not vote at a general meeting or adjourned meeting or on a poll unless a written appointment is:
 - (1) received in the manner specified for that purpose in the notice convening the meeting before the time specified in the notice; or
 - (2) in the case of an adjourned meeting, provided to the secretary at the adjourned meeting.
- (g) The appointment of a proxy is not revoked by the individual member appointer attending and taking part in the general meeting but, if the appointer votes on a resolution, the person acting as proxy for the appointer is not entitled to vote as the appointer's proxy on the resolution.

12.12 Direct votes

- (a) A person who has cast a direct vote is entitled to attend a meeting. However, they are not able to vote on a poll or on a show of hands on resolutions the subject of the direct vote at that meeting. If a member attempts to cast more than one vote on a particular resolution the order of priority is:
 - (1) direct vote;
 - (2) a vote by a member present on a show of hands.
- (b) A direct vote may be in any form decided or accepted by the directors signed by the member but is not valid unless the direct vote is received by the secretary, no later than 24 hours before the time of the meeting.

- (c) The chairperson must ensure that a certificate, signed by the secretary, of any direct votes received is available at the meeting ahead of any vote taken.
- (d) If a vote is taken at a meeting on a resolution on which a direct vote was cast, the chairperson of the meeting must:
 - (1) where the meeting votes other than by a poll (ie on a vote on a show of hands) count each member who has submitted a direct vote for or against the resolution in accordance with their direct vote as well as the votes cast at the meeting; and
 - (2) on a poll, count the votes cast by each member who has submitted a direct vote directly for or against the resolution.

13 Directors

13.1 Appointing and removing directors

- (a) The minimum number of directors is 3. The maximum number of directors is to be fixed by the directors, but may not be more than 11, unless Canteen in general meeting resolves otherwise. The directors must not fix a maximum which is less than the number of directors in office at the time.
- (b) The majority of directors must be Member Directors.
- (c) The directors may appoint a Member Director or Associate Director provided that:
 - (1) the number of directors does not exceed the maximum number fixed under rule 13.1(a);
 - (2) the majority of directors will be Member Directors;
 - (3) before appointing the director, that individual signs a consent to act as a director;
 - (4) the director is not disqualified from managing a corporation under the Corporations Act, nor disqualified from being a responsible entity under the ACNC Act; and
 - (5) if the directors decide that members or Friends must pay an annual subscription, that subscription fee must continue to be paid.

13.2 Retirement of directors by rotation

- (a) A director appointed by the directors under rule 13.1(c) holds office only until the conclusion of the next Annual General Meeting following his or her appointment, at which time he or she may seek election at the Annual General Meeting to remain in office.

- (b) No director may hold office without re-election beyond the third Annual General Meeting following the meeting at which they were last elected or re-elected.
- (c) A director retiring from office is eligible for re-election subject to any maximum term determined by the Board, unless the maximum term is varied for a particular director by the members in general meeting.
- (d) The retirement of a director from office and the re-election of the director or the election of another person to that office (as the case may be) takes effect at the conclusion of the relevant meeting at which they occur.

13.3 Nomination of Member Directors

- (a) The Board may appoint a Member Director candidates either as an addition to the existing directors or to fill a casual vacancy.
- (b) A person appointed in accordance with rule 13.3(a) will hold office as a Member Director until the end of the next Annual General Meeting that is at least 8 weeks following his or her appointment, unless he or she is elected by members at that Annual General Meeting.
- (c) At least 50 members with an entitlement to vote at an Annual General Meeting may nominate a candidate for election as a Member Director at that Annual General Meeting, either as an addition to the existing directors or to fill a casual vacancy, by providing Canteen with a notice that is signed by at least 50 members and complies with rule 13.3(d).
- (d) A nomination made in accordance with rule 13.3(c) must be:
 - (1) made in writing and signed by the nominating members;
 - (2) accompanied by a short biographical statement and the written consent of the candidate (which may be endorsed on the form of nomination); and
 - (3) delivered to Canteen no later than 8 weeks prior to the Annual General Meeting of Canteen at which elections of directors will be held.
- (e) Any person appointed by the Board or nominated for election in accordance with this rule 13.3 will be put forward to members for election at the next Annual General Meeting that is at least 8 weeks from the date of appointment by the Board or the date the nomination is received by Canteen, unless the Board determines that a period of less than 8 weeks should apply.
- (f) In order to be appointed or nominated for election (as the case may be) as a Member Director, the relevant candidate must be a Full Member at the time of appointment or initial nomination.

13.4 Nomination of Associate Directors

- (a) The Board may appoint an Associate Director either as an addition to the existing directors or to fill a casual vacancy.

- (b) A person appointed in accordance with rule 13.4(a) will hold office as an Associate Director until the end of the next Annual General Meeting that is at least 8 weeks following his or her appointment, unless he or she is elected by members at that Annual General Meeting.
- (c) At least 50 members with an entitlement to vote at an Annual General Meeting may nominate a candidate for election as an Associate Director at that Annual General Meeting, either as an addition to the existing directors or to fill a casual vacancy, by providing Canteen with a notice that is signed by at least 50 members and complies with rule 13.4(d).
- (d) A nomination made in accordance with rule 13.4(c) must be:
 - (1) made in writing and signed by the nominating members;
 - (2) accompanied by a short biographical statement and the written consent of the candidate (which may be endorsed on the form of nomination); and
 - (3) delivered to Canteen no later than 8 weeks prior to the Annual General Meeting of Canteen at which elections of directors will be held.
- (e) Any person appointed or nominated for election in accordance with this rule 13.4 will be put forward to members at the next Annual General Meeting that is at least 8 weeks from the date of appointment by the Board or the date the nomination is received by Canteen, unless the Board determines that a period of less than 8 weeks should apply.

13.5 Removal from office and vacation of office

- (a) Canteen may by resolution of the members remove any director before the expiration of their period of office in accordance with the Corporations Act, and may by a resolution of the Board appoint another person to fill the casual vacancy in accordance with rule 13.1.
- (b) The office of a director automatically becomes vacant:
 - (1) in the circumstances outlined in the Corporations Act;
 - (2) if the director becomes of unsound mind or a director is, or their estate is, liable to be dealt with in any way under the law relating to mental health;
 - (3) if the director is removed from office by resolution of the members;
 - (4) if the director is disqualified from managing a corporation under the Corporations Act or disqualified from being a responsible entity under the ACNC Act;
 - (5) except to the extent of a leave of absence granted by the directors, if the director is absent for more than 6 months from meetings of the Board held during that period;
 - (6) in the case of a Member Director, ceases to be a Full Member, unless the Board determines otherwise; or

- (7) if the director resigns by written notice to Canteen.

13.6 Directors conflict of interest

- (a) A director must disclose a perceived or actual material conflict of interest to the other directors.
- (b) Unless the directors otherwise decide and where permitted by law, a director who has a material personal interest in a matter that is being considered at a directors' meeting must not:
- (1) be present while the matter is being considered at the meeting;
or
- (2) vote on the matter.
- (c) The directors may make a policy or rules relating to disclosure of interests and subsequent requirements of the directors. Any policy or rules will bind all directors but no act, transaction, agreement, instrument, resolution or other thing with a third party is invalid or voidable only because a director fails to comply with the policy or rules.
- (d) A director is not disqualified from contracting or entering into an arrangement with Canteen as vendor, purchaser or in another capacity, merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- (e) A contract or arrangement entered into by or on behalf of Canteen in which a director is in any way interested is not invalid or voidable merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- (f) A director who is interested in an arrangement involving Canteen is not liable to account to Canteen for any profit realised under the arrangement merely because the director holds office as a director or because of the fiduciary obligations arising from that office, provided that the director complies with applicable disclosure requirements under this constitution, any policy or rules adopted by the directors, and under the Corporations Act and ACNC Act regarding that interest.
- (g) A director may hold any other office or position (except auditor) in Canteen or related body corporate in conjunction with his or her directorship and may be appointed to that office or position on terms (including remuneration and tenure) that the directors decide.

13.7 Powers and duties of directors

- (a) The directors are responsible for carrying out Canteen's purposes set out in rule 2 and for managing Canteen's affairs to further the purposes.
- (b) The directors may exercise all Canteen's powers which are not required, by the Corporations Act or by this constitution, to be exercised by the members in a general meeting.
- (c) The directors must ensure they are aware of, and comply with their duties as directors.

- (d) The directors must ensure Canteen's financial affairs are managed in a responsible manner, including:
 - (1) maintaining financial records that correctly record and explain its transactions and financial performance, and enable true and fair financial statements to be prepared annually;
 - (2) deciding how payments are to be approved or executed by or on behalf of Canteen; and
 - (3) ensuring Canteen does not continue to operate while insolvent.
- (e) The directors may delegate any of their powers and functions to one or more of the directors, a committee, an employee, or agent or other person as the directors decide.

13.8 Meetings of directors

- (a) The directors may meet together and adjourn and otherwise regulate their meetings as they think fit.
- (b) A director may call a meeting of the directors by giving reasonable notice to the other directors, or by the secretary giving notice of the meeting to all directors.
- (c) A notice of a meeting of directors:
 - (1) must specify the time and place of the meeting;
 - (2) need not state the nature of the business to be transacted at the meeting;
 - (3) may be given immediately before the meeting; and
 - (4) may be given in person or by post, telephone, email or other electronic means.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any thing done or resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) the director has waived or waives notice of that meeting before or after the meeting;
 - (3) the director has notified or notifies Canteen of his or her agreement to that thing or resolution personally or by post, telephone, email or other electronic means before or after the meeting; or
 - (4) the director attended the meeting.

13.9 Directors' meetings using technology

- (a) The simultaneous linking together by telephone or other electronic means of a sufficient number of the directors to constitute a quorum constitutes a meeting of the directors. All the provisions in this constitution relating to meetings of the directors apply, as far as they can and with

any necessary changes, to meetings of the directors by telephone or other electronic means.

- (b) A director who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (c) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the directors involved was at that place for the duration of the meeting.
- (d) If, before or during the meeting, a technical difficulty occurs which means that one or more directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, if a quorum of directors remains present, continue with the meeting.

13.10 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (b) A quorum consists of at least 3 directors of which a majority must be Member Directors.
- (c) If the number of directors in office at any time is not sufficient to constitute a quorum, or is less than the minimum number of directors fixed under this constitution, the remaining directors must act as soon as possible to appoint additional directors, as required, and, until that has happened, may only act if and to the extent that there is an emergency requiring them to act.

13.11 Chairperson of directors

- (a) The directors must elect one of the Member Directors as chairperson of directors and may decide the period for which that director is to be the chairperson.
- (b) The chairperson of directors must preside as chairperson at each meeting of directors if present within 10 minutes after the time appointed for the meeting and willing to act.
- (c) If there is no chairperson of directors or the conditions in rule 13.11(b) have not been met, the directors present must elect one of the Member Directors as chairperson of the meeting.

13.12 Decisions of directors

- (a) A directors' resolution at a directors' meeting must be decided by a majority of votes cast by the directors present. Such a decision is for all purposes a decision of the directors.
- (b) Where the votes on a proposed resolution are equal:
 - (1) the chairperson of the meeting does not have a second or casting vote; and
 - (2) the proposed resolution is taken as lost.

13.13 Written resolutions of directors

- (a) A resolution is taken to have been passed by a meeting of directors if:
 - (1) all of the directors who would be entitled to receive notice of a meeting and to vote on a resolution are given a document setting out that resolution;
 - (2) a majority of the directors sign or consent to the resolution; and
 - (3) the directors who sign or consent to the resolution would have constituted a quorum at a meeting held to consider that resolution.
- (b) A director may consent to a resolution by:
 - (1) signing the document containing the resolution (or a copy of that document);
 - (2) giving to Canteen written notice (including by email or other electronic means) addressed to the secretary or to the chairperson agreeing to the resolution and either setting out its terms or otherwise clearly identifying them; or
 - (3) telephoning the secretary or the chairperson of directors and signifying assent to the resolution and clearly identifying its terms.
- (c) The resolution is taken as passed when the last director required to constitute a majority of the directors signs or consents to that resolution.

13.14 Minutes of meetings and minutes of resolutions

- (a) The directors must ensure:
 - (1) minutes of general meetings, directors' meetings and committee meetings (including all resolutions proposed); and
 - (2) records of resolutions passed by members, directors and committees, without a meeting,are recorded and kept as part of Canteen's records. The records must be made within one month after the relevant meeting is held or written resolution passed.
- (b) The minutes of a meeting must be signed within a reasonable time by the chairperson of the meeting or the chairperson of the next meeting.

13.15 Committees

- (a) The directors may delegate any of their powers to one or more committees consisting of the number of directors and/or other persons as they think fit.
- (b) A committee to which powers have been delegated must exercise those powers delegated in accordance with directions given by the directors.

- (c) Provisions of this constitution that apply to meetings and resolutions of directors apply, as far as they can, with any necessary changes, to meetings and resolutions of a committee of directors.
- (d) The directors have established the Member Advisory Council as a standing committee pursuant to this rule 13.15 on the terms set out in the Member Advisory Council Charter

13.16 Validity of acts

An act done by a person acting as a director, a meeting of directors, or a committee of directors attended by a person acting as a director, is not invalidated merely because of one of the following circumstances, if that circumstance was not known by that person, the directors or the committee (as applicable) when the act was done:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified as a director or having vacated office; or
- (c) the person not being entitled to vote.

14 Secretary

- (a) The directors must appoint at least one secretary, who may also be a director.
- (b) The secretary must provide written consent to the appointment.
- (c) The secretary can be removed by the directors, and another person appointed as secretary, at any time.

15 Indemnity and insurance

15.1 Persons to whom the indemnity and insurance apply

The indemnity and insurance referred to in this rule 15 apply to Indemnified Officers.

15.2 Indemnity

- (a) Canteen must indemnify, on a full indemnity basis and to the full extent permitted by law, each Indemnified Officer against all losses or liabilities (including costs and expenses) incurred by the person as an officer of Canteen.
- (b) This indemnity:
 - (1) is a continuing obligation and is enforceable by an Indemnified Officer even though that person has ceased to be an officer of Canteen; and

- (2) operates only to the extent that the loss or liability in question is not covered by insurance.

15.3 Insurance

Canteen may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any Indemnified Officer against any liability incurred by the person as an officer of Canteen where the directors consider it appropriate to do so.

15.4 Savings

Nothing in this rule 15:

- (a) affects any other right or remedy that an Indemnified Officer may have in respect of any loss or liability referred to in this indemnity or insurance; or
- (b) limits the capacity of Canteen to indemnify or provide or pay for insurance for any person to whom this rule 15 does not apply.

16 Notices

16.1 Notices by Canteen to members

Canteen may give notices and any communication, including a notice of general meeting to a member:

- (a) personally;
- (b) by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member;
- (c) by sending it to the fax number, email or other electronic address (if any) nominated by the member; or
- (d) by notifying the member by email or other electronic means, that the notice or communication or publication is available at a specified electronic address.

16.2 Notices by Canteen to directors

Subject to this constitution, a notice may be given by Canteen to any director by:

- (a) serving it personally at the director's usual residential or business address;
- (b) sending it by post in a prepaid envelope to the director's usual residential or business address; or
- (c) sending it to the fax number, email or other electronic address supplied by the director to Canteen for giving notices.

16.3 Notices by member or directors to Canteen

Subject to this constitution, a notice may be given by a member or director to Canteen by:

- (a) serving it on Canteen at the registered office of Canteen;
- (b) sending it by post in a prepaid envelope to the registered office of Canteen; or
- (c) sending it to the principal fax number or the principal electronic address of Canteen at its registered office, or if there is no principal electronic address, to the email or other electronic address of the secretary.

16.4 Time of service

- (a) A notice properly addressed and posted is taken to be served:
 - (1) in the case of a notice of a general meeting, at 10.00am on the day after the date it was posted; or
 - (2) in any other case, at 10.00am on the third day after the date it was posted.
- (b) Where a notice is sent by fax, the notice is taken as served at the time the fax is sent if the correct fax number appears on the fax report produced by the sender's fax machine.
- (c) Where a notice is sent by an electronic messaging system with a delivery verification function, the notice is taken as served on generation of a delivery verification notice, log entry, or other confirmation by the electronic messaging system.
- (d) Where a notice is sent by email or other electronic messaging system (not covered by rule 16.4(c)), the notice is served on delivery to:
 - (1) the addressee's email or electronic messaging system account if the addressee is a natural person; or
 - (2) the corporation's computer systems if the addressee is a corporation.
- (e) If service under rules 16.4(b), 16.4(c) and 16.4(d) is on a day which is not a Business Day or is after 4.00pm (addressee's time), the notice is regarded as having been received at 9.00am on the next following Business Day.

16.5 Other communications and documents

Rules 16.1 to 16.4 (inclusive) apply, as far as they can, with any necessary changes, to the service of any communication or document.

16.6 Notices in writing

A reference in this constitution to a written notice includes a notice given by fax or electronic transmission or any other form of written communication.

17 Seal

- (a) Canteen may have a Seal. If Canteen has a Seal, rules 17(b) and 17(c) apply.
- (b) The directors must provide for the safe custody of the Seal which must only be used with the authority of the directors.
- (c) Every instrument to which the Seal is affixed must be signed by a director and counter-signed by the secretary or a director or some other person appointed by the directors for that purpose.

18 Definitions and interpretation

18.1 Definitions

The meanings of the terms used in this constitution are set out below.

Term	Meaning
ACNC Act	the <i>Australian Charities and Not for Profit Commission Act 2012</i> (Cth) and all regulations.
Associate Director	a Friend of Canteen who has been appointed a director in accordance with rule 13.
Business Day	a day on which banks are open for business in Sydney excluding a Saturday, Sunday or a public holiday in that city.
Corporations Act	the <i>Corporations Act 2001</i> (Cth).
Deductible Contribution	a contribution of money or property as described in item 7 or item 8 of the table in section 30-15 of the ITAA 97 in relation to a fundraising event held for the principal purpose of Canteen.
Friend	any person interested in the welfare of Young People Living with Cancer and corporate groups or organisations interested in the welfare of Young People Living with cancer.
Full Member	any person to whom Canteen provides professional services and who has agreed to become a member of Canteen,

who is no less than 12 years of age and no more than 25 years of age (unless the directors decide otherwise).

Gift a contribution of money or property as described in item 1 of the table in section 30-15 of the ITAA 97.

Indemnified Officer

- 1 each person who is or has been a director or executive officer of Canteen; and
- 2 any other officers or former officers of Canteen as the directors in each case decide.

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

Member Advisory Council or MAC the council of members comprised in accordance with Attachment 1.

Member Director a Full Member who has been appointed a director in accordance with rule 13.

Registered Address a member's addresses (including any alternate and fax or electronic addresses) as notified to Canteen by the member and recorded in Canteen's records.

Seal the common seal of Canteen.

Young People Living with Cancer

- (1) all young people (12-25 years) with cancer, life threatening tumours not defined as malignant and aplastic anaemia;
- (2) siblings (12-25 years) of young people (12-25 years) with cancer, life threatening tumours not defined as malignant and aplastic anaemia; and
- (3) young people (12-25 years) who have or previously had a parent or other primary carer with cancer, life threatening tumours not defined as malignant and aplastic anaemia.

18.2 Interpretation

In this constitution:

(a) references to notices include formal notices of meeting, all documents and other communications from Canteen to its members;

- (b) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (c) a word or expression defined or used in the Corporations Act, covering the same subject, has the same meaning in this constitution;
- (d) a reference to a member present at a general meeting is a reference to a member present in person or by proxy, attorney or representative;
- (e) a reference to writing and written includes printing, lithography, electronic means of writing (eg fax, email) and other ways of representing or reproducing words in a visible form;
- (f) the singular includes the plural and the plural includes the singular;
- (g) headings and bold type are used for convenience only and do not affect the interpretation of this constitution; and
- (h) any attachment forms part of this constitution.

19 Corporations Act and ACNC Act

- (a) The replaceable rules set out in the Corporations Act do not apply to Canteen.
- (b) If at any time, Canteen is not a registered charity under the ACNC Act, the Corporations Act applies and (unless it is a replaceable rule) overrides any part of this constitution, or policy of Canteen, which is inconsistent with the Corporations Act.