

**Constitution of the  
Queensland Alliance for  
Mental Health Limited**

*Effective as at 20 June 2024*

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## **PRELIMINARY**

### **1 Definitions**

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- 1.1 The words and phrases used in this Constitution have the meanings set out in Schedule 1.

### **2 Interpretation**

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- 2.1 In this Constitution, except where the context otherwise requires:
- (a) the singular includes the plural and vice versa, and a gender includes other genders;
  - (b) another grammatical form of a defined word or expression has a corresponding meaning;
  - (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;
  - (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
  - (e) a reference to A\$, \$A, dollar or \$ is to Australian currency; and
  - (f) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.

### **3 Replaceable rules**

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- 3.1 To the extent permitted by law, the replaceable rules in the Corporations Act do not apply to the Company.
- 3.2 Whilst the Company is registered as a charity by the ACNC, the ACNC Act and the Corporations Act override any rules in this constitution which are inconsistent with those Acts.
- 3.3 If the Company is not registered as a charity by the ACNC (even if it remains a charity), the Corporations Act overrides any rule in this constitution which is inconsistent with that Act.

## **OBJECTS**

### **4 Objects**

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- 4.1 The Company is established to be a not-for-profit charitable institution whose objects are to:
- (a) promote mental health and positive attitudes to mental health by operating as a state-wide alliance of mental health community organisations;

- (b) increase the quality of life of people with mental illness by supporting, consulting with, coordinating and representing community organisations working in mental health;
  - (c) develop and provide resources that promote mental health, recovery, social inclusion and human rights, to prevent or reduce the negative impact of mental illness on individuals, their families, carers and the community in general;
  - (d) provide broad-based education to individuals, carers and service providers including health care workers and other organisations to enable them to appropriately support individuals experiencing mental illness;
  - (e) undertake research that addresses issues relevant and timely to the mental health community sector to increase the effectiveness and responsiveness of community-based mental health organisations;
  - (f) influence, improve or change public policy and legislation that affects people with experience of mental health problems, their carers and the organisations that support them;
  - (g) raise community awareness of the importance of mental health and promote positive representations of mental health;
  - (h) promote culturally appropriate responses to mental health in diverse communities;
  - (i) establish and operate an alliance of persons who subscribe to the Objects to assist the Company to achieve its Objects;
  - (j) do all such other things necessary, incidental or conducive to achieving the above objects.
- 4.2 The Company may only exercise the powers in section 124(1) of the Corporations Act to:
- (a) carry out the objects in this clause; and
  - (b) do all things incidental or convenient in relation to the exercise of power under clause 4.2(a).

## **5 Members of the Company**

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- 5.1 The Members of the Company are:
- (i) A Director of the Company automatically upon the Director consenting to be a Member;
  - (ii) any other Member admitted to membership of the company in accordance with this Constitution.
- 5.2 Until otherwise decided in general meeting, the only class of membership in the Company for the purpose of the Corporations Act is ordinary membership.
- 5.3 Membership is personal to a Member and is not transferable.
- 5.4 Any individual over 18 years of age, who:
- (i) is, in the opinion of the Board, supportive of the purpose of the Company; and

- (ii) meets the criteria for membership of the Company set out in a membership policy adopted by the Board from time to time, may apply for admission as a Member of the Company.

5.5 An application for membership of the Company must be in a form approved by the Board and accompanied by :

- (i) any other documents or evidence as to qualification for membership that the Board requires to satisfy any criteria for membership; and
- (ii) any application fee and membership fee as required by the Board.

5.6 Admission to membership of the Company

- (a) The Board must consider any application for membership within a reasonable period of its receipt.
- (b) The Board may in their absolute discretion accept or reject an application for membership and need not give a reason for its decision.
- (c) Within 14 days of the decision relating to the application, the company secretary must:
  - (i) give written notice of the outcome of the application to the applicant;
  - (ii) if the application is accepted, enter the Member's name and details in the Register of Members.
- (d) There is no right of appeal against a decision of the Board to accept or reject an application for membership.

5.7 Rights and responsibilities of Members

- (a) All Members of the Company are entitled to:
  - (i) receive notices of and attend Members meetings;
  - (ii) speak, be heard and vote on any proposed resolution at a Members meeting;
  - (iii) ask the Board to call a general meeting in accordance with this constitution;
  - (iv) seek access to the Company records which are accessible to a Member under the Corporations Act;
  - (v) receive the reports required to be given to Members under the Corporations Act.
- (b) All Members must comply with the Company's Constitution, policies, regulations and codes of conduct including the requirement to not make any improper use of information or opportunities available because they are a Member of the Company.

5.8 The Alliance

- (a) The Company has established and operates the Alliance under the Alliance Rules which forms a contractual relationship between the Company and each Alliance Member, separate to this Constitution.
- (b) The Alliance Rules govern the relationship between the Company and an Alliance Member, not this Constitution.

- (c) An Alliance Member who is not Member of the Company does not have any of the rights and responsibilities of a Member under this constitution.

## **6 Register of Members**

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- 6.1 Upon admission of a person as a Member of the Company, the person's details will be entered into the Register of Members.
- 6.2 The Secretary must maintain the Register of Members in accordance with the Corporations Act which must include:
  - (a) the name and address of each Member;
  - (b) the date on which the Member was admitted as a Member of the Company;
  - (c) the date (where applicable) when each Member resigns or ceases to be a Member; and
  - (d) where a Member is readmitted after previously resigning or having their membership terminated, this will be recorded in conjunction with the dates of their original admission, termination or resignation and readmission.
- 6.3 If a Member changes their address for receipt of notices from the Company, the Member must notify the Secretary in writing of the new address as soon as reasonably practicable.
- 6.4 Alliance Members will not be recorded in the Register of Members of the Company.

## **7 Ceasing to be a Member of the Company**

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- 7.1 A Member ceases to be a Member:
  - (a) upon their resignation as a Member of the Company by written notice to the company secretary;
  - (b) upon their death;
  - (c) if the person was admitted as a Member because they were a Director, upon them ceasing to be a Director;
  - (d) if the person is removed as a Member by the Members under rule 7.2;
  - (e) if the person is removed as a Member by the Board under rule 7.3.
- 7.2 The Members may by special resolution at a Members meeting terminate a person's membership in the Company provided that the Member is first afforded natural justice in the process of termination.
- 7.3 The Board may expel a Member from membership of the Company, if the Member:
  - (i) does not comply with this Constitution, the regulations or any other policy or procedure or code of conduct of the Company set by the Board;

- (ii) has committed any act or omission that, in the opinion of the Board is injurious to the reputation or interests or activities of the Company;
  - (iii) has been convicted of an indictable offence;
  - (iv) causes harm or threatens to cause harm to a Director, another Member or employee of the Company;
  - (v) steals, misuses, damages or destroys property belonging to the Company.
- 7.4 A Member expelled by the Board may appeal their expulsion by giving written notice to the company secretary within 30 days of the date of receiving written notice from the Company that they have been expelled from membership, which appeal is to be determined at the next general meeting of the Company.
- 7.5 Any Member ceasing to be a Member:
- (a) will not be entitled to have any claim upon any portion of the property or assets of the Company;
  - (b) will remain liable for and will pay to the Company any money that was owed to the Company at the date of ceasing to be a Member; and
  - (c) is not permitted to:
    - (i) use the Company's premises;
    - (ii) use any of the Company's property; or
    - (iii) participate in any of the activities of the Company other than in the way non-members are permitted to participate in such activities.

## **8 Powers of attorney**

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- 8.1 If a Member executes or proposes to execute any document or do any act by or through an attorney that affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the attorney to the Secretary for notation.
- 8.2 If the Secretary asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- 8.3 The Secretary or the Board may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

## **GENERAL MEETINGS**

### **9 Calling general meeting**

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- 9.1 Any two Directors may, at any time, call a general meeting.
- 9.2 A general meeting must be held within 2 months of the receipt by the company secretary of:
- (i) a written request for a general meeting (Member's requisition) from at least 50% of the Members of the Company, which request must set out the Member to be contacted in relation to the request, the

business to be discussed at the meeting and any proposed resolution for consideration at the meeting.

- (ii) an appeal from a Member under rule 7.4.

9.3 A general meeting must be held for a proper purpose.

9.4 Annual general meeting

- (a) A general meeting, to be called the annual general meeting, (AGM) must be held by the end of November of each calendar year (after the end of the first financial year).
- (b) The business of an AGM referred to in rule 9.4 is:
  - (i) to confirm the minutes of the previous AGM;
  - (ii) to review the Company's activities and finances during the period since the last AGM;
  - (iii) to receive and consider the annual financial statements and Directors reports; and
  - (iv) to announce the Directors elected by the Alliance Members;
  - (v) to transact any other business which, under this document, is required by the Corporations Act or the ACNC to be transacted at an annual general meeting.
- (c) All other business transacted at an AGM and all business transacted at other general meetings is special business.
- (d) At the AGM the ordinary members must be given a reasonable opportunity to ask questions about the Company's activities and finances during the period since the last AGM.
- (e) The Board may invite other persons to attend the AGM, but only Members of the Company have the right to vote.

## **10 Notice of general meeting**

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10.1 Subject to the provisions of the Corporations Act allowing general meetings to be held with shorter notice, at least 21 days' written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) of a general meeting must be given to Members.

10.2 A notice calling a general meeting:

- (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
- (b) should be accompanied by information about whether the meeting will be held wholly by virtual technology, and how it will give Members the ability to participate in the business of the meeting including voting procedures;
- (c) must, subject to rule 10.3, state the general nature of the business to be transacted at the meeting; and
- (d) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.

- 10.3 A notice of an AGM need not state that the business to be transacted at the meeting includes:
- (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
  - (b) the election of Directors; or
  - (c) the appointment and fixing of the remuneration of the Auditor.
- 10.4 The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a Members requisition under clause 9.2).
- 10.5 The Directors must give notice of the postponement or cancellation of a general meeting to all persons referred to in clause 50.1 entitled to receive notices from the Company.
- 10.6 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

## **PROCEEDINGS AT GENERAL MEETINGS**

### **11 Member**

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- 11.1 In clauses 11.2, and 18, a Member is present if they are present in person including by technology or by proxy or attorney.
- 11.2 Quorum
- (a) No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.
  - (b) A quorum for a meeting of Members is a majority of Members present.
  - (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
    - (i) if the general meeting was called on Members requisition under rule 9.2(i), it is automatically dissolved; or
    - (ii) in any other case:
      - A. it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
      - B. if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting the members present will be deemed to constitute a quorum.

### **12 Chairperson**

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- 12.1 The chairperson, or in the chairperson's absence the deputy chairperson, of Directors' meetings will be the chairperson at every general meeting.
- 12.2 The Directors present may elect a chairperson of a general meeting if:

- (a) there is no chairperson or deputy chairperson; or
- (b) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
- (c) the chairperson and deputy chairperson are unwilling to act as chairperson of the general meeting.

12.3 If no election is made under clause 12.2, then:

- (a) the Members may elect one of the Directors present as chairperson; or
- (b) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.

12.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

### **13 Adjournment**

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13.1 The chairperson of a general meeting at which a quorum is present:

- (a) in the chairperson's discretion may adjourn the general meeting with the meeting's consent; and
- (b) must adjourn the general meeting if the meeting directs the chairperson to do so.

13.2 An adjourned general meeting may take place at a different venue to the initial general meeting.

13.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.

13.4 Notice of an adjourned general meeting must only be given in accordance with clause 10.1 if a general meeting has been adjourned for more than 21 days.

### **14 Decision on questions**

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14.1 Subject to the Corporations Act in relation to special resolutions and the requirements of this Constitution, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

14.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the Corporations Act.

14.3 Unless a poll is demanded:

- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
  - (b) an entry to that effect in the minutes of the meeting,
- are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

14.4 The demand for a poll may be withdrawn.

14.5 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the general meeting was not entitled to do so.

## **15 Taking a poll**

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- 15.1 A poll will be taken when and in the manner that the chairperson directs.
- 15.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.
- 15.3 The chairperson may determine any dispute about the admission or rejection of a vote.
- 15.4 The chairperson's determination, if made in good faith, will be final and conclusive.
- 15.5 A poll demanded on the election of the chairperson or the adjournment of a general meeting must be taken immediately.
- 15.6 After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

## **16 Casting vote of chairperson**

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- 16.1 The chairperson does not have a casting vote in addition to any vote the chairperson may have as a Member, proxy or attorney.

## **17 Offensive material**

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- 17.1 A person may be refused admission to, or required to leave and not return to, a meeting if the person:
- (a) refuses to permit examination of any article in the person's possession; or
  - (b) is in possession of any:
    - (i) electronic or recording device;
    - (ii) placard or banner; or
    - (iii) other article,
- which the chairperson considers to be dangerous, offensive or liable to cause disruption.

## **VOTES OF MEMBERS OF THE COMPANY**

### **18 Entitlement to vote**

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- 18.1 Subject to this constitution, a Member of the Company who is present at a Members meeting is entitled to one vote.

### **19 Objections**

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- 19.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.

- 19.2 An objection must be referred to the chairperson of the general meeting whose decision is final.
- 19.3 A vote is valid for all purposes unless it is disqualified by the chairperson under clause 19.2.

## **20 Votes by proxy**

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- 20.1 A Member of the Company may appoint a proxy or an attorney, to vote on their behalf at a Members meeting.
- 20.2 A proxy need not be a Member.
- 20.3 A proxy may demand or join in demanding a poll.
- 20.4 A proxy or attorney may vote on behalf of the Member who appointed them on a show of hands and in a poll.
- 20.5 A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If a proxy votes at all, the proxy will be deemed to have voted in the manner directed.

## **21 Document appointing proxy**

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- 21.1 An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the information required by section 250A(1) of the Corporations Act. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required by section 250A(1) of the Corporations Act.
- 21.2 For the purposes of clause 21.1, an appointment received at an electronic address will be taken to be signed by the Member if the appointment has been verified in a manner approved by the Directors.
- 21.3 A proxy's appointment is valid at an adjourned general meeting.
- 21.4 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.
- 21.5 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:
- (a) to vote on:
    - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
    - (ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting, even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
  - (b) to vote on all motions before the general meeting.

- 21.6 If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either exercise the proxy or complete the appointment by inserting the name or names of one or more Directors or the Secretary.

## **22 Lodgement of proxy**

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- 22.1 The written appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
- (a) the time for holding the general meeting or adjourned general meeting at which the proxy or attorney proposes to vote; or
  - (b) the taking of a poll at which the proxy or attorney proposes to vote.
- 22.2 The Company receives an appointment of a proxy or a power of attorney when it is received at:
- (a) the Company's registered office;
  - (b) a facsimile number at the Company's registered office; or
  - (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

## **23 Validity**

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- 23.1 A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor has revoked the proxy or power unless any written notification of the revocation was received by the Company before the relevant general meeting or adjourned general meeting.

## **APPOINTMENT AND REMOVAL OF DIRECTORS**

### **24 Composition of Board of Directors**

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- 24.1 There will be not less than five nor more than ten Directors on the Board unless the Members resolve otherwise.
- 24.2 The Board of Directors will consist of:
- (a) up to four Directors elected by the Alliance Members as a Director in accordance with the Alliance Rules (collectively the **Elected Directors**), and
  - (b) up to six skills-based Directors appointed by the Board (**Skills-based Directors**) for their skills, experience, knowledge or qualities as determined by the Board from time to time.
- 24.3 To be eligible for election or appointment as a Director, a person:
- (i) must be over 18 years of age;
  - (ii) must consent in writing to be a Director of the Company;

- (iii) must not be ineligible to be a Director under the Corporations Act or the ACNC Act.

24.4 In addition to the matters set out in clause 24.3, to be eligible to be an Elected Director a person must be an employee or officer of an Alliance Member.

## **25 Appointment of Elected Directors**

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- 25.1 The company secretary will notify the Alliance Members about any upcoming vacancy in the position of Elected Director, at least 45 days prior to the next Alliance AGM.
- 25.2 The Alliance Rules will set out the process for nomination and voting by the Alliance Members in relation to the election of an eligible person to be an Elected Director.
- 25.3 An Elected Director's term of office will start at the conclusion of the AGM immediately after their election by the Alliance Members and cease at the end of the third AGM after their election.
- 25.4 A retiring Elected Director is eligible for re-election up to a maximum of 3 terms or 9 years, as applicable.

## **26 Appointment of Skills-based Directors**

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- 26.1 Skills-based Directors will be appointed by an ordinary resolution of the Board.
- 26.2 The term of a Skills-based Director's appointment is three years from the date of their appointment or such other period up to a maximum of 9 years as determined by the Board from time to time.
- 26.3 The Board must have a Policy setting out the skills, experience, knowledge or qualities required for a Director of the Company and the process for nominating, recruiting and appointment of Skills-Based Directors.

## **27 Additional and casual Directors**

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- 27.1 In addition to its power under rule 24.2(b) to appoint Skills based Directors, the Board may appoint an eligible person to fill a casual vacancy in an Elected Directors position.
- 27.2 A Director, appointed to a casual vacancy under rule 27.1 will hold office until the next AGM.
- 27.3 The Directors may act despite any casual vacancy on the Board.
- 27.4 However, if the number of Directors is less than the number fixed under this Constitution as a quorum of the Board, the continuing Directors may act only to:
  - (a) increase the number of the Directors to that number required for a quorum; or
  - (b) call a general meeting of the Members.

## **28 Nomination of an Elected Director – deleted**

## **29 Election of Elected Directors – deleted**

## **30 Suspension of a Director**

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- 30.1 If in the opinion of the Board, the conduct or position of any Director is such that their continuance in office appears to be prejudicial to the interests of the Company, the Board may by Special Resolution at a meeting of the Directors specifically called for that purpose suspend that Director:
- (a) for a fixed period of time; or
  - (b) until reasonable conditions specified by the Directors have been met by the suspended Director within a reasonable time frame.
- 30.2 If a Director suspended under clause 30.1(b) fails, in the opinion of the Board, to meet the conditions in the specified time frame the Directors may:
- (a) extend the time frame for meeting the conditions;
  - (b) remove the suspension;
  - (c.) if a Director appointed by the Board, expel the Director;
  - (d) if an Elected Director call a Members meeting seeking a resolution from the Members; or
  - (e.) take such other action as the Board determines.
- 30.3 A suspended Director is entitled to attend meetings of the Directors as an observer but may not vote until such time as the suspension is removed.

## **31 Chairperson**

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- 31.1 At the first board meeting after an AGM, the Directors will elect a Director as the chairperson.
- 31.2 The Director elected as chairperson will hold the office of chairperson of the Board from the date he or she is elected until the earlier:
- (a) the chairperson ceases to be a Director for any reason;
  - (b) the expiry of one year from the date he or she was elected as chairperson; or
  - (c) the chairperson is removed from that office by a Special Resolution of the Directors.

## **32 Vacation of office**

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- 32.1 The office of a Director immediately becomes vacant if the Director:
- (a) is prohibited by the Corporations Act or the ACNC legislation from holding office or continuing as a Director;
  - (b) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical

incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;

- (c) resigns by notice in writing to the Company;
- (d) is removed by the Members in accordance with the Corporations Act;
- (e) is absent from Directors' meetings for three consecutive meetings without leave of absence from the Directors;
- (f) is expelled as a Director under clause 0; or
- (g) the Director's term of office expires.

32.2 In addition to the matters listed in rule 32.1, the office of an Elected Director becomes vacant if at the time the person was elected the person was an employee or officer of an Alliance Member and the person ceases to hold a position of an employee or officer of an Alliance Member.

## **POWERS AND DUTIES**

### **33 Powers and duties of Directors**

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33.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the Corporations Act do not require to be exercised by the Company, or its Members in general meeting.

33.2 Without limiting the generality of clause 33.1, the Directors may exercise all the powers of the Company to:

- (a) borrow money;
- (b) charge any property or business of the Company;
- (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person;
- (d) guarantee or become liable for the payment of money or the performance of any obligation by or of any other person; and
- (e) commit to contracts or sub-contracts providing access to money, personnel, technology, equipment or other resources intended for implementation of the Objects.

33.3 Each Director must comply with the duties:

- (a) of a Director under the Corporations Act and at common law (judge-made law), and
- (b) imposed by Governance Standard 5 of the ACNC regulations.

## PROCEEDINGS OF DIRECTORS

### **34 Directors' meetings**

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- 34.1 A Director may at any time, and the Secretary must on the request of a Director, call a Directors' meeting.
- 34.2 A Directors' meeting must be called on at least 48 hours written notice of a meeting to each Director.
- 34.3 deleted.
- 34.4 The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- 34.5 Subject to the Corporations Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion provided that:
- (a) at the commencement of the meeting each Director must acknowledge their presence for the purpose of a meeting of the Board to all the other Directors taking part; and
  - (b) a Director may not leave the meeting by disconnecting his or her telephone or other means of communication and will be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he or she has previously obtained the express consent of the chairperson of the meeting to leave the meeting.
- 34.6 A Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting unless suspended.
- 34.7 deleted.
- 34.8 The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 34.9 A quorum for a Board meeting is a simple majority of the Directors on the Board at the time of the meeting.
- 34.10 Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson may call a general meeting to deal with the matter.
- 34.11 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

### **35 Decision on questions**

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- 35.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to clause 30.3, each Director has one vote.

## **PAYMENTS TO DIRECTORS**

### **36 Payments to Directors**

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- 36.1 A Director may be remunerated for performing their role as a Director, in such amount as the Members determine from time to time having regard to best industry practice and relevant benchmarks and any budgetary limitations.
- 36.2 In addition to the remuneration referred to in rule 36.1, a Director may be paid:
- (a) out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
  - (b) for any service rendered to the Company by the Director in a professional or technical capacity, (including in the capacity as Director), where the provision of the service has the prior approval of the Directors of the Company and where the amount payable is approved by the Directors of the Company and is not more than an amount which would be a commercially reasonable payment for the service;
  - (c) any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Directors of the Company; and
- 36.3 The Company may provide an indemnity in favour of a Director permitted by section 199A of the Corporations Act and pay premiums for a contract of insurance permitted by section 199B on behalf of a Director.

### **37 Directors' interests**

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- 37.1 No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which a Director may be interested is avoided or rendered voidable merely because of the Director holding office as a Director or because of the fiduciary obligations arising out of that office.
- 37.2 Subject to the law, no Director contracting with, or interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a Director or because of the fiduciary obligations arising out of that office.
- 37.3 A Director is not disqualified from contracting with the Company merely because of being a Director, and/or a Member of the Company.
- 37.4 Any Director having a direct or indirect material personal interest in any contract or arrangement that the Company proposes to enter will declare his or her interest immediately by written notice to the chairperson.
- 37.5 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter,

unless permitted by the Corporations Act or the ACNC to do so, in which case the Director may:

- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
- (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

37.6 Deleted. .

37.7 A Director may be or become a Director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the Director as a Director or officer of, or from having an interest in, that body corporate.

37.8 A Director who has an interest described in clause 37.7 must provide written notice to the Secretary when the interest arises and when the Director no longer has the interest.

37.9 The Board must have a Conflict of Interest policy and a Related Party Transactions policy which aligns with the requirements of the ACNC and the Corporations Act.

## **38 Deleted**

## **39 Committees**

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39.1 The Board may delegate any of their powers, other than those which by law must be dealt with by the Directors as a Board, to a committee or committees.

39.2 The Board may at any time revoke any delegation of power to a committee.

39.3 At least one member of each committee must be a Director.

39.4 A committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.

39.5 A committee may be authorised by the Board to sub-delegate all or any of the powers for the time being vested in it.

39.6 Meetings of any committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Board with the provisions to apply as if each committee member was a Director.

39.7 The Board must have a Terms of Reference for any Committee which sets out the functions of the Committee and its composition and outlines the powers delegated to the Committee.

## **40 Written resolutions**

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- 40.1 The Directors may pass a resolution without a Director's meeting being held if the majority of the Directors at the relevant time sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.
- 40.2 For the purposes of clause 40.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 40.3 Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- 40.4 The minutes of Directors' meetings must record that the resolution was passed in accordance with this clause.
- 40.5 This clause applies to meetings of committees as if all committee members were Directors.

## **41 Validity of acts of Directors**

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- 41.1 If it is discovered that:
- (a) there was a defect in the appointment of a person as a Director or member of a committee; or
  - (b) a person appointed to one of those positions was disqualified,
- all acts of the Directors or the committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

## **42 Minutes and Registers**

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- 42.1 The Directors must cause minutes to be made of:
- (a) the names of the Directors present at all Directors' meetings and meetings of Directors' committees;
  - (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
  - (c) all resolutions passed by Directors in accordance with clause 40;
  - (d) all appointments of officers;
  - (e) all orders made by the Directors and Directors' committees; and
  - (f) all disclosures of interests made under clause 36.1.
- 42.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.

42.3 The Company must keep all registers required by this Constitution and the Corporations Act.

## **MANAGEMENT**

### **43 Management**

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43.1 The Directors may provide for the management and transaction of the affairs of the Company in any places and in such manner as they think fit.

43.2 Without limiting clause 43.1, the Directors will appoint a chief executive officer or a general manager who, subject to clause 43.5, will be responsible for:

- (a) the day-to-day management of the Company;
- (b) delivering to the Directors within five months after the end of each Financial Year, the annual reports of the Company describing the level of activity, achievements and such other information as required in sufficient detail and containing the audited financial statements for the Financial Year as necessary to meet the financial and other reporting requirements of the Company under the Corporations Act; and
- (c) carrying out such other activities for the Company,

in accordance with the directions of the Directors and the position description for the CEO approved by the Board.

43.3 The Directors may appoint such other executives as it sees fit to provide support for the CEO on operational issues relating to the Company or delegate authority to the CEO to make such appointments, within the limits of continuing solvency and a balanced budget.

43.4 The Board must manage and oversee the performance of the chief executive officer in their role as CEO of the Company.

43.5 Without limiting clause 43.1 the Directors may:

- (a) establish local Boards or agencies or joint committees with other corporations for managing any of the affairs of the Company and appoint any persons to be members of those local Boards or agencies or joint committees; and
- (b) delegate to any person appointed under clause 43.5(a) any of the powers, authorities and discretions which may be exercised by the Directors under this Constitution or the CEO,

on any terms and subject to any conditions determined by the Directors.

43.6 The Directors may at any time revoke or vary any delegation under this clause.

### **44 Appointment of attorneys and agents**

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44.1 The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint any person to be the attorney or agent of the Company:

- (a) for the purposes;

- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
  - (c) for the period; and
  - (d) subject to the conditions, determined by the Directors.
- 44.2 An appointment by the Directors of an attorney or agent of the Company may be made in favour of:
- (a) any member of any local Board established under this Constitution;
  - (b) any Company;
  - (c) the members, Directors, nominees or managers of any Company or firm;
  - (d) any fluctuating body of persons whether nominated directly or indirectly by the Directors; or
  - (e) CEO or other executives of the Company.
- 44.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- 44.4 The Directors may appoint attorneys or agents by facsimile or electronic transmission to act for and on behalf of the Company.
- 44.5 An attorney or agent appointed under this clause may be authorised by the Directors to sub-delegate all or any of the powers, authorities or discretions for the time being vested in it.

## **45 Company Secretary**

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- 45.1 There must be at least one company secretary of the Company appointed by the Board for a term and at remuneration and on conditions determined by the Board.
- 45.2 The company secretary may be a Director or any other person.
- 45.3 The Secretary will be responsible for undertaking those matters required by the Corporations Act for a company secretary and such other matters determined by the Board.
- 45.4 The Secretary must keep relevant Regulators informed of all notifiable information within the required timeframes.
- 45.5 deleted.
- 45.6 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings but will only be entitled to vote at those meetings if a Director or Member as applicable.
- 45.7 The Directors may, subject to the law suspend, remove or dismiss the Secretary.

## **SEALS - deleted**

### **46 Common Seal - deleted**

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### **47 Duplicate Seal - deleted**

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## **INSPECTION OF RECORDS**

### **48 Inspection of records**

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- 48.1 Except as otherwise required by the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.
- 48.2 Except as otherwise required by the Corporations Act, a Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

## **NOTICES**

### **49 Service of notices**

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- 49.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution:
- (a) by serving it on the person; or
  - (b) by sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.
- 49.2 A notice sent by post is taken to be served:
- (a) by properly addressing, prepaying and posting a letter containing the notice; and
  - (b) on the third Business Day after the day on which it was posted.
- 49.3 A notice sent by facsimile transmission or electronic notification is taken to be served:
- (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
  - (b) on the day after its despatch.
- 49.4 If a Member does not have an address recorded in the Register a notice will be taken to be served on that Member 24 hours after it was posted on a notice Board at the Company's registered office.

- 49.5 A Member whose address recorded in the Register is not in Australia may specify in writing an address in Australia to be taken to be the Member's address for the purposes of clause 49.
- 49.6 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 49.7 Subject to the Corporations Act the signature to a written notice given by the Company may be written or printed.
- 49.8 All notices sent by post outside Australia must be sent by prepaid airmail post.

## **50 Persons entitled to notice**

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- 50.1 Notice of every general meeting must be given to:
- (a) every Member;
  - (b) every Director;
  - (c) the Secretary; and
  - (d) any Auditor.
- 50.2 No other person is entitled to receive notice of a general meeting.

## **INCOME AND PROPERTY OF THE COMPANY**

### **51 Income and property of Company**

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- 51.1 The Income and property of the Company will only be applied towards the promotion of the objects of the Company set out in clause 4.
- 51.2 No Income or property will be paid or transferred directly or indirectly to any Member of the Company except for payments to a Member:
- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company;
  - (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent; or
  - (c) in furtherance of the charitable Objects of the Company.

## **AUDIT AND ACCOUNTS**

### **52 Audit and accounts**

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- 52.1 The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the Corporations Act and the ACNC.
- 52.2 The Directors must cause the financial records of the Company to be audited in accordance with the requirements of the Corporations Act and the ACNC.

52.3 The results of the audit must form part of the report provided to the Members at the next annual general meeting of the Company.

## GIFT FUND

53 Deleted

54 Deleted

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## WINDING UP

### 55 Winding up

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55.1 If the Company is wound up:

- (a) each Member; and
- (b) each person who has ceased to be a Member in the preceding year, undertakes to contribute to the property of the Company for the:
- (c) payment of debts and liabilities of the Company (in relation to clause 55.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
- (d) adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding \$10.

55.2 If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another entity which is:

- (a) an organisation with similar purposes which is not carried on for profit or gain of its individual members;
- (b) required to apply its profits (if any) or other income in promoting objects similar to those of the Company,

such entity to be determined by the Members at or before the winding up and in default, by application to the Supreme Court of Queensland for determination.

55.3 If the Company is endorsed as a deductible gift recipient, then upon the revocation of that endorsement or the winding up of the Company if any surplus remains the surplus must be given or transferred to another entity which satisfies the requirements set out in rule 55.2 and which is endorsed as a deductible gift recipient under the ITAA.

55.4 If the Company is an institution registered under s.149C of the *Taxation Administration Act 2001* (Qld) (the **Administration Act**), then, in addition to the requirements set out in rule 55.2 and rule 55.3, the surplus must be given or transferred to:

- (i) an institution that, under s.149C of the Administration Act, may be registered; or

- (ii) an institution the Commissioner of State Revenue is satisfied has a principal object or pursuit mentioned in s.149C(3)(a) Administration Act; or
- (iii) an institution which has a purpose the Commissioner of State Revenue is satisfied is charitable or for the promotion of the public good.
- (iv) .

## INDEMNITY

### 56 Indemnity

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- 56.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act the Company indemnifies every person who is or has been an officer of the Company against any liability (other than for legal costs) incurred by that person as such an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).
- 56.2 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Company indemnifies every person who is or has been an officer of the Company against reasonable legal costs incurred in defending an action for a liability incurred by that person as such an officer of the Company (including such legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).
- 56.3 The amount of any indemnity payable under clauses 56.1 or 56.2 will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a Tax Invoice.
- 56.4 For the purposes of this clause, **officer** means:
- (a) a Director;
  - (b) a Secretary;
  - (c) Chief Executive Officer;
  - (d) any other person determined by the Board from time to time including the auditor and any person in a senior management position in the Company.

## AMENDMENTS TO CONSTITUTION

### 57 Amendments to Constitution

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- 57.1 This Constitution must not be amended other than in accordance with the Corporations Act.

57.2 Subject to clause 57.1, the Company may revoke, add to or vary this Constitution provided that:

- (a) no part of the Gift Fund Account or the income of the Gift Fund Account is transferred to any institution, organisation, fund or authority that is not a charitable organisation endorsed to receive donations under sub-division 30-B of the ITAA; and
- (b) no part of the Gift Fund Account or the income of the Gift Fund Account becomes able to be used or applied for purposes that are not consistent with the objects of the Company; and
- (c) unless the Commissioner of Taxation or other relevant authority consents to the revocation, addition or variation:
  - (i) no amendment is allowed to be made to or affecting the Objects of the Company; and
  - (ii) no amendment is allowed to be made which authorises the Company to invest money of the Gift Fund Account other than in a manner in which trustees are permitted to invest under the laws of Australia or any Australian State or Territory.

## Schedule 1 Definitions

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<b>ACNC</b>	means the Australian Charities Not-for-profit Commission
<b>ACNC legislation</b>	means the Australian Charities Not-for-profit Commission Act 2012 and regulations
<b>Alliance</b>	means the Queensland Alliance for Mental Health established and operated by the Company in accordance with the Objects.
<b>Alliance Members</b>	means the members of the Alliance admitted in accordance with the Alliance Rules.
<b>Alliance Rules</b>	means the rules for the establishment and operation of the Alliance adopted by the Board, to which all Alliance Members must subscribe and are bound.
<b>Auditor</b>	means the Company's auditor.
<b>Board</b>	means the Board of Directors of the Company.
<b>CEO</b>	means the person appointed as chief executive officer under clause 43.1.
<b>Company</b>	means the Queensland Alliance for Mental Health Limited as constituted under this Constitution.
<b>Constitution</b>	means the constitution of the Company as amended from time to time.
<b>Corporations Act</b>	means the <i>Corporations Act 2001</i> (Cth) as modified or amended from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company.
<b>Director</b>	includes any person occupying the position of Director of the Company.
<b>Elected Director/s</b>	has the meaning given to that term under rule 24.2 (a) .
<b>Financial Year</b>	means the period of 12 months beginning on 1 July of any year and ending on 30 June of the succeeding year provided that the first financial year will include the period commencing on date of registration of the Company and ending on 30 June of the immediately following year.
<b>GST</b>	has the meaning given to that term by the GST Act.
<b>GST Act</b>	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) or any replacement or other relevant legislation and regulations.
<b>Income</b>	means all income of the Company including self-generated income and income derived from the performance of services to clients.
<b>Indemnified Officer</b>	has the meaning given to that term by clause 56.3.

<b>ITAA</b>	means the <i>Income Tax Assessment Act 1936</i> (Cth) or the <i>Income Tax Assessment Act 1997</i> (Cth) as modified or amended from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company
<b>Member</b>	means an individual person admitted as a member of the Company under clause 5.
<b>Objects</b>	means the objects of the Company set out in clause 4.
<b>Register</b>	means the register of Members of the Company.
<b>Secretary</b>	means any person appointed by the Directors to perform any of the duties of the company secretary of the Company and if there are joint secretaries, any one or more of such joint secretaries.
<b>Skills-based Directors</b>	has the meaning given to that term in clause 24.2(b).
<b>Special Resolution</b>	means a resolution passed by a majority of at least 75% of the eligible votes cast.
<b>Tax Invoice</b>	has the same meaning as in the GST Act, including any applicable legislative determinations and public rulings issued through the Australian Taxation Office.