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Constitution of SuperFriend – Industry Funds' Mental Health Initiative

(ACN 123 196 663)

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CORPORATIONS ACT 2001
A PUBLIC COMPANY LIMITED BY GUARANTEE

CONSTITUTION of

SuperFriend – Industry Funds’ Mental Health Initiative (ACN 123 196 663)

1 INTERPRETATION

1.1 This Constitution

- (a) This Constitution contains clauses setting out the manner in which the Members of the Company have agreed to conduct the internal administration of the Company.
- (b) This Constitution takes the place of the Replaceable Rules contained in the Act.

1.2 Definitions

In this Constitution, unless the context otherwise requires,

Act means the Corporations Act 2001 (Cth);

Accounting Standards means generally accepted accounting standards within Australia.

AGM means an annual general meeting of the Company held in accordance with section 250N of the Act;

ASIC means the Australian Securities and Investments Commission;

Auditor means the auditor for the time being of the Company;

Business Day means any day that is not a Saturday, Sunday, gazetted public holiday or bank holiday in the place of incorporation of the Company, and concludes at 5 pm on that day;

Board means the Directors who collectively and lawfully hold office as such from time to time;

CEO means the person appointed to be the Chief Executive Officer by the Board of Directors;

Chair means the person appointed to be the chair of meetings of Directors or the Chair of meetings of Members (as applicable);

Committee means any committee of the Board established under clause 5.5;

Committee Charter means a charter that sets out the objectives, functions, roles, powers and responsibilities of the committee;

Company means SuperFriend – Industry Funds’ Mental Health Initiative (ACN 123 196 663);

Company Secretary means the person formally and lawfully appointed to be the Company Secretary of the Company by the Board and includes any acting secretary or assistant;

Constitution means the constitution and any supplementary, substituted or amended constitution in force from time to time;

Director means any person formally and lawfully appointed as a director of the Company, including an alternate director;

Directors means all or any number of the Directors for the time being;

Eligible Charity means any fund, authority or institution:

- (i) which is maintained for purposes which are charitable at law; and
- (ii) gifts to which are deductible under section 30-15 of the ITAA97; and
- (iii) that has purposes, which in the opinion of the Directors are similar to or are compatible with those of the Company;

Guarantee means the maximum amount each Member agrees to pay to the Company in accordance with clause 2.5;

Health Promotion is the process of enabling people to increase control over, and to improve, their health. To reach a state of complete physical, mental and social well-being, an individual or group must be able to identify and to realize aspirations, to satisfy needs, and to change or cope with the environment. Health is, therefore, seen as a resource for everyday life, not the objective of living. It moves beyond a focus on individual behaviour towards a wide range of social and environmental interventions. Health is a positive concept emphasizing social and personal resources, as well as physical capacities. Therefore, health promotion is not just the responsibility of the health sector, but goes beyond healthy life-styles to wellbeing.

Independent Director means a Director that is not:

- (i) employed by a Partner Fund or Partner Insurer; or
- (ii) employed in the financial services industry.

but rather a person appointed to the Board for their particular skill set and experience;

ITAA97 means the Income Tax Assessment Act 1997;

Managing Director means a Director or Directors appointed as managing director in accordance with clause 5.4;

Member means a person admitted as a Member under clause 8.1;

Nominations Committee means a Committee established to assist the Board with the selection, recruitment and appointment of Directors;

Officer means an officer of the Company within the meaning of the Act;

Partner Fund means a superannuation fund that is appointed by the Company as a Fund participating in a program being conducted by the Company;

Register of Members means the register of members to be kept pursuant to the Act;

Partner Insurer means an insurer who is participating under a current executed Partner Insurer Agreement and meeting all the terms and conditions included in the Agreement.

1.3 Interpretation

In this Constitution, unless the context otherwise requires:

- (a) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (b) a reference to a **body** or **authority** which ceases to exist is a reference to a body or authority having substantially the same objects as the named body or authority;
- (c) a reference to a **clause** or **annexure** is a reference to a clause of or an annexure to this Constitution;
- (d) **clause headings** and the **table of contents** are inserted for convenience only and do not form part of this Constitution;
- (e) the **annexures**, (if any) form part of this Constitution;
- (f) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;

- (g) **related** in respect of a corporation has the same meaning given to that term in the Act;
- (h) **including** and **includes** are not words of limitation;
- (i) the words **at any time** mean at any time and from time to time;
- (j) a word that is derived from a defined word has a corresponding meaning;
- (k) **monetary amounts** are expressed in Australian dollars;
- (l) the singular includes the plural and vice-versa;
- (m) words importing one gender include all other genders.

1.4 Application of Legislation

- (a) Division 8 of Part 1.2 (other than section 109X) of the Act applies in relation to this Constitution, so far as it is capable of application and with such changes as are necessary, as if the provisions of this Constitution were provisions of the Act.
- (b) Sections 4, 29 and 46(1), and Parts III, IV, V, VII, and VIII of the Acts Interpretation Act 1901 (Cth) apply in relation to this Constitution so far as they are capable of application, and with such changes as are necessary, as if the provisions of this Constitution were provisions of the Acts Interpretation Act 1901 (Cth).
- (c) Unless the context otherwise requires, an expression used in this Constitution that has a particular meaning in the Act has the same meaning in this Constitution.
- (d) Subject to the Act, the Replaceable Rules contained in the Act do not apply to the Company.
- (e) The Constitution is subject to the Act and where there is any inconsistency between a clause of this Constitution and the Act, the Act prevails to the extent of the inconsistency.

2 NATURE OF THE COMPANY

2.1 Public Company limited by Guarantee

The Company is a public company limited by guarantee.

2.2 Purposes of the Company

- (a) The Company is established solely for public charitable purposes, namely the provision of Health Promotion activities and initiatives that:

- (i) promote improved mental health and wellbeing;
 - (ii) reduce the risks of ill-health;
 - (iii) decrease stigma about mental illness; and
 - (iv) prevent suicide across the community.
- (b) The Company must apply its income in pursuing the purposes referred to in clause 2.2(a) and in doing so may, without limitation, do any one or more of the following:
- (i) engage in Health Promotion activities and initiatives aimed at improving mental health and wellbeing within the community through prevention, education and early intervention initiatives;
 - (ii) engage in Health Promotion activities and initiatives aimed at keeping people well (positive mental health), preventing mental ill-health and disability;
 - (iii) oversee the development, management, communication and distribution of educational materials to promote understanding within the community of mental health and wellbeing, mental illness and suicide prevention;
 - (iv) facilitate and influence improved practices and policy advancement that promotes better mental health and wellbeing within the community;
 - (v) improve mental health and wellbeing in workplaces through education and Health Promotion activities;
 - (vi) undertake and promote research that increases knowledge about mental health and wellbeing, mental illness and suicide prevention and improves knowledge translation into practice;
 - (vii) promote awareness of mental health services, research and other services to support prevention, early intervention and mental wellbeing; and
 - (viii) undertake activities that are ancillary to the activities listed in the preceding paragraphs of clause 2.2(b), being activities that the Company considers will advance its ability to pursue the principal purposes of the Company, and activities that are incidental to the activities listed in the preceding paragraphs of clause 2.2(b).

2.3 Scope of capacity and powers of the Company

The Company has the legal capacity and powers set out in section 124 of the Act.

2.4 Exercise of powers

- (a) The Company must only exercise its powers directly or indirectly in the furtherance of its purposes.
- (b) The Company must not be carried on for the purpose of the profit or gain of any Member.
- (c) Any income of the Company must be applied to promote the purposes of the Company as set out in clause 2.2.
- (d) The Company does not have the power to:
 - (i) issue shares of any kind; or
 - (ii) apply, pay or transfer, whether directly or indirectly, any portion of the income and property of the Company for the benefit of, or to, a Member, other than as provided in clauses 4.9 and 4.10.

2.5 Guarantee of Members

Each Member undertakes to contribute a maximum of \$10 to the Company for payment of:

- (a) the debts and liabilities of the Company;
- (b) the costs, charges and expenses of any winding up; and
- (c) the adjustment of the rights of Members among themselves,

if the Company is wound up:

- (d) while the Member is a Member; or
- (e) within one year after the Member ceases to be a Member.

3 ESTABLISHMENT AND OPERATION OF GIFT FUND

3.1 Maintaining Gift Fund

If required to do so in order to facilitate the making of gifts to the Company that are tax deductible, the Company must maintain for the principal purpose of the Company a fund (**Gift Fund**):

- (a) to which gifts of money or property for that purpose are to be made;
- (b) to which any money received by the Company because of those gifts is to be credited; and
- (c) that does not receive any other money or property.

3.2 Limits on use of Gift Fund

The Company must use the following only for the principal purpose of the Company:

- (a) gifts made to the Gift Fund;
- (b) any money received because of those gifts.

3.3 Winding up

- (a) At the first occurrence of:
 - (i) the winding up of the Gift Fund; or
 - (ii) the Company ceasing to be an institution covered by an item in any of the tables contained in subdivision 30-B of the ITAA97; and gifts to which are deductible under item 1 of the table contained in section 30-15 of the ITAA97;

any surplus assets of the Gift Fund must be transferred to Eligible Charities as the Directors decide.

- (b) Where gifts to an Eligible Charity are deductible only if, among other things, the conditions set out in the relevant table item in Subdivision 30-B of the ITAA 97 are satisfied, a transfer under this clause must be made in accordance with those conditions.

3.4 Bank account

The Company must maintain a separate bank account for the Gift Fund.

4 DIRECTORS

4.1 Qualification of Directors

A Director must be a Member as provided in clause 8.1(a).

4.2 Number of Directors

- (a) The Company must have not less than six (6) Directors and not more than eight (8) Directors unless the Company in general meeting determines otherwise.
- (b) At least five (5) of the Directors must ordinarily reside in Australia.

4.3 Eligibility criteria for office of Directors

A majority of Directors must qualify as a senior executive of any of SuperFriend's Partner Funds.

4.4 Appointment of Directors

- (a) The Board may appoint a Director on the recommendation of the Nominations Committee.
- (b) Directors appointed by the Board under clause 4.4(a) must retire from office at the next annual general meeting following his or her appointment, but will be eligible for re-appointment for an initial term of four years and a possible further term of four years (if so re-elected).
- (c) At each annual general meeting the Members must consider the appointment of the Directors appointment under clause 4.4(a) for the re-appointment under clauses 4.4(b).

4.5 Retirement

- (a) At each Annual General Meeting, excluding any Directors considered under clause 4.4(c), one-third of the remaining Directors (rounded down, if necessary, to the nearest whole number) must retire from office as Directors; being the Director who has, or the Directors who have, been longest in office since their last election but, as between persons who were last elected as Directors on the same day, the Director or Directors to retire must be determined by agreement among themselves or, in the absence of agreement, by ballot.
- (b) Subject to clause 4.7, a Director retiring from office under clause 4.5 is eligible for re-election and that Director may by resolution of the Company be re-elected to that office.
- (c) The retirement of a Director from office under paragraph (a) 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 meeting at which the retirement and re-election or election occur.

4.6 Non-eligibility of Auditor

The Auditor is ineligible to be elected or appointed as a Director or alternate Director.

4.7 Period of appointment of Directors

Provided a Director continues to meet the eligibility criteria in clause 4.3 and does not vacate their office, a Director is appointed for a maximum eight-year term.

4.8 Alternate Directors

- (a) With the prior approval of the Board, a Director may appoint an alternate Director to exercise some or all of the Director's powers for a specified period.

- (b) If the appointing Director requests the Company to give the alternate Director notice of Directors' meetings, the Company must do so.
- (c) When an alternate Director exercises the Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Director.
- (d) The appointing Director may terminate the alternate Director's appointment at any time.
- (e) An appointment or termination of an alternate Director must be in writing and a copy must be given to the Company.

4.9 Other offices held by Directors

Provided the Board has given its prior approval, a Director may hold any other office or position of profit in the Company together with the Directorship.

4.10 Remuneration of Directors

- (a) Directors who are also senior executives of Partner Funds of SuperFriend not entitled to be remunerated for their services by the Company and are not reimbursed for expenses relating to undertaking the role of Director.
- (b) Independent Directors may be paid an honorarium by the Partner Fund which supports their nomination in accordance with the Independent Director and Independent Committee Member Remuneration Policy, and are reimbursed by the Company for approved expenses incurred while undertaking Company business.

4.11 Ceasing to hold office of Director

- (a) A Director automatically vacates office if the Director:
 - (i) by virtue of any provision of the Act ceases to be a Director or becomes prohibited from being a Director;
 - (ii) resigns the office of Director by written notice of resignation to the Company at its registered office;
 - (iii) resigns their position with a Partner Fund, if that position qualified their eligibility to the appointment of a Director of the Company under clause 4.3;
 - (iv) for more than six months is absent without permission of the Board from meetings of the Directors held during that period and the Directors resolve that the Director's position has been vacated; or
 - (v) ceases to be a Member for any reason.

- (b) Subject to Section 203D of the Act, the Company may by resolution remove a Director from office.
- (c) A Director cannot be removed by, or required to vacate their office because of any resolution, request or notice of the Directors or any of them.

4.12 Material personal interest - Director's duty to disclose

- (a) Unless an exception in section 191(2) of the Act applies, if a Director has a material personal interest in a matter that relates to the affairs of the Company, the Director must give the other Directors notice of the interest.
- (b) The notice required by clause 4.12(a) must:
 - (i) include details of:
 - (A) the nature and extent of the interest; and
 - (B) how the matter relates to the affairs of the Company; and
 - (ii) be given at a Directors' meeting as soon as practicable after the Director becomes aware of the Director's interest in the matter.

4.13 Director may give standing notice about an interest

A Director with a material personal interest in a matter that relates to the affairs of the Company may give standing notice of this interest in accordance with clause 4.12 and section 192 of the Act.

4.14 Voting and completion of transactions in which a Director has a material personal interest

A Director who has a material personal interest in a matter that is being considered at a Director's meeting must not:

- (a) be present while the matter is being considered at the meeting; or
 - (b) vote on the matter;
- unless:
- (i) the interest does not need to be disclosed under section 191 of the Act; or
 - (ii) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - (A) identifies the Director, the nature of their interest in the matter and its relation to the affairs of the Company; and

- (B) states that the Directors are satisfied that the interest should not disqualify the Director from voting or being present.

5 MANAGEMENT OF BUSINESS BY DIRECTORS

5.1 Financial benefits to related parties

The Company must not give a financial benefit to a related party of the Company unless it is authorised in accordance with the Act. The Company must not make a payment to a Director without the approval of the Board.

5.2 Powers of Directors

- (a) Subject to the Act and to any provision of this Constitution, the business of the Company is to be managed by or under the direction of the Directors.
- (b) The Directors may exercise all of the powers of the Company except any powers that any provisions of the Act or this Constitution require the Company to exercise in general meeting.

5.3 Negotiable instruments

A negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed either by any two Directors or in any other way approved by the Directors.

5.4 Managing Director

- (a) The Directors may appoint one or more of themselves to the office of Managing Director of the Company for a period and on the terms as the Directors see fit.
- (b) A person ceases to be Managing Director if they cease to be a Director.
- (c) The Directors may confer on a Managing Director any of the powers that the Directors can exercise.
- (d) The Directors may revoke or vary:
 - (i) the appointment of the Managing Director; or
 - (ii) any of the powers conferred on the Managing Director.
- (e) The Directors may appoint persons to carry out the roles of CEO, Company Secretary, treasurer of the Company or such other roles as they may determine for a period and on such terms as the Directors see fit.

5.5 Delegations and Committees

- (a) The Directors may delegate any of their powers to a Committee, a Director, an employee of the Company or any other person or group of people approved by the Board.
- (b) The delegate must exercise the powers delegated to it in accordance with any directions of the Directors.
- (c) The effect of the delegate so exercising a power is the same as if the Directors exercised it.
- (d) Before establishing a Committee, the Directors must prepare a Committee Charter for the Committee to be established and all appointments to the Committee must be made in accordance with the procedures and requirements specified in the Committee Charter. The Directors may review, amend and vary the Committee Charter from time to time.
- (e) A Committee to which any powers have been so delegated must exercise the powers delegated in accordance with the Committee Charter relevant to the Committee and any directions of the Directors.
- (f) The provisions of this Constitution applying to meetings and resolutions of Directors apply, as far as they can and with any necessary changes, to meetings and resolutions of members of a Committee.

5.6 Appointment of attorney for Company

The Directors may, by power of attorney, appoint any company, firm, person or body of persons to be the attorney of the Company for:

- (a) any period; and
- (b) for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors under this Constitution.

5.7 Accounting for profit

Where a Director's interest is approved by a resolution of Directors in accordance with clause 4.14(b)(ii), no Director will be liable to account to the Company for any profit arising from any office or place of profit or realised from any contract or arrangement by reason only of the Director holding that office or of the fiduciary relations so established.

6 DIRECTORS' MEETINGS

6.1 Circulating resolutions

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

6.2 Calling Directors' meetings

A Directors' meeting may be called by the Company Secretary, Chair or by a Director giving reasonable notice individually to every other Director.

6.3 Use of technology

- (a) A Directors' meeting may be called or held using any technology consented to by the Directors.
- (b) Any consent may be a standing consent.
- (c) A Director may only withdraw their consent a reasonable period before the meeting.

6.4 Chairing Directors' meetings

- (a) The Directors must elect a Director to act as the Chair for their meetings.
- (b) The Directors may determine the period for which the person is to be the Chair.
- (c) The Directors must elect a Director present to chair a meeting, or part of it, if:
 - (i) a person has not already been elected to chair the meeting; or
 - (ii) a previously elected or appointed Chair is not available or declines to act as Chair for the meeting or part of it.

6.5 Quorum at Directors' meetings

- (a) Unless the Directors determine otherwise, the quorum for a Directors' meeting is half of the number of Directors lawfully appointed plus one (1). If the number of Directors lawfully appointed is not divisible by 2, then half of the Directors are taken to be the nearest whole number, rounded down.

- (b) The quorum must be present at all times during the meeting.

6.6 Passing of Directors' resolutions

- (a) Directors' resolution must be passed by a majority of the votes cast by Directors entitled to vote on the resolution.
- (b) The Chair has no casting vote in addition to any vote the Chair may have in the Chair's capacity as a Director.

7 COMPANY SECRETARY

7.1 Appointment

The Board must appoint a Company Secretary in accordance with the Act.

7.2 Terms and conditions of office

A Company Secretary holds office on the terms and conditions (including as to remuneration) that the Directors think fit.

8 MEMBERS

8.1 Admission to membership

- (a) Each person who is appointed as a Director shall be admitted to membership of the Company immediately upon such appointment taking effect.
- (b) Each Member is bound by this Constitution.

8.2 Address of Member

- (a) Each Member must provide to the Company Secretary details of an address in Australia where the Company can send notices.
- (b) If a Member fails to provide an address in accordance with clause 8.2(a), the address of the Member is deemed to be the registered office of the Company.

8.3 Events leading to cessation

A Member ceases to be a Member if the Member:

- (a) dies;
- (b) resigns in writing;
- (c) becomes of unsound mind or becomes liable to be dealt with in any way under the law relating to mental health;

- (d) is convicted of an indictable offence; or
- (e) ceases to hold office of a Director under clause 4.10; or
- (f) ceases to be eligible to be a Director for any reason.

8.4 Effect of cessation

A member who ceases to be a Member continues to be liable for:

- (a) all moneys due by them to the Company; and
- (b) the Guarantee.

9 MEETINGS OF MEMBERS

9.1 Calling of meetings of Members by a Director

A Director may call a meeting of Members.

9.2 Calling of meetings by Members

Any two Members may at their expense call and arrange to hold a general meeting in accordance with the Act.

9.3 Calling of general meetings by Directors when requested by Members

If requested by Members entitled under section 249D of the Act to call a general meeting, the Directors must call and arrange to hold a general meeting.

9.4 Failure of Directors to call general meeting

Members who make a request under section 249D of the Act may call and arrange to hold a general meeting in accordance with section 249E of the Act if the Directors do not do so within 21 days after the request is given to the Company.

9.5 Calling of meetings by the Court

The Court may order a meeting of Members to be called in accordance with Section 249G of the Act if it is impracticable to call the meeting in any other way.

9.6 Amount of notice of meetings

- (a) Subject to the Act, at least 21 days' notice must be given of a meeting of Members.
- (b) Subject to clause 9.6(c), the Company may call on shorter notice any meeting including an AGM, if all of the Members entitled to attend and vote at the meeting agree beforehand.

- (c) The period of notice required by the Act must be given of a meeting of Members at which a resolution will be moved to:
 - (i) remove a Director under clause 4.11(b); or
 - (ii) remove an Auditor.

9.7 Notice of meetings of Members

Written notice of the meeting of Members must be given individually to each Member entitled to vote at the meeting and to each Director.

- (a) Every notice convening a general meeting shall specify:
 - (i) the place, the day and time of the meeting and the general nature of the business to be transacted at the meeting;
 - (ii) if the Directors decide in their absolute discretion to hold the meeting in two or more places, the technology to be used to facilitate the meeting;
 - (iii) if it is proposed to pass a special resolution, the intention to propose the special resolution and the resolution; and
 - (iv) if a Member is entitled to appoint a proxy, a statement providing:
 - (A) that the Member has a right to appoint a proxy; and
 - (B) whether or not the proxy needs to be a Member of the Company.
- (b) The Company may give the notice of meeting to a Member:
 - (i) personally;
 - (ii) by sending it by post to the address of the Member in the register of Members or the alternative address (if any) nominated by the Member;
 - (iii) by sending it to an electronic address nominated by the Member; or
 - (iv) by any other means authorised by the Act.
- (c) A notice of meeting sent by post is taken to be given three days after it is posted. A notice of meeting sent by electronic means is taken to be given on the business day after it is sent.

9.8 Auditor entitled to notice and other communication

The Company must give its Auditor:

- (a) notice of general meeting in the same way that a Member is entitled to receive notice; and
- (b) any other communication relating to the general meeting that a Member is entitled to receive.

9.9 Contents of notice of meeting

The notice of meeting must conform with the requirements of section 249L of the Act.

9.10 Notice of adjourned meetings

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for one month or more.

9.11 Members' resolutions

The Members may propose a resolution to be moved at a general meeting only in accordance with the provisions of Division 4 of Part 2G.2 of the Act.

9.12 Time and place for meetings of Members

A meeting of Members must be held at a reasonable time and place.

9.13 Technology

The Company may hold a meeting of its Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

9.14 Quorum

- (a) The quorum for a meeting of Members is half of the Members plus one (1) and the quorum must be present at all times during the meeting. If the number of Members are not divisible by 2, then half of the Members is taken to be the nearest whole number rounded down.
- (b) In determining whether a quorum is present, individuals attending as proxies are to be counted but if an individual is attending both as a Member and as a proxy, they are to be counted only once.
- (c) A meeting that does not have a quorum present within 30 minutes after the time for the meeting set out in the notice of meeting is to be adjourned to a date, time and place as the Directors specify.

- (d) If the Directors do not specify one or more of those requirements, the meeting is adjourned to:
 - (i) if the date is not specified, the same day of the week in the following week;
 - (ii) if the time is not specified, the same time; or
 - (iii) if the place is not specified, the same place.
- (e) If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

9.15 Chairing meetings of Members

- (a) The Directors must elect an individual to act as the Chair of meetings of the Members.
- (b) Subject to clause 9.15(c), the Directors at the meeting of Members must elect an individual present as the Chair of the meeting (or part of it) if an individual has not already been elected by the Directors to chair it or, having been elected, is not available or declines to act for the meeting (or part of it).
- (c) The Chair must adjourn the meeting if the Members present with a majority of votes at the meeting agree or direct that the Chair must do so.

9.16 Auditor's right to be heard at meetings of Members

- (a) The Auditor is entitled to attend and be heard at meetings of Members.
- (b) The Auditor is entitled to be heard at the meeting on any part of the business of the meeting that concerns the Auditor as Auditor.
- (c) The Auditor is entitled to be heard even if:
 - (i) the Auditor retires at the meeting; or
 - (ii) the meeting passes a resolution to remove the Auditor from office.
- (d) The Auditor may authorise a person in writing as the Auditor's representative for the purpose of attending and speaking at any general meeting.

9.17 Proxies

- (a) A Member who is entitled to attend and cast a vote at a meeting of Members may appoint a person as the Member's proxy, to attend and vote

for the Member at the meeting or at a number of meetings until the proxy expires or is revoked.

- (b) The appointment of a proxy in respect of a specified meeting will be deemed to include the appointment of that proxy for any adjournment of that meeting unless the proxy is revoked prior to the holding of the adjourned meeting.

9.18 Rights of proxies

- (a) A proxy appointed to attend and vote for a Member has the same rights as the Member:
 - (i) to speak at the meeting;
 - (ii) to vote (but only to the extent allowed by the appointment); and
 - (iii) to join in demand for a poll.
- (b) A proxy may vote on a show of hands.
- (c) A proxy's authority to speak and vote for a Member at a meeting is suspended while the member is present at the meeting.

9.19 Standing proxy

- (a) An appointment of a proxy may be expressed to be for a specific time or meeting or both, or to be a standing proxy until the occurrence of a specified event or until revoked by the appointer.
- (b) If an appointment of a proxy does not specify the meeting or period for which the appointment is to be in force, the appointment will remain in force for 12 months, except that subject to the conditions of the proxy, a proxy may be revoked by the appointor or the appointer's attorney at any time. This revocation will have effect from the time written notice of this revocation is given to the Company.

9.20 Instrument appointing proxy

The instrument appointing a proxy must be in writing signed by the appointer or by the appointer's attorney duly authorised in writing, or, if the appointer is a body corporate, under its common seal or the hand of two or more of its officers.

9.21 Deposit of proxy with Company

- (a) The instrument appointing a proxy and the original power of attorney (if any) under which it is signed or a certified copy of the power of attorney must, unless otherwise specified in the notice convening the meeting, be

deposited at the Company's registered office not less than 48 hours before the time for holding the meeting.

- (b) Unless otherwise specified in the notice convening the meeting, a proxy and the authority or attorney under which the proxy is signed must be deposited at the Company's registered office by personal delivery, post or email.

9.22 Validity of vote given in accordance with proxy

A vote given in accordance with the terms of an instrument of proxy or a power of attorney is valid notwithstanding:

- (a) the previous death of the Member;
- (b) incapacity of the Member;
- (c) revocation of the proxy's appointment by the Member;
- (d) revocation by the Member of the authority or attorney under which the proxy was appointed by the appointor,

unless the Company receives by personal delivery, post, email or any other manner approved by the Company written notice of that matter at the Company's registered office or any place specified for the deposit of proxies before the start or resumption of the meeting at which a proxy votes.

9.23 Form of proxy

- (a) Every instrument of proxy must be signed by the Member and be in the form set out in Annexure A or in a form that is as similar to that form as the circumstances permit or in such other form as the Directors may from time to time prescribe or accept.
- (b) Any instrument of proxy deposited in accordance with this Constitution in which the name of the proxy is not filled in is deemed to be given in favour of the Chair of the meeting or meetings to which it relates.
- (c) The instrument of proxy may be worded so that a proxy may be directed to vote either for or against each of the resolutions to be proposed. Where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as directed in the instrument.
- (d) Where an instrument of proxy does not direct the proxy to vote either for or against each or any of the resolutions to be proposed, the proxy (including the Chair of the meeting where the Chair is deemed to be given the proxy under clause 9.23(b), may vote in any way the proxy thinks fit.

9.24 How many votes a Member has

- (a) At a meeting of Members each Member has one vote on a show of hands and on a poll.
- (b) The Chair does not have a casting vote.

9.25 Objections to right to vote

A challenge to a right to vote at a meeting of Members:

- (a) may only be made at the meeting; and
- (b) must be determined by the Chair whose decision is final.

9.26 How voting is carried out

- (a) A resolution put to the vote at a meeting of Members must be decided on a show of hands unless a poll is demanded.
- (b) On a show of hands, a declaration by the Chair is conclusive evidence of the result.
- (c) Neither the Chair nor the minutes need to state the number or proportion of the votes recorded in favour or against a resolution.

9.27 Matters on which a poll may be demanded

- (a) A poll may be demanded on any resolution other than resolutions concerning:
 - (i) the election of the Chair; or
 - (ii) the adjournment of the meeting.
- (b) A poll may be demanded in accordance with section 250L of the Act.

9.28 When and how polls must be taken

- (a) A poll demanded on a matter other than the election of a Chair or the question of an adjournment must be taken when and in the manner the Chair directs.
- (b) A poll on the election of a Chair or on the question of an adjournment must be taken immediately.

9.29 Holding of AGM

Subject to clause 9.30:

- (a) the Company must hold an AGM within 18 months after its registration.
- (b) the Company must hold an AGM at least once in each calendar year and within five months after the end of its financial year.
- (c) an AGM must be held in addition to any other meetings held by the Company in a year.

9.30 Extension of time for AGM

The Company may lodge an application with ASIC to extend the period within which it is required to hold the AGM in accordance with section 250P of the Act.

9.31 Business of the AGM

The business of the AGM may include any of the following, even if not referred to in the notice of meeting:

- (a) the consideration of the annual financial report, Director's report and Auditor's report;
- (b) the appointment of the Auditor;
- (c) the appointment or re-appointment of a Director or Directors; and
- (d) the fixing of the Auditor's remuneration.

9.32 Questions by Members of the Company

The Chair of the AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Company.

9.33 Questions by Members to Auditors

If the Auditor or their representative is at the meeting, the Chair of an AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask the Auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the Auditor's report, the accounting policies adopted by the company in relation to the preparation of the financial statements; and the independence of the auditor in relation to the conduct of the audit.

10 DIRECTORS' AND MEMBERS' MINUTES

10.1 Minutes

- (a) The Company must keep minute books in which it records:
 - (i) proceedings and resolutions of Members' meetings;

- (ii) proceedings and resolutions of Directors' meetings, including committee meetings;
 - (iii) resolutions passed by Members without a meeting; and
 - (iv) resolutions passed by Directors without a meeting.
- (b) The Company must ensure that the minutes of a meeting are signed by the Chair of the meeting or the Chair of the next meeting within a reasonable time after the meeting.
- (c) The Company must ensure that the minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

10.2 Members' access to minutes

Members are entitled to gain access to the minute book of meetings of Members in accordance with the Act.

11 ACCOUNTS AND AUDIT

11.1 Accounting records

- (a) The Directors must ensure that accounting and other records are kept to correctly record and explain the transactions and financial position of the Company, to enable true and fair profit and loss accounts and balance sheets to be prepared and to permit preparation of any other documents required by the Act or this Constitution.
- (b) The records must be kept:
- (i) in a manner that enables them to be conveniently and properly audited;
 - (ii) for seven years after the completion of the transactions or operations to which they relate; and
 - (iii) at the Company's registered office or at such other place as the Directors think fit.
- (c) The records must at all times be open to inspection by the Directors.

11.2 Accounts

Each financial year, the Company must prepare a financial report and a Directors' report in accordance with the Act.

11.3 Auditor

The Company shall appoint an auditor to audit the Company's financial statements in accordance with the Act.

12 WINDING UP

12.1 Rights of Members on winding up

If the Company is wound up, the Members have no right to participate in any distribution or payment of the assets or property of the Company.

12.2 Distribution of assets

- (a) If the Company is wound up, the assets and property available for distribution after satisfaction of all debts and liabilities must be given or transferred to such other institution or institutions as the Directors shall select:
 - (i) the objects of which are similar to the objects of the Company; and
 - (ii) the constitution of which prohibits the distribution of its income and property to an extent at least as great as that imposed by clause 2.4(d)(ii).
- (b) The Directors must determine the identity of the institution or institutions for the purpose of clause 12.2(a).
- (c) If the Directors fail to determine the identity of the institution or institutions under clause 12.2(b), the Supreme Court of Victoria may make that determination.

13 INDEMNITY

13.1 Indemnity

- (a) Subject to the Act, the Company will indemnify each Officer against, and will pay the Officer on demand, the amount of any liability to another person (other than the Company or a related body corporate of the Company) incurred by the Officer in or in relation to the Officer's capacity as an Officer unless the liability arises out of conduct involving a lack of good faith.
- (b) The Company will indemnify any other employee of the Company at the Directors' discretion.
- (c) The Company will indemnify an Officer against a liability for costs and expenses (including legal expenses on a full indemnity basis) incurred by the Officer in defending proceedings whether civil or criminal, except if those proceedings are:

- (i) civil proceedings in which the Officer is found to have a liability for which they could not be indemnified under clause 13.1(a);
 - (ii) criminal proceedings in which the Officer is found guilty;
 - (iii) proceedings brought by ASIC or a liquidator for a court order, and a court finds that the grounds for making the order are established; or
 - (iv) proceedings for relief to the Officer under the Act under which the court denies relief.
- (d) The Officer must repay to the Company any amounts advanced by the Company under any indemnity in this clause 13.1 if:
- (i) any of the exceptions set out in clause (c) apply;
 - (ii) a court subsequently determines that the indemnification is not permitted; or
 - (iii) the indemnification is not permitted by the Act.
- (e) For the purposes of this clause, the Company has the burden of proving that the Officer to be indemnified is not entitled to the requested indemnification.
- (f) If the Company determines that an Officer is not entitled to be indemnified, the Officer will be entitled to direct that the Company obtain and follow, at the Company's expense, an opinion as to such entitlement from a Senior Counsel with relevant expertise.
- (g) The indemnification rights in this clause constitute a contract between the relevant parties seeking indemnification and the Company and will continue to have effect following the rescission or restrictive modification of the clause with respect to events occurring prior to the rescission or modification of the clause.

13.2 Payment Of Costs

Subject to this Constitution and the Act, the Directors may, out of the funds of the Company, pay all costs, losses and expenses which any Officer may incur or become liable to pay by reason of any contract entered into or act or thing done by them in their capacity as an Officer or in any way in discharge of their duties.

13.3 Limit of indemnity

- (a) Subject to the provisions of the Act, an Officer of the Company will not be liable for:

- (i) the acts, receipts, neglect or defaults of any other Officer;
- (ii) joining in any receipt or other act of conformity or for any loss happening to the Company through:
 - (A) an insufficiency or deficiency of title to any property acquired by order of the Officers for or on behalf of the Company; or
 - (B) an insufficiency or deficiency of any security in or upon which any of the moneys of the Company are invested at any time;
- (iii) any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any moneys, securities or effects are deposited at any time;
- (iv) any loss occasioned by any error of judgment or oversight on the Officer's part; or
- (v) any other loss, damage or misfortune which occurs in the execution of the duties of the Officer's office,

unless the liability was incurred against the Company or through the Officer's own dishonesty.

14 CONTRACT OF INSURANCE

Except to the extent precluded by the Act, the Company may pay a premium for a contract insuring a person who is or has been an Officer, against:

- (a) any liability incurred by the Officer which does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Act; or
- (b) any liability for costs and expenses incurred by that person in defending proceedings relating to that person's position with the Company, whether civil or criminal and whatever their outcome.

15 TIME FOR DOING ACTS

- (a) If:
 - (i) the time for doing any act or thing required to be done; or
 - (ii) a notice period specified in this Constitution,

expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.

- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

ANNEXURE A

SuperFriend - Industry Funds' Mental Health Initiative (ACN 123 196 663)

PROXY

I of
being a member of the above Company, hereby appoint the Chair of the meeting, or if a
person is specified below then that person:

Name of proxy

Address

as proxy to vote on my behalf at the following meeting(s) of the Company and at any
adjournment of the meeting(s):

- (1) Meeting of the Company to be held on
.....;
- (2) All meetings of members of the Company held
within months from the date of this
appointment;
- (3) All meetings of members of the Company held
prior to the revocation of this appointment.

This holder of this Proxy may vote as they think fit unless otherwise specified below:

Resolution(s)

For / Against
(please select one)

For / Against

For / Against

Date

Signature of Member:

Name of Member: