

Constitution

Parkinson's NSW Ltd

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CONTENTS

PRELIMINARY	6
1. Name of the company	6
2. Type of company	6
3. Limited liability of members	6
4. The guarantee	6
5. Definitions.....	6
CHARITABLE PURPOSES, POWERS AND ACTIVITIES.....	6
6. Object and purpose	6
7. Activities	6
8. Powers	7
9. Not-for-profit	7
10. Amending the constitution.....	7
MEMBERS.....	7
11. Members of the company	8
12. Membership eligibility	8
13. Members rights.....	9
14. Membership not transferable.....	9
15. Register of Members.....	9
16. Membership fees	9
17. Ceasing to be a member	10
18. Resignation from membership	10
19. Automatic cessation of membership	10
DISCIPLINARY PROCEDURES	10
20. Disciplining members	11
GENERAL MEETINGS OF MEMBERS.....	12
21. General meetings called by directors	12
22. Annual general meeting	12

23.	Notice of general meetings.....	12
24.	Quorum at general meetings.....	14
25.	Auditor's right to attend meetings.....	14
26.	Representatives of members.....	14
27.	Using technology to hold meetings.....	15
28.	Chairperson for general meetings.....	15
29.	Role of the chairperson	15
30.	Adjournment of meetings	15
	MEMBERS' RESOLUTIONS AND STATEMENTS	15
31.	Members' resolutions and statements	15
32.	Company must give notice of proposed resolution or distribute statement	16
	VOTING AT GENERAL MEETINGS	17
33.	How many votes a member has.....	17
34.	Challenge to member's right to vote.....	17
35.	How voting is carried out	17
36.	When and how a vote in writing must be held.....	17
37.	Appointment of proxy	18
38.	Voting by proxy.....	19
	DIRECTORS.....	19
39.	Number of directors.....	19
40.	Election and appointment of directors.....	19
41.	Election of chairperson.....	21
42.	Term of office	21
43.	When a director stops being a director	21
	POWERS OF DIRECTORS.....	22
44.	Powers of directors	22
45.	Delegation of directors' powers	22

46.	Payments to directors	23
47.	Execution of documents	23
	DUTIES OF DIRECTORS.....	24
48.	Duties of directors.....	24
49.	Conflicts of interest	24
	DIRECTORS' MEETINGS	25
50.	When the directors meet	25
51.	Calling directors' meetings	25
52.	Chairperson for directors' meetings.....	25
53.	Quorum at directors' meetings.....	26
54.	Using technology to hold directors' meetings	26
55.	Passing directors' resolutions	26
56.	Circular resolutions of directors.....	26
	SECRETARY	27
57.	Appointment and role of secretary.....	27
	MINUTES AND RECORDS	27
58.	Minutes and records	27
59.	Financial and related records	28
	BY-LAWS	28
60.	By-laws	28
	NOTICE.....	28
61.	What is notice	28
62.	Notice to the company	28
63.	Notice to members	29
64.	When notice is taken to be given.....	29
	FINANCIAL YEAR.....	29
65.	Company's financial year.....	29
	INDEMNITY, INSURANCE AND ACCESS.....	29

66. Indemnity 29

67. Insurance 30

68. Directors’ access to documents 30

WINDING UP 30

69. Surplus assets not to be distributed to members 30

70. Distribution of surplus assets 30

DEFINITIONS AND INTERPRETATION..... 31

71. Definitions 31

72. Reading this constitution with the Corporations Act 32

73. Interpretation 33

Preliminary

1. Name of the company

The name of the **company** is Parkinson's NSW Ltd (the **company**).

2. Type of company

The **company** is a not-for-profit public **company** limited by guarantee which is established to be, and to continue as, a charity.

3. Limited liability of members

The liability of members is limited to the amount of the guarantee in clause 4.

4. The guarantee

The liability of each member is limited. Each member guarantees to contribute up to a maximum of one dollar to the assets of the **company** if it is wound up while the member is a member, or within one year afterwards, and at the time of winding up the debts and liabilities of the **company** exceed its assets. The liability of each member is limited to making such contribution and no more.

5. Definitions

In this constitution, words and phrases have the meaning set out in clauses 71 and 73.

Charitable purposes, powers and activities

6. Object and purpose

The **company's** object is to pursue the following charitable purpose being the promotion and advancement of the prevention, management, cure and control of Parkinson's Disease.

7. Activities

The activities of the **company** must be performed in the furtherance of the **company's** purpose and include to:

- (a) support and promote research into the prevention, diagnosis, causes, manifestations, treatment, management and cure of Parkinson's Disease;
- (b) support, provide and promote the development of quality care and treatments for people affected by Parkinson's Disease;

- (c) support, provide and develop tools and support services that help people with Parkinson's Disease, their families and carers;
- (d) facilitate sharing of information and other resources relating to Parkinson's Disease;
- (e) promote a deeper understanding and awareness of Parkinson's Disease within the medical and broader community as well as within Government;
- (f) raise financial and other resources to support the purpose and activities of the **company**; and
- (g) undertake any other activity incidental to or necessary for the furtherance of the purpose of the **company**.

8. Powers

Subject to clause 9, the **company** has the following powers, which may only be used to carry out its purpose(s) set out in clause 6:

- (a) the powers of an individual; and
- (b) all the powers of a **company** limited by guarantee under the **Corporations Act**.

9. Not-for-profit

- (a) The company must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 9(b) and 70.
- (b) Clause 9(a) does not stop the company from doing the following things, provided they are done in good faith:
 - (i) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**; or
 - (ii) making a payment to a member in carrying out the **company's** charitable purpose(s).

10. Amending the constitution

- (a) Subject to clause 10(b) the members may amend this constitution by passing a **special resolution**.
- (b) The members must not pass a **special resolution** that amends this constitution if passing it causes the **company** to no longer be a charity.

Members

11. Members of the company

- (a) Each valid Pensioner, Individual, Professional, Organisational, Corporate, Joint and Life member of the **association** as at the date it converted from an incorporated association under the Associations Incorporation Act 2009 (NSW) to a company limited by guarantee under the Corporations Act 2001 (Cth) (**conversion**) will:
- (i) automatically become a member of the **company** upon **conversion**;
 - (ii) have the rights and obligations of 'members' as described in the table at Schedule 1; and
 - (iii) be required to pay the membership fees determined by the directors under clause 16.
- (b) Each valid Honorary Life Member of the **association** as at the date of **conversion** will:
- (i) automatically become a member of the **company** upon **conversion**;
 - (ii) have the rights and obligations of '**honorary life members**' described in the table at Schedule 1; and
 - (iii) be required to pay the membership fees determined by the directors under clause 16.
- (c) A Joint Member of the **association** who did not provide written consent prior to **conversion** will cease to be a member upon **conversion**, but is eligible to reapply for membership of the **company** at any time in accordance with clause 12.
- (d) Any person or body corporate (**applicant**) may apply to be a member of the **company** in accordance with clause 12.
- (e) If an **applicant** is admitted as a member of the **company**, the secretary must ensure that:
- (i) the **applicant** is given notice of admission as a member of the **company**; and
 - (ii) the name and details of the **applicant** are entered in the members' register in accordance with clause 15.
- (f) The secretary must ensure that each **applicant** not admitted as a member of the **company** is informed of this decision. Neither the directors nor the secretary are required to give reasons for the decision not to admit an **applicant** as a member of the **company**.

12. Membership eligibility

To become a member of the **company** the **applicant** must:

- (a) have a commitment to the purposes of the **company**;

- (b) satisfy any specific eligibility criteria associated with the class of membership to which it wishes to belong as described in the table at Schedule 1;
- (c) agree to be bound by this constitution and such guidelines, policies and procedures as the directors may adopt from time to time pertaining to or involving members;
- (d) complete and lodge an application in such form as determined by the directors from time to time which, for the avoidance of doubt, may include applying using the internet;
- (e) pay any annual membership fee as determined by the directors under clause 16;
- (f) be admitted into membership by the directors or by such person or committee as the directors may determine from time to time; and
- (g) satisfy any such other membership criteria as the directors may determine from time to time.

13. Members rights

Each member has the rights associated with the class of membership to which that member belongs as described in the table at Schedule 1.

14. Membership not transferable

Membership of the **company** and the associated rights are not permitted to be transferred or sold in any manner whatsoever.

15. Register of Members

- (a) A register of members must be kept in accordance with the law.
- (b) Without limiting the requirement under clause 15(a), the following must be entered in the register in respect of each member:
 - (i) the name and address of the member;
 - (ii) the date of admission to and cessation of membership;
 - (iii) the class of membership to which the member belongs;
 - (iv) for any member who is a body corporate, the name of its validly authorised representative; and
 - (v) any other information required by the directors from time to time, including the e-mail address of that member.

16. Membership fees

- (a) The directors may require the payment of fees by members in the amounts and at the times as the directors resolve.

- (b) The directors may make fees payable for one or more members or for one or more class of membership for different amounts and at different times (including by instalments).
- (c) The directors may waive or postpone payment of fees or extend the time for payment of fees.
- (d) For the avoidance of doubt a member that has not paid the required membership fee but has not yet ceased to be a member in accordance with clause 19 may not exercise any of the rights associated with the class of membership to which that member belongs including the right to exercise any vote the member may have at a meeting of members.

17. Ceasing to be a member

- (a) There are a number of circumstances that will result in a members' membership ceasing.
- (b) For instance, a member will cease to be a member of the **company** if that member:
 - (i) resigns from membership. See clause 18;
 - (ii) automatically ceases to be a member. See clause 19; or
 - (iii) is expelled from membership. See clause 20.

18. Resignation from membership

A member may resign from membership of the **company** at any time by providing written notice to the **company**. Unless the notice provides otherwise, the resignation takes effect from the date the notice is received.

19. Automatic cessation of membership

A member's membership will automatically cease if the member:

- (a) dies or, in the case of a member that is a body corporate, is wound up or becomes insolvent;
- (b) fails to pay any initial annual fee within four weeks after being notified of admission into membership of the **company** or such later time as the directors may determine;
- (c) fails to pay any required membership fee within 60 days after the date on which that membership fee becomes due or such later time as the directors may determine; or
- (d) fails to return a membership renewal notice (as may be sent to all members from time to time as determined by the directors) by the date specified in the form, such date not to be less than 60 days after the date the form is sent.

Disciplinary procedures

20. Disciplining members

- (a) In accordance with this clause, the directors may resolve to warn, suspend or expel a member from the **company** if the directors consider that:
- (i) the member has breached this constitution;
 - (ii) if the member is a leader of a **support group**, and that member has not complied with the **Parkinson's support group policies**;
 - (iii) the member's behaviour is causing, has caused, or is likely to cause harm to the **company** including but not limited to acting in a way that could be prejudicial to the interests or reputation of the **company**; or
 - (iv) the member has breached an obligation agreed to by that member in the member's membership application form.
- (b) At least 14 days before the directors' meeting at which a resolution under clause 20(a) will be considered, the secretary must notify the member in writing:
- (i) that the directors are considering a resolution to warn, suspend or expel the member;
 - (ii) that this resolution will be considered at a directors' meeting and the date of that meeting;
 - (iii) what the member is said to have done or not done;
 - (iv) the nature of the resolution that has been proposed; and
 - (v) that the member may provide an explanation to the directors, and details of how to do so.
- (c) Before the directors pass any resolution under clause 20(a), the member must be given a chance to explain or defend themselves by:
- (i) sending the directors a written explanation before that directors' meeting; and/or
 - (ii) speaking at the meeting.
- (d) After considering any explanation under clause 20(c), the directors may:
- (i) take no further action;
 - (ii) warn the member;
 - (iii) suspend the member's rights as a member for a period of no more than 12 months;
 - (iv) expel the member;

- (v) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause); or
- (vi) require the matter to be determined at a **general meeting**.
- (e) The directors cannot fine a member.
- (f) The secretary must give written notice to the member of the decision under clause 20(d) as soon as possible.
- (g) Disciplinary procedures must be completed as soon as reasonably practical.
- (h) There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.
- (i) A director that is also a member subject to a decision under clause 20(a) is not entitled to vote on that resolution.

General meetings of members

21. General meetings called by directors

The directors may call a **general meeting**.

22. Annual general meeting

- (a) A **general meeting**, called the annual **general meeting**, must be held at least once in every calendar year.
- (b) Even if these items are not set out in the notice of meeting, the business of an annual **general meeting** may include:
 - (i) the consideration of any:
 - (A) annual financial report;
 - (B) directors' report;
 - (ii) any auditor's report;
 - (iii) the election of directors; and
 - (iv) the appointment and payment of auditors, if any.
- (c) The chairperson of the annual **general meeting** must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **company**.

23. Notice of general meetings

- (a) Notice of a **general meeting** must be given to:

- (i) each member entitled to vote at the meeting;
 - (ii) each director; and
 - (iii) the auditor (if any).
- (b) Notice of a **general meeting** must be provided in writing at least 21 days before the meeting.
- (c) Subject to clause 23(d), notice of a meeting may be provided less than 21 days before the meeting if:
 - (i) for an annual **general meeting**, all the members entitled to attend and vote at the annual **general meeting** agree beforehand; or
 - (ii) for any other **general meeting**, members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (d) Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
 - (i) remove a director;
 - (ii) appoint a director in order to replace a director who was removed; or
 - (iii) remove an auditor.
- (e) Notice of a **general meeting** must include:
 - (i) the place, date and time for the meeting (and if the meeting is to be held in two or more places or virtually, the technology that will be used to facilitate this);
 - (ii) the general nature of the meeting's business;
 - (iii) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution;
 - (iv) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
 - (A) the proxy does not need to be a member of the **company**;
 - (B) the proxy form must be delivered to the **company** at its registered address or the address (including an electronic address) specified in the notice of the meeting; and
 - (C) the proxy form must be delivered to the **company** at least 48 hours before the meeting.
- (f) If a **general meeting** is adjourned (put off) for one month or more, the members must be given new notice of the resumed meeting.

24. Quorum at general meetings

- (a) For a **general meeting** to be held, at least 10 members (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one member).
- (b) No business may be conducted at a **general meeting** if a quorum is not present.
- (c) If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
 - (i) if the date is not specified – the same day in the next week;
 - (ii) if the time is not specified – the same time; and
 - (iii) if the place is not specified – the same place.
- (d) If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

25. Auditor's right to attend meetings

- (a) The auditor (if any) is entitled to attend any **general meeting** and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- (b) The **company** must give the auditor (if any) any communications relating to the **general meeting** that a member of the **company** is entitled to receive.

26. Representatives of members

- (a) A member that is a body corporate may appoint as a representative:
 - (i) one individual to represent the member at meetings; and
 - (ii) the same individual or another individual for the purpose of being appointed or elected as a director.
- (b) The appointment of a representative by a member must:
 - (i) be in writing;
 - (ii) include the name of the representative;
 - (iii) be signed on behalf of the member; and
 - (iv) be given to the **company** or, for representation at a meeting, be given to the chairperson before the meeting starts.

- (c) A representative has all the rights of a member relevant to the purposes of the appointment as a representative.
- (d) The appointment may be standing (ongoing).

27. Using technology to hold meetings

- (a) The **company** may hold a **general meeting** at two or more venues or virtually using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.
- (b) Anyone using this technology is taken to be present in person at the meeting.

28. Chairperson for general meetings

- (a) The elected chairperson is entitled to chair general meetings.
- (b) The members present and entitled to vote at a general meeting may choose a director or member to be the chairperson for that meeting if:
 - (i) there is no elected chairperson; or
 - (ii) the elected chairperson is not present within 30 minutes after the starting time set for the meeting; or
 - (iii) the elected chairperson is present but says they do not wish to act as chairperson of the meeting.

29. Role of the chairperson

- (a) The chairperson is responsible for the conduct of the **general meeting**, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- (b) The chairperson does not have a casting vote.

30. Adjournment of meetings

- (a) If a quorum is present, a **general meeting** must be adjourned if a majority of **members present** direct the chairperson to adjourn it.
- (b) Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

31. Members' resolutions and statements

- (a) Members with at least 10% of the votes that may be cast on a resolution may give:
 - (i) written notice to the **company** of a resolution they propose to move at a **general meeting** (members' resolution); and/or

- (ii) a written request to the **company** that the **company** give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (members' statement).
- (b) A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- (c) A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.
- (d) Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.
- (e) The percentage of votes that members have (as described in clause 31(a)) is to be worked out as at midnight before the request or notice is given to the **company**.
- (f) If the **company** has been given notice of a members' resolution under clause 31(a)(i), the resolution must be considered at the next **general meeting** held more than two months after the notice is given.
- (g) This clause does not limit any other right that a member has to propose a resolution at a **general meeting**.

32. Company must give notice of proposed resolution or distribute statement

- (a) If the **company** has been given a notice or request under clause 31(a):
 - (i) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the **company's** cost; or
 - (ii) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the **company** in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a **general meeting**, the members may pass a resolution that the **company** will pay these expenses.
- (b) The **company** does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
 - (i) it is more than 1 000 words long;
 - (ii) the directors consider it may be defamatory;
 - (iii) clause 32(a)(ii) applies, and the members who proposed the resolution or made the request have not paid the **company** enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members; or

- (iv) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the members.

Voting at general meetings

33. How many votes a member has

Each member has the voting rights associated with the particular class of membership to which the member belongs as described in the table at Schedule 1.

34. Challenge to member's right to vote

- (a) A member or the chairperson may only challenge a person's right to vote at a **general meeting** at that meeting.
- (b) If a challenge is made under clause 34(a), the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

35. How voting is carried out

- (a) Voting must be conducted and decided by:
 - (i) a show of hands;
 - (ii) a vote in writing;
 - (iii) a vote in writing conducted using technology which allows for electronic voting and which is fair and reasonable in the circumstances; or
 - (iv) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- (b) Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- (c) On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- (d) The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

36. When and how a vote in writing must be held

- (a) A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
 - (i) at least five **members present**;

- (ii) **members present** with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded); or
- (iii) the chairperson.
- (b) A vote in writing must be taken when and how the chairperson directs, unless clause 36(c) applies.
- (c) A vote in writing must be held immediately if it is demanded under clause 36(a):
 - (i) for the election of a chairperson under clause 28(b); or
 - (ii) to decide whether to adjourn the meeting.
- (d) A demand for a vote in writing may be withdrawn.

37. Appointment of proxy

- (a) A member may appoint a proxy to attend and vote at a **general meeting** on their behalf, subject to clause 37(j).
- (b) A proxy does not need to be a member.
- (c) A proxy appointed to attend and vote for a member has the same rights as the member to:
 - (i) speak at the meeting;
 - (ii) vote in a vote in writing (but only to the extent allowed by the appointment); and
 - (iii) join in to demand a vote in writing under clause 36(a).
- (d) An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
 - (i) the member's name and address;
 - (ii) the **company's** name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the meeting(s) at which the appointment may be used.
- (e) A proxy appointment may be standing (ongoing).
- (f) Proxy forms must be received by the **company** at the address stated in the notice under clause 23(e)(iv) or at the **company's** registered address at least 48 hours before a meeting.
- (g) A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.

- (h) Unless the **company** receives written notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
 - (i) dies;
 - (ii) is mentally incapacitated;
 - (iii) revokes the proxy's appointment; or
 - (iv) revokes the authority of a representative or agent who appointed the proxy.
- (i) A proxy appointment may specify the way the proxy must vote on a particular resolution.
- (j) The chairperson may hold as many proxies as are given to the chairperson. All other proxy holders may hold a maximum of three proxies.

38. Voting by proxy

- (a) A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- (b) When a vote in writing is held, a proxy:
 - (i) if the way they must vote is specified on the proxy form, must vote that way;
 - (ii) if the way they must vote is unspecified on the proxy form, the proxy holder may exercise the voting rights as they see fit; and
 - (iii) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

Directors

39. Number of directors

- (a) The **company** must have at least three and no more than nine directors, subject to clause 39(b)
- (b) The directors may change the maximum number of permitted director positions under clause 39(a) with the approval of the members.

40. Election and appointment of directors

- (a) A person may become a director via three ways:
 - (i) election by members at an annual general meeting, with such election to be for the period commencing on the date of the annual general meeting at which that person was elected and ending on the date of the second succeeding annual general meeting (**elected directors**);

- (ii) appointment by the directors, such appointment to be for a term of up to two years with the precise period determined by the directors at the time of appointment (**appointed directors**); or
 - (iii) appointment by the directors to fill any vacancy in the number of **elected directors** however arising, such appointment, if made, to be for the period up to the next annual general meeting at which point that director must retire (**casual appointment**).
- (b) The following clauses apply when determining the ratio of **elected directors** to **appointed directors**:
- (i) one third of the maximum permitted number of director positions (as determined under clause 39) are reserved for, and may only be filled by, **elected directors**. All other director positions may be filled by **appointed directors**.
 - (ii) If one third of the maximum number of permitted director positions is not a whole number then the number is to be rounded down to the nearest whole number.
- (c) A person is eligible for election as a director of the **company** if they:
- (i) are a member of the **company**, or a representative of a member of the **company** (appointed under clause 24);
 - (ii) give the **company** their signed consent to act as a director of the **company**;
 - (iii) are not ineligible to be a director under the **Corporations Act** or the **ACNC Act**;
 - (iv) are not an employee of the **company**;
 - (v) be nominated in the way determined by the directors from time to time;
 - (vi) have knowledge about, have expertise relevant to and be committed to the purpose and activities of the **company**;
 - (vii) meet any other criteria relating to the composition of the board and skills and qualifications of directors as may be determined by the directors from time to time, including but not limited to any criteria specified in the **company's** nominations committee charter.
- (d) The directors must use reasonable endeavours to ensure that at least two of their number are persons who have Parkinson's Disease or are a carer for a person who has Parkinson's Disease.
- (e) If the number of directors is reduced to fewer than three or is less than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of directors to three (or higher if required for a quorum) or calling a **general meeting**, but for no other purpose.

41. Election of chairperson

- (a) The directors must elect a director as the company's **elected chairperson** who will be appointed to the position for 2 years unless he or she resigns, retires or is otherwise removed by resolution of the directors.
- (b) The director must elect a director as the company's **elected deputy chairperson** who will be appointed to the position for 2 years unless he or she resigns, retires or is otherwise removed by resolution of the directors.
- (c) In the absence of the **elected chairperson**, the **elected deputy chairperson** will perform all of the duties of the **elected chairperson** specified in this constitution.
- (d) Any person appointed as a chairperson or deputy chairperson of a committee may only hold that position for a maximum term of 2 years unless the committee or directors determine otherwise.

42. Term of office

- (a) Each director is to remain as a director until the term of her or his office expires or until he or she resigns, retires or is otherwise removed as a director of the **company** in accordance with the Corporations Act and this constitution. However, subject to the Corporations Act and clauses 42(b), 42(c) and 42(d) a person is eligible for reappointment or re-election.
- (b) No person is permitted to hold the position of **appointed director** for any more than eight continuous years. However, subject to clause 42(c) a person who has been an **appointed director** may subsequently fill an **elected director** position.
- (c) No person is permitted to hold the office of a director for any more than eight continuous years unless otherwise resolved by a **special resolution** of members.
- (d) A person having held office as a director for eight continuous years is eligible for re-election or re-appointment once a period of 12 months has expired since he or she last held office as a director.
- (e) For the avoidance of doubt, clauses 40, 41, 42 and 43 apply to any director that was appointed as a director of the Company prior to the date this Constitution came into effect.

43. When a director stops being a director

A director stops being a director if they:

- (i) give written notice of resignation as a director to the **company**;
- (ii) die;
- (iii) are removed as a director by a resolution of the members;
- (iv) stop being a member of the **company**;

- (v) are a representative of a member, and that member stops being a member;
- (vi) are a representative of a member, and the member notifies the **company** that the representative is no longer a representative;
- (vii) are absent for 4 consecutive directors' meetings without approval from the directors; or
- (viii) become ineligible to be a director of the **company** under the **Corporations Act** or the **ACNC Act**.

Powers of directors

44. Powers of directors

- (a) The directors are responsible for managing and directing the activities of the **company** to achieve the purpose(s) set out in clause 6.
- (b) The directors may use all the powers of the **company** except for powers that, under the **Corporations Act** or this constitution, may only be used by members.
- (c) The directors must decide on the responsible financial management of the **company** including:
 - (i) any suitable written delegations of power under clause 45; and
 - (ii) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- (d) The directors cannot remove a director or auditor. Directors and auditors may only be removed by a members' resolution at a **general meeting**.

45. Delegation of directors' powers

- (a) The directors may delegate any of their powers and functions to a committee (including but not limited to **support groups** and a nominations committee), a director, an employee of the **company** (such as a chief executive officer) or any other person, as they consider appropriate.
- (b) The delegation must be recorded in the **company's** minute book.
- (c) The directors may continue to exercise all of their powers despite any delegation made under this clause.
- (d) Without limiting the powers of the directors under clause 45(a), the directors may resolve to:
 - (i) establish one or more committees, including **support groups**, consisting of such persons as they determine;

- (ii) delegate to each committee such of their powers required for the effective and efficient running and administration of the committee;
 - (iii) revoke any or all of the powers delegated to each committee and vary the nature and scope of the powers delegated; and
 - (iv) change the makeup of a committee at any time or dissolve it altogether.
- (e) A committee must be conducted, and exercise the powers delegated to it, in accordance with any directions of the directors which, for the avoidance of doubt, may be contained within a set of guidelines or protocols.
- (f) Without limiting the powers of the directors under clause 45(a), each **support group** and each member of the **company** connected with a **support group**, including a leader of a **support group**, must:
- (i) comply with the **Parkinson's support group policies**;
 - (ii) ensure that anyone who is not a member of the **company** who attends, participates in or is otherwise connected with, a **support group**, including any **participant**, complies with the **Parkinson's support group policies** (including, if the directors so request, ensuring that any non-member of the **company** agrees to be bound by the **Parkinson's support group policies**);
 - (iii) comply with all relevant company policies, procedures and other guidelines as may be in force from time to time; and
 - (iv) exercise any powers delegated in accordance with any directions of the directors from time to time.

46. **Payments to directors**

- (a) The **company** must not pay fees to a director for acting as a director.
- (b) The **company** may:
 - (i) pay a director for work they do for the **company**, other than as a director, if the amount is no more than a reasonable fee for the work done; or
 - (ii) reimburse a director for expenses properly incurred by the director in connection with the affairs of the **company**.
- (c) Any payment made under clause 46(b) must be approved by the directors.
- (d) The **company** may pay premiums for insurance indemnifying directors, as allowed for by law (including the **Corporations Act**) and this constitution.

47. **Execution of documents**

The **company** may execute a document without using a common seal if the document is signed by:

- (a) two directors of the **company**; or
- (b) a director and the secretary.

Duties of directors

48. Duties of directors

The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the **ACNC Act** which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the **company**;
- (b) to act in good faith in the best interests of the **company** and to further the charitable purpose(s) of the **company** set out in clause 6 not to misuse their position as a director;
- (c) not to misuse information they gain in their role as a director;
- (d) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 49;
- (e) to ensure that the financial affairs of the **company** are managed responsibly; and
- (f) not to allow the **company** to operate while it is insolvent.

49. Conflicts of interest

- (a) A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):
 - (i) to the other directors; or
 - (ii) if all of the directors have the same conflict of interest, to the members at the next **general meeting**, or at an earlier time if reasonable to do so.
- (b) The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- (c) Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under clauses 49(d):
 - (i) be present at the meeting while the matter is being discussed; or
 - (ii) vote on the matter.

- (d) A director may still be present and vote if:
 - (i) their interest arises because they are a member of the **company**, and the other members have the same interest;
 - (ii) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the **company** (see clause 67);
 - (iii) their interest relates to a payment by the **company** under clause 66 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**;
 - (iv) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter; or
 - (v) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (A) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the **company**; and
 - (B) says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

50. When the directors meet

The directors may decide how often, where and when they meet.

51. Calling directors' meetings

- (a) A director may call a directors' meeting by giving reasonable notice to all of the other directors.
- (b) A director may give notice in writing (including by email) or by any other means of communication that has previously been agreed to by all of the directors.

52. Chairperson for directors' meetings

- (a) The **elected chairperson** is entitled to chair directors' meetings.
- (b) In the absence of the **elected chairperson** from the directors' meeting, the **elected deputy chairperson** may chair that directors' meetings.
- (c) The directors at a directors' meeting may choose a director to be the chairperson for that meeting if the **elected chairperson** or **elected deputy chair person** is:
 - (i) not present within 30 minutes after the starting time set for the meeting; or

- (ii) present but does not want to act as chairperson of the meeting.

53. Quorum at directors' meetings

- (a) Unless the directors determine otherwise, the quorum for a directors' meeting is a majority (more than 50%) of directors.
- (b) A quorum must be present for the whole directors' meeting.
- (c) If a quorum is not present within one hour from the time specified in the relevant notice of meeting, the meeting is adjourned for five business days to the same time and place on that day.
- (d) The quorum for an adjourned meeting is the director or directors present.

54. Using technology to hold directors' meetings

- (a) The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.
- (b) The directors' agreement may be a standing (ongoing) one.
- (c) A director may only withdraw their consent within a reasonable period before the meeting.

55. Passing directors' resolutions

A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

56. Circular resolutions of directors

- (a) The directors may pass a circular resolution without a directors' meeting being held.
- (b) A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 56(c) or clause 56(d).
- (c) Each director may sign:
 - (i) a single document setting out the resolution and containing a statement that they agree to the resolution; or
 - (ii) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- (d) The **company** may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- (e) A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 56(c) or clause 56(d).

Secretary

57. Appointment and role of secretary

- (a) The **company** must have at least one secretary, who may also be a director.
- (b) A secretary must be appointed by the directors (after giving the **company** their signed consent to act as secretary of the **company**) and may be removed by the directors.
- (c) The directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.
- (d) The role of the secretary includes:
 - (i) maintaining a register of the **company's** members; and
 - (ii) maintaining the minutes and other records of **general meetings** (including notices of meetings), directors' meetings and circular resolutions.

Minutes and records

58. Minutes and records

- (a) The **company** must, within one month, make and keep the following records:
 - (i) minutes of proceedings and resolutions of **general meetings**;
 - (ii) minutes of circular resolutions of members; and
 - (iii) a copy of a notice of each **general meeting**.
- (b) The **company** must, within one month, make and keep the following records:
 - (i) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees); and
 - (ii) minutes of circular resolutions of directors.
- (c) The directors must ensure that minutes of a **general meeting** or a directors' meeting are signed within a reasonable time after the meeting by:
 - (i) the chairperson of the meeting; or
 - (ii) the chairperson of the next meeting.
- (d) The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

59. Financial and related records

- (a) The **company** must make and keep written financial records that:
 - (i) correctly record and explain its transactions and financial position and performance; and
 - (ii) enable true and fair financial statements to be prepared and to be audited.
- (b) The **company** must also keep written records that correctly record its operations.
- (c) The **company** must retain its records for at least 7 years.
- (d) The directors must take reasonable steps to ensure that the **company's** records are kept safe.

By-laws

60. By-laws

- (a) The directors may pass a resolution to make by-laws to give effect to this constitution.
- (b) Members and directors must comply with by-laws as if they were part of this constitution.

Notice

61. What is notice

- (a) Anything written to or from the **company** under any clause in this constitution is written notice and is subject to clauses 62 to 64, unless specified otherwise.
- (b) Clauses 62 to 64 do not apply to a notice of proxy under clause 37(f).

62. Notice to the company

Written notice or any communication under this constitution may be given to the **company**, the directors or the secretary by:

- (a) delivering it to the **company's** registered office;
- (b) posting it to the **company's** registered office or to another address chosen by the **company** for notice to be provided; or
- (c) sending it to an email address or other electronic address notified by the **company** to the members as the **company's** email address or other electronic address.

63. Notice to members

- (a) Written notice or any communication under this constitution may be given to a member:
- (i) in person;
 - (ii) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices;
 - (iii) sending it to the email or other electronic address provided by the member; or
 - (iv) if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).
- (b) If the **company** does not have an address for the member, the **company** is not required to give notice in person.

64. When notice is taken to be given

A notice:

- (a) delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs;
- (c) sent by email, or other electronic method, is taken to be given on the business day after it is sent; and
- (d) given under clause 63(a)(iv) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

65. Company's financial year

The **company's** financial year is from **1 July** to **30 June**, unless the directors pass a resolution to change the financial year.

Indemnity, insurance and access

66. Indemnity

- (a) The **company** indemnifies each officer of the **company** out of the assets of the **company**, to the relevant extent, against all losses and liabilities

(including costs, expenses and charges) incurred by that person as an officer of the **company**.

- (b) In this clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office.
- (c) In this clause, 'to the relevant extent' means:
 - (i) to the extent that the **company** is not precluded by law (including the **Corporations Act**) from doing so; and
 - (ii) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- (d) The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **company**.

67. Insurance

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

68. Directors' access to documents

- (a) A director has a right of access to the financial records of the **company** at all reasonable times.
- (b) If the directors consider it appropriate, the **company** may give a director or former director access to:
 - (i) certain documents, including documents provided for or available to the directors; and
 - (ii) any other documents referred to in those documents.

Winding up

69. Surplus assets not to be distributed to members

If the **company** is wound up, any **surplus assets** must not be distributed to a member or a former member of the **company**, unless that member or former member is a charity described in clause 70.

70. Distribution of surplus assets

- (a) Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets (including 'gift funds' defined in clause 70(d) that remain after the **company** is wound up must be distributed to one or more charities:

- (i) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6;
 - (ii) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the **company**; and
 - (iii) that is or are deductible gift recipients within the meaning of the Income Tax Assessment Act 1997 (Cth).
- (b) The decision as to the charity or charities to be given the surplus assets must be made by a **special resolution** of members at or before the time of winding up. If the members do not make this decision, the company may apply to the Supreme Court to make this decision.
- (c) If the **company's** deductible gift recipient endorsement is revoked (whether or not the company is to be wound up), any surplus gift funds must be transferred to one or more charities that meet the requirements of 70(a)(i), 70(a)(ii) and 70(a)(iii), as decided by the directors.
- (d) For the purpose of this clause:
- (i) 'gift funds' means:
 - (A) gifts of money or property for the principal purpose of the **company**;
 - (B) contributions made in relation to a fund-raising event held for the principal purpose of the **company**; and
 - (C) money received by the **company** because of such gifts and contributions.
 - (ii) 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the Income Tax Assessment Act 1997 (Cth).

Definitions and interpretation

71. Definitions

In this constitution:

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

applicant has the meaning given to that term under clause 11(d).

appointed directors has the meaning given to that term under clause 40(a)(ii).

association means Parkinson's NSW Inc with incorporation number Y0364731.

casual appointment has the meaning given to that term under clause 40(a)(iii).

company means the **company** referred to in clause 1.

conversion has the meaning given in clause 11.

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

elected chairperson means a person elected by the directors to be the **company's** chairperson under clause 41.

elected deputy chairperson means a person elected by the directors to be the **company's** deputy chairperson under clause 41.

elected directors has the meaning given to that term under clause 40(a)(i).

general meeting means a meeting of members and includes the annual **general meeting**, under clause 22.

member present means, in connection with a **general meeting**, a **member present** in person, by representative or by proxy at the venue or venues for the meeting.

Parkinson's support group policies means the **company's** policies for the establishment and conduct of support groups available for download by visiting the **company's** website at www.parkinsonsnsw.org.au, and as may be amended by the directors from time to time.

participant means any person that participates in a **support group** that is not a leader of a support group.

registered charity means a charity that is registered under the **ACNC Act**.

special resolution means a resolution:

- i. of which notice has been given under clause 23(e)(iii), and
- ii. that has been passed by at least 75% of the votes cast by **members present** and entitled to vote on the resolution.

support group means a group established and operated in accordance with the **Parkinson's support group policies** and, for the avoidance of doubt, includes any group established and operated as a support group prior to **conversion**.

surplus assets means any assets of the **company** that remain after paying all debts and other liabilities of the **company**, including the costs of winding up.

72. Reading this constitution with the Corporations Act

- (a) The replaceable rules set out in the **Corporations Act** do not apply to the **company**.

- (b) While the **company** is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution which are inconsistent with those Acts.
- (c) If the **company** is not a **registered charity** (even if it remains a charity), the **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.
- (d) A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

73. Interpretation

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression; and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).

Schedule 1 - Membership Classes

Membership class	Eligibility criteria	On-going requirements	Membership rights
Member	Must comply with the requirements set out at clause 12.	<p>Compliance with the membership eligibility criteria set out at clause 12.</p> <p>Payment of any membership fee determined under clause 16.</p>	<p>To nominate a person as a candidate for election as a director.</p> <p>To receive notices of and attend any general meeting of the company.</p> <p>If a body corporate, to appoint a representative to act as its representative at any general meeting of the company.</p> <p>To exercise one vote on a show of hands and on a poll.</p>
Honorary Life Member	<p>Must comply with the requirements set out at clause 12.</p> <p>Must be a member of the company.</p> <p>Must, by a resolution of the directors, be granted an honorary membership in recognition of exceptional performance in some aspect of the work of the company.</p>	Compliance with the membership eligibility criteria set out at clause 12.	Same as the member rights described above.