

Eureka Community Kindergarten Association Incorporated

Registration Number: A00442672

Constitution

Approved

19th May 2020

Note

The persons who from time to time are members of the Association are an incorporated association by the name given in rule 1 of these Rules.

Under section 46 of the **Associations Incorporation Reform Act 2012**, these Rules are taken to constitute the terms of a contract between the Association and its members.

Members of the Association and the Board should see the Rules contained in this Constitution as a guide to how they must conduct the affairs of their Association. Where there is any doubt as to the management of the Association, or the powers of Board or Members to make a decision or take a particular act, reference should be made to the **Associations Incorporation Reform Act 2012** and advice sought from the Association's professional advisers.

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1 NAME

Eureka Community Kindergarten Association Inc., (the Association) is a Not for Profit association incorporated under the Act.

2 STATEMENT OF PURPOSE

The purposes of the Association are to:

- 2.1 Provide, establish, conduct, manage, high quality early childhood education and care services that support children in their early years and their families.
- 2.2 Provide kindergarten programs and /or other children's services that will function in accordance with the appropriate statutory bodies.
- 2.3 Undertake the licensing and funding roles for all early childhood education and care services managed by the Association.
- 2.4 Undertake planning, employment and administrative functions necessary to provide these services
- 2.5 Provide sound financial management.
- 2.6 Provide support and information to the Parent Groups, local communities, local government and other stakeholders with an interest in early childhood education and care services managed by the Association.
- 2.7 Facilitate the increased participation of parents and families in the early childhood education and care services community.
- 2.8 Develop partnerships, services, and activities that contribute to increasing access of children in early childhood education and care services or benefits children in their early years
- 2.9 Work with communities, government, and other stakeholders to increase children's participation in early education

3 DEFINITIONS

- 3.1 In these Rules, unless the contrary intention appears -
 - 3.1.1 **Act** means the Associations Incorporation Reform Act 2012 and includes any regulations made under that Act;
 - 3.1.2 **Association** means Eureka Community Kindergarten Association;
 - 3.1.3 **Board** means the Board of Management of the Association;

- 3.1.4 Board Member** means a person elected or appointed to the Board of the Association under rule 24
- 3.1.5 Board Meeting** means the Board of Management meeting under rule 12
- 3.1.6 Chairperson**, of a general meeting or board meeting, means the person chairing the meeting as required under rule (12.6)
- 3.1.7 Chief Executive Officer** means the person appointed by the Board to manage operations of the Association;
- 3.1.8 Department** means the Department of Education and Training (DET) or the relevant Government Department;
- 3.1.9 Financial year** means the year ending on 31st December;
- 3.1.10 General Meeting** means a general meeting of members, convened in accordance with these Rules, and includes the Annual General Meeting and any General Meetings;
- 3.1.11 Life Member** means a person who has made a significant contribution to the Association, and who has in recognition of that contribution, been made a life Member of the Association by resolution of the Board;
- 3.1.12 Member** means a member of the **Association** in accordance with Rule 5;
- 3.1.13 Regulations** means regulations under the **Act**;
- 3.1.14 Relevant documents** has the same meaning as in the **Act**.
- 3.1.15 Secretary** means and includes the Secretary and any assistant or acting Secretary, and any other person for the time being appointed to perform (whether alone or in addition to any other person or persons) the duties of a Secretary of the Association and the public officer of the Association;

4 ALTERATION OF THE RULES

These Rules may be changed, added to, or replaced by special resolution of the Association members at a general meeting in accordance with the Act.

5 MEMBERSHIP

5.1 Classes of Membership

The Members of the Association shall be divided into the following classes:

5.1.1 Members

5.1.2 Life Members

5.2 Members

A member of the Association is any person over the age of 18 years, who;

5.2.1 Is the parent or legal guardian of a child currently attending a service or program managed by the Association.

OR

5.2.2 Is a member of the community who supports the endeavors of the association who:

5.2.2.1 applies for membership in the form approved by the Board;

5.2.2.2 pays the relevant application and any annual subscriptions fees; and

5.2.2.3 is approved by the Board as a Member and has his or her name entered in the Register.

5.2.3 Any person given automatic membership because of attendance of a child can opt out of membership by writing to the Secretary of the association their request to opt out of membership of the association. The Secretary will confirm cessation of membership within 21 days of receipt of the request.

5.3 Life Members

5.3.1 A Life Member is any natural person who has made a significant contribution to the Association and who in recognition of that contribution has been appointed to that category of membership by a resolution of the Board.

5.3.2 A Life Member has all the rights and obligations of a Member, but the requirement for annual renewal of membership and payment of any Annual Subscription is waived.

5.4 Application for Membership

Applications for membership must be made in the form approved by Board from time to time.

5.5 Admission to Membership

Parents or legal guardians of a child currently attending a service or program managed by the Association are automatically admitted to membership of the Association.

5.5.1 As soon as practicable after the receipt of an application, the Secretary must refer the application to the Board.

5.5.2 The Board must consider each application for Membership as soon as practicable after its receipt and determine whether to approve or reject the application. The Board has discretion to approve or reject the application and need not give reasons for its decision. If an application is successful, the Secretary must enter the applicant's details into the Register as soon as practicable.

5.5.3 The Secretary must inform the applicant of Board's decision within 21 days of the decision.

5.5.4 If an application for membership is rejected the amount of any Annual Subscription paid must be returned to the applicant.

5.5.5 An applicant becomes a member of the Association and is entitled to exercise the rights of membership when his or her name is entered in the Register of members and any relevant entry and subscription fees have been paid.

5.5.6 A right, privilege, or obligation of a person by reason of his or her membership of the Association:

5.5.6.1 is not capable of being transferred or transmitted to another person; and

5.5.6.2 terminates upon the cessation of membership.

5.6 Entry Fees, Subscriptions, and Fee Waivers

5.6.1 The Board may set fees for entry and subscription for the Association.

5.6.2 The Board may waive any entry and or subscription fee for any member.

5.7 Register of Members

5.7.1 A Register of members of the **Association** must be kept in accordance with the **Act**.

5.7.2 For each Member, the following details must be entered in the Register:

5.7.2.1 full Name and Address

5.7.2.2 membership Category

5.7.2.3 dates of Membership admission and cessation

5.7.2.4 if applicable, the payment date of the most recent the Membership Annual Subscription Fee

5.7.2.5 other information as determined by the Board

5.7.3 The register is available for inspection free of charge by any member upon request.

6 CEASING MEMBERSHIP

6.1 A member of the Association ceases to be a member:

6.1.1 When they no longer have a child attending an early childhood education and care service managed by the Association;

OR

6.1.2 By giving one month's notice in writing to the Secretary of his or her intention to resign;

OR

6.1.3 A member fails to renew his or her membership as per rule (5.2.2)

7 DISCIPLINE, SUSPENSION AND EXPULSION OF MEMBERS

7.1 Subject to these Rules, if the Board is of the opinion that a member has refused or neglected to comply with these Rules, or has been guilty of conduct unbecoming a member or prejudicial to the interests of the Association, the Board may by resolution:

7.1.1 Suspend that member from membership of the Association for a specified period; or

7.1.2 Expel that member from the Association.

Subject to these rules; a child will not be excluded from the program if a parent's membership is suspended or cancelled.

7.2 A resolution of the Board under rule (7.1) does not take effect unless:

7.2.1 At a meeting held in accordance with sub-rule (7.3), the Board confirms the resolution; and

- 7.2.2** If the member exercises a right of appeal to the Association under this rule, the Association confirms the resolution in accordance with this rule.
- 7.3** A meeting of the Board to confirm or revoke a resolution passed under sub-rule (7.1) must be held not earlier than 14 days, and not later than 28 days, after notice has been given to the member in accordance with sub-rule (7.4).
- 7.4** For the purposes of giving notice in accordance with sub-rule (7.3), the Secretary must, as soon as practicable, cause to be given to the member a written notice:
 - 7.4.1** Setting out the resolution of the Board and the grounds on which it is based;
 - 7.4.2** Stating that the member, and/or his or her representative, may address the Board at a meeting to be held not earlier than 14 days and not later than 28 days after the notice has been given to that member;
 - 7.4.3** Stating the date, place and time of that meeting; and
 - 7.4.4** Informing the member that he or she may do one or both of the following:
 - 7.4.4.1 attend that meeting;
 - 7.4.4.2 give to the Board before the date of that meeting a written statement seeking the revocation of the resolution;
 - 7.4.5** Informing the member that, if at that meeting, the Board confirms the resolution, he or she may not later than 48 hours after that meeting, give the Secretary a notice to the effect that he or she wishes to appeal to the Association in General Meeting against the resolution.
 - 7.4.6** At a meeting of the Board to confirm or revoke a resolution passed under sub-rule (7.1), the Board must:
 - 7.4.6.1 give the member, and/or his or her representative, an opportunity to be heard; and
 - 7.4.6.2 give due consideration to any written statement submitted by the member; and
 - 7.4.6.3 determine by resolution whether to confirm or to revoke the resolution
 - 7.4.7** If at the meeting of the Board, the Board confirms the resolution, the member may, not later than 48 hours after that meeting, give the Secretary a notice to the effect that he or she wishes to appeal to the Association in General Meeting against the resolution.
 - 7.4.8** If the Secretary receives a notice under sub-rule (7.4.7), he or she must notify the Board and the Board must convene a General Meeting of the Association to be held within 45 days after the date on which the Secretary received the notice.

- 7.4.9** At a General Meeting of the Association convened under rule 13:
- 7.4.9.1 no business other than the question of the appeal may be conducted; and
 - 7.4.9.2 the Board may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution; and
 - 7.4.9.3 the member, and/or his or her representative, must be given an opportunity to be heard; and
 - 7.4.9.4 the members present must vote by secret ballot on the question whether the resolution should be confirmed or revoked.
- 7.4.10** A resolution is confirmed if, at the General Meeting, not less than two thirds of the votes received, in person or by proxy, are in favour of the resolution. In any other case, the resolution is revoked.

8 GRIEVANCE PROCEDURE DISPUTES AND MEDIATION

8.1 Application

- 8.1.1** The grievance procedure set out in rule 8 applies to disputes under these rules between:
- 8.1.1.1 a member and another member;
 - 8.1.1.2 a member and the board;
 - 8.1.1.3 a member and the association.
- 8.1.2** A member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.
- 8.1.3** Parties must attempt to resolve the dispute. The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

8.2 Appointment of Mediator

- 8.2.1** If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule (8.1.3), the parties must within 10 days:
- 8.2.1.1 notify the Board of the dispute; and
 - 8.2.1.2 agree to and or request the appointment of a mediator; and
 - 8.2.1.3 attempt in good faith to settle the dispute by mediation.

8.2.2 In the first instance the mediator must be a person chosen by agreement between the parties.

8.2.3 In the absence of agreement:

8.2.3.1 if the dispute is between a member and another member—a person appointed by the Board; or

8.2.3.2 if the dispute is between a member and the Board or the association a person appointed or employed by the Dispute Settlement Centre Of Victoria.

8.3 A mediator appointed by the Board may be a member or former member of the Association, but in any case must not be a person who:

8.3.1 Has a personal interest in the dispute; or

8.3.2 Is biased in favour of or against any party.

8.4 Mediation Process

The mediator to the dispute, in conducting the mediation, must:

8.4.1 Not determine the dispute.

8.4.2 Give each party every opportunity to be heard; and

8.4.3 Allow due consideration by all parties of any written statement submitted by any party; and

8.4.4 Ensure that natural justice is accorded to the parties throughout the mediation process.

8.5 Failure to resolve dispute by mediation

If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

9 GENERAL MEETINGS

9.1 Annual General Meeting

9.1.1 The Association shall in each calendar year convene an Annual General Meeting of its members

9.1.2 The Annual General Meeting shall be held within five months following end of financial year

9.1.3 The ordinary business of the Annual General Meeting shall be to:

9.1.3.1 confirm the minutes of the previous Annual General Meeting and of any General Meeting held since that meeting;

9.1.3.2 receive from the Board reports upon the transactions of the Association

during the last preceding financial year;

9.1.3.3 receive and consider the statement submitted by the Association in accordance with the Act;

9.1.3.4 elect Board Members; and

9.1.3.5 appoint the auditor.

9.1.3.6 the Association may consider other business at an Annual General Meeting

9.2 Meetings Convened by the Board

9.2.1 If requested by a majority of Board Members, a general meeting must be convened

9.3 Meetings Convened by Members

9.3.1 The Board must call and convene a general meeting if:

9.3.1.1 required to do so under the Act;

OR

9.3.1.2 requested in writing by signed members representing not less than 5 per cent of the total number of members of the Association. The request must be addressed to the Secretary of the Association and state the objects of the meeting.

9.3.2 If the Board does not cause the requested General Meeting to be held within 45 days after the date on which the request is sent to the address of the Secretary, the members making the request, or any of them, may convene the General Meeting to be held not later than 90 days after that date.

9.3.3 If a General Meeting is convened by members in accordance with this rule (9.3.1.2), it must be convened by the Board and all reasonable expenses incurred in convening the General Meeting must be refunded by the Association to the persons incurring the expenses.

9.4 Notice of General Meetings

9.4.1 The Secretary of the Association will ensure that written notice of a general meeting is given at least 21 days prior to the meeting.

9.4.2 The notice must specify the date, time and place of the meeting—technology which will be used to facilitate conduct the meeting (e.g. video conferencing), the nature of the business to be conducted and any other matters as required under the Act.

9.4.3 Notice may be sent:

- 9.4.3.1 to the member's early childhood education and care service for distribution;
- 9.4.3.2 by any electronic means approved by the Board; and
- 9.4.3.3 by any means approved under the Act.

9.4.4 The accidental omission to give notice of any general meeting to, or the non-receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the general meeting.

9.5 Cancellation of General Meetings

9.5.1 The Board may cancel a general meeting other than an Annual General Meeting which they are required to call and convene under the Act.

9.5.2 A meeting may only be cancelled in accordance with Rule (9.5.1) if notice of the cancellation is given to persons entitled to receive notice of the meeting at least two (2) Business Days prior to the time of the meeting, as specified in the meeting notice.

9.6 Quorum at General Meetings

9.6.1 Seven (7) Members personally present shall constitute a quorum, unless outlined otherwise in these rules.

9.6.2 No item of business may be conducted at a General Meeting unless a quorum of members entitled under these Rules to vote is present at the time when the meeting is to consider that item.

9.6.3 If a quorum is not present, within half an hour after the appointed time for the commencement of a General Meeting or a longer time allowed by the Chairperson:

9.6.3.1 in the case of a meeting convened upon the request of members, the meeting must be dissolved; and

9.6.3.2 in any other case the meeting shall stand adjourned to:

9.6.3.2.1 the same day in the next week at the same time and place;

or

9.6.3.2.2 another time, day and place as specified by the Chairperson.

9.7 Technology to aid meeting

- 9.7.1** Any technology may be used to call or hold a general meeting of members if prior consent has been given by the Members. This consent may be a standing consent
- 9.7.2** An individual Member may only withdraw their consent provided that they have given the Secretary at least five (5) business days' notice.

9.8 Presiding at General Meetings

- 9.8.1** If the Board has elected one of their members as chairperson of their meetings, that person shall preside at all general meetings of the Association.
- 9.8.2** The Board Members present at a general meeting must select one of their number to chair the meeting if:
 - 9.8.2.1** the Chairperson is not present 15 minutes after the due commencement of the meeting; or
 - 9.8.2.2** the Chairperson is unable, or unwilling to preside at the general meeting
- 9.8.3** If there are no Board Members present at a general meeting within 15 minutes of the due commencement of the meeting, the Members entitled to vote at the meeting must elect one of their number to preside at the general meeting

9.9 Chairperson's powers

- 9.9.1** The ruling of the Chairperson on all matters relating to the order of business, procedure and conduct of the general meeting is final and no motion of dissent from a ruling of the chairperson may be accepted unless rulings are not consistent with the sections of this document dealing with meeting adjournments.
- 9.9.2** The chairperson, at their discretion may expel any Member or Director from a general meeting if the Chairperson reasonably considers that the Member or Board Member's conduct is inappropriate. Any of the following conduct may be considered inappropriate in a general meeting:
 - 9.9.2.1** the use of offensive, abusive, aggressive language or behavior; and
 - 9.9.2.2** consumption of or being under the influence of any kind of drug or alcoholic substance at the meeting.

9.10 Adjournment of General Meetings

- 9.10.1** The Chairperson may, with the consent of a majority of members present at the meeting, adjourn the meeting.
- 9.10.2** No business may be conducted at an adjourned meeting other than the unfinished business from the meeting that was adjourned.
- 9.10.3** If a meeting is adjourned to same day, time, and place in the following week it is not necessary to give notice of an adjournment or of the business to be conducted at an adjourned meeting. Otherwise notice must be given in accordance with rule (9.4)

9.11 Voting at General Meetings

- 9.11.1** Upon any question arising at a General Meeting of the Association, a member has one vote only.
- 9.11.2** All votes must be given personally or by proxy.
- 9.11.3** In the case of an equality of voting on a question, the Chairperson of the meeting is entitled to exercise a second or casting vote.
- 9.11.4** A member is not entitled to vote at a General Meeting unless all moneys due and payable by the member to the Association have been paid.

9.12 Manner of Determining whether Resolution Carried

- 9.12.1** If a question arising at a General Meeting of the Association is determined on a show of hands:
 - 9.12.1.1 a declaration by the Chairperson that a resolution has been carried, carried unanimously, carried by a particular majority; or lost; and
 - 9.12.1.2 an entry to that effect in the minute book of the Association- is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

9.13 Poll at General Meetings

- 9.13.1** A poll on any item of business may be demanded by either:
 - 9.13.1.1 The Chairperson or
 - 9.13.1.2 not less than 7 members of Association entitled to vote at the meeting.
- 9.13.2** The poll must be taken at that meeting in such manner as the Chairperson may direct and the resolution of the poll shall be deemed to be a resolution of the meeting on that question

9.13.3 A poll that is demanded on the election of a Chairperson or on a question of an adjournment must be taken immediately and a poll that is demanded on any other question must be taken at such time before the close of the meeting as the Chairperson may direct.

9.14 Proxies

9.14.1 Each member is entitled to appoint another member as a proxy by notice given to the Secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.

9.14.2 The notice appointing the proxy must be:

9.14.2.1 for a meeting of the Association convened under rule (7.4.8) in the form set out in Appendix 2; or

9.14.2.2 in any other case, in the form set out in Appendix 3

10 BOARD MEMBERSHIP

10.1 Number of Board Members

10.1.1 The Board shall consist of a minimum of 3 and a maximum of 11 members elected by the members of the association.

10.1.2 Where a vacancy exists on the Board or in the event that there is less than 11 elected Board members, the elected Board members may appoint additional person/s to the Board to fill any vacancy

10.2 Eligibility for Board Membership

10.2.1 To be eligible for appointment, election as, or to remain a Board Member a person must be a member of the Association.

10.2.2 A member of the Association is not eligible to be a Board Member if:

10.2.2.1 they are currently employed by the Association: or

10.2.2.2 under any legislation governing the Association or any of its activities; or under any funding or services arrangement or agreement between the Association and any government, government department or quasi-governmental authority ("funding agreement") that person would be ineligible to be a Board Member or having that person as a Board Member would cause the Association to contravene any legislation, commit an offence or breach any funding agreement.

10.3 Tenure of Board Members

10.3.1 A Board Member shall hold office for three years, until the Annual General Meeting next after the date of his or her election but is eligible for re-

election, for a maximum of 3 x 3year terms (total of 9 years).

- 10.3.2** Board members appointed to fill a casual vacancy shall hold office until the expiration of the term of the Board Member being replaced.

10.4 Retirement of Board Members

- 10.4.1** A Board Member may retire from office by giving notice in writing to the Association. The resignation takes effect at the time of submitting the written resignation if no period of notice is specified in the letter of resignation.
- 10.4.2** A Board Member retiring at an annual general meeting may act as a Board Member at that meeting until the point in the meeting that new Board Members are elected.

10.5 Election of Board Members

- 10.5.1** Only Members of the Association are eligible to nominate for election to the Board
- 10.5.2** The Board will cause an election to be held to replace Board Members whose term is expiring at the next Annual General Meeting
- 10.5.3** The Board will, prior to issuing notice of the Annual General Meeting, call for nominations from Members for election to the Board. The Board may invite persons to nominate for election to the Board if the Board considers such persons' skills or experience would be valuable or advantageous the interests of the Association
- 10.5.4** The Board must give written notice to Members of an election with or prior to the notice of the general meeting. The notice must also specify:
- 10.5.4.1 names and biographies of candidates seeking election; and
 - 10.5.4.2 how the election will be conducted.
- 10.5.5** If the number of nominations exceeds the number of vacancies to be filled, a ballot must be held.

10.6 Removal of Board Member Office

- 10.6.1** The Association may by resolution remove a Board Member from office and may by ordinary resolution appoint another person as a replacement.

10.7 Vacation of Office

The office of a Board Member becomes vacant if any of the following occur. The Member:

- 10.7.1** Ceases to be a member of the Association;

- 10.7.2 Becomes an insolvent under administration within the meaning of the Corporations Law;
- 10.7.3 If a Board Member becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- 10.7.4 Is absent without the consent of the Board for three consecutive board meetings, or for more than 25 per cent of board meetings in a 12 month period and the Board resolves that the office of that Board Member be vacated;
- 10.7.5 Violates the Act or other provisions of these Rules that relate to eligibility for membership of the Board or the Association.
- 10.7.6 If the Board Member becomes prohibited from being a Board Member by reason of an order made under the Act.

10.8 Suspension of Board Member

- 10.8.1 The Board may, by a majority of not less than 75% of the total number of Board Members, suspend any Board Member from office for any reason and for any period, not exceeding 3 months that the Board thinks fit.
- 10.8.2 A suspended Board Member is not entitled to receive notices of Board meetings, nor any Board papers, during the period of the suspension.

11 POWERS OF BOARD OF MANAGEMENT

11.1 The affairs of the Association shall be managed by or under the direction of a Board of Management, referred to as the **Board**. The Board may exercise all the powers of the Association except those powers that these Rules or the Act require to be exercised by general meetings of the Members of the Association.

11.2 Delegation

The Board may delegate any of its powers and functions, other than:

- 11.2.1 The power to delegate, or
- 11.2.2 A duty imposed on the Board by the **Act** or any other law.

12 MEETINGS OF THE BOARD OF MANAGEMENT

12.1 Calling and Convening of Board Meetings

- 12.2.1 A Board Member may at any time and a Secretary must if requested by a Board Member convene a meeting of the Board

- 12.2.2 Board meetings may be convened using any technology agreed by all Board Members. The consent may be a standing one. An individual Board Member must give at least 14 business days notice if withdrawing consent.

12.2 Minimum Number of Board Meetings

The Board must meet at least 6 times in each year at such place and such times as the Board may determine.

12.3 Notice of Board Meetings

- 12.3.1 Written or electronic notice of each Board meeting must be given to each member of the Board at least 3 business days before the date of the meeting or at another time determined by resolution of the Board.
- 12.3.2 Despite Rule 12.3.1 all Board Members may waive in writing the required period of notice for a particular meeting, and it is not necessary to give notice of a Board meeting to a Board Member who is out of Australia or who has been given leave of absence.

12.4 Quorum for Board Meetings

- 12.4.1 At any meeting of the Board a quorum is constituted by half the total number of Board Members as at the date of the meeting or the next highest whole number of board members.
- 12.4.2 If the number of Board Members is reduced below the number necessary for a quorum of Board Members, the continuing Board Member(s) may act only to appoint additional Board Members to the number necessary for a quorum or to convene a general meeting of the Association.
- 12.4.3 Acts done or decisions taken at a Board meeting at which a quorum was not present may be ratified at a subsequent Board meeting at which a quorum is present.

12.5 Voting at Board Meetings

- 12.5.1 Questions arising at a meeting of the Board, all be determined on a show of hands or, if a Board member requests, by a poll taken in such manner as the person presiding at that meeting may determine. Questions arising at Board Committee meetings shall be determined by consensus and if this cannot be achieved referred back to the board for determination,
- 12.5.2 Each Board member present at a meeting of the Board, is entitled to one vote.
- 12.5.3 In the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.

12.6 Presiding at Board Meetings

- 12.6.1** The Board may choose to elect a Board Member to chair their meetings and determine the period for which the person elected is to hold office.
- 12.6.2** If a Chairperson has not been elected, or if at any meeting the Chairperson is not present within ten (10) minutes after the time appointed for holding the meeting or is unwilling or unable to act, the Board Members present may choose one of their number to chair the meeting.

12.7 Conflict of interest

- 12.7.1** A committee member who has a material personal interest in a matter being considered at a committee meeting must disclose the nature and extent of that interest to the Committee.
- 12.7.2** The member—
 - 12.7.2.1** must not be present while the matter is being considered at the meeting; and
 - 12.7.2.2** must not vote on the matter.

Note

Under section 81(3) of the Act, if there are insufficient committee members to form a quorum because a member who has a material personal interest is disqualified from voting on a matter, a general meeting may be called to deal with the matter.

12.8 Board Committees

- 12.8.1** The Board may from time to time constitute such committees, or working parties consisting of Board Members or other persons and may delegate any of their powers as it sees fit.
- 12.8.2** The exercise of power by a committee in accordance with this document is to be treated as the exercise of that power by the Board.
- 12.8.3** A committee formed by the Board must exercise any of its powers in adherence to the directions of the Board.
- 12.8.4** Except as provided in a direction of the Board, the meetings and proceedings of a committee formed by the Board must be governed by the provisions of this document, in so far as they are applicable, as if meetings and proceedings of the committee are meetings and proceedings of the Board.

12.8 Validity of acts of Board

- 12.8.1** All acts done by a Board meeting or of a committee or by a person acting as a Board Member are valid even if it is later discovered that there is a defect in:

- 12.8.1.1 The appointment of a person to be a Member of the Board or one of its Committees: or
- 12.8.1.2 That they or any Members of the Board were disqualified or were not entitled to vote.

12.9 Minutes of Meetings

- 12.10.1** The Board must ensure that minutes of the resolutions and proceedings of general meetings, Board meetings, and Board committee meetings together with a record of the names of persons present at such meetings are formed and held securely within 30 days of the meeting being held.
- 12.10.2** The Board may delegate the function of minute taking to another Board member, or to a staff member approved by the Board.
- 12.10.3** Minutes should be available to Board Members electronically or in hard copy if requested.

13 SECRETARY OF THE ASSOCIATION

- 13.1** The Board must appoint one or more Secretaries and may at any time terminate the appointment or appointments. Any one of the Secretaries may carry out any act or deed required by this document, the Act or by any other statute to be carried out by the Secretary of the Association
- 13.2** A Secretary must be over 18 years of age and reside in Australia.
- 13.3** At any time when the Association has a Chief Executive Officer but no Secretary, the Chief Executive Officer must fulfil the duties of the Secretary as set out in these Rules.
- 13.4** If the Secretary stops being the Secretary, the Board must appoint a new Secretary within 14 days.

14 EXECUTION OF DOCUMENTS

14.1 Common Seal

- 14.1.1** Unless the Board resolves otherwise, the Association shall have a Seal.
- 14.1.2** If the Association has a Seal:
 - 14.1.2.1 The Board shall provide for the safety custody of the Seal; and
 - 14.1.2.2 No document may be executed using the Seal unless authorised by the resolution of the Board;

14.2 Execution using the Seal

The Association may execute a document using a Seal if the Seal is affixed to the document and the affixing of the Seal is witnessed by:

14.2.1 Two (2) Board Members;

14.2.2 A Board Member and a Secretary; or

14.2.3 A Board Member and another person appointed by the Board for this purpose.

14.3 Execution without a Seal

The Association may execute a document without using a Seal if the document is signed by:

14.3.1 Two (2) Board Members;

14.3.2 A Board Member and a Secretary; or

14.3.3 A Board Member and another person appointed by the Board Members for this purpose; or

14.3.4 Otherwise signed in accordance with any policy adopted from time to time by the Board.

14.4 Signing policy

The Board may adopt a policy from time to time giving persons other than Board Members the authority to sign documents on behalf of the Association.

15 INDEMNITY AND INSURANCE

15.1 Indemnity

Every officer and past officer of the Association must be indemnified by the Association, to the fullest extent permitted by law, against a liability incurred by that person as an Officer of the Association or a subsidiary of the Association including without limitation legal costs and expenses incurred in defending an action.

15.2 Insurance premiums

The Association must pay the premium on the contract insuring a person who is or has been an officer of the Association to the fullest extent permitted by law.

16 NOTICE TO MEMBERS

16.1 Any notice that is required to be given to a member, on behalf of the Association, under these Rules may be given by:

16.1.1 Delivering the notice to member's early childhood education and care service for distribution;

16.1.2 Any electronic means approved by the Board; and

16.1.3 By any means approved under the Act;

17 NO PROFIT FOR MEMBERS

17.1 Application of Income and Property

17.1.1 The income and property of the Association shall be applied solely in the furtherance of the Association's objectives as set out in the Statement of Purpose.

17.1.2 No part of the income or property of the Association may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, or other profit distribution, to any Member of the Association.

17.2 Payments, services and information

Rule (17) does not prevent the Association, with the approval of the Board and acting in good faith, authorizing the payment of:

17.2.1 Reasonable remuneration in consideration for actual services rendered or goods supplied by a Member or employee to the Association in the ordinary course of business;

17.2.2 Reasonable rent for premises leased to the Association by a Member;

17.2.3 Reasonable out-of-pocket expenses incurred by a Member on behalf of the Association, which is approved and ratified by the Board.

17.2.4 Any debt or any reasonable and proper fees to any member of the Board under a contract between the Association and that member of the Board for the provision of goods or services which are outside the scope of the ordinary duties of a Board member;

17.2.5 Nothing in this Rule(18) prevents Members from receiving services provided by the Association for which they are eligible as members of the community.

17.3 Remuneration of Board Members

17.3.1 No member of the Board shall be paid any salary or fees from the Association.

17.3.2 No remuneration or other benefit in money or money's worth will be paid or given by the Association to any Board Member except reimbursement of out-of-pocket expenses, which must be approved by ordinary resolution of the Board.

18 FINANCIAL ACCOUNTS AND RECORDS

18.1 Accounts

The Board must cause the Association to keep proper accounting and other records to be kept in accordance with the Act. The Association must keep written financial records which:

18.1.1 Correctly record and explain its transactions and financial position and performance; and

18.1.2 Would enable true and fair financial statements to be prepared and audited.

18.2 Audit

The Association must ensure that if required under the Act that an auditor is appointed.

18.3 Custody and Inspection of Books and Records

18.3.1 Except as otherwise provided in these Rules, the Secretary must keep in his or her custody or under his or her control all books, documents and securities of the Association.

18.4 Rights of Inspection

Subject to the Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Association or any of them are open to the inspection of Members other than Board Members, and a Member other than a Board Member does not have the right to inspect any document of the Association except as provided by law or authorised by the Board or by the Association in general meeting.

19 Winding up of the Association

19.1 The members may vote by special resolution at a general meeting to wind up the Association.

19.2 If, upon the winding up or the dissolution of the Association, there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed amongst the members of the Association, but shall be given or transferred to some other not for profit charitable institution promoting similar interests, and which is required by its constitution to apply its profits or income in promoting its objectives and is prohibited from paying any dividends or benefits to its members to the same extent as the Association.

APPENDIX 2

FORM OF APPOINTMENT OF PROXY FOR MEETING OF ASSOCIATION CONVENED UNDER RULE (7.4.8)

I,

(name)

of

(early childhood education service or address)

being a member of Eureka Community Kindergarten Association Inc.

appoint

(name of proxy holder)

of

(early childhood education service or address of proxy holder)

being a member of that Incorporated Association, as my proxy to vote for me on my behalf at the appeal to the General Meeting of the Association convened under rule (7.4.8), to be held on-

.....

(date of meeting)

and at any adjournment of that meeting.

I authorise my proxy to vote on my behalf at their discretion in respect of the following resolution (insert details of resolution passed under rule (7.1).

Signed

Date

APPENDIX 3

FORM OF APPOINTMENT OF PROXY

I,

(name)

of

(early childhood education service or address)

being a member of Eureka Community Kindergarten Association Inc.

appoint

(name of proxy holder)

of

(early childhood education service or address of proxy holder)

being a member of that Incorporated Association, as my proxy to vote for me on my behalf at the Annual/Special* General Meeting of the Association to be held on-

.....

(date of meeting)

and at any adjournment of that meeting.

My proxy is authorised to vote in favour or/against* following resolution (insert details of resolution).

Signed

Date