

# Constitution of Molonglo Support Services Limited

*ACN 001 977 948*

*ABN 22 001 977 948*

*A company limited by guarantee*

## **Sydney**

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# Constitution of Molonglo Support Services Limited

Date 15 March 2023

## Preliminary

### 1 Definitions and Interpretations

#### 1.1 Definitions

In this Constitution unless the context requires otherwise:

**Amendment Date** means the date the Constitution was last amended by the Members by passing a Special Resolution.

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

**AGM or Annual General Meeting** means the General Meeting held annually pursuant to clause 13.1(a).

**Appointed Director** means a Director appointed under clause 19.5.

**Chairperson or Chair** means the person elected as the Chair of the Company under clause 21.8.

**Circular Resolution** means a resolution of members or directors passed without a meeting being held in the manner outlined in clause 17 (for members' resolutions) or clause 21.9 (for directors' resolutions).

**Community Housing Asset** means:

- (a) land vested in the provider by or under the community housing legislation of a Participating Jurisdiction;
- (b) land acquired by the provider wholly or partly with funding provided by a Housing Agency of a Participating Jurisdiction;
- (c) land vested in the provider on which a Housing Agency of a Participating Jurisdiction has constructed housing or made other improvements;
- (d) funds provided to the provider by a Housing Agency of a Participating Jurisdiction for the purposes of community housing;
- (e) any other asset of the provider that is of a class of assets declared by the community housing legislation of a Participating Jurisdiction as community housing assets for the purposes of the *Community Housing Providers (Adoption of National Law) Act 2012* (NSW).

**Company** means the company referred to in clause 2.

**Company Secretary** means a person appointed as a company secretary of the Company by the Directors under clause 22.1.

**Constitution** means this Constitution as amended from time to time, and a reference to a particular clause is a reference to a clause of this Constitution.

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

**Director** means a director of the Company and includes Elected Directors and Appointed Directors.

**EO** means a person appointed as executive officer of the Company by the Directors.

**General Meeting** means a meeting of Members (and includes the AGM).

**Housing Agency** means any of the following:

- (a) the housing corporation (i.e. the New South Wales Land and Housing Corporation constituted by the *Housing Act 2001 (NSW)*);
- (b) the housing secretary (i.e. the Secretary of the Department of Family and Community Services); or
- (c) a Division Head of a Division of the Government Service, or a NSW Government agency, prescribed by the regulations for the purposes of the provision of the *Community Housing Providers (Adoption of National Law) Act 2012 (NSW)* in which the expression occurs.

**Individual Member** means a person admitted to the Company as an individual member under clause 8.4.

**Life Member** means a person admitted to the Company as a life member under clause 8.3.

**Member** means a member of the Company under clause 8.

**Members Present** means, in connection with a General Meeting, each member present in person, by representative, by proxy or via Virtual Meeting Technology at the venue or venues for the meeting.

**Members' Resolution** has the meaning given to that term in clause 15.1(a)(i).

**Members' Statement** has the meaning given to that term in clause 15.1(a)(ii).

**Objects** means the objects of the Company in clause 4.

**Participating Jurisdiction** means an Australian jurisdiction in which:

- (a) the New South Wales Land and Housing Corporation constituted by the *Housing Act 2001 (NSW)* applies as a law of the jurisdiction; or
- (b) a law that substantially corresponds to the provisions of the New South Wales Land and Housing Corporation constituted by the *Housing Act 2001 (NSW)* has been enacted.

**Policy** means a policy made under clause and 23. **Special Resolution** means a resolution:

- (a) of which notice has been given under clause 13.4(e); and
- (b) that has been passed by at least 75% of the votes cast by Members Present and entitled to vote on the resolution.

**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.

**Voting Member** means, in relation to a General Meeting, those Members present and entitled to vote.

**Virtual Meeting Technology** means a form of virtual technology that is reasonable and allows Members who are entitled to attend and do attend general meetings, as a whole, to vote and to exercise orally and in writing any rights of those members to ask questions and make comments.

## 1.2 *Interpretation*

In this Constitution unless the context requires otherwise:

- (a) a reference to the Company is a reference to a company limited by guarantee;
- (b) **(presence of a Member)** a reference to a Member present at a General Meeting means the Member present in person or by proxy or Representative;
- (c) **(document)** a reference to a document or instrument includes any amendments made to it from time to time and, unless the contrary intention appears, includes a replacement;
- (d) **(gender)** words importing any gender include all other genders;
- (e) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (f) **(successors)** a reference to an organisation includes a reference to its successors;
- (g) **(singular includes plural)** the singular includes the plural and vice versa;
- (h) **(instruments)** a reference to a law includes regulations and instruments made under it;
- (i) **(amendments to legislation)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by a State or the Commonwealth or otherwise;
- (j) **(include)** the words include, includes, including and for example are not to be interpreted as words of limitation;
- (k) **(signed)** where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Directors; and
- (l) **(writing)** writing and written includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise.

## 1.3 *Corporations Act*

- (a) In this Constitution, unless the context requires otherwise, an expression has, in a provision of this Constitution that deals with a matter dealt with by a

particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act.

- (b) The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

#### 1.4 *Headings*

Headings are inserted for convenience and do not affect the interpretation of this Constitution.

## 2 Name of the Company

The name of the company is Molonglo Support Services Limited.

## 3 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.

## **Charitable purposes and powers**

### 4 Objects

The objects of the Company are to:

- (a) provide a range of support services for homeless women, children and men in the Queanbeyan and surrounding area.
- (b) engage in early intervention measures with women, children and men at risk of becoming homeless to enable them to maintain tenancies or ownership of safe, secure and affordable housing.
- (c) set up and maintain secure, safe and affordable housing for the purpose of providing crisis, medium term and long term accommodation for homeless women, children and men.
- (d) provide a range of support services and crisis accommodation to all victims of domestic violence.
- (e) provide a range of accommodation models to victims of domestic violence in their transition to safe, secure and affordable longer term housing.
- (f) To provide support services including, but not limited to, assistance with legal matters, assistance with obtaining long term housing, and assistance with living skills and parenting, facilitating clients' return to, or transition to, independent living.
- (g) To provide advocacy and community education around domestic violence and homelessness and to represent the needs of our client group in the local community and at state and federal levels of government.
- (h) To operate victims court advocacy services to improve legal outcomes for women seeking protection under the NSW court system.
- (i) To undertake other actions or activities necessary, incidental or conducive to advance these Objects.

- (j) The Company's objects are guided by the following principals.

## 5 Powers

Subject to clause 7.2, the Company has the following powers, which may only be used to carry out its purpose(s) set out in clause 4:

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

## 6 Amending the constitution

- (a) Subject to clause 6(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.

## 7 Income and Property of Company

### 7.1 *Sole Purpose*

The income and property of the Company will only be applied towards the promotion of the Objects of the Company.

### 7.2 *Payments to Members*

- (a) No income or property will be paid or transferred directly or indirectly to any Member, except as provided in this clause 7.2 and clause **Error! Reference source not found.**, for payments to a Member:
  - (i) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
  - (ii) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent; or
  - (iii) of reasonable rent for premises let to the Company by them.

### 7.3 *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 7.3(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.

#### 7.4 *Execution of documents*

- (a) Unless the Directors agree and resolve otherwise, the Company may execute a document without using a common seal if the document is signed by:
  - (i) two Directors of the Company; or
  - (ii) a Director and the Company Secretary

## **Members**

### 8 Membership

#### 8.1 *Categories of Members*

Members of the Company shall fall into one of the following categories:

- (a) Life Members;
- (b) Individual Members; or
- (c) such other category of Member as may be created by the Board. Any category of Member created by the Board under this clause 8.1 may not be granted voting rights.

#### 8.2 *Admission of Members*

A person will become a Member, and the Directors will direct the Company Secretary to record their name in the register of Members kept by the Company, only upon meeting the criteria applicable to the relevant category of membership set out in this Constitution and provided the Member has submitted an application to the Company Secretary, which is accepted by the Directors, in which the Member undertakes to:

- (a) be bound by this Constitution and any Policies;
- (b) pay the fees and subscriptions determined to apply to the Member under clause 9; and
- (c) support the Company in the encouragement and promotion of its Objects.

#### 8.3 *Life Members*

- (a) Life Membership is the highest honour that can be bestowed by the Company for longstanding and valued service to the Company and its Objects.
- (b) Any Member may forward a proposed nomination to the Directors for its consideration.
- (c) On the nomination of the Directors, any individual may be elected as a Life Member at any AGM by Special Resolution, subject to that individual completing an application in accordance with clause 8.2.
- (d) Subject to clause 8.2, at the time of adoption of this Constitution, the first Life Members of the Company shall be the persons listed in Schedule 1 to this Constitution.

#### 8.4 *Individual Members*

- (a) No individual shall be registered with the Company as an Individual Member except in accordance with this clause 8.4. The Company may at its discretion refuse to accept a person as an Individual Member and shall not be required or compelled to provide any reason for such rejection.
- (b) Subject to clause 8.4(a), an individual may apply to become an Individual Member of the Company and is subject to the provisions of this Constitution.
- (c) In addition to the effect of membership set out in clause 8.2, an Individual Member must comply with this Constitution and any Policies and support the Company and the Objects.
- (d) An Individual Member is entitled to any benefits of membership prescribed to apply to Individual Members in the Policies but, in any event, shall not be entitled to receive notice, attend or vote at General Meetings.

### 9 Fees and Subscriptions

#### 9.1 *Membership Fee*

- (a) The Directors must determine from time to time:
  - (i) the amount (if any) payable by an applicant for membership;
  - (ii) the amount of the annual subscription fee payable by each Member, or any category of Members;
  - (iii) any other amount to be paid by each Member, or any category of Members, whether of a recurrent or any other nature; and
  - (iv) the payment method and the due date for payment of each amount payable by a Member.
- (b) Each Member must pay to the Company the amounts determined under this clause 9 in accordance with clause 9.1(a)(iv).

#### 9.2 *Non-Payment of Fees*

The right of a Member to attend and vote at a General Meeting is suspended while the payment of any subscription or other amount determined under clause 9 is in arrears greater than 90 days.

#### 9.3 *Deferral or reduction of subscriptions*

- (a) The Directors may defer the obligations of a Member to pay a subscription or other amount, or reduce (including to zero) the subscription or other amount payable by a Member, if the Directors are satisfied that:
  - (i) there are reasonable grounds for doing so;
  - (ii) the Company will not be materially disadvantaged as a result; and
  - (iii) the Member agrees to pay the deferred or (if greater than zero) the reduced subscription or other amount within a time fixed by the Directors.

- (b) If the Directors defer or reduce a subscription or other amount payable by a Member under this clause 9.3, that Member will retain their rights to attend and vote at a General Meeting, unless otherwise specified by the Directors.

#### 9.4 *Register of Members*

- (a) The Company must establish and maintain a register of all Members. The register of members must be kept by the Company Secretary and must contain:
  - (i) for each current Member:
    - (A) name;
    - (B) address;
    - (C) any electronic address;
    - (D) any alternative address (including an electronic address) nominated by the Member for the service of notices; and
    - (E) the date the Member was entered on to the register.
  - (ii) for each person who stopped being a Member in the last seven years:
    - (A) name;
    - (B) address;
    - (C) any electronic address;
    - (D) any alternative address (including an electronic address) nominated by the Member for the service of notices; and
    - (E) the dates the membership started and ended.
- (b) The Company must give current Members access to the register of members.
- (c) Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

#### 9.5 *General*

- (a) No Member whose membership ceases has any claim against the Company or the Directors for damages or otherwise arising from cessation or termination of membership.
- (b) Membership is personal to each Member. No Member shall, or purport to, assign the rights comprising or associated with membership to any other person and any attempt to do so shall be void.
- (c) A Member must treat all staff, contractors and representatives of the Company with respect and courtesy at all times.
- (d) A Member must not act in a manner unbecoming of a Member or prejudicial to the Objects and interests of the Company.
- (e) The Directors must consider an application for membership within a reasonable time after the Company Secretary receives the application.

- (f) The Company Secretary must as soon as possible write to the applicant to tell them that their application was approved or rejected.

#### 9.6 *Limited Liability*

The liability of members is limited to the amount of the guarantee in clause 31.1.

## 10 Cessation of Membership

### 10.1 *Cessation*

A person ceases to be a Member if they:

- (a) resign;
- (b) die;
- (c) fail to pay their application fee or annual subscription fee within 90 days of being requested to do so (if applicable); or
- (d) the termination of their membership according to this Constitution.

### 10.2 *Resignation*

For the purposes of clause 10.1(a), a Member may resign as a Member of the Company by giving 14 days written notice to the Company Secretary.

### 10.3 *Forfeiture of Rights*

A Member who or which ceases to be a Member shall forfeit all right in and claim upon the Company or the Directors for damages or otherwise, or claim upon its property including its intellectual property rights.

## **Dispute resolution and disciplinary procedures**

## 11 Dispute resolution

### 11.1 *Dispute resolution*

- (a) The dispute resolution procedure in this clause applies to disputes under this Constitution between a member or director and:
  - (i) one or more Members;
  - (ii) one or more Directors; or
  - (iii) the Company.
- (b) A Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 12 until the disciplinary procedure is completed.
- (c) Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- (d) If those involved in the dispute do not resolve it under clause 11.1(c), they must within 10 days:
  - (i) tell the Directors about the dispute in writing;
  - (ii) agree or request that a mediator be appointed; and

- (iii) attempt in good faith to settle the dispute by mediation.
- (e) The mediator must be chosen:
  - (i) by agreement of those involved; or
  - (ii) by the following, where those involved do not agree:
    - (A) for disputes between Members, the Directors; or
    - (B) for all other disputes, either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the Company has its registered office.
- (f) A mediator chosen by the directors under clause 11.1(e)(ii)(A):
  - (i) may be a Member or former Member of the Company;
  - (ii) must not have a personal interest in the dispute; and
  - (iii) must not be biased towards or against anyone involved in the dispute.
- (g) When conducting the mediation, the mediator must:
  - (i) allow those involved a reasonable chance to be heard;
  - (ii) allow those involved a reasonable chance to review any written statements;
  - (iii) ensure that those involved are given natural justice; and
  - (iv) not make a decision on the dispute.

## 12 Disciplining members

### 12.1 *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; or
  - (ii) the Member's behaviour is causing, has caused, or is likely to cause harm to the Company.
- (b) At least 14 days before the Directors' meeting at which a resolution under clause 12.1(a) will be considered, the Company 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 12.1(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 12.1(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 Company Secretary must give written notice to the Member of the decision under clause 12.1(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.

## **General Meetings of members**

### **13 General Meetings**

#### **13.1 Annual General Meeting**

- (a) AGMs of the Company are to be held:
  - (i) within 18 months after registration of the Company; and
  - (ii) after the first Annual General Meeting, 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) a review of the Company's activities;
  - (ii) a review of the Company's finances;
  - (iii) any auditor's report;
  - (iv) the election of Directors; and

- (v) the appointment and payment of auditors, if any.
- (c) Before or at the Annual General Meeting, the Directors must give information to the members on the Company's activities and finances during the period since the last Annual General Meeting.
- (d) 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.

### 13.2 *General Meetings called by Directors*

- (a) The Directors may convene a General Meeting .
- (b) If Voting Members with at least 5% of the votes that may be cast at a General Meeting, make a written request to the Directors for a General Meeting to be held, the Directors must:
  - (i) within 21 days of the members' request, give all members notice of a General Meeting; and
  - (ii) hold the General Meeting within two months of the members' request.
- (c) The percentage of votes that Voting Members have (in clause 13.2(b)) is to be calculated as at midnight before the Voting Members request the meeting.
- (d) The Voting members who make the request for a General Meeting must:
  - (i) state in the request any resolution to be proposed at the meeting;
  - (ii) sign the request; and
  - (iii) give the request to the Company.
- (e) Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

### 13.3 *General Meetings called by Members*

- (a) If the Directors do not call the meeting within 21 days of being requested under clause 13.2(b), 50% or more of the Voting members who made the request may call and arrange to hold a General Meeting.
- (b) To call and hold a meeting under clause 13.3(a) the Voting Members must:
  - (i) as far as possible, follow the procedures for General Meetings set out in this constitution;
  - (ii) call the meeting using the list of Members on the Company's member register, which the Company must provide to the Voting Members making the request at no cost; and
  - (iii) hold the General Meeting within three months after the request was given to the Company.
- (c) The Company must pay the Voting Members who request the General Meeting any reasonable expenses they incur because the Directors did not call and hold the meeting.

### 13.4 *Notice of a General Meeting*

- (a) Notice of a General Meeting of Members must be given:
  - (i) to all Members entitled to vote at the General Meeting;
  - (ii) to all the Directors;
  - (iii) the auditor (if any).
- (b) At least 21 days' notice of the General Meeting must be given in writing.
- (c) Subject to clause 13.4(d), notice of a General 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 General 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 one or more places, or held using Virtual Meeting Technology only, the technology that will be used to facilitate this);
  - (ii) the general nature of the meeting's business; and
  - (iii) if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution.

### 13.5 *Cancellation or postponement of General Meeting*

Where a General Meeting (including an AGM) is convened by the Directors they may, if they think fit, cancel the meeting or postpone the meeting to a date and time they determine. This clause does not apply to a General Meeting convened by:

- (a) Members according to clause 13.3;
- (b) the Directors at the request of Members according to clause 13.2(b); or
- (c) a court.

### 13.6 *Written notice of cancellation or postponement of General Meeting*

Notice of the cancellation or postponement of a General Meeting must state the reasons for doing so and be given to:

- (a) each Member entitled to attend the General Meeting;
- (b) each Director; and

- (c) the auditor (if any).

### **13.7 Contents of notice postponing General Meeting**

A notice postponing a General Meeting must specify:

- (a) the new date and time for the meeting;
- (b) the place where the meeting is to be held, which may be either the same as or different to the place specified in the notice originally convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to hold the meeting in that manner.

### **13.8 Number of clear days for postponement of General Meeting**

The number of clear days from the giving of a notice postponing a General Meeting to the date specified in that notice for the postponed meeting must not be less than the number of clear days' notice of that General Meeting required to be given by clause 13.4(b).

### **13.9 Business at postponed General Meeting**

The only business that may be transacted at a postponed General Meeting is the business specified in the notice originally convening the meeting.

### **13.10 Non-receipt of notice**

The non-receipt of a notice convening, cancelling or postponing a General Meeting by, or the accidental omission to give a notice of that kind to, a person entitled to receive it, does not invalidate any resolution passed at the General Meeting or at a postponed meeting or the cancellation or postponement of the meeting.

### **13.11 Right to appoint proxy**

A Voting Member entitled to attend a General Meeting of the Company is not entitled to appoint a person as their proxy to attend the meeting in their place.

## **14 Proceedings at General Meeting**

### **14.1 Number for a quorum**

The number of Members who must be present and eligible to vote for a quorum to exist at a General Meeting is three.

### **14.2 Requirement for a quorum**

An item of business may not be transacted at a General Meeting unless a quorum is present (in person or via Virtual Meeting Technology) at the commencement of, and remains throughout, the General Meeting. When determining whether a quorum is present, a person may only be counted once.

### **14.3 Quorum and time**

- (a) If, within 30 minutes after the time appointed for a General Meeting, a quorum is not present, the meeting:
  - (i) if convened by, or on requisition of, Members, is dissolved; and

- (ii) in any other case stands adjourned to such other day, time and place as the Chair determines.
- (b) If the Chair 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.

#### 14.4 *Adjourned meeting*

If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, those members then present shall constitute a quorum.

#### 14.5 *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.

#### 14.6 *Using technology to hold meetings*

- (a) The Company may hold a General Meeting:
  - (i) at one or more physical venues; or
  - (ii) at one or more physical venues and using Virtual Meeting Technology; or
  - (iii) using Virtual Meeting Technology only.
- (b) A General Meeting held in accordance with a method set out in clause 14.6(a) must comply with any requirements set out in the Corporations Act and give the members entitled to attend the meeting, as a whole, a reasonable opportunity to participate in the meeting.
- (c) A Member who attends the meeting (whether at a physical venue or by using Virtual Meeting Technology) is taken for all purposes to be present in person at the meeting while so attending.

#### 14.7 *Chairperson to preside over General Meetings*

- (a) The Chairperson is entitled to preside as Chair at General Meetings subject to clause 14.7(a).
- (b) If a General Meeting is convened and there is no Chair, or the Chair is not present within 15 minutes after the time appointed for the meeting, or is unable or unwilling to act, the following may preside as Chair (in order of entitlement):
  - (i) a Director (or other person) chosen by a majority of the Directors present;

- (ii) the only Director present; or
- (iii) a Representative of a Voting Member who is entitled to vote and is chosen by a majority of the Voting Members present.

#### **14.8 Conduct of General Meetings**

- (a) The Chair:
  - (i) has charge of the general conduct of the meeting and of the procedures to be adopted;
  - (ii) may require the adoption of any procedure which in his or her opinion is necessary or desirable for proper and orderly debate or discussion or the proper and orderly casting or recording of votes; and
  - (iii) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever he considers it necessary or desirable for the proper conduct of the meeting.
- (b) A decision by the Chair under this clause 14.8 is final.

#### **14.9 Adjournment of General Meeting**

- (a) The Chair may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting.
- (b) The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and place agreed by vote of the members present.
- (c) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

#### **14.10 Notice of adjourned meeting**

- (a) It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for 30 days or more.
- (b) In that case, at least the same period of notice as was originally required for the meeting must be given for the adjourned meeting.

#### **14.11 Questions decided by majority**

Except in the case of a Special Resolution, a resolution is carried if a simple majority of the votes cast on the resolution are in favour of it.

#### **14.12 Equality of votes**

Where an equal number of votes are cast in favour of and against the resolution, the resolution is not carried.

#### 14.13 Declaration of results

- (a) At any General Meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is properly demanded and the demand is not withdrawn.
- (b) A declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minutes of the meetings of the Company, is conclusive evidence of the fact.
- (c) Neither the Chair nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded for or against the resolution.

### Members' resolutions and statements

#### 15 Members' resolutions and statements

##### 15.1 Casting a resolution

- (a) Members with at least 5% 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 a notice or a 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 15.1(a)) is to be calculated 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 15.1(a)(i), the resolution must be considered at the next General Meeting held no 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.

#### 16 Company to distribute Members' Resolution or Members' Statement

##### 16.1 Distributing Members' Resolution or Members' Statement

- (a) If the Company has been given a notice or request under clause 15:

- (i) in time to send the notice of Members' Resolution or a copy of the Members' Statement to members with a notice of General Meeting, it must do so at the Company's cost; or
  - (ii) too late to send the notice of Members' Resolution or a copy of the Members' Statement to members with a notice of General Meeting, then the members that proposed the Members' Resolution or made the Members' Statement must pay the expenses reasonably incurred by the Company in giving members notice of the Members' Resolution or a copy of the Members' Statement. However, the members may subsequently pass a resolution at a General Meeting for the Company to pay these expenses.
- (b) The Company does not need to send the notice of 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 16.1(a)(ii) applies, and the members that proposed the Members' Resolution or made the Members' Statement have not paid the Company enough money to cover the expenses reasonably incurred by the Company in giving members notice of the Members' Resolution or a copy of the Members' Statement; or
  - (iv) in the case of a 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.

## 17 Circular Resolutions of members

- (a) Subject to clause 17(c), the Directors may put a resolution to the members to pass a Circular Resolution.
- (b) The Directors must notify the auditor (if any) as soon as possible that a Circular Resolution has or will be put to members, and set out the wording of the resolution.
- (c) Circular Resolutions cannot be used:
  - (i) for a resolution to remove an auditor, appoint a Director or remove a Director;
  - (ii) for passing a Special Resolution; or
  - (iii) where the Corporations Act or this Constitution requires a meeting to be held.
- (d) A Circular Resolution is passed if all the members entitled to vote on the resolution sign or agree to the Circular Resolution, in the manner set out in clause 17(e) or clause 17(f).
- (e) Members may sign:

- (i) a single document setting out the Circular Resolution and containing a statement that they agree to the resolution; or
  - (ii) separate copies of that document, as long as the wording is the same in each copy.
- (f) The Company may send a Circular Resolution by email to members and members may agree by sending a reply email to that effect.

## **Voting at General Meetings**

### **18 Votes of Members**

#### **18.1 How many votes a Member has**

Each Voting Member has one vote.

#### **18.2 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 18.2(a), the Chairperson must decide whether or not the person may vote. The Chairperson's decision is final.

#### **18.3 How voting is carried out**

- (a) Voting must be conducted and decided by:
  - (i) a show of hands;
  - (ii) a vote in writing; or
  - (iii) another method chosen by the Chairperson that is fair and reasonable in the circumstances.
- (b) On a show of hands, the Chairperson's decision is conclusive evidence of the result of the vote.
- (c) 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.

#### **18.4 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 (calculated 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 18.4(c) applies.
- (c) A vote in writing must be held immediately if it is:
  - (i) for the election of a Chairperson under clause 21.8(c); or

- (ii) to decide whether to adjourn the meeting.
- (d) A demand for a vote in writing may be withdrawn.

## Directors

### 19 Directors

#### 19.1 *Number of Directors*

There must be not less than five Directors and not more than nine Directors.

#### 19.2 *Election and appointment of Directors*

- (a) The initial Directors are the people who have consented to act as Directors and who are named as Directors in the application for registration of the Company.
- (b) Apart from the initial Directors and Directors appointed under clause 19.3(b), the Members are responsible for electing a Director by a resolution passed in a General Meeting.
- (c) Each Director must be appointed by a separate resolution, unless:
  - (i) the Members Present have first passed a resolution that the appointments may be voted on together; and
  - (ii) no votes were cast against that resolution.

#### 19.3 *Eligibility for election as a Director*

- (a) On and from the Amendment Date, a person is eligible for election as a Director of the Company if they:
  - (i) are nominated by two members or representatives of members entitled to vote (unless the person was previously elected as a Director at a General Meeting and has been a Director since that meeting);
  - (ii) give the Company their signed consent to act as a Director of the Company; and
  - (iii) are not ineligible to be a director under the Corporations Act or the ACNC Act.
- (b) The Directors may appoint a person as a Director to fill a casual vacancy or as an additional Director if that person:
  - (i) gives the Company their signed consent to act as a Director of the Company; and
  - (ii) is not ineligible to be a director under the Corporations Act or the ACNC Act.
- (c) If the number of Directors is reduced to fewer than five 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 five (or higher if required for a quorum) or calling a General Meeting, but for no other purpose.

- (d) All acts done at any meeting of Directors or by any person acting as a Director will be valid as if every such person has been duly appointed and every Director was qualified and entitled to vote, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a Director or that any Director was disqualified or not entitled to vote.

#### 19.4 *Term of office*

- (a) At each Annual General Meeting:
  - (i) any Director appointed by the Directors to fill a casual vacancy or as an additional Director must retire; and
  - (ii) at least one-third of the remaining Directors must retire.
- (b) The Directors who must retire at each Annual General Meeting under clause 19.4(a)(ii) will be the Directors who have been longest in office since last being elected. Where Directors were elected on the same day, the Director(s) to retire will be decided by lot unless they agree otherwise.
- (c) Other than a Director appointed under clause 19.3(b), a Director's term of office starts at the end of the Annual General Meeting at which they are elected and ends at the end of the Annual General Meeting at which they retire.
- (d) Each Director must retire at least once every three years.
- (e) A Director who retires under clause 19.4(a) and 19.4(d) may nominate for election or re-election.

#### 19.5 *Appointed Directors*

- (a) The Directors may themselves appoint up to two additional persons to be Directors because of their special business acumen and/or technical skills.
- (b) Subject to clause 19.6, an Appointed Director holds office for a term determined by the Directors not to exceed three years and the appointment will be on such other terms as the Directors determine.
- (c) A person may only serve two terms as an Appointed Director but, subject to the other requirement of this Constitution, are otherwise eligible to be elected to an Elected Director position.
- (d) The Directors may at any time appoint a person to fill a casual vacancy in the rank of the Appointed Directors on whatever terms the Directors decide.

#### 19.6 *Vacation of office*

The office of a Director becomes vacant if they:

- (a) are removed as a Director by a resolution of the members;
- (b) die;
- (c) become of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (d) resigns from office by notice in writing to the Company;

- (e) is not present at three consecutive Directors' meetings without leave of absence from the Directors; or
- (f) become ineligible to be a director of the Company under the Corporations Act or the ACNC Act.

#### 19.7 *Alternate Director*

A Director cannot appoint an alternate.

## **Power and duties of Directors**

### 20 Powers and Duties of Directors

#### 20.1 *Duties of Directors*

- (a) The Directors must comply with their duties as directors under legislation and common law, and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:
  - (i) 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;
  - (ii) to act in good faith in the best interests of the Company and to further the charitable object of the Company set out in clause 4;
  - (iii) not to misuse their position as a Director;
  - (iv) not to misuse information they gain in their role as a Director;
  - (v) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 20.2;
  - (vi) to ensure that the financial affairs of the Company are managed responsibly; and
  - (vii) not to allow the Company to operate while it is insolvent.

#### 20.2 *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 clause 20.2(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 30.2);
  - (iii) their interest relates to a payment by the Company under clause 66, or any contract relating to an indemnity that is allowed under the Corporations Act;
  - (iv) the Australian Securities and Investments Commission 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.
- (e) The Secretary shall maintain a register of declared interests.

### 20.3 *Directors to manage the Company*

The Directors are to manage and direct the activities of the Company to achieve the objects set out in clause 4.

### 20.4 *Specific powers of Directors*

- (a) The Directors may exercise all the Company's powers, except for powers that, under the Corporations Act or this constitution, may only be used by members. .
- (b) The Directors must decide on the responsible financial management of the Company including:
  - (i) any suitable written delegations of power under clause 20.7(a); and
  - (ii) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- (c) The Directors cannot remove a Director or auditor. Directors and auditors may only be removed by a Members' Resolution at a General Meeting.

### 20.5 *Appointment of attorney*

The Directors may appoint any person to be the Company's attorney for the purposes, with the powers, authorities and discretions, for the period and subject to the conditions they think fit.

## 20.6 *Provisions in power of attorney*

A power of attorney granted under clause 20.7 may contain any provisions for the protection and convenience of persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

## 20.7 *Delegation of powers*

- (a) The Directors may delegate any of their powers and functions to a committee, the EO, any employee of the Company or any other person as they think fit.
- (b) Any delegation by the Directors of their powers:
  - (i) must specify the powers delegated, any restrictions on, and conditions attaching to, the exercise of those powers and the period during which that delegation is to be in force;
  - (ii) may be either general or limited in any way provided in the terms of the delegation;
  - (iii) need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position; and
  - (iv) may include the power to delegate.
- (c) If exercising a power depends on a person's opinion, belief or state of mind, then that power may be exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.
- (d) Any power exercised by a delegate is as effective as if it had been exercised by the Directors.
- (e) The delegation must be recorded in the Company's minute book.

## **Directors' meetings**

### 21 *Proceedings of Directors*

#### 21.1 *Directors meetings*

- (a) Subject to clause 21.1(b), the Directors may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.
- (b) The Directors must meet at least five times in each calendar year.

#### 21.2 *Questions decided by majority*

A question arising at a Directors' meeting is to be decided by a majority of votes of the Directors present in person and entitled to vote. Each Director present has one vote on a matter arising for decision by Directors.

#### 21.3 *Chair's casting vote*

The Chair of the meeting will not have a casting vote.

#### 21.4 *Quorum*

Unless the Directors determine otherwise, the quorum for a Directors' meeting is three Directors.

#### 21.5 *Effect of vacancy*

- (a) The continuing Directors may act despite a vacancy in their number.
- (b) However, if the number of Directors is reduced below the number required for a quorum, the remaining Directors may act only for the purpose of filling the vacancies to the extent necessary to bring their number up to that required for a quorum or to convene a General Meeting.

#### 21.6 *Convening meetings*

- (a) A Director may, and the EO on the request of a Director must, convene a Directors' meeting by giving reasonable notice.
- (b) Notice of a meeting of Directors must be given individually to each Director (except a Director on leave of absence approved by the Directors). Notice of a meeting of Directors may be given in person, or by post or by telephone, facsimile or other electronic means.
- (c) A Director may waive notice of a meeting of Directors by giving notice to that effect to the Company in person or by post or by telephone, facsimile or other electronic means.
- (d) A person who attends a meeting of Directors waives any objection that person may have in relation to a failure to give notice of the meeting.
- (e) The non-receipt of a notice of a meeting of the Directors or the accidental omission to give notice of a meeting to a person entitled to receive notice does not invalidate anything done (including the passing of a resolution) at a meeting of Directors.

#### 21.7 *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 one.
- (c) A Director may only withdraw their consent within a reasonable period before a meeting.

#### 21.8 *Election of Chairperson*

- (a) The Directors must elect a Director to be the Chairperson by a majority vote.
- (b) The Director elected to be Chairperson under clause 21.8(a) will remain Chairperson for the duration of their term of office as Director and shall chair any meeting of Directors unless the resolution electing a person as the Chairperson specifies a fixed term for the appointment.
- (c) Despite clause 21.8(b), if:
  - (i) there is no person elected as Chair; or

- (ii) the Chair is not present within 15 minutes after the time appointed for the holding of the meeting; or
  - (iii) the Chair is unwilling to act,
- the Directors present may elect one of their number to be Chair of the meeting.

#### **21.9 Circular Resolutions of Directors**

- (a) The Directors may pass a Circular Resolution without a Directors' meeting being held if notice in writing of the resolution is given to all Directors and a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of Directors) sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of the document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy. A facsimile transmission or other document produced by electronic means under the name of a Director with the Director's authority is taken to be a document signed by the Director for the purposes of clause 21.9(a) and is taken to be signed when received by the Company in legible form.
- (c) The resolution is passed when the last Director signs.

#### **21.10 Validity of acts of Directors**

Everything done at a Directors' meeting or a committee meeting, or by a person acting as a Director, is valid even if it is discovered later that there was some defect in the appointment, election or qualification of any of them or that any of them was disqualified or had vacated office.

#### **21.11 Appointment of EO**

The Directors shall appoint an EO.

#### **21.12 Powers, duties and authorities of EO**

- (a) The EO holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated to them by the Directors.
- (b) The exercise of those powers and authorities, and the performance of those duties, by the EO are subject at all times to the control of the Directors.

#### **21.13 Suspension and removal of EO**

Subject to the terms and conditions of the appointment, the Directors may suspend or remove the EO from that office.

#### **21.14 Delegation by Directors to EO**

The Directors may delegate to the EO the power (subject to such reservations on the power as are decided by the Directors) to conduct the day-to-day management and control of the business and affairs of the Company. The delegation will include the power and responsibility to:

- (a) develop business plans, budgets, strategies, policies, processes and codes of conduct for consideration by the Directors and to implement them to the extent approved by the Directors;
- (b) manage the financial and other reporting mechanisms of the Company;
- (c) approve and incur expenditure subject to specified expenditure limits;
- (d) sub-delegate his or her powers and responsibilities to employees or internal management committees of the Company; and
- (e) any other powers and responsibilities which the Directors consider appropriate to delegate to the EO.

#### 21.15 *EO to attend meetings*

The EO is entitled, subject to a determination otherwise by the Directors, to attend all meetings of the Company, all meeting of the Directors and any committees and may speak on any matter, but does not have a vote.

## **Secretary**

### 22 Company Secretary

#### 22.1 *Appointment and role of Company Secretary*

- (a) There must be at least one Company Secretary who may also be a Director.
- (b) The Company Secretary is to be appointed by the Directors (after giving the Company their signed consent to act as Company Secretary) and may be removed by the Directors.
- (c) The Directors must decide the terms and conditions under which the Company Secretary is appointed, including any remuneration.
- (d) The role of the Company Secretary includes (but is not limited to):
  - (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.

### 23 Policies

#### 23.1 *Making and amending Policies*

- (a) The board may, from time to time, at a Directors' meeting, make Policies:
  - (i) that are required to be made under this Constitution; and
  - (ii) which in their opinion are necessary or desirable for the control, administration and management of the Company's affairs .
- (b) The board at a Directors' meeting may amend, repeal or replace any Policy made by the board.

- (c) The Policies referred to in clause and 23.1(a) take effect 28 days after the service of the Policy on the Member and shall be of force and effective on that date.

## **Minutes and records**

### **24 Minutes and records**

#### **24.1 Keeping 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;
  - (iii) a copy of a notice of each General Meeting; and
  - (iv) a copy of a Members' Statement distributed to members under clause 16.
- (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) 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 a record of a Circular Resolution is signed by a Director within a reasonable time after the resolution is passed.

### **25 Inspection of Records**

#### **25.1 Right of the Members to Inspect Records**

- (a) To allow members to inspect the Company's records:
  - (i) the Company must give a Member access to the records set out in clause 24.1(a); and
  - (ii) the Directors may authorise a Member to inspect other records of the Company, including records referred to in clause 24.1(b) and clause 26.1(a)

### **26 Financial and related records**

#### **26.1 Making and keeping financial 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 retain its financial records for at least seven years after completion of the transaction to which the record relates.
- (c) The Company must also keep written records that correctly record its operations.

## 27 By-laws

### 27.1 *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.

## 28 Service of Documents

### 28.1 *Document includes notice*

In this clause 28, document includes a notice.

### 28.2 *Methods of service on a Member*

A written document or any communication under this Constitution may be given to a Member:

- (a) personally;
- (b) by sending it by post, or leaving it at the address of the Member in the Register or an alternative address (if any) nominated by the Member for service of documents;
- (c) by sending it to an electronic address nominated by the Member as an alternative address for service of documents (if any); or
- (d) by sending it to a facsimile number or electronic address nominated by the Member as an alternative address for service of documents (if any).

### 28.3 *Methods of service on the Company*

A written document or any communication under this Constitution may be given to the Company, Directors or Company Secretary:

- (a) by delivering it to the Company's registered office;
- (b) by sending it by post to the Company's registered office; or
- (c) by sending it to a facsimile number or electronic address nominated by the Company.

### 28.4 *Personally*

A document given personally, or left at the recipient's address, is taken to be delivered on the day it is delivered.

### 28.5 *Post*

A document sent by post if sent to an address:

- (a) in Australia, may be sent by ordinary post; and
- (b) outside Australia, or sent from an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the second business day after the date of its posting.

### 28.6 *Facsimile or electronic transmission*

If a document is sent by facsimile or electronic transmission, delivery of the document is taken to:

- (a) be effected by properly addressing and transmitting the facsimile or electronic transmission; and
- (b) have been delivered on the business day following its transmission.

## 29 *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.

## 30 *Indemnity*

### 30.1 *Indemnity of officers*

- (a) This clause 30 applies to every person who is or has been:
  - (i) a Director, EO or Company Secretary of the Company; and
  - (ii) to any other officers, employees, former officers or former employees of the Company or of its related bodies corporate as the Directors in each case determine.
- (b) The Company will indemnify each Indemnified Officer out of the property of the Company against:
  - (i) every liability (except a liability for legal costs) that the Indemnified Officer incurs as an Officer of the Company or of a related body corporate of the Company; and
  - (ii) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the Indemnified Officer becomes involved as an officer of the Company or of a related body corporate of the Company,

unless:

- (iii) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (iv) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

### 30.2 *Insurance*

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring an Indemnified Officer against liability that the Indemnified Officer incurs as an officer of the Company or of a related body corporate of the Company including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

### 30.3 *Deed*

The Company may enter into a deed with any Indemnified Officer or a deed poll to give effect to the rights conferred by clause 30.1 on the terms the Directors think fit (as long as they are consistent with clause 30.1).

## 31 *Winding Up*

### 31.1 *The guarantee*

Each Member must contribute an amount not more than \$1 to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for any:

- (a) debts and liabilities of the Company incurred before the Member stopped being a Member; or
- (b) costs of winding up.

### 31.2 *Distribution of Surplus Assets*

- (a) Subject to the Corporations Act, any other applicable legislation and any court order, any Surplus Assets that remain after the Company is wound up must be distributed to one or more charities:
  - (i) having objects similar to those of the Company in clause 4;
  - (ii) which 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) or other applicable law.
- (b) If the Company is not a deductible gift recipient when it is wound up, the Company does not need to comply with clause 31.2(a)(iii).
- (c) 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.
- (d) Notwithstanding any other provision in this constitution, all remaining Community Housing Assets in a Participating Jurisdiction on winding up will be transferred to another registered community housing provider or to a Housing Agency in the jurisdiction in which the asset is located.

**31.3 *Revocation of the Company's deductible gift recipient endorsement***

- (a) If the Company's endorsement of the Company as a deductible gift recipient is revoked (whether or not the Company is to be wound up or dissolved) any surplus of the following assets must be transferred to one or more charities that meet the requirements of clauses 31.2(a)(i) to 31.2(a)(iii) as decided by the Voting Members:
- (b) gifts of money or property for the principal purposes of the Company;
- (c) contributions made in relation to an eligible fundraising event held for the principal purpose of the Company; and
- (d) money received by the Company because of such gifts and contributions which are unspent.

Schedule 1            Life Members (at date of Constitution)