

Constitution of Community Resources Limited

ABN 90 746 695 414

A company limited by guarantee

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Sydney

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1 Preliminary

1.1 *Name of the company*

The name of the **company** is Community Resources Limited (the **company**).

1.2 *Type of company*

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

1.3 *Limited liability of members*

The liability of **members** is limited to the amount of the guarantee in clause 1.4.

1.4 *The guarantee*

(a) Each **member** must contribute an amount not more than \$5.00 (the **guarantee**) 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 the:

- (i) debts and liabilities of the **company** incurred before the **member** stopped being a **member**; or
- (ii) costs of winding up.

1.5 *Definitions*

In this constitution, words and phrases have the meaning set out in clauses 20.1 and 20.3.

2 Charitable purposes and powers

2.1 *Object*

The **company**'s object is to pursue the following charitable purpose:

- (a) to provide assistance for the direct relief of those in the community that suffer from such poverty, lack of financial or other resources, sickness, suffering, distress, misfortune, disability, destitution or helplessness as arouses pity or compassion in the community (generally described as "those experiencing disadvantage"), such as:
 - (i) Aboriginal people who are experiencing disadvantage;
 - (ii) Offenders and ex-offenders;
 - (iii) Those who are homeless;
 - (iv) Early school leavers;
 - (v) Those with poor literacy skills;
 - (vi) Substance abusers;
 - (vii) Those who are disabled or frail;
 - (viii) Long-term unemployed; and

- (ix) Those who are experiencing mental illness.
- (b) To achieve the purpose of the **company**, the **company's** objects are:
 - (i) To alleviate the effects of poverty and disadvantage by assisting long-term unemployed people, particularly those unemployed for 12 months or more and other most disadvantaged unemployed people to obtain and retain employment or proceed to further education or training through the provision of skills training, employment related assistance (including personal support and referral) and enterprise activities;
 - (ii) To foster the sharing of government, community and industry responsibility for tackling the problems of long-term unemployment and a recognition of the skills in the community which can be positively shared to that end;
 - (iii) To assist those experiencing disadvantage in the local communities in which the company works, such as long-term unemployed people to develop their capacity for obtaining and retaining employment and to become more self-reliant during periods of unemployment;
 - (iv) To encourage community support for assistance in achieving the **company's** objectives; and
 - (v) To encourage Aboriginal participation and leadership.

2.2 Powers

- (a) Subject to clause 2.3, the **company** has the following powers, which may only be used to carry out its purpose(s) set out in clause 2.1:
 - (i) the powers of an individual; and
 - (ii) all the powers of a **company** limited by guarantee under the **Corporations Act**.

2.3 Not-for-profit

- (a) The **company** must not distribute any income or assets directly or indirectly to its **members**, except as provided in clauses 2.3(b) and 18.2.
- (b) Clause 2.3(a) does not stop the **company** from doing the following things, provided they are done in good faith:
 - (i) paying a **member** for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**; or
 - (ii) making a payment to a **member** in carrying out the **company's** charitable purpose(s).

2.4 Amending the constitution

- (a) Subject to clause 2.4(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.

3 Members and Friends

3.1 *Membership and register of members*

- (a) The **members** of the **company** are:
 - (i) **initial members** being the **members** recorded on the register of **members** at the date on which this constitution is adopted; and
 - (ii) any other person that the directors allow to be a **member**, in accordance with this constitution.
- (b) The **company** must establish and maintain a register of **members**. The register of **members** must be kept by the secretary and must contain:
 - (i) for each current **member**:
 - (A) name;
 - (B) address;
 - (C) any alternative address nominated by the **member** for the service of notices; and
 - (D) date the **member** was entered on to the register.
 - (ii) for each person who stopped being a **member** in the last 7 years:
 - (A) name;
 - (B) address;
 - (C) any alternative address nominated by the **member** for the service of notices; and
 - (D) dates the membership started and ended.
- (c) The **company** must give current **members** access to the register of **members**.
- (d) Information that is accessed from the register of **members** must only be used in a manner relevant to the interests or rights of **members**.

3.2 *Who can be a member*

- (a) A person who supports the purposes of the **company** is eligible to apply to be a **member** of the **company** under clause 3.3 but eligibility does not guarantee membership. Admission as a **member** is at the absolute discretion of the directors in accordance with clause 3.5(b) and (c).
- (b) In this clause 3, 'person' means an individual.

3.3 *Membership*

- (a) Membership entitles the individual to attend the Annual General Meeting with full voting rights.
- (b) Employees are not eligible to apply for membership.

- (c) The rights and privileges of a **member** are personal and not transferable.

3.4 *How to apply to become a member*

- (a) A person (as defined in clause 3.2(b)) may apply to become a **member** of the **company** by completing in writing the membership application form and sending it to the secretary stating that they:
 - (i) want to become a **member**;
 - (ii) support the purpose(s) of the **company**; and
 - (iii) agree to comply with the **company**'s constitution, including signing the conflict of interest declaration, and complying with **company** policies and by-laws as determined applicable by the Board.

3.5 *Directors decide whether to approve membership*

- (a) The directors must consider a written application for membership within a reasonable time after the secretary receives the application.
- (b) The directors have the right to refuse membership to any person in its absolute discretion, without assigning a reason for its rejection of an application.
- (c) Without limiting the Board's discretion to approve, defer or decline any applications, to qualify for membership the applicant must, in the Board's opinion, be a person:
 - (i) who will be committed to supporting the purpose and objects of the **company**;
 - (ii) who will agree to be bound by and comply with the Code of Conduct; and
 - (iii) whose membership will enhance and benefit the company and its purpose and objects.
- (d) If the directors approve an application, the secretary must as soon as possible:
 - (i) Following payment of the **membership fee** enter the new **member** on the register of **members**; and
 - (ii) Write to the applicant to tell them that their application was approved, and the date that their membership started (see clause 3.6).
- (e) If the directors reject an application, the secretary must write to the applicant as soon as possible to tell them that their application has been rejected but does not have to give reasons.
- (f) For the avoidance of doubt, the directors may approve an application even if the application does not state the matters listed in clauses 3.4(a)(i), 3.4(a)(ii) or 3.4(a)(iii). In that case, by applying to be a **member**, the applicant agrees to those three matters.

3.6 *When a person becomes a member*

- (a) Other than **initial members**, an applicant will become a **member** when they are entered on the register of **members**.

3.7 *When a person stops being a member*

- (a) At midnight on 30th September each year all annual memberships terminate and the membership for the period commencing 1 October each year (**membership year**) is conditional on each of the following requirements being met:

- (i) Completion and lodgement of an application for membership for the new **membership year** which includes a new conflict of interest declaration
- (ii) Acceptance as a member for the new **membership year** by the Board; and
- (iii) Payment of the **membership fee** for the new **membership year**.

For the avoidance of doubt, a satisfactory application for membership or renewal of membership for each **membership year** requires the completion of each of the steps in clause 3.7(a) and is subject to the absolute discretion of the Board.

- (b) The directors may pass a resolution to change the **membership year**.
- (c) The directors may pass a resolution to set the annual **membership fee**.
- (d) A person immediately stops being a **member** if they:
 - (i) fail to lodge a conflict of interest declaration within 30 days of a request by the **company** to do so;
 - (ii) die;
 - (iii) are wound up or otherwise dissolved or deregistered (for an incorporated **member**);
 - (iv) resign, by writing to the secretary;
 - (v) are expelled under clause 4.2;
 - (vi) fail to complete a satisfactory application for membership or renewal of membership as required in clause 3.7(a);
 - (vii) fail to pay the annual **membership fee**;
 - (viii) are no longer eligible for membership; or
 - (ix) have their membership revoked by the directors.

3.8 *Friends of Community Resources (Friends)*

- (a) **Friends** are not **members** of the **company** but volunteers, donors and interested parties who provide support for the **company** in the implementation of its objectives.

- (b) The granting of **friends** recognition is at the absolute discretion of the directors and lasts for 12 months from the date of the **Certificate** referred to in clause 3.8(c)(iv) and lapses automatically at midnight on the anniversary of the issue date recorded on the **Certificate**.
- (c) **Friends** will not have any right to attend any **general meeting** (including the Annual General Meeting) or any right to vote at such meetings or otherwise;
 - (i) may be employees or former employees of the **company**;
 - (ii) may be corporate or government donors;
 - (iii) may be corporate entities or government entities; and
 - (iv) may have their support recognised by the **company** as a **friend** by the issue of an annual certificate (**Certificate**).
- (d) **Members** are not eligible for recognition as a **friend**.
- (e) **Friends** must complete an application form and a conflict of interest declaration and agree to always comply with the **company's** constitution, policies and by-laws as determined applicable by the Board.
- (f) A **friend** that is an entity or government body must appoint a representative to represent the **friend** and exercise all rights that apply to **friends**.
- (g) The appointment of a representative must:
 - (i) be in writing;
 - (ii) include the name of the representative;
 - (iii) be signed on behalf of the **member**; and
 - (iv) be given to the **company**.
- (h) A representative has all the rights of the **friend** that appointed them.
- (i) The appointment of a representative may be a standing appointment.
- (j) The company shall keep a register of all **friends**.

4 Dispute resolution and disciplinary procedures

4.1 Dispute resolution

- (a) The dispute resolution procedure in this clause applies to disputes (disagreements) 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 4.2 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 4.1(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:
 - (i) be chosen by agreement of those involved; or
 - (ii) where those involved do not agree:
 - (A) for disputes between **members**, a person chosen by the director; or
 - (B) for other disputes, a person chosen by 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 4.1(e)(ii):
 - (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.

4.2 *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 4.2(a) will be considered, the secretary must notify the **member** in writing:

- (i) that the directors are considering a resolution to warn, suspend, or expel the **member**;
 - (ii) that this resolution will be considered at a directors' meeting and the date of that meeting;
 - (iii) what the **member** is said to have done or not done;
 - (iv) the nature of the resolution that has been proposed; and
 - (v) that the **member** may provide an explanation to the directors; and details of how to do so.
- (c) Before the directors pass any resolution under clause 4.2(a), the **member** must be given a chance to explain or defend themselves by:
- (i) sending to the directors a written explanation before that directors' meeting; and/or
 - (ii) speaking at the meeting.
- (d) After considering any explanation under clause 4.2(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** permanently;
 - (v) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause); or
 - (vi) require the matter to be determined at a **general meeting**.
- (e) The directors cannot fine a **member**.
- (f) The secretary must give written notice to the **member** of the decision under clause 4.2(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.

5 General meetings of members

5.1 *General meetings called by directors*

- (a) The directors may call a **general meeting**.
- (b) If **members** with at least 5% of the votes that may be cast at a **general meeting** make a written request to the **company** 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 2 months of the **members'** request.
- (c) The percentage of votes that **members** have (in clause 5.1(b)) is to be worked out as at midnight before the **members** request the meeting.
- (d) The **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.

5.2 *General meetings called by members*

- (a) If the directors do not call the meeting within 21 days of being requested under clause 5.1(b), 50% or more of the **members** who made the request may call and arrange to hold a **general meeting**.
- (b) To call and hold a meeting under clause 5.2(a) the **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 **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 **members** who request the **general meeting** any reasonable expenses they incur because the directors did not call and hold the meeting.

5.3 *Annual general meeting*

- (a) A **general meeting**, called the annual **general meeting**, must 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 **elected co-chairpersons** will determine between them which will be the chairperson of the annual **general meeting** and that individual must give **members** a reasonable opportunity at the meeting to ask questions or make comments about the management of the **company**.

5.4 *Notice of general meetings*

- (a) Notice of a **general meeting** must be given to:
 - (i) each **member** entitled to vote at the meeting;
 - (ii) each director; and
 - (iii) the auditor (if any).
- (b) Notice of a **general meeting** must be provided in writing at least 21 days before the meeting.
- (c) Subject to clause 5.4(d), notice of a meeting may be provided less than 21 days before the meeting if:
 - (i) for an annual **general meeting**, all the **members** entitled to attend and vote at the annual **general meeting** agree beforehand; or
 - (ii) for any other **general meeting**, **members** with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (d) Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
 - (i) remove a director;
 - (ii) appoint a director in order to replace a director who was removed; or
 - (iii) remove an auditor.
- (e) Notice of a **general meeting** must include:
 - (i) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (ii) the general nature of the meeting's business;
 - (iii) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution;
 - (iv) a statement that **members** have the right to appoint proxies and that, if a **member** appoints a proxy:
 - (A) the proxy must be a **member** of the **company**;

- (B) the **proxy form** must be delivered to the **company** at its registered address or the address (including an electronic address) specified in the notice of the meeting; and
 - (C) the **proxy form** must be delivered to the **company** at least 48 hours before the meeting.
- (f) If a **general meeting** is adjourned (put off) for one month or more, the **members** must be given new notice of the resumed meeting.

5.5 *Quorum at general meetings*

- (a) For a **general meeting** to be held, at least five (5) **members** (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one **member**).
- (b) No business may be conducted at a **general meeting** if a quorum is not present.
- (c) If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
 - (i) if the date is not specified – the same day in the next week;
 - (ii) if the time is not specified – the same time; and
 - (iii) if the place is not specified – the same place.
- (d) If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

5.6 *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.

5.7 *Using technology to hold meetings*

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

5.8 *Chairperson for general meetings*

- (a) The **elected co-chairpersons** are entitled to chair **general meetings**.

- (b) For the purposes of a general meeting, and in particular clause 7.2, the **elected co-chairpersons** will determine which individual will chair the meeting (**nominated chairperson**) and make the determinations if required.
- (c) The **members present** and entitled to vote at a **general meeting** may choose a director or **member** to be the chairperson for that meeting if:
 - (i) there is no **nominated chairperson**;
 - (ii) the **nominated chairperson** is not present within 30 minutes after the starting time set for the meeting; or
 - (iii) the **nominated chairperson** is present but says they do not wish to act as the chairperson of the meeting and no **elected co-chairperson** is available to chair the meeting.

5.9 *Role of the chairperson*

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

5.10 *Adjournment of meetings*

- (a) If a quorum is present, a **general meeting** must be adjourned if a majority of **members present** direct the **nominated chairperson** to adjourn it or if the **nominated chairperson** determines that the **general meeting** is unable to continue due to disruptions caused by technology or by the conduct of attendees at that meeting.
- (b) Only unfinished business may be dealt with at a meeting resumed after an adjournment.

6 **Members' resolutions and statements**

6.1 *Members' resolutions and statements*

- (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 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 an **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 an **members' statement** must set out the statement to be distributed and be signed by the **members** making the request.

- (d) Separate copies of a document setting out the notice or request may be signed by **members** if the wording is the same in each copy.
- (e) The percentage of votes that **members** have (as described in clause 6.1(a)) is to be worked out as at midnight before the request or notice is given to the **company**.
- (f) If the **company** has been given notice of a **members' resolution** under clause 6.1(a)(i), the resolution must be considered at the next **general meeting** held more than two months after the notice is given.
- (g) This clause does not limit any other right that a **member** has to propose a resolution at a **general meeting**.

6.2 *Company must give notice of proposed resolution or distribute statement*

- (a) If the **company** has been given a notice or request under clause 6.1:
 - (i) in time to send the notice of proposed **members' resolution** or a copy of the **members' statement** to **members** with a notice of the meeting, it must do so at the **company's** cost; or
 - (ii) too late to send the notice of proposed **members' resolution** or a copy of the **members' statement** to **members** with a notice of the meeting, then the **members** who proposed the resolution or made the request must pay the expenses reasonably incurred by the **company** in giving **members** notice of the **ordinary** proposed **members' resolution** or a copy of the **members' statement**. However, at a **general meeting**, the **members** may pass a resolution that the **company** will pay these expenses.
- (b) The **company** does not need to send the notice of proposed **members' resolution** or a copy of the **members' statement** to **members** if:
 - (i) it is more than 500 words long;
 - (ii) the directors consider it may be defamatory;
 - (iii) the directors consider that it relates to specific employment related issues;
 - (iv) clause 6.2(a)(ii) applies, and the **members** who proposed the resolution or made the request have not paid the **company** enough money to cover the cost of sending the notice of the proposed **members' resolution** or a copy of the **members' statement** to **members**; or
 - (v) in the case of a proposed **members' resolution**, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the **members**.

6.3 *Circular resolutions of members*

- (a) Subject to clause 6.3(c), the directors may put a resolution to the **members** to pass a resolution without a **general meeting** being held (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 6.3(e) or clause 6.3(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, including the text of the resolution in their reply.

7 Voting at general meetings

7.1 *How many votes a member has*

Each **member** has one vote.

7.2 *Challenge to member's right to vote*

- (a) A **member** or the nominated **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 7.2(a), the chairperson must decide whether or not the person may vote. The nominated **chairperson's** decision is final.

7.3 *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) Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.

- (c) On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- (d) The nominated **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.

7.4 *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 (worked out as at the midnight before the vote in writing is demanded); or
 - (iii) the nominated **chairperson**.
- (b) A vote in writing must be taken when and how the nominated **chairperson** directs, unless clause 7.4(c) applies.
- (c) A vote in writing must be held immediately if it is demanded under clause 7.4(a):
 - (i) for the election of a chairperson under clause 5.8(c); or
 - (ii) to decide whether to adjourn the meeting.
- (d) A demand for a vote in writing may be withdrawn.

7.5 *Appointment of proxy*

- (a) A **member** may appoint a proxy to attend and vote at a **general meeting** on their behalf.
- (b) A proxy must be a **member** of the **company**;
- (c) A proxy appointed to attend and vote for a **member** has the same rights as the **member** to:
 - (i) speak at the meeting;
 - (ii) vote in a vote in writing (but only to the extent allowed by the appointment); and
 - (iii) join in to demand a vote in writing under clause 7.4(a).
- (d) An appointment of proxy (**proxy form**) must be signed by the **member** appointing the proxy and must contain:
 - (i) the **member's** name and address;
 - (ii) the proxy's name or the name of the office held by the proxy; and
 - (iii) the **meeting(s)** at which the appointment may be used.
- (e) A proxy appointment may be standing (ongoing).

- (f) **Proxy forms** must be received by the **company** at the address stated in the notice under clause 5.4(e)(iv) or at the **company's** registered address at least 48 hours before a meeting.
- (g) A proxy does not have the authority to speak and vote for a **member** at a meeting while the **member** is at the meeting.
- (h) Unless the **company** receives written notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing **member**:
 - (i) dies;
 - (ii) is mentally incapacitated;
 - (iii) revokes the proxy's appointment; or
 - (iv) revokes the authority of a representative or agent who appointed the proxy.
- (i) A proxy appointment may specify the way the proxy must vote on a particular resolution.

7.6 *Voting by proxy*

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

8 Directors

8.1 *Number of directors*

The **company** must have at least three and no more than nine directors.

8.2 *Election and appointment of directors*

- (a) The initial directors are the people who have agreed to act as directors and who are named as proposed directors in the application for registration of the **company**.
- (b) Apart from the initial directors and directors appointed under clause 8.2(e), the **members** may elect a director by a resolution passed in a **general meeting**.
- (c) Each of the directors 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.
- (d) 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**;
 - (iii) are not an **employee** of the **company**; and
 - (iv) are not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.
- (e) The directors may appoint a person as a director to fill a casual vacancy or as an additional director if that person:
 - (i) is a **member** of the **company**;
 - (ii) gives the **company** their signed consent to act as a director of the **company**; and
 - (iii) is not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.
- (f) If the number of directors is reduced to fewer than three or is less than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of directors to three (or higher if required for a quorum) or calling a **general meeting**, but for no other purpose.

8.3 *Election of chairperson*

- (a) The directors must elect two directors as the **company** co-chairpersons of which at least one must be a female and at least one must be Aboriginal
- (b) To be eligible for election as chairperson a director must be either female or a person who is Aboriginal.
- (c) If there are no directors eligible for election as company co-chairperson then the directors will elect a chairperson at the commencement of each meeting until such time as eligible directors are elected or appointed to the Board.

8.4 *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 8.4(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 8.2(e), 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 8.4(a) may nominate for election or re-election, subject to clause 8.4(f).
- (f) A director who has held office for a continuous period of nine years or more may only be re-appointed or re-elected by a **special resolution**

8.5 *When a director stops being a director*

- (a) A director stops being a director if they:
 - (i) give written notice of resignation as a director to the **company**;
 - (ii) die;
 - (iii) are removed as a director by a resolution of the **members**;
 - (iv) stop being a **member** of the **company**;
 - (v) failing to declare and disclose being directly or indirectly interested in any contract or proposed contract with the **company**;
 - (vi) are a representative of a **member**, and the **member** notifies the **company** that the representative is no longer a representative;
 - (vii) are absent for 3 consecutive directors' meetings without approval from the directors;
 - (viii) becomes ineligible to be a director by becoming an employee of the **company**; or
 - (ix) become ineligible to be a director of the **company** under the **Corporations Act** or the **ACNC Act**.

9 Powers of directors

9.1 *Powers of directors*

- (a) The directors are responsible for managing and directing the activities of the **company** to achieve the purpose(s) set out in clause 2.1.
- (b) The directors may use all the powers of the **company** except for powers that, under the **Corporations Act** or this constitution, may only be used by **members**.
- (c) The directors must decide on the responsible financial management of the **company** including:
 - (i) any suitable written delegations of power under clause 9.2; and
 - (ii) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

- (d) The directors cannot remove a director or auditor. Directors and auditors may only be removed by an **members' resolution** at a **general meeting**.

9.2 *Delegation of directors' powers*

- (a) The directors may delegate any of their powers and functions to a committee, a director, an employee of the **company** (such as a chief executive officer) or any other person, as they consider appropriate.
- (b) The delegation must be recorded in the **company's** minute book.
- (c) Where an individual is given a delegation that person shall receive a written delegation including the conditions attached to the delegation. A delegation may be revoked at the discretion of the Board.

9.3 *Payments to directors*

- (a) In addition to the payments in clause 9.3(b) the directors of the **company** may be paid a fee for their services as determined at a **general meeting of members**.
- (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 9.3(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.

9.4 *Execution of documents*

- (a) 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 secretary.

10 **Duties of directors**

10.1 *Duties of directors*

- (a) The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the **ACNC Act** which are:
 - (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 purpose(s) of the **company** set out in clause 2.1;

- (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 10.2;
- (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.

10.2 *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 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 10.2(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 17.2);
 - (iii) their interest relates to a payment by the **company** under clause 17.1 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**;
 - (iv) the Australian Securities and Investments Commission (**ASIC**) makes an order allowing the director to vote on the matter; or
 - (v) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (A) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the **company**; and

- (B) says that those directors are satisfied that the interest should not stop the director from voting or being present.

11 Directors' meetings

11.1 *When the directors meet*

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

11.2 *Calling directors' meetings*

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

11.3 *Chairperson for directors' meetings*

- (a) The **elected co-chairpersons** are entitled to chair directors' meetings.
- (b) The directors at a directors' meeting may choose a director to be the chairperson for that meeting if one or more of the **elected co-chairpersons** is:
 - (i) not present within 30 minutes after the starting time set for the meeting;
or
 - (ii) present but does not want to act as chairperson of the meeting.

11.4 *Quorum at directors' meetings*

- (a) Unless the directors determine otherwise, the quorum for a directors' meeting is a majority (more than 50%) of directors.
- (b) A quorum must be present for the whole directors' meeting.

11.5 *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 the directors.
- (b) The directors' agreement may be a standing (ongoing) one.
- (c) A director may only withdraw their consent within a reasonable period before the meeting.

11.6 *Passing directors' resolutions*

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

11.7 *Circular resolutions of directors*

- (a) The directors may pass a **circular resolution** without a directors' meeting being held.
- (b) A **circular resolution** is passed if a majority of the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 11.7(c) or clause 11.7(d).

- (c) Each director may sign:
 - (i) a single document setting out the resolution and containing a statement that they agree to the resolution; or
 - (ii) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- (d) The **company** may send a **circular resolution** by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- (e) A **circular resolution** is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 11.7(c) or clause 11.7(d).
- (f) Any **circular resolution** must be sent to all directors eligible to vote.

12 Secretary

12.1 *Appointment and role of secretary*

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

13 Minutes and records

13.1 *Minutes and records*

- (a) The **company** must, within one month, make and keep the following records:
 - (i) minutes of proceedings and resolutions of **general meetings**;
 - (ii) minutes of **circular resolutions** of **members**;
 - (iii) a copy of a notice of each **general meeting**; and
 - (iv) a copy of a **members' statement** distributed to **members** under clause 6.2.
- (b) The **company** must, within one month, make and keep the following records:

- (i) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees); and
 - (ii) minutes of **circular resolutions** of directors.
- (c) To allow **members** to inspect the **company's** records:
- (i) the **company** must give a **member** access to the records set out in clause 13.1(a); and
 - (ii) the directors may authorise an **member** to inspect other records of the **company**, including records referred to in clause 13.1(b) and clause 13.2(a).
- (d) 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.
- (e) The directors must ensure that minutes of the passing of a **circular resolution** (of **members** or directors) are signed by a director within a reasonable time after the resolution is passed.

13.2 *Financial and related records*

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

14 By-laws

14.1 *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.

15 Notice

15.1 *What is notice*

- (a) Anything written to or from the **company** under any clause in this constitution is written notice and is subject to clauses 15.2 to 15.4, unless specified otherwise.
- (b) Clauses 15.2 to 15.4 do not apply to a notice of proxy under clause 7.5(f).

15.2 *Notice to the company*

- (a) Written notice or any communication under this constitution may be given to the **company**, the directors or the secretary by:
 - (i) delivering it to the **company's** registered office;
 - (ii) posting it to the **company's** registered office or to another address chosen by the **company** for notice to be provided; or
 - (iii) sending it to an email address or other electronic address notified by the **company** to the **members** as the **company's** email address or other electronic address.

15.3 *Notice to members*

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

15.4 *When notice is taken to be given*

- (a) A notice:
 - (i) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
 - (ii) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs;

- (iii) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent; and
- (iv) given under clause 15.3(a)(v) is taken to be given on the business day after the notification that the notice is available is sent.

16 Financial year

16.1 *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.

17 Indemnity, insurance and access

17.1 *Indemnity*

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

17.2 *Insurance*

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

17.3 *Directors' access to documents*

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

18 Winding up

18.1 *Surplus assets not to be distributed to members*

If the **company** is wound up, any **surplus assets** must not be distributed to a **member** or a former **member** of the **company**, unless that **member** or former **member** is a charity described in clause 18.2(a).

18.2 *Distribution of surplus assets*

- (a) Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** that remain after the **company** is wound up must be distributed to one or more charities:
 - (i) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 2.1;
 - (ii) which also prohibit the distribution of any **surplus assets** to its **members** to at least the same extent as the **company**; and
 - (iii) that is or are deductible gift recipients within the meaning of the Income Tax Assessment Act 1997 (Cth) or other applicable law.
- (b) The decision as to the charity or charities to be given the **surplus assets** must be made by a **special resolution of members** at or before the time of winding up. If the **members** do not make this decision, the **company** may apply to the Supreme Court of New South Wales to make this decision.

19 Revocation of deductible gift recipient endorsement

If the endorsement of the **company** as a deductible gift recipient is revoked (whether or not the **company** is to be wound up), any surplus gift funds must be transferred to one or more charities that meet the requirements of clauses 18.2 as decided by the directors:

- (a) gifts of money or property for the principal purpose of the **company**;
- (b) contributions made in relation to a fund-raising event held for the principal purpose of the **company**; and
- (c) money received by the **company** because of such gifts and contributions.

20 Definitions and interpretation

20.1 *Definitions*

In this constitution:

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

Certificate means the annual certificate referred to in clause 3.83.8(c)(iv);

circular resolution means a resolution referred to in clause 6.3;

company means the company referred to in clause 1.1;

Corporations Act means the Corporations Act 2001 (Cth);

friend means a non-member recognised in accordance with clause 3.8;

elected co-chairperson means a person elected by the directors to be the **company's** co-chairperson under clause 8.3;

employee means an individual in the employment of the **company** and includes a contractors and service providers engaged by the **company**;

general meeting means a meeting of **members** and includes the annual **general meeting**, under clause 5.3(a);

initial member means a person whose name is on the membership register at the time of adoption of this constitution;

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

member means an individual that has been admitted to membership with full voting rights and excludes any **employee** of the **company**;

members' resolution means the resolution of members referred to in clause 6.1(a)(i);

members' statement means the statement of members referred to in clause 6.1(a)(ii);

membership fee means the annual fee determined by the Board at its absolute discretion which must be paid by all individuals as part of the annual membership process.

membership year means the membership year referred to in clause 3.7;

nominated chairperson means the person that the **elected co-chairpersons** have decided as between themselves will chair a **general meeting of members**.

proxy form means the appointment of a proxy under clause 7.5;

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

special resolution means a resolution:

- (a) of which notice has been given under clause 5.4(e)(iii); and
- (b) that has been passed by at least 75% of the votes cast by **members present** and entitled to vote on the resolution; and

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.

20.2 *Reading this constitution with the Corporations Act*

- (a) The replaceable rules set out in the **Corporations Act** do not apply to the **company**.
- (b) While the **company** is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution which are inconsistent with those Acts.

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

20.3 *Interpretation*

In this constitution:

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