



CARERS AUSTRALIA LIMITED

CONSTITUTION

**ADOPTED
18 August 2021**

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Carers Australia was established by its members as the peak body for Australia's unpaid carers. Carers Australia collaborates with its members in advocating for and supporting carers across Australia.

With its head office in Canberra, it provides advocacy at the national level to political, corporate and other leaders and organisations for the benefit of all unpaid carers. Along with its members who act for the benefit of the carers they represent, Carers Australia raises national awareness of the issues faced by unpaid carers and promotes national events.

Carers Australia provides a single point of contact for national projects, when required, for the Commonwealth Government and other organisations. It facilitates other national activities focussing on issues affecting carers. Carers Australia and its members represent a national network supporting Australia's unpaid carers.

1 PRELIMINARY

1.1 Name

The name of the Company is Carers Australia Limited.

1.2 Incorporation

The Company is a public company limited by guarantee incorporated under the Act.

1.3 Interpretation

In this Constitution:

Act means the Corporations Act 2001, as amended from time to time.

ACNC Act means the Australian Charities and Not-for-Profits Commission Act 2012.

Affiliate means an organisation classified as an Affiliate under Clause 2.1(b), who may associate or align themselves with the Company but who is not considered a "member" for the purposes of the Act.

Board means the Directors acting as the Board of the Company in accordance with this Constitution.

Carer is an individual who provides unpaid personal care, support and assistance to another individual who needs it because that other individual has a disability, or a medical condition (including a terminal or chronic illness), a mental illness, or is frail and aged.

Company means Carers Australia Limited.

Constitution means this constitution as amended from time to time.

Director means a person appointed to a position of director of the Company in accordance with this Constitution.

General Meeting means a meeting of Ordinary Members convened in accordance with this Constitution and includes the Annual General Meeting.

Honouree means a person or organisation classified as an Honouree

under clause 2.1(c), who may associate or align themselves with the Company but who is not considered a “member” for the purposes of the Act.

Member Appointed Director means a person who is appointed by an Ordinary Member as a director of the Company in accordance with this Constitution.

Member Representative means a person appointed by an Ordinary Member as its representative to attend, address and vote at General Meetings of the Company on behalf of the Ordinary Member.

Object means the object of the Company as set out in clause 1.5.

Ordinary Member means a carer organisation listed in, or otherwise admitted under, clause 2.1(a) who is a person or entity whose name is entered in the Register of members of the Company.

Register means the register of members kept as required by sections 168 and 169 of the Act.

Secretary means the Secretary of the Company appointed in accordance with this Constitution.

1.4 Replaceable Rules

The replaceable rules in the Act do not apply to the Company.

1.5 Object

- (a) The Object of the Company is to be the peak body with a national voice and focus to advocate for and represent the interests of carers.
- (b) To achieve this Object, the Company may, without limitation, work collaboratively with its Ordinary Members and other organisations to:
 - (i) advocate for policy and service actions that support the caring role and enhance the health, wellbeing, resilience and financial security of carers;
 - (ii) advocate for the inclusion of carers as a priority group within mainstream and specialist service programs;
 - (iii) advocate to have caring recognised as a shared responsibility of family, community, business and government with the aim of achieving improved outcomes for carers; and
 - (iv) undertake other policy, advocacy and service actions which the Board considers to be of benefit to carers.

1.6 Application of funds

- (a) The income and property of the Company must be applied solely towards the promotion of the Object of the Company, and no portion of that income or property is to be transferred directly or indirectly by way of profit or dividend to any Ordinary Member, Affiliate or Honouree.
- (b) Directors may receive:
 - (i) repayment of out of pocket expenses where the payments do not

exceed an amount previously approved by the Board;

- (ii) payment for services rendered to the Company in a professional or technical capacity where the provision of that service has the prior approval of the Board and the amount payable is approved by a resolution of the Board and is on reasonable commercial terms.
- (c) Ordinary Members, Affiliates or Honourees may receive payment for services rendered to the Company in a professional or technical capacity where the provision of that service has the prior approval of the Board and the amount payable is approved by a resolution of the Board and is on reasonable commercial terms.

2 MEMBERSHIP

2.1 Membership & associated entities

- (a) The Ordinary Members of the Company are:
 - (i) Carers Queensland Ltd,
 - (ii) Carers NSW Limited,
 - (iii) Carers ACT Ltd,
 - (iv) Carers Victoria Ltd,
 - (v) Carers Tasmania Ltd,
 - (vi) Carers NT Ltd,
 - (vii) Carers Association of Western Australia Inc,
 - (viii) Carers Association of SA Inc,

and such other or replacement entities as may be approved by a majority of Ordinary Members in a General Meeting from time to time.

- (b) An organisation that has an interest in or is engaged in carer advocacy and/or services, or that meets other criteria as may be determined by the Board from time to time, may, on the recommendation of the Board and on approval by a majority of Ordinary Members in a General Meeting, be classified as an Affiliate of the Company.
- (c) A person or organisation who has rendered outstanding service to the Company, may, on the recommendation of the Board and on approval by a majority of Ordinary Members in a General Meeting, be classified as an Honouree of the Company.

2.2 Rights of Ordinary Members, Affiliates and Honourees

- (a) Each Ordinary Member is entitled to appoint one (1) director of the Company (Member Appointed Director) pursuant to clause 3.1(b).
- (b) Each Ordinary Member is entitled to appoint, by written notice to the Secretary, their Member Appointed Director as their Member Representative or another person to be its Member Representative to attend, address and vote at a General Meeting of the Company. The appointment of a Member Representative may be a standing appointment or an appointment for a specific General Meeting. When acting in the capacity of a Member Representative, the person so appointed must express and reflect the views of their appointing Ordinary Member.

- (c) Any Ordinary Member that has not paid their annual fees or subscriptions may not attend or be represented and vote in any General Meeting of the Company.
- (d) Affiliates and Honourees are not members of the Company, but Affiliates and Honourees may enjoy the rights and benefits as determined by the Board from time to time. Affiliates and Honourees may not be appointed to the Board, do not have the right to appoint a Director of the Company and do not have the right to vote in any General Meeting of the Company.

2.3 Membership Register

The Secretary will keep and maintain a Register of all Ordinary Members recording details as may be determined by the Board from time to time but at a minimum the details must be consistent with the requirements of sections 168 and 169 of the Act.

2.4 Cessation of Membership

An Ordinary Member will cease to be a member of the Company if:

- (a) it is wound up or otherwise ceases to be a body corporate;
- (b) it resigns or is expelled from membership of the Company; or
- (c) it fails to pay the appropriate membership fee within three (3) calendar months after the due date.

2.5 Cessation of relationship with the Company

An Affiliate or Honouree will cease to hold that relationship with the Company if:

- (a) it is wound up or otherwise ceases to be a body corporate; or
- (b) it resigns; or
- (c) its entitlement to Affiliate or Honouree status is terminated by the Company pursuant to clause 2.9.

2.6 Resignation

- (a) An Ordinary Member, Affiliate or Honouree may resign from membership of (or their relationship with) the Company (as applicable) by giving notice in writing to the Secretary (being not less than one (1) calendar month or, if the Board has determined another period, that other period) of the relevant party's intention to resign and, upon the expiration of the period of notice, ceases to be a member or ceases to have a relationship with the Company as an Affiliate or Honouree.
- (b) The resignation from membership shall not relieve the Ordinary Member from the obligation to pay any money owing by the organisation to the Company at the time of the resignation, or subsequently becoming payable to the Company by virtue of obligation which arose before that time.
- (c) The resignation from the position of Affiliate or Honouree shall not relieve the

Affiliate or Honouree from any obligation to pay any money owing or to provide services to the Company pursuant to any separate contractual relationship that party may have with the Company.

2.7 Fees

- (a) The Board shall determine the membership fees annually.
- (b) An Ordinary Member will pay annual membership fees before 1 July in each financial year, or where the Ordinary Member becomes an Ordinary Member on or after 1 July in a financial year – within one (1) calendar month of becoming an Ordinary Member. Membership fees for any period less than a year shall be proportionate.
- (c) Affiliates and Honourees will not be required to pay a membership fee.

2.8 Members' Liability

If the Company is wound up:

- (a) each Ordinary Member; and
- (b) each Ordinary Member who ceased to be a member in the preceding financial year, undertakes to contribute to the property of the Company for the payment of debts and liabilities of the Company (contracted before the member ceased to be a member) and payment of costs, charges and expenses of winding up such amount as may be required, not exceeding \$10.00.

2.9 Suspension and Termination

- (a) Where three or more Directors are of the opinion that an Ordinary Member, Affiliate or Honouree (the relevant party):
 - (i) has persistently refused or neglected to comply with a provision of this Constitution; or
 - (ii) has wilfully acted in a manner prejudicial to the Object, interests or reputation of the Company;

those Directors may call a General Meeting of the Company for the purposes of considering whether to:

- (iii) expel the Ordinary Member from membership of the Company whereupon the membership of the Ordinary Member shall cease;
 - (iv) suspend the Ordinary Member from such rights and privileges of membership of the Company as the Ordinary Members may determine for a specified period;
 - (v) terminate the Affiliate or Honouree's status as an Affiliate or Honouree; or
 - (vi) suspend the Affiliate or Honouree from such rights and privileges associated with that status as the Ordinary Members may determine for a specified period.
- (b) The Ordinary Members shall not expel, suspend or terminate a membership, Affiliate or Honouree status (as applicable) unless at least twenty-eight (28) days

before the General Meeting of the Company at which such action is considered, the Secretary gives the Ordinary Members written notice stating:

- (i) the date, time and place of the General Meeting of the Company;
 - (ii) the terms of the resolution to be considered by Ordinary Members;
 - (iii) particulars of alleged acts and/or omissions which will be placed before the Ordinary Members in connection with the proposed resolution;
 - (iv) that if the resolution is passed by a majority of Ordinary Members, the Ordinary Members may proceed to expel, suspend or terminate the membership, Affiliate or Honouree status (as applicable);
 - (v) that the relevant party and any person nominated by the relevant party may attend and speak at the meeting in connection with the proposed resolution for expulsion, suspension or termination; and
 - (vi) that the relevant party and any person nominated by them may submit written representations relating to the proposed resolution which is to be received by the Secretary no later than seven (7) days prior to the meeting date, and Secretary is to provide those written representations to the Ordinary Members prior to the General Meeting.
- (c) If the relevant party fails to attend the meeting convened under this clause the resolution(s) may be dealt with and the Ordinary Members may decide on the evidence before them, the relevant party's absence notwithstanding, but having regard to any representations made by the relevant party or any other person.
- (d) Where the Ordinary Members pass a resolution the Secretary shall within seven (7) days after the date the resolution is passed, inform the relevant party by notice in writing of the fact that the Ordinary Members have passed the relevant resolution or not.
- (e) The termination, suspension or expulsion shall not relieve:
- (i) the Ordinary Member from the obligation to pay any money owing by the Ordinary Member to the Company at the time of the termination or suspension, or subsequently becoming payable to the Company by virtue of obligation which arose before that time; or
 - (ii) the Affiliate or Honouree from any obligation to pay any money owing or to provide services to the Company pursuant to any separate contractual relationship that party may have with the Company.

3 THE BOARD

3.1 Constitution of the Board

- (a) The Board will consist of:
- (i) up to eight (8) Member Appointed Directors; and;
 - (ii) up to two (2) independent Directors appointed by the Board based on particular skills and experience determined by the Board from time to time.

- (b) Each Ordinary Member is entitled to appoint one (1) Director of the Company and may remove and replace the Member Appointed Director from time to time. An appointment or removal is to be effected by written notice to the Secretary and the Member Appointed Director. An appointment or removal by an Ordinary Member takes effect from the date specified in the written notice.
- (c) Unless the Ordinary Member replaces the Member Appointed Director earlier (as clause 3.1(b) allows), each Member Appointed Director will hold office for a three-year term expiring at the third anniversary of the date on which they were appointed, and are eligible for re-appointment for a further three (3) year term.
- (d) Each independent Director appointed by the Board will be appointed for a term of up to three (3) years at the end of which, and subject to review by the Member Appointed Directors, they may be eligible for re-appointment for a further three (3) term.
- (e) Independent Directors and Member Appointed Directors may not serve as a Director for a period exceeding six (6) years, regardless of whether those years are served consecutively or otherwise.

3.2 Powers of the Board

Subject to the Act, the ACNC Act and this Constitution, the Board will:

- (a) control and manage the affairs of the Company, manage and perform all such acts and functions, and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Company and the furtherance of the Company's Object; and
- (b) have authority to interpret the meaning of this Constitution and any matter relating to the Company provided that while the Company is a registered charity the ACNC Act and the Act override any clause in this Constitution which are inconsistent with those Acts or on any matter which this Constitution is silent.

3.3 Appointment of Independent Directors

- (a) The process for appointment of Independent Directors by the Board will be as follows:
 - (i) Candidates will be assessed by the Board against the skills and expertise they offer and the skills and experience requirements determined by the Board.
 - (ii) A candidate will be appointed if the majority of the Board present at the Board meeting vote in favour of their appointment. The Board may at its discretion determine not to make any appointments or to make less than two appointments.
 - (iii) The appointment of independent Directors under this clause will be effective from the date and for the term specified in the notice of appointment sent by the Secretary to the relevant Director (but subject to the maximum term specified in clauses 3.1(d) and 3.1(e)).
 - (iv) A person who has served their maximum term as a Member Appointed

Director is not eligible for appointment by the Board as an Independent Director (and vice versa).

3.4 The Chairperson

- (a) The chairperson or, in their absence or unwillingness to act, a Director elected by the Board, shall preside at meetings of the Company and the Board.
- (b) The chairperson or, in their absence or unwillingness to act, the person appointed by the Board will act as the official spokesperson for the Company. The Board may from time to time appoint other spokespersons for specific purposes. Other than as provided in this Constitution or other delegations instruments no person shall purport to act as spokesperson for the Company.

3.5 Vacancies

A vacancy in the office of a Director occurs if the Director:

- (a) dies;
- (b) has been appointed by an Ordinary Member and ceases to be a member of their appointing member board or their appointment has been terminated by their appointing Ordinary Member;
- (c) has been appointed by an Ordinary Member and that Ordinary Member ceases to be a member of the Company;
- (d) resigns;
- (e) is removed from office under clause 3.6;
- (f) has been appointed by an Ordinary Member and that Ordinary Member becomes an insolvent under administration within the meaning of the Act;
- (g) becomes insolvent under administration within the meaning of the Act or is otherwise disqualified from office under the Act or the ACNC Act; or
- (h) is absent without the consent of the Board from more than one (1) meeting of the Board.

3.6 Removal of Directors

- (a) Subject to the Act the Ordinary Members may, by ordinary resolution requiring a majority of the Ordinary Members entitled to vote, remove any Director from office before the expiration of the Director's term of office.
- (b) Any Ordinary Member proposing a resolution to remove a Director must provide the Secretary with at least two months' notice of their intention to move a resolution to remove a Director under this clause.
- (c) At least twenty-eight (28) days before the General Meeting of the Company at which such action is considered, the Secretary must give the relevant Director (and if that Director has been appointed by an Ordinary Member, the appointing Ordinary Member) written notice stating:
 - (i) the date, time and place of the meeting;
 - (ii) the terms of the resolution to be considered by the Ordinary Members;

- (iii) particulars of any reasons for proposing the resolution which will be placed before the Ordinary Members in connection with the proposed resolution;
 - (iv) that if the resolution is passed, the Director will be removed from office, and
 - (v) that the Director who is the subject of the proceedings and the chairperson of the appointing member if appropriate, may attend and speak at the meeting in connection with the proposed resolution and/or, may submit written representations (provided such representations are not defamatory and are no more than 1,000 words) relating to such matters to be received by the Secretary no later than seven (7) days prior to the meeting date.
- (d) At a General Meeting of the Company held under this clause:
- (i) the relevant Director will have the opportunity to speak and / or have oral representations made on their behalf;
 - (ii) the Secretary will ensure Ordinary Members have a copy of any validly submitted written representations; and
 - (iii) by voting the Ordinary Members will determine whether to pass the resolution.
- (e) Where the Company passes a resolution to remove the Director, the Secretary shall, no later than the business day after the General Meeting inform the relevant Director (and, if relevant, their appointing Ordinary Member) of the fact.
- (f) If a Member Appointed Director is removed from office, that Director's appointing Ordinary Member is entitled to appoint a new Director but the appointing Ordinary Member must not re-appoint the Director who was removed.
- (g) If an independent Director is removed from office the Board may determine whether or not to appoint a new Director.

3.7 Proceedings of the Board

- (a) At the first meeting of the Board, after each Annual General Meeting, the Board will:
- (i) elect the chairperson;
 - (ii) if it resolves to, appoint any independent Directors; and
 - (iii) elect Directors to hold such portfolio positions as the Board may determine as being necessary and to hold a portfolio position for such term as determined by the Board for each position.
- (b) The Directors may, by ordinary resolution, remove and replace a Director from any position to which the Director was elected under clause 3.7(a)(iii), at any time, due to reasonable cause.
- (c) The Board may meet as often as required to conduct its business but not less than

four (4) times in each calendar year at such place and time as the Board may determine. Additional meetings may be convened by the Secretary or on the requisition of at least three (3) Directors.

- (d) A Director may not leave a meeting held by teleconference or other form of communication by disconnecting their device unless they have previously expressly notified the chairperson of the meeting of their intention to leave the meeting. A Director will be conclusively presumed to have been present and to have formed part of the quorum at all times during such meeting until such notified time of their leaving the meeting.
- (e) Written notice of a meeting of the Board will be given by the Secretary to each Director at least two (2) weeks (or such other reasonable lesser period having regard to the urgency of the matter and the surrounding circumstances) before the time appointed for the holding of the meeting.
- (f) A quorum for the transaction of the business of a meeting of the Board is a majority of Directors present in person, by proxy, by teleconference or other electronic means providing that not less than five (5) Member Appointed Directors are present.
- (g) No business shall be transacted by the Board unless a quorum is in attendance, and if within half an hour of the time appointed for the meeting a quorum is not present, the meeting shall be adjourned to the same or another time and place by person or teleconference or other electronic means, as determined by the Directors in attendance, but in no case later than the same day in the following week.
- (h) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Directors present shall constitute a quorum.
- (i) Any matter arising for decision will be determined by a majority of votes of the Directors attending at the meeting. In the event of a tied vote, the chairperson does not have a casting vote and the resolution will fail.
- (j) A Director may appoint another Director as their proxy in writing for not more than one (1) meeting of the Board.
- (k) The Board may pass a resolution without a meeting of the Board being held if all Directors sign a document recording the resolution or acknowledge their consent to a written resolution by electronic means. Separate copies of a resolution may be used for approval by Directors if the wording of the resolution and approval is identical in each copy. Any resolution passed by electronic acknowledgment shall be ratified at the following meeting of the Board.

3.8 Delegation by the Board

- (a) The Board may appoint such committees as it deems necessary or appropriate from time to time to consider and report to the Board on any matters. The membership of a committee shall be as determined by the Board and include at least one Director. Committees will, subject to any terms of reference for the committee set by the Board, have the power to co-opt any person with a

particular expertise as needed. Each member of a committee will have one (1) vote on any matter arising for decision.

- (b) Questions arising at any meeting of any committee will be determined by a majority of the votes of committee members present at the meeting. In the event of a tied vote the chairperson of the committee does not have a casting vote.
- (c) The Board may delegate any of its functions (other than this power of delegation) to a committee. Where a committee exercises a function pursuant to a delegation, it must report to the Board at its next meeting on the exercise of that function.

3.9 Conflicts of Interest

- (a) A Director will not by reason of their office alone, be disqualified from contracting with the Company either as vendor or purchaser or otherwise.
- (b) A Director with a material personal interest in a matter before the Board must:
 - (i) give notice of that matter to the other Directors and that notice must be recorded in the minutes of the relevant Board meeting, and
 - (ii) not be present while the matter is being considered at a Board meeting or voted on, and
 - (iii) not vote on the matter.

However, a Director may be present and vote if Directors who do not have a material personal interest in the matter have passed a resolution that:

- (iv) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the Company; and
- (v) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present.

4 GENERAL MEETINGS

4.1 Annual General Meetings

- (a) The Company shall, at least once in each calendar year and within the period of five (5) months after the expiration of each financial year of the Company, convene an Annual General Meeting of its Ordinary Members.
- (b) In addition to any other business which may be transacted at an Annual General Meeting, the business of an Annual General Meeting shall be:
 - (i) to confirm the minutes of the preceding Annual General Meeting;
 - (ii) to receive from the Board reports on the activities of the Company during the preceding financial year;
 - (iii) to receive and consider the financial statements of the Company; and
 - (iv) to appoint an auditor.

- (c) Written notice of the Annual General Meeting will be given by the Secretary to the Directors, all Ordinary Members of the Company, all Member Representatives and the Company's auditor not less than twenty-one (21) days prior to the date of the meeting.

4.2 General Meetings

- (a) The Board may, whenever it thinks fit, convene a General Meeting of the Company that may be conducted in any city within Australia or by teleconference or other electronic means which allow each Ordinary Member to hear and be heard.
- (b) The Board shall, on the requisition in writing of not less than three (3) Ordinary Members entitled to vote at a General Meeting, convene a General Meeting of the Company.
- (c) A requisition by Ordinary Members for a General Meeting:
 - (i) will state the purpose of the meeting including details of any resolutions proposed to be considered at the meeting;
 - (ii) will be signed by the Member Representatives of the Ordinary Members making the requisition;
 - (iii) will be lodged with the Secretary; and
 - (iv) may consist of several documents in a similar form, each signed on behalf of one or more of the Ordinary Members making the requisition.
- (d) If the Board fails to convene a General Meeting within twenty-one (21) days after the date on which a requisition by Ordinary Members for the meeting is lodged with the Secretary, any one or more of the Ordinary Members who made the requisition may convene a meeting to be held not more than two (2) months after that date.
- (e) A General Meeting convened by Ordinary Members will be convened as soon as is practicable but no later than two (2) months after the requisition is received by the Company, and in the same manner as General Meetings are convened by the Board.
- (f) Subject to the Act, the Secretary will, at least twenty-one (21) days before the date fixed for the holding of the General Meeting, cause to be sent to Directors, the Company's auditor, and each Ordinary Member and Member Representative at the Ordinary Member's address appearing in the Register of members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (g) Where the nature of the business proposed to be dealt with at a General Meeting requires a special resolution of the Company, the Secretary will send a notice to each Ordinary Member and its Member Representative specifying, in addition to the matter required under clause 4.2(f), the intention to propose the resolution as a special resolution and the proposed wording thereof.

- (h) No business other than that specified in the notice convening a General Meeting, may be transacted except in the case of an Annual General Meeting.

4.3 Procedure and Quorum for General Meetings

- (a) No item of business shall be transacted at a General Meeting unless a quorum of Ordinary Members (by way of their Member Representatives) is present in person during the time the meeting is considering that item.
- (b) Five (5) Ordinary Members present and entitled to vote through their Member Representatives constitute a quorum for the transaction of the business of a General Meeting.
- (c) If within half an hour after the appointed time for the commencement of a General Meeting a quorum is not present, the meeting if convened upon the requisition of Ordinary Members will be dissolved and in any other case shall be adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting) at the same place.
- (d) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Ordinary Members present by their Member Representatives will constitute a quorum.
- (e) The person presiding at a General Meeting at which a quorum is present may, with the consent of the majority of Ordinary Members present by their representatives at the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (f) Where a General Meeting is adjourned for fourteen (14) days or more, the Secretary will give written notice of the adjourned meeting to each Ordinary Member of the Company and its Member Representative stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

4.4 Voting

- (a) A matter arising for decision at a General Meeting of the Company will be determined by a majority vote of those present in person or those participating in the teleconference or via other electronic means and a declaration by the person presiding that a resolution has been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Company, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (b) At a General Meeting of the Company, a poll may be demanded by the person presiding or by not less than three (3) Member Representatives present in person at the meeting.
- (c) Where the poll is demanded, the poll shall be taken:

- (i) immediately in the case of a poll which relates to the election of the person to preside at the meeting or to the question of an adjournment; or
 - (ii) in any other case, in such manner and at such time before the close of the meeting as the person presiding directs, and the resolution of the poll on the matter shall be the resolution of the meeting on that matter.
- (d) Upon any matter arising at a General Meeting of the Company a Member Representative is entitled to one (1) vote only.
- (e) In the case of an equality of votes on a matter for decision at a General Meeting, the person presiding will not exercise a casting vote, and the matter will be recorded as lost.

5 MISCELLANEOUS

5.1 Chief Executive Officer

- (a) The Board will appoint a Chief Executive Officer for such term, at such remuneration and upon such conditions as the Board may determine.
- (b) The Board may delegate to the Chief Executive Officer such powers and authorities of the Board as it may from time to time determine and the Chief Executive Officer will exercise all such powers and authorities subject at all times to the control of the Board.
- (c) The Chief Executive Officer will not be a director of the Board but will, subject to a resolution of the Board otherwise, attend all its meetings and all meetings of the Company and may be heard on any matter but will not be entitled to vote.

5.2 Gift Fund

- (a) The Company shall, unless the Board decides otherwise, establish and maintain in its financial records a separate Gift Fund for the purpose of:
 - i. receiving gifts of money or property made to the Company for use in its activities;
 - ii. contributing to the purchase of property and/or the expenditure on projects which further the aims of the Company;
 - iii. funding the reasonable costs of managing the Gift Fund; and
 - iv. receiving interest earned from the balance of unused funds maintained in the Gift Fund.
- (b) If the Gift Fund is wound up, or if the endorsement of the Company as a deductible gift recipient is revoked, any surplus assets of the Gift Fund remaining after the payment of liabilities attributable to it shall be transferred to another fund, authority or institution having objects similar to the objects of the Company, and to which income tax deductible gifts can be made.

5.3 Amendments to Constitution

This Constitution may not be amended or rescinded except by special resolution requiring the consent of a three quarters majority of the Ordinary Members at an Annual General Meeting or a General Meeting of the Company and provided that no alteration shall be made to the Object of the Company or this Constitution which would render the registration of the Company under the Act or the ACNC Act liable to be cancelled.

5.4 Information to Members

In addition to an annual report and any other reporting required by law, the Company will provide to Ordinary Members no later than one month after the end of each Board meeting, a report with respect to the Company's:

- (a) financial position as at the end of that quarter;
- (b) performance against the budget for the financial year to date; and
- (c) the Company's performance against its strategic plan for the previous quarter, and forecasts for its intended activities for the upcoming quarter.

5.5 Service of Notices

- (a) A notice may be served by or on behalf of the Company upon any Ordinary Member or Member's Representative at the Ordinary Member's address shown in the Register of members.
- (b) Where a document is sent to an Ordinary Member or Member's Representative:
 - (i) by properly addressing, prepaying, and posting to the Ordinary Member or person a letter containing the document, the document unless the contrary is proved, shall be taken to have been served on the Ordinary Member or Member's Representative at the time at which the letter, would have been delivered in the ordinary course of post; or
 - (ii) is sent by electronic means, the notice is taken to have been given on the day following that on which the notice was sent.

5.6 Indemnity of Officers

The Company shall indemnify out of the funds of the Company by appropriate insurance, and to the maximum extent permitted by law, officers of the Company against the following:

- (a) any liability to another person other than the Company or a related body corporate as such an officer unless the liability arises out of conduct involving a lack of good faith;
- (b) any liabilities for costs and expenses incurred by that person:
 - (i) in defending any proceedings whether civil or criminal, in which judgement is given in that person's favour or in which that person is acquitted; or
 - (ii) in connection with any application in relation to such proceedings in which relief is granted to that person under the Act by the Court.

5.7 Dissolution

In the event of the Company being dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation nominated by the Company by special resolution, which has similar purposes and which is not carried on for the profit or gain of its individual members.

5.8 Secretary

The Board must appoint a Secretary and may suspend or remove a Secretary from that office. A Secretary holds office on the terms and conditions including as to remuneration, and with the powers, duties and authorities, as determined by the Board. The exercise of those powers and authorities and the performance of those duties by a Secretary is subject at all times to the control of the Board.

5.9 Inspection of books and records by Members

- (a) Subject to reasonable notice in writing and to clause 5.9(b) Ordinary Members have the right to inspect any document of the Company as provided by the Act, or as reasonably determined by the Board, or as otherwise authorised by the Ordinary Members in a General Meeting to be open to inspection by Ordinary Members.
- (b) Clause 5.9(a) does not apply to Ordinary Member, Affiliate, Honouree or employee records, or to a document whether whole or in part that is objectively determined by the Board to be subject to commercial confidentiality or where the disclosure of the whole or part would be a breach of the *Privacy Act 1988*, in which case the Board will determine the extent to which the document will be open for inspection.
- (c) Inspection of Company records by any Ordinary Member will be free of charge.

5.10 Transitional Provisions

At the date of adoption of this Constitution:

- (a) Directors of the Company continue to be Directors of the Company until the conclusion of the term for which they were appointed and are eligible for re-appointment in accordance with this Constitution;
- (b) an organisation that was listed as a member of the Company in the Register of members continues to be an Ordinary Member of the Company in accordance with this Constitution; and
- (c) if the minutes of a meeting of Directors of the Company had not been confirmed, the minutes may be confirmed at the next appropriate meeting of the Directors held in accordance with this Constitution as if the meeting to which the minutes relate had been held in accordance with this Constitution.