

YWCA NATIONAL HOUSING
COMPANY LIMITED BY GUARANTEE

CONSTITUTION

As amended on 23 November 2018

**YWCA NATIONAL HOUSING
CONSTITUTION**

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YWCA NATIONAL HOUSING CONSTITUTION

1 NAME

The name of the Company is YWCA National Housing.

2 INTERPRETATION

2.1 Definitions

In this Constitution:

- 2.1.1 “**Board**” means the board of Directors of the Company;
- 2.1.2 “**Company**” means the Company continued in existence under this Constitution, being YWCA National Housing;
- 2.1.3 “**Constitution**” means this constitution as in force for the time being;
- 2.1.4 “**Corporations Act**” means the *Corporations Act 2001* (Cth);
- 2.1.5 “**Director**” means the person appointed to perform the role of director of the Company;
- 2.1.6 “**Housing Act**” means the *Housing Act 2003* (Qld);
- 2.1.7 “**Member**” means a member for the time being of the Company;
- 2.1.8 “**Seal**” means the common seal of the Company;
- 2.1.9 “**Secretary**” means any person appointed to perform the duties of a secretary of the Company;
- 2.1.10 “**Surplus Property**” means the amount that remains after the satisfaction of all debts and liabilities in the event that the Company is wound up or ceases to be endorsed as a deductible gift recipient under subdivision 30-BA of the Income Tax Act or any relevant taxing legislation conferring equivalent status; and
- 2.1.11 “**YWCA Australia**” means YWCA Australia (ABN 74 111 663 873).

2.2 Interpretation

Unless the contrary intention appears in this Constitution:

- 2.2.1 an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act;
- 2.2.2 the singular includes the plural and vice versa;
- 2.2.3 words importing a gender include every other gender;
- 2.2.4 a reference to an individual or person includes a company, corporation, partnership, body corporate or other body (whether or not incorporated);
- 2.2.5 a reference to a person includes that person's successors, legal personal representatives and permitted transferees;

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- 2.2.6 a reference to a statute, code or other law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them;
- 2.2.7 other grammatical forms of defined words or expressions have corresponding meanings;
- 2.2.8 expressions referring to writing must be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form; and
- 2.2.9 headings are for convenience only and do not affect the interpretation of this Constitution.

2.3 Constitution subject to Corporations Act

The Constitution is to be interpreted subject to the Corporations Act.

2.4 Replaceable rules do not apply

The replaceable rules, as defined in the Corporations Act, do not apply to the Company.

3 AMENDMENT TO CONSTITUTION

- 3.1 Subject to clause 3.2, this Constitution may only be amended by special resolution of the Members of the Company in general meeting.

4 OBJECTS

- 4.1 The objects for which the Company is established are:
 - 4.1.1 to provide affordable rental housing and accommodation to people on low incomes;
 - 4.1.2 to promote the relief of poverty, sickness or the needs of the aged by providing affordable rental housing to persons in housing need as low-income households, or through infirmity or age;
 - 4.1.3 to promote other purposes beneficial to the community through the provision of affordable housing and associated services; and
 - 4.1.4 to do all things, consistent with these objects, necessary or desirable to support these objects.

5 POWERS

5.1 General Powers

Subject to any limitations contained in this Constitution, the Company may, solely for the purpose of carrying out the objects set out in clause 4, in any manner permitted by the Corporations Act:

- 5.1.1 exercise any power;
- 5.1.2 take any action; and

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5.1.3 engage in any conduct or procedure,

which, under the Corporations Act a company limited by guarantee may exercise, take or engage in if authorised by its constitution.

5.2 Specific Powers

Without limiting the generality of clause 5.1, the Company may and subject always to the provisions of the Housing Act:

5.2.1 acquire, by way of purchase, lease, transfer or otherwise, real property;

5.2.2 dispose of any real property;

5.2.3 provide security for the payment of money;

5.2.4 apply for and accept, grants or loans from any federal, state or local government or authority;

5.2.5 enter into contracts and joint ventures with any public or private entity; and

5.2.6 do anything incidental to or in furtherance of its objects.

6 INCOME AND PROPERTY

6.1 Application of Income and Property

The income and property of the Company, however derived, must be applied solely towards the objects of the Company set out in clause 4.

6.2 No Distributions to Members

No portion of the income or property of the Company may be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to any Member.

6.3 Payment for Services Rendered

6.3.1 Subject to clause 6.2, the Company may make a bona fide payment in good faith to any officer or servant of the Company or to any Member:

- (a) in return for any services actually rendered to the Company in a professional or technical capacity or as reimbursement for out-of-pocket expenses incurred in carrying out such services;
- (b) in return for any goods supplied to the Company in the ordinary and usual course of business or as reimbursement for any out-of-pocket expenses incurred in supplying such goods;
- (c) as rent and other outgoings for property that the Company has leased from that officer, servant or Member; and
- (d) for interest at a commercial rate on money borrowed from that officer, servant or Member.

6.3.2 Any payment under clause 6.3.1 can only be made where:

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- (a) the provision of those services, goods, leases or loans has the prior approval of the Board; and
- (b) the amount payable is approved by a resolution of the Board and is on reasonable commercial terms; and
- (c) appropriate documentation is provided to the Treasurer to evidence those services, goods, leases or loans; and
- (d) where the recipient of payment is a Member, the payment is no more favourable than if the recipient were not a Member.

6.4 Payments to Directors

Subject to clause 6.2, the Directors must not be paid by way of remuneration for their services except that:

- 6.4.1 reimbursement for bona fide out-of-pocket expenses reasonably incurred in carrying out the duties of a Director may be paid where payment does not exceed any amount previously approved by the Board;
- 6.4.2 bona fide payment for any service rendered to the Company in a professional or technical capacity may be made 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; and
- 6.4.3 bona fide payment as an employee of the Company for the services rendered to the Company as employee may be made where the terms of employment have been approved by resolution of the Board.

6.5 Constitution adopted in anticipation of scheme

Nothing in clauses 4, 5 or 6 or otherwise in this Constitution limits the Company giving effect to the scheme of arrangement proposed to be entered into between the Company and its members approved by the Federal Court of Australia on or about the date this Constitution is adopted.

7 LIMITED LIABILITY

The liability of the Members is limited.

8 LIMIT OF CONTRIBUTION BY MEMBERS IN WINDING UP

Every Member of the Company undertakes to contribute to the property of the Company in the event that the Company is wound up while he or she is a Member, or within one year after he or she ceases to be a Member, for payment of the debts and liabilities of the Company contracted or incurred before he or she ceases to be a Member, and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding fifty dollars.

9 WINDING UP

9.1 Scope of clause

This clause 9.1 applies if the Company:

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9.1.1 is wound-up or ceases to be endorsed as a deductible gift recipient under subdivision 30-BA of the Income Tax Act or any relevant taxing legislation conferring equivalent status; and

9.1.2 it has Surplus Property.

Community Housing Assets are dealt with separately under clause 9.4.

9.2 No distributions to members

The Surplus Property must not be distributed among the Members or the Board.

9.3 Distribution of surplus to another entity

The Surplus Property must be given:

9.3.1 to the YWCA Australia, provided it is at that date a public benevolent institution under item 4.1.1 of the table in section 30-45 of Income Tax Act or any relevant taxing provision conferring equivalent status and has been recognised as such by relevant taxing authorities; or

9.3.2 if that cannot be done for any reason, to another entity:

- (a) having objects similar to the Company's objects set out in clause 4;
- (b) the rules of which prohibit the distribution of the entity's income and assets to its members and persons managing and controlling it; and
- (c) which is a public benevolent institution under item 4.1.1 of the table in section 30-45 of Income Tax Act or any relevant taxing provision conferring equivalent status and has been recognised as such by relevant taxing authorities.

9.4 National Regulatory System for Community Housing winding-up requirements

In this clause 9, 'Community Housing Asset', 'Corresponding Law', 'Housing Agency', 'Participating Jurisdiction' and 'Registered Provider' have the same meanings as in the Housing Act.

Despite clauses 9.1-9.3, each Community Housing Asset remaining after satisfaction of the Company's liabilities must be transferred as follows:

9.4.1 each remaining Community Housing Asset of the Company in Queensland must be transferred under s 37H(2)(a) of the Housing Act; and

9.4.2 each remaining Community Housing Asset of the Company located in a Participating Jurisdiction must be transferred under the Corresponding Law of that Participating Jurisdiction to:

- (a) the Housing Agency in the Participating Jurisdiction;
- (b) another Registered Provider in the Participating Jurisdiction; or
- (c) another entity as prescribed under the Corresponding Law.

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- 10.1 The Board must, in accordance with the requirements of the Corporations Act:
 - 10.1.1 cause proper accounting and other records to be kept, and
 - 10.1.2 cause to be made out and tabled at each annual general meeting of the Company a balance sheet and profit and loss account made up to a date not more than five months before the date of the meeting, or such other date as may from time to time be prescribed by the Corporations Act.
- 10.2 At least once in every year, the accounts of the Company must be audited by one or more properly qualified auditor or auditors (their duties regulated in accordance with the requirements of the Corporations Act).

11 MEMBERSHIP

- 11.1 At the invitation of the Board, any person including a body corporate may be a Member of the Company.

12 FINANCIAL YEAR

The financial year of the Company is from 1 July to 30 June.

13 GENERAL MEETINGS

13.1 Annual General Meeting

Annual general meetings of the Members of the Company must be held in accordance with the provisions of the Corporations Act.

- 13.1.1 The Company must hold an annual general meeting within 18 months after its registration.
- 13.1.2 The Company must hold an annual general meeting at least once in each calendar year and within five months after the end of its financial year.
- 13.1.3 An annual general meeting is to be held in addition to any other meetings held by the Company in a calendar year.
- 13.1.4 The Company may lodge an application with ASIC to extend the period within which it is required to hold the annual general meeting in accordance with section 250P of the Corporations Act.
- 13.1.5 At an annual general meeting, the Directors must table:
 - (a) the audited financial report;
 - (b) the Directors' report; and
 - (c) the auditor's report,for the last financial year that ended before the annual general meeting completed in accordance with the requirements of Chapter 2M of the Corporations Act.
- 13.1.6 The business of the annual general meeting may include any of the following, even if not referred to in the notice of meeting:

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- (a) the consideration of the audited financial report, Directors' report and auditor's report;
- (b) the appointment of the auditor for the Company; and
- (c) the fixing of the auditor's remuneration.

13.2 General Meetings

The Company may hold general meetings of the Members of the Company other than annual general meetings.

13.3 Convening Meetings

- 13.3.1 Any Director may request the Secretary to convene a general meeting. Upon receiving such a request, the Secretary must call a general meeting in accordance with this Constitution and the Corporations Act.
- 13.3.2 The Members may convene a general meeting in accordance with the Corporations Act.

13.4 Notice of Meetings

Subject to the provisions of the Corporations Act relating to special resolutions and agreements for shorter notice, at least 21 days' notice of any general meeting must be given. Notice is to be given in accordance with clause 23.

13.5 Special Business

- 13.5.1 All business transacted at a general meeting other than an annual general meeting is special.
- 13.5.2 All business transacted at an annual general meeting is special, with the exception of the consideration of the audited financial report, Directors' report and auditor's report, the appointment of the auditor, and the fixing of the auditor's remuneration.

13.6 Circulating Resolution

- 13.6.1 The Company may pass a special resolution without a general meeting being held if at least 75% of the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 13.6.2 Separate copies of a document may be used for signing by Members if the wording of the resolution and statement is identical in each copy.
- 13.6.3 The resolution is passed when the last Member required to sign the document.

14 PROCEEDINGS AT GENERAL MEETINGS

14.1 Attendance

A Member is taken to be present at a general meeting if the Member is present in person or by proxy. For the purposes of clause 14, "**Member**" includes a person attending as proxy for a Member pursuant to clause 15.

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14.2 Quorum

No business may be transacted at any general meeting unless a quorum of one Member is present at the time when the meeting proceeds to business. Unless otherwise provided in this Constitution, a simple majority of those Members entitled to attend and vote at the general meeting, who are present in person, constitute a quorum.

14.3 If Quorum is absent

14.3.1 If within a half an hour from the time appointed for the general meeting a quorum is not present, the meeting, if convened upon the requisition of the Directors or Members, must be dissolved.

14.3.2 If clause 14.3.1 does not apply, the meeting will stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine.

14.3.3 If at the adjourned meeting referred to in clause 14.3.2 a quorum is not present within half an hour from the time appointed for the adjourned meeting, the Members present will constitute quorum unless only one Member (where there are three or more Members) is present within that time, in which case the meeting must be dissolved.

14.4 Chairperson

The Chairperson of the Board is to preside as Chairperson at every general meeting of the Company. If there is no Chairperson of the Board or if he or she is not present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the Members present must elect one of their number to preside as Chairperson of the meeting.

14.5 Adjournment of Meeting

A Chairperson may, with the consent of any meeting at which a quorum is present and must, if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

14.6 Notice of Adjourned Meeting

When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting. Except as required under this clause 14.6, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

14.7 Voting: Show of Hands or Secret Ballot

At any meeting of Members a resolution put to the vote of the meeting must be decided by a show of hands unless a secret ballot is demanded before or on the declaration of the result of the show of hands pursuant to clause 14.8. Unless a secret ballot is so demanded, a declaration by the Chairperson that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect made in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

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14.8 Secret Ballot

A secret ballot must be held on any resolution before a meeting if demanded by the Chairperson; or if demanded by at least two Members present. The demand for a secret ballot may be withdrawn.

14.9 Procedure for Secret Ballot

If a secret ballot is demanded it is to be taken either at once or after an interval or adjournment or otherwise as the Chairperson decides, and the result of the secret ballot is the resolution of the meeting at which the secret ballot was demanded. A secret ballot demanded on the election of a Chairperson or on a question of adjournment must be taken immediately.

14.10 Postal ballots

14.10.1 Subject to clause 14 and the provisions of the Corporations Act, whenever the Board thinks fit it may submit any question or resolution to the vote of all Members entitled to a vote at a general meeting of the Company by means of a postal ballot in such form and returnable in such manner as the Board decides, provided that:

- (a) no question or resolution which must be put to the vote of the Members, can be decided by means of a postal ballot;
- (b) notice of any postal ballot must be given to each Member in accordance with clause 23; and
- (c) no postal ballot can be returnable in less than 21 days.

14.10.2 A resolution approved by a majority or specific majority of the Members voting by such ballot has the same force and effect as such a resolution would have if carried by such a majority or specific majority at a duly constituted general meeting of the Company competent to pass such a resolution.

14.11 Appointment of Scrutineers

At all meetings where a secret ballot is to be taken two scrutineers must be appointed by the Chairperson of the meeting and they must conduct the ballot. In any case of doubt as to the formality or otherwise of any ballot paper the scrutineers must refer this matter to the Chairperson of the meeting whose decision is final.

14.12 Determination of Votes

Subject to this Constitution, all questions arising at any meeting of Members must be decided by a majority of votes and a determination by a majority of the Members present at a duly constituted meeting is deemed for all purposes to be a determination of the Company.

14.13 Casting Vote of Chairperson

In the case of an equality of votes, whether on a show of hands or on a secret ballot, the Chairperson of the meeting at which the show of hands or secret ballot takes place has a second or casting vote.

14.14 Voting

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A Member may vote in person or by proxy. On a show of hands every person present who is a Member, and every proxy of a Member, has one vote and on a secret ballot every Member present in person or by proxy also has one vote.

14.15 Vote by Proxy Valid Notwithstanding Intervening Death or Revocation

A vote given in accordance with the terms of an instrument of proxy is valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, if no intimation in writing of such death, unsoundness of mind or revocation has been received by the Secretary before the commencement of the meeting or adjourned meeting at which the instrument is used.

15 PROXIES

15.1 Appointment of Proxies

Any Member may appoint a proxy to act on the Member's behalf at any meeting which that Member may be entitled to attend and to exercise all rights and to discharge all duties which that Member might have.

15.2 Instrument Appointing Proxies

The instrument appointing a proxy:

15.2.1 must be in writing, under the hand of the appointor or his or her attorney duly authorised in writing; the appointment of a proxy may be revoked by the appointor at any time;

15.2.2 may be in or to the effect of the following form or any other form which the Board may approve:

"I, *[Name of Member]*
of *[Address of Member]*
being a Member of YWCA Housing
appoint *[Name of proxy]*
of *[Address of proxy]*
as my proxy to vote for me on my behalf at any meetings which I may be entitled to attend and to exercise all rights and duties which I might have by reason of my membership of the Company.

Signed in the presence of:....."; and

15.2.3 need not be recognised by the Company until it has been deposited with or delivered to the office of the Company addressed to the Secretary.

16 MINUTES OF PROCEEDINGS

16.1 Minutes of all proceedings of general meetings and of meetings of Directors must be entered, within one month after the relevant meeting is held, in books kept for that purpose and must be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

16.2 Any minute so entered and purporting to be so signed is prima facie evidence of the proceedings to which it relates.

16.3 Where minutes have been so entered and signed then, unless the contrary is proved:

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- 16.3.1 the meeting is deemed to have been duly convened and held;
- 16.3.2 all proceedings that are recorded in the minutes as having taken place at the meeting is deemed to have duly taken place; and
- 16.3.3 all appointments of officers or auditors that are recorded in the minutes as having been made at the meeting is deemed to have been validly made.

17 BOARD MEMBERS

17.1 Initial Board Members

The initial Directors of the Board will be such persons nominated by YWCA Australia, who consent to being on the Board.

17.2 Appointment of Directors

YWCA Australia may at any time and from time to time appoint any person as a Director either to fill a casual vacancy or as an addition to the existing Directors, but so that the total number of Directors shall not at any time exceed the maximum number fixed by or in accordance with this Constitution.

17.3 Board may appoint Director

The Board, with the prior approval of YWCA Australia, may at any time appoint any person as a Director either to fill a casual vacancy or as an addition to the existing Directors, but so that the total number of Directors shall not at any time exceed the maximum number fixed by or in accordance with this Constitution. The maximum number of Directors which can be appointed pursuant to this clause 17.3 is two (2).

17.4 Retirement of Directors

A Director must retire from office no later than the longer of the third annual general meeting of the Company or 3 years, following that Director's last election or appointment.

Directors must not act as a Director of the Company for more than three consecutive three year terms.

At least one-third of the Directors (or if their number is not a multiple of three, the number nearest to one-third, rounding down) must retire at each annual general meeting.

A Director who retires pursuant to this clause 17.4 holds office as a Director until the end of the meeting at which the Director retires and is eligible for re-election.

17.5 Removal of Directors

YWCA Australia may remove any Director from office and may at any time appoint any person to be a Director either to fill a vacancy, however created or as an addition to the existing Directors.

17.6 Minimum number of Directors

The minimum number of Directors to be appointed to the Board is four (4). The Company in general meeting may determine the minimum number of Directors to be some other number not less than four.

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17.7 Maximum number of Directors

The maximum number of Directors is nine (9). The Company in general meeting may determine the maximum number of Directors to be some other number.

18 PROCEEDINGS OF BOARD

- 18.1 The business of the Company is managed by the Board which may pay all expenses incurred in promoting and registering the Company, and may exercise all such powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.
- 18.2 Without limiting clause 18.1, the Board may make regulations governing the conduct of the affairs of the Company subject to the provisions of this Constitution, to the provisions of the Corporations Act and to such regulations being not inconsistent with the Constitution or provisions of the Corporations Act, and to such other regulations as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting will invalidate any prior act of the Board which would have been valid if that regulation had not been made.
- 18.3 The Board may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. The Secretary must on the requisition of a Director on the Board summon a meeting of the Board. It is not necessary to give notice of a meeting of the Board to a Director whom the Secretary, when giving the notice to the other directors, reasonably believes to be outside the Commonwealth of Australia.
- 18.4 Subject to this Constitution, questions arising at any meeting of the Board must be decided by a majority of votes and a determination by a majority of the Directors on the Board for all purposes is deemed a determination of the Board. In the case of equality of votes the Chairperson of the meeting has a second or casting vote.
- 18.5 A director who has a material personal interest in a matter that relates to the affairs of the Company must give the other directors notice of the interest unless otherwise required by section 191(2) of the Corporations Act.
- 18.6 A director who has a material personal interest in a matter that is being considered at a directors' meeting must not be present while the matter is being considered at the meeting, or vote on the matter, unless permitted to do so under section 195 of the Corporations Act.
- 18.7 Nothing contained in clause 18 prohibits or in any way restricts a Director being present at, being counted in a quorum and/or from voting at any meeting of the Board in circumstances where it is not unlawful or is not permissible to do so under the Corporations Act.
- 18.8 No act of the Board or the Company (including any contract, agreement or arrangement entered into by the Company) is void or voidable by reason only of a failure of the directors or any of them to comply with:
- 18.8.1 the provisions of clause 18; or
 - 18.8.2 the provisions of Division 2 of Part 2D.1 of the Corporations Act.
- 18.9 The quorum necessary for the transaction of the business of the Board is a simple majority of the directors

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- 18.10 The continuing Director on the Board may act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of the Board, the continuing Directors on the Board may act for the purpose of increasing the number of Directors of the Board to that number or of summoning a general meeting of the Company, but for no other purpose.
- 18.11 The Chairperson is to preside at every meeting of the Board, or if there is no Chairperson, or if at any meeting he/she is not present within ten minutes after the time appointed for holding the meeting the Deputy Chairperson or if the deputy Chairperson is not present at the meeting then the Directors may choose one of their number to preside over the meeting as Chairperson.
- 18.12 The office of a Director becomes vacant if the Director:
- 18.12.1 ceases to be a Director on the Board by virtue of the Corporations Act;
 - 18.12.2 becomes bankrupt or makes an arrangement or composition with his or her creditors generally;
 - 18.12.3 becomes prohibited from being a director of a Company by reason of any order made under the Corporations Act;
 - 18.12.4 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - 18.12.5 for more than six months is absent without permission of the Board from meetings of the Board held during that period; or
 - 18.12.6 resigns the office by notice in writing to the Company; or
 - 18.12.7 is removed from office by resolution of the Members pursuant to the provisions of the Corporations Act.
- 18.13 The Board:
- 18.13.1 controls the Company's funds and manage its financial affairs; and
 - 18.13.2 may exercise all the powers of the Company to borrow money and to mortgage or charge its property, or any part thereof, and to issue debentures and other securities whether outright or as security for any debt, liability or obligation of the Company.
- 18.14 The Board must cause minutes to be made:
- 18.14.1 of all appointments of officers and servants;
 - 18.14.2 of names of the Directors on the Board present at all meetings of the Company and of the Board,
- and such minutes must be signed by the Chairperson of the meeting at which the proceedings were held or by the Chairperson of the next succeeding meeting.
- 18.15 All acts done by any meeting of the Board or by any person acting as a Director on the Board must notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director on the Board or person acting as such, or that the Directors on the Board or any of them were disqualified, be as valid as if

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every such person had been duly appointed and was qualified to be a Director on the Board.

- 18.16 A resolution in writing signed by all the Directors for the time being entitled to receive notice of meetings of the Board is as valid and effectual as if it had been passed at a meeting of the Directors duly convened and held provided that the Directors signing the resolution would constitute a quorum and would have power to pass such resolution at a meeting of the Board. Any such resolution may consist of several documents in similar form each signed by one or more directors. Any such document sent by a Director by facsimile transmission, or other means of communication approved by the Directors, is deemed to have been signed by such Director and to suffice for the purpose of clause 18.
- 18.17 The contemporaneous linking together by telephone, video-conferencing or any other technology of a number of the Directors not less than a quorum is deemed to constitute a meeting of the Directors and all the provisions in this Constitution as to meetings of the Directors apply to such meetings by such technology as long as the following conditions are met:
- 18.17.1 all the Directors for the time being entitled to receive notice of a meeting of the Board is entitled to notice of such meeting and to be linked by the relevant technology for the purposes of the meeting;
 - 18.17.2 notice of any such meeting may be given by telephone, facsimile, e-mail or other form of technology;
 - 18.17.3 each of the Directors taking part in such meeting must be able to hear each of the other Directors taking part in the meeting; and
 - 18.17.4 at the commencement of the meeting each Director must acknowledge his or her presence for the purpose of a meeting of the directors to all the other Directors taking part.
- 18.18 A meeting of directors held using a form of technology in accordance with clause 18.17 is deemed to have been held at the place determined by the Chairperson of the meeting, provided that at least one of the Directors who took part in the meeting was at that place for the duration of the meeting.

19 SUB-COMMITTEES

- 19.1 The Board may delegate any of its powers to sub-committees consisting of such Members of the Company or Directors on the Board as they think fit; any sub-committee so formed must in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Board. All members of such committees have one vote.
- 19.2 A sub-committee may elect a Chairperson of its meetings, if no such Chairperson is elected, or if at any meeting the Chairperson is not present within ten minutes after the time appointed for holding the meeting, the members of the sub-committee present may choose one of their number to be the Chairperson of the meeting.
- 19.3 A sub-committee may meet and adjourn as it thinks fit. Questions arising at any meeting must be determined by a majority of votes of the members of the sub-committee present, and in the case of an equality of votes the Chairperson has a second or casting vote

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20 SEAL

If the Company has a seal, the Board must provide for the safe custody of the Company's seal, which must only be used by the authority of the Board or of a sub-committee authorised by the Board in that behalf, and every instrument to which the seal is affixed must be signed by a Director on the Board and be countersigned by another Director on the Board, the Secretary or by some other person appointed by the Board for the purpose.

21 NOTICES

- 21.1 A notice may be given by the Company to a person either, personally or by sending it by post to him or her at his or her registered address, or to the address supplied by him or her to the Company for the giving of notices to him or her.
- 21.2 Where a notice is sent by post, service of the notice is deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting on the day after the date of its posting, and in any other case at the time at which the letter would be delivered in the ordinary course of post.
- 21.3 Where the Constitution authorises a notice to be sent by fax, or by other electronic means, service of the notice is deemed to have been given on the next business day after it was sent.
- 21.4 Notice of every general meeting must be given in any manner authorised by this Constitution to:
- 21.4.1 every voting Member except those Members who (having no registered address) have not supplied to the Company an address for giving of notices to them; and
- 21.4.2 the auditor or auditors for the time being of the Company.
- No other person is entitled to receive notices of general meetings.
- 21.5 The accidental omission to give notice of a meeting to or the non-receipt of such notice by any person entitled to receive notice does not invalidate any resolution or proceedings of any meeting of the Company.

22 LIABILITY, INSURANCE & INDEMNITY

- 22.1 For the purposes of clause 24:
- 22.1.1 **"Officer"** means every person who at any time is or has at any time been:
- (a) a Director or Secretary of the Company; or
 - (b) a person:
 - (1) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the affairs of the Company; or
 - (2) who has the capacity to affect significantly the Company's financial standing; or
 - (c) in accordance with whose instructions or wishes the Directors are accustomed to act (excluding advice given by the person in the

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proper performance of functions attaching to the person's professional capacity or their business relationship with the directors of the Company); and

22.1.2 “to the relevant extent” means:

- (a) to the extent the Company is not precluded by law from doing so;
- (b) to the extent and for the amount that the Officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, in particular, an insurer under any insurance policy); and
- (c) where the liability is incurred in or arising out of the conduct of the business of another corporation, or in the discharge of the duties of the Officer in relation to another corporation, to the extent and for the amount that the Officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.

22.2 To the extent permitted by law, the Company will pay a premium in respect of a contract insuring a person who is or has been an Officer of the Company against any liability incurred by the Officer in, or arising out of, the conduct of the business of the Company, or in or arising out of, the discharge of the duties of the Officer in accordance with this Constitution and those duties imposed by law.

22.3 The Company will indemnify each Officer out of the assets of the Company to the relevant extent against any liability incurred by the Officer in or arising out of the conduct of the business of the Company, or in or arising out of the discharge of the duties of the Officer.

22.4 For the purposes of clause 24.3, liability means all liabilities, losses, damages, costs, charges, expenses and penalties of any kind including, but not limited to, liability for negligence, also for legal costs incurred in defending or settling any proceedings (whether civil, criminal, judicial or administrative) or appearing before any court, tribunal, government authority or otherwise.

22.5 Where the Directors consider it appropriate, and to the extent to which the Company is not precluded by law from doing so, the Company may execute a deed of indemnity in such terms as the directors consider appropriate, in favour of any Officer.