

**CONSTITUTION
OF
COMMUNITY OPTIONS AUSTRALIA
Limited**

Australian Business Number (ABN) 36 606 404 127

A company limited by guarantee

Adopted: 22nd November 2017

Amended: 27th September 2018

Table of contents

Preliminary

- 1 Name of the company
- 2 Type of company
- 3 Limited liability of members
- 4 The guarantee
- 5 Definitions

Purposes and powers

- 6 Object
- 7 Powers
- 8 Not-for-profit
- 9 Amending the constitution

Members

- 10 Membership and register of members
- 11 Becoming a member
- 12 Cessation of membership
- 13 Membership fees

Dispute resolution and disciplinary procedures

- 14 Jurisdiction
- 15 Policies for dispute resolution and disciplinary matters

General meetings of members

- 16 General meetings called by directors
- 17 General meetings called by members
- 18 Annual general meeting
- 19 Notice of general meetings
- 20 Quorum at general meetings
- 21 Auditor's right to attend meetings
- 22 Using technology to hold meetings
- 23 Chairperson for general meetings
- 24 Role of the chairperson
- 25 Cancellation and adjournment of meetings

Members' resolutions and statements

- 26 Members' resolutions and statements
- 27 Circular resolutions of members

Voting at general meetings

- 28 Voting rights
- 29 Challenge to member's right to vote
- 30 How voting is carried out
- 31 When and how a vote in writing must be held
- 32 Appointment of proxy
- 33 Voting by proxy

Directors

- 34 Number of directors
- 35 Election and appointment of directors
- 36 Election of chairperson
- 37 Term of office
- 38 Cessation of director

Powers of directors

- 39 Powers of directors
- 40 Delegation of directors' powers
- 41 Payments to directors
- 42 Execution of Documents

Duties of directors

- 43 Duties of directors
- 44 Conflicts of interest

Directors' meetings

- 45 When the directors meet
- 46 Calling directors' meetings
- 47 Chairperson for directors' meetings
- 48 Quorum at directors' meetings
- 49 Using technology to hold directors' meetings
- 50 Passing directors' resolutions
- 51 Circular resolutions of directors

Secretary

52 Appointment and role of secretary

Minutes and records

53 Minutes and records

54 Financial and related records

By-laws

55 By-laws

Notice

56 What is notice

57 Notice to the company

58 Notice to members

59 When notice is taken to be given

Financial year

60 Company's financial year

Indemnity, insurance and access

61 Indemnity

62 Insurance

63 Directors' access to documents

Winding up

64 Surplus assets not to be distributed to members

65 Distribution of surplus assets

Definitions and interpretation

66 Definitions

67 Reading this constitution with the Corporations Act

68 Interpretation

Preliminary

1. Name of the company

The name of the company is Community Options Australia Limited (the company).

2. Type of company

The company is a not-for-profit public company limited by guarantee.

3. Limited liability of members

The liability of members is limited to the amount of the guarantee in clause 4.

4. The guarantee

Each member must contribute an amount that is limited to the amount, if any, unpaid by that member in respect of their membership of the company (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.

5. Definitions

In this constitution, words and phrases have the meaning set out in clauses 66 and 68.

Purposes and powers

6. Objects

The objects of the company are to:

- (a) be a recognised leader in the community care sector, by establishing and developing innovative and emerging delivery models;
- (b) promote and advocate the maintenance and expansion of community care;
- (c) foster and support a national collaborative network of like-minded organisations that work in the best interests of the community care sector;
- (d) engage directly or indirectly in projects, ventures and activities that are consistent with the objects of the company, alone or jointly with any other person or legal entity, and for the purpose of obtaining funds to further these objects; and
- (e) undertake anything that is ancillary to these objects.

7. Powers

Subject to clause 8, the company has the following powers, which may only be used to carry out its purpose(s) set out in clause 6:

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

8. Not-for-profit

- 8.1 The company must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 8.2 and 65.
- 8.2 Clause 8.1 does not stop the company from, in good faith, 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.
- 8.3 The income and property of the company will only be applied towards the promotion of the objects of the company.

9. Amending the constitution

- 9.1 Subject to clause 9.2, the members may amend this constitution by passing a special resolution.
- 9.2 The members must not pass a special resolution that amends this constitution if passing it causes the company to no longer be not-for-profit.

Members

10. Membership and register of members

- 10.1 The members of the company are any person that the directors allow to be a member, in accordance with this constitution. Members agree to be bound by the provisions of this constitution and any by-laws made under it.
- 10.2 Membership shall be comprised of the following categories:
- (a) individual membership, for which only an individual is eligible; and
 - (b) such other category of members as may be determined by the directors from time-to-time.
- 10.3 The company must establish and maintain a register of members in accordance with the Corporations Act. The register of members must be kept by the secretary and must contain:
- (a) the name and full contact details of the member; and
 - (b) date of admission to and cessation of membership.
- 10.4 The register may be inspected and copied in accordance with the Corporations Act.
- 10.5 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

11. Becoming a member

- 11.1 A person may apply to become a member of the company by completing and signing the form approved for the purpose by the Board, and lodging it with the secretary, or such other person as the Board may direct from time to time, and paying the relevant membership fee.
- 11.2 The directors must consider an application for membership within a reasonable time after the secretary receives the application. The directors may at their discretion refuse to accept a membership application and shall not be required or compelled to provide any reasons.
- 11.3 If the directors approve an application, the secretary must as soon as possible enter the new member on the register of members, and confirm membership with the applicant in writing.
- 11.4 If the directors reject an application, the secretary must inform the applicant. All amounts paid by the applicant on account of the application shall be refunded in full.

12. Cessation of membership

12.1 A person immediately stops being a member if they:

- (a) die;
- (b) become of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (c) resign, by writing to the secretary;
- (d) have their membership terminated under clause 15.1(d), or
- (e) fail to pay their annual membership fee within the two calendar months following the annual date of renewal of that membership.

12.2 A member who or which ceases to be a member shall forfeit all right in and claim upon the company or the directors for damages or otherwise, or claim upon its property including its intellectual property rights.

13. Membership fees

13.1 The directors must determine from time to time:

- (a) the amount (if any) payable by an applicant for membership;
- (b) the amount of the annual subscription fee payable by each member, or any category of members;
- (c) any other amount to be paid by each member, or any category of members, whether of a recurrent or any other nature; and
- (d) the payment method and the due date for payment.

13.2 Each member must pay to the company the amounts determined under clause 13.1 in accordance with clause 13.1(d).

13.3 The right of a member to attend and vote at a general meeting is suspended while the payment of any subscription or other amount determined under clause 13.1 is in arrears.

13.4 The directors may defer the obligations of a member to pay a subscription or other amount, or reduce (including to zero) the subscription or other amount payable by a member, if the directors are satisfied that:

- (a) there are reasonable grounds for doing so;
- (b) the company will not be materially disadvantaged as a result; and
- (c) the member agrees to pay the deferred or (if greater than zero) the reduced subscription or other amount within a time fixed by the directors.

13.5 If the directors defer or reduce a subscription or other amount payable by a member under clause 13.4, that member will retain their rights to attend and vote at a general meeting, unless otherwise specified by the directors.

Dispute resolution and disciplinary procedures

14. Jurisdiction

All members will be subject to, and submit unreservedly to, the jurisdiction, procedures, penalties and appeal mechanisms of the company whether under a Policy made under clause 15 or under this Constitution.

15. Policies for dispute resolution and disciplinary matters

15.1 The directors may make a policy or policies (the **Policies**):

- (a) for the hearing and determination of:
 - (i) grievances by any member who feels aggrieved by a decision or action of the company; and
 - (ii) disputes between members relating to their conduct as members;
- (b) for the discipline of members;
- (c) for the formation and administration of an appeals tribunal which must be independent of any party before it on the matter which is the subject of the appeal in question; and
- (d) for the termination of members.

15.2 The directors in their sole discretion may refer an allegation (which in the opinion of the directors is not vexatious, trifling or frivolous) by a complainant that a member has:

- (a) breached, failed, refused or neglected to comply with a provision of this constitution, the Policies or any other resolution or determination of the directors or any duly authorised committee; or
- (b) acted in a manner unbecoming of a member or prejudicial to the objects and interests of the company; or
- (c) prejudiced the company or brought the company or themselves into disrepute, for investigation or determination either under the procedures set down in the Policies or by such other procedure and/or persons as the directors consider appropriate.

15.3 During investigatory or disciplinary proceedings under this clause 15, a respondent may not participate in any activities as a member including voting at general meetings, pending the determination of such proceedings (including any available appeal) unless the directors decide continued participation is appropriate having regard to the matter at hand.

15.4 The directors may include in any Policy or Policies a final right of appeal to an independent body outside the control of the company.

General meetings of members

16. General meetings called by directors

16.1 The directors may call a general meeting and must do so if required by the Corporations Act.

16.2 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:

- (a) within 21 days of the members' request, give all members notice of a general meeting, and
- (b) hold the general meeting within 2 months of the members' request.

16.3 If the company fails to hold the general meeting as required by clause 16.2, the members may hold the meeting in accordance with the Corporations Act.

16.4 The members who make the request for a general meeting must:

- (a) state in the request any resolution to be proposed at the meeting,
- (b) sign the request, and
- (c) give the request to the company.

16.5 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.

17. General meetings called by members

17.1 To call and hold a meeting under clause 16.3 the members must:

- (a) as far as possible, follow the procedures for general meetings set out in this constitution,
- (b) 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
- (c) hold the general meeting within three months after the request was given to the company.

17.2 The company must pay the members who request the general meeting under clause 16.2 any reasonable expenses they incur because the directors did not call and hold the meeting.

18. Annual general meeting

18.1 A general meeting, called the annual general meeting, must be held after the first annual general meeting, at least once in every calendar year and within 5 months of the end of the company's financial year, or as required under the Corporations Act and at a date and venue determined by the directors.

18.2 The business of an annual general meeting may include:

- (a) a review of the company's activities,
- (b) a review of the company's finances,
- (c) appointing an auditor to fill any vacancy in the office of auditor,
- (d) any auditor's report, and
- (e) the election of directors.

18.3 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.

18.4 The chairperson of the annual general meeting must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the company.

19. Notice of general meetings

19.1 Notice of a general meeting must be given to:

- (a) each member entitled to vote at the meeting
- (b) each director, and

(c) the auditor.

19.2 Notice of a general meeting must be provided in writing at least 21 days before the meeting.

19.3 Notice of a general meeting must be in accordance with the Corporations Act and include:

(a) 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),

(b) the general nature of the meeting's business,

(c) if applicable:

(i) that a special resolution is to be proposed and the words of the proposed resolution;

(ii) any notice of motion received from any member or director in accordance with the Corporations Act; and

(iii) a list of all nominations received for positions to be elected at the general meeting.

(d) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:

(i) the proxy does not need to be a member of the company,

(ii) 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

(iii) the proxy form must be delivered to the company at least 48 hours before the meeting.

19.4 If a general meeting is adjourned for one month or more, the members must be given new notice of the resumed meeting.

19.5 No business other than that stated in the notice of meeting may be transacted at a general meeting.

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

20. Quorum at general meetings

20.1 A quorum for a general meeting is the number of members equal to 25% of the number of members of the company at the time of the meeting.

20.2 No business may be conducted at a general meeting if a quorum is not present.

20.3 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:

(a) if the date is not specified – the same day in the next week

(b) if the time is not specified – the same time, and

(c) if the place is not specified – the same place.

20.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

21. Auditor's right to attend meetings

21.1 The auditor 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.

21.2 The company must give the auditor any communications relating to the general meeting that a member of the company is entitled to receive.

22. Using technology to hold meetings

22.1 The company may hold a general meeting at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.

22.2 Anyone using this technology is taken to be present in person at the meeting.

23. Chairperson for general meetings

23.1 The elected chairperson presides as chair at general meetings.

23.2 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:

- (a) there is no elected chairperson, or
- (b) the elected chairperson is not present within 30 minutes after the starting time set for the meeting, or
- (c) the elected chairperson is present but says they do not wish to act as chairperson of the meeting.

24. Role of the chairperson

24.1 The 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).

24.2 The chairperson does not have a casting vote.

25. Cancellation or adjournment of meetings

25.1 If a quorum is present, a general meeting must be adjourned if a majority of members present direct the chairperson to adjourn it.

25.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

25.3 Where a general meeting (including an annual general meeting) is convened by the board they may cancel the meeting or adjourn the meeting to a date and time they determine except when the general meeting is convened by:

- (a) members according to the Corporations Act;
- (b) the directors at the request of Members; or
- (c) a court.

Members' resolutions and statements

26. Members' resolutions and statements

26.1 Members with at least 5% of the votes that may be cast on a resolution may give:

- (a) written notice to the company of a resolution they propose to move at a general meeting (members' resolution), and/or

- (b) a written request to the company that the company give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a general meeting (members' statement).
- 26.2 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- 26.3 A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.
- 26.4 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.
- 26.5 If the company has been given notice of a members' resolution under clause 26.1(a), the resolution must be considered at the next general meeting held more than two months after the notice is given.
- 26.6 This clause does not limit any other right that a member has to propose a resolution at a general meeting.

27. Circular resolutions of members

- 27.1 Subject to clause 27.3, the directors may put a resolution to the members to pass a resolution without a general meeting being held (a circular resolution).
- 27.2 The directors must notify the auditor as soon as possible that a circular resolution has or will be put to members, and set out the wording of the resolution.
- 27.3 Circular resolutions cannot be used:
 - (a) for a resolution to remove an auditor, appoint a director or remove a director,
 - (b) for passing a special resolution, or
 - (c) where the Corporations Act or this constitution requires a meeting to be held.
- 27.4 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 27.5 or clause 27.6.
- 27.5 Members may sign:
 - (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording is the same in each copy.
- 27.6 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.

Voting at general meetings

28. Voting rights

Each member has one vote on resolutions at general meetings.

29. Challenge to member's right to vote

- 29.1 A member or the chairperson may only challenge a person's right to vote at a **general meeting** at that meeting.

29.2 If a challenge is made under clause 29.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

30. How voting is carried out

30.1 Voting must be conducted and decided by:

- (a) a show of hands,
- (b) a vote in writing, or
- (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.

30.2 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.

30.3 Where voting is conducted on a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.

30.4 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

31. When and how a vote in writing must be held

31.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:

- (a) at least five members present,
- (b) members present with at least 5% of the votes that may be passed on the resolution on the vote in writing, or
- (c) the chairperson.

31.2 A vote in writing must be taken when and how the chairperson directs, unless clause 31.3 applies.

31.3 A vote in writing must be held immediately if it is demanded under clause 31.1:

- (a) for the election of a chairperson under clause 23.2, or
- (b) to decide whether to adjourn the meeting.

31.4 A demand for a vote in writing may be withdrawn.

32. Appointment of proxy

32.1 A member may appoint a proxy to attend and vote at a general meeting on their behalf.

32.2 A proxy does not need to be a member.

32.3 A proxy appointed to attend and vote for a member has the same rights as the member to:

- (a) speak at the meeting,
- (b) vote in a vote in writing (but only to the extent allowed by the appointment), and
- (c) join in to demand a vote in writing under clause 31.1.

32.4 An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:

- (a) the member's name and address,
- (b) the company's name,

- (c) the proxy's name or the name of the office held by the proxy, and
- (d) the meeting(s) at which the appointment may be used.

32.5 Proxy forms must be received by the company at the address stated in the notice under clause 19.3(d) or at the company's registered address at least 48 hours before a meeting.

32.6 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.

32.7 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:

- (a) dies,
- (b) is mentally incapacitated,
- (c) revokes the proxy's appointment, or
- (d) revokes the authority of a representative or agent who appointed the proxy.

32.8 A proxy appointment may specify the way the proxy must vote on a particular resolution.

33. Voting by proxy

33.1 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).

33.2 When a vote in writing is held, a proxy:

- (a) does not need to vote, unless the proxy appointment specifies the way they must vote
- (b) if the way they must vote is specified on the proxy form, must vote that way, and
- (c) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

Directors

34. Number of directors

Unless otherwise determined by the company in general meeting, the company must have at least five and no more than nine directors.

35. Election and appointment of directors

35.1 Directors may be appointed:

- (a) by the members by a resolution passed in a general meeting; and
- (b) by the directors in accordance with clause 35.4.

35.2 Each of the member-elected directors must be appointed by a separate resolution, unless:

- (a) the members present have first passed a resolution that the appointments may be voted on together, and
- (b) no votes were cast against that resolution.

35.3 A person is eligible for election as a director of the company if they:

- (a) have the experience, skills and competencies and meet the conflict of interest principles required by the company's policies in force at the time of election;
- (b) are nominated by two 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);
- (c) give the company their signed consent to act as a director of the company; and
- (d) are not ineligible to be a director under the Corporations Act.

35.4 The directors may appoint a person as a director to fill a casual vacancy or as an additional director if that person:

- (a) gives the company their signed consent to act as a director of the company; and
- (b) is not ineligible to be a director under this constitution or the Corporations Act.

35.5 If the number of directors 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.

36. Election of chairperson

The directors must annually elect a director as the company's elected chairperson at the first directors' meeting following the annual general meeting.

37. Term of office

37.1 Subject to clause 37.2(a), the term of office for a director is three years.

37.2 At each annual general meeting:

- (a) any director appointed by the directors to fill a casual vacancy or as an additional director must retire, and may nominate for election subject to clause 37.6; and
- (b) the directors whose term is expiring must retire.

37.3 Other than a director appointed under clause 37.6, 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 under clause 37.4.

37.4 Each director must retire when their term expires under clause 37.1.

37.5 A director who retires under clause 37.4 may nominate for re-election, subject to clause 37.6.

37.6 A director who has held office for a continuous period of six years or more may only be re-appointed or re-elected by a special resolution.

38. Cessation of director

A director stops being a director if they:

- (a) give written notice of resignation as a director to the company,
- (b) die,
- (c) become of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health,
- (d) are directly or indirectly interested in any contract or proposed contract with the company and fail to declare the nature of the interest as required by the Corporations Act,

- (e) are removed as a director by a resolution of the members or reach the end of the term for which they are appointed and are not re-elected,
- (f) are absent for 3 consecutive directors' meetings without approval from the directors, or
- (g) become ineligible to be a director of the company under the Corporations Act.

Powers of directors

39. Powers of directors

- 39.1 The directors are responsible for governing and directing the activities of the company to achieve the objects set out in clause 6.
- 39.2 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.
- 39.3 The directors must decide on the responsible financial management of the company including:
 - (a) any suitable written delegations of power under clause 40, and
 - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 39.4 The directors cannot remove an auditor. Auditors may only be removed by a members' resolution at a general meeting.

40. Delegation of directors' powers

- 40.1 The directors may delegate any of their powers and functions to a committee, a director, an employee of the company (such as an Executive Director) or any other person, as they consider appropriate.
- 40.2 A person or committee who is delegated powers under clause 40.1 must exercise the powers delegated to it according to the terms of the delegation and any directions of the directors.
- 40.3 Powers delegated to and exercised by a person or committee are taken to have been exercised by the directors.
- 40.4 The delegation must be recorded in the minutes of the board meeting at which the delegation was made.

41. Payments to directors

- 41.1 The company must not pay fees to a director for acting as a director.
- 41.2 The company may:
 - (a) 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
 - (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the company.
- 41.3 Any payment made under clause 41.2 must be approved by the directors.
- 41.4 The company may pay premiums for insurance indemnifying directors, as allowed for by law (including the Corporations Act) and this constitution.

42. Execution of documents

The company may execute a document if the document is signed by:

- (a) two directors of the company, or
- (b) a director and the secretary.

Duties of directors

43. Duties of directors

The directors must comply with their duties as directors under legislation and common law which include:

- (a) 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,
- (b) to act in good faith in the best interests of the company and to further the purpose(s) of the company set out in clause 6,
- (c) not to misuse their position as a director,
- (d) not to misuse information they gain in their role as a director,
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 44,
- (f) to ensure that the financial affairs of the company are managed responsibly, and
- (g) not to allow the company to operate while it is insolvent.

44. Conflicts of interest

44.1 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):

- (a) to the other directors, or
- (b) if all of the directors have the same conflict of interest, to the members at the next general meeting, or at an earlier time if reasonable to do so.

44.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.

44.3 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 44.4:

- (a) be present at the meeting while the matter is being discussed, or
- (b) vote on the matter.

44.4 A director may still be present and vote if:

- (a) their interest arises because they are a member of the company, and the other members have the same interest,
- (b) 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 62),

- (c) their interest relates to a payment by the company under clause 61 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act,
- (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or
- (e) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) 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
 - (ii) says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

45. When the directors meet

The directors must meet a minimum six times per annum at regular intervals, and at a time and place of their choosing.

46. Calling directors' meetings

46.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors.

46.2 A director may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.

47. Chairperson for directors' meetings

47.1 The elected chairperson presides as chair at directors' meetings.

47.2 The directors at a directors' meeting may choose a director to be the chairperson for that meeting if the elected chairperson is:

- (a) not present within 30 minutes after the starting time set for the meeting, or
- (b) present but does not want to act as chairperson of the meeting.

48. Quorum at directors' meetings

48.1 Unless the directors determine otherwise, the quorum for a directors' meeting is half the number of directors currently in office, plus one.

48.2 A quorum must be present for the whole directors' meeting.

49. Using technology to hold directors' meetings

49.1 A directors' meeting may be called or held using any technology consented to by at least three of the directors. The consent may be a standing one.

49.2 Where a meeting is called or held using technology, the following provisions apply:

- (a) a directors' meeting can be convened whereby some or all of the directors are in different places, if each director who participates is able to hear and be heard by each other director participating simultaneously;
- (b) a directors' meeting can be convened using any one or a combination of different types of technology, including by video and teleconference, including technology that does not exist at the date this provision is adopted;

- (c) a quorum is present if at least the number of directors required to form a quorum are participating in accordance with the other provisions of this clause 49;
- (d) a directors' meeting convened using technology is taken to take place where the chairperson is located; and
- (e) a director is conclusively presumed to be present and to form part of the quorum of a meeting at all times during a meeting when participating in a permissible manner by technology, unless the director has notified the chairperson that the director is leaving the meeting or the chairperson has actual knowledge that the connection to the director has ceased to function.

49.3 Each director may participate in a directors' meeting using technology no more than five times in a calendar year without the Board's prior consent.

50. 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.

51. Circular resolutions of directors

51.1 The directors may pass a circular resolution without a directors' meeting being held.

51.2 A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 51.3 or clause 51.4.

51.3 Each director may sign:

- (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
- (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.

51.4 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.

51.5 A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 51.3 or clause 51.4.

Secretary

52. Appointment and role of secretary

52.1 The company must have at least one secretary, who may also be a director.

52.2 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.

52.3 The directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.

52.4 The role of the secretary includes:

- (a) maintaining a register of the company's members, and
- (b) maintaining the minutes and other records of general meetings (including notices of meetings), directors' meetings and circular resolutions.

Minutes and records

53. Minutes and records

53.1 The company must, within one month, make and keep the following records:

- (a) minutes of proceedings and resolutions of general meetings,
- (b) minutes of circular resolutions of members,
- (c) a copy of a notice of each general meeting, and
- (d) a copy of a members' statement distributed to members under clause 26.1(b).

53.2 The company must, within one month, make and keep the following records:

- (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
- (b) minutes of circular resolutions of directors.

53.3 To allow members to inspect the company's records:

- (a) the company must give a member access to the records set out in clause 53.1, and
- (b) the directors may authorise a member to inspect other records of the company, including records referred to in clause 53.2 and clause 54.1.

53.4 The directors must ensure that minutes of a general meeting or a directors' meeting are signed within a reasonable time after the meeting by:

- (a) the chairperson of the meeting, or
- (b) the chairperson of the next meeting.

53.5 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.

54. Financial and related records

54.1 The company must make and keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance, and
- (b) enable true and fair financial statements to be prepared and to be audited.

54.2 The company must also keep written records that correctly record its operations.

54.3 The company must retain its records for at least 7 years.

54.4 The directors must take reasonable steps to ensure that the company's records are kept safe.

54.5 In accordance with the Corporations Act, the directors must appoint a registered and properly qualified auditor and the remuneration of such auditor fixed and duties regulated. The company must appoint an auditor to fill any vacancy in the office of auditor at each AGM.

By-laws

55. By-laws

55.1 The directors may pass a resolution to make by-laws to give effect to this constitution.

55.2 Members and directors must comply with by-laws as if they were part of this constitution.

Notice

56. What is notice

56.1 Anything written to or from the company under any clause in this constitution is written notice and is subject to clauses 57 to 59, unless specified otherwise.

56.2 Clauses 57 to 59 do not apply to a notice of proxy under clause 32.5.

57. Notice to the company

Written notice or any communication under this constitution may be given to the company, the directors or the secretary by:

- (a) delivering it to the company's registered office,
- (b) posting it to the company's registered office or to another address chosen by the company for notice to be provided, or
- (c) 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.

58. Notice to members

58.1 Written notice or any communication under this constitution may be given to a member:

- (a) in person,
- (b) 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,
- (c) sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any), or
- (d) 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).

58.2 If the company does not have an address for the member, the company is not required to give notice in person.

59. When notice is taken to be given

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered,
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs,
- (c) sent by email or other electronic method, is taken to be given on the business day after it is sent, and
- (d) given under clause 58.1(d) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

60. Company's financial year

The company's financial year is from 1 July to 30 June.

Indemnity, insurance and access

61. Indemnity

61.1 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.

61.2 In this clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office.

61.3 In this clause, 'to the relevant extent' means:

- (a) to the extent that the company is not precluded by law (including the Corporations Act) from doing so, and
- (b) 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).

61.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the company.

62. 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.

63. Directors' access to documents

63.1 A director has a right of access to the financial records of the company at all reasonable times.

63.2 If the directors agree, the company must give a director or former director access to:

- (a) certain documents, including documents provided for or available to the directors, and
- (b) any other documents referred to in those documents.

Winding up

64. 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 former member is an organisation described in clause 65.1.

65. Distribution of surplus assets

65.1 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 organisations:

- (a) with purpose(s) similar to, or inclusive of, the purpose(s) in clause 6, and

- (b) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the company.

65.2 The decision as to the organisation(s) to be given the surplus assets must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, the company may apply to the Supreme Court to make this decision.

Definitions and interpretation

66. Definitions

In this constitution:

company means the company referred to in clause 1

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

elected chairperson means a person elected by the directors to be the company's chairperson under clause 36

general meeting means a meeting of members and includes the annual general meeting, under clause 18.1

individual means a natural person only.

member present means, in connection with a general meeting, a member present in person or by proxy at the venue or venues for the meeting.

person means any natural person, body corporate, partnership, unincorporated body, trustee or superannuation fund.

special resolution means a resolution:

- (a) of which notice has been given under clause 19.3(c), 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.

67. Reading this constitution with the Corporations Act

67.1 The replaceable rules set out in the Corporations Act do not apply to the company and are displaced by this constitution.

67.2 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.

68. 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).