

Constitution

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UCQ Limited

ACN 674 995 076

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Preliminary

1. Establishment

- 1.1 The Synod has determined that there will be an institution called UCQ Limited (**UnitingCare**) pursuant to Regulation 3.7.4.7 of *The Uniting Church in Australia Regulations* established as a company limited by guarantee, for the delivery of the purposes set out in clause 5, which will govern in accordance with this Constitution.
- 1.2 UnitingCare has responsibility for health services, aged care services, domiciliary services, services for people with disabilities, and other community and support services in accordance with clause 5 of this Constitution as determined by resolution of the Board and conducted under the oversight of the Board.
- 1.3 The purpose of UnitingCare arises out of the stated purpose of Jesus Christ to come so that all people may “have life in all its fullness” (John 10.10). Thus, the role is to be an agent of God’s healing power to the “whole” person, and not just for an individual ailment or disability, thereby enabling each individual to play their important role in God’s plan for the human family. Accordingly, UnitingCare is formed for the purposes of the provision of health, care and support services to people and to the community, irrespective of ethnicity, social status or religious beliefs because it believes that all people have intrinsic dignity as created in the image of God, and will cooperate with governmental and other bodies to render the most effective service possible. UnitingCare believes that the work of healing, growth, renewal and reconciliation is in furtherance of Church’s commitment to Christ’s purpose.
- 1.4 The Basis of Union states that the Church “acknowledges with thanksgiving that the one Spirit has endowed the members of Christ’s Church with a diversity of gifts, and that there is no gift without its corresponding service: all ministries have a part in the ministry of Christ” (Paragraph 13).
- 1.5 UnitingCare has grown out of many expressions of the Church’s life and service and continues to be integral to the life of the Church.
- 1.6 UnitingCare will continue the Church’s recognition of each person’s dignity. UnitingCare stands for justice, equity in access to social services, and fairness of opportunity. The Church’s Covenant with the Uniting Aboriginal and Islander Christian Congress is expressed in UnitingCare’s commitment to partnership with First Peoples. The Church offers its thanks to God for those who pioneered new community service activities and authorises UnitingCare through this Constitution to develop and grow new forms of community service that serve Vulnerable Persons in this spirit.

2. Defined terms

- 2.1 In this Constitution unless the contrary intention appears:

ACNC Act means the *Australian Charities and Not for profits Commission Act 2012* (Cth), or any other legislation relating to the establishment or operation of an Australian charities commission and/or a national regulatory framework and/or a national education body or otherwise for the not for profit sector, as modified or amended from time to time and includes any regulations made under that Act or any other such legislation and any rulings or requirements of the Commissioner of the Australian Charities and Not for profits Commission under that Act, or any commissioner or body under any other such legislation, having application to UnitingCare.

Applicable Not for Profit Laws means any law relating to the regulation of charities or not for profit entities applicable to UnitingCare, including the ACNC Act, the *Charities Act 2013* (Cth), the Tax Act, the *Collections Act 1966* (Qld), section 150 of the Corporations Act and any rulings or requirements of any commissioner or body under any such law, having application to UnitingCare.

Auditor means UnitingCare’s auditor.

Board means all or some of the Directors acting as a board.

CEO means the chief executive officer appointed in accordance with clause 34.

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Church means the Uniting Church in Australia, unless the context demands otherwise.

Committee means a committee established in accordance with clause 21.1.

Constitution means the constitution of UnitingCare, as amended from time to time.

Corporations Act means the *Corporations Act 2001* (Cth) as modified or amended from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to UnitingCare.

Director includes any person occupying the position of director of UnitingCare.

General Secretary means the person appointed by the Synod to the office of secretary of the Synod under clause 35 of *The Uniting Church in Australia Constitution*.

Imported Provisions means the following provisions of the Corporations Act:

- (a) section 139 (*company must send copy of constitution to member*);
- (b) sections 191 to 194 (*disclosure of, and voting on matters involving, material personal interests*);
- (c) Divisions 1 to 7 of Part 2G.2 (*meetings of members of companies*); and
- (d) Part 2G.3 (*minutes and members' access to minutes*).

ITAA means the *Income Tax Assessment Act 1997* (Cth).

Member means a member under clause 8 and where appropriate includes a Member present by proxy, attorney or Representative.

Moderator means the person elected by the Synod to the office of moderator in accordance with the Uniting Church in Australia Regulations.

Register means the register of Members of UnitingCare.

Registered Entity means a body corporate registered under the *ACNC Act*.

Representative means a person appointed by a Member to act as its representative under clause 11.

QLD Commissioner means the Commissioner of State Revenue appointed under the TAA.

Seal means UnitingCare's common seal (if any).

Secretary means any person appointed by the Board to perform any of the duties of a secretary of UnitingCare and if there are joint secretaries, any one or more of those joint secretaries.

Synod means the Queensland Synod of the Church.

Synod By-laws means the By-laws adopted by the Synod from time to time in accordance with the *Basis of Union*, *The Uniting Church in Australia Constitution*, and *The Uniting Church in Australia Regulations*.

TAA means the *Taxation Administration Act 2001* (Qld).

Tax Act means the ITAA and includes any regulations made under that Act and any rulings or requirements of the Commissioner of Taxation of the Commonwealth of Australia having application to UnitingCare.

UCAPT(Q.) means The Uniting Church in Australia Property Trust (Q.), a body corporate constituted by the *Uniting Church in Australia Act 1977* (Qld), which is represented by Synod.

UnitingCare means UCQ Limited ACN 674 995 076.

UnitingCare By-laws means those parts of the Synod By-laws from time to time relating to the establishment and operation of UnitingCare as an institution.

Uniting Church in Australia Constitution means the constitution of the Church.

Uniting Church in Australia Regulations means any regulations made by the Assembly of the Church pursuant to section 62 of *The Uniting Church in Australia Constitution*.

Vulnerable Persons means:

- (a) persons affected by physical, intellectual or mental disability or impairment;
- (b) elderly persons requiring care and support services both in and out of the home;
- (c) persons experiencing social disadvantage or discrimination including indigenous persons and other minority groups;
- (d) children at significant risk of entering or being cared for by a statutory child protection system;
- (e) individuals and families who are in distress; and
- (f) persons suffering as a result of serious illness.

- 2.2 In this Constitution, except where the context otherwise requires, an expression in a clause of this Constitution has the same meaning as in the Corporations Act. Where the expression has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.

3. Interpretation

- 3.1 In this Constitution, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (f) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (g) the meaning of general words is not limited by specific examples introduced by including, **for example** or similar expressions; and
- (h) a reference to **applicable law** includes the applicable law and any applicable authorisation or licence granted thereunder.

- 3.2 Anything able to be done or any right or power able to be exercised by Synod under this Constitution (including to appoint Directors of UnitingCare) will be deemed to have been done or exercised by Synod if all applicable rules and policies of Synod (including in relation to the delegation of powers) relating to doing that thing or exercising that right or power have been satisfied.

- 3.3 Headings are for ease of reference only and do not affect interpretation.

4. Application of the Corporations Act and Replaceable rules

- 4.1 If, while UnitingCare is a Registered Entity, the Corporations Act operates such that an Imported Provision does not apply to UnitingCare because UnitingCare is a Registered Entity, then a clause in the same terms as the Imported Provision, along with any relevant definitions in the Corporations Act, is deemed to be included in this Constitution and to apply to UnitingCare to the extent the Imported Provision would have applied to UnitingCare were UnitingCare not a Registered Entity.

- 4.2 To the extent permitted by law, the replaceable rules in the Corporations Act do not apply to UnitingCare.

5. Purpose

- 5.1 The purpose of UnitingCare is to provide holistic health, care and support services to people who need them, irrespective of ethnicity, social status or religious beliefs.
- 5.2 The purpose expressed in clause 5.1 will be furthered and expressed through means, activities and purposes which include (but are not limited to):
- (a) while registered as such with the ACNC, being a public benevolent institution;
 - (b) being a not-for-profit charitable institution advancing social and public welfare by providing benevolent relief for the benefit of Vulnerable Persons, and without limiting the generality of these purposes, this may include providing:
 - (i) care and support to the elderly or others who have health related needs;
 - (ii) care and support for people with a disability;
 - (iii) care, support and protection for children and young people and their families;
 - (iv) primary, secondary and tertiary health care services and palliative care to people suffering as a result of illness; and
 - (v) community services responsive to the needs of people who are in distress as a result of poverty, breakdown in relationships, domestic violence, trauma, mental health, addictive behaviours, homelessness or natural disasters; and
 - (c) doing all such other things as are necessary, incidental or conducive to the operation of UnitingCare and otherwise for the attainment of all or any of the above purposes of UnitingCare, which may include, but are not limited to:
 - (i) promoting reconciliation, mutual respect and tolerance between Australians by working in partnership with Aboriginal and Torres Strait Islander peoples to develop and deliver services that reflect the beliefs, values and needs of Aboriginal and Torres Strait Islander peoples;
 - (ii) providing care to people in need irrespective of ethnicity, social status, political or religious beliefs and cooperating with governmental and other bodies to render the most effective service and support possible;
 - (iii) providing education and training of health and community service professionals and workers engaged by UnitingCare to enable the delivery of services consistent with these purposes;
 - (iv) providing and maintaining residential accommodation and residential care facilities for people who are ageing, have a disability, or have other health-related needs;
 - (v) providing a range of community-based services, including nursing, respite, allied health and other services as may be required for people who are ageing, have a disability, or have other health-related needs;
 - (vi) providing and maintaining hospitals, medical centres, palliative care hospices and/or other health care facilities and activities as approved by the Board;
 - (vii) providing pastoral and spiritual support to patients, clients, residents, their families, staff and volunteers as an important element of holistic care;
 - (viii) providing such other community services consistent with these purposes as may from time to time be decided upon with the approval of the Board;
 - (ix) educating and training persons engaged by UnitingCare to deliver services consistent with these purposes activities and means;
 - (x) arranging contracts and alliances with other organisations to assist with the furtherance of these purposes or promote the care of people who are ageing, have a disability, are Vulnerable Persons or who have other health-related needs;

- (xi) raising funds as required for the furtherance of these purposes in such a manner as is in keeping with the Uniting Church in Australia Regulations;
- (xii) maintaining the financial viability and sustainability of the operations and activities of UnitingCare;
- (xiii) providing and maintaining suitable premises, vehicles, equipment and other resources for the furtherance of these purposes;
- (xiv) establishing or acquiring other bodies or facilities or amalgamate with other bodies in furtherance of these purposes; and
- (xv) building relationships with and assisting other bodies of the Church to enhance and encourage mutual delivery of these purposes.

5.3 For the purposes of section 150(1)(a) of the Corporations Act, it is confirmed that this Constitution requires UnitingCare to pursue charitable purposes only and to apply its income in promoting those purposes.

5.4 The powers of UnitingCare are all the powers as are lawful and required by UnitingCare to give effect to the purposes set out in this clause.

6. No profits for members

6.1 The assets and income of UnitingCare will only be applied towards the promotion of the purposes set out in clause 5, and UnitingCare will not be carried on for the profit or gain of the Member or any member of the Church, neither while it is operating nor on a winding up.

6.2 No income or assets (whether in money, property or other benefits) will be paid, distributed or transferred directly or indirectly to any Member of UnitingCare, or any Director, Secretary, employee or contractor (including by way of bonus, dividend or other similar payment) except, for payments to such a person as genuine compensation for services provided to, or reimbursement of reasonable expenses incurred on behalf of, UnitingCare, payments, distributions or transfers as may be permitted by the Applicable Not-for-Profit Laws or as provided in clause 6.3.

6.3 Nothing in this clause 6 prevents the payment, in good faith, of an amount, calculated on arms-length terms to any person, in respect of:

- (a) bona fide remuneration payable to the person as an employee of UnitingCare for services actually rendered to UnitingCare;
- (b) goods, services or other assistance actually supplied to UnitingCare in the ordinary and usual course of that person's business;
- (c) interest (at a rate not exceeding interest at the rate for the time being charged by the Church's bankers for overdrawn accounts) on money borrowed from the person;
- (d) rent for premises demised or let by the person to UnitingCare;
- (e) payment to a person in their capacity as a Director, under clause 28; or
- (f) payments in the course of carrying out the purpose set out in clause 5.

7. Receipts

7.1 If UnitingCare accepts a gift, contribution or donation of money or property, UnitingCare must issue receipts if and as required by, and otherwise comply with, all applicable laws in relation to any such gift, contribution or donation, including without limitation the Applicable Not-for-Profit Laws.

7.2 UnitingCare may seek gifts, contributions or donations of money or property from the public.

Membership

8. Members

- 8.1 The number of Members of UnitingCare is limited to one.
- 8.2 The Member of UnitingCare is UCAPT(Q.), if its membership has not ceased pursuant to clause 9.
- 8.3 There is no membership fee.

9. Ceasing to be a Member

- 9.1 A Member's membership of UnitingCare will cease if the Member gives the Secretary written notice of resignation, from the date of receipt of that notice by the Secretary.
- 9.2 The Board cannot terminate or suspend the membership of UCAPT(Q.) as the sole member of UnitingCare.

10. Powers of attorney

- 10.1 If the Member executes or proposes to execute any document or do any act by or through an attorney which affects UnitingCare or the Member's membership in UnitingCare, that Member must deliver the instrument appointing the attorney to UnitingCare for notation.
- 10.2 If UnitingCare asks the Member to file with it a certified copy of the instrument for UnitingCare to retain, the Member will promptly comply with that request.
- 10.3 UnitingCare may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

11. Representatives of bodies corporate

- 11.1 Any Member that is a body corporate may appoint an individual as its representative as provided by the Corporations Act.
- 11.2 The appointment of a Representative may set out restrictions on the Representative's powers.
- 11.3 The appointment of a Representative may be a standing appointment and by reference to a position held.
- 11.4 A Member can appoint more than one Representative but only one Representative can exercise the rights of the Member at any time unless otherwise provided by the terms of the appointment.
- 11.5 The original form of appointment of a Representative, a certified copy of the appointment, or a certificate of the body corporate evidencing the appointment of a Representative is prima facie evidence of a Representative having been appointed.

Written resolutions

12. Written resolutions

- 12.1 UnitingCare may pass a resolution without a general meeting being held if all 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. The resolution is passed when the last Member signs.
- 12.2 For the purposes of clause 12.1, separate copies of a document may be used for signing by Members if the wording is identical in each copy.
- 12.3 If UnitingCare has one Member, UnitingCare may pass a resolution by the Member recording it and signing the record.
- 12.4 Any document referred to in this clause may be in the form of a facsimile or electronic transmission or notification.
- 12.5 Any written resolution passed in accordance with this clause satisfies any requirement in this Constitution or in the Corporations Act (to the extent permitted by the Corporations Act) that the resolution be passed at a general meeting (or by a special resolution).

Appointment and removal of Directors

13. Number of Directors

- 13.1 There will be at least 8 and not more than 12 Directors (plus the CEO if the CEO is a Director) being:
 - (a) the person occupying the office of the General Secretary;
 - (b) the person occupying the office of Moderator;
 - (c) if determined by the Synod, upon the recommendation of the Board, the CEO; and
 - (d) other persons duly appointed by the Synod.
- 13.2 If the number of Directors is reduced below 8, the continuing Directors may act despite any vacancy on the Board but the continuing Board must advise the Synod and request the appointment of additional Directors.
- 13.3 The Synod may:
 - (a) increase the number of Directors; and
 - (b) subject to this Constitution, determine what, if any, terms apply to the appointment of any Director.
- 13.4 Directors, other than the General Secretary and Moderator, are appointed for a period of 3 years, except:
 - (a) for an initial Director who was a member of the board of the unincorporated entity known as UnitingCare Queensland at the date of registration of UnitingCare, who is appointed until expiry of the term of 3 years to which they were appointed as a member of the board of UnitingCare Queensland; and
 - (b) where a lesser period is specified at the time of their appointment,but, subject to this Constitution, can be reappointed by the Synod.
- 13.5 A person, other than the General Secretary and Moderator, may not be reappointed by the Synod after the expiry of 3 consecutive terms (including consecutive completed terms as a member of the unincorporated entity known as UnitingCare Queensland at the date of registration of

UnitingCare) or, if circumstances warrant and the express approval of the Synod for an extension in relation to that person, 4 consecutive terms, until a period of 3 years has passed since they were last a Director.

- 13.6 Director appointments shall be made in accordance with applicable Synod By-laws and policies relating to the appointment of board members to institutions established by the Synod.

14. Initial Directors

- 14.1 The initial Directors of UnitingCare are the persons who have consented to act as directors and are set out in UnitingCare's application for registration as a company. Those persons hold office subject to this Constitution.

15. Eligibility

- 15.1 A Director need not be a Member.

- 15.2 The eligibility requirements for appointment as a Director are that a person appointed must:

- (a) be at least 18 years of age;
- (b) not be a person of unsound mind or is not a person whose person or estate is liable to be dealt with in any way under any law relating to mental health;
- (c) not be a person who has been convicted of an indictable offence against a law of Australia or a foreign country;
- (d) not be a person who is disqualified from managing a corporation within the meaning of part 2D.6 of the Corporations Act;
- (e) not be a person who is, or at any time within the preceding 12 months has been, disqualified by the Commissioner of the Australian Charities and Not-for-profits Commission from being the responsible entity of a registered entity within the meaning of the ACNC Act;
- (f) be a person who is suitable to be key personnel under the *Aged Care Quality and Safety Commission Act 2018* (Cth) (**ACQSC Act**);
- (g) be a person who is suitable to be key personnel under the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rule 2018* (Cth) (**NDIS Rule**); and
- (h) meet any other requirements prescribed from time to time by the Synod in a By-law or a board and committee nomination policy.

- 15.3 The Board shall make recommendations to the Synod in relation to appointments of Directors in accordance with the applicable policies of the Synod relating to appointment of board members of institutions of the Church, having regard to achieving a balance within the Board in terms of:
- (a) ensuring an appropriate balance of such skills, experience and competencies amongst the Board as is determined by the Board to be desirable for the governance of UnitingCare;
 - (b) ensuring that the Board includes one or more persons holding each qualification or experience required of the Directors by any legislation or other requirement regulating the activities or services of UnitingCare;
 - (c) ensuring that a majority are members of the Church or another Christian church; and
 - (d) ensuring diversity amongst the Board having regard to the work of UnitingCare and its range of stakeholders.

16. Period of office

- 16.1 A Director will continue to hold office until he or she is removed from office under clause 17.1 or his or her office is vacated under clause 18.1.

17. Suspension and removal of Directors

- 17.1 The Synod may remove any Director, other than the General Secretary, Moderator or CEO, from office provided that person is first given the opportunity to present his or her case, orally and/or in writing (at the discretion of the Synod).
- 17.2 Pending the resolution of the removal from office process, the Moderator may suspend the Director from their duties if they consider it in the best interests of the Church.
- 17.3 The Synod may appoint a person to take the place of any person removed as a Director.
- 17.4 The term of appointment of a Director appointed under clause 17.3 continues until the person who was removed from office would have been required to retire pursuant to this Constitution if he or she had not been removed.

18. Vacation of office

- 18.1 The office of a Director immediately becomes vacant:
- (a) on expiry of the term of their appointment;
 - (b) if the Director is prohibited by the Corporations Act or the ACNC Act (while UnitingCare is a Registered Entity) from holding office or continuing as a Director or otherwise ceases to satisfy any eligibility requirement in clause 15.2;
 - (c) if the Director becomes bankrupt or makes any arrangement or composition with their creditors generally; or
 - (d) if the Director dies.
- 18.2 Unless the Member otherwise provides, the office of a Director becomes vacant 14 days after:
- (a) the person, in the case of a CEO appointed as a Director pursuant to this Constitution, ceases to hold the position as CEO;
 - (b) the person, in the case of a General Secretary or Moderator, ceases to hold their relevant office; or
 - (c) the Director is absent from 3 consecutive Board meetings, without leave of absence from the Board.

Powers and duties of Directors

19. Powers and duties of Directors

- 19.1 The business of UnitingCare is managed by the Directors who may exercise all powers of UnitingCare that this Constitution and the Corporations Act do not require to be exercised by UnitingCare in general meeting.
- 19.2 The Directors are subject to and must comply with duties owed at law, including but not limited to the duties prescribed by the ACNC Governance Standards or other Applicable Not for Profit Laws.
- 19.3 All Directors must exercise their powers and discharge their duties with the degree of care and diligence that a reasonable person would exercise if they were a Director.

- 19.4 Without limiting the generality of clause 19.1, the Board may exercise all the powers of UnitingCare to:
- (a) borrow money;
 - (b) charge any property or business of UnitingCare;
 - (c) issue debentures or give any other security for a debt, liability or obligation of UnitingCare or of any other person; and
 - (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.
- 19.5 This Constitution does not authorise any Director, in the course of their duties as a Director of UnitingCare, to act in good faith in the best interests of the Member, while the Member is sole member of UnitingCare and is not an approved provider under the *Aged Care Act 1997* (Cth) and UnitingCare is such an approved provider.

20. Delegation

- 20.1 The Board may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board or this power to delegate, to:
- (a) a committee in accordance with clause 21;
 - (b) a Director;
 - (c) an employee of UnitingCare; or
 - (d) any other person.
- 20.2 A committee or person to which any powers have been delegated may be authorised to sub-delegate all or any of the powers for the time being vested in it.
- 20.3 The Board may at any time revoke any delegation of power.

21. Committees

- 21.1 The Board may appoint one or more committees consisting of such Directors, or others as the Board thinks fit.
- 21.2 Such members of the committees who are not Directors shall consist of members who, in the opinion of the Board, best represent the mix of skills and experience required to undertake the responsibilities of the Committee which are not available through the Directors.
- 21.3 The Board may appoint any Director of a Committee as chairperson of that Committee.
- 21.4 In the exercise of any powers delegated to it, a Committee must:
- (a) conform to the directions of the Board;
 - (b) report to the Board; and
 - (c) otherwise conduct its meetings and proceedings in accordance with the provisions of this Constitution, as far as practicable, as if they were meetings and proceedings of the Board.

Proceedings of Directors

22. Board meetings

- 22.1 Subject to this Constitution and the UnitingCare By-laws, the Board may meet for the dispatch of business and regulate its meetings as it thinks fit.

- 22.2 The Board must meet at least 6 times in each financial year.
- 22.3 Any 3 Directors may request the convening of a meeting of the Board at any time on reasonable notice.
- 22.4 Notice of each Board meeting must be given to each Director at least 72 hours before the meeting or otherwise as determined by the Board, except all Directors may waive in writing the required period of notice for a particular meeting. Notice of a Board meeting may be given to a Director by ordinary pre-paid express post, delivery, facsimile transmission or e-mail to any other address, facsimile number or e-mail address given by the Director to the Secretary for that purpose (unless and until the Director informs the Secretary that he or she may not be contacted at that address, facsimile number or e-mail address). Accidental omission to send notice to any Director or non-receipt of notice does not invalidate the proceedings of any meeting.
- 22.5 A Board meeting may be held using any technology consented to by Directors if all Directors are able to be heard and understood throughout the meeting. The consent may be a standing one. A Director may only withdraw their consent within a reasonable time before the meeting.
- 22.6 A quorum for the purposes of a Board meeting is half the then number of Directors, rounded up, if not a whole number, to the nearest whole number. The quorum must be present at all times during the meeting.
- 22.7 If a quorum is not present within 30 minutes from the time appointed for a Board meeting or a longer period allowed by the chairperson:
- (a) the meeting must be 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 chairperson may determine; and
 - (b) if at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the meeting lapses.

23. Decision on questions

- 23.1 Subject to this Constitution, questions arising at a meeting of the Board are to be decided by a majority of votes of the Directors present and voting.
- 23.2 Subject to clause 29 and the Corporations Act, each Director has one vote.
- 23.3 If there is an equality of votes, the chairperson of a meeting does not have a casting vote in addition to their deliberative vote, and the question is decided in the negative.

24. Chair and Deputy Chair

- 24.1 The Synod must in consultation with the Directors appoint a Director as the chair of the Board.
- 24.2 A person appointed as chair holds that office until:
- (a) the expiration of that person's then current term of office as a Director;
 - (b) the person ceases to be a Director in accordance with this Constitution;
 - (c) the person resigns from the office of chair by written notice to the Synod and the Board; or
 - (d) the Synod removes the person from the office of chair.
- 24.3 The Board may from time to time by ordinary resolution elect from amongst their own number a deputy chair and may by ordinary resolution remove a person as deputy chair at any time.
- 24.4 The chair shall preside as chairperson at every Board meeting or, in absence of the chair, the deputy chair (if any) shall preside at any such meeting.

- 24.5 The Directors present at a meeting must elect one of their number present to chair the meeting if any of the following apply:
- (a) the chair is not present within 15 minutes after the time appointed for the holding of the meeting and there is also no deputy chair present; or
 - (b) the chair is not willing to act for any reason and there is no deputy chair present.

25. Written resolutions

- 25.1 The Board may pass a resolution without a Board meeting being held if all the Directors 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. The resolution is passed when the last Director entitled to vote signs.
- 25.2 For the purposes of clause 25.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 25.3 Any document referred to in this clause may be in the form of a facsimile or electronic transmission or notification.

26. Validity of acts of Directors

- 26.1 If it is discovered that:
- (a) there was a defect in the appointment of a person as a Director or member of a Board committee; or
 - (b) a person appointed to one of those positions was disqualified,
- all acts of the Board or committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

27. Minutes and Registers

- 27.1 The Board must cause minutes to be made of:
- (a) the names of the Directors present at all Board meetings and meetings of Board committees;
 - (b) all proceedings and resolutions of Members, Board meetings and meetings of Board committees;
 - (c) all resolutions passed by Members in accordance with clause 12 or the Corporations Act;
 - (d) all resolutions passed by Directors in accordance with clause 25;
 - (e) all appointments of officers;
 - (f) all orders made by the Directors and Directors' committees; and
 - (g) all disclosures of interests made under clause 29.
- 27.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body, and if so signed will as between the Directors be conclusive evidence of the matters stated in such minutes.
- 27.3 UnitingCare must keep all registers required by this Constitution, the UnitingCare By-laws or the Corporations Act.

Payments to Directors and Directors interests

28. Payments to Directors

28.1 No payment will be made to any Director of UnitingCare other than payment:

- (a) of remuneration as a director in accordance with relevant Synod By-laws and policies as determined from time to time;
- (b) of travel, accommodation and other out of pocket expenses reasonably and properly incurred by the Director in the performance of any duty as Director of UnitingCare provided that such expenses have first been approved by the Board pursuant to all applicable Synod By-laws and policies relating to remuneration of Directors;
- (c) for any service rendered to UnitingCare by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service, and the amount payable, has the prior approval of the Board and is not more than an amount which commercially would be reasonable payment for the service;
- (d) of any reasonable and proper salary or wage due to the Director as an employee of UnitingCare where the terms of employment have been approved by the Board; and
- (e) relating to an indemnity in favour of the Director and permitted by section 199A of the Corporations Act or a contract of insurance permitted by section 199B of the Corporations Act.

29. Directors' interests

29.1 As required by the Corporations Act, a Director must give the Board notice of any material personal interest in a matter that relates to the affairs of UnitingCare.

29.2 Subject to the provisions of this clause 29, a Director or a body or entity in which a Director has a direct or indirect interest may:

- (a) enter into any agreement or arrangement with UnitingCare;
- (b) hold any office or place of profit other than as Auditor; and
- (c) act in a professional capacity other than as Auditor,

and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with UnitingCare or from holding an office or place of profit in or acting in a professional capacity with UnitingCare.

29.3 The fact that a Director holds office as a director, and has fiduciary obligations arising out of that office:

- (a) will not void or render voidable a contract made by a Director with UnitingCare;
- (b) will not void or render voidable a contract or arrangement entered into by or on behalf of UnitingCare and in which the Director may have any interest; and
- (c) will not require the Director to account to UnitingCare for any profit realised by or under any contract or arrangement entered into by or on behalf of UnitingCare and in which the Director may have any interest.

29.4 A Director may be or become a director or other officer of, or otherwise be interested in:

- (a) any related body corporate of UnitingCare; or
- (b) any other body corporate promoted by UnitingCare or in which UnitingCare may be interested as a vendor, shareholder or otherwise,

and is not accountable to UnitingCare for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.

- 29.5 A Director who has a material personal interest in a matter that is being considered at a Board meeting must not:
- (a) be present while the matter is being considered at the meeting; or
 - (b) vote on the matter,
- unless permitted to do so by the Corporations Act, in which case the Director may:
- (c) be counted in determining whether or not a quorum is present at any Board meeting considering that contract or arrangement or a proposed contract or arrangement;
 - (d) sign or countersign any document relating to that contract or arrangement or a proposed contract or arrangement; and
 - (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

30. Conflicts of interest

- 30.1 In addition to clause 29.5, the Board shall, to the extent required by any applicable law, establish a mechanism for dealing with any conflicts of interest that may occur involving a Director, officer or employee of UnitingCare.

31. Appointment of attorneys and agents

- 31.1 The Board may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint any person to be the attorney or agent of UnitingCare:
- (a) for the purposes;
 - (b) with the powers, authorities and discretions (not exceeding those exercisable by the Board under this Constitution);
 - (c) for the period; and
 - (d) subject to the conditions,
- determined by the Board.
- 31.2 An appointment by the Board of an attorney or agent of UnitingCare may be made in favour of:
- (a) any company;
 - (b) the members, directors, nominees or managers of any company or firm; or
 - (c) any fluctuating body of persons whether nominated directly or indirectly by the Board.
- 31.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Board thinks fit.
- 31.4 The Directors may appoint attorneys or agents by electronic, facsimile or telegraphic transmission to act for and on behalf of UnitingCare.
- 31.5 An attorney or agent appointed under this clause may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in it.

32. Secretary

- 32.1 Unless not required by the Corporations Act, there must be at least one secretary of UnitingCare who ordinarily resides in Australia appointed by the Directors on conditions determined by them and this Constitution.
- 32.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.

- 32.3 The Directors may, subject to the terms of the Secretary's employment contract (if any), terminate the Secretary.

33. Records

- 33.1 The Board must:
- (a) make and keep minutes and records in accordance with generally accepted governance practice; and
 - (b) allow a delegate of the Synod to inspect the minutes of Board meetings upon written request.
- 33.2 Subject to clause 33.1 and except as otherwise required by the Corporations Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of UnitingCare or any of them will be open for inspection by Members, other than Directors.
- 33.3 Subject to clause 33.4 and except as otherwise required by the Corporations Act, a Member other than a Director does not have the right to inspect any financial records or other documents of UnitingCare, unless the Member is authorised to do so by a court order or a resolution of the Board.
- 33.4 The Secretary, or another UnitingCare officer as determined by the Board, must keep a members' register which any Member may by writing to the Secretary, request to inspect, but such request must not be more than two times a year. In complying with a Member request, the Secretary or other UnitingCare officer with responsibility must make the members' register open for inspection within a reasonable timeframe, but no later than 7 days from the date of the request, and may determine at what times and places and under what conditions the register is viewed.

34. Chief Executive Officer

- 34.1 Subject to the Synod's endorsement, the Board must appoint a person to the position of chief executive officer of UnitingCare for the period and on the terms and conditions (including as to remuneration) as the Board sees fit.
- 34.2 The Board may, upon terms and conditions and with any restrictions it sees fit delegate to and, confer upon the CEO any of the powers that the Board can exercise and may at any time revoke or vary such delegation or conferral.
- 34.3 Subject to Synod's endorsement, the Board may at any time revoke or vary an appointment of the CEO.
- 34.4 The CEO will be responsible to the Board for all strategic and operational matters relating to UnitingCare and for the day to day implementation of the policies and decisions of UnitingCare.

35. Service of notices

- 35.1 Notice may be given by UnitingCare to any person who is entitled to notice under this Constitution:
- (a) by serving it on the person; or
 - (b) by sending it by post, facsimile transmission or electronic notification (or email) to the person at the person's address shown in the Register or the address supplied by the person to UnitingCare for sending notices to the person; or
 - (c) if it is a notice of meeting, by giving it in accordance with section 249J(3) of the Corporations Act.

- 35.2 A notice sent by post is taken to be served:
- (a) by properly addressing, prepaying and posting a letter containing the notice; and
 - (b) on the day after the day on which it was posted.
- 35.3 Subject to the Corporations Act, a notice sent by facsimile transmission or electronic notification is taken to be served:
- (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
 - (b) on the day after its despatch.
- 35.4 If a Member does not have an address recorded in the Register a notice will be taken to be served on that Member 24 hours after it was posted:
- (a) on a notice board at UnitingCare's registered office; or
 - (b) on UnitingCare's website.
- 35.5 A Member whose address recorded in the Register is not in Australia may specify in writing an address in Australia to be taken to be the Member's for the purposes of clause 35.
- 35.6 A certificate in writing signed by a Director, Secretary or other officer of UnitingCare that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 35.7 Subject to the Corporations Act the signature to a written notice given by UnitingCare may be written or printed.
- 35.8 All notices sent by post outside Australia must be sent by prepaid airmail post.

36. Persons entitled to notice

- 36.1 Notice of every general meeting must be given to:
- (a) every Member who is entitled to attend the general meeting;
 - (b) every Director; and
 - (c) any Auditor.
- 36.2 No other person is entitled to receive notice of a general meeting.

37. Common Seal

- 37.1 If UnitingCare has a Seal:
- (a) the Board must provide for the safe custody of the Seal;
 - (b) the Seal must not be used without the authority of the Board or a Board committee authorised to use the Seal;
 - (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Board to countersign the document.

38. Audit and accounts

- 38.1 The Board must cause UnitingCare to keep written financial records in relation to the business of UnitingCare, and to prepare financial documents and reports, in accordance with the requirements of the Corporations Act and any other applicable laws and any requirements of the Member.

- 38.2 The Board must cause the financial records and financial documents of UnitingCare to be audited to the extent required by, and in accordance with the requirements of, the Corporations Act and any other applicable laws by a registered auditor approved by the Member.
- 38.3 The Board must cause proper accounting and other records to be kept in accordance with best practice.
- 38.4 The Board must comply with the requirements of the Member and the Uniting Church in Australia Regulation 3.7.4.7(f)(iii), and the UnitingCare By-laws in respect of reporting and providing accounts and financial statements to the Member.
- 38.5 All monies of UnitingCare must be banked at such bank approved by the Synod, as the Board may from time to time direct.
- 38.6 The Board shall satisfy itself of the safe custody of the relevant books, records, documents, instruments of title and securities of UnitingCare, as applicable.
- 38.7 The Board will provide a copy of the audit report to the Member in accordance with the UnitingCare By-laws or the requirement of the Member.
- 38.8 The Member may by resolution remove the Auditor with the prior approval of Synod and subject to:
- (a) the Member providing UnitingCare and its Auditor prior notice of such intention; and
 - (b) the Corporations Act.

39. Winding up

- 39.1 If UnitingCare is wound up:
- (a) each Member; and
 - (b) each person who has ceased to be a Member in the preceding 12 months, undertakes to contribute to the property of UnitingCare for the:
 - (c) payment of debts and liabilities of UnitingCare (in relation to clause 39.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
 - (d) adjustment of the rights of the contributories amongst themselves,
- in such amount as may be required, not exceeding \$10.00 (and otherwise has no liability for the payment of debts and liabilities of UnitingCare nor obligation to contribute to the property of UnitingCare).
- 39.2 If UnitingCare is wound up, any surplus assets must not be distributed to a Member or a former Member of UnitingCare, unless the Member or former Member is an entity described in clause 39.3.
- 39.3 Subject to clause 40, the Corporations Act, any other applicable Act and any court order, if any surplus assets remain following the winding up of UnitingCare must not be paid to or distributed amongst the Members, but must be given or transferred to a body of the Church or to some other charitable institution:
- (a) which has charitable purposes similar to the purposes of UnitingCare and is endorsed as a charitable institution under Division 50 of the ITAA;
 - (b) whose constituent documents prohibit the distribution of its income and assets among members of the Church on terms substantially to the effect of clause 6.1; and
 - (c) to which gifts and contributions are deductible under division 30 of the ITAA, as determined by the Synod at or before the time of winding up or dissolution of UnitingCare Queensland and, in default of any such determination, by the Assembly of the Church; and

in addition to the requirements of clause 39.3(a), (b) and (c), the surplus assets must be given or transferred:

- (d) to an institution that may be registered under Part 11A of the TAA;
- (e) to an institution the QLD Commissioner is satisfied has a principal object or pursuit that is fulfilling a charitable object or promoting the public good; or
- (f) for a purpose the QLD Commissioner is satisfied is charitable or for the promotion of the public good.

39.4 The entity or entities to which the surplus assets are to be given or transferred under clause 39.3 must be determined by the Members at or before winding up and in default, by application to the Supreme Court of Queensland for determination.

39.5 Where clause 39 applies upon winding up of UnitingCare, any surplus assets, other than those listed in clause 39 must be distributed in accordance with clause 39.3.

40. Ceasing to be a Deductible Gift Recipient Requirements

40.1 Despite clause 39, if UnitingCare ceases to be a deductible gift recipient within the meaning of section 30-227 of ITAA or any reason, including revocation of endorsement under subdivision 30-BA of the ITAA (whether or not UnitingCare is wound up), any surplus Assets after satisfaction of all debts and liabilities must be given or transferred to some other charitable institution or body of the Church (in either case):

- (a) which has charitable purposes similar to the purposes of UnitingCare Queensland;
- (b) whose constituent documents prohibit the distribution of its income and property among members of the Church on terms substantially to the effect of clause 6.1; and
- (c) to which gifts and contributions are deductible under division 30 of ITAA, as determined by the Synod and, in default of any such determination, by the Assembly of the Church.

40.2 In this clause, the following definitions apply:

- (a) Fund-raising Events has the same meaning as in Division 30 of ITAA.
- (b) Deductible Contributions mean contributions described in item 7 or 8 of the table in section 30-15 of the ITAA.
- (c) Assets mean:
 - (i) gifts of money or property for the purposes of UnitingCare;
 - (ii) Deductible Contributions made in relation to a Fund-raising Event held for the purposes of UnitingCare; and
 - (iii) money received by UnitingCare because of such gifts and contributions including any money received because of investment of such gifts and Deductible Contributions.

41. Indemnity

41.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, UnitingCare indemnifies every person who is or has been an officer of UnitingCare against:

- (a) any liability (other than for legal costs) incurred by that person as an officer of UnitingCare (including liabilities incurred by the officer as an officer of a subsidiary of UnitingCare where UnitingCare requested the officer to accept that appointment); or
- (b) reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of UnitingCare (including legal costs incurred by the officer as an officer of a subsidiary of UnitingCare where UnitingCare requested the officer to accept that appointment).

41.2 The amount of any indemnity payable under clauses 41.1(a) or 41.1(b) will include an additional amount (GST Amount) equal to any GST payable by the officer being indemnified (Indemnified Officer) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing UnitingCare with a GST tax invoice for the GST Amount.

41.3 For the purposes of this clause and clause 42, officer means:

- (a) a Director; or
- (b) a Secretary.

42. Insurance

42.1 UnitingCare may pay a premium in respect of a contract insuring a person who is or has been an officer against liability incurred by the person as an officer, except in circumstances prohibited by the Corporations Act.

43. Amendment of this Constitution

43.1 This Constitution may be amended in accordance with the requirements of the Corporations Act.

44. Execution of documents

44.1 UnitingCare may execute a document:

- (a) in accordance with section 127(1) of the Corporations Act;
- (b) if UnitingCare has a Seal, in accordance with section 127(2) of the Corporations Act and clause 37; or
- (c) in any other way approved by the Member and permitted by law.

45. Applicable Not-for-Profit Laws

45.1 UnitingCare will at all times comply with the Applicable Not-for-Profit Laws.