
Constitution

The Cardoner Network

ACN 626 253 487

A public company limited by guarantee

November 2022

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Preamble

The Australian Province of the Society of Jesus ('the Province') undertakes a range of ministries in collaboration with individuals and organisations, both Jesuit and lay, who share the Jesuit spirit of mission.

The Cardoner Network ('the company') facilitates a range of projects, services and accommodation, all of which share the same values and principles based on the Company mission and vision to accompany young adults.

The company has been established to provide and enable accompaniment, training and development services in the Catholic and Jesuit tradition to young adults within Australia and overseas, including those who suffer disadvantage and marginalisation. In doing so, the company shall oversee the implementation of and ongoing adherence to the governing Policies and Procedures of the Province relating to the operations of its ministries and the Statutes and Religious Poverty in the Society of Jesus – Statutes on Poverty and Instruction on the Administration of Goods (**IAG**).

Moreover, the Australian Province of the Society of Jesus ('the Jesuits') organisations should reflect the Constitutions of the Society of Jesus, their Complementary Norms, Decrees of General Congregations, the Australian Jesuit Province Policies and Procedures for Apostolic Work (June 2006) and the Universal Apostolic Preferences, as updated or revised from time to time and other documents relating to the mission.

Jesuit governance is fraternal, spiritual and discerning. The constitution, governance charters and normal operating processes and procedures of such entities should reflect authorised Jesuit documents and be in accord with relevant teachings of the Catholic Church.

The Provincial of the Australian Province of the Society of Jesus ('the Provincial') has issued a commissioning document to the company missioning it to accompany young adults and the Society of Jesus in Australia.

This preamble is included for guidance purposes only and does not form part of this constitution.

Part A – Preliminary matters

1 Defined terms and interpretation

The Dictionary in Schedule 1:

- (a) defines some of the terms used in this constitution;
- (b) sets out the rules of interpretation which apply to this constitution; and
- (c) clarifies the effect of the Corporations Act on this constitution.

2 Nature of company and liability

- (a) The company is a public company limited by guarantee which is established to be, and to continue as, a charity.

- (b) The liability of each member is limited. The member guarantees to contribute up to a maximum of \$10.00 to the assets of the company if it is wound up while the member is a member, or within one year afterwards, and at the time of winding up the debts and liabilities of the company exceed its assets. The liability of the member is limited to making such contribution and no more.

Part B – Purpose

3 Purpose and activities of the company

3.1 Purpose

Being mindful at all times of the emphasis in Saint Ignatius' spirituality that each person be able to live a full and free life, the purpose of the company is to relieve the poverty, disability, marginalisation, hardship or misfortune of, and improve social inclusion and economic outcomes for, disadvantaged individuals and communities (**Charitable Purpose**).

3.2 Activities

- (a) The activities of the company must be conducted in the furtherance of its Charitable Purpose and may include:
- (i) carrying out, supporting or facilitating programs to engage communities (locally, nationally and internationally) in undertakings that express a recognition and respect for excluded and disadvantaged persons, particularly youth and young adults;
 - (ii) carrying out, supporting or facilitating programs to improve social inclusion and economic outcomes for economically disadvantaged and marginalised individuals and communities;
 - (iii) supporting, providing or developing social enterprise, support services and programs that assist disadvantaged individuals, particularly youth and young adults, their families and carers;
 - (iv) studying and researching to improve social inclusion and economic outcomes for economically disadvantaged and marginalised individuals and communities;
 - (v) providing accommodation for those partaking in the education, training, and volunteering programs of the Company as well as providing low cost accommodation to young adults undertaking education to offer them an opportunity to grow and develop into their full potential, living their lives with integrity and concern for the other.
 - (vi) carrying out education and training sessions for those persons staying at the accommodation and other interested young adults.
 - (vii) raising of financial and other resources to support the Charitable Purpose and activities of the company; and
 - (viii) any other activities ancillary to or necessary for the fulfilment of the Charitable Purpose.

- (b) The activities of the company must comply with the constitutions of the Society of Jesus and the Complementary Norms, Statutes of the Society of Jesus, the IAG and other provisions of universal or proper canon law of the Catholic Church, as may have force in the Society of Jesus from time to time.

Part C – Member and membership

4 Membership

4.1 Sole member of the company

The sole member of the company is The Society of Jesus in Australia Limited (ABN 21 628 088 979) or such other replacement entity as determined by the sole member from time to time.

4.2 Membership is transferable

Membership of the company and the associated rights may, by declaration of the sole member, be transferred in any manner whatsoever, to another Province entity for the purpose of an internal restructure, provided that the new member first agrees in writing to be bound by this constitution and to the liability limit stated at rule 2(b).

4.3 Membership fees

- (a) The joining fee for membership of the company is \$0 or such other amount as may be determined by the member from time to time.
- (b) The annual membership fee for membership of the company is \$0 or such other amount as may be determined by the member from time to time.
- (c) The joining fee and annual membership fee that may be required under this rule 4.3 are exclusive of any GST that may be payable.

4.4 Resolutions of single member company

The company may pass a resolution by the sole member recording it and signing the record. That record is to be taken as a minute of the passing of that resolution.

Part D – Not-for-profit

5 No profits for member

- (a) Subject to rule 5(b), the assets and income of the company must be applied solely in furtherance of the Charitable Purpose and no portion of the income or assets of the company may be paid or transferred, directly or indirectly, to the member.
- (b) The company may, with the approval of the directors, make payment in good faith to the member of the company:
 - (i) by way of reasonable and proper payment for any goods supplied or services rendered to the company (including payment as a consultant);

- (ii) by way of interest on money lent to the company by the member at a reasonable and proper rate per annum not exceeding the rate for the time being charged by the company's bankers on overdrawn accounts;
 - (iii) by way of reasonable and proper rent for premises let by the member to the company;
 - (iv) as a result of the member's participation in a social bond, or similar, program of the company;
 - (v) by way of distribution to the member, but only if the member is an Eligible Recipient; and
 - (vi) for authorised out-of-pocket expenses reasonably and properly incurred by the member in connection with the affairs of the company.
- (c) For the avoidance of doubt, nothing in this rule 5:
- (i) prevents the member from receiving such services as may ordinarily be provided by the company in the course of undertaking its activities; or
 - (ii) prohibits the member from receiving a benefit that is directly related to membership of the company.

Part E – Directors, Chief Executive Officer and Rector

6 Directors

6.1 Number of Directors

- (a) The minimum number of directors is three. Subject to rule 6.2, the maximum number of directors is nine or such other number as determined by the member.
- (b) If at any time there are less than three directors, the remaining director or directors must:
 - (i) immediately notify the member that there are less than three directors; and
 - (ii) if the member fails to appoint a sufficient number of directors to reach or exceed three directors within a reasonable time in the circumstances, appoint such number of directors as are required to bring the number of directors to three.

6.2 Appointment and removal of directors

- (a) So long as doing so does not exceed the maximum number of directors permitted under rule 6.1(a), the member may, in accordance with rule 4.4:
 - (i) appoint any natural person to be a director of the company; and
 - (ii) may, at the time of appointment, determine that director's term of office.
- (b) A person is eligible for appointment as a director in accordance with rule 6.2(a) if that person:

- (i) gives the company a signed consent to act as a director;
 - (ii) is not ineligible to be a director under the Corporations Act or the ACNC Act;
 - (iii) is not the Rector; and
 - (iv) is not an employee, including the Chief Executive Officer, of the company.
- (c) Each director is to remain as a director until that person's term of office (if any) expires or until that person resigns or is otherwise removed as a director in accordance with the law and this constitution.
- (d) A person who holds, or has held, the position of director is not restricted in how many terms of office that person may serve, and is, subject to the law and this constitution, eligible for reappointment.
- (e) The member may remove and replace one or more directors which, for the avoidance of doubt, includes the removal and replacement of all directors at the same time.

6.3 Ceasing to be a director

- (a) In addition to the circumstances prescribed by law (including the Corporations Act and the ACNC Act), the office of any director becomes vacant if the director dies or, unless the directors otherwise resolve to confirm the director's position, if the director:
- (i) is, due to physical or mental impairment, unable to properly perform the duties of a director, as determined by a suitably qualified professional acting reasonably;
 - (ii) becomes bankrupt;
 - (iii) is convicted of an indictable offence;
 - (iv) is or becomes a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW); or
 - (v) is not present at meetings of the directors for a continuous period of six months without leave of absence from the directors.
- (b) Nothing in rule 6.3(a) prevents a director from vacating their office if the director resigns by notice in writing to the company.

6.4 Payments to directors

- (a) Directors must not receive any payment for acting as a director but, subject to rule 6.4(b), are entitled to:
- (i) be reimbursed for all reasonable authorised travelling and other expenses properly incurred by them in connection with the affairs of the company, including attending and returning from general meetings of the company, meetings of the directors and meetings of committees; and

- (ii) receive payment for any goods supplied or services rendered to the company (other than as a director), as long as the amount is proper and reasonable in the circumstances.
- (b) Notwithstanding anything else in this constitution, no payment of any kind which is permitted to be paid to a director by this constitution can be made by the company to a director until that payment is approved by:
 - (i) the directors; or
 - (ii) such other person or persons to whom the directors may have delegated such authority in a way consistent with rule 6.14 or rule 6.15.

6.5 Interested directors

- (a) A director may be a director or other officer of:
 - (i) a related body corporate;
 - (ii) a body corporate promoted by the company; or
 - (iii) a body corporate in which the company is interested, as shareholder or otherwise.
- (b) No contract or other arrangement made between a director and the company is voided merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (c) Each director must disclose all personal interests and other matters that could, or do, give rise to a conflict of interest in relation to a matter or decision being considered by the directors.
- (d) Where a director has a material personal interest in a matter to be considered at a meeting, that director must not be present while the matter is being considered at the meeting or vote on the matter, unless the directors who do not have a material personal interest pass a resolution in accordance with the Corporations Act which permits that director to do so.
- (e) Subject to rule 6.5(f), a director who is in any way interested in an arrangement (other than by having a material personal interest) may, despite that interest, be counted in determining whether a quorum is present at any meeting of directors considering that arrangement.
- (f) Rule 6.5(e) does not apply to the extent that it would be contrary to law.

6.6 Powers and duties of directors

- (a) Subject to any decisions (or types of decisions) that are required to be determined by the member (as described at Schedule 2), the directors are responsible for the governance, business and affairs of the company and may exercise all the powers of the company which are not required by the law or this constitution to be exercised by the member.
- (b) Without limiting the powers and duties under rule 6.6(a), the directors:

- (i) **Formation:** must be supportive of the mission and values of the Catholic Church and the Society of Jesus and engage with formative experiences pertaining to this mission;
- (ii) **Activities:** must ensure that the company's activities are conducted in the Jesuit tradition of such character as may from time to time be specified by the Provincial;
- (iii) **Provision of information:** must provide the member with all information, material and documents as the member may request from time to time. Requests for information, material and documents may be contained within policies, procedures and protocols as determined by the member from time to time and may be made on a standing on-going basis or as a one-off request;
- (iv) **Chief Executive Officer:** are:
 - (A) subject to the approval by the member, the directors are responsible for the employment or appointment, reappointment, suspension and removal of the Chief Executive Officer;
 - (B) responsible for determining the terms and conditions of the employment of the Chief Executive Officer; and
 - (C) responsible for the management, performance and disciplining of the Chief Executive Officer;
- (v) **Rector:** must ensure that the Rector properly performs his role and notify the Provincial if any matters of concern arise;
- (vi) **Appointing and terminating company staff:** may, subject to rule 6.6(b)(iv), employ (or otherwise appoint), suspend or terminate any staff of the company and may delegate this power to the Chief Executive Officer;
- (vii) **Use of standard agreements:** when engaging a supplier, an employee, consultant or volunteer, must ensure that any form of agreement provided by the member for that purpose is used, and that such agreement is not amended or otherwise modified without the prior written approval of the member. Written approval may be contained in directives, policies, procedures and protocols in relation to the engagement of suppliers and personnel as provided by the member from time to time;
- (viii) **Operation and management of the company:** may, in consultation with the Chief Executive Officer, make, revoke and amend rules for the operation and management of the company so long as such rules are consistent with this constitution, the law and in accordance with any directives, policies, procedures and protocols that the member may issue from time to time; and
- (ix) **Insurance:** must keep in force such policies of insurance as would ordinarily be desirable for a company undertaking the types of activities conducted by the company and such other insurance as the member may direct from time to time.

- (c) The directors must comply with their duties as directors under legislation, the common law and with the duties described in Governance Standard 5 of the regulations made under the ACNC Act which are:
 - (i) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the company;
 - (ii) to act in good faith in the best interests of the company and to further the Charitable Purpose;
 - (iii) not to misuse their position as a director;
 - (iv) not to misuse information that they gain in their role as a director;
 - (v) to disclose any perceived or material conflicts of interest;
 - (vi) to ensure that the financial affairs of the company are managed responsibly; and
 - (vii) not to allow the company to operate while insolvent.
- (d) If the company has only one member and that single member is a body corporate, any director may act in the best interests of that body corporate member in a way permitted by the law.

6.7 Directors' meetings

- (a) The directors may hold meetings (including by technological means) for the conduct of business and regulate them as they think fit.
- (b) The directors should meet as often as required for the proper discharge of their directors' duties and in any event no less than four times per year.

6.8 Convening of meetings of directors

A meeting of directors may be convened by the member, the chair or any two of the directors.

6.9 Notice of directors' meetings

- (a) Notice of a directors' meeting must be given to each current director (other than a director on leave of absence approved by the directors), the member, the Provincial, Chief Executive Officer and the Rector (if any).
- (b) A notice of a directors' meeting must:
 - (i) be given in a way permitted by rule 13;
 - (ii) specify the time and place of and, if relevant, the form of technology for, the meeting;
 - (iii) state the nature of the business to be transacted at the meeting; and
 - (iv) be provided with sufficient time for the directors to properly consider the subject matter contained within the notice and any accompanying materials.

- (c) A resolution passed at a directors' meeting is not invalid just because a director did not receive notice of the meeting provided that:
 - (i) the notice was not received because of accident or error;
 - (ii) before or after the meeting, the director notifies the company of their agreement to the resolution; or
 - (iii) the director attended the meeting.
- (d) The member (through its Representative) and the Provincial (or a representative nominated by the Provincial from time to time) are entitled to attend any meeting of the directors and may speak, but not vote, at any meeting.
- (e) The Chief Executive Officer and the Rector are each entitled to attend any meeting of directors other than meetings called to:
 - (i) review that individual's conditions of appointment, which may include salary;
 - (ii) review the performance by that individual of their duties; or
 - (iii) address a dispute between the Chief Executive Officer and the Rector, unless one or both of the individuals is invited by the chairperson to attend such a meeting.
- (f) The chairperson may also direct the Chief Executive Officer or the Rector not to attend other meetings (either in whole or in part) if the directors determine that doing so is in the best interests of the company.
- (g) The Chief Executive Officer and the Rector may each speak, but not vote, at directors' meetings.

6.10 Quorum for directors' meetings

- (a) No business may be transacted at a directors' meeting unless there is a quorum of directors at the time the business is dealt with.
- (b) A quorum consists of a majority of current directors.
- (c) For the avoidance of doubt:
 - (i) a director is present at a meeting if participating by technological means such as by telephone; and
 - (ii) the member Representative, the Provincial (or a representative nominated by the Provincial from time to time), Chief Executive Officer and the Rector are not to be counted towards quorum.
- (d) If a quorum is not present within 30 minutes after the time appointed for the meeting, then, without prejudice to the right of those present to discuss but not to vote on any matter, the meeting will be dissolved or stand adjourned to such time, date and place as those present at the meeting decide.

6.11 Chairperson and deputy chairperson

- (a) The member must appoint a director to the office of chairperson and may appoint a different director to the office of deputy chairperson and may determine the chairperson and deputy chairperson's term of office.
- (b) The member may remove a director from the office of chairperson and deputy chairperson at any time but doing so does not of itself remove that person as a director.
- (c) A person may only fill the office of chairperson or deputy chairperson for so long as that person is a director of the company.
- (d) The chairperson must preside as chair at each directors' meeting unless he or she is unable to attend or unwilling to act.
- (e) If the chairperson is unable to attend a directors' meeting or unwilling to act, then the deputy chairperson, if one has been appointed, must preside as chair of that meeting.
- (f) If both the chairperson and deputy chairperson are unable to attend a directors' meeting or are unwilling to act, then the directors present at that meeting must elect a person from those directors present to preside as the chair for that meeting.

6.12 Decisions of directors

- (a) A directors' meeting at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under the law and this constitution.
- (b) Questions arising at a directors' meeting are to be decided by a majority of votes cast by the directors present and a decision of that kind is for all purposes a determination of the directors.
- (c) If there are an equal number of votes cast for and against a resolution at a directors' meeting, then the chair may exercise a second or casting vote in addition to any vote the chair may have as a director of the company.

6.13 Decisions without meetings

Directors may pass resolutions outside of a directors' meeting in any manner (including through the use of technology) so long as such manner complies with:

- (a) the law; and
- (b) any policies and procedures relating to the passing of director resolutions as determined by the directors from time to time.

6.14 Committees

- (a) So long as doing so is consistent with any directives, policies, procedures or protocols as the member may have issued from time to time relating to committees, the directors may resolve to:
 - (i) establish one or more committees consisting of such persons as they determine;

- (ii) delegate to each committee such of their powers required for the effective and efficient running and administration of the committee;
 - (iii) revoke any or all of the powers delegated to each committee and vary the nature and scope of the powers delegated; and
 - (iv) change the makeup of a committee at any time or dissolve it all together.
- (b) A committee must be conducted, and exercise the powers delegated to it, in accordance with any directions of the directors which, for the avoidance of doubt, may be contained within policies, terms of reference, guidelines or protocols.
 - (c) The directors may continue to exercise all of their powers despite any delegation made under this rule.

6.15 Delegation to individuals

- (a) So long as doing so is consistent with any directives, policies, procedures or protocols as the member may have issued from time to time relating to delegations to individuals, the directors may resolve to delegate any of their powers to such individual or individuals as they so determine including:
 - (i) to one or more directors; or
 - (ii) to one or more employees.
- (b) The directors may delegate their powers for such time as they determine and may revoke or vary any power so delegated.
- (c) A person to whom any powers have been delegated must exercise the powers delegated in accordance with any directions of the directors.
- (d) The directors may continue to exercise all of their powers despite any delegation.
- (e) A delegation under this rule need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of a specified office or position.

6.16 Validity of acts

An act done by a director or by a meeting of the directors or a committee attended by a director is not invalid just because:

- (a) of a defect in the appointment of the director;
- (b) the person is disqualified from being a director or has vacated office; or
- (c) the person is not entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, when the act was done.

7 Secretaries

- (a) The member must appoint at least one secretary who may be, but does not need to be, a director.
- (b) The appointment of a secretary may be for the period, on the conditions and, subject to rule 7(c), at the remuneration as the member determines.
- (c) A director may not be remunerated in their capacity as secretary.
- (d) Subject to any contract between the company and the relevant secretary, a secretary of the company may be removed or dismissed by the directors at any time, with or without cause. If that person is a director, such removal or dismissal does not remove that person from office as a director.
- (e) The duties of the secretary include, but are not limited to:
 - (i) ensuring that the necessary registers required by the law are established and properly maintained;
 - (ii) ensuring that any required annual returns and annual reports are lodged with the appropriate regulator on time; and
 - (iii) ensuring the organisation of, and attendance at, meetings of the member and the directors, including the sending out of notices, the preparation of agenda and the compilation of minutes.
- (f) An act done by a person acting as a secretary is not invalid just because:
 - (i) of a defect in the person's appointment as a secretary; or
 - (ii) the person is disqualified from being a secretary,

if that circumstance was not known by the person when the act was done.

8 Provincial

- (a) Subject to rule 8(b), the Provincial may at any time give to the directors, and the directors must comply with, guidance and direction in such matters as he deems appropriate to ensure the company has the character of an organisation in the Jesuit tradition and to ensure that all religious worship and instruction is carried on in accordance with the doctrine, rites and practices of the Catholic Church.
- (b) The Provincial may delegate such of his powers described at rule 8(a) to the member as he so determines from time to time, in which case the member may exercise those powers to the extent of that delegation.
- (c) The Provincial may at any time provide a member of the Society of Jesus for duties at the company and may at any time recall them to other duties.
- (d) The Provincial may appoint a Rector of the company at any time and may withdraw that appointment at any time.
- (e) The Member may not, without the prior consent of the Provincial

- (i) change or replace the company's constitution;
- (ii) wind up the company;
- (iii) change the company's company type; or
- (iv) change the name of the company.

Part F – Winding up and loss of endorsement

9 Winding up

- (a) Before the company is wound up, it must first wind up each of the deductible gift recipient endorsed funds it operates (if any), in accordance with each fund's winding up requirements.
- (b) If upon the winding up or dissolution of the company there remains after satisfaction of all of its debts and liabilities, any property or moneys whatsoever (**Surplus Assets**), such Surplus Assets must be given or distributed to one or more Eligible Recipients which, for the avoidance of doubt, may include the member.
- (c) The decision as to which Eligible Recipient is (or which Eligible Recipients are) to be given the Surplus Assets under rule 9(b) is to be determined:
 - (i) by the member at or before the winding up or dissolution of the company; or
 - (ii) if the member does not make such a determination, by the Supreme Court.
- (d) Any part of the Surplus Assets consisting of property supplied by a government department or public authority, including any unexpended portion of a grant, must be returned to the department or authority that supplied it or to a body nominated by the department or authority.

10 Loss of deductible gift recipient endorsement

If the company is endorsed as a deductible gift recipient as a whole and this endorsement is revoked, then the company must ensure that the following assets remaining after the payment of all liabilities are distributed to one or more charitable organisations with similar objects to and having the same deductible gift recipient endorsement as the company (as determined by the member):

- (a) deductible gifts of money or property received for the Charitable Purpose;
- (b) deductible contributions made in relation to an eligible fundraising event held to raise funds for the Charitable Purpose; and
- (c) money received by the company because of such deductible gifts and contributions.

Part G – Administrative matters

11 Minutes and records

11.1 Minutes

The directors must ensure that the following minutes are recorded, approved and kept in accordance with the law:

- (a) meetings, resolutions and declarations of the member;
- (b) meetings and resolutions of directors; and
- (c) meetings and resolutions of committees.

11.2 Inspection of records

- (a) Subject to the law and rule 11.2(b), the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company (or any of them) will be open to inspection.
- (b) The member may, upon reasonable notice to the directors, inspect any books, records or documents of the company, provided the information obtained is only used for a proper purpose.
- (c) The company must keep all financial and other records required by law.

11.3 Registers

- (a) The company must establish and administer all registers required to be kept by law including a register of members.
- (b) The member must provide the company with such information as is required for the company to comply with this rule 11.3. If events occur which would cause the information contained in a register maintained by the company to be inaccurate the member must notify the company in writing of the change within 21 days of the date of such change occurring.
- (c) Unless proved incorrect, the register is sufficient evidence of the matters shown in the register.

11.4 Negotiable instruments

Provided doing so is consistent with any directives, policies, procedures or protocols as the member may have issued from time to time relating to negotiable instruments and it is within the directors' powers under this constitution, the directors may determine how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments or other documents must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the company.

12 Indemnity and insurance

- (a) To the extent permitted by law, the company indemnifies its officers (both current and past) for all losses or liabilities incurred by the person as an officer of the company including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis.
- (b) This indemnity:
 - (i) may only be for losses or liabilities incurred as an officer of the company (either before or after the adoption of this rule);
 - (ii) does not cover any loss or liability of an officer seeking to be indemnified under this rule if that loss or liability arises from that person's wilful misconduct or fraud; and
 - (iii) operates only to the extent that the loss or liability is not paid by insurance.
- (c) To the extent permitted by law, the company may take out and pay for insurance for the benefit of its officers (both current and past) against any liability incurred by the person as an officer of the company including, but not limited to, a liability for negligence or for legal costs).
- (d) To the extent permitted by law, the company may enter into an agreement (including a deed) with a person who is or agrees to become or has been an officer of the company on any terms and conditions that the directors think fit to give effect to the rights of that person under this rule 12. Any such agreement may also give the person rights to inspect and obtain copies of the books of the company for the purposes, and on such other terms and conditions, as the directors decide.

13 Notices

Any notice, document or other communication required or permitted to be given under this constitution or law may be given in any manner (including through the use of technology) so long as such manner complies with:

- (a) the law; and
- (b) any policies and procedures relating to the giving and receiving of notices, documents and other communications as determined by the directors from time to time.

14 General

- (a) **Common seal:** The company may, but is not required to, have and use a common seal. If the directors determine that the company have a common seal, then it must be kept and used in accordance with the law.
- (b) **Submission to jurisdiction:** Each member submits to the non-exclusive jurisdiction of the Supreme Court of the State of New South Wales, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

Schedule 1 Dictionary

1 Dictionary

In this constitution:

ACNC Act means the *Australian Charities and Not-for-Profits Commission Act 2012* (Cth).

Charitable Purpose has the meaning given at rule 3.1.

Chief Executive Officer means the person filling the position of chief executive officer of the company (or such other similar title as may be given to the most senior employee) from time to time, including a person acting in this position.

Constitutions of the Society of Jesus means the document (together with its Complementary Norms and as may be amended from time to time) which establishes and governs the Society of Jesus;

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

Eligible Recipient means an organisation that:

- (a) has charitable objects or purposes similar to the Charitable Purpose;
- (b) has a governing document which requires its income and property to be applied in promoting its purpose (or objects) and agrees to use any distribution provided to it by the company to further such objects or purposes;
- (c) is registered as a charity with the Australian Charities and Not-for-profits Commission;
- (d) by law or its constituent rules, is prohibited from distributing, and does not distribute, its income and property amongst its members (either while it is operating or upon winding up) to an extent at least as great as is imposed upon the company; and
- (e) if the company is endorsed as a deductible gift recipient for the purpose of any Australian federal tax law, is similarly endorsed as a deductible gift recipient.

IAG means the Society of Jesus publication named 'Instruction on the Administration of Goods' as updated or revised from time to time.

Province means the Australian Province of the Society of Jesus (ABN 19 179 772 790).

Provincial means the member of the Society of Jesus from time to time holding the office of Major Superior of the Province or, in the case of absence or indisposition, the acting Provincial or, in the event of the office of the Provincial being vacant at any time, the member of The Society of Jesus for the time being performing the duties of Provincial.

Rector means a member of the Society of Jesus who has overall responsibility for ensuring the ethos and identity of the company and who gives authentic witness to the Catholic Church and the Society of Jesus including a member of the Society of Jesus missioned to act in the position from time to time.

Representative means a representative of the member appointed in the way permitted by section 250D of the Corporations Act regardless of whether that member is in fact bound by the Corporations Act.

Society of Jesus means the world wide Order of the Jesuits / religious order in the Catholic Church established in 1540 by St Ignatius of Loyola and the First Companions.

Society Trustee Company means each of The Society of Jesus in Victoria Ltd (ABN 95 004 238 948), The Trustees of the Jesuit Fathers (ABN 80 167 682 043) and Manresa Society Incorporated (ABN 17 398 312 682).

Surplus Assets has the meaning given at rule 9(b).

2 Interpretation

2.1 General

- (a) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (b) In this constitution, headings are for convenience only and do not affect the interpretation of this constitution and, unless the contrary intention appears:
 - (i) words importing the singular include the plural and vice versa;
 - (ii) words importing a gender include every other gender;
 - (iii) words used to denote persons generally include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (iv) a reference to any statute, regulation, proclamation, ordinance or by-laws includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
 - (v) the words 'including', 'such as', 'for example' and the like are not, and should not be interpreted to be, words of limitation, unless explicitly stated otherwise; and
 - (vi) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (c) A requirement in this constitution for something to be carried out in writing will be satisfied if the matter in question is carried out in some other lawful manner that is approved by the member.
- (d) In this constitution, where communication from a member to the company must be 'signed' by a member, in addition to any other methods permitted by law, the member may sign in any manner that allows the directors to be satisfied, acting reasonably, that the communication is from the relevant member, including by using an electronic signature.

- (e) 'Writing' or 'written' includes modes of representing or reproducing words, figures, drawings or symbols in a visible or tactile form which renders the message retrievable by people who know the language in question.

2.2 Replaceable rules not to apply

The replaceable rules contained in the Corporations Act from time to time do not apply to the company.

Schedule 2 Requirements for certain decisions of directors

Matter	Description/requirement
Confirming a director's position	The directors must not confirm a director's position without the member's prior written approval
Appointing and removing the Chief Executive Officer	The directors must ensure that the company does not employ (or otherwise appoint or reappoint), suspend or terminate the Chief Executive Officer without the member's prior written approval.
Use of agreements	The directors must ensure that the company does not amend or otherwise modify a standard form agreement provided by the member for engaging a supplier, employee, consultant or volunteer without the member's prior written approval.
Sell or exchange property	The directors must ensure that the company does not undertake, permit or approve the selling or exchanging of property without the member's prior written approval subject to the limits imposed by IAG [389]. ¹
IAG Prohibited and illicit investments	The directors must ensure that the company does not invest in funds, and does not permit or approve the investing of funds of the company in prohibited and illicit investments as defined in the IAG without the member's prior written approval. IAG [3.1.4] ²
Taking out loans	The directors must ensure that the company does not engage in, permit or approve the taking out of loans without the member's prior written approval.
Encumbering land	The directors must ensure that the company does not encumbrance land, and does not permit or approve, the encumbrance of land without: <ul style="list-style-type: none"> the member's prior written approval; and the relevant Society Trustee Company being named on the certificate of title as determined by the member.
Purchase of land or buildings	The directors must ensure that the company does not purchase land or buildings, and does not permit or approve, the purchase of land or buildings without: <ul style="list-style-type: none"> the member's prior written approval; and the relevant Society Trustee Company being named on the certificate of title as determined by the member.
Approve the strategic plans and master plan	The directors must not approve strategic plans for the company without the prior approval of the Member. Master plans to be subject to the member's prior written approval.

¹ The Statutes on Religious Poverty in the Society of Jesus – Instruction on the Administration of Goods.

² The Statutes on Religious Poverty in the Society of Jesus – Instruction on the Administration of Goods.

Matter	Description/requirement
Constructing or renovating a building	<p>The directors must not undertake construction or renovation of a building, and must not permit or approve the construction or renovation of a building without the member's prior written approval.</p> <p>The directors must notify the member of any change in the value of the buildings owed by the relevant company.</p> <p>All construction or renovations that alter the value of the building must be approved prior to commencement and total costs provided to the member at the completion.</p>
Loan moneys to persons or entities	<p>The directors must ensure that the company does not loan funds to any person or entity without the member's prior written approval, except where such loan is:</p> <ul style="list-style-type: none"> • made to an individual as part of the activities undertaken by the company; and • funded from donations (including deductible gifts and contributions) received by the company, either as unspecified donations or for the specific purpose of funding such loans.
Delegations	<p>The directors must not operate outside the authorised delegations and must ensure that the company does not operate outside the authorised delegations provided by the member (and as amended from time to time) without the member's prior written approval.</p>
Dismissing a member of the Society of Jesus (including the Rector)	<p>Subject to any binding agreement to the contrary or unless otherwise required by law, the directors must:</p> <ul style="list-style-type: none"> • not dismiss any member of the Society of Jesus, including the Rector, from any appointment with the company without the Provincial's prior written approval; and • ensure that the company does not appoint, and does not permit or approve, the appointment of a Rector, or any member of the Society of Jesus, of the company unless such appointment is made by the Provincial.
Revoke or jeopardise status as a registered charity	<p>The directors must not, and must ensure that the company does not, revoke or jeopardise the company's status as a charity registered with the Australian Charities and Not-for-profits Commission or any of its endorsements, exemptions or exceptions with the Australian Taxation Office or any state government, without the member's prior written approval.</p>