



# **Youturn Limited Constitution**

**Adopted: 29 October 2024**

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## CONSTITUTION OF YOUTURN LIMITED

### GENERAL

#### 1. Definitions and Interpretation

##### (1) Definitions

- (a) “**ACNC Act**” means the Australian Charities and Not-for-profits Commission Act 2012(Cth) and includes any amendment or re-enactment of it or any legislation passed in substitution for it;
- (b) “**Company**” means Youturn Limited ACN 114 781 065
- (c) “**Director**” means a person appointed or elected to the office of Director of the Company in accordance with this Constitution or the Law, and a reference to the “**Directors**” means the Directors for the time being of the Company including the Directors assembled as a board;
- (d) “**Interested person**” means a Director or other officer of the Company who has a material personal interest in a contract or arrangement with the Company, including indirectly through his or her Spouse;
- (e) “**Law**” means the *Corporations Act 2001* and includes any amendment or re-enactment of it or any legislation passed in substitution for it;
- (f) “**Secretary**” means a person appointed to the office of Secretary of the Company in accordance with this Constitution or the Law; and
- (g) “**Spouse**” in relation to a person includes a de facto spouse (including a person of the same gender).

##### (2) Interpretation

- (a) Reference to:
  - i. a gender includes the others;
  - ii. the singular includes the plural and the plural includes the singular; and
  - iii. a person includes a body corporate.
- (b) Except so far as the contrary intention appears in this constitution:
  - i. an expression has in this constitution the same meaning as in the Law; and
  - ii. if an expression is given different meanings for the purposes of different provisions of the Law, the expression has, in a provision of this constitution that deals with a matter dealt with by a particular provision of the Law, the same meaning as in that provision of the Law.
- (c) Headings are for convenience only and do not form part of this constitution or affect its interpretation.

#### 2. Replaceable Rules Excluded

- (1) The replaceable rules contained in the Law do not apply to the Company.

## **OBJECTS**

### **3. Objects**

- (1) The object for which the Company is established is to provide support to disadvantaged people (including those at risk of becoming disadvantaged).
- (2) In pursuing this object, the Company may:
  - (a) Provide a range of services to people seeking support to address issues of distress, disadvantage, suffering and hardship, including, where appropriate, supported accommodation;
  - (b) Develop options and methods for people to increase their participation in community life; and
  - (c) Provide such other services and assistance as the Directors from time to time determine.

## **LIABILITY**

### **4. Liability of members**

- (1) The liability of the members is limited.

### **5. Liability limit**

- (1) Each ordinary member undertakes to contribute to the property of the Company if the Company is wound up while he or she is a member, or within 1 year after he or she ceases to be a member, for payment of the debts and liabilities of the Company contracted before he or she ceased to be a member, the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required but not exceeding \$200.
- (2) Each associate member and honorary life member similarly undertakes to contribute to the property of the company, but the contribution of each such member is limited to \$1.

## **MEMBERSHIP**

### **6. Classes of membership**

- (1) The membership of the Company consists of the following classes:
  - (a) ordinary members;
  - (b) associate members; and
  - (c) honorary life members.

### **7. Ordinary members**

- (1) The number of ordinary members shall be:
  - (a) no less than 15; and
  - (b) no more than 40;or such other minimum and maximum numbers that the Directors decide from time to time.
- (2) Rule 7(1)(a) does not apply for the first 2 months after registration of the Company.
- (3) The following may not be an ordinary member:

- (a) persons under the age of 18 years;
  - (b) entities other than natural persons;
  - (c) a natural person in a representative role for another entity; and
  - (d) employees of the Company, their Spouses and children.
- (4) An ordinary member:
- (a) has the right to attend and vote at meetings of the Company and on a show of hands or poll to 1 vote; and
  - (b) must pay the annual or other periodic membership fees that the Directors from time to time determine.

## **8. Associate members**

- (1) The number of associate members is unlimited.
- (2) An associate member:
  - (a) may not vote at a meeting of members except a separate meeting of associate members required to be held under the Law; and
  - (b) must pay the annual or other periodic membership fees that the Directors from time to time determine.

## **9. Honorary life members**

- (1) The number of honorary life members is unlimited.
- (2) An honorary life member:
  - (a) may not vote at a meeting of members except a separate meeting of honorary life members required to be held under the Law; and
  - (b) is not required to pay a membership fee.
- (3) The Directors may offer honorary life membership to any person they choose from time to time.
- (4) An honorary life member may at the same time also be an ordinary member, in which case that member may exercise all the rights of an ordinary member but is not liable to pay the membership fees applying to ordinary members unless the Directors otherwise decide.

## **10. Admission of members**

- (1) Every applicant for membership as an ordinary member or an associate member must be nominated by an ordinary member.
- (2) Every application for membership must be made in writing in the form prescribed by the Directors from time to time, signed by the applicant and the member nominating the applicant and accompanied by any applicable membership fee.
- (3) After receiving an application for membership, the Directors must decide at the next meeting of Directors whether or not to approve the applicant. The Directors' decision is in their absolute discretion and they are not required to give any reason for rejecting an application.
- (4) The Directors must cause an applicant for membership to be promptly advised of their decision on the application.
- (5) An applicant whose application is approved by the Directors immediately becomes a member and must be entered in the Company's register of members accordingly.

## **11. Cessation of membership**

- (1) A member may resign at any time by giving written notice to the Company. The resignation takes effect from the date of receipt.
- (2) Termination of the membership of a member occurs automatically upon the death of a member and the provisions of Rule 11(4) do not apply to such termination.
- (3) If a member:
  - (a) is convicted of an indictable offence; or
  - (b) fails to comply with these Rules; or
  - (c) conducts themselves in a manner which, in the opinion of the Directors, is prejudicial to the interest of the Company; or
  - (d) fails to respond to a call for a general meeting over two successive years and the Company is unable to contact the member,the Directors may terminate the membership of the member.
- (4) The Directors must not terminate the membership of a member unless:
  - (a) The member has been given 7 days' notice. The notice must inform the member of the date, time and place at which the termination of membership of the member is to be considered, and the reason for the termination of membership; and
  - (b) the member is afforded the opportunity of explaining to the Directors, verbally or in writing, why the membership should not be terminated.
- (5) Notwithstanding Rules 11(3) and 11(4), the directors may expel, and remove from the register of members, any person who is uncontactable. For the purpose of this Rule 11(5), a person is uncontactable if the Directors are satisfied that, for the last 2 consecutive financial years prior to the decision to expel and remove the person, the person has either not received or responded to all notices from the Company to the person or has not attended meetings of the Company during that period.

## **GENERAL MEETINGS**

## **12. Convening**

- (1) The Directors may convene a general meeting at any time.
- (2) If members with at least 25% of the votes that may be cast at a general meeting make a written request to the Company for a general meeting to be convened, the Directors must:
  - (a) within 21 days of the members' request being received, give all members notice of a general meeting; and
  - (b) hold the general meeting within 2 months of the members' request being received.
- (3) The percentage of votes that members have (in Rule 12 (2)) is to be worked out as at midnight before the members request the meeting.
- (4) The members who make the request for a general meeting must:
  - (a) state in the request any resolution to be proposed at the meeting;
  - (b) sign the request; and
  - (c) give the request to the Company.

- (5) Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.
- (6) The Company does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
  - (a) it is more than 1,000 words long;
  - (b) the directors consider it may be defamatory; or
  - (c) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a general meeting or is otherwise not a valid resolution able to be put to the members.

### **13. Notice of meeting**

- (1) The notice of a general meeting must be given to:
  - (a) each ordinary member entitled to vote at the meeting;
  - (b) each Director and Secretary; and
  - (c) the auditor (if any).
- (2) The notice of a general meeting must be provided in writing at least 21 days before the meeting.
- (3) The notice of a meeting may be provided less than 21 days before the meeting if:
  - (a) for an annual general meeting, all the ordinary members entitled to attend and vote at the annual general meeting agree beforehand; or
  - (b) for any other general meeting, ordinary members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (4) Notice of a general meeting must include:
  - (a) the place, date and time for the meeting (and if the meeting is to be held either virtually or in two or more places, the technology that will be used to facilitate this);
  - (b) the general nature of the meeting's business;
  - (c) if applicable, that a special resolution is to be proposed and the words of the proposed resolution;
  - (d) a statement that ordinary members have the right to appoint proxies and that, if an ordinary member appoints a proxy:
    - i. the proxy does not need to be a member of the Company;
    - ii. the proxy form must be delivered to the Company at its registered address or the address (including an electronic address) specified in the notice of the meeting; and
    - iii. the proxy form must be delivered to the Company at least 48 hours before the meeting.
- (5) If a general meeting is adjourned (put off) for one month or more, the ordinary members must be given a new notice of the resumed meeting.

### **14. When notice is taken to be given**

- (1) A notice:
  - (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;



- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs; and
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent.

## **15. Quorum**

- (1) No business must be transacted at a general meeting unless a quorum of at least 5 ordinary members (in person, by proxy or by attorney) entitled to vote at the meeting is present at the commencement of the meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a proxy of more than one member).
- (2) If a quorum is not present within 20 minutes after the time appointed for the meeting:
  - (a) Where the meeting was convened upon the requisition of ordinary members, the meeting is dissolved; or
  - (b) In any other case:
    - (i) the meeting stands adjourned to the same time and day in the next week, at the same place or some other place that the Directors decide; and
    - (ii) if there is no quorum at the adjourned meeting within 20 minutes from the time for commencement, the meeting is dissolved.

## **16. Chairperson**

- (1) The chairperson of Directors will preside as the chairperson at every general meeting.
- (2) If the chairperson is not present within 10 minutes after the time appointed for the meeting, or is unwilling to act:
  - (a) the Directors present may choose a chairperson; or
  - (b) in the absence of all Directors, the ordinary members present may elect one of them to be the Chairperson of the meeting.

## **17. Annual general meeting**

- (1) A general meeting, called the annual general meeting, must be held at least once in every calendar year.
- (2) Even if these items are not set out in the notice of meeting, the business of an annual general meeting may include:
  - (a) a review of the Company's activities;
  - (b) a review of the Company's finances; and
  - (c) any auditor's report.
- (3) Before or at the annual general meeting, the Directors must give information to the members on the Company's activities and finances during the period since the last annual general meeting.

## **18. Voting**

- (1) Resolutions put at a general meeting must be decided on a show of hands unless a poll is demanded.
- (2) Subject to the Law, a resolution is passed, whether by a show of hands or by poll, by a majority of votes. In the case of an equality of votes, the chairperson has a casting vote in addition to their vote as an ordinary member (if any).

- (3) A declaration by the chairperson that a resolution has been carried or lost on a show of hands, and any entry to that effect in the minutes of the meeting, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favor of or against the resolution.
- (4) Any objection of a member's qualification to vote at any meeting may only be raised at the meeting (or adjourned meeting) at which the vote is tendered. The objection must be referred to the chairperson whose decision is final.

## **19. Representation**

- (1) Subject to this Constitution:
  - (a) an ordinary member entitled to attend and vote at a meeting of members may do so in person (including through technology if a meeting is held virtually) or by proxy, or attorney; and
  - (b) an ordinary member is not entitled to vote if the membership fees payable by the member are overdue.

## **20. Polls**

- (1) Despite the Law, a poll for a resolution may be demanded by at least two (2) of the ordinary members present at the meeting and entitled to vote on the resolution, or by the chairperson.
- (2) A poll may not be demanded on the election of the chairperson or on a resolution for adjournment.
- (3) A poll must be taken in the manner the chairperson directs and the result of the poll is a resolution of the meeting at which the poll is demanded.

## **21. Use of technology at general meetings**

- (1) All the provisions in this Constitution relating to meetings apply, as far as they can and with any necessary changes, to meetings by telephone or other electronic or virtual means.
- (2) A general meeting may be held at two or more venues simultaneously, including wholly virtual or a combination of virtual and physical venues simultaneously, using any technology that gives ordinary members as a whole a reasonable opportunity to participate.
- (3) If a separate meeting venue is linked to the main venue of a meeting of ordinary members by an instantaneous audio-visual communication device which, by itself or in conjunction with other arrangements:
  - (a) gives the general body of shareholders in a separate meeting place a reasonable opportunity to participate in the proceedings in the main venue; and
  - (b) enables the shareholders in a separate meeting venue to vote on a poll,
 an ordinary member present at the separate meeting venue is taken to be present at the general meeting and entitled to exercise all rights as if they were present at the main venue.
- (4) If, before or during a meeting of ordinary members, any technical difficulty occurs where all ordinary members may not be able to participate, the chairperson may:
  - (a) adjourn the meeting until the difficulty is remedied; or
  - (b) where a quorum remains present (in the venue at which the chairperson is present and taking account of any other linked venues where shareholders are still able to participate), subject to the Law, continue the meeting.
- (5) The linking of venues by technology for a meeting of ordinary members does not, by

itself, give any member an entitlement to admittance or attendance at a venue from which another ordinary member is participating.

- (6) Any ordinary member or director who takes part in a meeting held in accordance with this Rule 21 is taken to be present in person at the meeting.
- (7) A meeting held in accordance with this Rule 21 is taken as held at the place decided by the chairperson of the meeting, as long as at least one person involved was at that place for the duration of the meeting.

## **22. Amending the constitution**

- (1) The ordinary members may amend this constitution by passing a special resolution.
- (2) The ordinary members must not pass a special resolution that amends this constitution if passing it causes the Company to no longer be a charity.

## **23. Dispute resolution**

- (1) The dispute resolution procedure in this Rule applies to disputes (disagreements) under this constitution between a member or Director and:
  - (a) one or more members; or
  - (b) one or more Directors; or
  - (c) the Company.
- (2) Those involved in the dispute must try to resolve it between themselves within fourteen (14) days of knowing about it.
- (3) If those involved in the dispute do not resolve it under Rule 23(2), they must within ten (10) days:
  - (a) tell the Directors about the dispute in writing; and
  - (b) agree or request that a mediator be appointed in accordance with Rule 23(4); and
  - (c) attempt in good faith to settle the dispute by mediation.
- (4) The mediator must:
  - (a) be chosen by agreement of those involved; or
  - (b) where those involved do not agree on a mediator, such mediator be chosen by the Commissioner of the Australian Charities and Not-for-profits Commission.

## **PROXIES**

### **24. Number**

- (1) A member may appoint 1 proxy. The proxy need not be a member.

### **25. Form**

- (1) The instrument appointing a proxy must be in writing signed by the appointer or their authorised attorney or, if the appointer is a corporation, be signed by an authorised officer or attorney of the corporation.
- (2) An instrument appointing a proxy must be in the form (if any) that the Directors from time to time direct.
- (3) A proxy may vote as the proxy sees fit on any motion or resolution where no manner of voting is indicated.

## **26. Lodgement**

- (1) The instrument appointing a proxy and any power of attorney under which it is signed must be given to the Company, in the manner and at the place specified for those purposes in the notice of meeting, at least forty-eight (48) hours prior to the time appointed for the meeting.

## **27. Validity**

- (1) An instrument appointing a proxy is valid only for the meeting in relation to which it is given, including any adjournment of that meeting.
- (2) A vote given in accordance with the terms of an instrument of proxy is valid despite the previous death or unsoundness of mind of the appointer, or the revocation of the proxy or the authority under which it was executed, provided that no written notice of the death, unsoundness of mind or revocation has been received by the Company at least 48 hours prior to the time appointed for the meeting.

## **DIRECTORS**

## **28. Appointment and tenure**

- (1) The Company must have no more than nine (9) and no less than three (3) Directors at any time.
- (2) A Director must be an ordinary member of the Company.
- (3) The Company, in general meeting, may:
  - (a) appoint a person as a Director, either to fill a casual vacancy or as an addition to the existing Directors; or
  - (b) remove a Director from office,but the Company must not make an appointment so that the total number of directors at any time exceeds the maximum number fixed in accordance with this constitution.
- (4) The Directors may at any time appoint a person as a Director, either to fill a casual vacancy or as an addition to the existing Directors. That director will hold office until the end of the next annual general meeting of the Company when the director may be re-elected. The directors must not make an appointment so that the total number of directors at any time exceeds the maximum number fixed in accordance with this constitution.
- (5) Subject to Rule 28(7) and Rule 29, each Director holds office for a maximum of three (3) years from the date of election at general meeting.
- (6) Each Director is eligible for re-election in general meeting at the conclusion of their term of office or upon retirement in accordance with Rule 28(7).
- (7) At each annual general meeting, at least one-third (rounded up) of directors must retire and stand for re-election.
- (8) The directors who must retire at each annual general meeting under Rule 28(7) will be the directors who have been longest in office since last being elected. Where directors were elected on the same day, the director(s) to retire will be decided by lot unless they agree otherwise.

## **29. Vacation of office**

- (1) The office of a Director shall become vacant if the Director:
  - (a) becomes an insolvent under administration, suspending payment generally to creditors or compounding with or assigning the Director's estate for the benefit of creditors;

- (b) becomes of unsound mind or a person who is a patient under laws relating to mental health or whose estate is administered under laws relating to mental health;
- (c) is disqualified from managing a corporation under the Law or disqualified from being a responsible entity under the ACNC Act;
- (d) resigns by written notice to the Company;
- (e) is absent from two (2) consecutive meetings of the Directors without the consent of the Directors;
- (f) ceases to be an ordinary member; or
- (g) is removed under Rule 28(3)(b).

## **POWER AND DUTIES OF DIRECTORS**

### **30. Duties of Directors**

- (1) The Directors must comply with their duties as directors at law, and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:
  - (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the company;
  - (b) to act in good faith in the best interests of the Company and to further the charitable purpose(s) of the Company set out in Rule 3;
  - (c) not to misuse their position as a Director;
  - (d) not to misuse information they gain in their role as a Director;
  - (e) to disclose any perceived or actual material conflicts of interest in the manner set out in Rule 40;
  - (f) to ensure that the financial affairs of the Company are managed responsibly; and
  - (g) not to allow the Company to operate while it is insolvent.

### **31. Powers**

- (1) The Directors will manage the business of the Company and may exercise all powers of the Company not required to be exercised by the Company in general meeting, including the powers;
  - (a) to borrow money;
  - (b) to charge any property of business of the Company; and
  - (c) to issue debentures or give any security for a debt, liability or obligation of the Company or of any other person.

### **32. Delegation of Directors' powers**

- (1) The Directors may delegate any of their powers and functions to a committee, a Director, an employee of the Company (such as a chief executive officer) or any other person, as they consider appropriate.

### **33. Accountability to members**

- (1) The Company must be accountable to the members within the terms of the Law, the ACNC Act and this Constitution.
- (2) The Directors may decide the manner in which the Company will be accountable and will permit the members to raise any concerns about the governance, activities and

finances of the Company in writing addressed to the Directors at any time, or at any general meeting.

- (3) The Directors must ensure that minutes of general meetings and Directors' meetings (including all resolutions proposed); and records of resolutions passed by members and Directors are recorded and kept as part of the Company's records.

#### **34. Directors' access to documents**

- (1) A Director has a right of access to the financial records of the Company at all reasonable times.
- (2) If the Directors agree, the Company must give a Director or former Director access to:
  - (a) certain documents, including documents provided for or available to the Directors; and
  - (b) any other documents referred to in those documents.

#### **35. Cheques and negotiable instruments**

- (1) All cheques and other negotiable instruments, including electronic banking transfers, must be executed by the persons and in the manner the Directors may from time to time determine.

### **PROCEEDINGS OF DIRECTORS**

#### **36. Proceedings of Directors**

- (1) The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they see fit.
- (2) A Director may at any time call a meeting of the Directors.
- (3) A meeting of Directors must be held at least every three (3) months.
- (4) Every Director must be given reasonable notice of the place, date and time of each meeting of the Directors.
- (5) The minutes of any meeting of the Directors must state the method of meeting and the persons present.

#### **37. Quorum at meetings**

- (1) A quorum of Directors is three (3).
- (2) Unless the Directors determine otherwise, the quorum need only be present at the time the meeting proceeds to business.

#### **38. Remaining Directors may act**

If there is a vacancy in the office of a director, the remaining directors may act. If the number of remaining directors is less than the number required to constitute a quorum at a meeting of directors, the directors may, except in the case of an emergency, act only for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or to convene a general meeting of members.

#### **39. Decisions of the directors**

- (1) Questions arising at a meeting of Directors are decided by a majority of votes of Directors present and voting.
- (2) The chairperson has a casting vote in addition to any vote they have as a Director.

#### **40. Circulating resolutions**

- (1) If a document containing a statement that the signatories to it are in favour of and is identified as a resolution and is signed by all of the directors (or the members of a committee) entitled to vote on the resolution, a resolution in those terms shall be deemed to have been passed at a meeting of the board (or of the committee) held at the time at which the document was last signed.
- (2) For the purposes of Rule 40:
  - (a) two (2) or more separate documents containing statements in identical terms each of which is signed by one or more directors shall together be deemed to constitute one document;
  - (b) a facsimile or e-mail received by the Company and expressed to have been sent for and on behalf of a director shall be deemed to be signed by that director at the time of its receipt by the Company.

#### **41. Telephone and other meetings**

- (1) While the directors may regulate their meetings as they think fit, a meeting of directors or committee of directors may be held where one or more of the directors is not physically present at the meeting, where:
  - (a) all persons participating in the meeting can communicate with each other instantaneously whether by telephone or any other form of communication;
  - (b) notice of the meeting is given to all directors entitled to notice according to the usual procedures determined by the directors for the giving of notice and such notice does not specify that directors are required to be present in person;
  - (c) if a failure in communications prevents Rule 41(1)(a) from being satisfied as a result of which one or more directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting. If, as a result of the technical difficulty, a quorum of directors is not present, then the meeting is suspended until Rule 41(1)(a) is satisfied again or if it is not satisfied within fifteen minutes from the time the meeting was interrupted, the meeting is deemed to have terminated;
  - (d) a director participating in a meeting by technology is to be taken to be present in person at the meeting and to have consented to the holding of the meeting by the use of the relevant technology; and
  - (e) any meeting held where any director is not physically present is treated as held at the place specified in the notice of meeting as long as at least a director is present there for the duration of the meeting. If no director is so present, the meeting is treated as held at the place where the chair of the meeting is located.
- (2) All the provisions in this constitution relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors by technology.

#### **42. Substitute chairperson**

- (1) Where a meeting of the directors is held and:
  - (a) the chairperson has not been elected as provided; or
  - (b) the chair is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act,the directors present may elect one of their number to be chairperson of the meeting.



#### **43. Irregularities**

- (1) Any defect, irregularity or deficiency in the appointment of a Director or any defect, irregularity or deficiency in notice or time shall not invalidate any acts done by any meeting of the Directors or of a committee of directors or by any person acting as a Director.
- (2) Rule 43(1) operates even if it is afterwards discovered there was some defect in the appointment of a person to be a Director or a member of a committee, or to act as a Director, or that person so appointed was disqualified.

### **MATERIAL PERSONAL INTERESTS**

#### **44. Disclosure and validity**

- (1) A Director and the Secretary must disclose a perceived or actual material conflict of interest to the other Directors, including if the Director or Secretary is an Interested Person.
- (2) Unless the Directors otherwise decide and where permitted by the Law and the ACNC Act, a Director who is an Interested Person or who has a material personal interest in a matter that is being considered at a meeting must not:
  - (a) be present while the matter is being considered at the meeting; or
  - (b) vote on the matter.
- (3) An Interested Person is not disqualified by reason of their office from contracting in any capacity with the Company or a related body corporate.
- (4) Where the Interested Person is not a Director, they must to the extent possible comply with Rule 33(1) and Rule 33(2) as if they were a Director.
- (5) Where any contract or arrangement of the Company involves an Interested Person:
  - (a) the validity of the contract or arrangement is not affected by the Interested Person signing it;
  - (b) the contract or arrangement may not be avoided merely because the Interested Person is a party to or otherwise interested in it, and
  - (c) the Interested Person is not liable to account to the Company for any profit derived from it.

### **EXECUTIVE OFFICER**

#### **45. Appointment**

- (1) The Directors may appoint any natural person as the executive officer of the Company for a period and on such terms as the Directors determine. Despite any terms of appointment, such appointment may be terminated by the Directors at any time.
- (2) The executive officer:
  - (a) must not be a Director of the Company; and
  - (b) may be invited to attend meetings of Directors on such terms as the Directors decide, but is not entitled to vote at meetings of Directors.



## **CHAIRPERSON AND SECRETARY**

### **46. Office and termination**

- (1) The Directors must elect a Director as the Company's elected chairperson.
- (2) A person appointed as the chairperson:
  - (a) holds such office for three (3) years, unless their appointment is terminated earlier or vacates the office of director in accordance with Rule 29; and
  - (b) is eligible for re-election at the conclusion of their term of office, but may not hold the same office for more than two (2) consecutive terms.
- (3) The Company must appoint a Secretary who shall not be an ordinary member of the Company.
- (4) A chairperson and Secretary of the Company each hold office on the conditions as to authorities, duties, powers and remuneration, as the Directors determine.
- (5) Despite any terms of appointment, the Directors may terminate the appointment of any such officeholder at any time.

## **INCOME AND PROPERTY**

### **47. Application of income and property**

- (1) Subject to Rules 47(2) and 47(3), the property, income and profits (if any) of the Company (including any gift fund of the Company) must be applied solely towards the promotion of the objects of the Company set out in Rule 3 and no portion may be paid or transferred, directly or indirectly, to any member of the Company whether by way of dividend, bonus or otherwise.
- (2) Nothing in rule 47(1) prevents any payment in good faith by the Company of:
  - (a) reasonable and proper remuneration to any member for any services actually rendered or goods supplied in the ordinary and usual course of business to the Company; and
  - (b) the payment or reimbursement of out of pocket expenses incurred by a member of the Company on behalf of the Company where the amount payable does not exceed an amount approved by the Directors of the Company.
- (3) The Company may pay the Directors for their services as directors only in furtherance of the objects set out in Rule 3 such sum as set from time to time by the Company in general meeting, with that sum to be paid on the basis of a daily fee and divided among the Directors in such proportion and manner as the Directors agree or, in the absence of agreement, equally. are not entitled to fees;
- (4) The Company may also make payments in good faith and approved by the Directors for:
  - (a) the payment or reimbursement of out-of-pocket expenses properly incurred by a Director of the Company in performing a duty as a Director;
  - (b) remuneration of a Director, or firm of which a Director is a member or employee, for services provided in the ordinary conduct of the Director's profession where the amount payable is not more than in amount that commercially would be reasonable payment for service; and
  - (c) an insurance premium in respect of a contract insuring a Director for a liability incurred as an officer of the Company.
- (5) The Company must not pay any amount (including under Rules 47(3) and 47(4)) to a Director, unless that payment has been approved by the Directors.

## **GIFT FUND**

### **48. Establishment and operation**

- (1) The Directors may establish one or more gift funds for the purpose of crediting gifts to the Company and applying the gifts (including the proceeds from the authorized realization of investments forming part of a gift fund) in furtherance of the objects of the Company.
- (2) The terms under which a gift fund is maintained shall be the terms from time to time specified by the Directors, provided that such terms shall comply with the rules from time to time applicable to the fund in order that gifts to the fund will be deductible for income tax purposes.

### **49. Winding Up**

- (1) If a gift fund is wound up or the fund ceases to be one to which gifts are deductible for income tax purposes, any surplus of the fund remaining after the payment of liabilities attributable to it shall be transferred to a fund, authority or institution to which gifts are deductible for income tax purposes.

## **INSPECTION OF RECORDS**

### **50. Inspection**

- (1) The Directors may from time to time determine whether, to what extent and under what conditions the books of the Company may be inspected by a member.
- (2) Subject to the Law and the ACNC Act, a member who is not a Director does not have the right to inspect any books or document of the Company unless authorised by the Directors.

## **WINDING UP**

### **51. Winding up**

- (1) If upon the winding up or dissolution of the Company there remains any property after satisfaction of all debts and liabilities of the Company, the property shall not be paid to or distributed among the members of the Company but, subject to Rule 37(1), shall be given or transferred to:
  - (a) One or more institutions determined by the members and having similar objects to those of the Company; and
  - (b) Whose constitution prohibits the distribution of its or their income and property to an extent at least as great as that imposed on the Company under Rule 35.

### **52. National Regulatory System for Community Housing Winding Up Requirements**

- (1) In this rule, "Community Housing Asset", "Corresponding Law", "Housing Agency", "Participating Jurisdiction" and "Registered Provider" have the same meanings as in the *Housing Act 2003* (Qld) or any Act in substitution for it.
- (2) Despite Rule 51(1), each Community Housing Asset remaining after satisfaction of the company's liabilities must be transferred as follows:
  - (a) each remaining Community Housing Asset of the company in Queensland must be transferred under Section 37H(2)(a) of the *Housing Act 2003* (Qld) (or any new section which replaces this Section); and
  - (b) each remaining Community Housing Asset of the company located in a Participating Jurisdiction must be transferred under the Corresponding Law of that

Participating Jurisdiction to:

- (i) the Housing Agency in the Participating Jurisdiction;
- (ii) another Registered Provider in the Participating Jurisdiction; or
- (iii) another entity as prescribed under the Corresponding Law.

## **INDEMNITY OF OFFICERS**

### **53. Indemnity**

- (1) To the extent permitted by the Law and the ACNC Act, the Company must indemnify every Director, Secretary and other officer of the Company and each person who has been a Director, Secretary or officer of the Company against:
  - (a) any liability relating to the service of the person in their office; and
  - (b) any legal costs incurred in defending or resisting proceedings relating to that service or in responding to any regulatory authority in connection with that service.
- (2) To the extent permitted by the Law, the Directors may cause the Company to insure the risk contained in Rule 53(1) and, for the benefit of Directors, Secretary, other officers and employees of the Company, to insure against risks arising in their service in such roles.
- (3) The benefit of each indemnity in Rule 53(1) continues despite the deletion or amendment of that Rule, in respect of a liability arising from acts and omissions occurring prior to the deletion or amendment.
- (4) The indemnity in Rule 453(1):
  - (a) is a continuing obligation and is enforceable by a Director, Secretary or officer of the Company even though that person has ceased to be a Director, Secretary or officer of the company;
  - (b) is enforceable without that person having first to incur any expense or make any payment; and
  - (c) operates only to the extent that the loss or liability in question is not covered by insurance.
- (5) The amount of any indemnity payable under Rule 53 will include an additional amount (GST Amount) equal to any GST payable by the Director, Secretary or officer being indemnified in connection with the indemnity.
- (6) Nothing in this Rule 53:
  - (a) affects any other right or remedy that a Director, Secretary or officer or a former Director, Secretary or officer may have in respect of any loss or liability referred to in this Rule 53; or
  - (b) limits the capacity of the Company to indemnify or provide or pay for insurance for any person to whom this Rule 53 does not apply.