ARGYLE COMMUNITY HOUSING LTD

CONSTITUTION

ABN: 88 002 761 855

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A COMPANY LIMITED BY GUARANTEE

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Constitution of Argyle Community Housing Ltd

1. Defined Meaning

Words used in this Constitution and the Clauses of Interpretation that apply are set out and explained in the definitions and interpretation clause in clause 31 of this Constitution.

2. Objects and powers

2.1. The Objects for which the Company is established are:

(a) To advance social or public welfare by relieving poverty, distress or disadvantage of individuals or families.

(b) To assist people on low to moderate incomes with their housing by providing access to quality, low cost, social and affordable housing solutions.

(c) To encourage an increased involvement of people and organisations in the solution of problems affecting the communities in conjunction with relevant federal, state, territory, regional or local authorities.

(d) To raise public awareness and understanding of the reasons why people become homeless and poorly housed.

(e) To pursue the Objects of the Company by operating through subsidiaries with similar objects.

(f) To carry out activities necessary and incidental to the above objects.

2.2. **Promotion of Objects**

The Company must exercise its powers conferred on it under Section 124(1) of the Act in a manner which is consistent with the Objects of the Company.

2.3. **Powers**

Subject to clause 4.2, the Company has the following powers, which may only be used to carry out its Objects and purposes as set out in clause 2.1:

(a) the powers of an individual; and

(b) all the powers of a public company limited by guarantee under the Act.

3. Limited Liability

3.1. Members Liability

The liability of Members is limited.

3.2. Members' contributions

Each person who is a Member, and each person who was a Member during the year ending on the day of the commencement of the winding up of the Company, undertakes (subject to clause 3.3) to contribute to the assets of the Company for:

(a) the payment of the debts and liabilities of the Company;

(b) payment of the costs, charges and expenses of winding up the Company; and

(c) the adjustment of the rights of the contributories among Members.

3.3. Amount of Members' contributions

The amount of the contribution under clause 3.2 must not exceed $10.00 per Member or the amount, if any, unpaid by the Member in respect of Membership as required by clause 10, whichever is the larger, in any circumstances.

4. Use of the property by the Company

4.1. Conduit policy

Any allocation of funds or property to other institutions, bodies, entities, organisations, government departments or persons must be made in accordance with the Objects of the Company and not be influenced by the expressed preference or interest of a particular donor to the Company, notwithstanding the terms of any specific tied funding provided by a government body or private donor.

4.2. Non-profit

The Company is a non-profit organisation and must not carry on business for the purpose of distributing profit to Members.

4.3. **Application of Company property**

All income, property, profits, assets and financial surplus of the Company, whenever derived, must be applied solely for promotion of and carrying out the Objects. No portion of the income, property, profits, assets and financial surplus may be paid, distributed or transferred directly or indirectly by way of dividend, bonus, profit or return of capital or otherwise to any Member, except as provided in clauses 4.4 and/or 5.1.

4.4. **Payments of Company expenses**

Nothing in clause 4.3 prevents the payment in good faith of reasonable and proper:

(a) remuneration to any of the Officers or employees of the Company or to any Member in return for any services actually rendered by them to the Company; or

(b) interest on money borrowed from any Member for any of the purposes of the Company (provided the interest rate does not exceed the rate charged by the Company's bank on similar borrowings); or

(c) rent for premises let by any Member to the Company; or

(d) payment for any goods supplied to the Company by any of the Officers, employees of the Company or any Member; or

(e) payment or making a distribution of income or assets to any Member in carrying out or in furtherance of the Company's charitable Objects.

4.5. **Remuneration payments**

No remuneration or other benefit may be paid or given by the Company to any Director except:

(a) for the reimbursement of out-of-pocket expenses incurred on reasonable commercial terms in carrying out the duties of a Director where the amount does not exceed an amount previously approved by a resolution of the Directors; or

(b) for any service rendered to the Company in a professional or technical capacity, where the terms of service are on reasonable commercial terms and have been previously approved by a resolution of the Directors; or

(c) as an employee of the Company, where the terms of employment are on reasonable commercial terms and have been previously approved by a resolution of the Directors; or

(d) for the payment of Directors fees and other related statutory payments in accordance with the Company's remuneration policy as amended from time to time.

4.6. **Conflict of interest resolution**

At any meeting of the Directors at which a resolution is put for approval of a payment to be made pursuant to clause 4.5 or at any general meeting considering a conflict of interest, the Director who is the object of the conflict of interest and any other Director or Member who is related to that Director is not entitled to:

(a) be heard in discussion on the conflict of interest resolution; and

(b) propose or second the conflict of interest resolution; and

(c) vote on the conflict of interest resolution; and

(d) be present at the meeting when the conflict of interest resolution is put to the vote.

5. Use of property on winding up and on revocation of endorsement

5.1. **Surplus**

If on the:

(a) winding up or dissolution of the Company; or

(b) the revocation of the Company's endorsement as a deductible gift recipient under Subdivision 30-BA of the ITAA,

after the satisfaction of all its debts and liabilities, any property remains, the surplus must not be paid to or distributed among the Members or to a former Member unless that Member or former Member is a Transferee Entity.

5.2. **Distribution of surplus assts**

Subject to clause 5.3, if the Company is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus assets of

the Company must be given or transferred to an institution, body, entity, or organisation **(Transferee Entity)**:

(a) having objects similar to the Objects, which is charitable at law;

(b) which is endorsed as a deductible gift recipient under Subdivision 30-BA of the ITAA;

(c) which is endorsed as a Public Benevolent Institution in Australia; and

(d) whose constitution prohibits the distribution of its income and property among its Members to an extent at least as great as is imposed on the Company under clauses 4 and 5.

5.3. **Community Housing Assets**

(a) Pursuant to section 15(2)(c) of the Community Housing Providers National Law as set out in the Appendix to the *Community Housing Providers (Adoption of National Law) Act 2012* (NSW), on the winding up of the Company all its community housing assets in a particular State or Territory must be transferred to a registered community housing provider which is charitable at law or to a Housing Agency in the respective State or Territory in which the Company's community housing assets are located.

(b) For the purposes of this clause 5, *Housing Agency* has the same meaning as in section 4 of the Community Housing Providers National Law.

5.4. **Choice of transferee**

The Transferee Entity must be chosen by the Directors (as the Directors were constituted at the commencement of the winding up). If the Directors do not choose a Transferee Entity within a reasonable time, any Member at the commencement of the winding up or the liquidator may apply to the Supreme Court of New South Wales to choose the Transferee Entity.

6. Fundraising authority

If the Company holds an authority to fundraise under the *Charitable Fundraising Act 1991* (NSW) or under any other State, Territory or Commonwealth equivalent legislation then no addition, alteration or amendment may be made to clauses 4 or 5 without the prior written approval of the Minister responsible for the administration of that legislation.

7. Registration as a charity

If the Company is at any time registered as a charity any changes to:

(a) the composition of the Board; or

(b) this Constitution; or

(c) such other notifiable matters as provided under the ACNC Act from time to time,

must be notified to the *Australian Charities and Not-for-profits Commission* within a reasonable time of such changes being made but no later than 28 days.

8. Gifts to the Deductible Gift Recipient Account

8.1. Deductible Gift Recipient Account

(a) The Company may invite members of the public from time to time to make donations of money or property to the Deductible Gift Recipient Account for the purpose of promoting and supporting the Objects of the Company.

(b) All donations of money or property made in accordance with this clause must be credited to the Deductible Gift Recipient Account.

(c) The Deductible Gift Recipient Account may not receive any money or property other than money or property donated for the purpose of promoting and supporting the Objects of the Company.

(d) The Deductible Gift Recipient Account will be administered in accordance with this clause 8.

8.2. Administration

(a) The Board will administer the Deductible Gift Recipient Account but may delegate administration of the Deductible Gift Recipient Account to a committee established pursuant to clause 8.2(b) below.

(b) The Board may appoint a committee to comprise no fewer than three individuals from the Board or external to the Board to administer and manage the Deductible Gift Recipient Account.

(c) Any payments made from the Deductible Gift Recipient Account must be paid pursuant to a resolution of the Board or signed by two of the committee members appointed in accordance with clause 8.2(b).

8.3. **Separate Account**

(a) Money from interest and donations, income derived from donated property, and money from the realisation of such property must be deposited into the Deductible Gift Recipient Account.

(b) A separate bank account must be opened to deposit money donated to the Deductible Gift Recipient Account, including interest accrued thereon, and gifts to it must be kept separate from other funds of the Company.

(c) The Deductible Gift Recipient Account must be operated on a non-profit basis.

(d) If the Deductible Gift Recipient Account is wound up or if the endorsement (if any) of the Company as a deductible gift recipient is revoked, any surplus assets of the Deductible Gift Recipient Account remaining after the payment of liabilities attributable to it, shall be transferred to the Transferee Entity..

8.4. **Records**

(a) Receipts for any income paid to the Deductible Gift Recipient Account must be issued in the name of the Deductible Gift Recipient Account.

(b) Proper books of account must be kept and maintained showing correctly the financial affairs of the Deductible Gift Recipient Account.

(c) The accounts of the Deductible Gift Recipient Account must be examined by one or more auditors. Such auditor must be qualified to act as auditor by the Act and any State or Territory legislation applicable to organisations conducting charitable fundraising.

9. Members

9.1. **General**

The Members consist of:

(a) Members as at the date this Constitution is adopted as the Constitution of the Company; and

(b) all other persons or organisations admitted to Membership in accordance with this Constitution,

and have not since ceased being a Member.

9.2. **Classes of Members**

(a) The Board may from time to time establish such categories of Membership and may make appropriate provisions for the granting of such Membership and the rights, privileges and conditions of such Membership.

(b) The class of Members as at the date of this Constitution are:

(i) Organisation Members - being a corporation or other incorporated association which accept the Objects of the Company; and

(ii) Individual Members - being a natural person who accepts the Objects of the Company.

9.3. **Membership qualifications**

A person or organisation cannot become a Member unless the person or organisation:

(a) applies to become a Member in the form and manner prescribed by the Board from time to time; and

(b) is proposed for Membership by an existing Member and such proposal is seconded by another existing Member; and

(c) in the case of an individual Member, is over 18 years of age and is a Director; or

(d) in the case of an organisation Member, a Corporate Representative of the organisation Member is a Director.

9.4. **Admitting Members**

No applicant may be admitted to Membership and have their name entered in the Register unless the applicant agrees in writing to be bound by this Constitution and has paid the Entrance Fee.

9.5. **Discretion to admit to Membership**

(a) The Board must consider the application for Membership at the next meeting of the Board after the receipt of the application for Membership.

(b) The Board may in its absolute discretion refuse to admit any person as a Member. If the Board refuses to admit a person as a Member, the Board is not obliged to give reasons for so refusing.

9.6. **Delegation**

The Directors may at any time delegate, on such terms as they think fit, to such persons as they may determine, the power to:

(a) admit persons or organisations as Members;

(b) re-admit such persons or organisations; and

(c) refuse applications for Membership.

9.7. **Becoming a Member**

Subject to the Act, a person becomes a Member on the registration of that person's name in the Register.

9.8. **Members' responsibilities**

A Member must:

(a) comply with this Constitution;

(b) notify the Company if they change their name or address for notices;

(c) treat other Members, staff, volunteers, and Directors with respect; and

(d) pay the Entrance Fee (if any) and Annual Subscription and provide the guarantee specified in clause 3.

10. Fees to be paid by Members

10.1. **Annual Subscription**

(a) The Annual Subscription payable by Members is such amount as determined by the Board from time to time and unless otherwise determined by the Board is $3.00 and falls due and payable:

(i) except as provided by paragraph (ii), on 1 July for each calendar year; or

(ii) where the Member becomes a Member on or after 1 July in any calendar year, upon becoming a Member and before 1 July in each succeeding calendar year.

10.2. **Waiver**

The Board may at any time fix at different rates, suspend or waive payment of the Entrance Fee or Annual Subscription in favour of any Member.

10.3. **Annual Subscription in arrears**

If any Member fails to pay his or her Annual Subscription within 1 month of the date determined by the Board, that Member is not entitled, while the subscription remains due and unpaid, to:

(a) nominate a Member as a candidate for election to the office of Director; or

(b) vote in any ballot; or

(c) receive notices of meetings of Members; or

(d) attend, be counted in forming a quorum for, exercise any vote at, or be a proxy or Corporate Representative for any Member for, any general meeting.

11. Rights of Members

11.1. **Members**

Members are entitled to all the rights of Members under this Constitution.

11.2. **No joint Members**

Joint Memberships are not permitted.

12. Cessation of Membership

12.1. **Cessation of Membership of a natural person**

A natural person ceases to be a Member if the person:

(a) dies or ceases to exist; or

(b) resigns that Membership or resigns as a Director; or

(c) becomes of unsound mind or become liable to be dealt with in any way under the law relating to mental health and the Board resolves that the person should cease to be a Member; or

(d) fails to pay that person's Annual Subscription within 2 months from the due date determined by the Board pursuant to clause 10.3; or

(e) is expelled from the Company under this Constitution; or

(f) cannot be located and their whereabouts are unknown for more than 12 months and the Board resolves that the person should cease to be a Member; or

(g) becomes a bankrupt or insolvent; or

(h) is a person whose actions in the opinion of the Board brings the Company into serious disrepute and is expelled in accordance with the provisions of clause 13; or

(i) ceases to be Director for any reason.

12.2. **Cessation of Membership of a body corporate**

A body corporate ceases to be a Member if the body corporate:

(a) resigns as a Member in accordance with this Constitution; or

(b) is expelled as a Member in accordance with this Constitution; or

(c) is placed under external administration or makes any composition or arrangement with its creditors; or

(d) passes a resolution, or is the subject of an order by a court of competent jurisdiction directing the body corporate, to be wound up; or

(e) ceases to have a Corporate Representative on the Board as a Director for any reason.

12.3. **Appointment as Member not transferable**

A right, privilege or obligation which a person or organisation has by reason of

being a Member:

(a) is not capable of being transferred or transmitted to another person; and

(b) terminates upon cessation of their Membership.

12.4. **Resignation**

A Member may resign at any time by notice in writing to the Secretary.

13. Discipline of Members

13.1. **Initial resolution of Board**

Where the Board is of the opinion that a Member:

(a) has refused or neglected to comply with a provision of the Constitution; or

(b) has acted in a manner prejudicial to the reputation or interests of the Company,

the Board may, by Ordinary Resolution **(Initial Resolution)**:

(c) reprimand the Member; or

(d) suspend the Member from Membership for a specified period; or

(e) expel the Member from the Company.

13.2. **Suspended operation**

An Initial Resolution is of no effect unless it is confirmed at a meeting of the Board in accordance with the following clauses. For that purpose, the meeting of the Board must be held not earlier than 14 days and not later than 28 days after service on the Member of a notice under clause 13.3.

13.3. **Notice to Member**

The Secretary must, as soon as practicable following the passing of the Initial Resolution, issue a notice in writing to be served on the Member. The notice must:

(a) set out the Initial Resolution and the grounds on which it is based;

(b) state that the Member may personally address the Board in relation to the Initial Resolution at a meeting of the Board to be held not earlier than 14 days and not later than 28 days after service of the notice;

(c) state the date, place and time of that meeting of the Board; and

(d) inform the Member that the Member may submit to the Board at or before the date of that meeting a written representation relating to that resolution and speak to the representation.

13.4. **Confirming Resolution of the Board**

At a meeting of the Board held as referred to in the preceding clause, the Board must:

(a) give to the Member an opportunity to speak to the written representation;

(b) give due consideration to any written representation submitted to the Board by the Member at or before the meeting; and

(c) by Ordinary Resolution **(Confirming Resolution)** confirm, vary or revoke the Initial Resolution.

13.5. **Immediate or suspended effect**

The Confirming Resolution may take effect immediately, after any period of time or only on conditions specified in the Confirming Resolution.

13.6. **Right of appeal**

(a) A Member may appeal a Confirming Resolution, within 7 days after notice of the resolution is served on the Member, by lodging with the Secretary a notice to appeal to the Company in general meeting.

(b) Upon receipt of a notice from a Member under clause 13.6(a), the Secretary shall notify the Directors who shall convene a general meeting to be held within 28 days after the date on which the Secretary received the notice.

(c) At a general meeting convened under clause 13.6(b):

(i) no business other than the questions of the appeal shall be transacted;

(ii) the committee and the Member shall be given the opportunity to state their respective cases orally or in writing, or both; and

(iii) the Members Present shall vote as to whether the resolution should be confirmed or revoked.

13.7. **Notice to a Member**

(a) The Secretary must, within 7 days of the passing of the Confirming Resolution, by notice in writing, inform the Member of the fact and that there is a right of appeal under clause 13.6 of the Constitution. A notice, approval, consent or other communication in connection with this agreement must be:

(i) in writing;

(ii) marked for the attention of the addressee's nominated contact person; and

(iii) left at the address of the addressee, or sent by prepaid ordinary post to the street address of the Member or by email to the email address of the Member.

(b) A notice pursuant to this clause, approval, consent or other communication takes effect from the time it is received unless a later time is specified in it.

(c) A notice pursuant to this clause, approval, consent or other communication is taken to be received:

(i) in the case of a posted letter, on the third day after posting; or

(ii) in the case of an email, when it is given to a system from which the Member can retrieve it.

14. Register

14.1. The Secretary must maintain at the Company's offices a Register containing the following details of each Member:

(a) full name;

(b) occupation;

(c) residential and business address;

(d) Annual Subscription (if any);

(e) date on which the entry of the Member's name in the Register is made; and

(f) in respect of each person who has ceased to be a Member, the date on which that person ceased to be a Member.

14.2. The Register must be kept at:

(a) the Registered Office; or

(b) the Company's principal place of business; or

(c) a place in this jurisdiction (whether of the company or of someone else) where the work involved in maintaining the register is done; or

(d) another place in this jurisdiction approved by the Australian Securities and Investments Commission.

14.3. A Member may inspect the Register between the hours of 9am and 5pm on any Business Day. No amount may be charged for inspection.

15. Meetings of Members

15.1. **Calling of meetings**

The Directors may call a general meeting.

15.2. **Meetings requested by Members**

(a) If the Board receives a written request from a Member or Members with at least 5% of the votes that may be cast at any general meeting, the Board must convene a general meeting within 21 days after the date of receipt of that request.

(b) The written request must detail any proposed resolution to be put to the meeting, the names of the Members requesting the meeting and be signed by all of the Members making the request. For this purpose, signatures of the Members may be contained in more than 1 document.

(c) A general meeting requested by the Members must be held no later than 2 calendar months after the request is received.

15.3. **Notice of meeting**

Every notice of a general meeting must:

(a) set out the place, date and time of meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);

(b) in the case of special business, state the general nature of the business;

(c) if a Special Resolution is to be proposed, set out an intention to propose the Special Resolution and state the resolution;

(d) in the case of an election of Directors, give the names of the candidates for election; and

(e) contain a statement setting out the following in relation to proxy voting:

(i) that the Member has a right to appoint a proxy; and

(ii) that a proxy does not need to be a Member.

15.4. **Entitlement to notice**

Notice of a general meeting must be given to:

(a) each Member, apart from any Member who under this Constitution or by the terms of issue of any Membership is not entitled to the notice;

(b) the auditor of the Company; and

(c) each Director.

15.5. **Notice period**

Notice of a general meeting must be given to each person entitled to receive notice under clause 15.4 at least 21 days (or such other period permitted under clause 15.8) before the general meeting.

15.6. **Proxy voting by Members**

(a) A Member may appoint a proxy to attend and vote at any meeting at which the Member is entitled to attend and vote. Any such proxy need not be a Member.

(b) To be valid, a proxy appointment must:

(i) be in writing in the common or usual form (including electronic) under the hand of the appointer or of their attorney duly authorised in writing or, if the appointer is a corporation, either under seal or under the hand of an Officer or attorney duly authorised; and

(ii) delivered to the address (including electronic address) nominated by the Board in the notice of meeting (or, if no address is nominated, the Registered Office) at least 48 hours before the scheduled commencement of the meeting. A proxy appointment may be delivered by electronic means if the notice of meeting provides for such delivery.

(c) Where a proxy is lodged at the electronic address specified in the notice of meeting, it is taken to have been received at the Company's registered office and validated by the Member provided that the requirements for electronic lodgement of proxies set out in the notice have been complied with.

(d) Any appointment of proxy under this clause 15.6 which is incomplete may be completed by the Secretary on the authority of the Directors and the Directors may authorise completion of the proxy by the insertion of the name of any Director as the person in whose favour the proxy is given.

(e) A proxy may be refused admission to a meeting in accordance with clause 17.10.

15.7. **Omission to give notice**

The accidental omission to give notice of a general meeting to, or the non-receipt of any such notice by, a person entitled to receive it, or the accidental omission to advertise (if necessary) such meeting, does not invalidate the proceedings at, or any resolution passed at, any such meeting.

15.8. **Consent to short notice**

(a) Shorter notice of a general meeting may be given if the calling of the notice of the general meeting on shorter notice is agreed to in advance:

(i) in the case of an AGM, by all Members entitled to attend and vote at the meeting; and

(ii) in the case of any other general meeting, by 95% of the Members entitled to attend and vote at the general meeting,

and accordingly, any such general meeting will be treated as having been duly convened.

(b) Notice of a general meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:

(i) remove a Director;

(ii) appoint a Director in order to replace a Director who was removed; or

(iii) remove an auditor.

15.9. **Cancellation or postponement of meeting**

The Board may cancel or postpone the holding of any general meeting. If the meeting was called by requisitioning Members or in response to a requisition by Members, the Board may only cancel or postpone the holding of it with the consent of a majority of the requisitioning Members.

15.10. **Notice of cancellation or postponement**

The Board may notify the Members of a cancellation or postponement of a meeting by such means as they see fit. If any meeting is postponed for 28 days or more, then no less than 5 days' notice must be sent to the Members of the postponed meeting. It is not necessary to specify in such notice the nature of the business to be transacted at the postponed meeting.

15.11. **Separate venues and hybrid meetings**

(a) If a separate meeting place is linked to the main place of a general meeting by an instantaneous audio-visual communication device which, by itself or in conjunction with other arrangements:

(i) gives the general body of Members in the separate meeting place a reasonable opportunity to participate in proceedings in the main place;

(ii) enables the Chair to be aware of proceedings in the other place; and

(iii) enables the Members in the separate meeting place to vote on a show of hands or on a poll,

a Member Present at the separate meeting place is taken to be present at the general meeting and entitled to exercise all rights as if he or she was present at the main place.

(b) If there is insufficient room at the meeting venue, or it is otherwise unsafe or unlawful to conduct the meeting solely at the meeting room, the Chair of the meeting may arrange another or a second venue (without giving notice or putting the matter to a vote). The second meeting room may be a digital or virtual meeting room.

(c) If, before or during the meeting, any technical difficulty occurs where one or more of the matters set out in 15.11(b) is not satisfied, the Chair may:

(i) adjourn the meeting until the difficulty is remedied; or

(ii) continue to hold the meeting in the main place (and any other place which is linked under clause 15.11(b) and transact business, and no Member may object to the meeting continuing.

(d) Nothing in this clause 15.11 is to be taken to limit the powers conferred on the Chair by law.

15.12. **Written resolutions without meetings**

The Company may pass a resolution approved by the Board without a general meeting being called or held if all 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 or indicate by email or other electronic communication that they are in favour of the resolution.

15.13. **Separate copies**

The Company may use separate copies of a document for signing by Members if

the wording of the resolution and statement is identical in each copy or if a Member indicates by separate email or electronic communication they are in favour of the resolution.

15.14. **Time of resolution**

The resolution is passed when the last Member signs or indicates by email or other electronic communication that they are in favour of the resolution.

16. Representation at meetings

16.1. **Persons entitled to attend**

The following persons only may attend a general meeting:

(a) each Member, apart from any Member who under this Constitution or by the terms of issue of any Membership is not entitled to attend;

(b) each Director, Secretary and auditor of the Company;

(c) each person being a Member who is a proxy or Corporate Representative of a Member;

(d) other persons only with leave of the meeting or its chair and then only while the leave has not been revoked in accordance with the terms of the leave.

16.2. **Powers of the Chair**

The right of a person to attend is subject to the powers of the chair of the meeting, both under the Act and under this Constitution.

17. Proceedings at meetings of Members

17.1. **Quorum**

(a) No business may be transacted at any general meeting unless a quorum of Members either in person or by proxy is present at the time when the meeting proceeds to business.

(b) Except as provided in clause 17.2:

(i) in the event that the number of Members on the Register be at or less than twenty, then a number of Members Present equivalent to

40% of those Members are a quorum, but in any event, at least three Members; or

(ii) in the event that the number of Members on the Register is greater than 20 then 10 Members Present are a quorum.

(c) Subject to clause 10.3, in determining whether a quorum is present, each individual attending as a proxy, attorney or Corporate Representative of a Member who is a body corporate is to be counted, except that:

(i) where a Member has appointed more than one proxy, attorney or Corporate Representative, only one is to be counted; and

(ii) where an individual is attending both as a Member and as a proxy, attorney or Corporate Representative, or as a proxy, attorney or Corporate Representative for more than one Member, that individual is to be counted only once.

(d) A Member placing a direct vote under clause 18.12 is not taken into account in determining whether or not there is a quorum at a general meeting.

17.2. **Failure of quorum**

(a) If a quorum is not present within 15 minutes from the time appointed for a general meeting:

(i) where the meeting was called by, or in response to, the requisition of Members made under the Act, the meeting is dissolved; or

(ii) in any other case the meeting stands adjourned to such day, and at such time and place, as the Board determines.

(b) If no determination of an adjourned meeting is made by the Board, the meeting stands adjourned to the same day in the second week following, at the same time and place. If at the adjourned meeting a quorum is not present within 15 minutes from the time appointed for the meeting, three Members Present constitute a quorum and if no quorum is present, the adjourned meeting is dissolved.

17.3. **Business of AGM**

The business of an AGM may include any of the following, even if not referred to in the notice of meeting:

(a) to receive the Company's financial report, the director's report and the auditor's report on the financial statements;

(b) to elect Directors in the place of those retiring;

(c) the appointment of the auditor;

(d) determination of auditor's remuneration; and

(e) to transact any other business which under this Constitution or the Act ought to be transacted at an annual general meeting.

17.4. **Report on Company's activities**

The Board must at each general meeting in addition to the matters in clause 17.3, submit to the Members a report on the activities of the Company in the period since the previous general meeting.

17.5. **Annual General Meeting ('AGM')**

(a) The Company must hold an AGM at least once every calendar year and within 5 months after the end of its financial year.

(b) The Chair of the AGM must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

17.6. **Special business**

No special business may be transacted at any general meeting other than that stated in the notice calling the meeting, unless it is a matter that is required by this Constitution or the Act to be transacted at the meeting.

17.7. **Chair of meeting**

(a) If the Chair is not present at any general meeting or does not present at any general meeting within 15 minutes after the time appointed for holding the meeting, the Directors present must elect one of their own number to be Chair of the meeting.

(b) Subject to clause 17.7(a), the Members at a meeting of the Company must elect a Member Present to chair the meeting (or part of it) if:

(i) the Chair is not present, not available or declines to act as Chair for the meeting; and

(ii) the Directors have not elected a person to preside as Chair at the meeting or the person elected to preside as Chair is not present, available or declines to act as Chair for the meeting.

17.8. **Passing the chair**

If the Chair of a general meeting is unwilling or unable to be the Chair for any part of the business of the meeting:

(a) that Chair may withdraw as Chair for that part of the business and may nominate any person who would be entitled under the preceding clause to chair the meeting for that part of the business; and

(b) after that part of the business is completed, the person so nominated must cease to chair the meeting upon the request of the prior Chair. The prior Chair is then entitled to resume as the Chair of the meeting.

17.9. **Responsibilities of Chair**

The Chair of a general meeting is responsible for the general conduct of the meeting and to ascertain the sense of the meeting concerning any item of business which is properly before the meeting. For these purposes the Chair of the meeting may, without limitation except for guidance of the Company's Code of Meeting Practice:

(a) delay the commencement of the meeting if that person determines it is desirable for the better conduct of the meeting;

(b) make, vary or rescind rulings;

(c) prescribe, vary or revoke procedures;

(d) in addition to other powers to adjourn, adjourn the meeting, or any item of business of the meeting, without the consent of the meeting if that person determines it is desirable for the orderly conduct of the meeting or the conduct of a poll; and

(e) determine conclusively any dispute concerning the admission, validity or rejection of a vote.

17.10. **Admission to meetings**

The Chair of a general meeting may refuse any person admission to, or require that person to leave and remain out of, a general meeting including any person who is not a Member but is appointed as a proxy for a Member if that person:

(a) is in possession of a pictorial-recording or sound-recording device; or

(b) is in possession of a placard or banner; or

(c) is in possession of an article considered by the Chair to be dangerous, offensive or liable to cause disruption; or

(d) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession; or

(e) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or

(f) has behaved or threatened to behave in a dangerous, offensive or disruptive manner to the Company or any of its Directors or employees; or

(g) is not entitled under this Constitution to attend the meeting.

17.11. **Adjournment of meeting**

The Chair of a general meeting at which a quorum is present may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place as the Chair determines.

17.12. **Business at adjourned meeting**

No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of an adjournment, or of the business to be transacted at an adjourned meeting. However, if any meeting is adjourned for 10 Business Days or more, notice of the adjourned meeting must be given.

18. Voting at meetings of Members

18.1. Entitlement to vote

Subject to this Constitution and the terms of issue of any Membership, each natural person who is present at a general meeting may vote if he or she is a Member, or Corporate Representative of a Member.

18.2. Number of votes

Each Member Present who is, under the preceding clause, entitled to vote has one vote, whether on a show of hands, or on a poll.

18.3. Voting restrictions

If permitted or contemplated by the Act or this Constitution, the Directors may direct that particular persons (whether specified by name or description) do not cast a vote on particular business of a meeting. In relation to that business, votes cast by the prohibited persons are to be disregarded.

18.4. Method of voting

Every resolution put to a vote at a general meeting (except where there is an election of Directors by ballot) must be determined by a show of hands (as determined by the Chair of the meeting) unless a poll is properly demanded either before or on the declaration of the result of the show of hands.

18.5. Demand for poll

A demand for a poll under the preceding clause may be made by:

(a) the Chair of the meeting; or
(b) at least 5 Members Present having the right to vote at the meeting; or
(c) Members Present with at least 5% of the votes that may be cast on the resolution on a poll.

18.6. Declaring result of vote on show of hands

Unless a poll is demanded in accordance with this Constitution, a declaration by the Chair that a resolution has, on a show of hands, been:

(a) carried; or

(b) carried unanimously; or

(c) carried by a particular majority; or

(d) lost or not carried by a particular majority,

is conclusive evidence of the fact declared. An entry to that effect made in the minute book of the Company signed by the Chair is evidence of that fact unless the contrary is proved.

18.7. **Minute book**

(a) Within 1 month after each general meeting, the Directors must record or cause to be recorded in the minute book:

(i) the proceedings and resolutions of each general meeting;

(ii) any declarations at each general meeting; and

(iii) all resolutions passed by Members without a general meeting.

(b) The Chair, or the Chair of the next general meeting, must sign the minutes of a general meeting within a reasonable time of the general meeting.

(c) The minute books must be kept at the Registered Office.

(d) Members may inspect the minute books between the hours of 9am and 5pm on any Business Day. No amount may be charged for inspection.

(e) The minutes of each general meeting may be kept in any form of minute book, including in electronic form, in accordance with the Act.

18.8. **Conduct of poll**

The demand for a poll may be withdrawn. If a poll is duly demanded (and the demand not withdrawn) it must be taken in such manner and at such time (either at once or after an interval or adjournment or otherwise) as the Chair of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded. A poll demanded on the election of a Chair or on any question of adjournment must be taken at the meeting and without an adjournment. The demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded.

18.9. **Casting vote of Chair**

If, on a show of hands or on a poll, the votes are equal the Chair of the meeting has a casting vote in addition to any vote to which the Chair may be entitled as a Member or as a proxy, attorney or properly appointed Corporate Representative of a Member.

18.10. **Objections**

No objection may be made to the validity of any vote except at the meeting or adjourned meeting or poll at which such vote is tendered. Every vote allowed at any such meeting or poll is treated as valid. In recording votes the latest copy of the Register held in the Registered Office must be adopted and acted on as the voting roll.

18.11. **Ruling on votes**

The Chair of the meeting is the sole judge of the validity of every vote tendered at the meeting and the determination of the Chair is final and conclusive.

18.12. **Direct voting**

The Directors may determine that at any general meeting or class meeting, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A 'direct vote' includes a vote delivered to the Company by post or electronic means approved by Directors. The Directors may prescribe rules to govern direct voting including specifications as to the form, method and timing of giving the direct vote in order for the vote to be valid, and the treatment of direct votes.

18.13. **Treatment of direct votes**

A direct vote on a resolution at a meeting cast in accordance with clause 18.12 is of no effect and will be disregarded:

(a) if, at the time of the resolution, the person who cast the direct vote:

(i) is not entitled to vote on the resolution; or

(ii) would not be entitled to vote on the resolution if the person were present at the meeting at which the resolution is considered;

(b) if, had the vote been cast in person at the meeting at which the resolution is considered:

(i) the vote would not be valid; or

(ii) the Company would be obliged to disregard the vote;

(c) subject to any rules prescribed by the Directors, if the person who cast the direct vote is present in person at the meeting at the time the resolution is considered; and

(d) if the direct vote was cast otherwise than in accordance with any rules prescribed by the Directors under clause 18.12.

18.14. **Multiple votes**

Subject to any rules prescribed by the Directors, if the Company receives a valid direct vote on a resolution in accordance with clauses 18.12 and 18.13 and, prior to, after or at the same time as receipt of the direct vote, the Company receives an instrument appointing a proxy, attorney or Corporate Representative to vote on behalf of the same Member on that resolution, the Company may regard the direct vote as effective in respect of that resolution and disregard any vote cast by the proxy, attorney or Corporate Representative on the resolution at the meeting.

19. Appointment and removal of Board

19.1. **Board**

Subject to any additional members appointed as Appointed Directors pursuant to clause 19.8, the Board comprises at least three and not more than nine Directors or such other number as proposed by the Board and approved by a resolution of a general meeting.

19.2. **Directors qualification**

A Director must be a Member (or a Corporate Representative of an organisation Member) or be admitted as a Member at the AGM following his or her appointment as a Director.

19.3. **Initial Directors**

The Directors holding office at the date of adoption of this Constitution continue in office subject to this Constitution, with their retirement determined under clause 19.9.

19.4. **Appointment of Directors by members**

The Company may by resolution at a general meeting appoint a person as a Director.

19.5. **Casual appointment of Directors by Board**

The Directors may at any time appoint any person as a Director, either to fill a casual vacancy or, subject to clause 19.8, as an addition to the Directors.

19.6. **Appointment to replace vacating Director**

Any member of the Board appointed to replace a vacating Director shall hold office until the expiry of the term for which such Director vacating the Board would have ordinarily served as a member of the Board.

19.7. **Appointment but not replacing a vacating Director**

Any member of the Board appointed, but not replacing a vacating Director, other than an Appointed Director, is a "casual appointee" until that person is elected at a general meeting. A casual appointee, following his or her appointment by the Board, holds office only until the conclusion of the next AGM and is then eligible for re-election. A casual appointee is not taken into account in determining the number of Directors, if any, who are to retire by rotation at such meeting.

19.8. **Appointment as an Appointed Director**

(a) The Board may from time to time, appoint a maximum of two Directors with the primary purpose of obtaining expertise needed by the Board **(Appointed Directors)**.

(b) Each Appointed Director will be appointed for a term of three years (or such other shorter term determined by the Board) but is eligible for re-appointment for two further terms of three years each, and on such other terms as determined by the Board from time to time.

19.9. **Tenure of office of Director**

(a) Unless a Director is an Appointed Director or unless specified elsewhere in this Constitution, Directors shall hold office for a period of three (3) years after which they must resign in accordance with clause 19.13 unless that Director is reappointed by Members at the general meeting in accordance with this Constitution or otherwise in accordance with this clause 19.

(b) A Director who is required to retire under this clause retains office until dissolution or adjournment of the meeting at which the retiring Director retires.

(c) For the avoidance of doubt, a retiring Director is eligible for re-election for up to two further terms of three years each (with a maximum service limit of nine consecutive or cumulative, non-consecutive years) and, if the retiring Director served as the Chair in their third term, they may be eligible for re-election for an additional term of three years (with a maximum service limit of twelve consecutive or cumulative, non-consecutive years). Time spent filling a casual vacancy or as a casual appointee does not count towards the maximum service limit. The maximum service limit for a particular Director may be extended by Special Resolution of the Company.

19.10. **Deemed re-appointment**

If there are fewer persons standing for election or re-election than vacancies, all persons are deemed to be elected without the need for an actual election subject to clause 19.9(c).

19.11. **Candidates requiring nomination**

No person is eligible for election to the office of Director at any general meeting unless duly nominated, except for:

(a) a Director retiring by rotation; or

(b) an Appointed Director; or

(c) a casual appointee; or

(d) a person recommended by the Directors for election.

19.12. **Valid nominations**

(a) Nominations for persons to be appointed as Directors of the Board must be made to the Secretary at the Registered Office. Nominations close at 5.00 pm local time on the day which is 21 days before the date for the holding of the meeting. For a nomination to be valid:

(i) the nomination must name the candidate and be signed by not less than 2 Members;

(ii) the person nominated must consent, in writing, to act if elected; and

(iii) the nomination and consent must be received before the close of nominations.

(b) A consent is sufficient if the person signs a form of consent on the nomination paper. The Secretary may accept any other form of consent, whether or not accompanied by the nomination paper, that the Secretary deems satisfactory, and such acceptance is final.

19.13. **Resignation of Director**

Any Director may resign from office by giving notice in writing to the Company of the Director's intention to do so. Such resignation takes effect immediately unless the resignation is stated in the notice to take effect at some future time. However, the resignation must take effect within 3 months from the date of the giving of the notice.

19.14. **Vacation of office**

In addition to the circumstances in which the office of Director becomes vacant by virtue of the Act or other provisions of this Constitution, the office of Director is vacated automatically if the Director:

(a) ceases to be a member of the Board by virtue of the Act or this clause 19; or

(b) becomes bankrupt or makes any arrangement or composition with his creditors generally; or

(c) becomes disqualified from being a director under the Act or the ACNC Act; or

(d) becomes mentally incapable or the Director's estate is liable to be dealt with in any way under the law relating to mental health; or

(e) is absent from more than 3 consecutive meetings of the Board without the prior leave of the Board; or

(f) in the case of an individual Member, ceases to be a Member; or

(g) in the case of a Corporate Representative of an organisation Member, ceases to be the Corporate Representative of the organisation Member.

19.15. **Removal of a Director**

(a) The Company may remove a Director by resolution at a general meeting.

(b) At least two months' notice must be given to the Company of the intention to move a resolution to remove a Director at a general meeting.

(c) If notice of the intention to move a resolution to remove a Director at a general meeting is received by the Company, that Director must be given a copy of the notice as soon as practicable.

(d) The Director must be informed by the Company that the Director may:

(i) submit a written statement to the Company for circulation to the Members before the meeting at which the resolution is put to a vote; and

(ii) speak to the motion to remove the Director at the general meeting at which the resolution is to be put to a vote.

(e) At least 21 days' notice must be given to the Members of a general meeting at which the resolution for the removal of a Director is proposed. The notice must set out the proposed resolution and the grounds for the proposed resolution.

19.16. **Less than minimum number of Directors**

The continuing Directors may act despite any vacancy in their body. If the number falls below 3, the Directors may act only:

(a) to appoint Directors up to that minimum number; or

(b) to call a general meeting; or

(c) in emergencies.

19.17. **Power to appoint alternate Director**

Each Director may at any time appoint any Member approved for that purpose by a majority of his or her co-Directors to act as an alternate Director in the appointer’s place, either for a stated period or until the happening of a specified

event.

19.18. **Suspension of appointment**

The appointer may vary, suspend, or terminate the appointment of any alternate Director.

19.19. **Notice of appointment**

Notice of each such appointment, suspension or termination must be made in writing to the alternate, signed by the appointer, and a copy served on the Company. In the case of notice of appointment, the notice must detail:

(a) the name, experience and qualifications of the person;

(b) the terms upon which the Director intends to appoint the person as an alternate Director, including whether the person is to exercise some or all of the powers of the Director and the proposed terms of the appointment; and

(c) whether or not the alternate Director is to receive notice of each meeting the Director is entitled to attend.

19.20. **No liability**

The Company is not responsible for ensuring that the terms of appointment of an alternate Director are complied with and accordingly, is not liable if those terms are not complied with.

19.21. **Remuneration of alternate Director**

An alternate Director is not entitled to receive any fee (or other remuneration) from the Company for services performed as an alternate Director.

19.22. **Notice and attendance at Board meetings**

If the notice appointing the alternate Director provides that the alternate Director is to receive notice of Board meetings, the Company must provide the alternate Director with notice. By notice to the Company, the Director who appointed an alternate Director may at any time require that the notice cease to be given to the alternate Director.

19.23. **Voting of alternate Director**

An alternate Director is entitled to one vote for each Director that the alternate Director represents in addition to any vote the alternate Director may have as a Director in his/her own right.

19.24. **Termination of appointment of alternate Director**

The appointment of an alternate Director is automatically terminated if:

(a) the alternate Director resigns such appointment; or

(b) the appointment of the alternate Director is terminated by the appointer; or

(c) a majority of the co-Directors of the appointer or withdraw the approval of the person to act as an alternate Director; or

(d) the appointment is to act as alternate Director for one (1) or more Directors and all of those named Directors have vacated office as Directors; or

(e) on the happening of any event which, if the alternate Director were a Director, would cause the alternate Director to vacate the office of Director.

20. Appointment and removal of office bearers

20.1. **Election of Chair**

The Directors must elect from among their number a Chair and may determine the period for which each is to hold office.

20.2. **Appointment of Secretary**

The Directors must appoint a Secretary and may determine the period for which the Secretary is to hold office.

21. Proceedings of Directors

21.1. **Number of Board meetings**

At least 6 Board meetings must be held in each financial year. At least 1 Board meeting must be held in every period of 3 consecutive months.

21.2. **Mode of meeting**

The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as they see fit. The Board may conduct its meetings in person, by telephone, audio visual link or by using any other technology consented to by all Directors. A consent may be a standing one. A meeting conducted by telephone or other means of communication is considered to be held at the place agreed on by the Directors attending the meeting if at least one of the Directors present at the meeting was at that place for the duration of the meeting.

21.3. **Quorum**

A quorum of the Board comprises not less than half of the total number of Directors or such greater number fixed by the Board, but in any event, not less than 3 Directors.

21.4. **Chair calling a meeting**

The Chair may at any time call a meeting of the Board to be held at such time and place as the Chair chooses.

21.5. **Secretary calling a meeting**

The Secretary, upon the request of any other Director, must call a meeting of the Board to be held at such time and place as is convenient to the Directors.

21.6. **Notice of meeting**

Notice of each meeting of the Board:

(a) must state:

(i) the date, time and place (or places) of the Board meeting;

(ii) the general nature of the business to be conducted at the Board meeting; and

(iii) any proposed resolutions;

(b) may be given by such means as is convenient, including by telephone or electronic transmission; and

(c) must be given to all Directors and those alternate Directors who an appointor has notified the Company in writing must receive notice of meetings of the Board.

21.7. **Recipients of notice**

The accidental omission to give notice of any meeting of the Board to, or the non-receipt of any such notice by, a person entitled to receive that notice does not invalidate the calling of the meeting or any resolution passed at any such meeting.

21.8. **Appointment of Chair**

If:

(a) no Chair is elected; or

(b) at any meeting of the Board the Chair is not present within 15 minutes of the time appointed for holding the meeting, the Directors present must choose one of their number to be Chair of such meeting.

21.9. **Votes of Directors**

Questions arising at any meeting of the Board must be decided by a majority of votes of Directors present and entitled to vote. Each Director has one vote. A person who is an alternate Director is entitled (in addition to his or her own vote if a Director) to one vote on behalf of each Director whom the alternate Director represents (as an alternate Director at the meeting). The alternate Director may only vote (in that capacity) if the Director is not personally present. If there is an equality of votes, provided more than three Directors present are competent to vote on the question at issue but not otherwise, the Chair has a second or casting vote.

21.10. **Circular resolution of Directors**

If:

(a) all Directors have been provided with a document and/or sent an email containing a statement setting out the proposed resolution or resolutions; and

(b) a majority of Directors have signed a document containing the statement and/or indicated by email or other electronic communication that they are

in favour of the proposed resolution or resolutions of the Directors in the terms set out in the statement,

a resolution or resolutions in those terms is treated as having been passed at a meeting of the Board held on the day on which the document was signed by or indicated by email or other electronic communication that they are in favour of the proposed resolution or resolutions by the last Director required to form a majority. A resolution is not treated as passed on that day if the statement, by its terms, is said to take effect from an earlier date.

21.11. **Signing of circular resolution**

For the purposes of the preceding clause:

(a) the Directors who are eligible to sign the circular resolution are all Directors for the time being but excluding:

(i) subject to clause 21.11(d), all alternate Directors; and

(ii) those who, at a meeting of the Board, would not be entitled to vote on the resolution;

(b) each Director, other than one not entitled to vote on the resolution, may sign the circular resolution;

(c) if a person who is not entitled to vote on the resolution signs the document, it does not invalidate the resolution if it is otherwise valid;

(d) each alternate Director may sign the document on behalf of each Director whom the alternate Director represents (appointor) if:

(i) the alternate Director reasonably believes that the appointor is unavailable to sign the document; and

(ii) the appointor has not suspended the appointment of the alternate Director. An alternate Director may sign even if the available appointor could not have voted on the resolution. An alternate Director who represents more than one Director may sign as many times accordingly;

(e) an electronic transmission purporting to be signed by a Director or alternate Director is treated as being in writing signed by such person; and

(f) two or more separate documents containing statements in identical terms each of which is signed by one or more Directors are together treated as constituting one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

21.12. **Deemed minute**

The document or documents referred to in the two preceding clauses are treated as constituting a minute of that meeting and must be entered in books kept for that purpose.

21.13. **Validity of acts of Directors**

All acts done in respect of any meeting of:

(a) the Board; or

(b) a committee of the Board; or

(c) other persons or by any person acting as a Director; or

(d) any person purporting to act as an attorney under power of the Company,

are, despite the fact that later it is discovered that there was some defect in the appointment or continuance in office of such Director, person or attorney so acting or that they or any of them were disqualified or were not entitled to vote, as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Director or attorney and was entitled to vote.

22. Director's contracts with the Company

22.1. **Director's contracts and conflicts of interest**

In relation to Director's contracts and conflicts of interest, but subject at all times to clauses 22.3 and 22.4:

(a) despite any rule of law or equity to the contrary, no Director is disqualified by that office from contracting with the Company;

(b) no Director may be an employee of the Company;

(c) any such contract, or any contract entered into by or on behalf of the Company in which any Director is in any way interested, is not voided;

(d) any Director so contracting or being so interested is not liable to account to the Company for any profit realised by any such contract by reason only of such Director holding that office or of the fiduciary relationship thereby established;

(e) the nature of the Director's interests must be disclosed by that Director at the meeting of the Directors at which the contract is decided on if that interest then exists and has not previously been disclosed. In any other case at the first meeting of the Board after the acquisition of those interests; and

(f) a Director may not vote in that capacity in respect of any contract or arrangements in which the Director is interested if prohibited by the Act from doing so. However, such Director may, despite that interest, participate in the execution of any instrument by or on behalf of the Company, whether through signing or sealing it or otherwise.

22.2. **Requirement to leave the meeting**

Despite anything in the preceding clause, a Director's entitlement to vote, or be present, at a meeting of the Board of any Director who has a material personal interest in a matter that is being considered at the meeting is restricted in accordance with section 195 of the Act (and every other mandatory law) as it may apply from time to time to the Company.

22.3. **Notice of interest**

A general notice given to the Board by any Director in accordance with section 192 of the Act and to the effect that he or she:

(a) is an Officer or a member of, or interested in, any specified firm or body corporate; and

(b) is to be regarded as interested in all transactions with such firm or body,

is sufficient disclosure as required by the Act as regards such Director and those transactions. After such general notice it is not necessary for such Director to give any special notice relating to any transaction with such firm or body.

22.4. **Office in another company**

(a) A Director may be, or become, a director or other Officer of, or otherwise interested in, any body corporate promoted by the Company or in which the Company may be interested, or which holds any Membership.

(b) No such Director is accountable to the Company for any remuneration or other benefits received by him or her as a director or Officer of, or from his or her interest in, such body corporate.

(c) The Directors may exercise the voting power exercisable by them as directors of such other body corporate in such manner in all respects as they think fit. This includes the exercise of that voting power in favour of any resolution appointing themselves, or any of them as directors or other Officers of such body corporate. Any Director may vote in favour of the exercise of such voting power in that manner despite the fact that he or she may be, or be about to be, appointed a director or other Officer of such corporation and as such is, or may become, interested in the exercise of such voting power in that manner.

23. Powers and duties of Directors

23.1. **Duties of Directors**

The Directors must comply with their duties as directors at law (including under the Act and at common 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;

(b) to act in good faith in the best interests of the Company and to further the Objects and purposes of the Company as set out in clause 2;

(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 as set out in this Constitution;

(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.

23.2. **Powers generally**

Subject to the Act and to any other provisions of this Constitution, the management and control of the Company and of the business and affairs of the Company is vested in the Directors who may exercise all such powers of the Company and do all such acts or things not expressly required by this Constitution or by the Act to be exercised or done by a general meeting. No clause adopted or resolution passed by a general meeting invalidates any prior act of the Directors which would have been valid if that clause or resolution had not been adopted or passed.

23.3. **Borrowing**

The Directors have the power to raise or borrow any sum of money and to secure the payment or repayment of such money and any other obligation or liability of the Company in such manner and on such terms as they think fit. This includes:

(a) upon the security of any mortgage; or

(b) by the issue of debentures or debenture stock of the Company charged upon all or any of the property of the Company (both present and future) including its goodwill and undertaking for the time being; or

(c) upon bills of exchange, promissory notes or other obligations or otherwise.

23.4. **Execution of negotiable instruments**

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company may be signed, drawn, accepted, endorsed or otherwise executed as the case may be, in such manner as the Directors at any time determine.

23.5. **Official Seal**

The Directors may exercise all the powers of the Company in relation to any official Seal for use outside the State where its common seal is kept and in relation to branch registers.

23.6. **Appointment of attorney**

The Directors may at any time, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretion (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as they may think fit. Any such powers of attorney may:

(a) contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit; and

(b) authorise any such attorney to delegate all or any of the powers authorities and discretion vested in the attorney.

23.7. **Delegation**

The Directors may at any time confer upon any Director, or such other person as they may select, such of the powers exercisable under the Constitution by the Directors for such time as they may think fit and to be exercised for such objects and purposes and upon such terms and with such restrictions as they think expedient. They may confer such powers whether collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the Directors in that respect. They may at any time revoke, withdraw, alter or vary all or any of such powers.

23.8. **Validity of acts**

Despite anything contained in this Constitution, if it is found that some formality required by this Constitution to be done has been inadvertently omitted or has not been carried out, such omission does not invalidate any resolution, act, matter or thing which but for such omission would have been valid.

23.9. The Directors shall cause the Company from time to time to communicate to stakeholders and tenants a report on the activities of the Company.

24. Patron

At a general meeting the Members may appoint not more than two Patrons of the Company. Patrons are appointed to promote the Objects of the Company throughout the community. A Patron may, by invitation of the Board, attend meetings of the Board but shall take no part in deliberation nor have a vote.

25. Committees

25.1. **Delegation to Committee**

The Directors may:

(a) delegate any of their powers to committees consisting of such one or more persons, whether Directors or not, as they think fit; and

(b) establish advisory committees (or other committees not having delegated power of Directors) consisting of such person or persons as they think fit.

25.2. **Committee powers**

Any committee so formed or person or persons so appointed must, in the exercise of the powers so delegated, or functions entrusted, conform to any regulations that may at any time be imposed by the Directors.

25.3. **Committee meetings**

The meetings and proceedings of any committee, consisting of two or more persons are governed by the provisions in this Constitution for regulating the meetings and proceedings of the Directors so far as those provisions are applicable and not affected by any resolution or regulation made by the Directors under the preceding clause.

25.4. **Committee members as officers**

Each person appointed to a committee under clause 25.1(a), if not otherwise an Officer of the Company, is, when exercising the powers so delegated or functions entrusted, an Officer of the Company.

26. Minutes

26.1. **Minutes of meeting**

The Directors must cause minutes containing the following information to be entered into the Company's minute books within one month after the event whose proceedings are recorded in the minutes:

(a) the names of the Directors present at each meeting of Directors;

(b) the names of the committee members present at each meeting of a committee formed under clause 25;

(c) all resolutions and proceedings of each general meeting;

(d) all resolutions and proceedings of each meeting of Directors;

(e) all resolutions and proceedings of each meeting of a committee formed under clause 25; and

(f) all resolutions passed by Directors without a meeting.

26.2. **Evidence of meetings**

(a) Any minutes made under clause 26.1 that purport to be signed by the Chair of the meeting to which they relate or by the Chair of the next succeeding meeting are presumed to be an accurate record of the relevant proceedings unless the contrary is proved.

(b) The minutes of each meeting of Directors may be kept in any form of minute book, including in electronic form, in accordance with the Act.

27. Execution and Seal

27.1. **Execution of documents**

The Company may execute a document without using the Seal if the document is signed by:

(a) 2 Directors; or

(b) a Director and the Secretary; or

(c) any person duly authorised to sign on behalf of the Company, whether under authority of a power of attorney or otherwise.

27.2. **Safe custody of Seal**

If the Directors elect to use or retain a common seal, they must provide for the safe custody of the Seal (and any duplicate of it).

27.3. **Use of common seal**

(a) The Seal must not be affixed to any document unless it is done by the authority of Board or of a committee of the Directors.

(b) The Company may execute a document if the Seal is fixed to the document and the fixing of the Seal is witnessed by:

(i) two Directors; or

(ii) a Director and a Secretary; or

(iii) any person duly authorised to sign on behalf of the Company, whether under authority of a power of attorney or otherwise.

(c) The Directors may resolve to dispense with the use of the Seal in the execution of documents or instruments in accordance with the Act.

28. Accounts

28.1. Books of account

The Company must keep proper books of account (which may include computer records) of the Company and the Deductible Gift Recipient Account at its principal office and entries made of all such matters, transactions and things which are usually entered in books of accounts kept by entities engaged in concerns of a similar nature.

28.2. Audit

The Company must in accordance with the Act and any Federal, State or Territory legislation applicable to registration of charities, or charitable fundraising, arrange for the accounts to be audited in accordance with the Act and the applicable Federal, State or Territory legislation.

28.3. Remuneration of auditor

The remuneration of the auditor may be determined by the Company at a general meeting. If the remuneration is not determined at a general meeting, it may be determined by the Directors at a Board meeting.

28.4. Removal of auditor

(a) The Company may remove an auditor by resolution at a general meeting.

(b) At least 2 months' notice must be given to the Company of the intention to move a resolution to remove an auditor at a general meeting.

(c) If notice of an intention to move a resolution to remove the auditor at a general meeting is received by the Company, the auditor must be given a copy of the notice as soon as practicable.

(d) The notice of an intention must also inform the auditor that the auditor:

(i) may submit written representations to the Company within 7 days after receiving the notice and that the auditor may request the Company to send a copy of the written representations to the Members before the resolution is put to a vote; and

(ii) may speak at the general meeting or request that the written representations be read at the general meeting at which the resolution is voted upon.

28.5. **Auditor's attendance at general meetings**

The auditor must be notified of, and may attend, any general meeting. The auditor is entitled to be heard at any general meeting it attends on any part of the business of the general meeting which concerns the auditor.

29. Notices

29.1. **How to give a communication**

In addition to any other way allowed by the Act, a notice or other communication may be given:

(a) by being personally delivered; or

(b) by being left at the person's current address as recorded in the Register; or

(c) by being sent to the person's address as recorded in the Register by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail; or

(d) by being sent by email to the person's current email address for notices; or

(e) by notifying the Member by an electronic means nominated by the Member that:

(i) the document is available; and

(ii) how the Member may use the nominated access means to access the document; or

(f) by any other means permitted by law.

29.2. **Communications by post**

A communication is given if posted:

(a) within Australia to an Australian address, 3 Business Days after posting;

(b) outside Australia to an address outside Australia, ten Business Days after posting.

29.3. **Communications by email**

A communication is given if sent by email at the time it is sent, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the information system of the recipient.

29.4. **Counting of days**

Subject to the Act, where a specified number of days' notice or notice extending over any period is required to be given, both the day of service and the day upon which such notice will expire are included in such number of days or other period.

29.5. **Service on Company or its officers**

Every document required to be served upon the Company or upon any Officer of the Company may be served by leaving it at the Registered Office.

29.6. **Signature**

The signature to any document to be given by the Company may be written, printed or stamped.

29.7. **Evidence of service**

A certificate signed by a Director or a Secretary stating that a document was sent, delivered or given to a Member personally, by post or electronic means on a particular date is evidence that the document was sent, delivered or given on that date and by that means.

30. Indemnity

30.1. Indemnity for Officers

(a) Every Officer and past Officer (with the exception of any auditor) of the Company is hereby indemnified by the Company to the fullest extent permitted by law against a liability incurred by that person as an Officer of the Company or a subsidiary of the Company unless the liability did not arise out of conduct in good faith, including without limitation legal costs and expenses incurred in participating or being involved in or in defending Legal Proceedings.

(b) Where the Directors consider it appropriate, the Company may execute an indemnity document in any form in favour of any Officer of the Company or a subsidiary.

30.2. Insurance premiums

The Company may at any time pay premiums in respect of a contract insuring a person (whether with others or not) who is an Officer of the Company to the fullest extent permitted by law against a liability incurred by the person as such an Officer, or as an officer of a related corporation. The liability insured against may not include that which the Act prohibits. Any such premium in relation to a Director is in addition to, and not regarded as part of, the remuneration approved by Members under this Constitution.

30.3. Indemnity to employees

Every employee who is not a Director, Secretary or executive officer of the Company may be indemnified out of the property of the Company against a liability:

(a) incurred by the employee acting in that capacity; and

(b) for the costs and expenses incurred by an employee:

(i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which the person is acquitted; or

(ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under the Act.

30.4. **Access**

Where the Directors consider it appropriate, the Company may:

(a) give a former Director access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents; and/or

(b) bind itself in any contract with a Director or former Director to give the access.

31. Definitions and Interpretation

31.1. **Definitions**

In the construction of this Constitution, unless the contrary intention appears:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) or any successor legislation or any statutory modification, amendment or re-enactment in force and any reference to any section, part or division is to that provision as so modified, amended or enacted;

Act means the *Corporations Act 2001* (Cth) as it applies to the Company for the time being or any successor legislation or any statutory modification, amendment or re-enactment in force and any reference to any section, part or division is to that provision as so modified, amended or enacted;

AGM means the annual general meeting of the Company;

Annual Subscription means the amount determined by the Board from time to time;

Appointed Directors means the Directors of the Company appointed under clause 19.8;

Board means the Board of Directors of the Company from time to time;

Business Day means a day that is not a Saturday, Sunday or public holiday in the place of registration of the Company;

Chair means the chair of the Board elected in accordance with clause 20 from time to time or otherwise appointed in accordance with clause 21 from time to time;

Company means **ARGYLE COMMUNITY HOUSING LIMITED** (ACN 002 761 855, ABN 88 002 761 855);

Confirming Resolution has the meaning in clause 13.4;

Constitution means this constitution;

Corporate Representative means a natural person appointed by a Member which is an organisation Member to be that body's representative at specified general meetings;

Directors means the directors of the Company in office for the time being;

Deductible Gift Recipient Account means the Company's deductible gift recipient account referred to in clause 8;

Entrance Fee means the amount (if any) determined by the Board from time to time which is payable by a Member upon their admission as such;

Housing Agency has the meaning set out in section 4 of the Community Housing Providers National Law as set out in the Appendix to the *Community Housing Providers (Adoption of National Law) Act 2012* (NSW);

general meeting means a meeting of Members, including an AGM, duly called and constituted in accordance with this Constitution and any adjourned holding of it;

Initial Resolution has the meaning in clause 13.1;

ITAA means the *Income Tax Assessment Act 1997* (Cth) as amended from time to time;

Legal Proceedings means any claim, action, suit or demand, enquiry, Royal Commission or other regulatory investigation, whether civil or criminal, which relates to or arises in connection with the Officer being an officer of the Company or the employment of the Officer with the Company;

Member means any person entered in the Register as a member for the time being of the Company;

Membership means membership of the Company;

Member Present or **Members Present** means, in connection with a meeting, a Member (or Members) present at the venue or venues for the meeting in person,

by proxy, by attorney or by Corporate Representative;

Objects or **Objects of the Company** means the objects set out in clause 2;

Officer a Director, an alternate Director, a Secretary, an officer as defined by the Act, or the Chief Executive Officer;

Ordinary Resolution means a resolution that has been passed by more than 50% of the total votes cast on the resolution;

Patron means a person appointed as patron pursuant to clause 24;

Register means the Register of Members kept under the Act and includes any branch Register;

Registered Office means the Registered Office for the time being of the Company;

remuneration includes, without limitation, salaries, wages, commissions, fees, rewards, allowances, bonuses, incentive schemes or profit sharing schemes;

Seal means the common seal of the Company and includes any official seal of the Company;

Secretary means any person appointed to perform the duties of secretary of the Company and includes an assistant secretary or any person appointed to act as the secretary or assistant secretary temporarily;

Special Resolution means a resolution that has been passed by at least 75% of the votes cast on the resolution; and

Transferee Entity has the meaning in clause 5.2.

31.2. **Interpretation**

In the construction of this Constitution:

(a) headings are disregarded;

(b) words importing persons include partnerships, associations, corporations, companies unincorporated and incorporated whether by Act of Parliament or otherwise, as well as individuals;

(c) singular includes plural and vice versa and words importing gender include all other genders;

(d) except for the definitions in the preceding clause, an expression has, in a provision of this Constitution that deals with by a particular provision of the Act, the same meaning as in the provision of the Act;

(e) all references to statutory provisions are construed as references to any statutory modification or re-enactment for the time being in force;

(f) while the Company is registered as a charity, the ACNC Act and the Act override any clauses in this Constitution which are inconsistent with those Acts to the extent as is necessary for compliance with those Acts; and

(g) if the Company is not registered as a charity at any time (even it remains a not-for-profit), the Act overrides any clauses in this Constitution which are inconsistent with the Act to the extent as is necessary for compliance with the Act.

31.3. **Replaceable rules**

The operation of each of the sub-sections of the Act which are defined as replaceable rules are displaced by this Constitution and do not apply to the Company.

32. Amendment of this Constitution

32.1. **Charity status and deductible gift recipient endorsements**

Subject to an express intention otherwise, a Special Resolution of the Company in a general meeting to amend this Constitution is invalid if it results in the Company losing its status as a charity for the purposes of the ACNC Act and/or results in the revocation of the Company's endorsement under Subdivision 30-BA of the ITAA.

32.2. **Modifying or repealing Constitution**

Subject to clause 32.3, this Constitution may be modified or repealed only by a Special Resolution of the Company in a general meeting.

32.3. **Modifying or repealing clauses 9.3, 19.2 and/or 19.14**

Notwithstanding any other clause of this Constitution, clauses 9.3, 19.2 and/or 19.14 may only be modified or repealed where:

(a) approved by resolution of the Board; and

(b) approved by a Special Resolution of the Company in a general meeting.

32.4. **Date of effect of modification or repeal**

Any modification or repeal of this Constitution takes effect on the date the Special Resolution of the Company in general meeting is passed or any later date specified, or provided for, in the resolution.

DATED this