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**COMMUNITY LIVING & RESPITE SERVICES
INCORPORATED
(Reg No. A13878U)**

CONSTITUTION

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CONSTITUTION

of

COMMUNITY LIVING & RESPITE SERVICES INCORPORATED (Reg No. A13878U)

PART I – PURPOSES, POWERS AND INTERPRETATION

1. NAME OF THE ASSOCIATION

The name of the association is Community Living & Respite Services Incorporated (“Association”).

2. PURPOSES OF THE ASSOCIATION

The purposes for which the Association is established include but are not limited to:

- (a) Assist individuals achieve their goals, objectives and aspirations which may include, but are not limited to, education, employment, social participation, independence, living arrangements and/or health and wellbeing;
- (b) Provide support, accommodation and respite options in the least restrictive environment, reflecting individual interest/needs;
- (c) Provide education to individuals to assist the achievement of goals, objectives and aspirations;
- (d) Provide opportunities for individuals to have greater control of their lives through choice, community participation, access and advocacy;
- (e) Collaborate with other service providers and organisations to enhance outcomes for clients;
- (f) Encourage and support mainstream services to broaden their service parameters to promote inclusion;
- (g) Undertake representation to Government and Non-Government bodies to attract financial support for the continuation and promotion of established and proposed services;
- (h) Buy, sell, lease chattels/property pursuant to the objects of the Association;
- (i) Improve, maintain and develop properties to advance the Association’s interest;
- (j) Borrow or raise funds either alone or jointly with another legal entity by secured or unsecured notes or mortgage, pursuant to the objects of the Association;
- (k) Develop, use and protect the Intellectual Property of the Association;
- (l) Undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these purposes.

3. POWERS OF THE ASSOCIATION

Solely for furthering the purposes set out in **Rule 2** the Association has, in addition to the rights, powers and privileges conferred on it under the Act, the legal capacity and powers of a company as set out under section 124 of the Corporations Act 2001 (Cth).

4. INTERPRETATION AND DEFINITIONS

4.1 Definitions

In this Constitution, unless the contrary intention appears:

“Act” means the Associations Incorporation Act 1981 (Vic).

“Association” means Community Living & Respite Services Incorporated.

“Board” means the body consisting of the Directors under **Rule 17.2**.

“By-Laws” means any by-law, regulation or policy made by the Board under **Rule 33**.

“Chief Executive Officer” mean the chief executive officer of the Association who is appointed under this Constitution to carry out the duties set out in **Rule 22**.

Corporate Member means an entity incorporated under the Corporations Act 2001 (Cth) or an Incorporated Association incorporated under the Incorporation Associations Act 2012 or other equivalent state legislation.

“Director” means a director of the Association.

“Financial Year” means the year commencing 1 July and concluding 30 June.

“General Meeting” means a meeting of Members convened in accordance with **Rules 10** and **11**.

“Honorary Member” means an individual appointed as an honorary member under **Rule 5.4**.

“Intellectual Property” means all rights subsisting in copyright, trade names, trademarks, logos, designs, equipment, images (including photographs, videos or films) or service marks relating to the Association or any event or activity conducted, promoted or administered by the Association.

“Life Member” means an individual elected as a life member under **Rule 5.3**.

“Member” means a member of the Association for the time being under **Rule 5**.

“Ordinary Director” means a member of the Board as set out in **Rule 17.2(a)**.

“Special Resolution” means a special resolution as defined in the Act.

“Voting Member” means a Member with voting rights as set out in **Rule 5.1**.

4.2 Interpretation

In this Constitution:

- (a) A reference to a function includes a reference to a power, authority and duty;
- (b) A reference to the exercise of a function includes where the function is a power, authority or a duty a reference to the exercise of the power or authority or the performance of the duty;
- (c) Words importing the singular include the plural and vice versa;
- (d) Words importing any gender include other genders;
- (e) References to persons include corporations and bodies politic;
- (f) References to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) A reference to a statute, ordinance code or other law includes by-laws and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and
- (h) Expressions referring to “writing” shall unless the contrary intention appears, be construed as including references to printing, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

4.3 Enforceability

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision shall be read down for the purpose of that jurisdiction, if possible, so it is valid and enforceable. If it cannot be so read down the provision shall be severed to the extent of the invalidity or unenforceability. The remaining provisions of this Constitution and its validity or enforceability shall not be affected by the severance in any other jurisdiction.

PART II – MEMBERS

5. MEMBERSHIP OF ASSOCIATION

5.1 Categories of Member

The Members of the Association shall consist of:

- (a) Ordinary Members, natural persons 18 years or over, who shall have the right to attend, participate and vote at General Meetings;
- (b) Life Members, who shall have the right to attend, participate and vote at General Meetings;

- (c) Corporate Members, shall be represented by their Delegate who shall have the right to attend, participate and vote at General Meetings for and on behalf of the Corporate Member. An Corporate Member must be incorporated under the Act or similar legislation;
- (d) Honorary members, who shall have the right to attend General Meetings but not participate and vote;
- (e) Such other category of members as determined by the Board in accordance with **Rule 5.2**.

The rights of Members set out in this Rule are subject to this Constitution.

5.2 Creation of New Categories

The Board has the right and power from time to time to create new categories of membership with such rights, privileges and obligations as are determined applicable (other than voting rights), even if the effect of creating a new category is to alter rights, privileges or obligations of an existing category of Members. No new category of membership may be granted voting rights.

5.3 Life Members

- (a) A person may be appointed as a Life Member if that person in the opinion of the Board has given outstanding service to the Association or is otherwise a person deserving of such membership.
- (b) Conditions, obligations and privileges of life membership shall be as prescribed in the By-Laws.

5.4 Honorary Members

- (a) A person may be appointed as an Honorary Member if that person in the opinion of the Board is deserving of such membership.
- (b) Conditions, obligations and privileges of life membership shall be as prescribed in the By-Laws.

5.5 Application For Membership

- (a) Subject to this Constitution, an application for membership as a Member must be:
 - (i) In writing in the form determined by the Board from time to time;
 - (ii) In the case of a Corporate Member, accompanied by a copy of the Corporate Member's Certificate of Incorporation;
 - (iii) Accompanied by the appropriate fee or fees, if any; and
 - (iv) Lodged with the Chief Executive Officer.
- (b) As soon as practicable after the receipt of an application under **Rule 5.4(a)**, the Chief Executive Officer shall notify the applicant in writing that it is

approved for membership, which shall commence on entry into the register of members in accordance with **Rule 5.4(f)**.

- (c) The Chief Executive Officer may refer any application to the Board requesting a Board decision whether to approve or decline the application.
- (d) If the Board approves the application for membership, the Chief Executive Officer shall, as soon as practicable, notify the applicant in writing that it is approved for membership, which shall commence on entry into the register of members in accordance with **Rule 5.4(f)**.
- (e) If the Board declines an application for membership, the Chief Executive Officer shall, as soon as practicable, notify the applicant in writing that its membership application has been declined and refund any membership fee received. The Board is not required to give reasons for its decision.
- (f) If the application for membership is approved, the Chief Executive Officer shall enter the applicant's name in the register of members, and upon the name of the applicant being so entered, the applicant becomes a Member. The Chief Executive Officer shall also enter the class of membership afforded to a Member.

5.6 Membership Renewal

Members must renew their membership of the Association annually in accordance with the procedures set down by Board from time to time.

5.7 Effect of Membership

- (a) Members acknowledge and agree that:
 - (i) This Constitution constitutes a contract between each of them and the Association and that they are bound by this Constitution and By-Laws as amended from time to time;
 - (ii) They shall comply with and observe this Constitution, the By-Laws as amended from time to time;
 - (iii) By submitting to **Rule 5.8(a)(i)** and **(ii)** they are subject to the jurisdiction of the Association;
 - (iv) This Constitution and By-Laws are necessary and reasonable for promoting the purposes of the Association; and
 - (v) They are entitled to all benefits, advantages, privileges and services of Association membership.
- (b) A right, privilege or obligation of a person by reason of their membership of the Association:
 - (i) Is not capable of being transferred or transmitted to another person; and
 - (ii) Terminates upon the cessation of membership whether by death, resignation or otherwise.

6. SUBSCRIPTIONS AND FEES

The annual membership subscriptions and fees payable by Members or categories of Members to the Association, the time for, and manner of payment, shall be determined by the Board from time to time.

7. REGISTERS

7.1 Chief Executive Officer to Keep Register of Members

The Chief Executive Officer shall keep and maintain a register of Members in which shall be entered the full name, address, category of membership and date of entry of the name of each Member;

7.2 Inspection of Register

Subject to confidentiality and privacy considerations, an extract of the register, excluding the address of any Member shall be available for inspection (but not copying) by Members, upon reasonable request.

8. CEASING MEMBERSHIP

8.1 Notice of Resignation

Any Member who has paid all monies due and payable to the Association may resign from the Association by giving one month's notice in writing to the Association of such intention to resign and upon the expiration of that period of notice, the Member shall cease to be a member.

8.2 Expiration of Notice Period

Upon the expiration of a notice given under **Rule 8.1**, an entry, recording the date on which the Member who or which gave notice ceased to be a Member, shall be recorded in the register of Members.

8.3 Non renewal of membership

A member is taken to have resigned if—

- (a) the member's annual subscription is more than 12 months in arrears; or
- (b) where no annual subscription is payable—
 - (i) the Secretary has made a written request to the member to confirm that he or she wishes to remain a member; and
 - (ii) the member has not, within 3 months after receiving that request, confirmed in writing that he or she wishes to remain a member.

8.4 Forfeiture of Rights

A Member who or which ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon the Association and its property including Intellectual Property.

9. DISCIPLINE OF MEMBERS

9.1 Disciplinary Committee

The Board shall establish a Disciplinary Committee to deal with all disciplinary matters under this Rule. The composition of the Disciplinary Committee shall be as follows:

- (a) There shall be 3 persons appointed by the Board to the Disciplinary Committee. The Board shall also appoint a member of the Disciplinary Committee as chair;
- (b) The members of the Disciplinary Committee –
 - (i) May be Directors, members of the Association or anyone else, but
 - (ii) Must not be biased against, or in favour of, the member concerned.
- (c) 3 members of the Disciplinary Committee shall constitute a quorum;
- (d) A vacancy on the Disciplinary Committee shall be filled by the Board.

9.2 Notice of Alleged Breach

Where the Board is advised or considers that a Member has allegedly:

- (a) breached, failed, refused or neglected to comply with a provision of this Constitution or the By-Laws of the Association as amended from time to time; or
- (b) Acted in a manner unbecoming of a Member or prejudicial to the purposes and interests of the Association or another Member; or
- (c) Brought the Association or another Member into disrepute,

the Board shall notify the chair of the Disciplinary Committee.

Such grounds do not constitute a grievance and **Rule 35** does not apply. The Board may commence or cause to be commenced disciplinary proceedings against that Member, and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures and penalties of the Association set out in this Rule.

9.3 Notice of Disciplinary Committee Hearing

The chair of the Disciplinary Committee shall, as soon as practicable upon receipt of notice in accordance with **Rule 9.2**, serve on the Member a notice in writing:

- (a) Setting out the alleged breach of the Member and the grounds on which it is based;
- (b) Stating that the Member may address the Disciplinary Committee at a hearing;
- (c) Stating the date, place and time of that hearing;
- (d) Informing the Member that it may do one or more of the following:
 - (i) Attend that hearing;
 - (ii) Give the Disciplinary Subcommittee, before the date of that hearing a written statement regarding the alleged breach.

The hearing must be held not earlier than 14 days and not later than 28 days after service of the notice, except where the Board determines that the interests of the Association, or of the Member require that the period between service of the notice and the hearing be abridged.

9.4 Disciplinary Committee Procedure

- (a) At a hearing of the Disciplinary Committee held in accordance with **Rule 9.3**, the Disciplinary Committee:
 - (i) Shall give to the Member every opportunity to be heard;
 - (ii) Shall give due consideration to any written statement submitted by the Member;
 - (iii) May hear and give due consideration to such other evidence including oral or written statements of other persons as it considers relevant; and
 - (iv) Shall by resolution determine whether the alleged breach occurred.
- (b) The Association and the Member shall not be entitled to legal representation at the hearing of the Disciplinary Committee. A party may be represented by an advocate who is not a barrister or solicitor at the hearing. A party may also have a support person in attendance with them at the hearing.
- (c) The Disciplinary Committee shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the alleged breach occurred.

- (d) The Disciplinary Committee may adjourn the hearing to accommodate the convenience of the Disciplinary Committee or the parties.
- (e) If the Disciplinary Committee considers that the alleged breach occurred, it may impose any one or more of the penalties set out in **Rule 9.5**.
- (f) If the Disciplinary Committee considers that the alleged breach did not occur, the matter shall be dismissed.
- (g) Each party shall be responsible for their own costs associated with the Disciplinary Committee hearing. The Disciplinary Committee has no power to award costs to a party.

9.5 Penalties

If the Disciplinary Committee considers that the alleged breach occurred, the Disciplinary Committee may impose any one or more of the following penalties:

- (a) Reprimand the Member;
- (b) Suspend the Member from membership of the Association for a specified period;
- (c) Expel the Member from the Association;
- (d) Any other such penalty as the Disciplinary Committee considers appropriate including suspending a sentence otherwise imposed while the Member remains of good conduct.

9.6 No Appeal from Decision of Disciplinary Committee

A disciplinary matter must be solely and exclusively resolved by the Disciplinary Committee and the decision of the Disciplinary Committee is final and binding upon the Association and the Member. The Association and the Member have no right of appeal.

PART III - GENERAL MEETINGS

10. ANNUAL GENERAL MEETINGS

10.1 Annual General Meeting to be Held

The Association shall in each calendar year convene and hold an Annual General Meeting of its Members in accordance with the provisions of the Act and on a date and at a venue to be determined by the Board.

10.2 Ordinary Business

The ordinary business of the Annual General Meeting shall be to:

- (a) Confirm the minutes of the last preceding Annual General Meeting and of any General Meeting held since that meeting;
- (b) Receive from the Board, reports upon the transactions of the Association during the last preceding year;
- (c) Elect the Ordinary Directors;
- (d) Elect an Auditor or Auditors to hold office until the next Annual Meeting.

10.3 Special Business

The Annual General Meeting may transact special business of which notice is given in accordance with this Constitution.

10.4 Additional Meetings

The Annual General Meeting shall be in addition to any other General Meetings that may be held in the same year.

10.5 Other General Meetings

All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with the provisions of this Constitution.

11. SPECIAL GENERAL MEETINGS

11.1 Special General Meetings May be Held

The Board may, whenever it thinks fit convene a Special General Meeting of the Association and, where, but for this Rule more than 15 months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

11.2 Requisition of Special General Meetings

- (a) The Board shall on the requisition in writing of six (6) Voting Members convene a Special General Meeting.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting and shall be signed by the Members making the requisition and be sent to the Association and may consist of several documents in a like form, each signed by one or more of the Members making the requisition.
- (c) If the Board does not cause a Special General Meeting to be held within one month after the date on which the requisition is sent to the Association,

the Members making the requisition, or any of them, may convene a Special General Meeting to be held not later than 3 months after that date.

- (d) A Special General Meeting convened by Members under this Rule shall be convened in the same manner, or as nearly possible as that, in which meetings are convened by the Board. All reasonable expenses incurred in convening the meeting shall be refunded by the Association to the persons incurring the expenses.

12. NOTICE OF MEETINGS

12.1 Notice of General Meetings

- (a) Notice of every General Meeting shall be given to Voting Members. The notice shall be forwarded to the address appearing in the register kept by the Association. No other person shall be entitled as of right to receive notices of General Meetings.
- (b) Notice of General Meeting shall be given at least 21 days prior to the General Meeting and shall specify:
 - (i) the place and day and hour of the General Meeting, and
 - (ii) state the business to be transacted at the General Meeting together with any notice of motion received from Members.

12.2 Business of Meeting

- (a) No business other than that set out in the notice convening the meeting shall be transacted at the meeting.
- (b) A Member desiring to bring any business before a meeting shall give at least 45 days' notice in writing of that business to the Association which shall include that business in a notice calling the next General Meeting after the receipt of the notice.

13. PROCEEDINGS AT MEETINGS

13.1 Special Business

All business that is transacted at a Special General Meeting or the Annual General Meeting with the exception of that referred to in this Constitution as the ordinary business of the Annual General Meeting shall be special business.

13.2 Quorum

- (a) No item of business shall be transacted at a General Meeting unless a quorum of members entitled under this Constitution to vote is present during the time when the meeting is considering that item.
- (b) Ten (10) Voting Members personally present constitute a quorum for the transaction of the business at a General Meeting.

- (c) If within half an hour after the appointed time for the commencement of a General Meeting, a quorum is not present, the meeting:
 - (i) If convened upon the requisition of Members, shall be dissolved; and
 - (ii) In any other case, shall stand adjourned to the same day in the next week at the same time and (unless Members are notified of an alternative venue) at the same place and if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present (being not less than 7 Voting Members) shall be a quorum.

14. CHAIRMAN AT MEETINGS

14.1 President to Chair

The President shall preside as chair at each General Meeting of the Association.

14.2 Where President Absent

If the President is absent from a General Meeting or is unwilling to act, the Vice President shall chair the General Meeting. If the President and Vice President are absent or unwilling to act, the Directors present shall appoint one of their number to preside as chair at the meeting.

15. ADJOURNMENT OF MEETINGS

15.1 Chair May Adjourn Meeting

The chair of a General Meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

15.2 Further Notice

- (a) Where a meeting is adjourned for 14 days or more, a like notice of the adjourned meeting shall be given as in the case of the General Meeting.
- (b) Except as provided in **Rule 15.2(a)**, it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

16. VOTING AT GENERAL MEETINGS

16.1 Voting Procedure

- (a) All votes shall be given personally. Proxies are allowed.
- (b) A question arising at a General Meeting of the Association shall be determined on a show of hands.

- (c) In the case of an equality of voting on a question, the chair of the meeting may exercise a second or casting vote.
- (d) A Voting Member is not entitled to vote at any General Meeting in accordance with this Constitution unless all monies due and payable to the Association have been paid.

16.2 Proxies

- (a) Each Voting Member shall be entitled to appoint another Voting member as a proxy by notice given to the Chief Executive officer no later than 48 hours before the time of the meeting in respect of which the proxy is appointed.
- (b) Only proxies which indicate whether the Voting member is voting in favour of or against the proposed resolution as set out in their proxy shall be valid. General proxies are not valid.
- (c) The notice appointing the proxy shall be in the form determined by the Board from time to time.

16.3 Recording of Determinations

A declaration by the Chair that a resolution has, on a show of hands, been carried, carried unanimously, carried by a particular majority or lost, and an entry to that effect in the minute book of the Association is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

16.4 Poll at General Meetings

- (a) If at a meeting a poll on any question is demanded by 3 Voting Members, it shall be taken at the meeting in such a manner as the chair may direct and the resolution of the poll shall be deemed to be a resolution of the meeting on that question.
- (b) A poll that is demanded on the election of a chair or on a question of an adjournment shall be taken immediately and a poll that is demanded on any other question shall be taken at such time before the close of the meeting as the chair may direct.

16.5 Postal or Electronic Voting

- (a) Postal or electronic voting may be held from time to time in such instances as the Board may determine and shall be held in accordance with procedures prescribed by the Board.
- (b) All postal or electronic voting shall be conducted under condition of a secret ballot and shall be scrutinised by an impartial person duly appointed by the Board to conduct the ballot.

PART IV - BOARD

17. BOARD

17.1 Powers of Board

- (a) The affairs of the Association shall be managed by the Board constituted under **Rule 17.2**.
- (b) Subject to this Constitution and the Act, the Board:
 - (i) Shall control and manage the business and affairs of the Association;
 - (ii) May exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by this Constitution to be exercised by the Members in General Meeting; and
 - (iii) Has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Association.

17.2 Board Constitution

- (a) The Board shall consist of up to 9 Ordinary Directors being elected in accordance with Rule 18, who shall hold office for three years after the date of their election.
- (b) The 9 Ordinary Directors, subject to sub-rule 17.2(c) of this Rule, shall have such qualifications and skills as determined by the Board from time to time.
- (c) The Directors must include a minimum of one Director, over the age of 18 years, who has such qualifications and skills as determined by the Board from time to time and is in the receipt of a support service managed by the Association, and any such Director may, in order to perform the role as a Director be assisted by a support person.

17.3 President, Vice President and Treasurer

The position of President, Vice President and Treasurer shall be appointed by the Board from amongst their number who nominate for these positions as soon as practicable after each Annual General Meeting. The appointee will hold the position until the conclusion of the next Annual General Meeting following their appointment. A Director may be re-appointed as President, Vice President and Treasurer.

18. ELECTION OF ORDINARY DIRECTORS

18.1 Nomination of Candidates

Nominations of candidates for election as Ordinary Director must be:

- (a) In writing;

- (b) On the prescribed form (if any) provided for that purpose;
- (c) Signed by nominator and seconder who must be Voting Members;
- (d) Certified by the nominee expressing his or her willingness to accept the position for which he or she is nominated; and
- (e) Delivered to the Association not less than 45 days before the Annual General Meeting.

18.2 Election Process

- (a) All voting members shall have the right to vote in relation to the election of the Ordinary Directors.
- (b) If the number of nominations received for the Ordinary Director positions is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies, then those nominated shall be declared elected.
- (c) If there are insufficient nominations received to fill all Ordinary Director vacancies the positions will be deemed a casual vacancy and filled in accordance with **Rule 20.1**.
- (d) If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared containing the names of the candidates in an order drawn by lot.
- (e) The voting shall be conducted at the Annual General Meeting using the first past the post method, the procedure for which will be detailed in the By-Laws.

18.3 Term of Appointment

- (a) Ordinary Directors shall be elected in accordance with this Constitution for a term of three (3) years, which shall commence from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the third Annual General Meeting following.
- (b) Ordinary Directors shall be eligible to serve a maximum of three terms before being required to retire. An Ordinary Director may after one year's absence from the Board stand for election.
- (c) Subject to the provision of these Rules, on the day of the Annual General Meeting of Members in each year, the following members of the Board shall retire from office but subject to the Act and to these Rules shall be eligible for re-election.
 - i. The elected members who have held office for a period of three (3) years or more without being re-elected; and
 - ii. Those members temporarily appointed by the Board to fill a casual vacancy, whose period of appointment to fill that vacancy has expired

19. VACANCY ON THE BOARD

19.1 Casual Vacancy

- (a) In the event of any casual vacancy in the office of a Director, the Board may appoint a person to fill the vacancy and the person appointed shall hold office, subject to these Rules, for the balance of the term of the Board Member who created the casual vacancy.

19.2 Grounds for Termination of Position of Director

For the purpose of this Constitution, the office of a Director becomes vacant if the Director:

- (a) If required to be a member, ceases to be a Member of the Association;
- (b) Becomes bankrupt or makes arrangement or composition with his or her creditors generally;
- (c) Resigns office by notice in writing given to the Association;
- (d) Is prohibited from being a director of a company under the Corporations Act 2001 (Cth);
- (e) Experiences a loss of mental capacity or
- (f) Fails to attend 3 consecutive meetings of the Board without having previously obtained leave of absence or provided a reasonable excuse for the absence from such meetings.

19.3 Removal of Directors by Members

- (a) The Association in a General Meeting may by resolution remove any Director before the expiration of the Director's term of office and appoint another Member to hold office until the expiration of the term of the first mentioned Director.
- (b) Where the Director to whom a proposed resolution referred to in **Rule 20.3(a)** makes representation in writing to the Chief Executive Officer or President and requests that such representations be notified to the Members, the Chief Executive Officer or the President may send a copy of the representations to each Voting Member or, if they are not sent, the Director may require that they be read out at the meeting, and the representations shall be so read.

19.4 Remaining Directors May Act

In the event of a casual vacancy or vacancies in the office of a Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

20. QUORUM AND PROCEDURE AT BOARD MEETINGS

20.1 Convening a Board Meeting

- (a) The Board shall meet as required, but shall meet at least 6 times a year.
- (b) Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced in writing or by their presence) not less than 2 days' written notice of the meeting of the Board shall be given to each Director.
- (c) Written notice of each Board meeting, specifying the general nature of the business to be transacted, shall be served on each Director by:
 - (i) Delivering it to the Director personally;
 - (ii) Sending it by post addressed to the Director; or
 - (iii) Sending it by facsimile or other means of electronic communication;

in accordance with the Director's last notified contact details, and no other business shall be transacted at such meeting.

20.2 Quorum

- (a) Any four (4) Directors constitute a quorum for the transaction of the business of a meeting of the Board.
- (b) No business shall be transacted unless a quorum is present and if within half an hour of the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same place and at the same hour of the same day in the following week.

20.3 Procedures at Meetings

- (a) The President shall chair each Board meeting. If the President is absent from a Board meeting or is unwilling to act, the Vice President shall chair the Board Meeting. If the President and Vice President are absent or unwilling to act, the Directors present shall appoint one of their number to preside as chair at the meeting.
- (b) Questions arising at a meeting of the Board shall be determined on a show of hands or, if demanded by a Director, by a poll taken in such a manner as the person presiding at the meeting may determine.
- (c) Each Director present at a meeting of the Board (including the person presiding at the meeting) is entitled to one vote and in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (d) A resolution in writing signed or assented to by facsimile or electronic communication by all the Directors shall be valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such

resolution may consist of several documents in like form each signed by one or more of the Directors.

- (e) Without limiting the power of the Board to regulate its meeting as it thinks fit, a meeting of Directors may be held where one or more of the Directors is not physically present at the meeting, provided that:
- (i) All persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of communication;
 - (ii) Notice of the meeting is given to all Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board and such notice specifies that Directors are not required to be present in person;
 - (iii) In the event that a failure in communications prevents condition (i) from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors are present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held then the meeting shall be suspended until condition (i) is satisfied again. If such condition is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated; and
 - (iv) Any meeting held where one or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there present the meeting shall be deemed to be held at the place where the person presiding over the meeting is located.

20.4 Directors' Interests

- (a) A Director is not entitled to hold any place of profit or position of employment in the Association, or in any company or incorporated association in which the Association is a shareholder or otherwise interested or from contracting with the Association either as vendor, purchaser or otherwise except with express resolution of approval of the Board. Any such contract or any contract or arrangement entered into by or on behalf of the Association in which any Director is in any way interested, for which express resolution of approval of the Board is not obtained, may be voided for such reason.
- (b) A member of the Board shall not be restricted in the exercise of his or her voting entitlements merely by reason of the fact that he or she is a recipient of a support service managed by the Association

20.5 Disclosure of Interests

The nature of the interest of a Director must be declared by the Director at the meeting of the Board at which the contract or arrangement is first taken into consideration if the interest then exists or in any other case at the first meeting of the Board after the acquisition of the interest. If a Director becomes interested in a contract or arrangement after it is made or entered into the declaration of the

interest must be made at the first meeting of the Board held after the Director becomes so interested.

20.6 General Disclosure

A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under **Rule 20.5** as regards such Director and the said transactions. After such general notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.

20.7 Recording Disclosures

It is the duty of the Chief Executive Officer to record in the minutes any declaration made or any general notice given by a Director in accordance with **Rule 20.5** and **20.6**.

20.8 Conflicts

A Director, notwithstanding the interest, may be counted in the quorum present at any meeting but cannot vote in respect of any contract or arrangement in which the Director is interested. If the Director votes, the vote shall not be counted.

21. DELEGATED POWERS AND DUTIES

21.1 Delegated Bodies

- (a) The Board may establish and delegate any of its functions, powers or duties (except this power to delegate) to such committee or committees as it thinks fit and may recall or revoke any such delegation or appointment and may amend or repeal any decision made by committee.
- (b) The Board shall determine in writing the duties and powers afforded to any committee appointed in accordance with this Rule, and the committee shall, in the exercise of such delegated powers, conform to any directions or By-Laws that may be prescribed by the Board.
- (c) A Director or Chief Executive Officer shall be an ex-officio member of any committee so appointed.
- (d) The proceedings for any committee shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board in **Rule 20**.
- (e) Within 7 days of any meeting of any committee, the committee shall send a copy of the minutes and any supporting documents to the Chief Executive Officer.

22. Chief Executive Officer

22.1 Appointment of Chief Executive Officer

The Chief Executive Officer shall be appointed by the Board for such term and on such conditions as it thinks fit. The Chief Executive Officer, shall be entitled to notice of, to attend and participate in, all meetings of the Board, but shall have no entitlement to vote.

22.2 Chief Executive Officer to Act as Secretary

The Chief Executive Officer shall act as and carry out the duties of Secretary and, unless prohibited by law, the public officer and shall administer and manage the Association in accordance with this Constitution.

22.3 Specific Duties

The Chief Executive Officer shall:

- (a) Execute tasks relating to the day to day management of the Association;
- (b) As far as practicable attend all Board meetings and General Meetings;
- (c) Prepare in consultation with the President, the agenda for all Board meetings and all General Meetings;
- (d) Cause to be kept minutes of the proceedings of all meetings of the Board and each General Meeting; and
- (e) Regularly report on the activities of, and issues relating to, the Association.
- (f) Undertake other such duties as directed by the Board from time to time

22.4 Broad Power to Manage

Subject to the Act, this Constitution, the By-Laws and any directive of the Board, the Chief Executive Officer has power to perform all such things as appear necessary or desirable for the proper management and administration of the Association.

PART V - GENERAL MATTERS

23. SIGNING OF NEGOTIABLE INSTRUMENTS

All cheques and other negotiable instruments shall be signed by 2 Directors or a Director and the Chief Executive Officer or in such other manner determined by the Board from time to time.

24. CUSTODY OF BOOKS AND OTHER DOCUMENTS

- (a) Except as otherwise provided in this Constitution, the Chief Executive Officer shall keep in his or her custody or control all books, documents and securities of the Association.
- (b) A Member may upon reasonable notice to the Chief Executive Officer, inspect the books, documents and securities of the Association.
- (c) All financial records but not salary information shall be available for inspection.

25. SOURCES OF FUNDS AND INCOME

- (a) The funds of the Association shall be derived from entrance fees, annual subscriptions, donations and such other sources as the Board determines.
- (b) The income and property of the Association shall be applied solely towards the promotion of the purposes of the Association as set out in **Rule 2**.
- (c) No portion of the income or property of the Association shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member, but this shall not preclude payment to a Member in good faith for expenses incurred or services rendered.

26. AUDITOR

A properly qualified auditor shall be appointed and the remuneration of such auditor fixed by the Board. The auditor's duties shall be regulated in accordance with the Act.

27. COMMON SEAL

The common seal of the Association shall not be used.

28. ALTERATION OF CONSTITUTION

- (a) This Constitution shall not be altered except by Special Resolution in accordance with the Act.
- (b) In addition, there shall be no alteration or amendment to **Rules 29(c)** or **30** without the consent of the relevant Minister under the Act.

29. DISSOLUTION

- (a) The liability of the Members of the Association is limited.

- (b) No Member is required to contribute to the assets of the Association in the event of it being wound up while a Member, with the exception of the payment of any outstanding membership fee or fees.
- (c) If upon winding up or dissolution of the Association, there remains, after satisfaction of all its debts and liabilities, any property, the same shall not be paid to or distributed amongst the Members, but shall be given or transferred to some other organisation having purposes similar to the purposes of the Association and which prohibits the distribution of its income and property among its Members and which is also not carried on for the profit or gain to its Members. Such body or bodies shall be determined by the Members at or before the time of dissolution, and in default thereof by such judge of the Supreme Court of Victoria as may have or acquire jurisdiction in the matter.

30. AUTHORITY TO TRADE

The Association is authorised to trade in accordance with section 51 of the Act.

31. INDEMNITY

- (a) Every Director and employee of the Association shall be indemnified out of the property and assets of the Association against any liability incurred by them in their capacity as Director or employee in defending any proceedings, whether civil or criminal, in which judgement is given in their favour or in which they are acquitted or in connection with any application in relation to any such proceedings in which relief is granted by the Court.
- (b) The Association shall indemnify its Directors and employees against all damages and losses (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:
 - (i) In the case of a Director, performed or made whilst acting on behalf of and with the authority, express or implied of the Association; and
 - (ii) In the case of an employee, performed or made in the course of, and within the scope of their employment by the Association.

32. SERVICE OF NOTICES

- (a) Notices may be given by the Association to any Member by sending the notice by post or facsimile transmission or where available, by electronic mail, to the Member's registered address, facsimile number or electronic mail address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing and posting the notice. Service of the notice is deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming

the facsimile was sent to/or received at the facsimile number to which it was sent.

- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

33. BY-LAWS

33.1 Power to Make By-Laws

The Board may make By-Laws and alter, amend or rescind the same as occasions may require. Such By-Laws shall have the same force and effect as this Constitution, but shall not be in any way oppose or be in conflict with this Constitution. Such By-Laws shall be available for inspection at the Associations' premises and available upon request by Members.

33.2 Amendments to By-Laws

Amendments, alterations, interpretation or other changes to By-Laws shall be advised to Members by means of notice approved by the Board. Notices shall be binding upon all Members.

33.3 By-Laws Deemed Applicable

All by-laws, regulations and policies of the Association in force at the date of the approval of this Constitution under the Act insofar as such by-laws, regulations and policies are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be By-Laws under this Rule.

34. GRIEVANCE PROCEDURES

- (a) The grievance procedure set out in this Rule applies to disputes under this Constitution between:
 - (i) A Member and another Member; or
 - (ii) A Member and the Association.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (c) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- (d) The mediator must be:
 - (i) A person chosen by agreement between the parties; or
 - (ii) In the absence of agreement:

- (A) In the case of a dispute between a Member and another Member, a person appointed by the Board; or
 - (B) In the case of a dispute between a Member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- (e) A Member of the Association can be a mediator.
 - (f) The mediator cannot be a Member who is a party to the dispute.
 - (g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
 - (h) The mediator, in conducting the mediation, must:
 - (i) Give the parties to the mediation process every opportunity to be heard; and
 - (ii) Allow due consideration by all parties of any written statement submitted by any party; and
 - (iii) Ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
 - (i) The mediator must not determine the dispute.
 - (j) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.