

# Constitution

**Catholic Social Services (Australia) Limited**

**ACN 061 834 197**

A Public Company Limited by Guarantee

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## Preamble

Catholic Social Services (Australia) Limited envisages a fairer, more inclusive Australian society that reflects and supports the dignity, equality and participation of all people.

Catholic Social Services (Australia) Limited continues to build on the values, ideals and commitments of the many people of faith who have provided it with a strong and spirited foundation. In all of its work it is committed to its Catholic identity and to serve all people who too often sit at the edge of our society – those who are poor, sick, homeless and marginalised by the boundless adversities that undermine their dignity and ability to live life to the full. It recognises the prior claim of our indigenous peoples to this great land.

Historically, Catholic Social Services (Australia) was established as a Commission by the Australian Catholic Bishops Conference. In May 2009, the Australian Catholic Bishops Conference strongly endorsed ‘the commitment of Catholic Social Services (Australia) to effecting among its diocesan and religious agencies a united stance in applying for funding and in giving voice to the Church’s commitment to the poor and disadvantaged in our society’.

Catholic Social Services (Australia) Limited was borne out of Catholic Social Services (Australia) as a legal entity capable of pursuing the Objects in this Constitution. From 25 September 2001, the membership of Catholic Social Services (Australia) Limited was refined to include only those persons who sat on the Board of Catholic Social Services (Australia), as appointed by the Australian Catholic Bishops Conference.

In 2020 Catholic Social Services (Australia) and Catholic Social Services (Australia) Limited decided to consolidate into a single legal entity to enable more efficient governance and to better facilitate the Catholic Social Services (Australia) Limited’s ability to carry out the Objects in this Constitution. In order to effect the consolidation, the members of Catholic Social Services (Australia) Limited resigned from their membership, but remained on the Board of Directors, and the members of Catholic Social Services (Australia) were offered membership of Catholic Social Services (Australia) Limited. Following the consolidation, Catholic Social Services (Australia) was to be wound up. As from the adoption of this Constitution in 2020, Catholic Social Services (Australia) Limited will continue to carry on the activities of Catholic Social Services (Australia) in accordance with the Objects and remaining terms of this Constitution.

In accord with Church teaching and Canon law, the Australian Catholic Bishops Conference has a general oversight of national Catholic organisations with regard to issues relating to the Catholic faith and teaching; this includes Catholic Social Services (Australia) Limited. As such, Catholic Social Services (Australia) Limited provides a resource to, and referral point for, the Australian Catholic Bishops Conference in matters relating to the ministry of Catholic Social Services.

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## 1 Name of the Company

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The name of the Company is Catholic Social Services (Australia) Limited.

## 2 Type of Company

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- (a) The Company is a not-for-profit public company limited by guarantee.
- (b) Subject to this Constitution, 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 to contribute to the property of the Company for:
  - (i) payment of debts and liabilities of the Company;
  - (ii) payment of the costs, charges and expenses of winding up; and
  - (iii) any adjustment of the rights of the contributories among Members.
- (c) The amount that each Member or past Member is liable to contribute is limited to \$1.00.

## 3 Replaceable Rules

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This Constitution displaces the Replaceable Rules to the extent that it is inconsistent with any Replaceable Rules.

## 4 Definitions and Interpretation

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### 4.1 Definitions

In this Constitution, unless there is something in the subject or context which is inconsistent:

- (a) **Australian Catholic Bishops Conference** means the Australian Episcopal Conference of the Roman Catholic Church ABN 76 000 665 958 as agent for the Australian Catholic Bishops Conference ABN 60 597 896 756.
- (b) **ACNC Act** means *Australian Charities and Not-for-Profits Commission Act 2012* (Cth).
- (c) **ACNC Regulation** means *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth).
- (d) **Affiliate Member** means a Member in the Membership class set out in **clause 7(c)**.
- (e) **AGM** means annual general meeting.
- (f) **Alternate Director** means a person of a Director's choosing who sits on the Board in that Director's place in the event that the Director cannot attend a meeting.
- (g) **Appointed Director** means a person appointed as a Director pursuant to **clause 33.6**.
- (h) **Associate Member** means a Member in the Membership class set out in **clause 7(b)**.

- (i) **Association of Christ's Faithful** means a public association of Christ's faithful established in accordance with Canon Law.
- (j) **Board** means the board of Directors of the Company.
- (k) **Business Day** means a day that is not a Saturday, Sunday or public holiday in the Australian Capital Territory.
- (l) **Canon Law** means the Code of Canon Law promulgated in 1983 and any other universal or particular legislation promulgated by the competent ecclesiastical authority.
- (m) **Catholic Religious Australia** means Catholic Religious Australia ABN 92 291 126 804.
- (n) **Chair** means a Director appointed to that position pursuant to **clause 33.8(b)(i)**.
- (o) **Chairperson** means the person holding that office under this Constitution and includes any assistant or acting chairperson.
- (p) **Chief Executive Officer** means the person appointed to that position pursuant to **clause 41**.
- (q) **Code of Ethics** means the Code of Ethics of the Company as amended from time to time.
- (r) **Committee** means a committee of the Board established in accordance with **clause 50**.
- (s) **Company** means Catholic Social Services (Australia) Limited ACN 061 834 197.
- (t) **Constitution** means this constitution as amended or supplemented from time to time.
- (u) **Co-Opted Director** means a person appointed as a Director pursuant to **clause 33.5**.
- (v) **Corporate Member** means an Ordinary Member and/or an Associate Member.
- (w) **Corporations Act** means *Corporations Act 2001* (Cth).
- (x) **Deputy Chair** means a Director appointed to that position pursuant to **clause 33.8(b)(ii)**.
- (y) **DGR** means a deductible gift recipient as defined by the law.
- (z) **Director** means any person holding the position of a director of the Company (and includes Elected Directors, Co-Opted Directors and Appointed Directors) and **Directors** means the directors for the time being of the Company or, as the context permits, such number of them as has authority to act for the Company.
- (aa) **Direct Vote** means a valid notice of a Member's voting intention, made pursuant to **clause 23**.
- (bb) **Disciplinary Committee** means the Committee referred to in **clauses 14.2(a)** and **50(a)(ii)**.
- (cc) **Elected Director** means a person elected as a Director pursuant to **clause 33.4**.
- (dd) **Member** means a member of the Company pursuant to **clause 6** and **Membership** has the corresponding meaning.
- (ee) **Member Present** means in connection with a meeting of Members, a Voting Member being present by proxy or attorney or Representative.

- (ff) **Member's Guarantee Amount** means the amount referred to in **clause 2(c)**.
- (gg) **Membership Review Committee** means the Committee referred to in **clauses 9.3 and 50(a)(i)**.
- (hh) **Ministerial Organisation** means an organisation within the Catholic Church that has been constituted as a Public Juridic Person and whose purpose, in accordance with its statutes, includes one or other aspect of the ministry of Catholic social services.
- (ii) **Objects** mean the objects of the Company as set out in **clause 5.1**.
- (jj) **Office** means the registered office for the time being of the Company.
- (kk) **Office Bearer** means a Director holding any of the offices pursuant to **clause 33.8**.
- (ll) **Officer** has the same meaning as given to that term in section 9 of the Corporations Act.
- (mm) **Ordinary Member** means a Member in the Membership class set out in **clause 7(a)**.
- (nn) **Public Juridic Person** means a legal entity, established in accordance with Canon Law, that carries on its social services in the name of and as part of the mission of the Church, and includes a diocese, parish, Religious Institute, Ministerial Organisation and public Association of Christ's Faithful.
- (oo) **Register** means the register of Members to be kept pursuant to the Corporations Act.
- (pp) **Religious Institute** means a religious institute, secular institute or society of apostolic life and their provinces or equivalent.
- (qq) **Replaceable Rules** means the replaceable rules applicable to a public company limited by guarantee set out in the Corporations Act.
- (rr) **Representative** means a person authorised in accordance with section 250D of the Corporations Act to act as a representative of a Member, pursuant to **clause 11**.
- (ss) **Secretary** means the person appointed as the secretary of the Company under **clause 53(a)** and includes any assistant or acting secretary.
- (tt) **Special Resolution** has the meaning given to it by the Corporations Act.
- (uu) **Subscription** means the subscription fees payable by a Member pursuant to **clause 12**.
- (vv) **Voting Member** means an Ordinary Member which has paid any payable annual Subscription in accordance with **clause 12**.

## 4.2 Interpretation

In this Constitution, unless there is something in the subject or context which is inconsistent:

- (a) the singular includes the plural and vice versa;
- (b) each gender includes the other two genders;
- (c) the word **person** means a natural person and any partnership, association, body or entity whether incorporated or not;



- (d) the words **writing** and **written** include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
- (e) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (f) a reference to any clause or schedule is to a clause or schedule of this Constitution;
- (g) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (h) an expression used in a particular Part or Division of an Act or Regulation that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any clause that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division; and
- (i) headings do not form part of or affect the construction or interpretation of this Constitution.

## 5 Objects and Powers

### 5.1 Objects

- (a) The Company is a charitable institution established to advance the ministry of Catholic social services which is integral to the mission of the Catholic Church in Australia. The Company will carry out its objects by interacting with Catholic organisations, governments, other churches and all people of good will, to develop social welfare policies, programs and other strategic responses that enhance the human dignity of every person and work towards the economic, social and spiritual well-being of the Australian Community. The objects for which the Company is established are:
  - (i) the relief of poverty, sickness, suffering, distress, misfortune, disability or helplessness amongst all, including those who are underprivileged, neglected children and families, people who are unemployed, single parents, people with disability, the sick, the infirm and the aged within Australia;
  - (ii) to promote and support Catholic values, ethical principles and social justice, including the health and well-being of marriage, relationships, children, parents, family and people who are ageing in Australia, irrespective of their race, colour or creed;
  - (iii) to facilitate and enhance co-ordination and collaboration between Catholic social welfare services, other churches, Government Ministers and Departments and other non-government agencies in accord with the principles of subsidiarity and collegiality, for the purpose of reducing injustice and disadvantage in the Australian community with regard to poverty, alienation, unemployment, marital disharmony, child protection, homelessness, loneliness or any other form of human suffering and misfortune that has a social welfare dimension;
  - (iv) to act as a prophetic voice for families and individuals in the community who suffer injustice or who are excluded from fully participating in their local communities and society at large, and to influence the structures,

- committees and other bodies in Australia that cause or fail to alleviate injustice and disadvantage;
- (v) to facilitate and promote programs, education and other resources for Catholic social services for the purpose of reducing injustice and disadvantage in the Australian community;
  - (vi) to liaise with Catholic social services, other religious groups and government and non-government bodies in the areas of policy and advocacy, including through research and promoting public discourse on issues affecting the well-being of Australian families and individuals, and other matters relating to the ministry of Catholic social services;
  - (vii) to advise the Australian Catholic Bishops Conference in relation to the objects in **clauses 5.1(a)(i) to 5.1(a)(vi)**; and
  - (viii) anything ancillary to the objects in **clauses 5.1(a)(i) to 5.1(a)(vii)**.
- (b) The Company can only exercise the powers in section 124(1) of the Corporations Act to:
- (i) carry out the Objects of the Company; and
  - (ii) do all things incidental or convenient in relation to the exercise of power under **clause 5.1(b)(i)**.

## 5.2 Income and Property

- (a) The income and property of the Company shall be applied solely towards the promotion of the Objects of the Company.
- (b) No income or property of the Company shall be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Company. However, nothing in this Constitution shall prevent payment in good faith to a Member:
  - (i) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company;
  - (ii) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Company;
  - (iii) of reasonable and proper rent for premises leased by any Member to the Company; or
  - (iv) of any surpluses or profits, so long as the Member is charitable and has objects similar to the Objects of the Company.

## 5.3 Remuneration of Directors

No payment shall be made to any Director (except any executive Director in that Director's capacity as an employee of the Company) other than the payment:

- (a) of out of pocket expenses incurred by the Director in the performance of any duty as a Director where the amount payable does not exceed an amount previously approved by the Board; and
- (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable for the service.

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## MEMBERSHIP

### 6 Admission to Membership

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#### 6.1 Eligibility for Membership

Any person is entitled to apply to become a Member if the person:

- (a) agrees to assume the liability to pay the Member's Guarantee Amount;
- (b) satisfies the criteria for the relevant class of Membership in accordance with **clause 7**;
- (c) supports the Objects of the Company and agrees to comply with the terms of this Constitution, the Code of Ethics and any code of conduct which the Board may produce from time to time;
- (d) is, in the Board's opinion, of good character;
- (e) lodges an application form in accordance with **clause 9**; and
- (f) subject to **clause 12(d)**, pays the Subscription in accordance with **clause 12**.

#### 6.2 Benefits

- (a) Each Voting Member will be entitled to vote at all general meetings.
- (b) In addition to each Voting Member being entitled to vote at all general meetings, the Board will determine from time to time what additional benefits shall attach to Membership.

### 7 Classes of Membership

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There shall be the following classes of Membership:

#### (a) Ordinary Members

An Ordinary Member:

- (i) must be a body corporate;
- (ii) must be a Catholic social service organisation, acting on behalf of a Public Juridic Person, that delivers programs and services to the Australian community; and
- (iii) shall be entitled to vote.

#### (b) Associate Members

An Associate Member:

- (i) must be a body corporate;
- (ii) must operate within the Catholic Church;
- (iii) must have objects or purposes which include functions associated with the ministry of Catholic social welfare; and
- (iv) shall not be entitled to vote.

#### (c) Affiliate Members

An Affiliate Member:

- (i) must be a natural person;

- (ii) must have an interest in the Objects of the Company; and
- (iii) shall not be entitled to vote.

## 8 Membership Requirements

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The Board shall determine from time to time any requirements for admission to Membership in addition to the eligibility criteria at **clause 6.1**, and the rights attached to such Membership.

## 9 Applications for Membership

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### 9.1 Applications for Membership

An application for Membership of the Company must:

- (a) be made in writing in the form prescribed by the Board from time to time;
- (b) specify the class of Membership being applied for by the applicant;
- (c) include a signature, or equivalent acknowledgement by the applicant acknowledging that the applicant agrees to be bound by the Constitution of the Company as amended from time to time, the Code of Ethics and any code of conduct which the Board may produce from time to time;
- (d) be accompanied by any annual Subscription payable pursuant to **clause 12**; and
- (e) be lodged with the Secretary.

### 9.2 Determining Application for Membership

- (a) As soon as practicable after receiving an application for Membership, the Secretary must refer the application to the Board which is to determine whether to approve or reject the application.
- (b) As soon as practicable after the Board makes that determination the Secretary must:
  - (i) notify the applicant, in writing, that the Board approved or rejected the application (whichever is applicable);
  - (ii) if the Board approved the application, enter the applicant's name in the Register and, subject to the Corporations Act, the person becomes a Member on the name being so entered; or
  - (iii) if the Board rejected the application, refund any Subscription to the applicant and provide the applicant with a notice of the Board's reasons for the rejection.

### 9.3 Right of Appeal to Rejected Application for Membership

- (a) An applicant may appeal to the Membership Review Committee against a decision of the Board to reject the application under **clause 9.2(b)(iii)**. Written notice of such an appeal must be lodged with the Secretary within seven (7) days of service of the notice required under **clause 9.2(b)(iii)**.
- (b) Within thirty-five (35) days after receipt of a notice of appeal from the applicant pursuant to **clause 9.3(a)**, the Membership Review Committee must convene a meeting.
- (c) At the meeting of the Membership Review Committee convened under **clause 9.3(b)**:

- (i) the applicant must be given the opportunity to state its case orally or in writing, or both using any technology (reasonably available to the Membership Review Committee) that gives the applicant a reasonable opportunity to do so; and
  - (ii) the Membership Review Committee must vote by ballot on the question of whether the application for Membership will be accepted.
- (d) The Membership Review Committee's decision pursuant to **clause 9.3(c)(ii)** is final. The applicant is not entitled to appeal the Membership Review Committee's decision.
- (e) The applicant the subject of this appeal procedure is entitled to:
  - (i) subject to **clause 9.3(e)(ii)**, bring a support person to any meeting with the Membership Review Committee held pursuant to **clause 9.3(b)**; and
  - (ii) if the support person is legally qualified, the applicant must notify the Membership Review Committee at least five (5) Business Days before the meeting that the support person attending the meeting will be legally qualified.
- (f) Natural justice will be applied during every appeal process under this **clause 9**, requiring the Membership Review Committee to act fairly, in good faith and without bias or conflict of interest when making its decision.

## 10 Membership Entitlements Not Transferable

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A right, privilege or obligation which a Member has by reason of being a Member of the Company:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates on cessation of the person's Membership.

## 11 Representative(s)

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- (a) This **clause 11** only applies to Corporate Members and applicants for Corporate Membership.
- (b) A Corporate Member, or an applicant for Corporate Membership, must appoint as its Representative(s) a minimum of one (1) natural person(s).
- (c) A Corporate Member may appoint more than one (1) Representative, but only one (1) Representative may exercise the Corporate Member's powers at any one time.
- (d) The name and address of the Representative(s) will be entered in the Register as the representative of the Corporate Member.
- (e) All correspondence and notices from the Company will be served on the Representative(s), and any notice served on the Representative(s) will be deemed to be service on the Corporate Member which is represented by that particular Representative.
- (f) If the appointment of a Representative by a Corporate Member is made by reference to a position held, the appointment must identify the position.

- (g) Despite **clause 10**, a Corporate Member may remove and replace a Representative where the Corporate Member gives written notice to the Board in a form approved by the Board.
- (h) A signature by a Representative of a Corporate Member on behalf of the Corporate Member is taken to be the signature of the Corporate Member for the purposes of this Constitution.
- (i) Any power or right of a Corporate Member as granted by this Constitution can be exercised by a Representative of the Corporate Member.
- (j) Corporate Members are represented at meetings of Members by their Representative, subject to the right of a Representative to appoint a proxy pursuant to **clause 28(a)**.
- (k) The actions of a Representative bind the Corporate Member which is represented by that particular Representative.
- (l) Each Representative shall comply with the terms of this Constitution in all matters pertaining to the Company as if the Corporate Member himself or herself.

## 12 Fees

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- (a) Subject to **clause 12(d)**, there shall be an annual Subscription payable by each Member to the Company, unless the Board determines otherwise.
- (b) Subject to **clause 12(d)**, the amount of the annual Subscription shall be payable by Members at such times and in such manner as determined by the Board from time to time.
- (c) The Board may charge different classes of Membership different annual Subscriptions.
- (d) The Board may in its discretion:
  - (i) determine that no annual Subscription is payable by the Member (in whole or in part) in a given year; and
  - (ii) extend the time for payment of the annual Subscription by the Member.
- (e) No part of any annual Subscription shall be refunded to a Member who ceases to be a Member in accordance with **clause 13**.

## 13 Cessation of Membership

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- (a) A Member's Membership will cease:
  - (i) on the date that the Secretary receives written notice of resignation from that Member;
  - (ii) upon that Member no longer satisfying the criteria for its respective class of Membership;
  - (iii) if, being a natural person:
    - (A) upon that Member dying; or
    - (B) upon that Member becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally;



- (iv) subject to **clause 12(d)**, if that Member fails to pay an annual Subscription:
    - (A) within thirty (30) days after it falls due; and
    - (B) then fails to rectify this default within thirty (30) days of being notified of the default by the Company;
  - (v) if the Member is expelled from the Company pursuant to **clause 14**;
  - (vi) if, being a body corporate:
    - (A) that Member is dissolved or otherwise ceases to exist;
    - (B) that Member has:
      - (1) a receiver;
      - (2) a receiver and manager;
      - (3) a liquidator;
      - (4) an administrator;
      - (5) an administrator of a deed of company arrangement;  
or
      - (6) a trustee of other person administering a compromise or arrangement between the Member and someone else,  
  
appointed to it; or
  - (vii) if the Company in general meeting resolves by Special Resolution to terminate the Membership of a Member whose conduct or circumstances in the opinion of the Company renders it undesirable that that Member continue to be a Member of the Company. The Member must be given at least twenty-one (21) days' notice of the proposed resolution and must be given the opportunity to be heard at the meeting at which the resolution is proposed.
- (b) A Member may at any time, pursuant to **clause 13(a)(i)**, resign as a Member but shall continue to be liable for:
- (i) any monies due by the Member to the Company; and
  - (ii) any sum for which the Member is liable as the Member of the Company under **clause 2(b)**.

## 14 Disciplining of Members

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### 14.1 Disciplining of Members

- (a) Where the Board is of the opinion that a Member has:
  - (i) persistently refused or neglected to comply with a provision or provisions of this Constitution; or
  - (ii) persistently and wilfully acted in a manner prejudicial to the interests of the Company,the Board may expel or suspend that Member from the Company.

- (b) A resolution of the Board pursuant to **clause 14.1** is of no effect unless the Board confirms the resolution in accordance with this **clause 14.1(b)** at a Board meeting held not earlier than fourteen (14) days and not later than twenty-eight (28) days after service on the Member of a notice pursuant to **clause 14.1(c)**.
- (c) If the Board resolves under **clause 14.1** to expel or suspend any Member, the Secretary must serve the Member with a notice in writing:
- (i) setting out the resolution of the Board and the grounds upon which it is based;
  - (ii) stating that the Member may address the Board at a Board meeting to be held not earlier than fourteen (14) days and not later than twenty-eight (28) days after service of the notice;
  - (iii) stating the date, place and time of that meeting; and
  - (iv) informing the Member that the Member may do either or both of the following:
    - (A) attend and speak at that meeting; and/or
    - (B) submit to the Board at or prior to the date of the meeting, written representations relating to the resolution.
- (d) At a meeting of the Board held as referred to in **clause 14.1(c)**, the Board must:
- (i) give the Member an opportunity to make oral representations;
  - (ii) give due consideration to any written representations submitted to the Board by the Member at or before the Board meeting; and
  - (iii) by a resolution, determine whether to confirm or to revoke the resolution under **clause 14.1(a)**. A resolution to confirm the resolution under **clause 14.1(a)** requires the affirmative votes of at least seventy-five per cent (75%) of the Directors participating in the Board meeting.
- (e) The Member must be notified in writing of the decision of the Board within seven (7) days. If the Board resolves to confirm the expulsion or suspension under **clause 14.1(d)**, the Member must also be notified of the right of appeal available under **clause 14.2**.
- (f) A resolution confirmed by the Board under **clause 14.1(d)** does not take effect:
- (i) until the expiration of the period within which the Member is entitled to appeal against the resolution where the Member does not exercise the right of appeal within that period; and
  - (ii) where, within that period, the Member exercises the right of appeal, unless and until the Disciplinary Committee confirms the resolution pursuant to **clause 14.2(d)(ii)**.

## 14.2 Right of Appeal of Disciplined Member

- (a) The Board will establish a Disciplinary Committee. The Disciplinary Committee will comprise of an independent panel of three (3) experts, all chosen by the Board. The experts will be chosen based upon the nature of the alleged misconduct by the Member. The Disciplinary Committee may seek advice from any relevant source.
- (b) A Member may appeal to the Disciplinary Committee against a resolution of the Board, which is confirmed under **clause 14.1(d)**. Written notice of such an



- appeal must be lodged with the Secretary within seven (7) days of service of the notice required under **clause 14.1(e)**.
- (c) Within thirty-five (35) days after receipt of a notice of appeal from the Member pursuant to **clause 14.2(b)**, the Disciplinary Committee must convene a meeting.
  - (d) At the Disciplinary Committee meeting convened under **clause 14.2(c)**:
    - (i) the Member must be given the opportunity to state its case orally or in writing, or both using any technology (reasonably available to the Board) that gives the Member a reasonable opportunity to do so; and
    - (ii) the Disciplinary Committee must vote by ballot on the question of whether the resolution will be confirmed.
  - (e) The Disciplinary Committee's decision pursuant to **clause 14.2(d)(ii)** is final. The Member is not entitled to appeal the Disciplinary Committee's decision.
  - (f) The Member the subject of these disciplinary procedures is entitled to:
    - (i) subject to **clause 14.2(f)(ii)**, bring a support person to any meeting with the Disciplinary Committee or the Board, which meetings are being held pursuant to this **clause 14**; and
    - (ii) if the support person is legally qualified, the Member must notify the Disciplinary Committee or the Board (as the case may be) at least five (5) Business Days before the meeting that the support person attending the meeting will be legally qualified.
  - (g) Natural justice will be applied during every disciplinary process under this **clause 14**, requiring the Board and Disciplinary Committee to act fairly, in good faith and without bias or conflict of interest when making its decision.

## GENERAL MEETINGS

### 15 Convening of General Meetings

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#### 15.1 AGMs

Notwithstanding section 111L of the Corporations Act, the Board shall convene an AGM at least once in each calendar year and within five (5) months after the end of the Company's financial year, and any AGM which is convened must be done so in accordance with the requirements of the Corporations Act.

#### 15.2 Convening of General Meetings

- (a) A majority of the Directors may, whenever those Directors think fit, convene a general meeting of the Company.
- (b) Notwithstanding section 111L of the Corporations Act:
  - (i) Members may call a general meeting; and
  - (ii) the Company will do so,in accordance with the provisions of Part 2G.2 of the Corporations Act pertaining to the rights of members to call a general meeting.
- (c) A general meeting of the Company may be convened at two (2) or more venues using any technology that gives Members a reasonable opportunity to participate in the meeting.

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## 16 Notice of General Meeting

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- (a) Subject to consent to shorter notice being given in accordance with the Corporations Act (notwithstanding section 111L of the Corporations Act), at least twenty-one (21) days' notice of any general meeting must be given specifying:
  - (i) the place, day and hour of the meeting;
  - (ii) the general nature of any business to be transacted at the meeting;
  - (iii) if a Special Resolution is to be proposed, the details of and intention to propose it;
  - (iv) if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and
  - (v) any other information required by the Corporations Act (notwithstanding the application of section 111L of the Corporations Act).
- (b) The accidental omission to give notice of any general meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice will not invalidate the proceedings at or any resolution passed at the meeting.
- (c) Subject to **clause 16(b)**, notice of every general meeting must be given in any manner authorised by this Constitution to:
  - (i) every Member;
  - (ii) every Director; and
  - (iii) the auditor for the time being of the Company (if any).

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## 17 Cancellation or Postponement of General Meeting

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### 17.1 Cancellation or Postponement of General Meeting

- (a) Subject to the provisions of the Corporations Act (notwithstanding section 111L of the Corporations Act) and this Constitution, the Board may cancel a general meeting of the Company:
  - (i) convened by the Board; or
  - (ii) which has been convened by Members pursuant to **clause 15.2(b)** upon receipt by the Company of a written notice withdrawing the requisition signed by that Member or those Members.
- (b) The Board may postpone a general meeting or change the venue at which it is to be held. No business shall be transacted at any postponed meeting other than the business stated in the notice to the Members relating to the original meeting.
- (c) Where any general meeting is cancelled or postponed or the venue for a general meeting is changed, the Board must notify in writing each person entitled to receive notice of the meeting of the cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution and in the case of the postponement of a meeting, the new place, date and time for the meeting.

### 17.2 Failure to Notify in Writing

Any failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

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## PROCEEDINGS AT GENERAL MEETINGS

### 18 Quorum

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- (a) No business may be transacted at any general meeting unless there is a quorum at all times during the meeting.
- (b) For the purposes of **clause 18(a)**, Members Present who represent 25% of the total number of Voting Members shall constitute a quorum for all general meetings.
- (c) If within thirty (30) minutes after the time appointed for holding a general meeting a quorum is not present:
  - (i) the meeting, if convened upon the requisition of Members, shall be dissolved;
  - (ii) in any other case:
    - (A) it will stand adjourned to such other day time and place as the Board may by notice to the Members appoint; and
    - (B) if at such adjourned meeting a quorum is not present within thirty (30) minutes after the time appointed for the holding of the meeting, the meeting shall be dissolved.

### 19 Chairperson

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- (a) The Chair shall preside as Chairperson at each general meeting.
- (b) Where a general meeting is held and:
  - (i) there is no Chair; or
  - (ii) the Chair is not present within thirty (30) minutes after the time appointed for the holding of the meeting or, if present, is unwilling to act as Chairperson of the meeting,then the following person will be Chairperson in lieu of the Chair in the order of availability set out below:
  - (iii) Deputy Chair; and
  - (iv) another Director chosen by the Directors present at the meeting.
- (c) The rulings of the Chairperson of a general meeting on all matters relating to the order of business, procedure and conduct of the meeting shall be final, and no motion of dissent from such rulings shall be accepted.

### 20 Adjournments

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- (a) The Chairperson of a general meeting at which a quorum is present:
  - (i) may adjourn a meeting with the consent of the meeting; and
  - (ii) must adjourn the meeting if the meeting so directs,to a time and place as determined.
- (b) No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.

- (c) A resolution passed at a meeting resumed after an adjournment is deemed passed on the day it was passed, and not on the date of the original meeting.
- (d) It is not necessary to give any notice of an adjournment of a general meeting or of the business to be transacted at the adjourned meeting, except if the meeting is adjourned for thirty (30) days or more, in which case notice of the adjourned meeting must be given as in the case of an original meeting.

## **21 Determination of Questions**

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### **21.1 Determination of Questions**

At any general meeting a resolution to be considered at the meeting shall be decided on a show of hands unless a poll is demanded by:

- (a) the Chairperson of the meeting; or
- (b) at least two (2) Members Present.

### **21.2 Proxy Votes**

Before a vote on a resolution is taken, the Chairperson must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.

### **21.3 Declaration by the Chairperson**

A declaration by the Chairperson of the result of a vote on a resolution by a show of hands and an entry to that effect contained in the minutes of the proceedings of the Company, which has been signed by the Chairperson of the meeting or the next succeeding meeting, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

## **22 Disqualification**

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No person other than:

- (a) a Voting Member;
- (b) a Representative, proxy or attorney of a Voting Member; or
- (c) a proxy of a Representative of a Voting Member,

shall be entitled to vote at a general meeting.

## **23 Direct Votes**

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- (a) The Board will determine from time to time if Voting Members are entitled to vote by a Direct Vote on a matter or a resolution. If the Board has determined that Voting Members are entitled to vote by a Direct Vote, then the Voting Members must do so using the form prescribed by the Board from time to time, which may include electronic means.
- (b) If sent by post, the Direct Vote must be signed by the Voting Member or by a duly authorised officer, attorney or Representative.
- (c) If sent by electronic transmission, the Direct Vote is to be taken to have been signed if it has been signed or authorised by the Voting Member in the manner approved by the Board.

- (d) The Direct Vote must be received by the Company at least forty-eight (48) hours before the time of the relevant general meeting in order to be valid.
- (e) A Direct Vote is valid if it contains the following information:
  - (i) the Voting Member's name and address, or any applicable identifying notations such as the Voting Member's identification number or similar approved by the Board or specified in the notice of meeting; and
  - (ii) the Voting Member's voting intention on any or all of the resolutions to be put before the meeting.
- (f) A Direct Vote is valid unless the Company receives written notification changing the voting intention before the vote is cast.
- (g) The Chairperson's decision as to whether a Direct Vote is valid is conclusive.
- (h) A Voting Member who has cast a Direct Vote is entitled to attend the meeting and that Voting Member's attendance cancels the Direct Vote:
  - (i) unless the Voting Member instructs the Company otherwise; or
  - (ii) the Board has determined that Direct Votes are the only method permitted for voting on a resolution.
- (i) If a vote is taken at a meeting on a resolution on which a Direct Vote was cast, the Chairperson of the meeting must:
  - (i) on a vote by show of hands, count each Voting Member who has submitted a Direct Vote for or against the resolution in accordance with their Direct Vote; and
  - (ii) on a poll, count the votes cast by each Voting Member who has submitted a Direct Vote directly for or against the resolution.

## 24 Resolutions by the Members

- (a) The Voting Members may pass an ordinary resolution without a general meeting being held if a majority of the Voting Members sign a document containing a statement that they are in favour of the resolution set out in that document. For this purpose, signatures can be contained in more than one document.
- (b) The Voting Members may pass a Special Resolution without a general meeting being held if at least 75% of the Voting Members sign a document containing a statement that they are in favour of the resolution set out in that document. For this purpose, signatures can be contained in more than one document.
- (c) An email transmission which is received by the Company and which purports to have been sent by a Voting Member shall for the purposes of this **clause 24** be taken to be in writing and signed by that Voting Member at the time of the receipt of the email transmission by the Company.
- (d) A vote made by a Voting Member using an online voting platform operated or commissioned by the Company shall for the purposes of this **clause 24** be taken to be in writing and signed by that Voting Member at the time the vote was received by the online voting platform.
- (e) Any decisions made under **clauses 24(a) to 24(d)** shall be tabled at the next general meeting.

## **25 Right of Non-Members to Attend General Meeting**

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- (a) The Chairperson of a general meeting may invite any person who is not a Member to attend and address a meeting.
- (b) Any auditor and any Director of the Company shall be entitled to attend and address a general meeting.

## **26 Objection to Qualification to Vote**

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Any challenge as to the qualification of a person to vote at a general meeting or the validity of any vote tendered may only be raised at the meeting and must be determined by the Chairperson of the general meeting, whose decision shall be final and conclusive, and a vote allowed by the Chairperson of the general meeting shall be valid for all purposes.

## **27 No Casting Vote**

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In the case of an equality of votes, whether on a show of hands or on a poll, the Chairperson of the meeting at which the show of hands is taken or at which the poll is demanded is not entitled to a casting vote in addition to a deliberative vote.

# **PROXIES**

## **28 Right to Appoint Proxies**

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Notwithstanding section 111L of the Corporations Act:

- (a) a Voting Member or a Representative of a Voting Member who is entitled to attend and vote at a general meeting of the Company may appoint another person as the Voting Member's or Representative's proxy to attend and vote for the Voting Member or Representative at the meeting; and
- (b) if a Voting Member or Representative appoints a proxy, the proxy is entitled to vote on a show of hands and on a poll.

## **29 Appointing a Proxy**

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### **29.1 Appointing a Proxy**

The instrument appointing a proxy must be in writing signed by the appointor or the appointor's attorney duly authorised in writing.

### **29.2 Instrument of Proxy**

- (a) The instrument of proxy is valid if it contains the following information, and any additional information required by the Corporations Act (notwithstanding the application of section 111L of the Corporations Act):
  - (i) the name and address of the appointor;
  - (ii) the name of the Company;
  - (iii) the proxy's name or the name of the office of the proxy; and
  - (iv) the meetings at which the instrument of proxy may be used.



- (b) An instrument of proxy may be expressed to be a standing appointment. An instrument of proxy for a specified meeting is only valid for that meeting and any postponement or adjournment of that meeting.
- (c) An instrument of proxy shall not be treated as invalid merely because it does not specify all of the information required by **clause 29.2(a)**.
- (d) An instrument of proxy may be revoked at any time by notice in writing to the Company.

### 30 Lodgement of Proxies

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- (a) An instrument appointing:
  - (i) a proxy and the power of attorney or other authority (if any) under which it is signed or executed or a certified copy of that power or authority; or
  - (ii) an attorney to exercise a Voting Member's or Representative's voting rights at a general meeting or a certified copy of that power of attorney,must be deposited at the Office or at such other place as is specified for that purpose in the notice convening the general meeting not less than forty-eight (48) hours (or such shorter period as the Board may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote. In default, the instrument of proxy or the power of attorney will not be treated as valid.
- (b) For the purposes of this **clause 30** it will be sufficient that any document required to be lodged be received in legible form by email or other electronic transmission if the notice of meeting so permits, and the document is sent to the address and in the form specified in the notice, and the proxy shall be regarded as received at the time of the receipt of the email or other electronic transmission by the Company.

### 31 Validity of Proxies

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A vote exercised pursuant to an instrument of proxy, a power of attorney or other instrument of appointment is valid notwithstanding:

- (a) the death or unsoundness of mind of the Representative;
- (b) the bankruptcy of the Representative;
- (c) the liquidation of the Voting Member; or
- (d) the revocation of the instrument of proxy or the power of attorney or any instrument under which the instrument or the power was granted,

if the Company has not received at its Office written notice of the death, unsoundness of mind, bankruptcy, liquidation or revocation at least twenty-four (24) hours (or such shorter period as the Board may allow) before the time appointed for the holding of the general meeting or adjourned meeting, as the case may be, at which the instrument of proxy or the power of attorney is exercised.

### 32 Rights of Proxies and Attorneys

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- (a) The instrument appointing a proxy will be taken to confer authority to demand or join in demanding a poll.

- (b) Subject to **clause 32(c)**, unless a Voting Member or Representative by the instrument of proxy directs the proxy to vote in a certain manner, the proxy may vote as the proxy thinks fit on any motion or resolution. Otherwise the proxy shall follow the voting instructions contained in the instrument of proxy.
- (c) A proxy will be automatically revoked by the appointor attending a general meeting for which the proxy was appointed.
- (d) The Chairperson of a general meeting may require any person acting as a proxy to establish to the satisfaction of the Chairperson that he or she is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person is unable to establish his or her identity, he or she may be excluded from voting either upon a show of hands or upon a poll.

## APPOINTMENT AND REMOVAL OF DIRECTORS

### 33 Number and Appointment of Directors

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#### 33.1 Number of Directors

- (a) The Board of Directors shall consist of not fewer than five (5) and not more than nine (9) persons.
- (b) Subject to section 201P of the Corporations Act, the Board may by resolution vary the number of Directors holding office from that referred to in **clause 33.1(a)**.

#### 33.2 Composition of Board

The Board shall consist of:

- (a) at least three (3) and up to five (5) Elected Directors, the number of whom is to be determined by the Board;
  - (b) up to two (2) Co-Opted Directors, the number of whom is to be determined by the Board; and
  - (c) two (2) Appointed Directors,
- so long as the total number of Directors is within the total referred to in **clause 33.1(a)**.

#### 33.3 Initial Board

- (a) The Directors to hold office from adoption of this Constitution in 2020 shall be:
  - (i) [REDACTED];
  - (ii) [REDACTED];
  - (iii) [REDACTED];
  - (iv) [REDACTED];
  - (v) [REDACTED];
  - (vi) [REDACTED]; and
  - (vii) [REDACTED].
- (b) The Directors listed in **clauses 33.3(a)(i) to 33.3(a)(iii)** shall be deemed to be Elected Directors.



- (c) The Directors listed in **clauses 33.3(a)(iv)** and **33.3(a)(v)** shall be deemed to be Co-Opted Directors.
- (d) The Directors listed in **clauses 33.3(a)(vi)** and **33.3(a)(vii)** shall be deemed to be Appointed Directors.
- (e) Directors who are in office under this Constitution (adopted in 2020) in terms which commenced under the previous Constitution shall complete their terms when they would have finished under the previous Constitution, even if that results in a total term of less than three (3) years under this Constitution.
- (f) The initial Directors referred to in **clause 33.3(a)** shall be eligible for reappointment or re-election for up to two (2) further terms of three (3) years each.

#### **33.4 Elected Directors**

- (a) Nominations of candidates for election as Elected Directors:
  - (i) shall be in writing in a form prescribed by the Board (including any electronic form so prescribed) signed by two (2) Voting Members and be accompanied by the written consent of the nominee (which may be endorsed on the nomination); and
  - (ii) shall be delivered to the Secretary (or other person authorised by the Board for the purpose) not later than close of business ten (10) Business Days before the day fixed for the holding of the AGM at which the election is to take place.
- (b) If the number of nominations received is equal to the number of positions to be filled, the persons nominated shall be taken to be elected.
- (c) If the number of nominations received exceeds the number of positions to be filled, a ballot shall be held.
- (d) An Elected Director must be a Representative of an Ordinary Member at all times that they hold the office of Elected Director.

#### **33.5 Co-Opted Directors**

- (a) The Board may appoint Co-Opted Directors to the Board to fill the positions provided for in **clause 33.2(b)**.
- (b) A Co-Opted Director shall be a person who will bring skills and experience to the Board to enable the Board to advance the Objects.
- (c) A Co-Opted Director may be, but need not be, a Representative of a Corporate Member.

#### **33.6 Appointed Directors**

- (a) The Australian Catholic Bishops Conference and Catholic Religious Australia must each nominate one (1) Appointed Director to the Board at any time to fill the positions provided for in **clause 33.2(c)**.
- (b) The individuals nominated as Appointed Directors in accordance with **clause 33.6(a)** must be appointed as Appointed Directors by the Board.
- (c) An Appointed Director shall be a person who, in the view of the Australian Catholic Bishops Conference and Catholic Religious Australia (as applicable), brings skills and experience to the Board to enable the Board to advance the Objects.

**33.7 Term**

- (a) Except in accordance with **clause 33.3**, Directors shall hold office for a term of three (3) years, but shall be eligible for re-election or reappointment for further terms of three (3) years each, provided that Directors shall not hold office for more than nine (9) consecutive years.
- (b) Except in accordance with **clause 33.3**, once a Director has served the maximum term of nine (9) consecutive years, the Director is not eligible for re-election or reappointment to the Board until after a period of at least three (3) years has passed since the expiry of the Director's previous term on the Board.

**33.8 Office Bearers**

- (a) Directors who held Office Bearer positions immediately before the adoption of this Constitution in 2020, under Office Bearer terms which commenced under the previous Constitution, shall complete their terms as Office Bearers when they would have finished under the previous Constitution, even if that results in a total term of less than three (3) years under this Constitution.
- (b) The Board shall, at the first meeting of the Board held after an Office Bearer has retired, appoint from among the Directors sitting on the Board at the time of the Board meeting:
  - (i) the Chair;
  - (ii) the Deputy Chair; and
  - (iii) such other Office Bearer positions as the Board deems necessary from time to time.
- (c) The Office Bearers shall hold office for a term of three (3) years (or for so long as they have remaining in their term as a Director), but shall be eligible for reappointment for two (2) further terms of three (3) years each (or for so long as they have remaining in their term as a Director), provided that Office Bearers shall not hold office beyond their retirement or removal from the Board as a Director.
- (d) No Director may simultaneously hold more than one (1) Office Bearer position (including when filling a vacancy pursuant to **clause 36**).

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**34 General Right to Act Despite Vacancy**

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The Board may act despite any vacancy in its body but if its number falls below the minimum fixed in accordance with **clause 33.1**, the Board may act for the purpose of:

- (a) convening a general meeting; and
- (b) in emergencies,

but for no other purpose.

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**35 Vacation of Office**

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- (a) Any Director may retire from office on giving written notice to the Company at the Office of his or her intention to retire and the resignation shall take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Company).

- (b) The office of a Director shall become vacant if the Director:
- (i) dies;
  - (ii) is an Elected Director and ceases to be a Representative of an Ordinary Member;
  - (iii) becomes bankrupt or makes any arrangement or composition with creditors generally;
  - (iv) becomes prohibited from being a director of, or managing, a company by reason of any order made under the Corporations Act;
  - (v) has been disqualified by the Australian Charities and Not-for-Profits Commissioner, at any time during the preceding twelve (12) months, from being a responsible entity of a registered entity under section 45.20(4) of the ACNC Regulation;
  - (vi) becomes of unsound mind or a person whose personal estate is liable to be dealt with in any way under the law relating to mental health;
  - (vii) is removed from office by the Company in general meeting;
  - (viii) resigns by notice in writing to the Company; or
  - (ix) is absent without permission of the Board from three (3) meetings of the Board in a calendar year, unless the Board resolves that this does not constitute resignation.

### 36 Filling of Vacancies on the Board

- (a) In the event of a casual vacancy occurring on the Board:
- (i) in relation to an Elected Director vacancy, the Board will appoint a Representative of an Ordinary Member to fill the vacancy;
  - (ii) in relation to a Co-Opted Director vacancy, the Board may appoint any person to fill that vacancy in accordance with **clause 33.5**;
  - (iii) in relation to an Appointed Director who is nominated by the Australian Catholic Bishops Conference, the Board must appoint another person nominated by the Australian Catholic Bishops Conference to fill that vacancy; and
  - (iv) in relation to an Appointed Director who is nominated by Catholic Religious Australia, the Board must appoint another person nominated by Catholic Religious Australia to fill that vacancy.
- (b) Any Director appointed pursuant to **clause 36(a)(i)** shall hold office for the balance of the term of the vacating Elected Director.
- (c) Any Director appointed pursuant to **clauses 36(a)(ii), 36(a)(iii) and 36(a)(iv)** shall hold office for a full new term.
- (d) Any time served to fill a casual vacancy under **clause 36(b)** does not count towards the maximum term of a Director under **clause 33.7(a)**.

### 37 Office Bearer Vacancies

- (a) In the event of a vacancy occurring in the position of Chair, the Deputy Chair shall assume office as acting Chair until the next meeting of the Board, at which

time the Board shall elect a new Chair in accordance with **clause 33.8(b)(i)** for the balance of the term of the vacating Chair, or until such time as he or she ceases to be a Director, whichever is earlier.

- (b) In the event of a vacancy occurring in the position of Deputy Chair, another Director (elected by the Directors at the next meeting of the Board) who is not the Chair, shall assume office as Deputy Chair for the balance of the term of the vacating Deputy Chair, or until such time as he or she ceases to be a Director, whichever is earlier.
- (c) If any other Office Bearer is temporarily absent or temporarily unable to perform his or her duties, the Board may authorise another Director to act in the vacant position during the absence or inability of the Office Bearer.
- (d) Nothing in **clause 37(a)** permits any person to simultaneously hold more than one position of Office Bearer.

### **38 Alternate Directors**

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Alternate Directors shall not be permitted.

## **POWERS AND DUTIES OF DIRECTORS**

### **39 Duties of Directors**

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- (a) Each Director is subject to, and must comply at all times with, the duties set out in governance standard 5 in section 45.25 of the ACNC Regulation.
- (b) In accordance with governance standard 4 in section 45.20 of the ACNC Regulation, the Board will take reasonable steps to ensure that the Board does not at any time include a Director who is disqualified from managing a corporation under the Corporations Act or from being a responsible entity under subsection 45.20(4) of the ACNC Regulation.

### **40 Powers of Directors**

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The control, management and conduct of the Company shall be vested in the Board, who shall exercise all such powers of the Company as are not by the Corporations Act, the ACNC Act, the ACNC Regulation or by this Constitution required to be exercised in any other manner.

### **41 Chief Executive Officer**

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The Board shall have the power to appoint or remove a Chief Executive Officer of the Company from time to time and on terms and conditions as determined by the Board.

### **42 Negotiable Instruments**

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All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, requests or arrangements for electronic fund transfers and receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed as the case may be by two (2) people authorised by resolution of the Board. The Board may authorise:

- (a) a Director(s);

- (b) the Secretary; or
  - (c) another staff member of the Company,
- to sign such instruments.

### 43 Conferment of Powers

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- (a) The Board may from time to time confer upon any Director or the Chief Executive Officer for the time being or any other person as they may select such of the powers exercisable under this Constitution by the Board as it may think fit for such time and to be exercised for such purposes and on such terms and conditions and with such restrictions as it may think expedient.
- (b) Powers conferred under this **clause 43** may be exercised concurrently with the powers of the Board in that regard and the Board may from time to time withdraw, revoke or vary all or any of such powers.

## DIRECTORS' DISCLOSURE OF INTEREST

### 44 Contracts

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- (a) The Company may enter into contracts or arrangements with other companies or bodies in which a Director has an interest, provided it does so according to the usual commercial terms and conditions which apply to such contracts or arrangements.
- (b) Any interest of a Director must be dealt with in accordance with the relevant legislation, being either:
  - (i) the Corporations Act; or
  - (ii) the ACNC Regulation,which shall include disclosing an interest and having the Secretary record all declarations in the minutes of the relevant meeting.
- (c) Subject to **clause 44(b)**, a Director who has an interest in a contract or arrangement made by the Company and has disclosed this interest to the Board may:
  - (i) not be present while the matter is being considered at a meeting;
  - (ii) still be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
  - (iii) not vote on the matter;
  - (iv) not sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
  - (v) not vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- (d) A Director's failure to make disclosure under this **clause 44** does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.

- (e) A general notice given to the Board by a Director that the Director is an officer, a member of, or otherwise interested in any specified corporation or firm stating the nature and the extent of the Director's interest in the corporation or firm shall, in relation to any matter involving the Company and that corporation or firm after the giving of the notice, be a sufficient disclosure of the Director's interest, provided that the extent of the interest is no greater at the time of first consideration of the relevant matter by the Board than was stated in the notice.

## PROCEEDINGS OF DIRECTORS

### 45 Meetings of Directors

- (a) The Board may meet together for the despatch of business, adjourn and otherwise regulate its meetings and proceedings as it thinks fit, provided that the Board must meet not fewer than four (4) times each calendar year.
- (b) The Chief Executive Officer (if any) shall be required to attend each meeting of the Board, unless the Board determines otherwise.
- (c) A Director may at any time, and the Secretary upon the request of a Director shall, convene a meeting of the Board by giving at least twenty-four (24) hours' notice of the meeting to all Directors and the Chief Executive Officer, provided that the Director or Secretary must have used his or her best endeavours to ensure that the notice was properly provided.
- (d) Notice of a meeting of the Board must be in writing by any means including paper, email or digital messaging, provided that proof of service can be provided upon request.
- (e) Subject to **clause 45(f)**, a Board meeting may be convened or held using any technology consented to by a majority of Directors. The consent may be a standing one. A Director may withdraw consent to the use of a particular technology within a reasonable time period before a Board meeting.
- (f) The particular technology used to convene or hold a Board meeting, pursuant to **clause 45(e)**, must be of a type that is available and accessible to all Directors who wish to attend the Board meeting and the Chief Executive Officer.
- (g) All resolutions of the Directors passed at a meeting of the Board where a quorum is present but where notice of the meeting has not been given as required to each Director, or any act carried out pursuant to such resolution, shall, provided each Director to whom notice was not given subsequently agrees to waive the same, be as valid as if notice of the meeting had been duly given to all Directors. Attendance by a Director at a meeting of Directors waives any objection which that Director may have to a failure to give notice of the meeting.

### 46 Quorum

- (a) The quorum necessary for the transaction of the Board's business is Directors being personally present (or in conference in accordance with **clause 45**) who represent a majority of the total number of Directors.
- (b) A quorum must be present at all times during the meeting in order for business to be transacted.



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## 47 Chairperson

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- (a) The Chair shall be the Chairperson.
- (b) The Chair shall, if present, preside as Chairperson of every meeting of the Board.
- (c) If a meeting of the Board is held and the Chair is:
  - (i) not present within fifteen (15) minutes after the time appointed for the holding of the meeting; or
  - (ii) if present, does not wish to chair the meeting,then the Deputy Chair shall preside as Chairperson. If the Deputy Chair is:
  - (iii) not present within fifteen (15) minutes after the time appointed for the holding of the meeting; or
  - (iv) if present, does not wish to chair the meeting,then the other Directors present must elect one of their number to be Chairperson of the meeting.

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## 48 Voting

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- (a) A resolution of the Board must be passed by a majority of votes of the Directors present at the meeting who vote on the resolution. A resolution passed by a majority of the votes cast by the Directors will for all purposes be taken to be a determination of the Board.
- (b) Each Director shall have one (1) vote.
- (c) In case of an equality of votes at a meeting of the Board, the Chairperson is not entitled to a casting vote in addition to a deliberative vote.
- (d) The Chief Executive Officer is not entitled to vote at a meeting of the Board, as the Chief Executive Officer is not a Director.

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## 49 Resolutions by Directors

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- (a) The Board may pass a resolution without a Board meeting being held if a majority of the Directors sign a document containing a statement that they are in favour of the resolution set out in that document. For this purpose, signatures can be contained in more than one document.
- (b) An email transmission which is received by the Company and which purports to have been sent by a Director shall for the purposes of this **clause 49** be taken to be in writing and signed by that Director at the time of the receipt of the email transmission by the Company.
- (c) A vote made by a Director using an online voting platform operated or commissioned by the Company shall for the purposes of this **clause 49** be taken to be in writing and signed by that Director at the time the vote was received by the online voting platform.
- (d) Any decisions made under **clauses 49(a) to 49(c)** shall be tabled at the next Board meeting.

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## 50 Committees

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- (a) The Board may form and delegate any of its powers to the following Committees consisting of such Directors and/or other persons as it thinks fit and may from time to time revoke such delegation:
  - (i) a Committee to hear appeals under **clause 9.3** (known as the Membership Review Committee);
  - (ii) a Committee to hear appeals under **clause 14.2** (known as the Disciplinary Committee); and
  - (iii) any other Committees that the Board sees fit to establish from time to time.
- (b) The Board has the power to require any Committee to have all decisions made by that Committee ratified by the Board.
- (c) A Committee must in exercise of the powers delegated to it conform to any directions and restrictions that may be imposed on it by the Board. A power so exercised shall be taken to be exercised by the Board.
- (d) The meetings and proceedings of any Committee consisting of more than one person will be governed by the provisions for regulating the meetings and proceedings of the Board contained in this Constitution.
- (e) A minute of all the proceedings and decisions of every Committee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Corporations Act and this Constitution to be made entered and signed. A copy of such Committee minutes shall be tabled at the next Board meeting.

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## 51 Validation of Acts of Directors

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All acts done:

- (a) at any meeting of the Board; or
- (b) by any person acting as a Director,

shall, even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Director or person or that they or any of them were disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Director and had been entitled to vote.

## MINUTES

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## 52 Minutes

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- (a) The Board must cause minutes to be kept in such a manner as is required by the Corporations Act (notwithstanding the application of section 111L of the Corporations Act) for the purposes of recording:
  - (i) the names of the Directors present at each meeting of the Board and of Directors present at each meeting of any Committee;
  - (ii) all orders, resolutions and proceedings of general meetings and of meetings of the Board and of Committees; and



- (iii) such matters as are required by the Corporations Act, the ACNC Act or the ACNC Regulation to be recorded in the record books of the Company including, without limitation, all declarations made or notices given by any Director of his or her interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.
- (b) Such minutes shall be signed by the Chairperson of the meeting, or the Chairperson of the next succeeding meeting and minutes which purport to be signed accordingly shall be received in evidence without any further proof as sufficient evidence that the matters and things recorded by such minutes actually took place or happened as recorded and of the regularity of such matters and things and that the same took place at a meeting duly convened and held.

## SECRETARY

### 53 Appointment and Tenure

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- (a) There must at all times be at least one Secretary appointed by the Board for a term and on conditions determined by the Board.
- (b) The Board may replace any Secretary so appointed.
- (c) The Secretary appointed under **clause 53(a)** shall be the Company Secretary for the purposes of the Corporations Act.

## BY-LAWS

### 54 By-Laws

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- (a) The Board may from time to time make such By-Laws as are in its opinion necessary and desirable for the proper control, administration and management of the Company's affairs, operations, finances, interests, effects and property and to amend and repeal those By-Laws from time to time.
- (b) A By-Law must be subject to this Constitution and must not be inconsistent with any provision contained in this Constitution.
- (c) When in force, a By-Law is binding on all Members and has the same effect as this Constitution.
- (d) The Board will adopt such measures as it deems appropriate to bring to the notice of the Members all By-Laws, amendments and repeals.

## EXECUTION OF DOCUMENTS

### 55 Execution of Documents

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- (a) Without limiting the manner in which the Company may execute any contract, including as permitted under section 126 of the Corporations Act, the Company may execute any agreement, deed or other document by:
  - (i) two (2) Directors signing the same; or
  - (ii) one (1) Director and one (1) Secretary signing the same.

- (b) Nothing in this Constitution requires the Company to execute any agreement, deed or other document under common seal for the same to be effectively executed by the Company.

## ACCOUNTS AND INSPECTION OF RECORDS

### 56 Accounts and Inspection

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The Board shall:

- (a) cause proper financial records to be kept and must, if required by the Corporations Act, the ACNC Act or the ACNC Regulation, prepare and distribute copies of the financial reports of the Company and a Directors' report;
- (b) where required by the Corporations Act or ACNC Act, cause the financial records to be audited or reviewed by a properly qualified auditor or other entity authorised by the Corporations Act or the ACNC Act; and
- (c) from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Company or any of them will be open to the inspection of the Members.

## NOTICES

### 57 Service of Notices

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- (a) A notice may be given by the Company to any Member by:
- (i) serving it on the Member's Representative personally;
- (ii) sending it by post to the Member or leaving it at the Member's address shown in the Register or otherwise the address supplied by the Member to the Company for the giving of notices;
- (iii) facsimile to the facsimile number supplied by the Member to the Company for the giving of notices;
- (iv) sending it to the electronic address supplied by the Member to the Company for the giving of notices; or
- (v) using any of the methods in **clause 57(a)(ii) to 57(a)(iv)** but in relation to a Representative appointed under **clause 11** rather than in relation to the Member itself.
- (b) Any Member who has not left at or sent to the Office his or her address for inclusion in the Register as the place at which notices may be given to the Member shall not be entitled to receive any notice.
- (c) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and shall be deemed to have been effected on the third (3<sup>rd</sup>) day after the date of posting. Service of a notice to a Member outside Australia shall be deemed to have been made in the ordinary course of post.
- (d) Where a notice is sent by facsimile or other electronic means, service of the notice shall be taken to be effected by properly addressing and sending the

notice and in such case shall be taken to have been effected on the Business Day after it is sent.

- (e) Evidence of service of a notice may be established by proving that the envelope containing the notice and stamped appropriately was properly posted and a certificate given by any Officer of the Company to that effect shall be conclusive evidence of service.

## WINDING UP

### 58 Winding Up

#### 58.1 Surpluses Arising from Deductible Donations

- (a) If any surplus from deductible gifts and contributions, and any money received in respect of such gifts and contributions, remains following the winding up of the Company, the surplus may be paid to or distributed among the Members, so long as the Member has:
- (i) objects which are similar to the Objects and is charitable;
  - (ii) a constitution which requires its income and property to be applied in promoting its objects;
  - (iii) a constitution which prohibits it from paying or distributing its income and property amongst its members to an extent at least as great as imposed on the Company by **clause 5.2(b)**; and
  - (iv) DGR endorsement.
- (b) If **clause 58.1(a)** does not apply, then any surplus from deductible gifts and contributions, and any money received in respect of such gifts and contributions, which remains following the winding up of the Company will be given or transferred to another institution(s) or corporation(s) which has:
- (i) objects which are similar to the Objects and is charitable;
  - (ii) a constitution which requires its income and property to be applied in promoting its objects;
  - (iii) a constitution which prohibits it from paying or distributing its income and property amongst its members to an extent at least as great as imposed on the Company by **clause 5.2(b)**; and
  - (iv) DGR endorsement.
- (c) The identity of the corporation(s) or institution(s) referred to in **clause 58.1(b)** is to be determined:
- (i) by the Board; or
  - (ii) if the Board does not decide or does not wish to decide, then by the Members,
- in writing at or before the time of dissolution, and failing such determination being made, by application to the Supreme Court of the Australian Capital Territory for determination.
- (d) In the event that the Company subsequently has its endorsement as a DGR revoked, the Company must transfer all remaining gifts, deductible contributions and any money received in respect of such gifts and contributions to another

DGR(s) which is charitable at law (and which may include the Members, if the Member(s) has DGR endorsement and is charitable) such DGR(s) to be determined by the Board, or failing the Board, the Members, and failing such determination being made by either the Board or the Members, by application to the Supreme Court of Australian Capital Territory for determination.

## 58.2 Other Surpluses

- (a) Any surplus remaining which is not within the ambit of **clause 58.1(a)** may be paid to or distributed among the Members, so long as the Member has:
- (i) objects which are similar to the Objects and is charitable;
  - (ii) a constitution which requires its income and property to be applied solely in promoting its objects; and
  - (iii) a constitution which prohibits it from paying or distributing its income and property amongst its members to an extent at least as great as imposed on the Company by **clause 5.2(b)**.
- (b) If **clause 58.2(a)** does not apply, then any surplus remaining which is not within the ambit of **clause 58.1(a)** will be given or transferred to another institution(s) or corporation(s) which has:
- (i) objects which are similar to the Objects and is charitable;
  - (ii) a constitution which requires its income and property to be applied solely in promoting its objects; and
  - (iii) a constitution which prohibits it from paying or distributing its income and property amongst its members to an extent at least as great as imposed on the Company by **clause 5.2(b)**.
- (c) The identity of the institution(s) or corporation(s) referred to in **clause 58.2(a)** is to be determined:
- (i) by the Board; or
  - (ii) if the Board does not decide or does not wish to decide, then by the Members,

in writing at or before the time of dissolution and failing such determination being made, by application to the Supreme Court Australian Capital Territory for determination.

## INDEMNITY

### 59 Indemnity

To the extent permitted by law every Officer (and former Officer) of the Company shall be indemnified out of the funds of the Company against all costs, expenses and liabilities incurred in that person's capacity as an Officer or employee of the Company (or former Officer or employee of the Company). However, no such Officer or employee (or former Officer or employee) shall be indemnified out of the funds of the Company under this **clause 59** unless:

- (a) it is in respect of a liability to another person (other than the Company or a related body corporate to the Company) where the liability to the other person does not arise out of conduct involving a lack of good faith; or

- (b) it is in respect of a liability for costs and expenses incurred:
  - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the Officer (or former Officer) or in which the Officer (or former Officer) is acquitted; or
  - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the Officer (or former Officer) under the Corporations Act.

## **60 Payment of Indemnity Policy Premium**

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- (a) To the extent permitted by law the Company may at the discretion of the Board enter into and/or pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Company against any liability incurred by such person in that capacity (whether in respect of acts or omissions before or after the date of the issue of the policy or both) except for:
  - (i) a liability arising out of conduct involving a wilful breach of duty in relation to the Company; or
  - (ii) a liability arising out of conduct that contravenes the governance standards in sections 45.5 to 45.25 of the ACNC Regulation.
- (b) The Board shall have the discretion to approve the terms and conditions of any such policy of insurance.
- (c) Where an Officer (or former Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of his or her actions or omissions then the Company shall not be required to indemnify the Officer under **clause 59** except to the extent that the indemnity affected by the insurance policy does not fully cover the person's liability.

## **61 Indemnity to Continue**

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The indemnity granted by the Company contained in **clauses 59** and **60** shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring before the date of the deletion or modification.