

# Constitution

Australian Company Number (ACN) 620 134 787

Australian Business Number (ABN) 76 409 721 192

A charitable not for profit public company limited by guarantee

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## Preliminary

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### 1. Replaceable rules excluded

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

### 2. Name of the company

The name of the company is Micah Projects Ltd (the company).

### 3. Type of company

The company is a not for profit public company limited by guarantee which is established to be, and to continue as, a charity.

### 4. Limited liability of members

The liability of members is limited to the amount of the guarantee in clause 5.

### 5. The guarantee

Each member must contribute an amount not more than the greater of the membership fee or \$1.00 (the **guarantee**) to the property of the company if the company is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:

- (a) debts and liabilities of the company incurred before the member stopped being a member; or
- (b) costs of winding up.

### 6. Definitions

In this constitution, words and phrases have the meaning set out in clauses 81 to 83.

## Charitable purposes and powers

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### 7. Objects

- 7.1 The company's object is to pursue the following charitable purpose(s):
- (a) provide assistance, financial and non-financial, to people experiencing poverty and financial hardship;
  - (b) provide quality ethical services to disadvantaged and marginalised people experiencing poverty and financial hardship;
  - (c) enable people to create justice and to respond to injustice at the personal, social and structural levels in church and society;
  - (d) network in the wider community and identify grassroots activities which can be supported and resourced by the company;
  - (e) advocate with people with lived experience of poverty and inequality, violence and trauma to bring about a more just and equitable society;
  - (f) initiate and lobby for structural change to bring about a more just and equitable society; and

- (g) develop community education by reflecting with people who have lived experience of poverty and inequality, violence and trauma to highlight injustice and discrimination that is experienced in church and society.
- 7.2 The company must pursue its charitable purposes only and must apply its income in promoting those purposes.

## **8. Powers**

Subject to clause 9, the company has the following powers, which may only be used to carry out its purpose(s) set out in clause 7:

- (a) the powers of an individual; and
- (b) all the powers of a company limited by guarantee under the Corporations Act, but does not have the power to issue shares.

## **9. Not-for-profit**

- 9.1 The company must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 9.2 and 80.
- 9.2 Clause 9.1 does not stop the company from doing the following things, provided they are done in good faith:
- (a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the company; or
  - (b) making a payment to a member in carrying out the company's charitable purpose(s).

## **10. Amending the constitution**

- 10.1 Subject to clause 10.2, the members may amend this constitution by passing a special resolution.
- 10.2 The members must not pass a special resolution that amends this constitution if passing it causes the company to no longer be a charity.

# **Members**

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## **11. Membership and register of members**

- 11.1 The members of the company are:
- (a) the initial members;
  - (b) any other individual that applies to be, and whom the directors allow to be, a member, in accordance with this constitution;
- 11.2 Additional categories of members, and the rights adhering to such membership, if and as recommended by the directors, may be created from time to time by the members in general meeting.
- 11.3 The company must establish and maintain a register of members. The register of members must be kept by the company and must contain:
- (a) for each current member:
    - i. name;
    - ii. address;

- iii. any alternative contact details nominated by the member for the service of notices;
    - iv. the date the member was entered on to the register.
  - (b) for each individual who stopped being a member in the last seven years:
    - i. name;
    - ii. address;
    - iii. any alternative contact details nominated by the member for the service of notices; and
    - iv. the dates the membership started and ended.
- 11.4 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

## **12. Who can be a member**

- 12.1 An individual who supports the purposes of the company is eligible to apply to be a member of the company under clause 13.

## **13. How to apply to become a member**

- 13.1 An individual (as defined in clause 12.1) may apply to become a member of the company by completing a membership form stating that they:
- (a) want to become, and agree to become, a member, if the membership application is accepted;
  - (b) support the purpose(s) of the company; and
  - (c) agree to comply with the company's constitution, including paying the guarantee under clause 5 if required.
- 13.2 The application for membership must be signed by the prospective member.
- 13.3 An application for membership may be accompanied by an annual membership fee, as set by the company.

## **14. Directors decide whether to approve membership**

- 14.1 The directors must consider an application for membership within a reasonable time after the company receives the application.
- 14.2 If the directors approve an application, the company must as soon as possible:
- (a) enter the new member on the register of members; and
  - (b) write to the applicant to tell them that their application was approved and the date that their membership started (see clause 15).
- 14.3 If the directors reject an application, the company secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons and will return any membership fee offered.
- 14.4 For the avoidance of doubt, the directors may approve an application even if the application does not state the matters listed in clauses 13.1(a), (b) or (c). In that case, by applying to be a member, the applicant agrees to those three matters.

## **15. When an individual becomes a member**

- 15.1 Other than initial members, an applicant will become a member when they are entered on the register of members.
- 15.2 A member must renew his or her membership annually.

## **16. When an individual stops being a member**

- 16.1 An individual immediately stops being a member if they:
- (a) die;
  - (b) fail to renew their membership;
  - (c) resign, by writing to the company secretary;
  - (d) are expelled under clause 18; or
  - (e) have not responded within three months to a written request from the company secretary that they confirm in writing that they want to remain a member.

## **Dispute resolution and disciplinary procedures**

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### **17. Dispute resolution**

- 17.1 The directors will determine the appropriate dispute resolution process of disputes between a member or director and:
- (a) one or more members;
  - (b) one or more directors; or
  - (c) the company,
- in relation to:
- (a) differing interpretations of the way the constitution is applied; or
  - (b) compliance with this constitution.
- 17.2 All other disputes are resolved on a case by case basis dependent on the nature of the dispute.
- 17.3 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 18 until the disciplinary procedure is completed.
- 17.4 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 17.5 If those involved in the dispute do not resolve it under clause 17.4, they must within 10 days:
- (a) tell the directors about the dispute in writing;
  - (b) agree or request that a mediator be appointed; and
  - (c) attempt in good faith to settle the dispute by mediation.
- 17.6 The mediator must:
- (a) be chosen by agreement of those involved, or
  - (b) where those involved do not agree:
    - i. for disputes between members, a person chosen by the directors; or
    - ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the company has its registered office.
- 17.7 A mediator chosen by the directors under clause 17.6(b)(i):
- (a) may be a member or former member of the company;
  - (b) must not have a personal interest in the dispute; and
  - (c) must not be biased towards or against anyone involved in the dispute.

- 17.8 When conducting the mediation, the mediator must:
- (a) allow those involved a reasonable chance to be heard;
  - (b) allow those involved a reasonable chance to review any written statements;
  - (c) ensure that those involved are given natural justice; and
  - (d) not make a decision on the dispute.

## **18. Disciplining members**

- 18.1 In accordance with this clause, the directors may resolve to warn, suspend or expel a member from the company if the directors consider that:
- (a) the member has breached this constitution; or
  - (b) the member's behaviour is causing, has caused, or is likely to cause harm to the company.
- 18.2 At least 14 days before the directors' meeting at which a resolution under clause 18.1 will be considered, the company secretary must notify the member in writing:
- (a) that the directors are considering a resolution to warn, suspend or expel the member;
  - (b) that this resolution will be considered at a directors' meeting and the date of that meeting;
  - (c) what the member is said to have done or not done;
  - (d) the nature of the resolution that has been proposed; and
  - (e) that the member may provide an explanation to the directors, and details of how to do so.
- 18.3 Before the directors pass any resolution under clause 18.1, the member must be given a chance to explain or defend themselves by:
- (a) sending the directors a written explanation before that directors' meeting; and/or
  - (b) speaking at the meeting.
- 18.4 After considering any explanation under clause 18.3, the directors may:
- (a) take no further action;
  - (b) warn the member;
  - (c) suspend the member's rights as a member for a period of no more than 12 months;
  - (d) expel the member;
  - (e) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause); or
  - (f) require the matter to be determined at a general meeting.
- 18.5 The directors cannot fine a member.
- 18.6 The company secretary must give written notice to the member of the decision under clause 18.4 as soon as possible.
- 18.7 Disciplinary procedures must be completed as soon as reasonably practicable.
- 18.8 There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

## General meetings of members

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### 19. General meetings called by directors

- 19.1 The directors may call a general meeting.
- 19.2 If members with at least five per cent of the votes that may be cast at a general meeting, or 10 members who are entitled to vote at a general meeting, whichever shall be the greater, make a written request to the company for a general meeting to be held, the directors must:
- (a) within 21 days of the members' request, give all members notice of a general meeting; and
  - (b) hold the general meeting within two months of the members' request.
- 19.3 The percentage of votes that members have (in clause 19.2) is to be worked out as at midnight before the members request the meeting.
- 19.4 The members who make the request for a general meeting must:
- (a) state in the request any resolution to be proposed at the meeting;
  - (b) sign the request; and
  - (c) give the request to the company.
- 19.5 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

### 20. General meetings called by members

- 20.1 If the directors do not call the meeting within 21 days of being requested under clause 19.2, 50 per cent or more of the members who made the request may call and arrange to hold a general meeting.
- 20.2 To call and hold a meeting under clause 20.1 the members must:
- (a) as far as possible, follow the procedures for general meetings set out in this constitution;
  - (b) call the meeting using the list of members on the company's member register, which the company must provide to the members making the request at no cost; and
  - (c) hold the general meeting within three months after the request was given to the company.
- 20.3 The company must pay the members who request the general meeting any reasonable expenses they incur because the directors did not call and hold the meeting.

### 21. Annual general meeting

- 21.1 A general meeting, called the annual general meeting, must be held:
- (a) in the calendar year of the company's registration; and
  - (b) after the first annual general meeting, within six months of the end of the financial year, or in accordance with ACNC requirements.
- 21.2 Even if these items are not set out in the notice of meeting, the business of an annual general meeting may include:
- (a) a review of the company's activities;
  - (b) a review of the company's finances;
  - (c) an auditor's report;
  - (d) the election of directors; and

- (e) the appointment of auditors, if any.
- 21.3 Before or at the annual general meeting, the directors must give information to the members on the company's activities and finances during the period since the last annual general meeting.
- 21.4 The chairperson of the annual general meeting must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the company.

## **22. Notice of general meetings**

- 22.1 Notice of a general meeting must be given to:
  - (a) each member entitled to vote at the meeting;
  - (b) each director; and
  - (c) the auditor (if any).
- 22.2 Notice of a general meeting must be provided in writing at least 21 days before the meeting.
- 22.3 Subject to clause 22.4, notice of a meeting may be provided less than 21 days before the meeting if:
  - (a) for an annual general meeting, all the members entitled to attend and vote at the annual general meeting agree beforehand; or
  - (b) for any other general meeting, members with at least 95 % of the votes that may be cast at the meeting agree beforehand.
- 22.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
  - (a) remove a director;
  - (b) appoint a director in order to replace a director who was removed; or
  - (c) remove an auditor.
- 22.5 Notice of a general meeting must include:
  - (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
  - (b) the general nature of the meeting's business;
  - (c) if applicable, that a special resolution is to be proposed and the words of the proposed resolution;
  - (d) a statement that members have the right to appoint proxies or cast a postal vote and that, if a member wishes to appoint a proxy or cast a postal vote:
    - i. the proxy does not need to be a member of the company;
    - ii. the proxy form must be delivered to the company at its registered address or the address (including an electronic address) specified in the notice of the meeting;
    - iii. the proxy form must be delivered to the company at least 48 hours before the meeting;
    - iv. the postal vote form must be delivered to the company at its registered address (including an electronic address) specified in the notice of the meeting; and
    - v. the postal vote must be delivered to the company at least 48 hours before the meeting.
- 22.6 If a general meeting is adjourned (put off) for one month or more, the members must be given new notice of the resumed meeting.

### **23. Quorum at general meetings**

- 23.1 For a general meeting to be held, at least five per cent of members (a quorum) must be present (in person or by proxy) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a proxy of more than one member).
- 23.2 No business may be conducted at a general meeting if a quorum is not present.
- 23.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of general meeting, the general meeting is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
- (a) if the date is not specified – the same day in the next week;
  - (b) if the time is not specified – the same time; and
  - (c) if the place is not specified – the same place.
- 23.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

### **24. Auditor's right to attend meetings**

- 24.1 The auditor (if any) is entitled to attend any general meeting and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 24.2 The company must give the auditor (if any) any communications relating to the general meeting that a member of the company is entitled to receive.

### **25. Using technology to hold meetings**

- 25.1 The company may hold a general meeting at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 25.2 Anyone using this technology is taken to be present in person at the meeting.

### **26. Chairperson for general meetings**

- 26.1 The elected chairperson is entitled to chair general meetings.
- 26.2 The members present and entitled to vote at a general meeting may choose a director or member to be the chairperson for that meeting if:
- (a) there is no elected chairperson; or
  - (b) the elected chairperson is not present within 30 minutes after the starting time set for the meeting; or
  - (c) the elected chairperson is present but says they do not wish to act as chairperson of the meeting.

### **27. Role of the chairperson**

- 27.1 The chairperson is responsible for the conduct of the general meeting and, for this purpose, must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 27.2 The chairperson does not have a casting vote.

## **28. Adjournment of meetings**

- 28.1 If a quorum is present, a general meeting must be adjourned if a majority of members present direct the chairperson to adjourn it.
- 28.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

## **Members' resolutions and statements**

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### **29. Members' resolutions and statements**

- 29.1 Members with at least five per cent of the votes that may be cast at a general meeting, or 10 members who are entitled to vote at a general meeting, whichever shall be the greater, may give:
  - (a) written notice to the company of a resolution they propose to move at a general meeting (members' resolution); and/or
  - (b) a written request to the company that the company give its members a statement about a proposed resolution or any other matter that may properly be considered at a general meeting (members' statement).
- 29.2 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- 29.3 A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.
- 29.4 Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.
- 29.5 The percentage of votes that members have (as described in clause 29.1) is to be worked out as at midnight before the request or notice is given to the company.
- 29.6 If the company has been given notice of a members' resolution under clause 29.1(a), the resolution must be considered at the next general meeting held more than two months after the notice is given.
- 29.7 This clause does not limit any other right that a member has to propose a resolution at a general meeting.

### **30. Company must give notice of proposed resolution or to distribute statement**

- 30.1 If the company has been given a notice or request under clause 29:
  - (a) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the company's cost; or
  - (b) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the company in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a general meeting, the members may pass a resolution that the company will pay these expenses.
- 30.2 The company does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
  - (a) it is more than 1000 words long;

- (b) the directors consider it may be defamatory;
- (c) clause 30.1(b) applies, and the members who proposed the resolution or made the request have not paid the company enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members; or
- (d) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a general meeting or is otherwise not a valid resolution able to be put to the members.

## Voting at general meetings

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### 31. How many votes a member has

- 31.1 Each member has one vote.

### 32. Challenge to member's right to vote

- 32.1 A member or the chairperson may only challenge a person's right to vote at a general meeting at that meeting.
- 32.2 If a challenge is made under clause 32.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

### 33. How voting is carried out

- 33.1 For the purposes of clarity, a resolution is passed by a majority of members present (in person, proxy or by postal vote) and entitled to vote on the resolution at a general meeting unless the resolution requires a special resolution.
- 33.2 A special resolution means a resolution:
- (a) of which notice has been given under clause 22.5(c); and
  - (b) that has been passed by at least 75% of the votes cast by members present (in person, by proxy or postal votes received by members) and entitled to vote on the resolution.
- 33.3 Voting must be conducted and decided by:
- (a) a show of hands;
  - (b) a vote in writing; or
  - (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- 33.4 Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 33.5 On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- 33.6 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

### 34. When and how a vote in writing must be held

- 34.1 A vote in writing must be held for the election of elected directors and member representatives of the nominations committee.

- 34.2 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) at least five members present;
  - (b) members present with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded); or
  - (c) the chairperson.
- 34.3 A vote in writing must be taken when and how the chairperson directs, unless clause 34.4 applies.
- 34.4 A vote in writing must be held immediately if it is demanded under clause 0:
- (a) for the election of a chairperson under clause 26.2; or
  - (b) to decide whether to adjourn the meeting.
- 34.5 A demand for a vote in writing may be withdrawn.

### **35. Appointment of proxy**

- 35.1 A member may appoint a proxy to attend and vote at a general meeting on their behalf.
- 35.2 A proxy does not need to be a member.
- 35.3 A proxy appointed to attend and vote for a member has the same rights as the member to:
- (a) speak at the meeting;
  - (b) vote in a vote in writing (but only to the extent allowed by the appointment); and
  - (c) join in to demand a vote in writing under clause 0.
- 35.4 An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
- (a) the member's name and address;
  - (b) the company's name;
  - (c) the proxy's name or the name of the office held by the proxy; and
  - (d) the meeting(s) at which the appointment may be used.
- 35.5 A proxy appointment may be standing (ongoing).
- 35.6 Proxy forms must be received by the company at the address stated in the notice under clause 22.5(d) or at the company's registered address at least 48 hours before a meeting.
- 35.7 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- 35.8 Unless the company receives written notice before the start or resumption of a general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
- (a) dies;
  - (b) is mentally incapacitated;
  - (c) revokes the proxy's appointment; or
  - (d) revokes the authority of an agent who appointed the proxy.
- 35.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.

### **36. Voting by proxy**

- 36.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- 36.2 When a vote in writing is held, a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way they must vote;
  - (b) if the way they must vote is specified on the proxy form, must vote that way; and
  - (c) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

### **37. Postal votes**

- 37.1 The directors may determine that at any general meeting, a member who is entitled to attend and eligible to vote at that meeting is entitled to a postal vote. A postal vote includes a vote delivered to the company by post, fax or other electronic means approved by the directors. The directors may specify the form, method and timing of giving a postal vote at a meeting in order for the vote to be valid.
- 37.2 Postal voting
- (a) A member is entitled to cast a postal vote before the relevant general meeting.
  - (b) Every member who is eligible to vote and entitled to attend that general meeting is entitled to cast a postal vote.
- 37.3 Postal voting instrument
- (a) If sent by post or fax, the postal vote must be signed by the member.
  - (b) If sent by electronic transmission the postal vote is to be taken to have been signed if it has been signed or authorised by the member in the manner approved by the directors or specified in the notice of meeting.
  - (c) A postal vote includes any form of vote that the directors may prescribe or accept including by any electronic means.
- 37.4 Deposit of instrument
- At least 48 hours before the time for holding the relevant general meeting, an adjourned meeting or a written ballot at which a person proposes to cast a notice of their voting intention, there must be received at the company's registered office or such other place as is specified for that purpose in the notice of meeting, or be transmitted to a facsimile number at the company's registered office or a facsimile number or electronic address specified for that purpose in the notice of meeting:
- (a) notice of their voting intention; and
  - (b) any authority or power under which the postal vote was signed or a certified copy of that power or authority.
- 37.5 Form of the postal vote
- A notice of a voting intention is valid if it contains the following information:
- (a) the member's name and address or any applicable identifying notations such as the holder identification number or similar approved by the directors or specified in the notice of meeting; and
  - (b) the member's voting intention on any or all of the resolutions to be put before the meeting.

### 37.6 Validity

A vote cast in accordance with a postal vote is valid even if, before the vote was cast at the meeting, the member:

- (a) died;
- (b) became of unsound mind; or
- (c) wishes to change their vote,

unless written notification of the relevant event is received at the company's registered office before the meeting, adjourned meeting or the taking of the written ballot in respect of which the postal vote was to have been cast.

### 37.7 Chairperson's decision

The chairperson's decision as to whether a postal vote is valid is conclusive.

### 37.8 Attendance by member who has cast a postal vote

A person who has cast a postal vote is entitled to attend the meeting. The member's attendance cancels the postal vote, unless the member instructs the company otherwise.

### 37.9 Counting of postal votes

If a vote is taken at a meeting on a resolution on which a postal vote was cast, the chairperson of the meeting must:

- (a) on a vote by show of hands, exclude each member who has submitted a postal vote, should they be in attendance, subject to clause 37.8, for or against the resolution, and
- (b) on a written ballot, count the votes cast by each member who has submitted a postal vote directly for or against the resolution, subject to clause 37.8.

## Directors

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### 38. Number and composition of directors

38.1 The company must have at least five and no more than nine directors, one of whom may be an executive director.

38.2 The initial directors hold office until the second annual general meeting.

38.3 At the end of the second annual general meeting, the directors will comprise as follows:

- (a) up to seven directors, elected by the members in a general meeting (the **elected directors**); and
- (b) the option of the directors appointing up to two skills-based directors for the term determined by the directors, up to three years, using such process as the directors determine, for their particular skills, knowledge and experience (the **appointed directors**).

### 39. Election and appointment of directors

39.1 The initial directors are the people who have agreed to act as directors and who are named as proposed directors in the application for registration of the company.

- 39.2 Before each annual general meeting the directors will declare the number of positions open for election at the annual general meeting and the elected directors will be elected in accordance with clause 40.
- 39.3 At the second annual general meeting the members will elect the elected directors.
- 39.4 At each annual general meeting:
- (a) after the second annual general meeting, any director appointed by the directors to fill a causal vacancy in the office of an elected director must retire; and
  - (b) after the third annual general meeting of the company at least one third of the remaining elected directors must retire.
- 39.5 The elected directors who must retire at each annual general meeting under clause 39.4(b) will be the elected directors who have been longest in office since last being elected. Where elected directors were elected on the same day, the elected directors to retire will be decided by lot unless they agree otherwise.
- 39.6 Subject to clause 39.4, each elected director must retire at least once every three years.
- 39.7 An elected director who retires under clause 39.6 may nominate for re-election by notifying the company secretary of his or her intention to nominate for re-election at least 28 days before the relevant annual general meeting, subject to clause 39.9.
- 39.8 A retiring elected director is eligible for re-election by the members without the necessity of being deemed suitable for election by the nominations committee.
- 39.9 An elected director who has held office for a continuous period of nine years or more may only be or re-elected by a special resolution.

#### **40. Election procedure – elected directors**

- 40.1 For any person to be considered for election as an elected director, they must:
- (a) be nominated by two members entitled to vote; and
  - (b) satisfy all eligibility criteria; and
  - (c) be deemed to be suitable by the nominations committee.
- 40.2 If the number of candidates for election as elected directors is equal to or less than the number of vacancies for office as an elected director, the chairperson of the annual general meeting must declare those candidates to be duly elected as elected directors according to their nomination. A resolution is voted on accordingly.
- 40.3 If the number of candidates for election as elected directors is greater than the number for office as an elected director, a written ballot must be held for the election of the candidates.
- 40.4 If a written ballot is required:
- (a) Balloting lists must be prepared listing the names of the candidates in alphabetical order; and
  - (b) a member may exercise their vote by way of postal ballot.
- 40.5 The ballot and balloting lists must be sent to each person entitled to vote with the notice of the annual general meeting.

- 40.6 At the annual general meeting each person entitled to vote and voting on the written ballot and who has not exercised their vote by way of postal ballot may vote for a number of candidates equal to the number of vacancies.
- 40.7 The candidates receiving the greatest number of votes cast in their favour must be declared by the chairperson of the meeting to be elected as directors. A resolution is voted on accordingly.
- 40.8 If an equality of votes would otherwise prevent the successful candidate for a vacancy from being determined, the chairperson, prior to the declaration of the result of the ballot, in addition to his or her deliberative vote (if any) is entitled to a casting vote, except that if the chairperson:
- (a) does not exercise a casting vote; or
  - (b) is one of the candidates who received the same number of votes;
- then the names of the candidates who received the same number of votes must be put to a further ballot immediately.

#### **41. Time appointment or retirement takes effect**

- 41.1 Elected directors who are appointed at a meeting of members take office immediately after the end of the meeting.
- 41.2 Elected directors who retire at a meeting of members continue to hold office until the end of the meeting.

#### **42. Casual vacancies and additional directors**

- 42.1 The Company in general meeting may by resolution or the directors may at any time appoint a person qualified to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors does not at any time exceed the number fixed in accordance with this constitution.
- 42.2 Any director appointed under clause 42.1 holds office until the termination of the next annual general meeting of the Company and is then eligible for re-election.

#### **43. Election of chairperson**

- 43.1 The directors must elect a director as the company's elected chairperson.

#### **44. Insufficient directors**

- 44.1 In the event of a vacancy 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 directors, they may act only for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or convening a general meeting of the company.

#### **45. Eligibility for appointment or election as a director**

- 45.1 A person is eligible for appointment or election as a director of the company if they:
- (a) are a member of the company;
  - (b) give the company secretary their signed consent to be a director of the company;

- (c) are not ineligible to be a director under the Corporations Act or the ACNC Act; and
- (d) are not ineligible to be a director under any by-laws.

#### **46. When a director stops being a director**

- 46.1 A director stops being a director if they:
- (a) die;
  - (b) give written notice of resignation as a director to the company;
  - (c) are removed as a director by a resolution of the members;
  - (d) stop being a member of the company;
  - (e) are absent for three consecutive directors' meetings without approval from the directors;
  - (f) become ineligible to be a director of the company under the Corporations Act or the ACNC Act; or
  - (g) become ineligible under any by-laws.
- 46.2 An executive director stops being a director if his or her appointment as an employee of the company ceases.

### **Nominations committee**

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#### **47. Nominations committee**

- 47.1 The company will establish a nominations committee.
- 47.2 The nominations committee will act in an advisory role, providing recommendations to the directors in respect of the suitability of candidates for election or appointment as a director. The nominations committee will be governed by terms of reference approved by the directors.
- 47.3 The members of the nominations committee will consist of:
- (a) up to two directors of the company; or
  - (b) up to two governance professionals appointed by the directors; and
  - (c) three members of the company (the **member representatives**).
- 47.4 A person is eligible for membership of the nominations committee if he or she:
- (a) is nominated by two members entitled to vote; and
  - (b) is recommended as suitable to be a member of the nominations committee by the directors.
- 47.5 The directors must endeavour to recommend candidates as suitable for election that have a sound level of knowledge in corporate governance and the mission of the company.
- 47.6 A person is not eligible for membership of the nominations committee if that person is an employee of the company.
- 47.7 At each annual general meeting the members will elect the member representatives of the nominations committee by a written ballot including by way of a postal vote.
- 47.8 Following the annual general meeting the directors will appoint the directors and/or governance professionals referred to in clause 47.3 to the nominations committee.

#### **48. Election procedure – member representatives**

- 48.1 If the number of candidates for election as member representatives is equal to or less than the number of vacancies on the nominations committee for office as a member representative, the chairperson of the annual general meeting must declare those candidates to be duly elected as member representatives according to their nomination. A resolution is voted on accordingly.
- 48.2 If the number of candidates for election as member representatives is greater than the number on the nominations committee for office as a member representative, a written ballot must be held for the election of the candidates.
- 48.3 If a written ballot is required:
- (a) balloting lists must be prepared listing the names of the candidates in alphabetical order; and
  - (b) a member may exercise their vote by way of postal ballot.
- 48.4 The ballot and balloting lists must be sent to each person entitled to vote with the notice of the annual general meeting.
- 48.5 At the annual general meeting each person entitled to vote and voting on the written ballot and who has not exercised their vote by way of postal ballot may vote for a number of candidates equal to the number of vacancies.
- 48.6 The candidates receiving the greatest number of votes cast in their favour must be declared by the chairperson of the meeting to be elected. A resolution is voted on accordingly.
- 48.7 If an equality of votes would otherwise prevent the successful candidate for a vacancy from being determined, the chairperson, prior to the declaration of the result of the ballot, in addition to his or her deliberative vote (if any) is entitled to a casting vote, except that if the chairperson:
- (a) does not exercise a casting vote; or
  - (b) is one of the candidates who received the same number of votes;
- then the names of the candidates who received the same number of votes must be put to a further ballot immediately.
- 48.8 The members of the nominations committee will elect a chair for the nominations committee from their number.
- 48.9 Each member of the nominations committee is appointed until the conclusion of following annual general meeting.
- 48.10 If there is a casual vacancy the directors may appoint a person as a member of the nominations committee to fill that vacancy.
- 48.11 A member of the nominations committee may nominate for election or re-election.

### **Powers of directors**

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#### **49. Powers of directors**

- 49.1 The directors are responsible for the governance and management of the activities of the company to achieve the purpose(s) set out in clause 7.

- 49.2 The directors may use all the powers of the company except for powers that, under the Corporations Act or this constitution, may only be used by members.
- 49.3 The directors must decide on the responsible financial management of the company including any suitable written delegations of power under clause 50.2.
- 49.4 The directors cannot remove a director or auditor. Directors and auditors may only be removed by a members' resolution at a general meeting.

#### **50. Delegation of directors' powers**

- 50.1 The directors may delegate any of their powers and functions to a committee, a director, an employee of the company (such as the executive director) or any other person, as they consider appropriate.
- 50.2 The delegation must be recorded in the company's records.

#### **51. Payments to directors**

- 51.1 Subject to clause 51.2, a director may be paid remuneration for services as a director and may be reimbursed out of the funds of the company for their reasonable travelling, accommodation and other expenses incurred when travelling to and from meetings of directors or a committee or when otherwise engaged in the affairs of the company.
- 51.2 The company may:
- (a) pay a director for work they do for the company, other than as a director, if the amount is no more than a reasonable fee for the work done; or
  - (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the company.
- 51.3 Any payment made under clause 51.2 must be approved by the directors.
- 51.4 The company may pay premiums for insurance indemnifying directors, as allowed for by law (including the Corporations Act) and this constitution.

#### **52. Execution of documents**

- 52.1 The company may execute a document without using a common seal if the document is signed:
- (a) by two directors of the company; or
  - (b) by a director and the company secretary; or
  - (c) in accordance with the delegated authority pursuant to clause 50.1.

### **Duties of directors**

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#### **53. Duties of directors**

- 53.1 The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the company;
- (b) to act in good faith in the best interests of the company and to further the charitable purpose(s) of the company set out in clause 7;
- (c) not to misuse their position as a director;
- (d) not to misuse information they gain in their role as a director;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clauses 54 and 55;
- (f) to ensure that the financial affairs of the company are managed responsibly; and
- (g) not to allow the company to operate while it is insolvent.

## Directors' interests

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### 54. Conflicts of interest

- 54.1 A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):
- (a) to the other directors; or
  - (b) if all of the directors have the same conflict of interest, to the members at the next general meeting, or at an earlier time if reasonable to do so.
- 54.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- 54.3 Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under clause 54.4:
- (a) be present at the meeting while the matter is being discussed; or
  - (b) vote on the matter.
- 54.4 A director may still be present and vote if:
- (a) their interest arises because they are a member of the company, and the other members have the same interest;
  - (b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the company (see clause 77);
  - (c) their interest relates to a payment by the company under clause 76 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act;
  - (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter; or

- (e) the directors who do not have a material personal interest in the matter pass a resolution that:
  - (i) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the company; and
  - (ii) says that those directors are satisfied that the interest should not stop the director from voting or being present.

## **55. Director to disclose interests**

- 55.1 A director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company must, as soon as practicable after the relevant facts have come to the director's knowledge, declare the nature of the interest at a meeting of the directors or by written notice to the company secretary.
- 55.2 A director who holds any office or possesses any property by which, whether directly or indirectly, duties or interests might be created in conflict with his or her duties or interests as director must declare at a meeting of the directors of the company or by written notice to the company secretary the fact and the nature, character and extent of the conflict.
- 55.3 For the purposes of clauses 55.1 and 55.2, a director's interest or any conflict must be disregarded if it arises from or relates solely to:
  - (a) a guarantee to be given by the director (or by persons including the director or by a body corporate of which the director is a member or officer) in respect of a loan to the company; or
  - (b) the position of the director as a director of a related body corporate.

## **56. Effect of interest in contract**

- 56.1 If a director has an interest in a contract or proposed contract with the company (other than as a member), or a conflicting interest or duty in relation to any other matter being considered by the directors, and the director discloses the nature and extent of the interest or duty at a meeting of the directors or by written notice to the company secretary:
  - (a) the contract may be entered into; and
  - (b) if the disclosure is made before the contract is entered into:
    - i. the director may retain benefits under the contract even though the director has an interest in the contract;
    - ii. the company cannot avoid the contract merely because of the existence of the interest; and
    - iii. the director is not disqualified from the office of director.
- 56.2 For the purposes of clauses 55.1 and 55.2, contract includes an arrangement, dealing or other transaction.

## **57. Other interests**

- 57.1 Without limiting clause 53, clause 54 or clause 55, a director, other than the executive director, may to the extent permitted by the Corporations Act be interested in any operation, undertaking or business undertaken or assisted by the company or in which the company is or may be interested.

## **58. Extension of meaning of "Company"**

- 58.1 For the purposes of clauses 53, 54, 55 and 56, company includes any subsidiary of the company and any other company in which the company or any subsidiary of the company is or becomes a shareholder or is otherwise interested.

## **59. Other directorships and shareholdings**

- 59.1 A director of the company may be or become a director, officer, employee or member of any company promoted by the company or in which the company may be interested as a vendor, shareholder or otherwise and is not accountable for any reasonable benefits received as a director, officer, employee or member of the other company.
- 59.2 Subject to the Corporations Act:
- (a) the directors of the company may exercise the voting power conferred by the shares or other interest held by the company in another company in favour of a resolution appointing themselves or any of them as directors or other officers of the other company;
  - (b) any director of the company may vote at a meeting of directors of the company in favour of a resolution that the company exercises its voting power conferred by the shares or other interest held by the company in the other company to appoint that director as a director or other officer of the other company;
  - (c) any director of the company may be appointed as representative of the company and may vote at a general meeting of the other company in favour of a resolution appointing that director as a director or other officer of the other company; and
  - (d) a director of the company who is also a director of the other company may vote as a director of the other company in whatever manner he or she sees fit, including voting in favour of a resolution appointing the director to any other office in the other company and a resolution appointing any other directors of the company as directors or other officers of the other company.

## **Directors' meetings**

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### **60. When the directors meet**

- 60.1 The directors may decide how often, where and when they meet.

## **61. Calling directors' meetings**

- 61.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors.
- 61.2 A director may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.

## **62. Chairperson for directors' meetings**

- 62.1 The elected chairperson is entitled to chair directors' meetings.
- 62.2 The directors at a directors' meeting may choose a director to be the chairperson for that meeting if the elected chairperson is:
  - (a) not present within 30 minutes after the starting time set for the meeting; or
  - (b) present but does not want to act as chairperson of the meeting.

## **63. Quorum at directors' meetings**

- 63.1 Subject to clause 63.2, unless the directors determine otherwise, the quorum for a directors' meeting is a majority (more than 50%) of directors.
- 63.2 Despite clause 63.1, the quorum cannot be less than five directors.
- 63.3 A quorum must be present for the whole directors' meeting.

## **64. Using technology to hold directors' meetings**

- 64.1 The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.
- 64.2 The directors' agreement may be a standing (ongoing) one.
- 64.3 A director may only withdraw their consent within a reasonable period before the meeting.

## **65. Passing directors' resolutions**

- 65.1 A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

## **66. Circular resolutions of directors**

- 66.1 The directors may pass a circular resolution without a directors' meeting being held.
- 66.2 A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 66.3 or clause 66.4.
- 66.3 Each director may sign:
  - (a) a single document setting out the resolution and containing a statement that they agree to the resolution; or
  - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 66.4 The company may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 66.5 A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 66.3 or clause 66.4.

## Company secretary

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### 67. Appointment and role of company secretary

- 67.1 The company secretary must be appointed by the directors (after giving the company their signed consent to act as company secretary) and may be removed by the directors.
- 67.2 The directors must decide the terms and conditions under which the company secretary is appointed, including any remuneration.
- 67.3 The responsibility of the company secretary includes:
- (a) ensuring a register of the company's members is maintained; and
  - (b) ensuring the minutes and other records of general meetings (including notices of meetings), directors' meetings and circular resolutions are maintained.

## Minutes and records

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### 68. Minutes and records

- 68.1 The company must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of general meetings;
  - (b) minutes of circular resolutions of members;
  - (c) a copy of a notice of each general meeting; and
  - (d) a copy of a members' statement distributed to members under clause 30.
- 68.2 The company must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees); and
  - (b) minutes of circular resolutions of directors.
- 68.3 To allow members to inspect the company's records:
- (a) the company must give a member access to the records set out in clause 68.1; and
  - (b) the directors may authorise a member to inspect other records of the company, including records referred to in clause 68.2 and clause 69.1.
- 68.4 The directors must ensure that minutes of a general meeting or a directors' meeting are signed within a reasonable time after the meeting by:
- (a) the chairperson of the meeting; or
  - (b) the chairperson of the next meeting.
- 68.5 The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

### 69. Financial and related records

- 69.1 The company must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance; and
  - (b) enable true and fair financial statements to be prepared and to be audited.
- 69.2 The company must also keep written records that correctly record its operations.
- 69.3 The company must retain its records for at least seven years.

- 69.4 The directors must take reasonable steps to ensure that the company's records are kept safe.

## By-laws

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### 70. By-laws

- 70.1 The directors may pass a resolution to make by-laws to give effect to this constitution.
- 70.2 Members and directors must comply with by-laws as if they were part of this constitution.

## Notice

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### 71. What is notice

- 71.1 Anything written to or from the company under any clause in this constitution is written notice and is subject to clauses 72 to 74, unless specified otherwise.
- 71.2 Clauses 72 to 74 do not apply to a notice of proxy under clause 35.6.

### 72. Notice to the company

- 72.1 Written notice or any communication under this constitution may be given to the company, the directors or the company secretary by:
- (a) delivering it to the company's registered office;
  - (b) posting it to the company's registered office or to another address chosen by the company for notice to be provided;
  - (c) sending it to an email address or other electronic address notified by the company to the members as the company's email address or other electronic address; or
  - (d) sending it to the fax number notified by the company to the members as the company's fax number.

### 73. Notice to members

- 73.1 Written notice or any communication under this constitution may be given to a member:
- (a) in person;
  - (b) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices;
  - (c) sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any);
  - (d) sending it to the fax number nominated by the member as an alternative address for service of notices (if any); or
  - (e) if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).

73.2 If the company does not have an address for the member, the company is not required to give notice in person.

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

74.1 A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs;
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent; and
- (d) given under clause 73.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

### **Financial year**

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#### **75. Company's financial year**

75.1 The company's financial year is from 1 July to 30 June, unless the directors pass a resolution to change the financial year.

### **Indemnity, insurance and access**

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#### **76. Indemnity**

76.1 The company indemnifies each officer of the company out of the assets of the company, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the company.

76.2 In this clause, 'officer' means a director or company secretary who holds office on or after the date this constitution takes effect and includes a director or company secretary after they have ceased to hold that office.

76.3 In this clause, 'to the relevant extent' means:

- (a) to the extent that the company is not precluded by law (including the Corporations Act) from doing so; and
- (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).

76.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the company.

#### **77. Insurance**

To the extent permitted by law (including the Corporations Act), and if the directors consider it appropriate, the company may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the company against any liability incurred by the person as an officer of the company.

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

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

## **Winding up**

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### **79. Surplus assets not to be distributed to members**

- 79.1 If the company is wound up, any surplus assets must not be distributed to a member or a former member of the company, unless that member or former member is a charity described in clause 80.

### **80. Distribution of surplus assets**

- 80.1 Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets (including 'gift funds' defined in clause 80.4) that remain after the company is wound up must be distributed to one or more charities:
- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 7;
  - (b) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the company; and
  - (c) that is or are deductible gift recipients within the meaning of the *Income Tax Assessment Act 1997* (Cth).
- 80.2 The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, the company may apply to the Supreme Court to make this decision.
- 80.3 If the company's deductible gift recipient endorsement is revoked (whether or not the company is to be wound up), any surplus gift funds must be transferred to one or more charities that meet the requirements of clauses 80.1(a), 80.1(b), and 80.1(c), as decided by the directors.
- 80.4 For the purpose of this clause:
- a) 'gift funds' means:
    - i. gifts of money or property for the principal purpose of the company;
    - ii. contributions made in relation to a fund-raising event held for the principal purpose of the company; and
    - iii. money received by the company because of such gifts and contributions.
  - b) 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the *Income Tax Assessment Act 1997* (Cth).

## Definitions and interpretation

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### 81. Definitions

In this constitution:

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

**Association** means Micah Projects Inc;

**company** means the company referred to in clause 2;

**company's registered office** means the registered office of the company as registered with the Australian Securities and Investments Commission;

**Corporations Act** means the *Corporations Act 2001* (Cth);

**director** means a person defined as a director by the Corporations Act;

**effective date** means 29 October 2018;

**elected chairperson** means a person elected by the directors to be the company's chairperson under clause 43;

**executive director** means an executive employee of the company that may be appointed by the directors from time to time;

**first annual general meeting** means the AGM held in 2017;

**general meeting** means a meeting of members and includes the annual general meeting, under clause 21.1;

**initial director** means a person who is named in the application for registration of the **company**, with their consent, as a proposed director of the company;

**initial member** means a person who is named in the application for registration of the **company**, with their consent, as a proposed member of the company;

**member present** means, in connection with a general meeting, a member present in person or by proxy at the venue or venues for the meeting;

**nominations committee** means a committee comprised of two directors or governance professionals nominated by the directors and three members of the company elected by the members at an annual general meeting, to recommend to the directors the suitability of candidates for election or re-election as directors;

**registered charity** means a charity that is registered under the ACNC Act;

**second annual general meeting** means the AGM held in 2018;

**special resolution** means a resolution:

- i. of which notice has been given under clause 22.5(c); and
- ii. that has been passed by at least 75% of the votes cast by members present and entitled to vote on the resolution;

**surplus assets** means any assets of the company that remain after paying all debts and other liabilities of the company, including the costs of winding up;

**third annual general meeting** means the AGM held in 2019; and

**written ballot** means a non-show of hands vote which requires members to fill out a written ballot paper.

### 82. Reading this constitution with the Corporations Act

82.1 The replaceable rules set out in the Corporations Act do not apply to the company.

82.2 While the company is a registered charity the ACNC Act and the Corporations Act override any clauses in this constitution which are inconsistent with those Acts:

82.3 If the company is not a registered charity (even if it remains a charity), the Corporations Act overrides any clause in this constitution which is inconsistent with that Act.

82.4 A word or expression that is defined in the Corporations Act, or used in that Act and covering the same subject, has the same meaning as in this constitution.

### **83. Interpretation**

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression; and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).