

**CONSTITUTION**

**OF**

**Settlement Services International**

**Limited**

Australian Company Number (ACN) 606 196 070  
Australian Business Number (ABN) 38 031 375 761

A company limited by guarantee

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## Preliminary

### 1. Name of the company

The name of the company is Settlement Services International Limited (the **Company**).

### 2. 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.

### 3. Limited liability of Members

The liability of Members is limited to the amount of the guarantee in clause 4.

### 4. The guarantee

Each Member must contribute an amount not more than \$10.00 (**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.

### 5. Definitions

In this Constitution, words and phrases have the meaning set out in clauses 75, 76 and 77.

## Charitable purposes and powers

### 6. Objects

The Company's Objects are to provide positive longer-term impact to individuals, children, families and communities from diverse backgrounds and identities who experience exclusion and face barriers to achieving and contributing to social, civic and economic outcomes in Australia, including by:

- (a) providing quality services and supports to individuals and vulnerable groups in Australia, including: newcomers to Australia (refugees, asylum seekers and migrants); women, families and children from diverse backgrounds; people seeking employment; people with disability; the elderly; and people with lived experience,
- (b) engaging with and building the capacity of these communities and the sector, to meet the needs of people from diverse cultures and identities and reduce inequality, improve the health and wellbeing, safety and stability, learning and growth of these communities, empowering their exercise of

their human rights, and increase their economic participation and social inclusion,

- (c) participating in advocacy, research and thought leadership of government, intergovernmental and international policies, programs and services to ensure they are accessible to people from diverse cultures and identities, and
- (d) doing such other things as are incidental or conducive to the attainment of the Objects.

**7. Powers**

- 7.1 The income and assets of the Company must be applied solely in furtherance of the Objects set out in clause 6.
- 7.2 Subject to clause 8, the Company has the following powers, which may only be used to carry out its purposes set out in clause 6:
  - (a) the powers of an individual, and
  - (b) all the powers of a company limited by guarantee under the Corporations Act.

**8. Not-for-profit**

- 8.1 The Company must not distribute any income or assets directly or indirectly to its Members, except as expressly provided in this Constitution (including clauses 8.2 and 74).
- 8.2 Clause 8.1 does not prevent the Company from doing any of the following things, provided they are done in good faith:
  - (a) paying a Member for goods or services the Member has provided in the ordinary and usual course of business to the Company or expenses the Member has properly incurred at fair and reasonable rates or rates more favourable to the Company,
  - (b) making a payment to a Member in carrying out the Company's charitable purposes,
  - (c) paying interest to any Member at a rate not exceeding the Prescribed Rate on money borrowed from the Member,
  - (d) paying reasonable and proper rent for premises let or demised by any Member to the Company, or
  - (e) paying moneys to any Member, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, 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 payment for the service.

**9. Amending the Constitution**

- 9.1 Subject to clause 9.2, the Members may amend this Constitution by passing a Special Resolution.
- 9.2 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**

**10. Membership and register of Members**

- 10.1 The Company must have at least one Member.
- 10.2 It is acknowledged that the initial Members of the Company were the Founding Members.
- 10.3 The Company must establish and maintain a register of Members. The register of Members must be kept by the Secretary and must contain:
- (a) for each current Member:
    - (i) full name,
    - (ii) current postal address,
    - (iii) any alternative address nominated by the Member for the service of notices (including an electronic address), and
    - (iv) the date the Member was entered on to the register, and
  - (b) for each person who stopped being a Member in the last 7 years:
    - (i) full name,
    - (ii) postal address as at the date the Member stopped being a Member,
    - (iii) any alternative address nominated by the Member for the service of notices (including an electronic address), and
    - (iv) the dates the Membership started and ended.
- 10.4 The register of Members must be made available for inspection by current Members at the Company's registered office.
- 10.5 Information that is accessed from the register of Members must only be used in a manner relevant to the interests or rights of Members.

**11. Who can be a Member**

- 11.1 A person is eligible to become a Member of the Company under clause 12 if they are:
- (a) a Founding Member,

- (b) Organisational Members, or
- (c) any other qualified person that the Board determines.

11.2 In this clause, 'person' means an individual or incorporated body.

11.3 To qualify for and maintain membership, a person may be required to sign an undertaking to comply with the certain codes, core values and other documents reflecting the philosophy and purpose of the Company as approved by the Board and amended from time to time.

11.4 All Members are required to pay the Annual Membership Fee by 31 July each year.

## **12. How to apply to become a Member**

12.1 A person (as defined in clause 11.2) may apply to become a Member of the Company by notice in writing to the Secretary, accompanied by the Annual Membership Fee, stating the person:

- (a) wants to become a Member,
- (b) is eligible to become a Member under clause 11.1 above (including sufficient information to allow assessment against this criteria),
- (c) supports the purposes of the Company, and
- (d) agrees to comply with and be bound by the Company's Constitution, including by paying the guarantee under clause 4 if required.

12.2 Unless otherwise determined by the Board, the application will require a proposer and seconder who are already Members.

## **13. Board decides whether to approve Membership**

13.1 The Board (or a committee, Director, employee or such other person delegated by the Board) must consider an application for Membership within a reasonable time after the Secretary receives the application. The Board (or a committee, Director, employee or such other person delegated by the Board) may, in their absolute discretion, decide whether to approve or reject an application for membership of the Company.

13.2 If an application for membership is approved under clause 13.1, the Secretary must as soon as possible:

- (a) enter the new Member on the register of Members, and
- (b) write to the applicant to tell the applicant that the application was approved, and the date that the applicant's Membership started (see clause 14).

13.3 If an application is rejected under clause 13.1, the Secretary must write to the applicant as soon as possible to tell the applicant that the application has been rejected. Neither the Board, any delegated person(s), nor the Secretary are required to provide reasons for the Board's decision to reject an application.

13.4 For the avoidance of doubt, the Board (or a committee, Director, employee or such other person delegated by the Board) may approve an application even if the application does not state the matters listed in clauses 12.1(a), 12.1(b), 12.1(c) or 12.1(d). In that case, by applying to become a Member, the applicant implicitly agrees to the matters listed in clause 12.

**14. When a person becomes a Member**

An applicant becomes a Member when the Secretary enters the applicant's name on to register of Members.

**15. When a person stops being a Member**

15.1 A person immediately stops being a Member if:

- (a) the Member is an individual, the person dies, becomes mentally incapacitated, is convicted of an indictable offence or is declared bankrupt,
- (b) the Member is a body corporate, the body corporate is wound up or otherwise dissolved or deregistered or an order is made by a court for the winding up or deregistration of the Member,
- (c) the person resigns, by notifying the Secretary in writing,
- (d) the person is expelled under clause 17,
- (e) the person fails to respond within three months to a written request from the Secretary that the person confirms in writing that the person wants to remain a Member, or
- (f) the person fails to pay the Annual Membership Fee within three months of a written request from the Secretary to pay such a fee which is due and payable.

15.2 A Member who resigns from the Company, or whose membership otherwise ceases or terminates in accordance with this Constitution, shall remain liable for:

- (a) all Annual Membership Fees which have become due and payable and which remain unpaid at the date of resignation or termination of membership,
- (b) any sum not exceeding \$10.00 for which that Member is liable to pay under clause 4, and
- (c) all other monies due by that Member to the Company,

and shall not be entitled to any full or partial refund of any Annual Membership Fees.

## **Dispute resolution and disciplinary procedures**

**16. Dispute resolution**

16.1 The dispute resolution procedure in this clause 16 applies to disputes (disagreements) under this Constitution between a Member or a Director and either:



- (a) one or more Members
  - (b) one or more Directors, or
  - (c) the Company.
- 16.2 A Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 17 until the disciplinary procedure has been completed.
- 16.3 Those involved in the dispute must try to resolve the dispute between themselves within 14 days of becoming aware of the dispute.
- 16.4 If those involved in the dispute do not resolve the dispute under clause 16.3, they must within 10 days after the expiry of the period in clause 16.3:
- (a) inform the Board of 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.
- 16.5 The mediator must be:
- (a) chosen by agreement of those involved in the dispute, or
  - (b) where those involved do not agree:
    - (i) for disputes between Members, a person chosen by the Board, or
    - (ii) for all 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.
- 16.6 A mediator chosen by the Board under clause 16.5(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.
- 16.7 When conducting the mediation, the mediator must:
- (a) allow those involved in the dispute a reasonable chance to be heard,
  - (b) allow those involved in the dispute a reasonable chance to review any written statements,
  - (c) ensure that those involved in the dispute are afforded natural justice, and
  - (d) not make a decision on the dispute.

**17. Disciplining Members**

- 17.1 In accordance with this clause, the Board may resolve to warn, suspend or expel a Member from the Company if the Board considers that:
- (a) the Member has breached this Constitution,
  - (b) the Member is in breach of any undertaking referred to in clause 11.3, or
  - (c) the Member's behaviour is causing, has caused, or is likely to cause harm to the Company, or is prejudicial to the interests of the Company.
- 17.2 At least 21 days before the Board meeting at which a resolution under clause 17.1 will be considered, the Secretary must notify the Member in writing:
- (a) that the Board are considering a resolution to warn, suspend or expel the Member,
  - (b) that this resolution will be considered at a Board 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,
  - (e) that the Member may provide an explanation to the Board, and details of how the Member may provide such explanation, and
  - (f) that the Member may elect to have the question of expulsion dealt with by the Company in a General Meeting, provided that the Member notifies the Secretary in writing, at least 48 hours before the meeting at which the resolution is to be considered by a Board meeting.
- 17.3 Before the Board pass any resolution under clause 17.1, the Member must be given a chance to explain or defend itself by:
- (a) sending the Board a written explanation before the Board meeting, and/or
  - (b) speaking at the meeting (whether in person or using any technology consented to by the Board).
- 17.4 After considering any explanation under clause 17.3, the Board may in their full discretion:
- (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 Board consider appropriate (however, the person can only make a decision that the Board could have made under this clause), or
  - (f) require the matter to be determined at a General Meeting.
- 17.5 The Company must expel a Member and remove the Member's name from the Register if:
  - (a) a General Meeting is held to expel a Member, and
  - (b) a resolution is passed at the meeting for the expulsion of the member by a majority of two-thirds of those present and voting (such voting will be by ballot).
- 17.6 The Board cannot fine a Member.
- 17.7 The Secretary must give written notice to the Member of the decision under clause 17.4 as soon as practicable.
- 17.8 Disciplinary procedures must be completed as soon as reasonably practical.
- 17.9 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.
- 17.10 A Member expelled from the Company does not have any claim, monetary or otherwise upon the Company, its funds or property.

## General Meetings of Members

### **18. General Meetings called by the Board**

- 18.1 The Board may call a General Meeting.
- 18.2 If Founding Members and Organisational Members with at least 30% of the votes that may be cast at a General Meeting make a written request to the Company for a General Meeting to be held, the Board must:
  - (a) within 21 days of the Founding Members' and Organisational Members' request, give all Members notice of a General Meeting, and
  - (b) hold the General Meeting within 2 months of the Founding Members' and Organisational Members' request.
- 18.3 The percentage of votes that Founding Members and Organisational Members have (for the purposes of clause 18.2) is to be worked out as at midnight before the date that the Members request the meeting.
- 18.4 The Founding Members and Organisational 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.

18.5 Separate copies of a document setting out the request may be signed by Founding Members and Organisational Members if the wording of the request is the same in each copy.

**19. General Meetings called by Members**

19.1 If the Board does not call the meeting within 21 days of being requested under clause 18.2, 50% or more of the Founding Members and Organisational Members who made the request may call and arrange to hold a General Meeting.

19.2 To call and hold a meeting under clause 19.1 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 register of Members, 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.

19.3 The Company must pay the Members who call and hold the General Meeting under this clause 19 any reasonable expenses they incur because the Board did not call and hold the meeting.

**20. Annual general meeting**

20.1 A General Meeting, called the Annual General Meeting, must be held within five months of the end of the Company's financial year.

20.2 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) any auditor's report,
- (d) the election of Directors, and
- (e) the appointment and payment of auditors, if any.

20.3 Before or at the Annual General Meeting, the Board must give information to the Members on the Company's activities and finances during the period since the last Annual General Meeting.

20.4 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.

**21. Business of General Meetings**

Unless 75% of the Members Present agree otherwise, the only business to be transacted at a general meeting will be that as set out in the notice of meeting.

**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 (or a shorter period of time which is permitted under the Corporations Act).

22.3 Subject to clause 22.4, notice of a General 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 75% 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 Special Resolution,
- (d) a statement that Members have the right to appoint proxies and that, if a Member appoints a proxy:
  - (i) the proxy must be a Member of the Company,
  - (ii) the completed proxy form must be delivered to the Company at its registered address or the address (including an electronic address) specified in the notice of the meeting, and

(iii) the completed proxy form must be delivered to the Company at least 48 hours before the meeting, and

(e) any other information required by the Corporations Act.

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.

22.7 The accidental omission to give notice of a General Meeting to, or the non-receipt of any such notice by, a person or other entity entitled to receive it does not invalidate the proceedings at, or any resolution passed at, the General Meeting.

### **23. Quorum at General Meetings**

23.1 Except as otherwise provided in this Constitution, 50% of the Members or 7 Members (whichever is the lesser number) entitled to vote at a General Meeting constitutes a quorum.

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,

(a) where the meeting is convened on the requisition of Members, the proposed meeting is automatically dissolved,

(b) in any other case, 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:

(i) if the date is not specified – the same day in the next week

(ii) if the time is not specified – the same time, and

(iii) if the place is not specified – the same place.

(c) If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting:

(i) 3 Members Present shall be a quorum, or

(ii) if that quorum is not present, 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. Representatives of Members**

25.1 A Founding Member or Organisational Member may appoint as a representative:

- (a) one individual to represent the Founding Member or Organisational Member at meetings and to sign circular resolutions under clause 32, and
  - (b) the same individual or another individual for the purpose of being eligible to be appointed as a Member Director.
- 25.2 The appointment of a representative by a Founding Member or Organisational Member must:
  - (a) be in writing,
  - (b) include the name of the representative,
  - (c) be signed on behalf of the Founding Member or Organisational Member, and
  - (d) be given to the Company or, for representation at a General Meeting, be given to the chairperson before the meeting starts.
- 25.3 A representative has all the rights of the Founding Member or Organisational Member relevant to the purposes of the appointment as a representative.
- 25.4 The appointment may be ongoing.
- 26. Using technology to hold meetings**
- 26.1 The Company may hold a General Meeting using any technology that gives the Members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 26.2 Anyone using this technology is taken to be present in person at the meeting.
- 27. Chairperson for General Meetings**
- 27.1 The Appointed Chairperson is entitled to chair General Meetings.
- 27.2 If the Appointed Chairperson is unavailable or does not wish to act as chairperson for the General Meeting, the Appointed Deputy Chairperson is entitled to chair General Meetings.
- 27.3 If the Appointed Chairperson and Appointed Deputy Chairperson are unavailable or do not wish to act as chairperson for the General Meeting, the Directors present may choose one of their number to be the chairperson for that meeting or, in the absence of all Directors or if none of the Directors present wish to act, the Members Present and entitled to vote at a General Meeting may choose a Director or Member to be the chairperson for that meeting.
- 28. Role of the chairperson**
- 28.1 The chairperson of a General Meeting 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, or of, the auditor (if any)).
- 28.2 The chairperson does not have a second or casting vote at General Meetings.

**29. Adjournment of meetings**

- 29.1 If a quorum is present, a General Meeting must be adjourned if a majority of Founding Members Present and Organisational Members Present direct the chairperson of the meeting to adjourn it.
- 29.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.
- 29.3 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- 29.4 Except as provided by clause 29.3, it is not necessary to give any notice of an adjournment, or of the business to be transacted at, an adjourned meeting.

**Members' resolutions and statements**

**30. Members' resolutions and statements**

- 30.1 Founding Members and Organisational Members with at least 30% of the votes that may be cast on a resolution 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 all of its Members a statement about a proposed resolution or any other matter that may properly be considered at a General Meeting (Members' statement).
- 30.2 A notice of a Members' resolution must set out the wording of the proposed resolution and be signed by the Founding Members and Organisational Members proposing the resolution.
- 30.3 A request to distribute a Members' statement must set out the statement to be distributed and be signed by the Founding Members and Organisational Members making the request.
- 30.4 Separate copies of a document setting out the notice or request under clause 30.1(a) or 30.1(b) respectively may be signed by Founding Members and Organisational Members if the wording is the same in each copy.
- 30.5 The percentage of votes that Founding Members and Organisational Members have (as described in clause 30.1) is to be determined as at midnight before the date that the request or notice is given to the Company.
- 30.6 If the Company has been given notice of a Members' resolution under clause 30.1(a), the resolution must be considered at the next General Meeting held more than two months after the notice is given.
- 30.7 This clause does not limit any other right that a Member has to propose a resolution at a General Meeting.



**31. Company must give notice of proposed resolution or distribute statement**

31.1 If the Company has been given a notice or request under clause 30:

- (a) in time to send the notice of the proposed Members' resolution or a copy of the Members' statement to Members with the notice of the General Meeting, referred to in clause 30.6, it must do so at the Company's cost, or
- (b) too late to send the notice of the proposed Members' resolution or a copy of the Members' statement to Members with the notice of the General Meeting, referred to in clause 30.6, 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.

31.2 The Company does not need to send the notice of proposed Members' resolution or a copy of the Members' statement to Members if the notice of the proposed Members' resolution or the Members' statement (as applicable):

- (a) is more than 1000 words long,
- (b) may be defamatory (in the opinion of the Board),
- (c) clause 31.1(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 (as applicable), 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 Members.

**32. Circular resolutions of Members**

32.1 Subject to clause 32.3, the Board may put a resolution to the Members to pass a resolution without a General Meeting being held (a circular resolution).

32.2 The Board must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to Members, and set out the wording of the resolution.

32.3 Circular resolutions cannot be used:

- (a) for a resolution to remove an auditor or remove a Director,
- (b) for passing a Special Resolution, or
- (c) where the Corporations Act or this Constitution requires a meeting to be held.

32.4 A circular resolution is passed if 75% of the Members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clauses 32.5, 32.6 or 32.7.

- 32.5 Where the Company has only one Member, any resolution may be passed without a general meeting being held if that Member (or, being a corporation, its duly authorised representative or attorney) records the resolution and signs the record.
- 32.6 Members may sign a circular resolution by signing:
- (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
  - (b) separate copies of that document, as long as the wording is the same in each copy.
- 32.7 The Company may send a circular resolution by email to Members and Members may agree to the circular resolution by sending a reply email to that effect, including the text of the resolution in the Member's reply.

## Voting at General Meetings

### **33. How many votes a Member has**

At the General Meeting, each Member has one vote, provided that a Member is not entitled to vote at a General Meeting if all sums presently payable by the Member in respect of membership in the Company have not been paid.

### **34. Challenge to Member's right to vote**

- 34.1 Only a Member or the chairperson of a General Meeting may challenge a person's right to vote at a General Meeting, and they may only challenge, at that meeting.
- 34.2 If a challenge is made under clause 34.1, the chairperson of the General Meeting must decide whether or not the person may vote. The chairperson's decision is final.

### **35. How voting at the General Meeting is carried out**

- 35.1 Voting at the General Meeting must be conducted and decided by:
- (a) a show of hands,
  - (b) a vote in writing, or
  - (c) another method chosen by the chairperson of the General Meeting that is fair and reasonable in the circumstances.
- 35.2 Before a vote is taken, the chairperson of the General Meeting must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 35.3 On a show of hands under clause 35.1(a), the chairperson's decision is conclusive evidence of the result of the vote.
- 35.4 The chairperson of the General Meeting and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against a resolution on a show of hands.

35.5 Unless otherwise specified in this Constitution (such as in the case of a Special Resolution is required), a majority of votes must be cast in favour of a resolution in order for that resolution to be passed.

**36. When and how a vote in writing must be held**

36.1 A vote in writing under clause 35.1(b) may be demanded on any resolution instead of or after a vote by a show of hands on the resolution at a General Meeting by:

- (a) the chairperson of the General Meeting, or
- (b) at least 30% of Members Present and the consent of the chairperson of the General Meeting.

36.2 A vote in writing must be taken when and how the chairperson directs, unless clause 36.3 applies.

36.3 A vote in writing must be held immediately if it is demanded under clause 36.1:

- (a) for the election of a chairperson under clause 27.3, or
- (b) to decide whether to adjourn the meeting.

36.4 A demand for a vote in writing may be withdrawn.

**37. Appointment of proxy**

37.1 A Member may appoint a proxy to attend and vote at a General Meeting on the Member's behalf.

37.2 A proxy must be a Member.

37.3 A proxy appointed to attend and vote on behalf of a Member has the same rights as the Member to:

- (a) speak at the meeting
- (b) vote in writing under clause 35.1(b) (but only to the extent allowed by the appointment), and
- (c) join in to demand a vote in writing under clause 36.1.

37.4 A 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.

37.5 No instrument appointing a proxy is invalid merely because it is incomplete.

- 37.6 A proxy form 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.
- 37.7 A proxy does not have the authority to speak and vote for a Member at a meeting while the Member is present at the meeting.
- 37.8 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) becomes mentally incapacitated,
  - (c) becomes insolvent,
  - (d) revokes the proxy's appointment, or
  - (e) revokes the authority of a representative or agent who appointed the proxy.
- 37.9 An objection to the qualification of a Member Present (or their respective proxy) to vote may be raised only at the meeting or adjourned meeting at which the vote objected to is tendered. Any objection must be referred to the chairperson of the meeting, whose decision is final.
- 37.10 A proxy appointment may specify the way the proxy must vote on a particular resolution. If applicable, the proxy is not entitled to vote except as specified in the instrument, and otherwise a proxy may vote as the proxy thinks fit.

**38. Voting by proxy**

- 38.1 A proxy is not entitled to vote on a show of hands under 35.1(a) (but this does not prevent a Member appointed as a proxy from voting as a Member (in their personal capacity) on a show of hands).
- 38.2 When a vote in writing is held as contemplated by clause 35.1(b), a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way the proxy must vote,
  - (b) if the way the proxy must vote is specified on the proxy form, must vote that way, and
  - (c) if the proxy holds more than one proxy appointment, may cast the votes held in different ways.

**39. Right of secretary and others to attend General Meeting**

- 39.1 A Secretary who is not a Member is entitled to be present and, at the request of the chairperson, to speak at any General Meeting.

- 39.2 Any other person (whether a Member or not) requested by the Board to attend any General Meeting is entitled to be present and, at the request of the chairperson, to speak at that General Meeting.

## Directors

### 40. Number and Composition of Directors

- 40.1 The Company must have at least five and no more than nine Directors, appointed by the Board, and comprise of:
- (a) a minimum of two Member Directors, and
  - (b) a minimum of two Independent Directors.

- 40.2 At all times, there must be at least two Directors who ordinarily reside in Australia.

### 41. Appointment of Directors

- 41.1 Subject to clause 40, a person is eligible for appointment by the Board as a Director of the Company if they:
- (a) are approved by the Board as having the skills, expertise and experience to discharge their duties properly,
  - (b) give the Company their signed consent to act as a Director of the Company, and
  - (c) are not ineligible to be a Director under the Corporations Act or the ACNC Act.
- 41.2 If the number of Directors is reduced to fewer than five or is less than the number required for a quorum, the continuing Directors may act for the purpose of increasing the number of Directors to five (or higher if required for a quorum) or calling a General Meeting, but for no other purpose.

### 42. Appointment of Chairperson and Deputy Chairperson

- 42.1 The Board must elect a Director as the Company's Appointed Chairperson.
- 42.2 The Board may elect another Director as the Company's Appointed Deputy Chairperson.

### 43. Term of office

- 43.1 A Director may be appointed for a term of up to 3 years.
- 43.2 A Director may be able to serve a cumulative period of 9 years as a Director.

### 44. When a Director stops being a Director

- 44.1 A Director stops being a Director if the Director:
- (a) gives written notice of resignation as a Director to the Company,

- (b) dies, becomes of unsound mind or mentally incapacitated,
- (c) is removed as a Director by a resolution of the Members,
- (d) is absent for three consecutive Board meetings without approval from the Board,
- (e) becomes ineligible to be a Director of the Company under the Corporations Act or the ACNC Act, and
- (f) is a Member Director and:
  - (i) ceases to be a Member,
  - (ii) ceases to be a senior leader or a member of the governing body of a Founding Member or Organisational Member, or
  - (iii) ceases to be the nominee of a Founding Member or Organisational Member, or
- (g) the Founding Member or Organisational Member that nominated the Member Director ceases to be a Member,

44.2 A Member Director must provide written notice to the Company as soon as they cease to and/or become aware of ceasing to be an eligible nominee of a Member (that is, ceases to be a senior leader or governing body member of a Founding Member or Organisational Member).

## **Powers of Directors**

### **45. Powers of Directors**

- 45.1 The Board are responsible for managing and directing the activities of the Company to achieve the purposes set out in clause 6.
- 45.2 The Board 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.
- 45.3 The Board must decide on the responsible financial management of the Company including:
  - (a) any suitable written delegations of power under clause 46, and
  - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 45.4 The Board cannot remove a Director or auditor. Directors and auditors may only be removed by a Members' resolution at a General Meeting.
- 45.5 The Board may pass a resolution to make policies to give effect to this Constitution and for managing and directing the activities of the Company.

**46. Delegation of the Board's powers**

- 46.1 The Board may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine.
- 46.2 The Board may delegate to a committee, a Director, an employee of the Company (such as a CEO) or any other person, as they consider appropriate:
- (a) any of their powers and functions, or
  - (b) the implementation of their resolutions and day to day management of the affairs of the Company.
- 46.3 The delegation and agency must be recorded in the Company's minute book.

**47. Committees**

- 47.1 The Board may delegate their powers and functions to one or more committees consisting of such Directors or Members of the Company or other individuals, as the Board thinks fit and may revoke all or any of the powers so delegated. That is, to form or dissolve committees as the Board thinks fit.
- 47.2 All members of such committees will have one vote in any meetings of the committee. Questions arising at any meeting shall be determined by a majority of votes of the Members Present, and in the case of an equality of votes the chairperson of the committee shall not have a second or casting vote.
- 47.3 The CEO may be a member of any committee and may vote in any meetings of that committee, as the Board determines.
- 47.4 Any member of a committee may be paid remuneration, as the Board determines, so long as the amount is no more than a reasonable fee for the work done.
- 47.5 All acts done by any meeting of a committee, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such committee member, or that any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a committee member.

**48. Payments to Directors**

- 48.1 The Company may pay:
- (a) out-of-pocket expenses incurred by a Director in the performance of any duty as a Director where the amount payable is fair and reasonable in the circumstances,
  - (b) in good faith, reasonable and proper remuneration to any Director approved by the Board in return for any services actually rendered to the Company (including Directors' fees) or for goods supplied in the ordinary and usual course of business,
  - (c) moneys to any Director, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, 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 payment for the service,

- (d) an insurance premium in respect of a contract of insuring a Director of liability incurred as an officer of the Company where the Board has approved the payment of the premium, or any amount to a Director in respect of the indemnity given under clause 70 where such payment has been approved by the Board.

48.2 Any payment made under clause 48.1 must be approved by the Board.

#### **49. Execution of documents**

49.1 The Company may execute a document if the document is signed by:

- (a) two Directors of the Company, or
- (b) a Director and the Secretary.

### **Duties of Directors**

#### **50. Duties of Directors**

50.1 The Directors must comply with their duties as Directors under legislation and common law, and while the Company is a Registered Charity, with the duties described in the governance standards of the regulations made under the ACNC Act, which include:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable person 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 purposes of the Company set out in clause 6,
- (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 clause 51,
- (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.

50.2 All Directors must:

- (a) adhere to Board policies (as amended from time to time by resolution of the Board) including, but not limited to, policies relating to conflicts of interest of Directors,



- (b) be of good moral character,
- (c) have no legal impediment to serve as a director, and
- (d) comply with any additional criteria established by resolution of the Board.

**51. Conflicts of interest**

51.1 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 the Board (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.

51.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.

51.3 Each Director who has a material personal interest in a matter that is being considered at a meeting of the Board (or that is proposed in a circular resolution) must not, except as provided under clause 51.4:

- (a) be present at the meeting while the matter is being discussed, or
- (b) vote on the matter.

51.4 A Director may still be present and vote if:

- (a) the Director's interest arises because the Director is a Member of the Company, and the other Members have the same interest,
- (b) the Director's 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 70),
- (c) the Director's interest relates to a payment by the Company under clause 70 (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.

## Board meetings

### **52. When the Directors meet**

The Board must meet together for the dispatch of business at least four times per calendar year and may otherwise regulate its meetings as it thinks fit.

### **53. Calling Board meetings**

53.1 A Director may call a Board meeting by giving reasonable notice to all of the other Directors.

53.2 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.

53.3 Reasonable notice must be given to every Director of the place, date and time of every meeting of the Board.

### **54. Chairperson for Board meetings**

54.1 The Appointed Chairperson is entitled to chair Board meetings.

54.2 If the Appointed Chairperson is unavailable or does not wish to act as chairperson for the Board meeting, the Appointed Deputy Chairperson is entitled to chair General Meetings.

54.3 The Board at a Board meeting may choose a Director to be the chairperson for that meeting if the Appointed Chairperson and the Appointed Deputy Chairperson are:

- (a) not present at the starting time set for the meeting, or
- (b) present but do not want to act as chairperson of the meeting.

### **55. Quorum at Board meetings**

55.1 Unless the Board determines otherwise, the quorum for a Board meeting is 4 Directors entitled to vote.

55.2 Subject to clauses 41.2 and 51.3, a quorum must be present for the whole Board meeting.

### **56. Using technology to hold Board meetings**

56.1 The Board may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by the Board.

56.2 The Directors' agreement to the use of technology may be an ongoing one.

56.3 A Director may only withdraw their consent within a reasonable period before the meeting.

56.4 Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:

- (a) the participating Directors are, for the purpose of every provision of this Constitution concerning meetings of the Board, taken to be assembled together at a meeting and to be present at that meeting, and
- (b) all proceedings of those Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were present in the one place.

**57. Passing Board resolutions**

- 57.1 A Board resolution must be passed by a majority of the votes cast by Directors present and entitled to vote on the resolution.
- 57.2 In the case of an equality of votes, the chairperson of the meeting does not have a second or casting vote.

**58. Circular resolutions of Directors**

- 58.1 The Board may pass a circular resolution without a Board meeting being held.
- 58.2 A circular resolution is passed if the majority of Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 58.3 or clause 58.4.
- 58.3 The Directors may sign a circular resolution by signing:
  - (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.
- 58.4 The Company may send a circular resolution by email to the Board 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.
- 58.5 A circular resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in clause 58.3 or clause 58.4.

## Chief Executive Officer (CEO)

**59. Power to appoint CEO**

The Board may appoint a CEO for the period and on the terms as it thinks fit. Subject to the terms of any agreement entered into in a particular case, the Board may at any time terminate the employment of a CEO.

**60. Remuneration**

A CEO may, subject to the terms of any agreement between the CEO and the Company, receive remuneration as the Board decides.

**61. Delegation of powers to CEO**

- 61.1 The Board may, on the terms and conditions and with any restrictions as it thinks fit, confer on a CEO any of the powers exercisable by them.
- 61.2 Any powers so conferred may be concurrent with the powers of the Board.
- 61.3 The Board may at any time withdraw or vary any of the powers conferred on a CEO, which may include appointing a temporary CEO.
- 61.4 Notwithstanding any delegation of powers by the Board to the CEO, the CEO cannot be a director.

## Secretary and other officers

**62. Appointment and role of Secretary**

- 62.1 The Company must have at least one Secretary. At least one Secretary must ordinarily reside in Australia.
- 62.2 A Secretary must be appointed by the Board (after giving the Company their signed consent to act as Secretary of the Company). A Secretary may be removed by the Board at any time.
- 62.3 The Board must decide the terms and conditions under which the Secretary is appointed, including any remuneration.
- 62.4 The role of the Secretary includes:
  - (a) maintaining a register of the Company's Members, and
  - (b) maintaining the minutes and other records of General Meetings (including notices of meetings), Board meetings and circular resolutions.

## Minutes and records

**63. Minutes and records**

- 63.1 The Company must 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 the notice of each General Meeting, and
  - (d) a copy of any Members' resolution or any Members' statement distributed to Members under clause 30.
- 63.2 The Company must make and keep the following records:
  - (a) minutes of proceedings and resolutions of Board meetings (including meetings of any committees), and

(b) minutes of circular resolutions of Directors.

63.3 The Board may authorise a Member to inspect books of the Company to the extent, at the time and places and under the conditions, the Board considers appropriate.

63.4 A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or as authorised by the Board.

63.5 The Board must ensure that minutes of a General Meeting or a Board 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.

#### **64. Financial and related records**

64.1 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 reviewed or audited (as the case may be) if the Company is required to do so by law.

64.2 The Company must also keep written records that correctly record its operations.

64.3 The Company must retain its records for at least 7 years.

64.4 The Board must take reasonable steps to ensure that the Company's records are kept safe.

## **Notice**

#### **65. What is notice**

65.1 Anything written to or from the Company under any clause in this Constitution is written notice and is subject to clauses 65 to 67, unless specified otherwise.

65.2 Clauses 65 to 67 do not apply to a notice of proxy under clause 37.6.

#### **66. Notice to the Company**

Written notice or any communication under this Constitution may be given to the Company, the Board or the 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, or

(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.

**67. Notice to Members**

- 67.1 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) serving it in any manner contemplated in this clause 67.1 on a Member's attorney as specified by the Member in a notice given under clause 67.3, 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).
- 67.2 If the Company does not have an address for the Member, the Company is not required to give notice in person.
- 67.3 A Member may, by written notice to the secretary left at or sent to the registered office, require that all notices to be given by the Company or the Board be served on the Member's attorney at an address specified in the notice.
- 67.4 Any Member who has not left at or sent to the registered office, a place of address or an electronic mail address (for registration in the register) at or to which all notices and documents of the Company may be served or sent is not entitled to receive any notice.
- 67.5 Notice to a Member whose address for notices is outside Australia must be sent by airmail or electronic mail.

**68. When notice is taken to be given**

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) in the case of a notice of a meeting, sent by post within Australia, is taken to be given six business days after it is posted with the correct payment of postage costs,
- (c) in the case of notice of a meeting, sent by post outside Australia, is taken to be given 10 business days after it is posted with the correct payment of postage costs,
- (d) sent by email or other electronic method, is taken to be given on the business day after it is sent, and

- (e) given under clause 67.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

## Financial year

### 69. Company's financial year

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

## Indemnity, insurance and access

### 70. Indemnity

- 70.1 The Company must indemnify 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.
- 70.2 In this clause, 'officer' means a Director, CEO or Secretary and such other persons as the Board considers appropriate to benefit under this clause, and includes a Director, CEO, Secretary or such other person after they have ceased to hold the relevant office or position. 'Officer' also includes a person appointed as a trustee by, or acting as a trustee at the request of, the Company.
- 70.3 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).
- 70.4 In this clause, 'liability' means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.
- 70.5 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Company.

### 71. Insurance

To the extent permitted by law (including the Corporations Act), and if the Board considers 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.

**72. Directors' access to documents**

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

## Winding up

**73. Surplus Assets not to be distributed to Members**

Subject to the Corporations Act and any other applicable Act, and any court order, 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 74.1.

**74. Distribution of Surplus Assets**

- 74.1 Subject always to clause 74.3, the Corporations Act and any other applicable Act, and any court order, any Surplus Assets that remain after the Company is wound up must be distributed to one or more charities:
- (a) with charitable purposes similar to, or inclusive of, the purposes in clause 6, and
  - (b) which also prohibit the distribution of any Surplus Assets to its Members to at least the same extent as the Company.
- 74.2 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 of New South Wales to make this decision.
- 74.3 Where the Company has been endorsed as a deductible gift recipient under Subdivision 30-BA of the Tax Act and the Company is wound up or the Company's endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus:
- (a) gifts or money or property for the principal purpose of the Company;
  - (b) Contributions made in relation to a Fundraising Event held for the principal purpose of the Company; and
  - (c) money received by the Company because of such gifts and Contributions,
- must be transferred to one or more entities:
- (d) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6,



- (e) which also prohibit the distribution of any Surplus Assets to its Members to at least the same extent as the Company, and
- (f) are endorsed as a deductible gift recipient under Subdivision 30-BA of the Tax Act.

## Definitions and interpretation

### 75. Definitions

In this Constitution, unless the context otherwise requires:

"\$" means Australian dollars

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

"Annual Membership Fee" means the sum as determined by the Board from time to time and payable annually by 31 July

"Appointed Chairperson" means a person elected by the Board to be the Company's chairperson under clause 42

"Appointed Deputy Chairperson" means a person elected by the Board to be the Company's deputy chairperson under clause 42

"Board" means the Directors from time to time

"CEO" means the Chief Executive Officer of the Company

"Company" means the company referred to in clause 1

"Contributions" has the same meaning as described in item 7 or 8 of the table in section 30-15 of the Tax Act

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

"Constitution" means this constitution as amended

"Director" means a person appointed as a director of the Company from time to time, in accordance with this Constitution

"Founding Member" means each of the following organisations that were named as members when SSI was established:

- (a) Accessible Diversity Services Initiative Limited,
- (b) Advance Diversity Services Limited,
- (c) Community Migrant Resource Centre Incorporated,
- (d) Core Community Services Limited,
- (e) Illawarra Migrant Resource Centre Ltd,

- (f) Macarthur Diversity Services Initiative Ltd,
- (g) Metro Assist Limited,
- (h) Northern Settlement Services Limited,
- (i) Sydney Multicultural Community Services Limited,
- (j) SydWest Multicultural Services Limited,
- (k) Western Sydney Migrant Resource Centre Ltd.

"Fundraising Event" has the same meaning as described in section 995-1 of the Tax Act

"General Meeting" means a meeting of Members and includes the Annual General Meeting, under clause 20.1

"Independent Director" means a person who:

- (a) is not an employee of the Company,
- (b) has not been employed by the Company for at least 2 years,
- (c) is not a Member,
- (d) is not an employee of any Member,
- (e) has not been employed by any Member for at least 2 years,
- (f) does not sit on the board of any Member, and
- (g) is appointed as a Director under clause 41.1.

"Member" means a person who is entered in the register of Members as a Member of the Company

"Member Director" means a person who is appointed as a Director under clause 41 provided that the person is:

- (a) a Member, or
- (b) a nominee of a Founding Member or Organisational Member, and is either a senior leader or part of the governing body of that Founding Member or Organisational Member.

"Member Present" means, in connection with a General Meeting, a Member Present in person, by representative or by proxy at the venue or venues for the meeting

"Members' resolution" has the meaning given in clause 30.1(a)

"Members' statement" has the meaning given in clause 30.1(b)

"Organisational Member" means an organisation (or incorporated body) whose purpose aligns with the charitable purpose and Objects of the Company as set out in clause 6, and who is entered in the register of Members

"Prescribed Rate" means the standard base rate charged by the Company's principal banker to corporate customers from time to time for overdraft loans in excess of \$100,000 calculated on a daily basis and a year of 365 days.

"Registered Charity" means a charity that is registered under the ACNC Act

"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 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.

"Tax Act" means the *Income Tax Assessment Act 1997* (Cth)

## **76. Reading this Constitution with the Corporations Act**

- 76.1 The replaceable rules set out in the Corporations Act do not apply to the Company.
- 76.2 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.
- 76.3 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 the ACNC Act.
- 76.4 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.

## **77. 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,
- (b) the singular includes the plural and vice versa,
- (c) a gender includes every gender,
- (d) 'writing' and 'written' includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise, and
- (e) 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).