

MANNACARE INCORPORATED

Registration Number A3444S



RULES

MANNACARE INCORPORATED

June 2016

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RULES

1. NAME

- 1.1 The name of the incorporated association is MannaCare Incorporated (in these Rules called "the Association").
- 1.2 The registered address of the Association is 371 Manningham Road, Doncaster in the State of Victoria.

2. STATEMENT OF PURPOSES

- 2.1 The purposes for which the incorporated association is established are:–
 - (a) To support the independence of older people by maintaining a range of facilities and services including residential aged care facilities, day therapy and assistance to people in their homes.
 - (b) Without limiting paragraph (a) above, subject to the provisions of all relevant Victorian and Commonwealth legislation, to conduct and operate (including under contracts or agreements with the Manningham City Council) such services as will support the independence of older people, including, but not limited to:
 - (i) Residential Aged Care Facilities, including nursing home and hostel services;
 - (ii) Therapy services including day attendance;
 - (iii) Activities programs; and
 - (iv) Community and home delivered services.
 - (c) To conduct and operate the delivery of such services giving due regard to the needs of the community of the City of Manningham and, in the delivery of services to clients or residents, to recognise their physical and other health care needs as well as their social circumstances and the level of support offered by family and friends.
 - (d) To maintain such licences, registrations, approvals and accreditations issued by government authorities or other bodies as may be necessary or appropriate for the proper conduct of the abovementioned services.

3. DEFINITIONS

- 3.1 In these Rules, unless the contrary intention appears:-
 - * "ACNC" means the Australian Charities and Not-for-Profits Commission.
 - * "ACNC Legislation" means the *Australian Charities and Not-for-Profits Commission Act 2012 (C'th)* and the *Australian Charities and Not-for-Profits Commission (Consequential and Transitional) Act 2012 (C'th)*.
 - * "the Act" means the *Associations Incorporation Reform Act 2012 (Vic)*.

- * “Australian Accounting Standards” has the same meaning given to that term in section 3 of the Act.
- * “Association” means MannaCare Incorporated.
- * “Board” means the Board of Governance in accordance with these Rules.
- * “City of Manningham” means the municipal district of the Manningham City Council.
- * “Council” means the Manningham City Council.
- * “Director” means a member of the Board.
- * “financial records” has the same meaning given to that term in section 3 of the Act.
- * “Financial Year” means a period from 1 July in one year to 30 June in the next year.
- * “Member” means a member of the Association.
- * “Purposes of the Association” means the purposes set out in Rule 2.1.
- * “the Regulations” means regulations under the Act.
- * “Residential Aged Care Facilities” means accommodation and care services provided under the *Aged Care Act 1997* (C’th).
- * “Staff Members” means paid employees of the Association.
- * “Tax Act” means the *Income Tax Assessment Act 1997* (C’th).
- * “Volunteer” means a person currently registered within the Association’s Volunteer Program.

3.2 In these Rules, a reference to the Chief Executive Officer of the Association is a reference to the person appointed by the Board to that position. The Chief Executive Officer shall not be a Member or Director of the Association but shall, at the discretion of the Board, be entitled to be present, but not to vote, at any meeting of the Association or the Board.

3.3 The Chief Executive Officer shall be the Secretary for the purposes of these Rules and the Act, unless the Board appoints another person to the position of Secretary.

3.4 If the position of Secretary becomes vacant, the Board must appoint a person to the position within 14 days.

3.5 A person, whether Chief Executive Officer or another person, cannot occupy the position of Secretary unless:

- (a) he or she consents to being appointed as Secretary; and
- (b) he or she is at least 18 years of age; and
- (c) he or she is resident in Australia.

3.6 Words or expressions contained in these Rules shall be interpreted in accordance with the provisions of the relevant statutes governing the interpretation of legislation in Victoria.

3.7 Unless expressly provided otherwise, reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any

legislative provision substituted for it, and all regulations and statutory instruments passed under it.

4. MEMBERSHIP

- 4.1 A person who applies and is approved for membership as provided in these Rules is eligible to be a Member of the Association on payment of the annual subscription payable under these Rules.
- 4.2 An applicant must not be admitted to membership unless
- (a) the applicant is:
 - (i) a resident of the City of Manningham; or
 - (ii) a Volunteer currently serving in the Association; or
 - (iii) a person who has lived a substantial amount of his/her life in, or who has family residing in, the City of Manningham; or
 - (iv) a person not falling into one of the above categories who is otherwise approved by the Board;
 - (b) the applicant applies for membership in accordance with Rule 4.3; and
 - (c) the applicant's admission as a Member is approved by the Board.
- Staff Members shall not be admitted to membership.
- 4.3 An application for membership of the Association must-
- (a) be made in writing in the form prescribed by the Board from time to time; and
 - (b) be lodged with the Secretary.
- 4.4 As soon as practicable after the receipt of an application, the Secretary must refer the application to the Board.
- 4.5 The Board must determine whether to approve or reject the application.
- 4.6 If the Board approves an application for membership, the Secretary must, as soon as practicable-
- (a) notify the applicant in writing of the approval for membership; and
 - (b) request payment within 28 days after receipt of the notification of the sum (if any), payable under these Rules as the first year's annual subscription.
- 4.7 The Secretary must, within 28 days after receipt of the first year's annual subscription (if any), enter the applicant's name in the Register of Members. If no annual subscription is payable, the Secretary must enter the applicant's name in the Register of Members within 28 days of the decision of the Board to accept the application for membership.
- 4.8 An applicant for membership becomes a Member and is entitled to exercise the rights of membership when the applicant's name is entered in the Register of Members.

- 4.9 If the Board rejects an application, it must, as soon as practicable, notify the applicant in writing that the application has been rejected, but need not give reasons for its decision.
- 4.10 A right, privilege, or obligation of a person by reason of membership of the Association-
- (a) is not capable of being transferred or transmitted to another person; and
 - (b) terminates upon the cessation of membership whether by death or resignation or otherwise.

5. ANNUAL SUBSCRIPTION

- 5.1 There will be no entrance fee for new Members of the Association.
- 5.2 The annual subscription payable by Members shall be determined by the Members in General Meeting from time to time and is payable prior to the Annual General Meeting in each year. There shall be no annual subscription payable by Members who are Volunteers.
- 5.3 The annual subscription will cover the Financial Year in which it was paid. A new Member who pays a subscription after 1 March will be deemed to be a financial Member for the full Financial Year following the date of such payment.
- 5.4 If any Member fails to pay his/her subscription for any year by the due date, such Member shall be ineligible to attend or vote at the Annual General Meeting of the Association.
- 5.5 If any Member fails to pay his/her subscription for any year three (3) months after the due date, such Member shall thereupon cease to be a Member of the Association and the Association shall be under no obligation to notify such Member of that fact.
- 5.6 Any Member whose membership has been terminated under Rule 5.5 shall be eligible for re-admission as a Member provided the procedure contained in Rule 4 is observed and the unpaid subscription is paid to the Association.

6. REGISTER OF MEMBERS

- 6.1 The Secretary shall keep and maintain a Register of Members and will record in it each Member's full name, address and the date membership commenced.
- 6.2 The Register of Members shall be available for inspection by Members at the registered address of the Association.

7. FINANCE

- 7.1 Finance shall be obtained from membership subscriptions, collection of charges for services given, endowments, grants, public subscription, voluntary contributions, fundraising efforts and other approved means, and income derived from business activity consistent with the Purposes of the Association. All Association activity involving the acceptance of money shall be conducted in accordance with all relevant statutory requirements in effect at the time.
- 7.2 The Chief Executive Officer will establish and maintain accounting records in accordance with the Australian Accounting Standards specified under the Act. All financial statements will give a true and fair view of the financial performance and position of the Association.

- 7.3 The financial statements of the Association will be audited in accordance with the Act.
- 7.4 The Board shall appoint, on an annual basis, signatories to all cheques and other negotiable instruments from the Members of the Board, and if deemed appropriate, other salaried senior officers of the Association.
- 7.5 All cheques and other negotiable instruments must be signed by at least two (2) approved signatories.

8. TERMINATION OF MEMBERSHIP

8.1 A Member who:

- (a) is appointed to the staff of the Association; or
- (b) was admitted to membership on the basis that the person satisfied one or more of the eligibility criteria in Rule 4.2(a)(i) - 4.2(a)(iii), and subsequently ceases to satisfy the criteria of Rule 4.2(a)

shall be deemed to have his or her membership terminated immediately.

8.2 A Member of the Association who has paid all moneys due and payable by him/her to the Association may resign from the Association by giving notice in writing to the Secretary.

8.3 If, under Rule 8.2, any period of notice is given, upon the expiration of such period, otherwise immediately on its receipt, the Secretary shall make in the Register of Members an entry recording the date on which the Member by whom the notice was given, ceased to be a Member.

8.4 If the Board is of the reasonable opinion that any Member has refused or neglected to comply with these Rules, or has been guilty of conduct unbecoming a Member or prejudicial to the interests of the Association, and wishes to discipline the Member by suspending or terminating the Member's membership, then the Board:

- (a) shall give notice to such Member:
 - (i) stating the disciplinary action (whether suspension or termination of membership) proposed to be taken against the Member, and the grounds upon which it is based; and
 - (ii) requiring the Member to show cause why his/her membership should not be suspended or terminated; and
- (b) may appoint a disciplinary subcommittee to deal with the matter in accordance with Rule 8.6.¹

8.5 A Member to whom a notice is given under Rule 8.4 may elect to show cause as to why his/her membership should not be suspended or terminated by:

- (a) appearing in person before the Board or disciplinary subcommittee (where applicable); and/or

¹ Note: s 54 of the Act requires the outcome of a disciplinary procedure to be determined by an unbiased decision-maker. Accordingly, the may Board exercise its discretion to appoint a disciplinary subcommittee to ensure that the disciplinary procedure is determined by an unbiased decision-maker.

- (b) submitting to the Board or disciplinary subcommittee (where applicable) a written statement.
- 8.6 In the event that a Member to whom notice is given pursuant to Rule 8.4 does not satisfy the Board or disciplinary subcommittee (where applicable), acting reasonably, with an explanation of the purported failure to comply or the conduct which gave rise to such notice the Board or disciplinary subcommittee (where applicable) may terminate the membership of the Member, or suspend the Member from membership for such period as the Board or disciplinary subcommittee (where applicable) thinks fit.
- 8.7 The members of a disciplinary subcommittee established by the Board under Rule 8.4:
 - (a) may be Directors, Members of the Association or anyone else; but
 - (b) must not be biased against, or in favour of, the Member concerned.
- 8.8 A Member who is the subject of a disciplinary procedure under this Rule 8 must not initiate a grievance procedure in relation to the matter which is the subject of the disciplinary procedure until the disciplinary procedure has been completed.
- 8.9 A Member may appoint any person to act on behalf of the Member in the disciplinary procedure set out in this rule 8.

9. GRIEVANCE PROCEDURE

- 9.1 This grievance procedure applies to disputes under these Rules between:–
 - (a) a Member and another Member; or
 - (b) a Member and the Association.
- 9.2 If the dispute is between a Member and the Association or the Association's Board, the Chairman and the Deputy Chairman will represent the Association in the following procedures unless either of these Office Bearers is directly involved in the dispute in which case the Board will nominate a substitute person or persons, or the Board itself may represent the Association.
- 9.3 The parties to the dispute must meet within fourteen (14) days after the dispute comes to the attention of the parties and participate with goodwill to discuss and endeavour to resolve the matter.
- 9.4 If the dispute remains unresolved, or if a party fails or refuses to attend the meeting referred to in Rule 9.3, the parties must, within ten (10) days, hold a meeting in the presence of a Mediator. The Board may deal with a Member under Rule 8.4 for refusal or failure to attend such meeting or to participate with goodwill in the discussions at this meeting.
- 9.5 The Mediator may be chosen by agreement between the parties to the dispute.
- 9.6 If the parties are unable to agree, the Mediator may be the Board or a person who is a Member of the Dispute Settlement Centre of the Department of Justice.
- 9.7 If a party to the dispute is a Director of the Association or the Association's Board, and the matter has not been resolved by use of the procedure described in Rule 9.3, the Board cannot, without the consent of all parties, be the Mediator in any subsequent process.

- 9.8 A Member of the Association can be the Mediator. A Party to the dispute cannot be the Mediator.
- 9.9 A Member may appoint any person to act on behalf of the Member in the grievance procedure set out in this rule 9.

10. ANNUAL GENERAL MEETING

- 10.1 Within five (5) months of the end of each Financial Year, the Board shall convene an Annual General Meeting of the Association's Members.
- 10.2 The Annual General Meeting shall be specified as such in the notice and advertisement relating to it.
- 10.3 The ordinary business of the Annual General Meeting shall be:–
- (a) to confirm the minutes of the last preceding Annual General Meeting and of any General Meeting held since that meeting;
 - (b) to receive from the Board an Annual Report upon the activities and transactions of the Association during the last preceding Financial Year;
 - (c) to receive and consider the audited financial statement and associated document/s prepared and submitted by the Board in accordance with Part 7 of the Act;
 - (d) to elect members of the Board; and
 - (e) the appointment of auditor or auditors for the ensuing year.
- 10.4 The Annual General Meeting may transact special business of which notice is given in accordance with these Rules.
- 10.5 The Annual General Meeting shall be in addition to any other General Meetings that may be held in the same year.

11. SPECIAL GENERAL MEETING

- 11.1 All General Meetings other than the Annual General Meeting shall be called Special General Meetings.
- 11.2 The Chairman may, whenever he/she thinks fit and after consulting with the Chief Executive Officer, convene a Special General Meeting of the Association.
- 11.3 The Board may, whenever it thinks fit, convene a Special General Meeting of the Association.
- 11.4 The Chairman shall, on the requisition in writing of ten (10) Members convene a Special General Meeting of the Association.
- 11.5 The requisition for a Special General Meeting shall state the objects of the meeting and shall be signed by the Members making the requisition and be sent to the Secretary at the address of the Association and may consist of several documents in a like form, each signed by one or more of the Members making the requisition.
- 11.6 If the Chairman does not cause a Special General Meeting to be held within one (1) month after the date on which the requisition is sent to the Secretary, the

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

- 11.7 A Special General Meeting convened by Members in pursuance of these Rules shall be convened in the same manner as nearly as possible as that in which those meetings are convened by the Board and all reasonable expenses incurred in convening the meeting shall be refunded by the Association to the persons incurring the expenses.

12. NOTICE OF MEETING

- 12.1 All General Meetings of the Association shall be notified to all Members by both of the following methods:–

- (a) at least fourteen (14) days before the date fixed for holding a general meeting of the Association, the Secretary must cause to be served on each Member of the Association in accordance with Rule 12, a notice stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting; and
- (b) at least fourteen (14) days before the date fixed for holding a general meeting of the Association, the Secretary must cause an advertisement to be published in a newspaper circulating generally in the City of Manningham which advertisement shall state the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

- 12.2 No business other than that set out in the notice of a General Meeting shall be transacted at the meeting. A Member desiring to bring any business before a General Meeting may give notice of that business in writing to the Secretary, who, provided that that item of business has been endorsed by at least ten (10) Members, shall include that business in the notice and the advertisement calling the next General Meeting following the receipt of the notice.

- 12.3 Special Resolutions

Subject at all times to the Act, a Special Resolution is a resolution which is passed by not less than three quarters of all Members who are entitled to vote and do so vote in person at a General Meeting of the Association on which not less than twenty one (21) days' notice in writing specifying both the resolution and the intention to propose the resolution as a Special Resolution was given in accordance with these Rules.

13. NOTICES

All notices shall be served by or on behalf of the Association upon any Member in any one or more of the following ways:–

- 13.1 by serving it on the Member personally, in which case, service of the notice shall be deemed to be effected upon receipt by the Member;
- 13.2 by sending it by pre-paid post to the Member at his/her address shown in the Register of Members, in which case, service of the notice shall be deemed to be effected on the day on which the letter would be delivered in the ordinary course of post;

- 13.3 by sending it to a facsimile number nominated by the Member for the purpose of receiving notices from the Association, in which case, service of the notice shall be deemed to be effected within twelve (12) hours of the time of transmission;
- 13.4 by sending it to an email address nominated by the Member for the purpose of receiving notices from the Association, in which case, service of the notice shall be deemed to be effected within twelve (12) hours of the time of transmission.

14. PROCEEDINGS AT MEETINGS

- 14.1 All business that is transacted at a Special General Meeting and all business that is transacted at the Annual General Meeting with the exception of that specifically referred to in these Rules as being the ordinary business of the Annual General Meeting shall be deemed to be special business.
- 14.2 No item of business shall be transacted at a General Meeting unless a quorum of Members entitled under these Rules to vote is present during the time when the meeting is considering that item.
- 14.3 Ten (10) Members personally present, being Members entitled under these Rules to vote at a General Meeting, shall constitute a quorum for the transaction of the business of a General Meeting.
- 14.4 If within half an hour after the appointed time for the commencement of a General Meeting, a quorum is not present, the meeting if convened upon the requisition of Members shall be dissolved and in any other case shall stand adjourned to the same day in the next week at the same time and at the same place. At the adjourned meeting the quorum will be seven (7) Members. If within half an hour after the time appointed for the commencement of the adjourned meeting this quorum is not present the meeting will be abandoned.
- 14.5 The Chairman, or in his absence the Deputy Chairman, shall preside as Chair at each General Meeting of the Association. If the Chairman and the Deputy Chairman are absent from a General Meeting, the Members present shall elect one of their number to preside as Chair at the meeting.
- 14.6 The Chair of a General Meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place. No business shall be transacted on resumption of an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place. Notice of the resumption of an adjourned meeting or of the business to be transacted at the resumed meeting is not required unless the period of adjournment is more than seven days in which case two (2) days' notice is to be given to all Members.
- 14.7 A question arising at a General Meeting of the Association shall be determined on a show of hands. Unless a poll or secret ballot is demanded before or on the declaration of the show of hands, a declaration by the Chair that a resolution has been carried or lost, and an entry to that effect in the Minute Book of the Association, is evidence of the fact.
- 14.8 If at a General Meeting a poll on any question is demanded by not less than three (3) Members present at the meeting in question, it shall be taken in such manner and, subject to Rule 14.9, either at once or after an interval or adjournment or otherwise as the Chair may direct and the resolution of the poll shall be deemed to be a resolution of the meeting on that question.

- 14.9 A poll that is demanded on the election of a Chair or on a question of an adjournment shall be taken forthwith and a poll that is demanded on any other question shall be taken at such time before the close of the meeting as the Chair may direct.
- 14.10 If at a General Meeting a secret ballot is duly demanded:–
- (a) by the Chair; or
 - (b) by not less than three (3) Members present at the meeting in question,
- it shall be taken in such manner and, subject to Rule 13.11, either at once or after an interval or adjournment or otherwise as the Chair directs, and the result of the secret ballot shall be the resolution of the meeting at which the secret ballot was demanded.
- 14.11 A secret ballot demanded on the election of a Chair or on a question of adjournment shall be taken immediately.
- 14.12 Upon any question arising at a General Meeting of the Association, a Member has one vote only. All votes shall be given personally and no proxy votes can be accepted.
- 14.13 A Member is not entitled to vote at any General Meeting unless all moneys due and payable by the Member to the Association have been paid.
- 14.14 In the case of an equality of voting on a question at a General Meeting, the Chair of the meeting is entitled to exercise a second or casting vote.

15. BOARD OF GOVERNANCE

- 15.1 The affairs of the Association shall be managed by the Board of Governance comprising the Directors elected in accordance with these Rules.
- 15.2 The Board:
- (a) shall control and manage the business and affairs of the Association;
 - (b) may, subject to these Rules, the Regulations and the Act, exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by these Rules to be exercised by General Meetings of the Members of the Association; and
 - (c) subject to these Rules, the Regulations and the Act, has power to perform all such acts and things as appear to the Board to be essential or appropriate for the proper management of the business and affairs of the Association.
- 15.3 The Board shall consist of such number of persons as is determined by the Board from time to time being not less than five (5) and not more than ten (10) Directors elected by the Members
- 15.4
- (a) Subject to Rule 15.4(b), membership of the Board shall be open to:
 - (i) Members of the Association of not less than two (2) years standing, or such lesser period as may be determined by the Board.

- (b) A person is disqualified from being a Director of the Association if they are disqualified:
 - (i) from managing a corporation, within the meaning of the *Corporations Act 2001* (C'th); or
 - (ii) from being a Director of the Association by the ACNC Commissioner under the provisions of the ACNC Legislation;unless an exemption is obtained from the ACNC Commissioner.
- (c) To avoid any doubt, Rule 15.4(b) shall only apply if the Association is registered with the ACNC, and the ACNC Legislation operates to disqualify such a person from being a Director.
- (d) The Secretary must:
 - (i) obtain from each person that is elected as a Director under these Rules a declaration that:
 - (A) he or she is not disqualified from being a Director under Rule 15.4(b); and
 - (B) he or she will advise the Secretary in the event that he or she becomes disqualified under Rule 15.4(b) during at any time in which he or she is a Director of the Association; and
 - (ii) conduct searches of available public registers to determine whether any person that has been or is likely to be appointed or elected as a Director under these Rules is disqualified by Rule 15.4(b).
- (e) The Secretary may obtain the declarations, or perform the searches described in Rule 15.4(d) prior to the election or appointment of a person as Director.

15.5 Nomination of candidates for election as Directors—

- (a) shall be:
 - (i) made in writing in the form prescribed by the Board from time to time;
 - (ii) signed by two (2) members of the Association, each of whom are Members of not less than two years standing; and
 - (iii) accompanied by the written consent of the candidate;
- (b) shall be delivered to the Secretary of the Association not less than four (4) weeks before the date fixed for the holding of the Annual General Meeting.

15.6 The Board shall be elected from the candidates by the Members of the Association at the Annual General Meeting.

15.7 If insufficient nominations are received to fill all vacancies on the Board to be filled by election, the candidates nominated shall be deemed to be elected and any unfilled positions will be dealt with by the Board in due course as casual vacancies under this Rule.

- 15.8 If the number of nominations received is equal to the number of vacancies to be filled by election, the persons nominated shall be deemed to be elected.
- 15.9 If the number of nominations for the election of members of the Board exceeds the number of vacancies to be filled by election, a ballot shall be held. The ballot for such election shall be conducted at the Annual General Meeting in such usual and proper manner as the Board may direct.
- 15.10 (a) Each Director elected in accordance with this Rule 15 shall, subject to these Rules, hold office until the appropriate Annual General Meeting three (3) years after his/her appointment or election, and is eligible for re-appointment or re-election.
- (b) Ordinarily, a Director may be elected, or re-elected, to the Board for up to three consecutive terms.
- (c) With the consent of the Board, a Director may be re-elected to the Board for a fourth consecutive term.
- (d) In no circumstances can a Director be elected to the Board for more than four consecutive terms (12 years).
- 15.11 In the event of a casual vacancy occurring on the Board in relation to an elected Director, the Board may appoint any Member of the Association to fill the vacancy and the Director so appointed shall hold office, subject to these Rules, until the expiration of the term to have been served by the outgoing Director, and may be eligible for re-election subject to Rule 15.10.

16. OFFICE BEARERS

- 16.1 The Office Bearers of the Association will be:–
- (a) the Chairman;
- (b) the Deputy Chairman; and
- (c) the Treasurer (who shall be the chair of the Finance and Audit Committee constituted in accordance with Rule 19.1).
- 16.2 Each of the Office Bearers named in Rule 16.1 shall be appointed by the Board from amongst the Directors at the first meeting of the Board following the Annual General Meeting, and shall hold office until the first meeting of the Board after the Annual General Meeting next following his/her appointment, but shall be eligible for re-appointment if a continuing or re-elected Director.

17. DIRECTORS

- 17.1 The Act imposes duties on officeholders, which officeholders should be aware of and comply with. "Officeholders" for these purposes means:
- (a) a Director;
- (b) the Secretary;
- (c) a person, including an employee of the association, who makes, or participates in making, decisions that affect the whole, or a substantial part, of the operations of the Association;

- (d) a person who has the capacity to significantly affect the Association's financial standing;
- (e) a person in accordance with whose instructions or wishes the Directors are accustomed to act (but excluding a person who gives advice to the Association in the proper performance of functions attaching to the person's professional capacity).

17.2 In addition to the general duties imposed by the Act:

- (a) the Directors must comply with the ACNC governance standards, so far as they are applicable; and
- (b) rules 17.3 to 17.5 below impose some specific limitations on Directors.

17.3 No Director shall be appointed to or retain any paid office of the Association whilst he/she is a Director. Notwithstanding the foregoing, Directors may be reimbursed their bona fide out-of-pocket expenses and, should the Board so resolve from time to time, may receive remuneration for their services as a Director. Such remuneration shall be subject to the total maximum remuneration allowable, as determined by the Members at General Meeting.

17.4 No Director shall directly or indirectly supply goods or services to the Association where such goods or services can be satisfactorily obtained elsewhere locally.

17.5 No Director shall vote as a Director in respect of any contract or arrangement in which he/she is so interested as aforesaid, and if he/she does so vote his/her vote shall not be counted.

17.6 For the purpose of these Rules, the office of a Director becomes vacant if that Director:—

- (a) ceases to be a Member of the Association;
- (b) resigns his/her office by notice in writing given to the Secretary;
- (c) is absent for three (3) consecutive meetings without acceptable reason or leave of absence;
- (d) is removed by resolution passed at a General Meeting in accordance with Rule 17.7.
- (e) otherwise ceases to be a Director by operation of section 78 of the Act.²

and every such vacancy shall be deemed a casual vacancy.

17.7 (a) Any dispute between a Director and another Director or the Board itself shall be dealt with so far as is practicable in accordance with the grievance procedure set out in Rule 9.

Notwithstanding Rule 9, the Association, at a General Meeting, may by resolution remove any Director elected in accordance with Rule 15 before the expiration of his/her term of office and appoint another Member in his/her stead to hold office until the expiration of the term of the first-mentioned Director.

² The Act sets out certain circumstances where a Director will vacate his/her position. They include where the dies, becomes an insolvent under administration within the meaning of s 38 of the Interpretation of Legislation Act 1984, or becomes a represented person within the meaning of the Guardianship and Administration Act 1986.

- (b) Where the Director concerned makes representations in writing to the Secretary or Chairman and requests that such representations be notified to the Members of the Association, the Secretary will provide a copy to each Member attending the meeting at which the removal is to be considered.

18. PROCEEDINGS OF BOARD

- 18.1 The Board shall meet not less than once in every two months, at such place and such times as the Board may determine.
- 18.2 Special meetings of the Board may be convened by the Chairman or by any four (4) Directors.
- 18.3 At meetings of the Board:
 - (a) the Chairman or in his/her absence the Deputy Chairman shall preside; or
 - (b) if the Chairman and the Deputy Chairman are absent, such one of the remaining Directors as may be chosen by the members present shall preside.
- 18.4 Questions arising at a meeting of the Board or of any committee appointed by the Board shall be determined on a show of hands or, if demanded by a Director, by a poll taken in such manner as the person presiding at the meeting may determine. Each Director present at a meeting of the Board or of any committee appointed by the Board (including the person presiding at the meeting) is entitled to one vote and, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- 18.5 Notice of each Board meeting shall be served on each Director, in writing, at least two (2) days before the date of the meeting
- 18.6
 - (a) The number of persons constituting the nearest whole number above one half of the total Directors, shall constitute a quorum for the conduct of the business of a meeting of the Board.
 - (b) No business may be conducted unless a quorum is present.
 - (c) If within half an hour of the time appointed for a meeting a quorum is not present, the meeting lapses.
 - (d) Provided a quorum is present, the Board may act notwithstanding any vacancy on the Board.
- 18.7 A Director not physically present at a meeting may participate in a Board meeting by the use of technology that allows that member and the other members present at the meeting to clearly and simultaneously communicate with each other. A Director participating in accordance with this Rule is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.
- 18.8 The Board may pass a resolution without a meeting if a majority of Directors consent to the resolution in writing. Such a resolution is valid and effectual as if it had been passed at a board meeting that was properly convened and held.
- 18.9 A resolution mentioned in rule 18.8 may consist of several documents in like form, each evidencing the written consent of one or more Directors.

19. COMMITTEES

- 19.1 The Board shall appoint a Finance and Audit Committee, of which the Treasurer shall be chair, comprising such persons (being Members or otherwise) and for such purposes and with such authority as the Board thinks fit.
- 19.2 The Board from time to time may appoint and dissolve such other committees (including working parties) comprising such persons (being Members or otherwise) and for such purposes and with such authority as the Board thinks fit.
- 19.3 (a) Subject to any directions by the Board, committees (including working parties) appointed under this Rule may conduct their business as the members decide.
- (b) The quorum for meetings of a committee shall be determined by the Board.
- (c) The Board shall appoint the chair of a committee.
- (d) A written record or minutes shall be kept of all meetings of committees and each committee shall submit a report of its activities to each meeting of the Board.

20. BOOKS, DOCUMENTS AND SECURITIES OF THE ASSOCIATION

20.1 The Secretary must

- (a) Prepare, and retain (for such period as is required by the Act or otherwise by law) minutes of each general meeting and each Board meeting, together with a record of the names of those persons present; and
- (b) Except as otherwise provided in these Rules, keep in his/her custody or under his/her control all books, documents and securities of the Association.

20.2 In preparing the minutes of General Meetings, the Secretary must ensure:

- (a) The minutes record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (b) The minutes of an annual general meeting include, where applicable:
- (i) the financial statements submitted to the Members in accordance with Part 7 of the Act; and
- (ii) the certificate signed by two Directors in accordance with Part 7, certifying that the financial statements give a true and fair view of the financial position and performance of the Association; and
- (iii) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

20.3 The Chief Executive Officer must :

- (a) Arrange for the collection and receipt of all moneys due to the Association and the making of all payments authorized by the Association; and

- (b) Keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association in accordance with Part 7 of the Act.
- 20.4 The Secretary must allow Members, on request, to inspect free of charge:
- (a) the register of members;
 - (b) the minutes of general meetings; and
 - (c) subject to sub-rules 20.5 and 20.7, the records, documents, securities and securities of the Association.
- 20.5 The Secretary:
- (a) may refuse to permit a Member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association; and
 - (b) must refuse a Member access to the minutes of Board meetings.
- 20.6 The Secretary must ensure that:
- (a) on request, copies of these Rules are made available to Members and applicants for membership free of charge; and
 - (b) a Member can make, or be provided with, a copy of any of the other records of the Association that the Member is permitted to inspect under this Rule, subject to the Member paying any fee or cost associated with the provision of such document/s, such fee to be determined by the Secretary.
- 20.7 Members must not:
- (a) use information about another person obtained from the register of members to contact or send materials to the other person; or
 - (b) disclose information obtained about another person from the register of members knowing that the information is likely to be used to contact or send materials to the other person;

unless the purpose for which the information is used or disclosed is otherwise expressly permitted by these Rules or otherwise by law.

21. FINANCIAL ADMINISTRATION

- 21.1 The Board shall invest all or any moneys of the Association in any investment or property or in any business upon such terms and conditions as the Board shall think fit including, but not limited to:-
- (a) on deposit in or account with any bank;
 - (b) in debentures, bonds, shares, stocks or securities in or of any body corporate including those having deferred, restricted, qualified or special rights thereto;

- (c) in any business or upon any share or interest in any business and the undertaking goodwill and assets thereof;
 - (d) in the purchase or acquisition of any property wheresoever situate or any part, share or interest therein including land.
- 21.2 The financial affairs of the Association are to be conducted in accordance with Australian Accounting Standards and the Board will receive an appropriate financial report prepared by the Chief Executive Officer at each Board meeting.
- 21.3 At least once a year the accounting records, accounts and the annual financial statements must be examined and audited by the auditor(s) appointed at the Annual General Meeting.
- 21.4 The Association must retain financial records for 7 years after the transactions covered by the records are completed.

22. DISTRIBUTION OF ASSETS

The assets and income of the Association shall be applied solely in furtherance of its objects and no portion shall be distributed directly or indirectly by way of profit to its Members.

23. AUDITOR

The Auditors appointed shall be a registered company auditor provided that the Auditor appointed has no other business connection with the Association and is not otherwise excluded under the Act.

24. PAYMENTS

The Board will authorise appropriate Directors and/or senior staff to approve the payment of legitimate Accounts payable by the Association and to make such payments.

25. CUSTODY AND USE OF SEAL AND OFFICIAL DOCUMENTS

- 25.1 The Common Seal of the Association shall be kept under lock and key in the custody of the Secretary.
- 25.2 The Common Seal shall not be affixed to any instrument except by the authority of the Board and the affixing of the Common Seal shall be attested by the signatures of one Director and the Secretary.

26. ALTERATION OF RULES AND STATEMENT OF PURPOSES

- 26.1 These Rules may be amended and varied by Special Resolution in accordance with the Act, subject to any legal requirements for the consent or approval of any relevant authorities.

27. ENDORSEMENT AS A PUBLIC BENEVOLENT INSTITUTION

- 27.1 The Association may establish a Gift Fund for the purpose of receiving donations in order to carry out and administer the objects of the Association as described in these Rules.
- 27.2 All gifts of money made to the Association and all income received by the Association as gifts or donations from any member of the public or from any other source are to be deposited to one or more separate bank accounts operated by the Association and, in the books of account of the Association, credited to one

or more separate accounts and such accounts in the books of account of the Association will be referred to as “the Gift Fund Account”.

- 27.3 All gifts or donations of a non-monetary nature or type must be specifically identified on a gift register and all such items must in the books of account of the Association be credited to the Gift Fund Account.
- 27.4 A receipt must be given by the Association to the donor of all gifts or donations, whether of a monetary or non-monetary nature. The receipt must show the following items:-
- (a) Name of the Association; and
 - (b) the Australian Business Number of the Association;
 - (c) (i) if the gift or donation is of a monetary nature, the quantum of money received; or
(ii) if the gift or donation is of a non-monetary nature, a full and accurate description of the item or items the subject of the gift or donation; and
 - (d) a statement that the receipt is for a gift.
- 27.5 The funds standing to the credit of the Gift Fund Account must be used solely in pursuance of the purposes of the Association. Detailed records are to be maintained of all amounts debited to the Gift Fund Account.
- 27.6 All income and property received by the Association from all sources other than from a) gifts or donations from the public or any organisation, and from any other source such as, b) proceeds from fundraising activities and the like are to be credited to such other Accounts in the books of account of the Association and under no circumstances shall any such income be credited to the Gift Fund Account.

28. REVOCATION OF ENDORSEMENT

- 28.1 On the withdrawal or revocation of any endorsement given by the Deputy Commissioner of Taxation of the Association's status as a tax deductible gift recipient under Sub-Division 30-B of the Tax Act, any surplus assets or property of the Gift Fund shall not form part of the Association's assets or property but must be given or transferred to such other institution or body corporate which has all of the following features:-
- (a) it has been approved under Sub-Division 30-B of the Tax Act as a body which may receive donations of money and/or property with such donations being deductible from the taxable income of the donor; and
 - (b) it has similar objects to those described in the Statement of Purposes; and
 - (c) it is an institution or body which prohibits the distribution of income, profits or assets to its members; and
 - (d) it has gained approval to be recognised as a body whose income is exempt from taxation.
- 28.2 Such institution or body corporate will be determined by the Members of the Association within three (3) months of the Association's receipt of formal written

notification from the Commissioner of the withdrawal or revocation of endorsement. Failing such a determination, the institution or body corporate shall be determined by application to the Supreme Court in Victoria.

29. WINDING UP

29.1 The Association shall be wound up with the consent of three-fourths of those present at a Special General Meeting of Members called specifically for that purpose.

29.2 If, upon winding-up or dissolution of the Association there remain, after satisfaction of all debts and liabilities, any assets or property whatsoever, the same shall not be paid or distributed to any Member of the Association but shall be given or transferred to some organisation, fund or institution which:–

- (a) has objects similar to the Purposes of the Association;
- (b) prohibits the distribution of its income and property amongst its Members to an extent at least as great as is imposed on the Association under these Rules;
- (c) has been approved by the Deputy Commissioner of Taxation under paragraph (i) or (ii) of Section 78 (1)(a) of the *Income Tax Assessment Act* 1936, as amended;

such organisation, fund or institution to be determined by the Members of the Association .

29.3 When any decision is taken by the Board to seek the consent of Members to the winding up of the Association, notification shall be given to the Council and to any authority or government department that has paid grants or subsidies to the Association within the previous five years and the obligations arising out of the relationship with any such body (including any management agreement) shall be complied with prior to the winding up or dissolution of the Association.

29.4 Following the adoption of any motion to wind up or dissolve the Association, immediate notification will be given to all authorities or other bodies who have granted licences, registrations, accreditation or other status to the Association and all requirements of such authorities or bodies shall be complied with to effectively surrender such status.

30. ANNUAL RETURNS AND LEGAL OBLIGATIONS

The Association shall comply with the reporting requirements of the Act and all relevant authorities in respect of its operations and financial affairs and likewise shall submit reports, budgets and any other information required to be supplied by virtue of provisions of contracts or agreements with the Council or any other body.

31. CONSENT OF MINISTER

The prior consent of the Minister will be obtained if Rule 29.2 is to be altered to permit the distribution of residual assets on the winding up of the Association other than for a charitable purpose.

