Warrigal

Inspiring communities
for older people

Warrigal Care Limited Constitution

Incorporating amendments passed at the company's AGM on 26 October 2026

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1. The company

1.1 Name of the company

The name of the *company* is Warrigal Care Limited or if the name is lawfully changed in accordance with the *Corporations Act* and this constitution, that name.

1.2 Nature of the company

The *company* is a public company limited by guarantee.

2. Definitions and interpretation

2.1 Definitions

In this constitution, unless the context suggests otherwise, the following definitions apply:

ACNC	means the Australian Charities and Not-for-profits Commission and its successor;
ACNC Act	means the Australian Charities and Not-for-profits Commission Act 2012 (Cth) and includes any regulations or Governance Standards made under that Act;
AGM	the annual general meeting held each year as required by the *Corporations Act* and this constitution;
Aged Care Legislation	means: (a) the Aged Care Act 2024 (Cth); (b) the Aged Care Rules 2025 (Cth); and (c) all regulations or Governance Standards made under those legislative instruments;
approved leave	a leave of absence that has been approved by the *board*;
appointed director	a director of the *company* appointed by the *board* under clause 14.2;
ASIC	Australian Securities and Investments Commission;
auditor	an auditor of the *company* appointed in accordance with clause 27;

board	the board of *directors* of the *company* elected or appointed in accordance with this constitution;
business day	any day on which trading banks are open for business in New South Wales, except Saturday, Sunday and public holidays;
CEO	Chief Executive Officer;
claim	any action, claim, suit, demand, proceedings, damages or statutory procedure for the recovery of money;
chairperson	the chairperson of the *company* elected under clause 15.3;
company	has the meaning in clause 1.1;
Corporations Act	the *Corporations Act 2001* (Cth) as amended from time to time and any regulations made under that Act;
deputy chairperson	a deputy chairperson of the *company* as elected under clause 15.3.1;
DGR	deductible gift recipient;
director	a director of the *company* elected or appointed in accordance with this constitution;
elected director	a director of the *company* elected by the *members* under clause 15 (including the *chairperson* and *deputy chairperson*) or appointed to fill a casual vacancy in such a position under clause 15.4;
employee	any person who is engaged by the *company* for the provision of personal services for remuneration including a person specifically engaged for the provision of personal services for remuneration via an interposed entity;
extraordinary resolution	in the case of a vote or resolution of the *board,* a vote or resolution that has been passed by at least 75% of the votes cast by *directors* entitled to vote on the vote or resolution;
financial year	the year commencing on the first day of July in each year and ending on the last day of June in the following calendar year;
life member	a person admitted as a *life member* by the *board* under clause 6;

member	any person registered as a member of the *company* pursuant to this constitution, including *life members;*
Member Conduct Code	the terms of any code of conduct or charter that has been adopted or varied by the *board* and is applicable to *members* from time to time;
month	a calendar *month;*
natural person	means an individual human being;
nomination form	a nomination form for membership of the *company* which must be in writing and may be in any form as the *board* may from time to time decide;
officer	has the meaning given to it in the *Corporations Act;*
register	the register of *members* kept in accordance with the *Corporations Act* and this constitution;
registered office	the registered office of the *company;*
representative	a natural person appointed under clause 7.1 to represent any *member* who is not a natural person;
secretary	the person appointed as secretary of the *company* as required by the *Corporations Act* and this constitution*;*
special resolution	a resolution: • of which notice as set out in s 249L(c) of the *Corporations Act* has been given; and • that has been passed by at least 75% of the votes cast by *members* entitled to vote on the resolution.

2.2 Interpretation

In this constitution, unless the context requires otherwise:

2.2.1 the singular includes the plural and vice versa;

2.2.2 where an expression is defined in the constitution, any other grammatical form of the expression has a corresponding meaning;

2.2.3 words and expressions defined in the *Corporations Act* have the same meaning in this constitution;

2.2.4 headings are for purposes of convenience only and do not affect the interpretation of this constitution;

2.2.5 a reference to a statute or regulation includes all amendments, consolidations or replacements of the statute or regulation;

2.2.6 a reference to a clause is a reference to a clause of this constitution;

2.2.7 a reference to this constitution or another instrument includes all amendments or replacements of this constitution or the other instrument;

2.2.8 a reference to a statutory or other body that ceases to exist or the powers and functions of which are transferred to another body includes a reference to the body:

(a) that replaces it; or

(b) to which substantially all the powers and functions relevant to the constitution are transferred,

2.2.9 the notes to this constitution:

(a) are for purposes of convenience only and do not affect the interpretation of this constitution; and

(b) do not form part of this constitution and may be removed or modified without the *company* complying with this constitution or the *Corporations Act*'s requirements that apply to removal or modification of constitutional provisions;

2.2.10 this constitution shall be read and constructed subject to the provisions of the *Corporations Act* and to the extent that any of the provisions in this constitution are inconsistent with the compulsory provisions of the *Corporations Act* such provisions of this constitution shall be deemed inoperative and of no effect to the extent of the conflict.

2.3 Replaceable rules

The replaceable rules referred to in the *Corporations Act* do not apply to the *company* and are replaced by the rules set out in this constitution.

Corporations Act Commentary
For details of the operation of replaceable rules: see s 135(2).

3. Objects and powers

3.1 Objects of the company

The objects of the *company* are:

3.1.1 to establish and operate aged care and other services for older persons as and where the *board* may from time to time decide;

3.1.2 to promote and provide care, accommodation and other services, for older persons and others who may require the services of the *company*;

3.1.3 to establish, maintain, improve and manage clinics, hospitals, aged care facilities, hostels, day respite centres, medical centres, retirement villages, administrative premises and other capital assets that can be used for the provision of and support of aged care and other services;

3.1.4 to provide home care services and community support to older persons including domestic cleaning, transport, social outings, personal care, maintenance, emergency respite and day respite services;

3.1.5 to undertake such other measures for the assistance and advancement of older persons and others as the *board* may determine from time to time; and

3.1.6 the *company* may do all things incidental and act in any manner consistent with furthering the objects described in this clause 3.

3.2 Powers of the company

The company has the capacity and all of the powers of a natural person.

4. Property and income of the company

4.1 Application of income and property

The income and property of the *company:*

4.1.1 must be applied solely towards the promotion of the objects of the *company* set out in this constitution; and

4.1.2 shall not be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the *members*.

4.2 Benefits and advantages

Subject to clause 4.4 and clause 14.6, a *member*, whether or not they are a *member* of the *board* or any committee of the *company,* shall not be entitled to derive directly or indirectly, any profit, benefit or advantage from the *company.*

4.3 Payments to directors

Subject to clause 14.6 a *director* shall not:

4.3.1 hold or be appointed or elected to an office of the *company* paid by salary or wages or a similar basis of remuneration; or

4.3.2 receive from the *company* remuneration or other benefit in money.

4.4 Exceptions

Subject to clause 4.3, nothing in this constitution shall prevent the payment:

4.4.1 to *directors* as permitted by clause 14.6;

4.4.2 in good faith of reasonable and proper remuneration to any *member* in return for services rendered to the *company;*

4.4.3 of interest (at a rate not exceeding interest at the rate for the time being charged by the *Company's* bankers for overdrawn accounts) on money lent by a *member* to the *company*; or

4.4.4 of reasonable and proper rent for premises leased or licensed by any *member* to the *company,*

provided that:

4.4.5 no *member* is paid as an *employee;* and

4.4.6 all payments made in accordance with this clause 4.4 are approved by the *board.*

4.5 Interest

The rate of interest payable in respect of money lent by *members* to the *company* shall not exceed the lowest rate paid for the time being by the Commonwealth Bank of Australia in respect of term deposits of an amount equivalent to the amount of the loan.

5. Membership

5.1 Membership numbers

The number of *members* shall not exceed 80 unless the *board* resolves to register an increase of *members*.

5.2 Criteria for membership

The following are eligible to be *members:*

5.2.1 any person in a category of persons that the *board* has determined to be eligible to be *members*,

except that any *employee* or person who has been an *employee* at any time in the 12 months prior to nomination cannot be a *member.*

5.3 Nomination for membership

5.3.1 Every applicant for membership ('*applicant*') must be nominated by a *member* and seconded by another *member* ('*nominators*')*.*

5.3.2 At least one of the *nominators* must also be a *director* at the time the nomination is made.

5.3.3 The *nominators* must obtain from the *registered office* a *nomination form* which must be returned to the *board,* complete with particulars of:

(a) the *applicant's* full name, address, age and occupation;

(b) the *nominators'* reasons for nominating the *applicant;*

(c) the expertise and benefits the *applicant* proposes to bring to the *company;*

(d) the signatures of the *nominators* but not of the *applicant;* and

(e) such other particulars as may be prescribed by the *board* from time to time.

5.4 Application for membership

5.4.1 Upon receiving the *nomination form,* the *board* shall consider the nomination and determine whether or not to provide the *nominators* with an *application form* for the *applicant.*

5.4.2 If an *application form* is provided to the *nominators,* the *nominators* and the *applicant* must complete the form and return it to the *board.*

5.4.3 The *secretary* must submit the *application form* to the *board* for approval at the next meeting of the *board.*

5.4.4 The *board* must vote 'yes' or 'no' on the application.

5.4.5 If by simple majority the *board* approves the application, the *applicant* will be admitted as a *member.*

5.4.6 The *board* may reject any application for membership without providing any reasons for that rejection.

5.4.7 The *secretary* must promptly give notice to each:

(a) elected *applicant* of their election; and

(b) rejected *applicant* of their unsuccessful application.

5.5 Rights and obligations of members

5.5.1 Every person who has been elected pursuant to this clause 5 shall:

(a) become a *member* and will be bound by this constitution of the *company* in force from time to time;

(b) have all the rights granted to them under this constitution and the *Corporations Act*;

(c) comply with the *Member Conduct Code*; and

(d) notify the *secretary* in writing of any change in their contact details within 7 days after the change.

5.5.2 A *member's* rights and obligations are personal and are not transferable.

6. Life membership

6.1 Definition

A *life member* is a *member* who has:

6.1.1 rendered at least 10 years meritorious or voluntary service to the *company*;

6.1.2 not been an *employee* in the 10 years prior to being nominated as a *life member,* however, the *board* may waive this requirement at its discretion in exceptional cases; and

6.1.3 been made a *life member* in accordance with clause 6.2.

6.2 Procedure for admission

6.2.1 *Members* eligible to be *life members* must be nominated by a *member* and seconded by another *member,* both of whom are personally known to the *applicant* ('*nominators*').

6.2.2 At least one of the *nominators* must also be a *director* at the time the nomination is made.

6.2.3 A nomination for life membership must be in writing in such form as the *board* may require from time to time and submitted to the *board* at or before the *board's* next meeting without the knowledge of the nominated *life member.*

6.2.4 The *board* must vote 'yes' or 'no' on the nomination at that *board* meeting.

6.2.5 If by *extraordinary resolution* the *board* approves the nomination, the *member* will be admitted as a *life member.*

6.3 Rights of life members

Life members:

6.3.1 have all the rights of a *member*;

6.3.2 will be listed in each annual report of the *company* unless they request in writing that they not be listed.

7. Representatives of members

7.1 Appointment of representative

If a *member* is not a natural person, they must appoint a natural person (being a partner, director or officer of the *member* or such other person approved by the *board*) *('representative')* to represent the *member* and otherwise enable the *member* to carry out its powers under this constitution, including voting at general meetings and the *AGM*.

7.2 Notice of appointment

7.2.1 The *member* must give written notice to the *secretary* of the appointment of a *representative* under clause 7.1.

7.3 Revocation of appointment

7.3.1 A *member* may revoke the appointment of a *representative* by giving written notice to the *secretary* of the revocation provided that they must notify of the appointment of a replacement *representative* at the same time.

7.4 Objection

7.4.1 If the *board* notifies a *member* that they object to an appointment of a *representative*, the *member* must immediately revoke the appointment of the *representative* and give written notice of the appointment of an alternative *representative.*

7.5 Bound by actions of representative

A *member* shall be bound by its *representative* appointed under clause 7.1 and the *board's* opinion of the scope of the *representative's* authority to bind the *member* shall be final and conclusive.

8. Payments by members

8.1 Payments by members

Any payments payable by *members* shall be as the *board* may from time to time prescribe.

9. Votes of members

9.1 Entitlement to vote at general meetings

Subject to the provisions of this constitution (including in respect of suspension and termination) every *member* is entitled to 1 vote at any general meeting of the *company*:

9.1.1 in person; or

9.1.2 by proxy.

9.2 Voting by proxy

9.2.1 A *member* or their attorney may appoint a proxy.

9.2.2 A proxy must be appointed in writing in the form attached at Schedule 1 or in a form approved by the *board* and included in any notice of meeting.

9.2.3 The document appointing a proxy shall be deemed to confer power to demand or join in on demanding a poll in accordance with clause 28.5.

9.2.4 A *member* shall be entitled to instruct a proxy to vote in favour of or against any proposed resolutions, but if the proxy is not so instructed, the proxy may vote as they see fit.

9.2.5 The document appointing a proxy must be lodged at the *registered office* or at a place specified in the notice of the meeting concerned at least:

(a) 48 hours before the time of the meeting; or

(b) 24 hours before a poll in the case of a poll,

otherwise the document of proxy shall be deemed invalid.

9.2.6 A vote given by a proxy shall be valid even if the *member* who appointed the proxy:

(a) dies;

(b) becomes of an unsound mind; or

(c) revokes the instrument appointing the proxy,

unless written notice of that event happening is lodged at the *registered office* before the commencement of the meeting concerned.

9.3 Method of voting at general meetings

Every *member* (including their proxy or attorney) when eligible to vote shall be entitled to vote both on a show of hands and by poll and shall have one vote.

10. Register of members

10.1 Register of members

The *company* must keep an up-to-date *register.*

10.2 Change of member address

Members must advise the *secretary* in writing of any change in their address within 7 *days* of changing their address as recorded in the *register.*

11. Membership disciplinary proceedings

11.1 Power to reprimand, suspend or expel

Subject to this clause 11, the *board* may reprimand, suspend, expel or accept the resignation of any *member,* if that *member*, in the reasonable opinion of the *board*:

11.1.1 has refused or neglected to comply with any of the provisions of this constitution;

11.1.2 has refused or neglected to comply with the *Member Conduct Code*;

11.1.3 is guilty of any conduct prejudicial to the interests of the *company*; or

11.1.4 is guilty of conduct which is unbecoming of a *member.*

11.2 Notification of conduct

The *secretary* must give 7 *days* written notice to a *member* of:

11.2.1 any charge against the *member* pursuant to clause 11.1;

11.2.2 the substance and circumstances of the charge (including the date of the conduct the subject of the charge); and

11.2.3 the date, time and place of the hearing of the charge,

and the hearing must take place within 1 *month* of the date of the alleged offence or the date on which the charge is laid, whichever is the latest.

11.3 Right of appearance at conduct meeting

The *member* charged will be entitled to:

11.3.1 attend the hearing and make oral submissions for the purpose of answering the charge;

11.3.2 be in attendance at the hearing to hear any evidence of others in relation to the charge; and

11.3.3 submit to the meeting written representations for the purpose of answering the charge,

and the *board* must make a decision based on any written, visual or oral evidence put before it.

11.4 Suspension pending conduct hearing

If a notice of charge is issued to a *member* pursuant to clause 11.2, the *board* may, by resolution, suspend that *member* from all rights and privileges as a *member* of the *company:*

11.4.1 until the charge is heard and determined; or

11.4.2 for 5 weeks,

whichever is the earlier, and the *secretary* must promptly notify the *member* of the suspension.

11.5 Failure by member to appear at conduct meeting

If the *member* fails to attend the conduct meeting:

11.5.1 the charge may be heard and dealt with by the *board*; and

11.5.2 the *board* may make a decision based on the evidence before it, having regard to any representations which may have been made to it in writing by the *member* charged.

11.6 Procedure for determination by the board

After the *board* has considered the written, visual or oral evidence (as the case may be) put before it, the *board* must come to a decision as to whether the *member* is guilty or not of the charge:

11.6.1 if the *member* charged is at the meeting, the *board* must inform the *member* whether or not they have been found guilty of the charge;

11.6.2 if the *member* charged has been found guilty and is at the meeting, the *member* must be given a further opportunity at the meeting to address the *board* in relation to the

appropriate penalty for the charge of which the *member* has been found guilty; and

11.6.3 if the *member* charged has been found guilty and is not at the meeting, the *board* may determine an appropriate penalty for the charge in the absence of the *member*, and the *secretary* must promptly inform the *member* in writing of the *board's* decision.

11.7 Decision of the board

11.7.1 No motion by the *board* to reprimand, suspend or expel a *member* shall be passed unless a majority of the *directors* present in person vote in favour of such motion.

11.7.2 The decision by the *board* will be final and the *board* shall not be required to give any reason for its decision.

11.8 Election to conduct hearing at general meeting

11.8.1 The *member* charged may elect to have the hearing dealt with by the *company* in general meeting, provided that *member* gives written notice to the *secretary* of his or her election at least 24 hours before the scheduled hearing.

11.8.2 If the *member* charged makes the election in clause 11.8.1:

(a) a general meeting shall be called for the purpose of hearing the charge;

(b) the *members* present at the general meeting must vote 'yes' or 'no' on the expulsion; and

(c) if two thirds of the *members* present at the general meeting vote for the expulsion, the *member* charged shall be expelled and have his or her name removed from the *register.*

11.9 Effect of suspension

If a *member* is suspended pursuant to clause 11.4, then during the period of such suspension they will not be entitled to:

11.9.1 attend at the *registered office* for any purpose without the permission of the *board*;

11.9.2 attend or vote at any meeting of the *company;*

11.9.3 vote in the election of the *board*;

11.9.4 nominate, be elected or appointed to or hold a position on the *board;*

11.9.5 propose, second or nominate any eligible *member* for any office of the *company;*

11.9.6 propose, second or nominate any eligible *member* for life membership; or

11.9.7 participate in the management of the *company*.

12. Resignation and termination of membership

12.1 Written notice of resignation

A *member* may at any time, by giving notice in writing to the *secretary,* resign from their membership of the *company* and the resignation will take effect from the date on which the notice is received by the *secretary.*

12.2 Termination upon employment with the *company*

If a *member* becomes an *employee*, that *member's* membership is automatically terminated and their name must be removed from the *register.*

12.3 Termination upon loss of contact

The *board* may terminate a *member's* membership if it is of the opinion that the *company* has lost contact with that *member* and no current valid address is available for that *member.*

12.4 Termination upon non-payment

The *board* may terminate a *member's* membership if any money owed by the *member* to the *board* remains outstanding for more than 60 days.

12.5 Death or mental incapacity

A *member* will immediately cease to be a *member* upon the occurrence of any of the following:

(a) the death of the *member*;

(b) the *member* becoming of unsound mind or a person whose person or assets are liable to be dealt with under a law relating to mental health; or

(c) a court or tribunal determining that the *member* lacks capacity to manage their own affairs.

12.6 Non-compliance

The *board* may terminate a *member's* membership in accordance with the procedure set out in clause 11.

13. Application of property on dissolution

13.1 Member's liability

The liability of the *members* is limited as set out in this clause 13.

13.2 Member's guarantee

Each *member* undertakes to contribute an amount not exceeding $50 if the *company* is wound up:

13.2.1 while they are a *member*; or

13.2.2 within one year of the date that they cease to be a *member.*

13.3 Application of contribution

The contribution referred to in clause 13.2 shall be for the:

13.3.1 payment of the debts and liabilities of the *company* contracted before the *member* ceased to be a *member;* and

13.3.2 costs, charges and expenses of winding up.

13.4 Revocation of endorsement or winding up

If the *company's* endorsement as a *DGR* is revoked or on the winding up or dissolution of the *company* (whichever occurs first), any surplus of the following assets must be transferred to another organisation with similar objects, which is charitable at law, to which income tax deductible gifts can be made:

13.4.1 gifts of money or property for the principal purpose of the *company* received;

13.4.2 contributions made in relation to an eligible fundraising event held for the principal purpose of the *company;* and

13.4.3 money received by the *company* because of such gifts and contributions,

during any time that the *company* is endorsed as a *DGR.*

13.5 Distribution

Any assets remaining after complying with clause 13.4:

13.5.1 must not be paid to *members*; and

13.5.2 will be given or transferred to such other fund, or organisation which has:

(a) objects similar to the objects of the *company*; and

(b) a constitution which prohibits the distribution of its income and property among its members to an extent at least as great as is imposed on the *company* under clause 4.1 of this constitution,

in addition to the provisions of clause 13.4 relating to specific property and money.

13.6 Decision as to relevant institutions

Choosing which institution or institutions the *company* will transfer property to under clauses 13.4 or 13.5 must be done by:

13.6.1 the *members* in general meeting (by ordinary resolution) at or before the time of the *company's* dissolution;

13.6.2 in the case of revocation of the *company's DGR* endorsement, the *members* in general meeting (by *special resolution)* as soon as practicable after notification of revocation; and

13.6.3 if no such resolution is passed, then by the Supreme Court or such other court of competent jurisdiction.

14. Board of directors

14.1 Composition of the board

14.1.1 The *board* shall consist of:

(a) 7 *elected directors* or such additional number of *elected directors* as determined by the *board*; and

(b) no more than 2 appointed directors.

14.1.2 The composition of the *board* must comply with all requirements of the *Aged Care Legislation*.

Aged Care Legislation Commentary

section 157(2) of the Aged Care Act (Cth) 2024 requires that a majority of the *board* are independent non-executive *directors* and that at least one *director* of the board has experience in the provision of clinical care. 'Independent' is not defined, and instead, reference is directed to Principle 2 of the ASX Corporate Governance Principles and Recommendations.

14.2 Appointed directors

14.2.1 The *board* may appoint no more than 2 persons as *appointed directors*.

14.2.2 *Appointed directors* must meet any criteria relating to the composition of the *board* and skills and qualifications that have been determined by the *board.*

14.2.3 *Appointed directors* do not need to be *members*.

14.2.4 *Appointed directors* must not be *employees.*

14.3 Term

14.3.1 Subject to clause 14.3.3:

(a) the *elected directors* shall hold their respective offices for a period not exceeding 3 years, after which they must retire but may seek re-election; and

(b) the *appointed directors* may be appointed for such terms (each term not exceeding 3 years) and on such conditions as the *board* determines.

14.3.2 The appointment of an *appointed director* does not need to be confirmed at the next *AGM.*

Corporations Act Commentary

clause 14.3.2 displaces s 201H(3) - a replaceable rule that requires appointed directors to be confirmed by a resolution at the next *AGM*.

14.3.3 Except as provided by clauses 14.3.4 and 14.3.7, no *director* shall serve as a *director* for more than an aggregate of 9 years (inclusive of time served as an *elected director* and an *appointed director*).

14.3.4 Despite clause 14.3.3, the *board* may by an *extraordinary resolution* extend the tenure of any *elected director* who has served for 9 years as a *director* (inclusive of time served as an *elected director* or *appointed director*) for one or more periods up to 1 year in duration (but not exceeding 2 years in aggregate).

14.3.5 Any *director* granted an extension of tenure under clause 14.3.4 continues as an *elected director* during the period of extension in their then current term as an *elected director* and remains subject to election by the *members* at the end of their then current term.

14.3.6 The relevant *director* is not entitled to vote, is not counted for the quorum of the relevant meeting and must absent themselves from the meeting during the relevant discussion and voting in respect of an *extraordinary resolution* under clause 14.3.4.

14.3.7 Where any *director's* aggregate tenure at the time of the adoption of this constitution already exceeds 9 years, their tenure shall end at the conclusion of their current term, and they will not be eligible for further extension of tenure under clause 14.3.4 at the end of that current term.

Commentary

There may be circumstances where the *board* considers the services of an *elected director* whose 9 year tenure is ending are necessary or useful for the *board* and the *company*. Clause 14.3.4 allows the *board* to extend that *director's* tenure for a maximum of 2 years, subject to continued election by the *members* if the *director's* 3 year term ends during the period of extension.

14.4 Retirement at AGM

14.4.1 Despite clause 14.3, at least one third (rounded down to the nearest whole number) of the *elected directors* on the *board* must retire at each *AGM.*

14.4.2 If the *board* cannot by agreement decide upon who shall retire at the *AGM,* then all *elected directors* on the *board* shall retire.

14.4.3 Any *director* who retires under clause 14.4.1 or clause 14.4.2 shall be eligible for re-election to any position on the *board.*

14.5 Eligibility Criteria

14.5.1 To be eligible for election or appointment as a *director* a person must:

(a) be at least 18 years old;

(b) not be ineligible to be or disqualified as a director of a company under the *Corporations Act* or the *ACNC Act;*

(c) be found by the *board* (or its delegate) to meet the suitability requirements of a responsible person under the *Aged Care Legislation*;

(d) not be an employee of the *company;*

(e) in the case of *elected directors*, be a *member* or a *representative*;

(f) consent to be a *director* in writing; and

(g) meet any other criteria relating to the composition of the *board* and skills and qualifications of *directors* from time to time.

14.5.2 Subject to clause 14.5.1 any *member* or *representative* (where the *member* is not a natural person) is entitled to stand for and be elected or appointed to the *board* provided that they are or in the case of the *representative*, their relevant *member* is not currently under suspension pursuant to clause 11.

14.6 Remuneration

14.6.1 The *directors* may in the aggregate be paid such maximum remuneration for a *financial year* (or part) as approved by a resolution of the members in general meeting (‘*remuneration resolution’*).

14.6.2 The *board* may determine the allocation of the aggregate maximum amount of remuneration approved by the *remuneration resolution* (‘*remuneration pool’*) among the *directors.* If the *board* does not determine the allocation of the *remuneration pool,* the *remuneration pool* must be allocated equally amongst the *directors*, provided that remuneration for a *director* will be pro-rated if a director does not serve as a *director* for the whole of the relevant period of the *financial year* (or part) that has been approved under clause 14.6.1.

14.6.3 The *remuneration pool* will be inclusive of any statutory superannuation payable by the *company* to the *directors.*

14.6.4 The sum of the amounts of remuneration determined by the *board* to be payable to individual *directors* under clause 14.6.2 need not be the full amount of the *remuneration pool.*

14.6.5 The *directors’* annual remuneration accrues daily from the date that the *remuneration resolution* is passed to the day that the *members* in general meeting next determine the *directors’* remuneration.

14.6.6 For the avoidance of doubt, the *remuneration pool* excludes and does not limit:

(a) the indemnification of a *director* under clause 32.1

(b) the payment of a policy of insurance under clause 32.2 under which a director may gain benefit as an insured party;

(c) the *company* properly incurring professional development expenses to support its *directors* in their skill development for the benefit of the company and from which skill development a *director* may gain personal benefit.

15. Election of the elected directors

15.1 Procedure for nomination and election

15.1.1 A *member* or *representative* may seek to be nominated by the *board* for election as an *elected director* by submitting to the *secretary:*

(a) a document in the form specified by the *board* for this purpose setting out:

(i) their qualifications and eligibility to be an *elected director;*

(ii) their skills, knowledge and experience and the relevance of the same to discharging their duties as an *elected director;*

(iii) whether they have any interest or are aware of any matter which would affect their independence;

(iv) whether they hold office or have an interest in property, whether directly or indirectly, duties or interests may be created that could conflict with the interests of a *director* of the *company;*

(v) such matters as are necessary to determine whether they meet the suitability requirements of a responsible person prescribed by the *Aged Care Legislation;*

(vi) such other matter the *board* reasonably requires; and

(b) a written consent to act as *director* in the form required by the *board.*

15.1.2 The documentation submitted in accordance with clause 15.1.1 must be received by the *secretary* at least 60 days before the *AGM* at which the election is to take place.

15.1.3 The *secretary* must submit all nominations to the *board.* The *board* may reject a nomination if one or more of the following applies:

(a) the *board* is not satisfied that the nominee is eligible to be a *director;*

(b) having regard to the relevant considerations including the range of skills, knowledge and experience on the board and the requirements of

the *Corporations Act,* the *Aged Care Legislation,* the *board* considers that the nominee is not qualified to be a *director* and/or their skills, knowledge and experience do not satisfy a present need of the *board* or the *company;*

(c) the *board* considers that, following assessment of the nominee in accordance with the suitability requirements of a responsible person under the *Aged Care Legislation,* that the nominee is not suitable; or

(d) the board considers that the nominee has an interest which may interfere with the exercise of their independent judgment.

15.1.4 The functions of the *board* under clause 15.1.3 may be delegated to a committee of the *board* convened for that purpose.

15.1.5 A *director* who is standing for election at the meeting at which the relevant election is scheduled to occur is not entitled to be present for the *board's* deliberation under clause 15.1.3 and is not entitled to vote in respect of the *board's* determination. The board's determination on the matter is final.

15.1.6 If the *board* accepts a nomination, the nominee will be submitted for election in accordance with clause 15.2.

15.2 Election of elected directors

15.2.1 The *members* may elect a member or representative nominated under clause 15.1 to be an *elected director* at the *AGM* in accordance with the election process determined by the *board* and otherwise in accordance with section 201E of the Corporations Act.

15.2.2 An accidental omission or error in the conduct of any election that does not materially affect the result of the election does not invalidate the election of an *elected director.*

Corporations Act Commentary

s 201E provides that a resolution passed at a general meeting of the *company* appointing or confirming the appointment of 2 or more directors is void unless
(a) the meeting has resolved that the appointments or confirmations may be voted on together; and
(b) no votes were cast against the resolution.

15.3 Chairperson and deputy chairperson

15.3.1 The *board* shall elect a *chairperson* and 1 *deputy chairperson* from the *elected directors* at the first meeting of the *board* after election at the *AGM*.

15.3.2 The *chairperson* and *deputy chairperson* can hold office in each of these positions for a maximum term ending at the earlier of:

(a) the date that they cease to be a *director*; and

(b) the end of the first meeting of the *board* after the next *AGM* after election in the position under clause 15.3.1.

15.3.3 If the office of *chairperson* becomes vacant for any reason, the *board* must elect a new *chairperson*.

15.3.4 If the office of the *deputy chairperson* becomes vacant for any reason, the *board* may elect a new *deputy chairperson.*

15.3.5 A casual vacancy in the office of:

(a) *chairperson* must be filled by the *deputy chairperson* by resolution of the *board* unless that person is unable or unwilling to act as *chairperson*, in which case must be filled by an *elected director* by resolution of the *board*; and

(b) the *deputy chairperson* must be filled by an *elected director* by the resolution of the *board*,

with such casual vacancy position held until the election of *chairperson* and *deputy chairperson* by the *directors* at the first *board* meeting after the next occurring *AGM*.

15.4 Casual vacancies – elected directors

15.4.1 The *board* may, from time to time, appoint any *member* or *representative* as a *director* to fill a casual vacancy in the office of an *elected director,* provided that the number of *elected directors* does not exceed the total prescribed in 14.1.

15.4.2 Any *director* appointed in accordance with this clause 15.4 is taken to be an *elected director* and shall hold office only until the next *AGM.*

16. Chief executive officer

16.1 Chief executive officer

The *board* shall from time to time appoint a chief executive officer ('*CEO*') for such a period and on such terms as they think fit.

16.2 Remuneration of the *CEO*

The *CEO* shall receive remuneration and benefits as the *board* may from time to time determine.

16.3 Role of the *CEO*

The *CEO*:

16.3.1 shall be responsible for the general management of the *company* and its subsidiaries.

17. Company secretary

17.1 The *board* shall from time to time appoint a company secretary for such a period and on such terms as they think fit.

18. Powers of the board

18.1 General powers

The *board* shall:

18.1.1 manage the business and affairs of the *company* and the custody and control of its property and funds; and

18.1.2 exercise its powers and do all such things that the *company* is by this constitution or otherwise authorised to exercise and do and which is not required to be exercised by the *company* in general meeting.

Corporations Act Commentary
A number of matters cannot be determined by the *board* and must be approved by the members in general meeting, including: • changes to the *company's* constitution – s 136 • changes to the *company's* name – s 157 • change of company type – s 162(1)(a) • variation or cancellation of the rights of members – s 246B • issue of shares amounting to a variation of class rights – s 246C • share issues by public companies to related parties – Chapter 2E

- certain share buybacks – s 257B
- reductions of share capital – s 256B
- cancellation of forfeited shares – s 258D
- removal of *directors* – s 203D
- appointment and removal of auditors – ss 327 and 329
- the giving of a financial benefit by the *company* to a related party – s208
- winding up of the *company* – s 461(1)(a)

18.2 Acts of the board

All acts done by any meeting of the *board* shall, even if it is subsequently discovered that there was some defect in the appointment of the *board* or a member of the *board,* be valid as if every such person had been duly appointed and was qualified to be a member of the *board.*

18.3 Compliance

The *directors* must comply with their duties as directors under legislation and common law. For as long as the *company* is registered as a charity with the *ACNC* the *company* must ensure that the *directors* also comply with the requirements described in the applicable Governance Standards made under the *ACNC Act*.

Governance Standards Commentary

Governance Standard 5 of the regulations made under the *ACNC Act* requires the *company* to ensure that the directors:
(a) exercise their powers and discharge their duties with the care and diligence that a reasonable person would exercise if they were a director of the *company;*
(b) act in good faith in the best interests of the *company* and to further the charitable purpose of the *company;*
(c) do not misuse their position as a *director;*
(d) do not misuse information that they gain in their role as a *director;*
(e) disclose any actual, potential or perceived conflicts of interest (including any material conflicts of interest);
(f) ensure that the financial affairs of the *company* are managed responsibly; and
(g) do not allow the *company* to operate while insolvent.

19. Committees and advisory committees

19.1 Committees

In addition to the powers in clause 18.1 , the *board* shall have power from time to time to delegate any of its powers to one or more:

19.1.1 committees*;* and

19.1.2 advisory committees

consisting of any combination of:

19.1.3 *directors;*

19.1.4 *members;*

19.1.5 employees; and

19.1.6 any other person who is not a *member* but who has a particular skill or expertise or attributes which they will contribute to a committee.

19.2 Advisory committees

Any advisory committee established in accordance with clause 19.1 shall act in an advisory capacity only.

19.3 Revocation of committees

The *board* shall have the power from time to time to revoke any delegation to committees established in clause 19.1.

19.4 Operation of committees

Any committee formed under clause 19.1 shall, in the exercise of the powers so delegated, conform to any regulation or restriction that the *board* may from time to time impose.

19.5 *Chairperson* a member of all committees

The *chairperson* shall be ex officio a member of all such committees and may nominate a *director* to represent them on such committees.

19.6 Meetings of committees

19.6.1 Any committee may meet and adjourn as it thinks proper.

19.6.2 Questions arising at any meeting of a committee shall be determined by a majority of votes of the *members* of the committee present and in the case of an equality of votes the chairperson of the meeting shall have a second and casting vote.

19.7 Minutes of meetings of committees

Any committee shall make minutes of its meetings and will submit those minutes to the *board* and the *board* will retain those minutes as if they were minutes of the *board.*

19.8 Acts of committees

All acts done by any meeting of a committee shall, even if it is subsequently discovered that there was some defect in the appointment of any such committee or a committee member, be valid as if every such person had been duly appointed and was

qualified to be a committee *member.*

20. Board meetings

20.1 Calling of board meetings

20.1.1 The *board* may organise, adjourn and otherwise regulate its meetings as it sees fit for the transaction of business of the *company*.

20.1.2 A *director* may at any time, and the *secretary* shall, on the requisition of a *director,* convene a meeting of the *board.*

20.1.3 A *director* may call a meeting by giving reasonable notice individually to every other *director.*

20.2 Quorum

20.2.1 The quorum for *board* meetings shall be the greater of:

(a) the majority of the total number of *directors* of the *company* who are not on approved leave at the time of the meeting; or

(b) such number fixed by the *board.*

20.2.2 In determining the quorum, any *directors* of the *company* who are on *approved leave* shall be disregarded.

20.3 Continuing directors

The *board* may act despite any vacancy in the *board,* so long as the number of *board* members is not reduced below the quorum fixed in clause 20.2*,* however, *directors* may act where the quorum is not met for the purposes of:

20.3.1 increasing the number of *directors* to the quorum of the *board;* or

20.3.2 convening a general meeting of the *company,*

but for no other purpose.

20.4 Chairperson at board meetings

20.4.1 The *chairperson* shall chair every meeting of the *board.*

20.4.2 If the *chairperson* is not present or is unwilling or unable to act, then a *deputy chairperson* shall chair the *board* meeting.

20.4.3 If a *deputy chairperson* is not present or is unwilling or unable to act, then the *directors* present shall elect a *director* to chair the *board* meeting

20.5 Voting at board meetings

20.5.1 Questions arising at any *board* meeting shall be decided by a majority of votes and a determination by a majority of the *board* shall for all purposes be deemed a determination of the *board.*

20.5.2 If there is an equality of votes, the chairperson of the meeting shall have a second and casting vote.

20.6 Minutes

A record of all *directors* present at each *board* meeting and minutes of all resolutions and proceedings of the *board* shall be entered and maintained in records kept in accordance with clause 29.

20.7 Written resolutions of the board

20.7.1 A resolution in writing signed by all *directors* is a valid resolution of the *board.*

20.7.2 The resolution may consist of several documents in the same form each signed by one or more of the *directors.*

20.7.3 For the purposes of rule 20.7.1 the reference to "all *directors*" does not include a reference to:

(a) a *director* who, at a meeting of *directors*, would not be entitled to vote on the resolution;

(b) a *director* who disqualifies himself or herself from considering the resolution in question; and

(c) any *director* on *approved leave.*

20.7.4 *Directors* may pass resolutions outside of a *board* meeting in any manner (including through the use of technology) provided:

(a) all *directors,* other than a *director* on approved leave are sent a copy of the resolutions and are given a reasonable time to respond considering the urgency and matters under consideration;

(b) any such resolution is passed by unanimous consent of all *directors* (other than a *director* not eligible to vote, a *director* on an approved leave of absence or a *director* who, despite reasonable efforts is unable to be contacted by the other directors for at least 48 hours after circulation of the resolution); and

(c) such manner complies with the law and any policies and procedures relating to the passing of director resolutions as determined by the *board* from time to time.

20.7.5 A resolution in writing under this clause 20.7 shall be deemed to have been passed at a meeting of the *directors* held on the day and at the time at which the document was last signed or consented to by a *director* and the document shall be deemed to constitute a minute of that meeting and shall be recorded by the *secretary* in the minute book maintained under clause 20.6.

20.8 Remote meeting

20.8.1 Without limiting the power of the *board* to regulate their meetings as they think fit, a meeting of the *board* may be held where one or more of the *directors* is not physically present at the meeting, provided that all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously, whether by means of telephone or other form of communication.

21. Interests by directors

21.1 Declarations of interests

Any *director* who has a material personal interest in a matter that relates to the affairs of the *company*; or receives any gift from an affiliated body of the *company* ('*interested director*') cannot:

21.1.1 vote on that matter; or

21.1.2 be present while the matter is being considered by the meeting,

unless:

21.1.3 the interest does not need to be disclosed under section 191 of the *Corporations Act*;

21.1.4 the *directors* who do not have a material personal interest in the matter have passed a resolution that:

(a) identifies the director, the nature and extent of the director's interest in the matter and its relation to the affairs of the company; and

(b) states that those directors are satisfied that the interest should not disqualify the director from voting or being present; or

21.1.5 *ASIC* has declared under s 196 of the *Corporations Act* that s 195 should not apply in the particular case.

21.2 If there are not enough *directors* to form a quorum for a *board* meeting because of clause 21.1, 1 or more of the *directors* (including those who have a material personal interest in that matter) may call

a general meeting and the general meeting may pass a resolution to deal with the matter.

Corporations Act Commentary
The same prohibition and exceptions are contained in ss 191 and 195 of the *Corporations Act.*

22. Removal of directors from office

22.1 Removal by members in general meeting

The *members* in general meeting may by ordinary resolution:

22.1.1 remove from office any *director*, *directors* or the whole of the *board* before the expiration of their term of office; and

22.1.2 appoint another person or persons in their position or positions provided any person so appointed is eligible to be a *director* in accordance with this constitution.

Any person appointed pursuant to this clause 22.1 shall hold office only until the next *AGM.*

22.2 Notice requirements

22.2.1 Notice of the intention to move a resolution to remove a *director* of the *board* from office must be given to the *company* at least 2 *months* before the meeting at which the resolution is to be considered and voted on.

22.2.2 However, if the *company* calls a meeting after the notice of intention is given, the meeting may pass the resolution even though the meeting is held less than 2 months after the notice of intention is given.

Corporations Act Commentary
s 203D sets out the procedure required in relation to a meeting contemplated by this clause.

23. Vacancies on board

23.1 Automatic vacancy of office

The office of a *director* of the *board* shall automatically be vacated if the person holding that office:

23.1.1 becomes disqualified from holding office as a *director* under the *Corporations Act* or the *ACNC Act*;

Corporations Act Commentary
s 206B sets out the circumstances where a person will be

disqualified from managing a corporation.

23.1.2 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

23.1.3 is absent from meetings of the *board* for a continuous period of 3 *months* without leave of absence from the *board* and the *board* resolves that the office be vacated;

23.1.4 by notice in writing given to the *secretary* resigns from office as a *director;*

Corporations Act Commentary
s 203A is a replaceable rule allowing a director to resign by giving written notice.

23.1.5 ceases to be the *representative* of a *member* and does not become a *representative* of another *member* within 30 days of that cessation;

23.1.6 ceases to be a *member* (except if an *appointed director*) or where they are a *representative,* if the relevant *member* ceases to be a *member;*

23.1.7 is suspended from being a *member* or where they are a *representative*, if the relevant *member* ceases to be a *member*;

23.1.8 becomes an *employee*; or

23.1.9 is the subject of a determination by the *board* that the person is not suitable to be involved in the provision of aged care, in accordance with the suitability requirements under the *Aged Care Act (Cth) 1997*.

24. General meetings

24.1 General meetings

24.1.1 As long as the *company* is registered as a charity with the *ACNC*, and for as long as the law permits or requires, the *board*:

(a) must, despite the fact that the *Corporations Act* dealing with *members'* meetings may not be directly applicable to the *company*, ensure that the *company* holds meetings of *members* (including *AGMs*) in accordance with this constitution and the *Corporations Act;*

(b) must ensure that the *ACNC* Governance Standards are complied with.

Corporations Act Commentary
Regard should be had in particular to Governance Standard 2, which relates to accountability to members.

24.1.2 If there is any inconsistency between the *Corporations Act* and this constitution with respect to the calling and holding of *member's* meetings then, to the extent permitted by law, the provisions of this constitution will prevail.

24.1.3 All meetings other than *AGMs* shall be called general meetings.

24.2 Calling of general meetings

24.2.1 Any director may whenever they consider fit call and arrange to hold a general meeting of the *company*; and

24.2.2 The *board* must call and arrange to hold a general meeting of the *company* on a request that complies with clause 24.3 of *members* with at least 5% of the votes that may be cast at the general meeting *('request')*.

24.3 Request for general meeting

A *request* must:

24.3.1 be in writing;

24.3.2 state any resolution to be proposed at the general meeting*;*

24.3.3 be signed by the *members* making the *request*; and

24.3.4 be given to the *secretary.*

Separate copies of a document setting out the *request* may be used for signing by the members if the wording of the *request* is identical in each copy.

24.4 Board must call general meeting

24.4.1 The *board* must call the general meeting within 21 *days* after the *request* is given to the *secretary.*

24.4.2 The general meeting is to be held not later than 2 *months* after the *request* is given to the *secretary.*

24.5 Members may call general meeting

24.5.1 *Members* with more than 50% of the votes of all the *members* who made the *request* may call and arrange to

hold a general meeting if the *board* do not do so within 21 *days* after the *request* is given to the *secretary.*

24.5.2 A meeting called by the *members* under clause 24.5.1 must be called in the same way, so far as is possible, in which general meetings of the *company* are to be called and must be held not later than 3 *months* after the *request* is given to the *secretary*.

24.6 Obligations of company when general meeting called by members

If the *members* propose to call a general meeting under clause 24.5, the *company* must:

24.6.1 promptly provide a copy of the *register* without charge; and

24.6.2 pay the reasonable costs and expenses of the *members* incurred as a result of the *board's* failure to call and arrange the general meeting.

24.7 Recovery from directors

The *company*:

24.7.1 may recover the amounts paid under clause 24.6.2 from the *directors* of the *company* and the *directors* are jointly and severally liable for these amounts; and

24.7.2 cannot recover any amount paid under clause 24.6.2 from a *director* if that *director* proves that they took all reasonable steps to cause the *board* to comply with clause 24.4 or were on *approved leave* at the time of the request by the *members*.

24.8 Notice of general meetings

At least 21 *days*' notice in writing of an *AGM* or a general meeting must be given to:

24.8.1 all *members* who are entitled to attend and vote at that meeting and have a valid and current mailing address on the *register*; and

24.8.2 the *directors*;

24.8.3 the auditor,

and not any other person.

24.9 Requirements for notice of general meetings

A notice of a general meeting of the *company's members* must comply with the *Corporations Act*.

Corporations Act Commentary

s 249L(1) requires that a notice of general meeting must: (a) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this); (b) state the general nature of the meeting's business; and (c) if a special resolution is to be proposed at the meeting –set out an intention to propose the special resolution and state the resolution.

24.10 Effect of failure to give notice

The:

24.10.1 accidental omission to give notice of a general meeting*;* or

24.10.2 the non-receipt by any person of notice of a meeting,

shall not invalidate any proceedings at a general meeting unless such proceedings are declared void pursuant to the *Corporations Act.*

Corporations Act Commentary
The Court may declare that proceedings at the meeting are void on the application of the person concerned, a person entitled to attend the meeting or ASIC – s 1322

25. AGM

25.1 Business of the AGM

25.1.1 As long as the *company* is registered as a charity with the *ACNC*, and for as long as the law permits or requires, the *company* may determine the timing for the holding of any *AGM*, provided that there is one such meeting held in each calendar year.

25.1.2 Despite clause 25.1.1, where the *company* holds an *AGM*, the ordinary business of that meeting may include consideration of the annual financial report, the *directors'* report and the auditor's report, even if not referred to in the notice of meeting.

25.2 Member participation in AGM

The chairperson of the *AGM* must allow a reasonable opportunity for the *members* as a whole at the meeting:

25.2.1 to ask questions about or make comments on the management of the *company*; and

25.2.2 if the *company's* auditor or a representative of the *company's* auditor is at the meeting, to ask the auditor or the auditor's representative questions relevant to the

conduct of the audit and the preparation and conduct of the auditor's report.

26. Members' resolutions

26.1 Members may submit items of business for AGM

26.1.1 *Members* may submit items of business and notices of motion which they wish to have included in the business of the *AGM.*

26.1.2 All such items of business and notices of motion must be in writing and received by the *secretary* at least 42 *days* prior to the date fixed for the *AGM.*

26.2 Notice of items of business for AGM

The *secretary* shall forward all items of business and notices of motion referred to in clause 26.1 to the *board* and the *board* shall have absolute discretion as to whether to include those items of business and/or notices of motion in the notice of the *AGM*.

27. Auditor

27.1 Auditors

Auditors shall be appointed and their duties regulated in accordance with the *Corporations Act* and their remuneration shall be fixed by the *board.*

Corporations Act Commentary
Part 2M.4 regulates the appointment and removal of auditors.

27.2 Meetings

The *company's* auditor:

27.2.1 shall be given notice of all general meetings at the same time as such notice is given to the *members* and is entitled to attend any general meeting of the *company;*

27.2.2 is entitled to be heard at the meeting on any part of the business of the meeting that concerns the auditor in their capacity as auditor;

27.2.3 may authorise a person in writing as their representative for the purpose of attending and speaking at any general meeting; and

27.2.4 is entitled to be heard even if:

(a) the auditor retires at the meeting; or

(b) the meeting passes a resolution to remove the auditor from office.

28. Procedure at general meetings

28.1 Chairperson

28.1.1 The *chairperson* shall, if present, chair all general meetings of the *company.*

28.1.2 If the *chairperson* is not present within 30 minutes after the time appointed for holding the meeting or is unwilling or unable to act then the *deputy chairperson* shall chair the general meeting.

28.1.3 If the *deputy chairperson* is not present within 15 minutes after the time appointed for holding the meeting or is unwilling or unable to act, then the *members* of the *company* present shall elect a member of the *board* to chair the general meeting.

28.2 Quorum

28.2.1 No business shall be transacted at any general meeting of *members* unless a quorum of *members* is present.

28.2.2 At any general meeting of the *company* (including an *AGM*), 25% of the total number of *members* shall be a quorum.

28.2.3 For the purposes of this clause 28.2, *member* includes a person attending as a proxy or representing a corporation which is a *member.*

28.3 Quorum not present

If a quorum is not present within 30 minutes after the time appointed for the commencement of the meeting, the meeting shall:

28.3.1 be dissolved if it was convened at the request of *members* pursuant to clause 24.5; or

28.3.2 stand adjourned to the same *day* in the next week at the same time and place or to such other *day* time and place as the *board* may determine.

28.4 Quorum at adjourned meeting

If at any meeting adjourned pursuant to clause 28.3.2 a quorum is not present, the *members* who are present shall be a quorum and may transact any business for which the meeting was called.

28.5 Voting at general meeting

Every question submitted to a meeting other than a *special resolution* shall be decided by a simple majority of votes from those *members* who are present and voting and counted on a show of hands unless a poll:

28.5.1 is demanded by the chairperson of the meeting;

28.5.2 is demanded by at least 3 members present at the general meeting in person or by proxy; or

28.5.3 is otherwise required by this constitution.

28.6 Conduct of polls

28.6.1 A poll duly demanded in accordance with clause 28.5 on a matter other than the election of a chairperson or the question of an adjournment must be taken when and in the manner the chair directs.

28.6.2 A poll demanded on the election of a chairman or on a question of adjournment must be taken immediately.

28.7 Effect of polls

The result of a poll shall be the resolution of the meeting at which the poll is held.

28.8 Chairperson's casting vote

In the case of an equality of votes whether on a show of hands or on a poll, the chairperson of the meeting shall have a second or casting vote.

28.9 Declaration by chairperson

At any general meeting, a declaration by the chairperson that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority and an entry to that effect in the records containing the minutes of the proceedings of the *company* shall be conclusive evidence of the fact without proof of the number of proportion of votes recorded in favour of or against such resolution.

28.10 Adjournment of general meeting

The chairperson of a meeting may with the consent of the meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place.

28.11 No business to be transacted at adjourned meeting

No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

28.12 Notice of adjourned meeting

28.12.1 Where a meeting has been adjourned for thirty days or more, fresh notice of the meeting must be given to all *members.*

28.12.2 If the meeting is adjourned to a time less than 30 days after the originally scheduled meeting, notice need not be given.

28.13 Effect of resolutions

A resolution passed at a meeting resumed after an adjournment shall for all purposes be treated as having been passed on the date when it was in fact passed and shall not be deemed to have been passed on any earlier date.

29. Minutes

29.1 Record of minutes

The *company* must maintain a record of:

29.1.1 proceedings and resolutions of general meetings of the *company*;

29.1.2 proceedings and resolutions of meetings of the *board* (including meetings of a committee of *directors*); and

29.1.3 resolutions passed by *directors* without a meeting.

29.2 Minutes to be signed

The *company* must ensure that:

29.2.1 minutes of a meeting of the *company* or the *board* are signed within a reasonable time after the meeting by the chairperson of the meeting or the chairperson of the next meeting; and

29.2.2 minutes of the passing of a resolution without a meeting are signed by a *director* within a reasonable time of the date on which the resolution is passed.

29.3 True record

A minute that is recorded and signed under this clause is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

Corporations Act Commentary
S 251A contains the provisions that require the keeping of minutes. S 251B minute books of *company* meetings (not *board* meetings) and resolutions of the *company* passed without a meeting must be open for inspection by *members* free of charge.

30. Accounts

30.1 Accounts and records

The *company* must

30.1.1 make and keep written financial records that:

(a) correctly record and explain its transactions and financial position and performance; and

(b) enable true and fair financial statements to be prepared and to be audited.

30.1.2 keep written records that correctly record its operations; and

30.1.3 retain those records for at least 7 years.

30.2 Location of books of account

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

30.3 Inspection of the books

30.3.1 The *company* shall at all reasonable times make its accounting records available in writing for the inspection of members of the *board* and any other persons authorised or permitted by or under the *Corporations Act* to inspect such records.

30.3.2 For the avoidance of doubt, section 247D of the *Corporations Act* is displaced and does not apply.

Corporations Act Commentary
Members do not have an automatic statutory right to inspect the books. However, a member may apply to the Court for an order to inspect the records: s 247A. s 247D is a replaceable rule allowing the directors of a company, or the company by a resolution passed at a general meeting, to authorise a member to inspect books of the company.

31. Execution of documents

31.1 Company seal

The *company* may have a seal and the *board* must provide for the safe custody of the seal.

31.2 Execution of documents

31.2.1 The *company* may execute any document as permitted by the *Corporations Act* .

Corporations Act Commentary
s 127(1) provides that a public company may execute a document without a common seal if the document is signed by: (a) 2 directors of the company; or (b) a director and a company secretary of the company s 127(2) provides that a public company with a common seal may execute a document if the seal is fixed to the documents and the fixing of the seal is witnessed by: (a) 2 directors of the company; or (b) a director and a company secretary of the company If a company executes a document in either of these ways, people will be able to rely on the assumptions in s 129(5) for dealings in relation to the company.

32. Indemnity to directors

32.1 Indemnity

Every *officer* and former *officer* of the *company* shall be indemnified to the fullest extent permitted by the *Corporations Act* out of the property of the *company* against any liability incurred by them in their capacity as *officer* in defending any proceedings whether civil or criminal.

32.2 Officer's insurance

The *company* may pay a premium for a contract insuring a person who is an *officer* or a former *officer* of the *company* against a liability incurred by that person as an *officer* of the *company* provided that the liability is not one in respect to which a premium cannot be paid under the *Corporations Act* or a liability which contravenes s 199A or s 199B of the *Corporations* Act.

Corporations Act Commentary
The *company* must not indemnify an *officer* in respect of a liability: (a) owed to the *company* or a related body corporate of the *company* by the *officer*; (b) for pecuniary penalty order under the *Corporations Act*; (c) owed to someone other than the *company* and did not arise out of conduct in good faith – s 199A(1) and (2) The *company* must not indemnify an *officer* against legal costs incurred in defending an action for a liability incurred in defending an action for a liability incurred as

an *officer* if the costs are incurred:

(a) in defending or resisting proceedings in which the person is found to have a liability for which they can't be indemnified under (a) to (c) above;
(b) in defending or resisting criminal proceedings where the person is found guilty;
(c) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for the order have been established (except for costs incurred in responding to actions taken by ASIC or a liquidator before commending proceedings for the court order); or
(d) in connection with proceedings for relief under the *Corporations Act* in which the Court denies the relief. – s 199A(3)

The *company* must not pay a premium for a contract for an *officer* in respect of:

(a) conduct involving a wilful breach of duty in relation to the *company*; or
(b) contravention of ss 182 or 183 of the *Corporations Act* (improper use of position or improper use of information) – s 199B

33. The constitution

33.1 Copy of constitution to be made available on request

The *company* must provide a copy of this constitution to a *member* within 14 days if the *member*:

33.1.1 asks the *company,* in writing, for the copy; and

33.1.2 pays the fee required by the *company*, up to the amount prescribed by the *Corporations Act*.

Corporations Act Commentary
For the prescribed amount see Pt 1.1 and Schedule 4 of the *Corporations Regulations (Cth) 2001* (as at 22 January 2016, $10.00)

33.2 Amendment to constitution

This constitution may only be amended by way of *special resolution* validly passed at a general meeting of the *members*.

33.3 Notices

33.3.1 This clause applies to all notices and documents that this constitution or the *Corporations Act* requires a party to this constitution to send to another party to this constitution or to an auditor *('notice')*.

Corporations Act Commentary
The parties to the constitution are the *company* and its *members*, *directors* and *secretary*: s 140(1).

33.3.2 A person sending a *notice* must do so in writing and must address it to the recipient at the following respective addresses:

(a) if to the *company* — at the *registered office* of the *company;* and

(b) if to a *member*, *director* or *secretary* — at the *member*, *director* or *secretary's* address appearing on the *register* from time to time.

33.3.3 A person may send a *notice* to another person in any of the ways set out in column 2 of the table below. The other person is deemed to have received the *notice* at the time set out in column 3 of the table, unless proven otherwise as set out below.

	Delivery Method	Time Person Receives Notice
1	Hand delivering the *notice* personally	The other person receives the *notice*: (i) if hand delivered before 4:00pm on a *business day* — on that *business day*; (ii) if hand delivered after 4:00pm on a *business day* — on the next *business day*; or (iii) if hand delivered on a *day* other than a *business day* — on the next *business day*.
2	Sending the *notice* by pre-paid registered post	The other person receives the *notice* on the third *business day* after posting unless there is evidence that it is actually delivered earlier.
3	Sending the *notice* by electronic means	The other person receives the *notice*: (i) if sent before 4:00pm on a *business day* — on that *business day;* (ii) if sent after 4:00pm on a *business day* — on the next *business day;* or (iii) if sent on a *day* other than a *business day* — on the next *business day.* This rule does not apply where the person sending the *notice* by electronic means has evidence that the *notice* did not reach the other person's electronic address.

33.3.4 In addition to the methods of service of notices and documents under clause 33.3.3, a notice or other document provided to a person by the *company* is properly given to that person:

(a) if given pursuant to means described in section 110D of the *Corporations Act,* including providing the person (in physical or electronic form) with details sufficient to allow that person to access the document or notice electronically; or

(b) with respect to annual reports under section 314 of the *Corporations Act* or any other document that may be specified in the *Corporations Act*, as may be made available in electronic form on the *company's* website.

Schedule 1 - Warrigal Care Limited Proxy Form

I of , being a member of Warrigal Care Limited appoint of as my proxy to vote for me on my behalf at the *annual general meeting / *general meeting of the company to be held on the

20 and at any adjournment of that meeting.

My proxy is authorised to vote *in favour of / *against / *at his or her discretion in regards to the resolution(s).

Signed:
Dated:

* Strike out where not required.